

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Gevorg Muradyan v. Warden, Otay Mesa Detention Center

Muradyan · No. 3:26-cv-00063-CAB-AHG · Decided January 23, 2026

SUMMARY

The court denied without prejudice Gevorg Muradyan’s petition for a writ of habeas corpus challenging his continued detention after a final order of removal. Applying *Zadvydas v. Davis*, the court held that Muradyan had been detained for less than the six-month presumptively reasonable period and had not met his initial burden. The court also concluded that his medical-care claims were not properly raised in a habeas petition and could instead be pursued in a civil rights action.

OPINION

Gevorg Muradyan v. Warden, Otay Mesa Detention Center
PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 GEVORG MURADYAN, Case No.: 3:26-cv-00063-CAB-AHG 12 Petitioner,
ORDER DENYING PETITION FOR

13 v. WRIT OF HABEAS CORPUS

14 WARDEN, OTAY MESA DETENTION

[Doc. No. 1]

CENTER,

15 Respondent. 16

17 Pending before the Court is Gevorg Muradyan’s (“Petitioner”) Petition for Writ of 18 Habeas
Corpus. [Doc. No. 1 (“Petition”)]. On January 14, 2026, Respondents filed a return 19 to the
Petition. [Doc. No. 14.] On January 19, 2026, Petitioner filed a traverse. [Doc. No. 20 15.] The
Court finds Petitioner’s motion suitable for determination on the papers. See 21 CivLR 7.1(d)(1).
For the following reasons, the Petition is DENIED. 22

I. BACKGROUND

23 Petitioner is a native of Armenia who arrived in the United States on December 1, 24 2024.
[Doc. No. 14 at 1.] Shortly after arrival, he was referred for a credible fear interview, 25 and an
asylum officer made a positive reasonable fear determination. [Id. at 1–2.] On 26 December 12,
2024, Petitioner was charged as an immigrant not in possession of a valid 27 entry document. [Id.
at 2.] On January 24, 2025, Petitioner filed an application for asylum 28 1 and withholding of

removal. [Id.] On September 30, 2025, an immigration judge ordered 2 Petitioner removed but granted a withholding of removal to Armenia. [Id.] The removal 3 order became final that day. [Id.] 4 Since Petitioner’s final order of removal, he has spent almost four months in 5 detention. Immigration and Customs Enforcement (“ICE”) has been looking for a third 6 country to effect Petitioner’s removal since October 2025. [Doc. No. 14. at 2.] 7 Respondents do not have a travel document for Petitioner but assert that “ICE continues to 8 diligently seek to identify a third country for Petitioner’s removal and believes there is a 9 significant likelihood of removal to a third country in the reasonably foreseeable future.” 10 [Id.]

11 II. LEGAL STANDARD

12 A writ of habeas corpus is “available to every individual detained within the United 13 States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 14 2). “[T]he essence of habeas corpus is an attack by a person in custody upon the legality 15 of that custody, and [] the traditional function of the writ is to secure release from illegal 16 custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Under 28 U.S.C. § 2241, a 17 district court has the authority to grant a writ of habeas corpus when the petitioner “is in 18 custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. 19 § 2241(c)(3). The petitioner bears the burden of demonstrating that he is in illegal custody. 20 See *Martinez v. Noem*, No. 25-CV-2740-BJCBJW, 2025 WL 3171738, at *2 (S.D. Cal. 21 Nov. 13, 2025).

22 III. DISCUSSION

23 A. Jurisdiction 24 Respondents argue that the Court lacks jurisdiction over Petitioner’s claims under 25 8 U.S.C. § 1252. [Doc. No. 14 at 3.] The Supreme Court’s holding in *Zadvydas* squarely 26 contradicts this argument. There, the Supreme Court rejected the application of § 1252 to 27 limit judicial review of indefinite post-removal-period detentions under § 1231(a)(6) and 28 held “that § 2241 habeas corpus proceedings remain available as a forum for statutory and 1 constitutional challenges to post-removal-period detention.” *Zadvydas v. Davis*, 533 U.S. 2 678, 687–88 (2001). This Court is thus satisfied of its subject matter jurisdiction and 3 proceeds to the merits. 4 B. Lawfulness of Petitioner’s Continued Detention Under 8 U.S.C. § 1231 5 Petitioner asserts that his detention is unlawful under the Supreme Court’s decision 6 in *Zadvydas*. [Petition at 7.] Respondents argue that (1) ICE has the authority to detain 7 Petitioner to effectuate his order of removal; (2) Petitioner’s case is premature as the six- 8 month presumptively reasonable removal window has not passed; and (3) Petitioner cannot 9 show that there is not a significant likelihood of removal in the reasonably foreseeable 10 future as required under *Zadvydas*. [Doc. No. 14 at 4–6.] The Court agrees with 11 Respondents that Petitioner is in the presumptively reasonable removal window. 12 As relevant here, 8 U.S.C. § 1231(a)(1)(A) provides a 90-day removal period that 13 begins when the order of removal becomes administratively final. Petitioner was ordered 14 removed on September 30, 2025, and because he waived his right to appeal, [Doc. No. 14 15 at 2], his order of removal became administratively final the same day.

See 8 C.F.R. § 16.1003.39; 8 C.F.R. § 1241.1. 17 The Petitioner has the initial burden to show that he has experienced post-removal 18 order detention for more than Zadvydas' six-month presumptively reasonable period of 19 detention. Zadvydas, 533 U.S. at 701. Given that Petitioner has been in detention for less 20 than six months, Petitioner does not meet his burden. See Khalilova v. Smith, No. 25-CV- 21 2140 JLS (DDL), 2025 WL 3089522, at *3 (S.D. Cal. Nov. 5, 2025) (finding habeas 22 petition was unripe for review where Zadvydas six-month period had not expired). 23 C. Petitioner's Medical Care 24 Regarding Petitioner's complaint about medical care, the Supreme Court has stated 25 that "requests for relief turning on circumstances of confinement may be presented in a 26 § 1983 action" rather than a habeas petition which is meant for "[c]hallenges to the validity 27 of any confinement or to particulars affecting its duration[.]" Muhammad v. Close, 540 28 1 749, 750 (2004). The Court thus finds Petitioner's argument that he should be released 2 || for alleged insufficient medical care unavailing.

3 CONCLUSION

4 Accordingly, the Court DENIES Petitioner's application for a writ of habeas corpus 5 || WITHOUT PREJUDICE. If Petitioner remains in detention after the six month 6 || presumptively reasonable window has passed, Petitioner may file a new petition. 7 It is SO ORDERED. 8 ||Dated: January 23, 2026 € 9 Hon. Cathy Ann Bencivengo 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28