

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

L.A.A.C.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-cv-147-CDL-ALS
	:	28 U.S.C. § 2241
PAM BONDI, <i>et al.</i>	:	
	:	
Respondents.	:	

RECOMMENDATION OF DISMISSAL

Pending before the Court is Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). For the reasons explained below, it is recommended that Petitioner's application for habeas relief be dismissed without prejudice.

BACKGROUND

Petitioner, a native and citizen of Cuba, is currently detained at Stewart Detention Center in Lumpkin, Georgia. (Doc. 1 at 2-3). According to the petition, on August 13, 2024, Petitioner was served with a written decision ordering his continued detention. *Id.* at 5. Petitioner was taken into Immigration and Customs Enforcement ("ICE") custody on November 14, 2024 and has remained in ICE custody continuously since that date. *Id.* at 3. An Immigration Judge ordered Petitioner's removal to Cuba on January 15, 2025. *Id.* at 5-6. Petitioner did not appeal, and his removal order became final on February 14, 2025. See 8 C.F.R. §§ 1003.38(b), 1241.1(c).

The Court received Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 on May 5, 2025. *Id.* at 1. In his application, Petitioner contends that his continued detention violates the Due Process Clause of the Fifth Amendment because it has become unreasonably prolonged under *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Id.* at 6-8. Petitioner also alleges that the Stewart Detention

Center lacks the capacity to provide adequate care of his medical needs due to his cardiovascular and respiratory issues. *Id.* at 4.

DISCUSSION

Upon preliminary review, the Court finds that Petitioner's habeas application should be dismissed without prejudice as premature. Additionally, Petitioner's claims regarding his medical care are not cognizable in a habeas corpus proceeding.

I. Due Process - Prolonged Detention Claim

Petitioner's detention is governed by 8 U.S.C. § 1231(a). That code section provides that "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." 8 U.S.C. § 1231(a)(1)(A). Detention of the alien within the ninety-day removal period is mandatory. *Id.* at § 1231(a)(2). The removal period begins on the latest of: (1) the date the order of removal becomes administratively final; (2) if removal of the alien is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) if the alien is detained or confined, the date the alien is released from criminal confinement. *Id.* at § 1231(a)(1)(B).

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that if an alien is not removed within the removal period, detention may continue if it is "reasonably necessary" to effectuate removal. *Zadvydas*, 533 U.S. at 689. The Court held that, under the Due Process Clause of the Fifth Amendment, detention for six months is presumptively reasonable. *Id.* at 700-01. After this period, "once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701.

The Eleventh Circuit has explained that in order "[t]o state a claim under *Zadvydas* . . . an alien must show that: (1) he has been detained for more than six months following the final order of removal and (2) there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Vaz v. Skinner*, 634 F. App'x 778, 782 (11th Cir. 2015) (per curiam) (citing *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)). "The six-month period thus must have expired at the time [the] petition was filed in order to state a claim under *Zadvydas*." *Akinwale*, 287 F.3d at 1052; see also *Themeus v. U.S. Dep't of Just.*, 643 F. App'x 830, 833 (11th Cir. 2016) (per curiam) (upholding dismissal where the petitioner had "not shown that the six-month period described in *Zadvydas* expired at the time the § 2241 petition was filed.").

Petitioner's habeas application should be dismissed as premature because he has not shown post-removal detention in excess of six months as required by *Zadvydas*. Here, Petitioner's removal order became final on February 14, 2025, after he failed to appeal the Immigration Judge's decision dated January 15, 2025. 8 C.F.R. § 1241.1(c). Petitioner filed this habeas action on May 5, 2025—less than three months after his removal order became final. Because Petitioner filed his habeas application challenging his detention under § 1231(a) less than six months after his removal order became final, his claims are premature under the presumptively reasonable removal period provided by *Zadvydas*.

Petitioner has also failed to meet his burden of showing there is no significant likelihood of removal in the reasonably foreseeable future. *Fahim v. Ashcroft*, 227 F. Supp.2d 1359 (N.D. Ga. 2002). "[T]he Supreme court held that it is petitioner's burden first to show good reason to believe that there is no significant likelihood of removal." *Id.* at 1366. Petitioner's bare allegations on the face of the pleading are insufficient evidence to establish an institutional barrier preventing his removal. *Id.* at 1365-66. "All petitioner has shown is the passage of some time." *Id.* At present, though, the record is insufficient to meet Petitioner's burden under *Zadvydas*.

The Court concludes Petitioner has failed to show detention in excess of six months provided by *Zadvydas*. Therefore, Petitioner's continued detention does not violate the due process clause, and it is recommended that the habeas application be denied as premature.

II. Medical Care Claims

Petitioner also alleges that the Stewart Detention Center lacks the capacity to provide adequate care for his medical needs, specifically mentioning cardiovascular and respiratory health concerns. (Doc. 1 at 4). However, these allegations relate to the conditions of his confinement rather than the fact or duration of his detention.

It is well established in this Circuit that habeas corpus relief under § 2241 is not available to remedy conditions of confinement. *See Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015) (per curiam) ("Petitioner's § 2241 petition is not the appropriate vehicle for raising an inadequate medical care claim, as such a claim challenges the conditions of confinement, not the fact or duration of that confinement."); see also *A.S.M. v. Warden, Stewart Cnty. Det. Ctr.*, 467 F. Supp. 3d 1341, 1348 (M.D. Ga. 2020) (concluding that the Court does not have jurisdiction to consider a habeas corpus claim based on conditions at Stewart Detention Center).

The proper vehicle for challenging conditions of confinement would be a civil rights action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), not a habeas corpus petition. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and [] the traditional function of the writ is to secure release from illegal custody."). Therefore, Petitioner's claims regarding his medical care are not cognizable in this habeas proceeding and should be dismissed without prejudice.

CONCLUSION

For the foregoing reasons, it is **RECOMMENDED** that Petitioner's application for habeas corpus relief (Doc. 1) be **DISMISSED WITHOUT PREJUDICE**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within FOURTEEN (14) DAYS after being served with a copy hereof. Any objection should be no longer than TWENTY (20) PAGES in length. *See* M.D. Ga. L.R. 7.4. The district judge shall make a *de novo* determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, "[a] party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO RECOMMENDED, this 6th day of May, 2025.

s/ **ALFREDA L. SHEPPARD**
UNITED STATES MAGISTRATE JUDGE