

United States District Court
Eastern District of Michigan

DARYNEL GERARDO MEDINA
LOPEZ,

Petitioner,

Civil No. 26-10784

v.

Honorable F. Kay Behm
Mag. Judge Anthony P. Patti

KEVIN RAYCRAFT, in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Detroit Field Office; TRACY DECAUSSIN, Administrator, St. Clair County Jail; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAM BONDI, in her official capacity as Attorney General of the United States, and the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Response to Petition for a Writ of Habeas Corpus

Respondents submit this response to petitioner's petition for a writ of habeas corpus, (ECF No. 1). As described in the attached brief, petitioner is a noncitizen subject to a final order of removal and his removal is likely in the foreseeable future. Therefore, his detention is proper under the Constitution and federal law.

Respectfully submitted,

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Dated: March 23, 2026

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KEVIN RAYCRAFT, in his official
capacity as Field Office Director of the
Immigration and Customs
Enforcement, Enforcement and
Removal Operations Detroit Field
Office; et al.,

Respondents.

**Respondents' Brief in Support of Their Response to Petition for a
Writ of Habeas Corpus**

Issues Presented

- I. Should the Court deny petitioner's request for a writ of habeas corpus when he is lawfully detained pursuant to a final order of removal under 8 U.S.C. § 1231?
- II. Should the Court deny petitioner's request for a writ of habeas corpus when his detention complies with the Fifth Amendment?

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Introduction

Petitioner is a noncitizen who has been ordered removed to his native country. In February 2025, immigration officials detained him under 8 U.S.C. § 1231 to execute his lawful removal. ICE recently attempted to execute his lawful removal, but this Court issued a temporary restraining order preventing his removal. In this suit, petitioner challenges his detention under *Zadvydas*, which only prohibits indefinite detention when removal is impossible. Because the only obstacle to petitioner's removal at this time is this Court's order, petitioner cannot succeed on his *Zadvydas* claim. Accordingly, the Court should reject petitioner's request for a writ of habeas corpus because his detention is proper under the plain language of § 1231 and the duration of his detention does not violate his due process rights.

Background

Petitioner Darynel Gerardo Medina Lopez is a citizen of Honduras. (Exhibit 1 – Hughley Decl. ¶ 4). He entered the United States from Mexico with his mother and brother in 2014 when he was a minor without being inspected or admitted by an immigration officer.¹ (*Id.* at ¶¶ 4–6). Shortly after his unlawful entry, United States Border Patrol agents arrested him and detained him at a facility that accommodated family units. (*Id.* at ¶¶ 6–7). Officials charged petitioner with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) because he had not been lawfully admitted to the United

¹ Petitioner is now 22 years old.

States. (*Id.*). The following day, officials released petitioner on an order of recognizance and ordered him to appear at a regional ICE field office for initiation of removal proceedings. (*See* Exhibit 1 – Hughley Decl. at ¶ 8).

On September 14, 2017, an immigration judge denied petitioner’s application for asylum and ordered him removed to Honduras. (*Id.* at ¶ 9). Petitioner appealed to the Board of Immigration Appeals, but the Board dismissed his appeal in 2018. (*Id.* at ¶ 10; Exhibit 2 – IJ Order). Petitioner’s order of removal became administratively final on May 22, 2018. (Exhibit 1 – Hughley Decl. ¶ 10).

On March 2, 2026, local law enforcement officers encountered petitioner during a traffic stop and those officers contacted U.S. Border Patrol. (Exhibit 1 – Hughley Decl. ¶ 11). Border Patrol officers detained petitioner and transferred him to ICE custody the same day. (*Id.*).

On March 4, 2026, petitioner filed a motion to re-open his administrative immigration proceedings with the Board of Immigration Appeals. (Exhibit 1 – Hughley Decl. ¶ 11). Petitioner’s motion to re-open does not disturb the finality of his final order of removal. (*See id.*); 8 C.F.R. § 1003.23(b)(1)(v).

On March 9, 2026, petitioner filed suit in the Eastern District of Michigan seeking a writ of habeas corpus. (*See* Pet., ECF No. 1). In his petition, he did not challenge his order of removal or seek a stay of his removal. (*See id.*). Instead, he challenged his detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001), which only

prohibits indefinite detention when removal is not likely in the reasonably foreseeable future. (*See id.* at PageID.14).

In his petition, he conceded that his order of removal remained executable and indicated that he intended to move to stay his removal in the Board of Immigration Appeals. (*See* Pet., ECF No. 1, PageID.2). However, petitioner did not seek to stay his removal in the Board of Immigration Appeals at that time. (*See* Exhibit 1 – Hughley Decl. ¶ 15).

On March 12, 2026, ICE transferred petitioner to Texas to execute his lawful removal to Honduras, which was scheduled for March 15, 2026. (*See* Exhibit 1 – Hughley Decl. ¶ 12). However, on March 13, 2026, petitioner moved for a temporary restraining order to stay petitioner’s removal and the Court granted petitioner’s motion the same day. (*See* Mot. for TRO, ECF No. 4; TRO, ECF No. 5). Petitioner is currently detained by ICE at the Calhoun County Jail. (Exhibit 3 – I-830).²

On March 20, 2026, petitioner moved for a stay of his removal in the Board of Immigration Appeals, but the Board has not ruled on that motion. (*See* Exhibit 4 – BIA Mot. to Stay). Therefore, the only obstacle to petitioner’s removal at this time

² The Calhoun County Jail is in the Western District of Michigan. *See* 28 U.S.C. § 102. However, petitioner was detained in the Eastern District when this suit was filed. (*See* Pet., ECF No. 1, PageID.1–2); *White v. Lamanna*, 42 F. App’x 670, 671 (6th Cir. 2002) (“Because White filed his petition while he was incarcerated in the Northern District of Ohio, the district court retained jurisdiction over his petition following his transfer.”).

is this Court's temporary restraining order. (*See* Exhibit 1 – Hughley Decl. ¶ 15).

Standard of Review

A district court may grant a writ of habeas corpus if a petitioner is in federal custody in violation of the Constitution or a federal law. 28 U.S.C. § 2241.

Argument

As described below, petitioner is lawfully detained under 8 U.S.C. § 1231 because he is subject to a final order of removal and he has been detained for less than ninety days. His detention does not violate the Due Process Clause because his removal is likely in the reasonably foreseeable future.

I. Petitioner is Lawfully Detained under 8 U.S.C. § 1231

The detention of a noncitizen subject to a final order of removal is governed by 8 U.S.C. § 1231. Under § 1231, “[d]uring the removal period, the Attorney General shall detain the alien.” 8 U.S.C. § 1231(a)(2)(A). The removal period is generally ninety days, however, officials have discretion to extend that period if the noncitizen is ordered removed because they were found inadmissible under 8 U.S.C. § 1182. *Id.* § 1231(a)(1)(A), (a)(6). The statute does not entitle a noncitizen detained under § 1231 to a bond hearing and it sets no limit on how long the agency may detain a noncitizen pursuant to a final order of removal. *See* 8 U.S.C. § 1231(a); *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 581–82 (2022) (holding that

noncitizens detained under § 1231 were not entitled to bond hearings).

Here, petitioner is lawfully detained under § 1231. Petitioner is subject to an administratively final order of removal. (*See* Exhibit 1 – Hughley Decl. ¶ 11; Exhibit 2 – IJ Order). Therefore, § 1231 expressly grants the agency discretion to detain him without a bond hearing until his removal. *See* 8 U.S.C. §§ 1231(a)(1), (2), (6); *Arteaga-Martinez*, 596 U.S. at 581–82. And he has been detained for less than thirty days, which is well within the statute’s mandatory detention period. *See* 8 U.S.C. §§ 1231(a)(1)(A).

Petitioner’s alleged eligibility for SIJ status does not change this analysis. Special Immigrant Juvenile (SIJ) Status is a form of relief for immigrants who are under twenty-one years old, unmarried, and placed under the custody of a person appointed by a juvenile court because “reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis” 8 U.S.C. § 1101(a)(27)(J). SIJ status itself does not grant a noncitizen lawful status, it only creates a pathway for certain noncitizens to obtain lawful status. *See* 8 U.S.C. §§ 1255(a), (h). However, immigration officials have discretion to award lawful status to those approved for SIJ status, so eligibility alone does not entitle petitioner to future lawful status. *See id.* And courts lack jurisdiction to review immigration officials’ discretionary decisions to grant or deny lawful status to those with SIJ status. *See* 8 U.S.C. § 1252(a)(2)(B). Petitioner cites no authority for the

assertion that SIJ status alone affects the finality of an order of removal or renders a noncitizen immune from detention or removal. (*See* Pet., ECF No. 1, PageID.14).

Further, petitioner’s argument that his mere eligibility for discretionary relief under his SIJ status converts his post-order of removal detention under § 1231 into pre-removal detention governed by § 1226 is foreclosed by recent Supreme Court precedent. In *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), the Supreme Court considered when a petitioner’s detention shifts from a pre-order of removal statute like § 1226 to the post-order of removal statute, § 1231. *See id.* at 533–47. And it held that a noncitizen’s detention shifts from § 1226 to § 1231 once an order of removal becomes “administratively final,” or, in other words, after the BIA concludes its review of the case. *See id.* at 534. It further held that a noncitizen’s order of removal remains “administratively final” unless the Board of Immigration Appeals or a U.S. Court of Appeal issues an order staying removal or for another reason specifically enumerated in § 1231. *See id.* at 534–35. Accordingly, under *Guzman Chavez*, petitioner’s SIJ status does not affect the finality of his order of removal because SIJ status is not explicitly listed in § 1231(a)(1)(B). *See id.*

Instead, petitioner’s order of removal will remain administratively final unless and until the Board of Immigration Appeals grants his motion to re-open. *See* 8 U.S.C. § 1231(a)(1)(B). Until that time, there is no plausible dispute that his detention is proper under § 1231.

II. Petitioner's Detention Does Not Violate the Due Process Clause

Under 8 U.S.C. § 1231, a noncitizen must be detained for ninety days pursuant to a final order of removal. 8 U.S.C. §§ 1231(a)(1), (2). In addition, noncitizens ordered removed because of inadmissibility under § 1182 may be detained beyond the ninety-day removal period.³ 8 U.S.C. § 1231(a)(6). ICE's detention of noncitizens under § 1231(a)(6) beyond the initial ninety-day removal period is presumptively lawful under the Fifth Amendment for at least another ninety days. *See* 8 U.S.C. § 1231(a)(6); *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Detention beyond 180 days after a final order of removal does not presumptively violate the Fifth Amendment. *Zadvydas*, 533 U.S. at 701. “To the contrary, an alien may be held in confinement [after 180 days] until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* A petitioner seeking release under this standard bears the initial burden of demonstrating “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. If the petitioner meets that burden, the burden shifts to the government to “respond with evidence sufficient to rebut that showing.” *Id.*

³ While the statute refers to the Attorney General, Congress has delegated the power to enforce the Immigration and Nationality Act to the Department of Homeland Security 8 U.S.C. § 1103; *see also Nielsen v. Preap*, 586 U.S. 392, 397 n.2 (2019).

Using this standard, courts have found that detention after a final order of removal lasting more than two years did not violate the Fifth Amendment even when detention was likely to last an additional year or more, so long as there was no evidence that some identifiable barrier would ultimately block removal at the end of that time. *See, e.g., Martinez v. Larose*, 968 F.3d 555 (6th Cir. 2020). For instance, in *Martinez*, a noncitizen entered the United States unlawfully and was removed, then unlawfully re-entered in December 2017 and was immediately detained pursuant to a final order of removal. *Id.* at 557–58. For the next two and a half years, he remained detained while he appealed his removal. *Id.* During that time, he sought release by seeking a writ of habeas corpus and arguing that his removal was not foreseeable because his appeal would likely take at least another year to resolve and could take much longer. *Id.* at 565–66. However, the Sixth Circuit rejected that argument because there was no evidence indicating that removal would not be possible after the appeal process concluded; therefore, even a detention of several years would not violate the Fifth Amendment because no identifiable barrier ultimately prevented removal. *Id.*; *see also Mulla v. Adducci*, 178 F. Supp. 3d 573, 577 (E.D. Mich. 2016).

Other courts have similarly found that, in order to meet their burden under *Zadvydas*, petitioners must offer evidence of an identifiable barrier to removal like being stateless, an explicit refusal to issue a travel document, the lack of a

repatriation agreement, political conditions that “render removal virtually impossible,” or a delay in issuing a travel document that is “so extraordinarily long that the delay itself” indicates “that the documents will likely never issue.” *See Ahmed v. Brott*, No. 14-5000, 2015 WL 1542131, at *4 (D. Minn. Mar. 17, 2015), *report and recommendation adopted*, 2015 WL 1542155 (D. Minn. Apr. 7, 2015) (collecting cases).

Here, petitioner has not shown that his removal is unlikely in the reasonably foreseeable future. Petitioner has been detained for less than thirty days and the only current obstacle to his removal is this Court’s order enjoining his removal. (*See* Exhibit 1 – Hughley Decl. ¶¶ 11, 15). Therefore, petitioner has not met his burden of showing that his removal is not likely in the reasonably foreseeable future and he cannot succeed on his due process claim. *See, e.g., Ahmed*, 2015 WL 1542131, at *4–5.

Conclusion

Respondents respectfully request that the Court deny petitioner’s petition for a writ of habeas corpus because he is not detained in violation of federal law or the Constitution.

Respectfully submitted,

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Date: March 23, 2026

Certificate of Service

I hereby certify that on March 23, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Zak Toomey

Zak Toomey

Assistant U.S. Attorney