

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STANLEY BRIAN PEREIRA,

Petitioner,

v.

PAMELA BONDI, ATTORNEY
GENERAL, in her official capacity, *et al.*,

Respondents.

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Civil Action No. 4:26-cv-2075

**FEDERAL RESPONDENTS' MOTION FOR SUMMARY JUDGMENT AND
RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

The Government¹ files this response to the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and moves for summary judgment pursuant to Federal Rule of Civil Procedure 56. As explained below, Petitioner's claim for habeas relief should be denied because he is lawfully detained, and he is scheduled to be removed in the near future.

I. SUMMARY OF THE ARGUMENT

Petitioner is a native and citizen of Portugal. *Ex. 1*. It is uncontested that Petitioner is subject to a final order or removal. Petitioner challenges the length of his detention under the Immigration and Nationality Act (INA) and the Supreme Court's decision in *Zadvydas*. The dispositive question before the Court is whether there is significant likelihood that Petitioner will be removed in the reasonably foreseeable future. The declaration supporting this response shows that Petitioner is likely to be removed in the near future, specifically, on or about June 8, 2026. *Ex.*

¹ The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

I, ¶ 29. Thus, Petitioner cannot show that his continued detention amounts to a constitutional violation, and his petition should therefore be denied.

II. AUTHORITY BY WHICH PETITIONER IS HELD

Petitioner is being held in immigration detention pursuant to a final removal order. *Ex. 1*. Petitioner is therefore detained under 8 U.S.C. § 1231.

III. RELEVANT BACKGROUND

Petitioner is a native and citizen of Portugal. *Ex. 1*. On or about October 31, 2008, Petitioner entered the United States on a C1 visa. *Id.* On or about November 17, 2025, Petitioner was encountered and admitted to being an immigrant of India and not having proper immigration documentation that would allow him to remain in the United States legally. *Id.* On or about November 21, 2025, Petitioner was placed into removal proceedings. *Id.* On or about January 7, 2026, Petitioner requested a custody redetermination and it was withdrawn. *Id.* On or about January 28, 2026, Petitioner requested a custody redetermination. *Id.* On or about February 2026, USCIS denied Petitioner's Form I-918, Petition for U Nonimmigrant Status for alien and the same was denied for Petitioner's derivatives. *Id.* On or about February 2, 2026, Petitioner admits a his immigration hearing that his last entry was on August 1, 2014, through the Canadian border without inspection, admission or parole. *Id.* On or about February 2, 2026, DHS filed form I-261 with additional charges of inadmissibility / deportability. *Id.* Petitioner is removable pursuant to INA § 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) and is a native of India and citizen of Portugal. *Id.* On or about April 1, 2026, an immigration judge denied application for asylum, for asylum withholding, and withholding under the Convention Against Torture; and post-conclusion voluntary departure. *Id.* An immigration judged ordered Petitioner removed from the U.S. to Portugal and in alternative to India in pursuant to Section 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I)

of the Immigration and Nationality Act. *Id.* On or about May 2, 2026, Petitioner failed to timely appeal his removal order and the order became administratively final. *Id.* Petitioner is currently detained at the Houston Contract Detention Facility. *Id.* On or about May 27, 2026, Petitioner was added on a removal flight to Portugal scheduled to depart on June 8, 2026. *Id.* ERO does not anticipate any impediments to Petitioner's removal. *Id.*

IV. STANDARD OF REVIEW

Summary judgment is appropriate under Rule 56 of the Federal Rules of Civil Procedure only if the pleadings, along with evidence, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *see also* Fed. R. Civ. P. 56(c). Once a motion has been made, the nonmoving party may not rest upon mere allegations or denials in the pleadings but must present affirmative evidence, setting forth specific facts, to show the existence of a genuine issue for trial. *Celotex Corp.*, 477 U.S. at 322-23. If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Id.* at 322. Furthermore, “only reasonable inferences can be drawn from the evidence in favor of the nonmoving party.” *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 469 n.14 (1992) (emphasis in original) (quoting *H.L. Hayden Co. of N.Y., Inc. v. Siemens Med. Sys., Inc.*, 879 F.2d 1005, 1012 (2d Cir. 1989)).

V. ARGUMENT

Petitioner's detention is lawful because (1) ICE has the discretion to continue his detention; and (2) he fails to show that the length of his detention is unreasonable under the *Zadvydas* framework given his foreseeable removal.

A. Due to his upcoming removal, Petitioner's continued detention is lawful.

The statutory provision governing Petitioner's detention is 8 U.S.C. § 1231, which applies once an alien is ordered removed. Under this section, the Department of Homeland Security must

physically remove him from the United States within a 90-day removal period. 8 U.S.C. § 1231. But, even after the 90-day removal period expires, ICE has the discretion to continue detention for certain aliens. 8 U.S.C. § 1231.

Further, the Attorney General has promulgated regulations to establish and implement a formal administrative process to review the custody of aliens, like Petitioner, who are being detained subject to a final order of removal, deportation, or exclusion. 8 C.F.R. § 241, *et seq.* Under the regulations, post-order aliens who remain detained beyond the removal period may present to ICE their claims that they should be released from detention because there is no significant likelihood that they will be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(d). Unless and until ICE determines that there is no significant likelihood of removal in the foreseeable future, the alien will continue to be detained, and his detention will continue to be governed by the post-order detention standards. 8 C.F.R. § 241.13(g)(2).

Here, ICE has properly extended Petitioner's detention under § 1231 based on the determination that he is likely to be removed in the reasonably foreseeable future.

B. Petitioner's detention is lawful under *Zadvydas*.

The length of Petitioner's detention is not unconstitutional, particularly considering his upcoming removal. A petitioner may challenge continued detention under the framework established by the U.S. Supreme Court in *Zadvydas v. Davis*, which held that detention may not be indefinite and is presumptively reasonable for only six months beyond the removal period. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In a challenge to detention under *Zadvydas*, the petitioner must "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* The Government must then respond with evidence sufficient to rebut that showing. *Id.* The Supreme Court further emphasized that the six-month presumption does not mean that every alien not removed must be released after six months. *Id.*

“To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

As an initial matter, Petitioner’s habeas petition fails due to its lack of specific allegations. When a petitioner fails to come forward with an initial offer of proof, the petition is ripe for dismissal. *Andrade v. Gonzalez*, 459 F.3d 538 (5th Cir. 2006) (acknowledging the petitioner’s initial burden of proof where claim under *Zadvydas* was without merit because it offered nothing beyond the petitioner’s conclusory statements suggesting that removal was not foreseeable). In this case, the Petition fails to cite to any evidence, other than conclusory statements, that there is no significant likelihood of removal in the reasonably foreseeable future. Indeed, Petitioner attempts to shift burden of the initial offer of proof to the Government. Petitioner does not otherwise provide any other “good reason” to challenge his detention.

Even assuming for the sake of argument that Petitioner met his burden of coming forward with an initial offer of proof, his petition should nevertheless be denied. *Zadvydas* creates a six-month presumption. However, a period of detention in excess of six months is not necessarily unlawful. *Zadvydas*, 533 U.S. at 701 (2001)(the six-month presumption “does not mean that every alien not removed must be released after six months.”). Indeed, a detention of more than six months is permitted if the government shows that the alien’s removal is likely to take place in the reasonably foreseeable future. *Id.* Here, ICE personnel anticipate removing Petitioner to Portugal on June 8, 2026. *Ex. 1.* Petitioner’s continued detention is thus permitted.

VI. CONCLUSION

For the foregoing reasons, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on June 5, 2026, to all counsel of record.

/s/Elizabeth F. Karpati
ELIZABETH F. KARPATI
Assistant United States Attorney