IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

YOUSHITA ALIZADEH, Petitioner, v. KRISTI NOEM, et al, Respondent.	Civil Action No. 3:25-CV-02316-S-BN

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR A PRELIMINARY INJUNCTION

Petitioner seeks a preliminary injunction and habeas relief to require his immediate release from immigration detention. *See* ECF No. 2. As explained herein, Petitioner shows no entitlement to a preliminary injunction, nor habeas relief, and he is not entitled to immediate release. The Court should deny the request for a preliminary injunction and habeas relief.

I. Background

Petitioner is a native and citizen of Iran. App. p. 1, ¶ 3. Petitioner entered the United States on July 7, 2003, and was admitted as a refugee. *Id.*, at ¶ 4. On January 23, 2006, Petitioner pled guilty to Theft over $500 and was sentenced to 364 days in jail. App. pp. 4-7. Less than six months later, on May 24, 2006, Petitioner pled guilty to criminal trespass and was sentenced to 30 days in jail. App. pp. 8-9. On July 21, 2006, Petitioner pled guilty to Burglary of a Vehicle and Criminal Trespass and was sentenced to 120 days in jail. App. pp. 10-11. Two months later on September 22, 2006, Petitioner pled guilty to criminal trespass and was sentenced to 120 days in jail. *Id.*

Immigration and Customs Enforcement ("ICE") served Petitioner with a Notice to Appear on September 1, 2006. App. p. 2, at ¶ 6. On May 8, 2007, an Immigration Judge found Petitioner removable and ordered Petitioner removed to Iran, to which Petitioner waived his right to appeal. *Id.* On May 29, 2007, ERO sent a travel document request to the Iranian Interest Section in Washington, D.C. *Id.*, at ¶ 7. The Iranian Interest Section interviewed Petitioner on August 9, 2007, and October 24, 2007. *Id.* On May 5, 2008, ERO was informed that the Iranian Interest Section denied the travel document request. *Id.* On May 20, 2008, ERO released Petitioner on an order of supervision. *Id.*

On May 19, 2011, ERO notified Petitioner that he was required to submit a travel document request to Iran. *Id.* at ¶ 8. On about March 15, 2012, Petitioner provided ERO with a denial of travel documents letter from Iran. *Id.* ERO told Petitioner to submit the travel document application again because he did not provide a copy of the application to ERO. *Id.* On March 27, 2012, Petitioner provided a certified mail receipt dated March 19, 2012, for an application he submitted to the consulate of Iran. *Id.* On June 21, 2012, ERO received a denial of travel documents letter from the consulate of Iran. *Id.*

On May 29, 2015, Petitioner pled guilty to Possession of Methamphetamine and was sentenced to two years of deferred adjudication probation. App. pp. 23-27. On February 11, 2016, Petitioner pled guilty to Failure to Identify and was sentenced to twelve days in jail. App. p. 28. On July 3, 2017, Petitioner pled guilty to Criminal Trespass and was sentenced to thirty days in jail. App. pp. 33-34. On July 28, 2017, Petitioner pled guilty to Evading Arrest and was sentenced to thirty-four days in jail. App. pp. 35-36. On August 25, 2017, Petitioner pled guilty to Theft of Property over $100 but less than $750 and was sentenced to twenty days in jail. App. pp. 37-38. On September 28, 2017, Petitioner pled guilty to Disorderly Conduct and was sentenced to sixty days in jail. App. pp. 39-40. On June 20, 2024, Petitioner pled guilty to Driving While Intoxicated with a BAC above .15 and was sentenced to a suspended sentence of 300 days in jail and twelve months of community supervision. App. pp. 41-44.

On July 2, 2025, ICE took Petitioner into custody pending removal to Iran. App. p. 3, ¶ 10. On August 27, 2025, Petitioner filed a petition for a habeas corpus. ECF No. 1. Petitioner alleges that his detention is unlawful and violates Supreme Court precedence insofar as there is no significant likelihood of his removal. ECF No. 1, ¶ 54. He additionally asserts that ICE did not follow its own regulations when re-detaining him and that he is therefore entitled to immediate release from custody. ECF No. 1, ¶ 51.

In his motion for a preliminary injunction, Petitioner seeks relief in connection with his habeas claims, arguing that he is likely to succeed in establishing that his re-detention is in violation of ICE regulations and Supreme Court precedence. *See* ECF No. 3 at 4-5. Petitioner's motion for a preliminary injunction and habeas petition are both improper and should be denied.

II. Legal Standard

A preliminary injunction is an "extraordinary and drastic remedy." *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is "not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion." *Black Fire Fighters Ass'n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985)). "The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest." *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has "clearly" carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

III. Argument and Authorities

Petitioner is not entitled to habeas relief or a preliminary injunction.

Petitioner's preliminary injunction motion is premised on his habeas claim that his re-detention is unlawful and that he cannot be removed to Iran. ICE has authority to re-detain noncitizens such as Petitioner when there are changed circumstances such that there is a significant likelihood that the noncitizen may be removed in the reasonable future. Circumstances have changed in Petitioner's case—Iran is accepting return of its citizens and approximately 104 removals to Iran have occurred this year—therefore there is a significant likelihood that Petitioner will be removed to Iran. Petitioner's re-detention is proper, and his detention is not unconstitutional. Petitioner, therefore, is not entitled to habeas relief and cannot meet the requirements to obtain a preliminary injunction.

1. No likelihood of success on the merits is shown.

a. Petitioner's Continued Detention is Proper and Allowed by Statute and the Supreme Court.

ICE can lawfully detain Petitioner because he is subject to a final order of removal and can be detained under 8 U.S.C. § 1231(a)(6). Section 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes extended post-order detention for certain aliens. *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that § 1231(a) authorizes detention for a period reasonably necessary to accomplish an alien's removal, and determined that ICE maintains the authority to continue detention where it fairly aids the Government in its legitimate efforts to remove individuals with final orders of removal. *Id.* at 701. The Supreme Court further determined that six months is a presumptively reasonable period of time to allow the government to remove an alien after the removal period has commenced. *Id.* at 701. Once the six-month period has lapsed, and "the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, [then] the Government must respond with evidence sufficient to rebut that showing." *Id.*; *see also Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (alien must show "post-removal order detention in excess of six months" and "evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future"). The six-month presumptively reasonable period under *Zadvydas* begins when the alien is taken into custody. *See Callender v. Shanahan*, 281 F. Supp. 3d 428, 435 (S.D.N.Y. 2017).

Here, Petitioner's presumptively reasonable period of detention has expired, but his detention remains consistent with the limitations discussed in *Zadvydas*. 533 U.S. at 699-701. *Zadvydas* does not require the release of every alien held in detention for more than six months; rather, the Court held: "This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, *an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future*." *Id.* at 701 (emphasis added).

Petitioner has the burden of showing that he is unlikely to be removed in the near future. *Id.* To satisfy this burden, Petitioner must provide "*evidence* of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Akinwale*, 287 F.3d at 1052 (emphasis added). In instances where an alien is unable to produce evidence demonstrating good cause to believe that there is no significant likelihood of removal in the reasonably foreseeable future, courts have sustained continuing periods of detention pending removal well beyond the six-month time frame described as presumptively reasonable by the Supreme Court in *Zadvydas* in order to accommodate the issuance of travel documents. *See, e.g.*, *Issa v. Holder*, No. 4:11-cv-19, 2011 WL 1671915, at *3 (M.D. Ga. Apr. 11, 2011); *Edmund v. Gonzales*, No. 05-

00347, 2007 WL 2187258, at *2 (N.D. Fla. July 27, 2007) (holding that detention may still be reasonable after the "presumptively reasonable" period of detention has passed).

Petitioner fails to establish that ICE will be unable to effectuate his removal in the reasonably foreseeable future. Iran is currently accepting return of its citizens and over 100 removals have occurred since 2025. App. p. 44, at ¶ 6. On September 29, 2025, 54 Iranian citizens were removed from the United States to Iran. *Id.* By contrast, Petitioner has produced no evidence to establish that Iran will not issue a travel document for him or that ICE will be unable to remove him. Indeed, Petitioner fails to assert *any* evidence regarding his impending removal, let alone enough evidence to establish that there is *no* significant likelihood of his removal to Iran or a third country in the reasonably foreseeable future. *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1365 (N.D. Ga. 2002) ("Petitioner's bare allegations are insufficient to demonstrate a significant unlikelihood of his removal in the reasonably foreseeable future."). This is insufficient to satisfy his burden under *Zadvydas*. *See Fahim*, 227 F. Supp. 2d at 1366 ("[P]etitioner, in effect, seeks to place the burden on the Government to show when it will remove petitioner, whereas the Supreme Court held that it is petitioner's burden first to show good reason to believe that there is no significant likelihood of removal. All petitioner has shown is the passage of some time.").

In contrast, the Respondent has provided evidence that removal is likely. Per the Court's order not to take any further steps towards removal, ERO has not sent a travel document request to the Iranian Interest Section. However, when ERO does send a travel document request, it will include a copy of a passport for Parvaneh Baghaei Amri, who ICE believes is Petitioner's mother. App. p. 46, at ¶ 4. Petitioner is listed on Parvaneh Baghaei Amri's passport as accompanying her, and the passport contains Petitioner's photograph. *Id.* The passport contains good evidence of Petitioner's citizenship. *Id.* Also, Petitioner's speculation that he cannot be deported to Iran is simply false. *Id.* There is no legal bar to removal to Iran, indeed, as can be seen from recent removals from the United States to Iran. Travel documents will be submitted for Petitioner once the Court allows. Removals to Iran are occurring and there is no impediment to removing Petitioner once his travel documents are issued.

Further, Petitioner's characterization of the period of his detention as unreasonable or indefinite is false. *Gomez v. Chestnut*, Slip Op, 2025 WL 1695359 (June 17, 2025, D. Nevada) (denying § 2241 non-citizen's claim that his detention beyond the 90-day removal period was unconstitutional because travel documents have not yet been secured for a third country). Moreover, the Supreme Court in *Zadvydas* recognized 6-months detention is a presumptively reasonable period when, as here, removal is reasonably foreseeable due to the issuance of travel documents. *See Atkinson v. DHS*, Slip Op, 2025 WL 1737017 (June 6, 2025, W.D. Wash.), adopted 2025 WL 1736596 (June 23, 2025, W.D. Wash.) (stating that, though § 2241 petitioner's detention has extended past the removal period, his continued detention remains presumptively reasonable unless and until more than 6-months have passed (citing *Zadvydas*, 533 U.S. at 701)).

b. ICE followed all applicable regulations when revoking release.

Petitioner argues that ICE failed to comply with the regulations in revoking his Order of Supervision, specifically violating §241.13. Petitioner is wrong.

The Code of Federal Regulations contains specific provisions regarding the release and revocation of release of a noncitizen with a final order of removal. Revocation of a prior release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. The regulation provides that a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). At that point: "[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(i)(3).

Respondents complied with this procedural requirement. Petitioner was notified of the reason for the revocation of his release (namely, to remove him to Iran pursuant to his Order of Removal) and was given an opportunity to respond. Petitioner was not entitled to additional process under the regulations.

Petitioner was undeniably put on notice that Respondents contended they could secure Petitioner's removal to Iran, which allowed Petitioner to seek relief in this Court. *See Nguyen v. Noem*, 6:25-cv-57, 2025 WL 2737803, at * 5 (N.D. Tx. Aug. 10, 2025). There is now a "significant likelihood" that Petitioner can be removed due to a change of circumstances between the United States and Iran, such that Iran is now issuing travel papers and accepting its citizens. App. p. 4, ¶ 16. Whatever removal obstacles may have existed for other Iranian nationals, the record shows progress is being made on *this* Petitioner's removal, as travel documents are being compiled and a request will be sent as soon as the Court allows.

2. The remaining preliminary-injunction factors do not favor relief.

With respect to the remaining equitable factors, Petitioner has not met his burden of establishing he is entitled to relief. This court may not grant injunctive relief on the sweeping and speculative 'irreparable harm' claims, *see generally* ECF 3, supposed by Petitioner. *See Mathews v. Diaz*, 426 U.S. 67, 80 (1976) (recognizing it is well established that detention is a constitutionally valid aspect of the deportation process and that in the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens).

Moreover, Petitioner has no due process right to never-ending supervision-pending-removal. From onset, the supervision period here inherently and plainly was limited to the date of foreseeable removal. In other words, the supervision duration period is conditional (and was always conditional) – and may be revoked (and was always subject to revocation) -- on operative removal which, based on the updated assessment by the executive branch, here is reasonably foreseeable and even appears immediate. *See Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), adopted, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019).

Finally, with respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioner is properly the subject of a final order or removal and the government is entitled to detain aliens in the post-removal period to bring about removal, and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws and the removal of aliens who are unlawfully present in the United States. Petitioner's own voluntary actions, in which the government had no involvement, resulted in the current state of affairs: Petitioner has multiple convictions prior to his OSUP and well as after being placed on the OSUP, and was ordered removed by an immigration judge. Under these circumstances, equity does not support Petitioner's claims for relief from this Court.

IV. Conclusion

Petitioner's motion for preliminary injunction and petition for habeas should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 6, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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