

District Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRYAN STANLEY JORDAN MEJIA,

Petitioner,

v.

IMMIGRATION AND CUSTOMS
ENFORCEMENT FIELD OFFICE
DIRECTOR,

Respondent.

Case No. 2:26-cv-00033-TSZ

RESPONDENT'S RETURN
MEMORANDUM

Noted for Consideration:
February 11, 2026

I. INTRODUCTION

This Court should deny Petitioner Bryan Stanley Jordan Mejia's Petition for Writ of Habeas Corpus because the six-month presumptively reasonable period necessary for U.S. Immigration and Customs Enforcement ("ICE") to bring about his removal has not expired. Dkt. No. 6 ("Pet."). Petitioner is a noncitizen subject to an administrative final order of removal. His approximate six-month post-order detention under 8 U.S.C. § 1231(a)(6) at the Northwest ICE Processing Center ("NWIPC") is constitutional while he awaits removal.

The Petition contains no facts demonstrating that Petitioner's detention is potentially indefinite. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Thus, Petitioner has not met his burden

RESPONDENT'S RETURN MEMORANDUM
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here by providing a good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future. *Id.*

Accordingly, ICE respectfully requests that the Court deny the Petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Detention Authorities and Removal Procedures

The Immigration and Nationality Act governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 526-29 (2021). The general detention periods are generally referred to as “pre-order” (meaning before the entry of a final order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) with § 1231(a) (authorizing post-order detention).

When a final order of removal has been entered, a noncitizen enters a 90-day “removal period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for removal and to protect the community from dangerous noncitizens while removal is being effected, Congress mandated detention:

During the removal period, the [Secretary of Homeland Security]¹ shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2). During the removal period, ICE² is charged with attempting to effectuate removal of noncitizens from the United States. 8 U.S.C. § 1231(a)(1).

¹ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security (“DHS”). *See also* 6 U.S.C. § 251.

² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 Section 1231(a)(6) authorizes DHS to continue detention of noncitizens after the expiration
2 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
3 and does not place any temporal limit on the length of detention under that provision:

4 [A noncitizen] ordered removed who is inadmissible under section 1182,
5 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
6 who has been determined by the [the Secretary of Homeland Security] to be a risk
7 to the community or unlikely to comply with the order of removal, *may* be detained
8 *beyond the removal period* and, if released, shall be subject to the terms of
9 supervision in paragraph (3).

8 8 U.S.C. § 1231(a)(6) (emphasis added).

9 Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the
10 Supreme Court has held that a noncitizen may be detained only “for a period reasonably necessary
11 to bring about that [noncitizen’s] removal from the United States.” *Zadvydas*, 533 U.S. at 689.
12 The Supreme Court has identified six months as a presumptively reasonable time necessary to
13 bring about a noncitizen’s removal. *Id.*, at 701.

14 In this case, Petitioner is the subject of an administrative order of removal that became final
15 on August 29, 2025. The 90-day removal period expired on November 27, 2025. Thus, the
16 “presumptively reasonable” six-month period is ongoing and will expire on February 25, 2026.
17 *Zadvydas*, 533 U.S. at 701.

18 **B. Petitioner Bryan Stanley Jordan Mejia**

19 Petitioner, a native and citizen of El Salvador, unlawfully entered the United States on or
20 about December 22, 2023. Reed Decl., ¶ 4. U.S. Border Patrol apprehended him approximately
21 two days later. Reed Decl., ¶ 5. Petitioner informed Border Patrol that he feared return to El
22 Salvador. Reed Decl., ¶ 6. Border Patrol released him on his own recognizance. Reed Decl., ¶ 6.

1 DHS issued him a notice to appear charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)
2 and he was placed in removal proceedings in Seattle, Washington. Reed Decl., ¶ 7.³

3 Approximately a year later in 2024, Petitioner filed an asylum application with the
4 Executive Office of Immigration Review (the agency that conducts immigration proceedings).
5 Reed Decl., ¶ 8.

6 On May 20, 2025, Petitioner appeared for his master calendar hearing at the Seattle
7 Immigration Court. Reed Decl., ¶ 9. At the hearing, DHS moved to dismiss his removal
8 proceedings for changed circumstances. Reed Decl., ¶ 9. The immigration judge granted the
9 motion. Reed Decl., ¶ 9; Lambert Decl., Ex. A, Order. Petitioner has appealed this ruling to the
10 Board of Immigration Appeals (“BIA”), which remains pending. Reed Decl., ¶¶ 11, 18.

11 After the hearing, ICE arrested Petitioner and transferred him to the NWIPC. Reed Decl.,
12 ¶ 9; Lambert Decl., Ex. B, Form I-213. On May 30, 2025, U.S. Citizenship and Immigration
13 Services (“USCIS”) determined that Petitioner had a credible fear of return to El Salvador. Reed
14 Decl., ¶ 12. Thus, DHS issued Petitioner a new notice to appear alleging that Petitioner was
15 removable from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and
16 § 1182(a)(7)(A)(i)(I). Reed Decl., ¶ 13; Lambert Decl., Ex. C, Notice to Appear. Petitioner was
17 placed in removal proceedings in the Tacoma Immigration Court. Reed Decl., ¶ 13.

18 Petitioner filed a new asylum application with the Tacoma Immigration Court on July 1,
19 2025. Reed Decl., ¶ 15.

20 On August 29, 2025, the immigration judge denied Petitioner’s asylum application and
21 ordered him removed to El Salvador. Reed Decl., ¶ 16; Lambert Decl., Ex. D, Order of the
22 Immigration Judge. However, the immigration judge granted Petitioner withholding of removal

23
24 ³ DO Reed’s declaration contains a typo. In paragraph 7, he mistakenly states that DHS issued the notice to appear on December 24, 2024. Reed Decl., ¶ 7. The year should be 2023 as he was issued the notice when he was first apprehended.

1 to El Salvador. Reed Decl., ¶ 16. Petitioner waived appeal of the order, rendering it
2 administratively final.

3 Because Petitioner cannot be removed to El Salvador, ICE is pursuing a third country
4 removal. On November 21, 2025, ICE served Petitioner with a notice of the agency's intent to
5 remove him to Mexico. Reed Decl., ¶ 17. Petitioner claimed fear of removal to Mexico. Reed
6 Decl., ¶ 17.

7 Under DHS policy, If the individual expresses that they are afraid of being removed to a
8 third country, DHS will refer them to the USCIS for a reasonable fear interview, to screen that
9 person for protection against removal to that country. U.S. Department of Homeland Security,
10 "Guidance Regarding Third Country Removals," Kristi Noem, March 30, 2025, *available at*
11 <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1>
12 [1.pdf](#) (last visited Feb. 5, 2026) ("DHS Memo"); U.S. Immigration and Customs Enforcement,
13 "Third Country Removals Following the Supreme Court's Order in *Department of Homeland*
14 *Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)," Todd M. Lyons, July 9, 2025, *available at*
15 <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.190.1.pdf>
16 (last visited Feb. 5, 2026).

17 After the interview is conducted, USCIS will determine whether the individual would more
18 likely than not be persecuted or tortured in the country of removal. *Id.* If USCIS finds that the
19 individual has met this standard, if the person was previously in removal proceedings, USCIS will
20 inform ICE, and ICE can then file a motion to reopen with the immigration court. *Id.*
21 Alternatively, ICE can also choose to designate another country of removal. If USCIS finds that
22 the person has not met the standard, according to DHS policy, they will be removed. *Id.* There is
23 nothing in the memo or in ICE policy that prevents an individual from filing a motion to reopen
24 their prior removal proceedings at any time they so choose, based on a request for asylum,

1 withholding of removal, or protection under the Convention Against Torture. *See id.*; *see also* 8
2 C.F.R. § 1003.23(b)(4)(i).

3 Here, ICE referred Petitioner to USCIS for an interview to assess his claim of fear of
4 removal to Mexico on November 21, 2025. Reed Decl., ¶ 17. This referral remains pending.

5 ICE detains Petitioner pursuant to 8 U.S.C. § 1231(a)(6).

6 III. LEGAL STANDARD

7 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
8 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
9 *Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
10 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
11 day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C.
12 § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

13 To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her
14 custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. §
15 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

16 IV. ARGUMENT

17 A. Petitioner has not met his burden by demonstrating a good reason to believe that 18 there is no significant likelihood of removal in the reasonably foreseeable future.

19 Petitioner has not met his burden to demonstrate that his detention has become
20 unconstitutional. In *Zadvydas*, Supreme Court found that noncitizens bear the burden to provide
21 a good reason to believe that there is no significant likelihood of removal in the reasonably
22 foreseeable future, which then requires the government to respond with sufficient evidence to rebut
23 that showing. *Zadvydas*, 533 U.S. at 701. Petitioner makes no such showing here.

1 Even though Petitioner is proceeding *pro se* in this litigation, the Petition fails to address
2 the *Zadvydas* issue in any manner and instead mistakenly analyzes pre-order detention. This
3 argument is irrelevant as Petitioner is detained pursuant to 8 U.S.C. § 1231(a) (post-order
4 detention). Petitioner does not even acknowledge that an immigration judge has ordered him
5 removed. While Petitioner has a pending appeal before the BIA of a prior order of an immigration
6 judge, he has not appealed the final decision of the immigration judge: the removal order. *See Fa*
7 *Li Liu v. U.S. Dep't of Just.*, 179 F. App'x 722, 724-25 (2d Cir. 2006) (explaining that the BIA does
8 not ordinarily entertain interlocutory appeals, the BIA typically reviews interlocutory orders as
9 raised by the parties on an appeal from a final decision by the immigration judge).⁴

10 Because Petitioner has failed to meet his burden, the Petition should be denied.

11 **B. Petitioner's detention is not indefinite.**

12 Petitioner cannot demonstrate that his detention has become "indefinite" or
13 unconstitutional. In *Zadvydas*, the Supreme Court found that post-order detention could be
14 potentially indefinite as authorized under the open-ended terms of Section 1231(a)(6). Finding the
15 possibility of indefinite detention troublesome, the Supreme Court clarified that there is a point at
16 which Congress's interest in detaining a noncitizen to facilitate his removal may eventually give
17 way to the noncitizen's liberty interest. This shift occurs when detention becomes potentially
18 indefinite. *Zadvydas*, 533 at 690 ("A statute permitting indefinite detention of an [noncitizen]
19 would raise a serious constitutional problem.").

20 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
21 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*
22 (stating that "for detention to remain reasonable, as the period of post-removal confinement grows,

23
24 ⁴ The BIA has not yet designated Petitioner's appeal as interlocutory or any other type of appeal.

1 what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the
2 Supreme Court implicitly recognized that six months is the *earliest* point at which criminal
3 noncitizens’ detention could raise constitutional issues. *Id.*, at 701. “This 6-month presumption,
4 of course, does not mean that every [noncitizen] not removed must be released after six months.”
5 *Id.*

6 Here, Petitioner is still within the presumptively reasonable six-month period. He has
7 provided no information to rebut the presumption that his removal remains reasonably foreseeable.
8 Thus, Petitioner has not stated a claim under *Zadvydas*.

9 **V. CONCLUSION**

10 For the foregoing reasons, Respondent respectfully requests that this Court deny the
11 Petition.

12 DATED this 6th day of February, 2026.

13 Respectfully submitted,

14 s/ Michelle R. Lambert

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19 *Attorneys for Respondent*

20 *I certify that this memorandum contains 2,082*
21 *words, in compliance with the Local Civil Rules.*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify that on this date, I electronically filed the foregoing and the following Declaration of Kurtis Reed and the Declaration of Michelle R. Lambert with supporting Exhibits A through D, with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail with return receipt, postage prepaid, addressed as follows:

Bryan Stanley Jordan Mejia, *Pro Se Petitioner*
A# [REDACTED]
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DATED this 6th day of February, 2026.

s/ Stephanie Huerta-Ramirez
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