United States District Court
Western District of Texas
El Paso Division

Gurmeet Singh, Petitioner, v. Curtis Taylor, in his official capacity As Warden of the Camp East Montana Detention Center, *et al.*, Respondents.	No. 3:26-CV-00155-DB

Federal[1] Respondents' Response to
Petitioner's Amended Petition for Writ of Habeas Corpus

Federal Respondents timely submit this response per this Court's Order dated February 2, 2026, to file a response to Petitioner's amended petition. ECF No. 8. In his petition for writ of habeas corpus under 28 U.S.C. § 2241, Petitioner seeks release from civil immigration detention, claiming that his post-removal-order detention has been become indefinite, contrary to statute, and the Due Process Clause. *See* ECF No. 9. Petitioner's claims lack merit, and this petition should be denied.

Petitioner has a final order of removal, which mandates his detention under 8 U.S.C. § 1231(a) for a 90-day removal period. Exh. A (ERO Declaration). Detention can be extended past the removal period in the exercise of discretion where removal is reasonably foreseeable. 8 U.S.C. § 1231(a)(6). ICE decided in its discretion to continue Petitioner's detention past the 90-day removal period, which is a decision protected from judicial review. 8 U.S.C. § 1252(a)(2)(B).

Petitioner has not shown here that there is no likelihood of removal in the reasonably

[1] The named warden in this action is not a federal employee. The Department of Justice does not represent him in this action. The Federal Respondents, however, have detention authority over aliens detained under 8 U.S.C. § 1231(a).

foreseeable future. Even if Petitioner were able to make such a showing, the burden would shift to Respondents who can show that removal is, in fact, significant likely in the reasonably foreseeable future. For these reasons, the Court should deny this habeas petition.

I. Facts and Procedural History

Petitioner is a native and citizen of India. ECF No. 9 at ¶ 14. Petitioner entered without inspection on or about December 10, 2024. *Id.*; Exhibit A (ERO Declaration) ¶ 6. Petitioner was served with a Notice and Order of Expedited Removal on December 11, 2024. Exh. A, at ¶ 7. On January 7, 2025, Petitioner was released from custody on parole. *Id.* at ¶ 8. On May 28, 2025, Petitioner was taken into ICE custody. *Id.* at ¶ 9. On August 28, 2025, Petitioner informed the ERO operator that he wanted to withdraw his asylum claim. *Id.* at ¶ 12. On September 9, 2025, ERO received a signed letter from Petitioner that he wanted to be removed to his country. *Id.* at ¶ 13. On September 9, 2025, a deportation officer added Petitioner to a spreadsheet listing Indians who need travel documents and submitted it to the POC for travel documents. *Id.* at ¶ 14. Travel documents were pending as of October 22, 2025. *Id.* at ¶ 16. On November 6, 2025, the case officer continued to work to obtain travel documents, noting there was no passport for Petitioner. *Id.* at ¶ 17. The Houston ERO emailed travel document information to the Detention and Deportation Officer for review. *Id.* at ¶ 18. On December 12, 2025, Petitioner arrived at the Camp East Montana in El Paso, Texas to be staged for an approved ICE charger mission scheduled for December 14, 2025, departing El Paso, Texas. *Id.* at ¶ 19. On the same date, ERO El Paso was notified that the charter had been rescheduled in Alexandria, LA and Petitioner could not be transferred in time to make the next destination. *Id.* at ¶ 20. Petitioner is currently pending rescheduling for the next India charter flight on a date to be determined. *Id.* at ¶ 21. ERO has successfully removed a total of 1,769 Indian Nationals to India according to confirmed ERO records in the past six months.

II. 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). That statute affords ICE a 90-day mandatory detention period within which to remove the alien from the United States following the entry of the final order. 8 U.S.C. § 1231(a)(2). The 90-day removal period begins on the latest of three dates: the date (1) the order becomes "administratively final," (2) a court issues a final order in a stay of removal, or (3) the alien is released from non-immigration custody. 8 U.S.C. § 1231(a)(1)(B).

Not all removals can be accomplished in 90 days, and certain aliens may be detained beyond the 90-day removal period. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Under § 1231, the removal period can be extended 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.

III. There Is No Good Reason to Believe That Removal to India Is Not Significantly Likely in the Reasonably Foreseeable Future.

Petitioner cannot show "good reason" to believe that removal to India is unlikely. In *Zadvydas*, the U.S. Supreme Court held that § 1231(a)(6) "read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States" but "does not permit indefinite detention." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by the statute." *Id.* at 699. The Court designated six months as a presumptively reasonable period of post-order detention but made clear that the presumption "does not mean that every alien not removed must be released after six months." *Id.* at 701.

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.*

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 December 2024 and that ICE has been making repeated efforts to secure a travel document for removal to India. Petitioner, nonetheless, argues that his continued detention pending removal is contrary to statute

and in violation of his due process rights. Petitioner, however, relies on only conclusory allegations and speculation to argue that his detention is prolonged *Id.* Because the removal efforts have not been fruitful yet, Petitioner argues his detention has become indefinite and prolonged. *Id.*

Petitioner's conclusory and speculative claims are wholly insufficient to meet his burden of proof under *Zadvydas*. See *Nogales v. Dept. of Homeland Sec.*, No. 21-10236, 2022 WL 851738 at *1 (5th Cir. Mar. 22, 2022) (citing *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021)); *Akbar v. Barr*, SA-20-CV-01132-FB, 2021 WL 1345530 (W.D. Tex. Mar. 5, 2021); *see also Andrade*, 459 F.3d at 543–44; *Boroky v. Holder*, No. 3:14-CV-2040-L-BK, 2014 WL 6809180, at *3 (N.D. Tex. Dec. 3, 2014). As such, Petitioner cannot meet his burden to show that there is 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 travel documents). The burden of proof, therefore, does not shift to Federal Respondents to prove that removal is likely.

Even if the burden did shift to ICE, Petitioner concedes that ICE is making continuous efforts to effectuate his removal. Indeed, as stated in the ERO declaration, there was a flight planned in December, which is being rescheduled. Although there is not a date scheduled yet, there is no reason to assume that it will not be available within the reasonably foreseeable future, especially given the number of other removals of Indian Nationals to India that have occurred within the last six months.

IV. Conclusion

There is no good reason to believe that removal to India in the reasonably foreseeable future is unlikely. Continued detention under 1231(a)(6), therefore, is lawful. Accordingly, the Court should deny this petition.

Respectfully submitted,

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