

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**ZAID A M ALYAMANI,
PETITIONER,**

V.

**PAMELA BONDI ET AL.,
RESPONDENTS.**

NO. 3:26-CV-51-KC

**FEDERAL RESPONDENTS' RESPONSE TO PETITIONER'S WRIT OF HABEAS
CORPUS**

Statement of Issues

1. Whether Petitioner is lawfully detained in immigration custody pending the execution of his final removal order.

I. Introduction

Federal¹ Respondents timely submit this response per this Court's Order dated January 15, 2026, ordering a response on or before January 22, 2026. *See* ECF No. 2. Mr. Alyamani ("Petitioner") seeks release from civil immigration detention, claiming that his detention is unlawful. The petitions consists of three counts: (1) Violation of the Immigration and Nationality Act (INA), 8 U.S.C. § 1231(a)(6), claiming removal is not reasonably foreseeable; (2) Substantive Violation of the Fifth Amendment Due Process Clause, claiming his detention is indefinite; and (3) Procedural Violation of the Fifth Amendment Due Process Clause, claiming ICE denied Petitioner a timely and meaningful opportunity to demonstrate that he should not be detained. *See* ECF No. 3 at ¶¶ 22-28. Petitioner's continued post-order detention is permitted by statute and comports with due process. This habeas petition should be denied.

II. Relevant Facts and Procedural History

Petitioner, *pro se*, claims to have been born in Tulkarim, West Bank, Palestine. *Id.* at ¶ 11. Petitioner entered the United States without inspection on July 11, 2024. *See* Ex. A (Estrada Declaration) at ¶ 6. Border Patrol agents encountered Petitioner within days of his entry and processed him for expedited removal. *Id.* ¶ 6–8. Petitioner claimed fear and received a positive credible fearing finding, which resulted in the issuance of a Notice to Appear (NTA). *Id.* ¶¶ 8, 10.² He has a final order of removal to Palestinian Territory, dated June 11, 2025. *Id.* at ¶ 13.

To assist ICE with his removal, Petitioner alleges that he filled out travel document requests for Israel, Palestinian Authority, and Jordan. ECF No. 3 at ¶ 14. Petitioner further alleges that, on

¹ The Department of Justice (DOJ) represents only the United States and its agencies.

² Given that Petitioner was initially processed for expedited removal and subsequently placed into full removal proceedings only after a positive fear finding, he was not entitled to bond during his removal proceedings. *See Matter of M-S-*, 27 I&N Dec. 509, 510 (BIA April 16, 2019).

September 8, 2025, ICE conducted his first custody review after being in detention for 90 days. *Id.* at ¶ 15. Petitioner's deportation officer explained to him that ICE Headquarters Post-Order Detention Unit (HQPDU) decided to continue his detention with the purpose of proceeding with removal efforts to Palestine. *Id.* Additionally, in September 2025, Petitioner became combative and non-cooperative in detention. *See* Ex. A (Estrada Declaration) at ¶ 17. Petitioner struck detention officers and refused to comply with commands, resulting in restrictive housing conditions. *Id.*

Petitioner confirms that ICE conducted a second custody review on December 8, 2025, after being in detention for 180 days. ECF No. 3 at ¶ 16; *see also* Ex. A (Estrada Declaration) at ¶ 22. Petitioner reports that his deportation officer told him that ICE decided to keep him under mandatory detention. ECF No. 3 at ¶ 16. Petitioner asserts that the governments of Israel, Palestinian authority, and Jordan have not issued any travel documents to him. *Id.* at ¶ 17.

Petitioner, however, has a valid Palestinian passport that would allow him to travel on a removal charter flight to the West Bank or Gaza via transit through an Israeli airport. Ex. A (Estrada Declaration) at ¶¶ 23, 25. These charter flights are scheduled to occur within the next couple months, and ICE actively continues in its efforts to remove Petitioner via charter flight. *Id.* ¶¶ 24, 27. Petitioner's 270-day POCR is scheduled to be referred to ICE HQPDU on or about March 2, 2026, should Petitioner remain detained at that time. *Id.* ¶ 26.

III. Detention Is Lawful Under 8 U.S.C. §1231(a)(6).

The authority to detain aliens after the entry of a final order of removal is set forth in 8 U.S.C. § 1231(a); *see also* ECF No. 2 at 3–4.³ Under § 1231, the removal period can be extended

³ For the sake of judicial efficiency, Respondents incorporate by reference this Court's order outlining the *Zadvydas* decision and related standards. *See* ECF No. 2 at 3–4.

in a least three circumstances. *See Glushchenko v. U.S. Dep't of Homeland Sec.*, 566 F.Supp.3d 693, 703 (W.D. Tex. 2021). Extension is warranted, for example, if the alien presents a flight risk or other risk to the community. *Id.*; *see also* 8 U.S.C. § 1231(a)(1)(C); (a)(6). An alien may be held in confinement until there is “no significant likelihood of removal in a reasonably foreseeable future.” *Zadvydas*, at 533 U.S. at 680.

IV. There Is No Good Reason to Believe That Removal Is Unlikely in the Reasonably Foreseeable Future.

Once the alien establishes that he has been in post-order custody for more than six months at the time the habeas petition is filed, the alien must provide a “good reason” to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *See Andrade v. Gonzales*, 459 F.3d 538, 543–44 (5th Cir. 2006); *Gonzalez v. Gills*, No. 20–60547, 2022 WL 1056099 at *1 (5th Cir. Apr. 8, 2022). Unless the alien establishes the requisite “good reason,” the burden will not shift to the government to prove otherwise. *Id.* Petitioner cannot show “good reason” to believe that removal is unlikely in the reasonably foreseeable future.

The “reasonably foreseeable future” is not a static concept; it is fluid and country-specific, depending in large part on country conditions and diplomatic relations. *Ali v. Johnson*, No. 3:21–CV–00050–M, 2021 WL 4897659 at *3 (N.D. Tex. Sept. 24, 2021). Additionally, a lack of visible progress in the removal process does not satisfy the petitioner’s burden of showing that there is no significant likelihood of removal. *Id.* at *2 (collecting cases); *see also Idowu v. Ridge*, No. 3:03–CV–1293–R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003). Conclusory allegations are also insufficient to meet the alien’s burden of proof. *Nagib v. Gonzales*, No. 3:06–CV–0294–G, 2006 WL 1499682, at *3 (N.D. Tex. May 31, 2006) (citing *Gonzalez v. Bureau of Immigration and Customs Enforcement*, No. 1:03–CV–178–C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004)). One court explained:

To carry his burden, [the] petitioner must present something beyond speculation and conjecture. To shift the burden to the government, [the] petitioner must demonstrate that “the circumstances of his status” or the existence of “particular individual barriers to his repatriation” to his country of origin are such that there is no significant likelihood of removal in the reasonably foreseeable future.

Idowu, 2003 WL 21805198, at *4 (citation omitted).

There is no dispute that Petitioner’s removal order has been final since June 11, 2025. Petitioner, nonetheless, urges this Court to order that his continued detention pending removal is contrary to statute and in violation of his procedural and substantive due process rights, because ICE “gave no information concerning the existence or status of efforts to deport [Petitioner].” *See* ECF No. 3 at ¶ 17. He further argues that Israel, Jordan, and the Paelestinian Authority have provided no indication that they would accept him in the reasonably foreseeable future. *Id.* Beyond these conclusory allegations, Petitioner fails to allege any reason, much less a “good reason,” to believe that there is no significant likelihood of removal in the reasonably foreseeable future. These claims are wholly insufficient under *Zadvydas*. As such, Petitioner cannot meet his burden to establish no significant likelihood of removal in the reasonably foreseeable future. *See Thanh v. Johnson*, No. EP-15-CV-403-PRM, 2016 WL 5171779, at *4 (W.D. Tex. Mar. 11, 2016) (denying habeas relief where government was taking affirmative steps to obtain travel documents). The burden of proof, therefore, does not shift to Respondents to prove that removal is likely.

Even if the burden did shift to ICE, ICE avers that removal is likely in the foreseeable future. *See generally* Ex. A (Estrada Declaration). Petitioner has a valid Palestinian passport that would allow him to travel on a removal charter flight to the West Bank or Gaza via transit through an Israeli airport. *Id.* ¶¶ 23, 25. These charter flights are scheduled to occur within the next couple months, and ICE actively continues in its efforts to remove Petitioner via charter flight. *Id.* ¶¶ 24,

27. Petitioner's 270-day POCR is scheduled to be referred to ICE HQPDU on or about March 2, 2026, should Petitioner remain detained at that time. *Id.* ¶ 26.

V. ICE Continues to Afford Petitioner Procedural Due Process During His Post-Order Custody Pending Removal.

Petitioner has not been deprived of any due process protections. To establish a procedural due process violation, Petitioner must show that he was deprived of liberty without adequate safeguards. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 332 (1976); *Daniels v. Williams*, 474 U.S. 327, 331 (1986). While an agency is required to follow its own procedural regulations, the Fifth Circuit finds no procedural due process violation where the constitutional minima of due process is otherwise met. *Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994). In any event, a remedy for a procedural due process violation is substitute process. *Mohammad v. Lynch*, No. EP-16-CV-28-PRM, 2016 WL 8674354, at *6 n.6 (W.D. Tex. May 24, 2016) (finding no merit to petitioner's procedural due process claim where the evidence demonstrated that the review had already occurred, thereby redressing any delay in the provision of the 90-day and 180-day custody reviews). Even in the criminal context, failure to comply with statutory or regulatory time limits does not mandate release of a person who should otherwise be detained. *U.S. v. Montalvo-Murillo*, 495 U.S. 711, 722 (1990).

Like his substantive due process claim, Petitioner provides only conclusory allegations to support his procedural due process claim. ECF No. 3 at ¶¶ 27-28. The record, however, disputes this claim. *See* Ex. A (Estrada Declaration); Ex. B (180-day POCR Memo with Attachment). Indeed, Petitioner concedes in his Petition that ICE provided him with the required custody reviews at both the 90-day and the 180-day marks, explaining to him their decision to continue his detention. ECF No. 3 at ¶¶ 15–16. Should he remain detained at the 270-day mark, he will be afforded another POCR and an opportunity to respond. Ex. A (Estrada Declaration) ¶ 26. ICE is

complying with its statutory and regulatory obligations, and Petitioner's continued detention comports with his due process rights as an alien subject to a final order of removal.

VI. Conclusion

Petitioner's detention is lawful under 8 U.S.C. § 1231(a)(6). Petitioner fails to show good reason to believe that there is no likelihood of removal. As such, the burden has not shifted to ICE to show the opposite. Even if the burden had shifted, ICE avers that removal is significantly likely in the reasonably foreseeable future. Additionally, ICE has afforded Petitioner procedural due process over the course of his seven-month post-order detention. Petitioner's continued detention, therefore, is not unreasonably prolonged, nor is it in violation of the INA or the Constitution. Accordingly, the Court should deny this petition.

Respectfully submitted,

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Certificate of Service

I certify that on January 22, 2026, I mailed a copy of Federal Respondents' Response to Petition for Writ of Habeas Corpus to Petitioner (*pro se*) at the following address:

Zaid A M Alyamani



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PRO SE

/s/ Lacy L. McAndrew
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