

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Ehsan Gholestani v. United States District Court, et al.

Gholestani · No. CIV-25-1392-R · Decided March 3, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma reviewed a magistrate judge’s recommendation to grant Ehsan Gholestani’s 28 U.S.C. § 2241 habeas petition challenging prolonged immigration detention under *Zadvydas v. Davis*. The Court found that Petitioner showed no significant likelihood of removal to Iran or a third country in the reasonably foreseeable future and that Respondents’ evidence was insufficient to rebut that showing. The Court adopted the Report and Recommendation, ordered Petitioner’s release subject to supervision, and directed Respondents to file a compliance status report within seven days.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	March 3, 2026
DOCKET	CIV-25-1392-R
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 from prolonged immigration detention after entry of a final order of removal. The court reviewed de novo the portions of the magistrate judge's Report and Recommendation challenged by Respondents.
STANDARD OF REVIEW	De novo review of portions of the Report and Recommendation to which a specific objection was made; the court independently reviewed the record and filings.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Ehsan Gholestani v. United States District Court, et al.

TOPICS

- immigration detention
- removal proceedings
- due process
- procedural due process
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Gholestani's prolonged detention under 8 U.S.C. § 1231(a)(6) violated the Fifth Amendment Due Process Clause under *Zadvydas v. Davis*.
2. Whether Gholestani established good reason to believe that there was no significant likelihood of his removal in the reasonably foreseeable future.
3. Whether Respondents rebutted that showing with sufficient evidence of a reasonably foreseeable removal.

HOLDINGS

1. A noncitizen detained for more than six months after a final order of removal is entitled to release when the noncitizen provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future and the Government fails to rebut that showing with sufficient evidence.
2. The evidence established good reason to believe that Gholestani's removal to Iran or a third country was not significantly likely in the reasonably foreseeable future.
3. Respondents failed to rebut with sufficient evidence Gholestani's showing that removal was not significantly likely in the reasonably foreseeable future.

KEY QUOTATIONS

"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." (at 1)

"What constitutes a 'significant likelihood of removal' and how to measure the 'reasonably foreseeable future,'...is incapable of any bright-line delineation. Instead the analysis is case-specific and fact driven." (at 1)

"the reasonableness of detentions pending deportation cannot be divorced from the reality of the bureaucratic delays that almost always attend such removals." (at 2)

FACTUAL BACKGROUND

Gholestani, an Iranian national subject to a final order of removal, had been detained under 8 U.S.C. § 1231(a)(6) for more than a year. Iran denied his request for travel documents, Respondents identified no meaningful progress toward removal to a third country, and their attempts to complete removal were sporadic. The court found that Gholestani showed good reason to believe that removal to Iran or a third country was not significantly likely in the reasonably foreseeable future, while Respondents' rebuttal evidence was insufficient.

PROCEDURAL HISTORY

A magistrate judge recommended granting Gholestani's § 2241 habeas petition and ordering his release subject to supervision. Respondents objected, relying in part on a new affidavit concerning efforts to obtain travel

documents and effect removal. After de novo review, the district court adopted the Report and Recommendation, granted the petition, ordered release under supervision, and required a compliance status report within seven days.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were ordered to release Petitioner from custody subject to an appropriate Order of Supervision and to certify compliance by filing a status report within seven days.

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Khaliq v. Noem*, No. CIV-25-1154-SLP, 2026 WL 196631, at *6 (W.D. Okla. Jan. 26, 2026)
- *Valle v. Jones*, No. CIV-25-1161-J, 2025 WL 3488290, at *2 (W.D. Okla. Dec. 4, 2025)
- *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1367-68 (N.D. Ga. 2002)

OPINION

Gholestani

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF OKLAHOMA

EHSAN GHOLESTANI,)

) Petitioner,)) vs.) Case No. CIV-25-1392-R)

UNITED STATES DISTRICT COURT,)

et al.,)) Respondents.)

ORDER

Before the Court is the Report and Recommendation [Doc. No. 16] of United States Magistrate Judge Chris M. Stephens, recommending that Petitioner’s Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 be granted. Respondents filed an Objection [Doc. No. 17], which triggers de novo review of those portions of the Report to which a specific objection is made. Petitioner, an Iranian national, is the subject of a final order of removal from the United States. He has been in immigration detention pursuant to 8 U.S.C. § 1231(a)(6) for more than a year since the entry of the final order of removal. His habeas petition argues that his prolonged detention violates the Due Process Clause of the Fifth Amendment, relying on *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, 533 U.S. at 689, the Supreme Court construed § 1231(a)(6) as prohibiting the indefinite detention of noncitizens subject to a final order of removal and awaiting deportation. *Zadvydas* held that a six-month period of post-removal detention is presumptively reasonable, but “[a]fter

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.* “What constitutes a ‘significant likelihood of removal’ and how to measure the ‘reasonably foreseeable future,’ ...is incapable of any bright-line delineation. Instead the analysis is case-specific and fact driven.” *Khaliq v. Noem*, No. CIV-25-1154-SLP, 2026 WL 196631, at *6 (W.D. Okla. Jan. 26, 2026). Here, Judge Stephens concluded that Petitioner met his burden of showing good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future and that Respondents failed to rebut this showing. Specifically, Judge Stephens noted that Iran denied Petitioner’s request for travel documents, Respondents have not identified any progress toward removing Petitioner to a third country, and Respondents have only made sporadic attempts to complete Petitioner’s removal. Judge Stephens therefore recommends that Petitioner be released from custody subject to an order of supervision. Respondents lodge two specific objections to the Report.¹ First, they object to the conclusion that Petitioner identified “barriers and obstacles” to his removal to Iran or that Respondents did not provide evidence of attempts re-submit a request for travel documents. ¹ Respondents also re-assert and adopt by reference the arguments presented in the response in opposition to the Petition. These objections are “too general to trigger de novo review” because they do not “alert this Court as to what legal or factual errors they believe [the magistrate judge] made in reaching his conclusion.” *Valle v. Jones*, No. CIV-25-1161-J, 2025 WL 3488290, at *2 (W.D. Okla. Dec. 4, 2025). In any event, the Court has reviewed the Report and filings in full and, upon de novo review, agrees with Judge Stephens’ conclusions. In support of this objection, Respondents rely on a new affidavit, not presented to Judge Stephens, stating that Iran requested a telephone interview with Petitioner on January 28, 2026, Iran denied the request for travel documents on February 17, 2026, and Respondents “continue[] to work to facilitate removal of Petitioner to a third country.” Although these new developments suggest that Respondents made a recent attempt to request new travel documents, the denial of that request and Respondents concession that they are attempting a third country removal supports a finding that there is no significant likelihood that Petitioner will be removed to Iran in the reasonably foreseeable future. Further, Respondents have not identified any other countries where any progress towards a removal has been made. Second, Respondents object to Judge Stephen’s finding that the failure of either party to allege that it is in possession of documents demonstrating Petitioner’s Iranian citizenship presents a barrier to his repatriation. Respondents contend this finding was erroneous because Petitioner’s citizenship is not in dispute. Even accepting that Petitioner’s Iranian citizenship is not in dispute, the fact remains that Iran has denied Petitioner’s request for travel documents, Respondents’ attempts to obtain travel documents have been sporadic at best, and there is essentially no evidence indicating that there has been any progress toward a third country removal. In evaluating a noncitizen’s assertion that his prolonged immigration detention is unlawful under *Zadvydas*, the Court fully agrees that “the reasonableness of detentions pending

deportation cannot be divorced from the reality of the bureaucratic delays that almost always attend such removals.” *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1367 (N.D. Ga. 2002). The initial burden to show no significant likelihood of removal in the reasonably near future is on the petitioner, and “the mere fact of some delay will not require the release of the alien.” /d. at 1368. Here, Petitioner has shown more than just a delay in completing the removal. Upon de novo review, the Court agrees that the evidence supports a finding that there is good reason to think Petitioner’s removal to Iran or a third country is not significantly likely in the reasonably near future. Respondents evidence in rebuttal is extremely thin and is not sufficient to rebut that showing. Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 16], GRANTS the Petition for Writ of Habeas Corpus [Doc. No. 11], orders Respondents to release Petitioner from custody subject to an appropriate Order of Supervision, and directs Respondents to certify compliance with this order by filing a status report within seven days. IT IS SO ORDERED this 34 day of March, 2026.

UNITED STATES DISTRICT JUDGE