

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JORGE GONCALVES DE MEVIA,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26-CV-761-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER, ¹	:	
	:	
Respondent.	:	

RESPONDENT'S RESPONSE

On May 4, 2026, the Court received Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241. ECF No. 1. On the same day, the Court issued an Order directing Respondent to file a comprehensive response to the Petition within twenty-one (21) days. ECF No. 3. Petitioner appears to argue that his continued detention violates due process under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and seeks release from custody. On May 22, 2026, Respondent filed a motion for extension of time to respond to Petition. ECF No. 4. Respondents now respectfully submit this good faith motion to deny the Petition.

BACKGROUND

Petitioner is a native and citizen of Brazil. Declaration of Deportation Officer Kirk Scott ("Scott Decl.") ¶ 5. On August 6, 2003, Petitioner was encountered by United States Border Patrol

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in her Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

(“CBP”) near Naco, Arizona, released under an Order of Recognizance, and served with a Notice to Appear (“NTA”) charging him under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* On March 31, 2004, an Immigration Judge (“IJ”) issued Petitioner a final order of removal in absentia. *Id.* ¶ 6.

On February 2, 2026, Petitioner was encountered by ICE/ERO at the Cherokee County Sheriff’s Office in Georgia, where he had been arrested for Driving Without a License. ICE/ERO took custody of Petitioner the same day. *Id.* ¶ 7. Following this custody transfer and in light of the existing final order of removal, Petitioner is detained under ICE’s authority pursuant to 8 U.S.C. § 1231(a). *Id.* ¶ 4.

ICE/ERO has since engaged in efforts to secure the necessary documentation to effectuate Petitioner’s removal to Brazil. On March 29, 2026, ICE/ERO submitted a travel document request to the government of Brazil. *Id.* ¶ 8. On May 18, 2026, ICE/ERO confirmed that Petitioner could be removed to Brazil using his passport, and on May 22, 2026, ICE transferred Petitioner to the Richwood Correctional Center pending removal. *Id.* ¶¶ 9–10.

ICE/ERO represents that Petitioner’s removal is imminent. *Id.* ¶ 10. Petitioner remains detained by ICE/ERO pending his removal from the United States. *Id.* ¶ 4.

LEGAL FRAMEWORK

Since Petitioner is detained post-final order of removal, her detention is governed by 8 U.S.C. § 1231. Congress provided in 8 U.S.C. § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court’s final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the “removal period,” detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is “reasonably necessary” to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, “may be detained beyond the removal period”). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. “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.” *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that “in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT

Petitioner argues that his continued detention violates due process under *Zadvydas* because he claims that his removal is not reasonably foreseeable. Pet. at 6–7. This argument is unsupported

by both the governing legal standard and the factual record. Because Petitioner is detained pursuant to a final order of removal issued on March 31, 2004, his detention is governed by 8 U.S.C. § 1231, which mandates detention during the ninety-day removal period and authorizes continued detention thereafter when reasonably necessary to accomplish removal. Under *Zadvydas*, the first six months of post-order detention are presumptively reasonable, and a detainee must provide evidence giving “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future” before any burden shifts to the Government. *Id.* at 701; *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002). Petitioner offers no such evidence. His assertions consist of nothing more than conclusory claims that his removal will not occur, which are insufficient as a matter of law to meet his burden under *Akinwale*.

The undisputed evidence in the record demonstrates that Petitioner’s removal is reasonably foreseeable and, indeed, imminent. Scott Decl. ¶ 10. On May 18, 2026, ICE/ERO confirmed that Petitioner could be repatriated using his valid Brazilian passport, eliminating any need to await further consular approval. *Id.* ¶ 9. ICE then transferred Petitioner to the Richwood Correctional Center on May 22, 2026, in preparation for removal. *Id.*

These facts stand in stark contrast to the circumstances addressed in *Zadvydas*, which involved detainees whom no country would accept, rendering removal impossible and detention indefinite. 533 U.S. at 684, 686. Here, Brazil is prepared to receive Petitioner, ICE/ERO has secured the necessary travel authorization, and Petitioner has already been moved to a facility used for staging removals. Scott Decl. ¶¶ 9-10. The Government’s removal efforts are active, ongoing, and nearing completion, and there is nothing in the record—let alone competent evidence—suggesting that removal will not occur in the reasonably foreseeable future. In similar circumstances, courts in this Circuit consistently deny habeas relief where, as here, the

Government is actively effectuating removal and the petitioner offers no meaningful evidence of an indefinite delay. *See Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009); *Akinwale*, 287 F.3d at 1052.

Because Petitioner cannot show that there is no significant likelihood of removal in the reasonably foreseeable future, he cannot satisfy the requirements of *Zadvydas*, and the Petition should be denied.

CONCLUSION

The record is complete in this matter, and the case is ripe for adjudication on the merits. Petitioner fails to show that he is entitled to relief. Petitioner is not entitled to relief under *Zadvydas* because (1) he has not met his evidentiary burden to demonstrate no significant likelihood of removal, and (2) the evidence affirmatively shows a significant likelihood of removal in the reasonably foreseeable future, as ICE/ERO has submitted the necessary travel document request, confirmed that Petitioner may be removed using his valid Brazilian passport, transferred him to a removal staging facility, and attested that his removal is imminent. For these reasons, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 2nd day of June, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY
BY: s/ Andressa Bryant
ANDRESSA BRYANT
Special Assistant United States Attorney*
Virginia Bar No. 92384
United States Attorney's Office
Middle District of Georgia
P.O. Box 1702
Macon, Georgia 31202
Telephone: (706) 577-2763
E-mail: Andressa.Bryant@usdoj.gov
*Acting Under Authority Conferred by
28 U.S.C. § 543

CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's Response with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Jorge Goncalves de Mevia
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 2nd day of June, 2026.

BY: s/ Andressa Bryant
ANDRESSA BRYANT
Special Assistant United States Attorney*