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

A.H.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:26 cv 142 CDL AGH
	:	28 U.S.C. § 2241
Warden, STEWART DETENTION CENTER, *et al.*,	:	
	:	
Respondents.	:	

ORDER

On July 24, 2026, the Court appointed *pro bono* counsel to represent Petitioner in this action due to a factual dispute that the Court found required an evidentiary hearing. Order, ECF No. 15. Petitioner now seeks leave to proceed with discovery to support his claim for habeas relief (ECF No. 20). The Court finds that Petitioner asserts good cause for discovery, but the Court limits that discovery as explained below.

PROCEDURAL BACKGROUND

Petitioner is a citizen and native of Eritrea. Am. Pet. 1, ECF No. 5; Stephens Decl. ¶ 3 & Ex. A, ECF Nos. 10-1, 10-2. On October 9, 2024, following events not relevant here, Petitioner entered the custody of Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO). Stephens Decl. ¶ 6; Stephens Decl. Ex. C, ECF No. 10-4. On October 29, 2024, an Immigration Judge ordered Petitioner removed to Eritrea. Stephens Decl. ¶ 7; Stephens Decl. Ex. D,

ECF No. 10-5. Petitioner filed an appeal to the Board of Immigration Appeals (BIA), and on February 27, 2025, Petitioner's removal order became final when the BIA dismissed his appeal. Pet. 1; Stephens Decl. ¶¶ 8, 10; Stephens Decl. Exs. E, G, ECF Nos. 10-6, 10-8.

The Court received Petitioner's *pro se* amended petition for a writ of habeas corpus on February 17, 2026 (ECF No. 5). Petitioner contended that, pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001), his detention had become unconstitutionally prolonged. *Id.* at 2. Specifically, Petitioner argued that Respondents had not obtained travel documents, failed to find a third country to remove him, and failed to give him notice of which third country he would be removed to. *Id.* Petitioner does not contest his removal order. *Id.* at 3. He asserts that he cooperated with all efforts to remove him, despite Eritrea refusing to accept him. *Id.* at 4. In relevant part, Petitioner seeks to be released on an order of supervision. Am. Pet. 8.

On March 10, 2026, Respondents responded in opposition. Resp'ts' Resp., ECF No. 10. Respondents agree that Petitioner has been detained longer than the six-month presumptively reasonable *Zadvydas* period of post-removal order detention. *Id.* at 4. Rather, they narrowly dispute that Petitioner is entitled to relief on the basis that Petitioner has not "me[t] his burden to 'provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future [SLRRFF].'" *Id.* at 4-6. Respondents base their argument that Petitioner has not met his *Zadvydas* burden on the allegation that Petitioner only claims relief by only stating that his removal has been delayed. *Id.* at 5.

On July 9, 2026, the Court ordered Respondents to provide a status update on the efforts made to remove Petitioner (ECF No. 13). In their status report, Respondents indicated that efforts to remove Petitioner were ongoing, including potentially removing Petitioner to a third country, and that Petitioner remained detained at Stewart Detention Center. Resp'ts' Status Report, July 16, 2026, ECF No. 14. Based on the record in this case, the Court found that there is a factual dispute underlying the efforts to remove Petitioner and that an evidentiary hearing is necessary. Thus, the Court appointed *pro bono* counsel for Petitioner. Order, July 24, 2026, ECF No. 15.

DISCUSSION

The parties filed a proposed joint scheduling and discovery order (ECF No. 20). Petitioner contends discovery is necessary to the central question before the Court: whether there is SLRRF to remove Petitioner, a question which Petitioner contends has been put forth by Respondents. *Id.* at 4. Petitioner contends that "good cause" exists for the Court to order discovery based on Respondents' assertions regarding SLRRFF. *Id.* Respondents claim that the Court should "postpone" deciding whether discovery is warranted until after Petitioner files an amended petition, which Petitioner apparently intends to do now that he has counsel. *Id.* at 9. For two reasons, the Court finds that discovery is required before Petitioner files an amended petition.

First, the Court has determined that an evidentiary hearing is necessary to resolve the question whether there is SLRRFF. A period of discovery before the

evidentiary hearing will significantly aid the Court in its fact-finding obligation to determine this question because such discovery will assist the parties in their presentation of evidence at the hearing. Thus, regardless of whether Petitioner intended to file an amended petition, the Court finds that discovery is appropriate.

Second, if Petitioner desires to file an amended petition, having discovery available would permit counsel to present a more factually precise and concise amended petition. As a result, the Court grants Petitioner's request for a period of discovery.

I. Discovery

A. Scope of Discovery

"A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). However, "[a] judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery" in a habeas proceeding. Rule 6(a), Rules Governing Section 2254 Cases.[1] If discovery is warranted, "Rule 6(a) makes it clear that the scope and extent of such discovery is a matter confided to the discretion of the District Court." *Bracy*, 520 U.S. at 909.

Under the Federal Rules of Civil Procedure:

> Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the

[1] The Rules Governing Section 2254 Cases in the United States District Courts are applicable to petitions brought under 28 U.S.C. § 2241. *Annamalai v. Warden*, 760 F. App'x 843, 849-50 (11th Cir. 2019) (citing Rule 1(b), Rules Governing Section 2254 Cases).

> action, . . . the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Fed. R. Civ. P. 26(b)(1). The Court applied this standard in evaluating Petitioner's requested discovery as set forth in their proposed joint scheduling and discovery order. Joint Proposed Sched. & Disc. Order Ex. A, ECF No. 20-1 (Pet'r's Disc.).

Petitioner proposes "four core subject areas" of discovery: (1) Respondents' efforts to obtain travel documents from Eritrea, and "the factual basis for [their] assertion that" SLRRFF exists; (2) information about Respondents' efforts to remove Petitioner to a third country; (3) Respondents' compliance with notice obligations; and (4) statistics about travel document requests (TDR) made to Eritrea for Fiscal Years 2025 and 2026. Joint Proposed Sched. & Disc. Order 9-10, ECF No. 20. The Court finds that these proposed areas of discovery are appropriate as they each relate to the central question of SLRRFF.

Petitioner's interrogatory 1 seeks information related to Respondents' efforts to obtain travel documents from Eritrea. Pet'r's Disc. 5-6, ECF No. 20-1. Petitioner's interrogatory 3 asks for information related to the question whether Petitioner received notice of removal to Eritrea or a third country. *Id.* at 6. Petitioner's interrogatory 4 requests cumulative information regarding TDRs made to Eritrea during the Fiscal Years 2025 and 2026. *Id.* at 7. Petitioner's interrogatory 6 targets information relating to whether the United States has a repatriation agreement with Eritrea. *Id.* at 7-8. Petitioner's interrogatory 8 requests information related to Respondents' statement that Eritrea approved a travel document for a "similarly

situated" Eritrean detainee. *Id.* at 8. The Court allows these interrogatories.

Petitioner's interrogatory 2 asks for information related to third country removal efforts. *Id.* at 6. Petitioner's interrogatory 5 seeks information about the other countries to which Respondents are considering removing Petitioner. *Id.* at 7. The Court also allows these interrogatories.

Petitioner's interrogatory 9 asks for information supporting Respondents' argument that, in "the last calendar year, ICE/ERO has removed approximately 21 Eritreans to Eritrea[.]" Pet'r's Disc. 8-10. While information generally concerning the removal of other Eritreans is relevant to the question of whether SLRRFF exists in this case, the Court finds that Petitioner's requests in interrogatory 9(b)-(d) are not relevant to this issue or proportional to the needs of the case. Thus, based on the record presently before the Court, the Court will not allow interrogatories 9(b)-(d). However, the Court finds that interrogatory 9(a) and (e), which seek general information regarding Respondents' assertions about the 21 Eritreans removed, are relevant to the question of SLRRFF and proportional to the needs of the case. Therefore, the Court allows only sections (a) and (e) of interrogatory 9.

Petitioner's interrogatory 7 seeks information that supports Respondents' contention that they expect a travel document to be issued and that there is SLRRFF. Pet'r's Disc. 8. Petitioner's interrogatory 10 requests information regarding Petitioner's Eritrean TDR. *Id.* at 10. Petitioner's interrogatory 11 asks whether an Eritrean travel document has been issued, and if not, for information regarding Eritrea's requests regarding the TDR, and other "alternative removal options"

Respondents may be considering if Eritrea refuses Petitioner. *Id.* at 10-11. The Court also allows these interrogatories.

Petitioner's interrogatories 12 and 13 seek individualized information about other detainees at Stewart Detention Center who have been or may be removed to Eritrea. Pet'r's Disc. 11-13. These interrogatories request information that, at present, is not relevant to the question before the Court. As a result, at this time, the Court will not require Respondents to answer interrogatories 12 and 13.

The Court reviewed Petitioner's proposed requests for production, *id.* at 18-20, and finds that each request for production relates to Petitioner's allowed interrogatories and is therefore relevant to the question before the Court. The Court also finds that the requests for production are proportional to the needs of the case. Consequently, the Court allows Petitioner's requests for production 1 through 9.

The Court also reviewed Petitioner's proposed requests for admission, *id.* at 24-25, and it finds that they also relate to either an allowed interrogatory or the question before the Court. As such, the Court finds that they are relevant and proportional to the needs of the case, and the Court will allow Petitioner's requests for admission 1 through 7.

Finally, Petitioner also seeks leave to take depositions of unnamed officials. Joint Proposed Sched. & Disc. Order 12. Respondents oppose the requested depositions, in relevant part, on the grounds that taking depositions before the evidentiary hearing is duplicative of the evidentiary hearing and burdensome. *Id.* at 13. The Court agrees with Respondents in part, and it will reserve its decision on

whether depositions are appropriate. Thus, at this time, Petitioner is denied leave to take depositions.

B. Discovery Schedule

Having considered Petitioner's proposed discovery schedule, the Court orders that discovery shall proceed as follows:

1. Within twenty-four hours of the date of this Order, Petitioner shall serve the discovery requests as approved herein by the Court on Respondents;
2. Within twenty-one days of the service of Petitioner's discovery requests, Respondents shall serve their responses;
3. Any motion to compel regarding discovery shall be filed one week after production, with any response due one week after filing of the motion, and production of any remaining discovery made one week after entry of the Court's order resolving the motion;
4. If no motion to compel is filed, Petitioner should file any amended petition within one week after receipt of Respondents' discovery responses. If a motion is filed, Petitioner should file any amended petition within one week of the Court's order on the motion or of receiving any additional discovery pursuant to that motion. Respondents shall file their response to the amended petition within fourteen days of the filing of said amended petition. Petitioner may file a reply within seven days of Respondents' response; and

5. Respondents shall promptly supplement their discovery responses with any further responsive information or documents as they discover new evidence.

CONCLUSION

For the reasons explained above, the Court shall provide Petitioner with a limited period of discovery. Discovery shall proceed on the schedule directly above and within the limits articulated in this Order. The Court will set an evidentiary hearing by separate order at a later date.

SO ORDERED, this 19th day of August, 2026.

s/ Amelia G. Helmick
UNITED STATES MAGISTRATE JUDGE