

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

AWET HAGOS,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26-CV-142-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,¹	:	
	:	
Respondent.	:	

RESPONDENT'S RESPONSE

On February 17, 2026, the Court received Petitioner's petition for a writ of habeas corpus ("Petition"). ECF No. 5. Petitioner primarily asserts that his detention violates his due process rights pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001), and seeks release from custody. Pet. 5-7. As explained below, the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Eritrea. Declaration of Deportation Officer Tartanger Stephens at ¶ 3 & Ex. A, Form I-213 Record of Deportable/Inadmissible Alien dated March 19, 2024. On June 9, 2016, Petitioner was admitted into the United States as a B2 Nonimmigrant Visitor for Pleasure with authorization to remain in the United States for a temporary period not to exceed December 8, 2016. *Id.* at ¶ 4 & Ex. A. On March 12, 2024, ICE/ERO encountered

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in his Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

Petitioner at the Albemarle District Jail after he was arrested on March 11, 2024, by the Gates County Sheriff's Office for Carrying a Concealed Weapon in violation of North Carolina Code 14-269(A), three counts of Assault on a Government Official/Employee in violation of North Carolina Code 14-33(C)(4), and three counts of Resisting a Public Officer in violation of North Carolina Code 14-223. *Id.* at ¶ 5 & Ex. B, Magistrate's Order date March 12, 2024.

On October 9, 2024, Petitioner entered ICE/ERO custody. *Id.* at ¶ 6. That day, ICE/ERO issued Petitioner a Notice to Appear (NTA) charging him with deportability pursuant to section 237(a)(1)(B) of the Immigration and Nationality Act (INA), in that after admission as a nonimmigrant under § 101(a)(15), he remained for a time longer than permitted in violation of the INA. *Id.* at ¶ 6 & Ex. C, Notice to Appear. On October 29, 2024, Petitioner appeared for an initial master calendar hearing. *Id.* at ¶ 7. The Immigration Judge took pleadings and sustained the charge in the NTA. *Id.* Petitioner did not request to file any applications for relief from removal. *Id.* The Immigration Judge found that Petitioner had no relief from removal and entered an Order of Removal to Eritrea. *Id.* at ¶ 7 & Ex. D, Order of Removal. Petitioner reserved his right to appeal. *Id.* On November 14, 2024, Petitioner filed an appeal with the Board of Immigration Appeals (BIA). *Id.* at ¶ 8 & Ex. E, Filing Receipt for Appeal. On January 14, 2025, the BIA issued a Notice of Briefing Schedule; Petitioner's brief was due on or before February 4, 2025. *Id.* at ¶ 9 & Ex. F, Notice of Briefing Schedule. Petitioner failed to file a brief, and on February 27, 2025, the BIA dismissed Petitioner's appeal. *Id.* at ¶¶ 9-10 & Ex. G, BIA Order Dismissing Appeal.

On or about March 12, 2025, ICE/ERO submitted a travel document request (TDR) for Petitioner to ERO HQ. *Id.* at ¶ 11. On August 2, 2025, ICE/ERO followed up with ERO HQ regarding the status of the TDR. *Id.* at ¶ 12. On August 6, 2025, ERO HQ requested for the TDR to be re-submitted, as the previous TDR had not been received. *Id.* On October 9, 2025, ERO HQ

submitted a TDR to the designated agencies. *Id.* at ¶ 13. During the week of March 2, 2026, ERO HQ, in coordination with the appropriate agency, engaged in discussions with the Government of Eritrea to obtain a travel document for Petitioner. *Id.* at ¶ 14.

Petitioner is detained at the Stewart Detention Center pursuant to INA § 241(a)(6). *Id.* at ¶ 15. ICE/ERO is currently working with the government of Eritrea to secure a travel document for Petitioner. *Id.* ICE/ERO expects that a travel document will be issued in the reasonably foreseeable future. *Id.* Upon receipt, there is a significant likelihood of removal in the reasonably foreseeable future. *Id.* Eritrea is open for international travel, and ICE/ERO is currently removing non-citizens to Eritrea. *Id.* In the last calendar year, ICE/ERO has removed approximately 21 Eritreans to Eritrea; some of the latest removals occurred on December 5, 2025, and January 28, 2026. *Id.* In the last week, Eritrea approved the issuance of a travel document for an Eritrean citizen in a similarly situated case. *Id.*

LEGAL FRAMEWORK

Because Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in 8 U.S.C. § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the "removal period," detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is "reasonably necessary" to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible,

or who has been determined to be a risk to the community or a flight risk, “may be detained beyond the removal period”). In *Zadvydas*, the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. “After this 6-month 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 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that “in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but **also must provide evidence of a good reason to believe** that there is no significant likelihood of removal in the reasonably foreseeable future.” 287 F.3d at 1052 (emphasis added). Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT

Petitioner primarily asserts that his detention violates due process under *Zadvydas*. Pet. 5-7. The Petition should be denied. Petitioner is not entitled to relief under *Zadvydas* because he fails to meet his burden to “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.

Petitioner presents no evidence to meet his burden. Rather, he simply restates the relevant standard, alleging without supporting evidence that he has been held “over 180 days after a final order of removal.” Pet. 5. Petitioner’s contentions that he cannot be removed to Eritrea because there is no repatriation agreement between the United States and Eritrea is also wrong. ICE/ERO has removed Eritreans to Eritrea as recently as January 28, 2026. Stephens Decl. at ¶ 16. Petitioner’s conclusory statements that he is unlikely to be removed in the near future are insufficient to state a claim under *Zadvydas*. See *Novikov v. Gartland*, No. 5:17-cv-164, 2018 WL 4100694, at *2 (S.D. Ga. Aug. 28, 2018), *recommendation adopted*, 2018 WL 4688733 (S.D. Ga. Sept. 28, 2018); *Gueye v. Sessions*, No. 17-62232-Civ, 2018 WL 11447946, at *4 (S.D. Fla. Jan. 24, 2018); *Rosales-Rubio v. Att’y Gen. of United States*, No. 4:17-cv-83-MSH-CDL, 2018 WL 493295, at *3 (M.D. Ga. Jan. 19, 2018), *recommendation adopted*, 2018 WL 5290094 (M.D. Ga. Feb. 8, 2018). Rather, Petitioner must provide “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future”. *Gozo*, 309 F. App’x at 346 (internal quotations omitted) (emphasis added). Because Petitioner provides none, he cannot meet his burden under *Zadvydas*.

At most, Petitioner appears to claim that he is entitled to relief under *Zadvydas* because he has been in detention for more than six months and he has not yet been removed. Pet. 6. But a non-citizen cannot meet his *Zadvydas* burden by simply noting that his removal has been delayed. See *Ortiz v. Barr*, No. 20-CV-22449, 2021 WL 6280186, at *5 (S.D. Fla. Feb. 1, 2021) (“[T]he mere existence of a delay of Petitioner’s deportation is not enough for Petitioner to meet his burden.” (citations omitted)), *recommendation adopted*, 2022 WL 44632 (S.D. Fla. Jan. 5, 2022); *Ming Hui Lu v. Lynch*, No. 1:15-cv-1100, 2016 WL 375053, at *7 (E.D. Va. Jan. 29, 2016) (“[A] mere delay does not trigger the inference that an alien will not be removed in the foreseeable future.” (internal

quotations and citations omitted)); *Newell v. Holder*, 983 F. Supp. 241, 248 (W.D.N.Y. 2013) (“[T]he habeas petitioner’s assertion as to the unforeseeability of removal, supported only by the mere passage of time [is] insufficient to meet the petitioner’s initial burden” (collecting cases)). Yet, that is all Petitioner provides in his Petition. This is simply insufficient. Thus, Petitioner fails to meet his burden to present evidence that there is no significant likelihood of removal in the reasonably foreseeable future, and the Petition should be denied.

CONCLUSION

The record is complete in this matter, and the case is ripe for adjudication on the merits. Petitioner fails to show that he is entitled to relief on either of his claims. Petitioner is not entitled to relief under *Zadvydas* because he fails to meet his evidentiary burden to show there is no significant likelihood of removal in the reasonably foreseeable future. For this reason, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 10th day of March, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed Respondent's Response to the Petition with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that, due to the time of filing, on March 11, 2026, a copy of the Response will be mailed by United States Postal Service to the following non-CM/ECF participants:

Awet Hagos
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

Respectfully submitted this 10th day of March, 2026.

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UNITED STATES ATTORNEY

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