

United States District Court
Western District of Texas
El Paso Division

Fayez Abdallah,
Petitioner,

v.

Kristi Noem, *et al.*,
Respondents.

No. 3:26-CV-230-LS

**Federal Respondents' Response to
Order to Show Cause**

Federal Respondents timely submit this response per this Court's Order directing service and ordering a response. In his petition for writ of habeas Petitioner seeks release from civil immigration detention, claiming that his post-removal-order detention has become indefinite, contrary to statute and the Due Process Clause. Petitioner's claims lack merit, and this petition should be denied.

Petitioner has not shown here that there is no likelihood of removal in the reasonably foreseeable future. Even if Petitioner were able to make such a showing, the burden would shift to Respondents who can show that removal 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 was ordered removed in absentia from the United States by an immigration judge on October 2, 2024. Ex. A, Decl. ¶ 4. On April 14, 2025, ICE ERO took Abdallah into custody to effectuate his final order of removal. *Id.* ¶ 5. On September 20, 2025, Abdallah was transferred to El Paso Camp East Montana (CEM) for staging and removal arrangements to effectuate his removal. *Id.* ¶ 6.

On December 11, 2025, ICE ERO interviewed Abdallah to start the Travel Document request. *Id.* ¶ 7. On December 24, 2025, ICE ERO requested itinerary from Omega Travel as required for Travel document request packet. *Id.* ¶ 8. On January 30, 2026, ICE ERO forwarded requested TD packet to HQ RIO. *Id.* ¶ 9. On February 5, 2026, HQ RIO DDO advised ICE ERO to redo application for a newer version and resubmit once completed. *Id.* ¶ 10.

On February 7, 2026, ICE ERO requested for application to be translated in Arabic to Lionbridge translation services. *Id.* ¶ 11. On March 5, 2026, ICE ERO received translated TD application from Lionbridge. *Id.* ¶ 12. On March 5, 2026, ICE ERO was informed that escorted removals are not allowed, but unescorted removals to Jordan can continue. Jordanian airspace will be closed daily from 1800 to 0900. These restrictions, along with other airspace closures in the region, may affect removal operations. *Id.* ¶ 13.

On March 7, 2026, ICE ERO forwarded TD application to Jordanian consulate for review. *Id.* ¶ 14. On March 20, 2026, ICE ERO forwarded TD packet to Jordanian Consulate via UPS for acceptance and issuance of TD. *Id.* ¶ 15. ICE ERO is pursuing the removal of Abdallah to Jordan once his travel document is issued. Currently, there is a Significant Likelihood of Removal in the Reasonably Forseeable Future (SLRRFF). *Id.* ¶ 16.

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 at 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 Is Not Significantly Likely in the Reasonably Foreseeable Future.

Petitioner cannot show “good reason” to believe that removal 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).

The records show that Federal Respondents are currently just awaiting travel documents are looking to remove petitioner. There is no indication that removal is unlikely to happen.

IV. Conclusion

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

Dated March 31, 2026

Respectfully submitted,

JUSTIN R. SIMMONS
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Certificate of Service

I hereby certify that on March 31, 2026, I sent this document to the following by Certified First Class Mail:

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