

Honorable Lauren King
Honorable S. Kate Vaughan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARLOS EDUARDO ARDILES-ADRAZ,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-00353-LK-SKV

GOVERNMENT'S RETURN
MEMORANDUM AND
MOTION TO DISMISS

Noted for consideration on:
April 28, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Carlos Eduardo Ardiles-Adraz's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Ardiles-Adraz challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. He alleges "there is not good reason to believe [his] removal will be effectuated in the reasonably foreseeable future ... because Venezuela refuses to accept [him]." Pet. ¶¶ C, G. Since his filing, however, conditions have changed: last week, Venezuela began accepting its nationals returning from the United States. Therefore, because Ardiles-Adraz has failed to demonstrate that his detention by U.S. Immigration and Customs Enforcement ("ICE") has become indefinite under *Zadvydas v. Davis*, this Court should deny his request for release. 533 U.S. 678, 701 (2001).

Dismissal is appropriate here because Ardiles-Adraz, a noncitizen subject to an administratively final order of removal, is lawfully detained pursuant to Section 241 of the Immigration and Nationality Act (“INA”). *See* 8 U.S.C. § 1231. His detention of less than eight months since the issuance of his final removal order is not unconstitutionally indefinite—particularly because ICE recently resumed removing Venezuelan nationals from the United States and is working toward Ardiles-Adraz’s removal. *See Zadvydas*, 533 U.S. at 701.

Accordingly, the Government respectfully requests the Court deny the Petition and grant the Government’s Motion to Dismiss. This motion is supported by the pleadings and documents on file in this case, the Declaration of Supervisory Detention and Deportation Officer Wilfredo Baez-Santiago (“Baez-Santiago Decl.”), and undersigned counsel’s declaration (“Cravens Decl.”), with exhibits attached. The Government does not believe that an evidentiary hearing is necessary.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Detention Authorities and Removal Procedures

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (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 noncitizens who may present a danger, Congress has mandated detention while removal is being effectuated:

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

6 8 U.S.C. § 1231(a)(2).

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

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

16 8 U.S.C. § 1231(a)(6) (emphasis added).

17 During the removal period, ICE² is charged with attempting to effect removal of a
18 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
19 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be
20 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from
21 the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
22 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701.

23 Here, Ardiles-Adraz is the subject of an administrative order of removal that became final
24 on August 6, 2024. Ex. A; Baez-Santiago Decl. ¶¶ 7-8. Accordingly, the removal period expired

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”), of which ICE is a component. *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 on November 4, 2024. 8 U.S.C. § 1231(a)(1)(B)(i). The “presumptively reasonable” six-month
2 period expired on February 6, 2025. *Zadvydas*, 533 U.S. at 701. Ardiles-Adraz filed this habeas
3 action on February 25, 2025. Dkt. 1.

4 **B. Petitioner Ardiles-Adraz**

5 Ardiles-Adraz is a native and citizen of Venezuela. *See* Pet. ¶ G; Ex. B at 1. He unlawfully
6 entered the United States in October 2023 without having been admitted or inspected by an
7 immigration officer. Ex. B at 1; Ex. C at 2. He was apprehended by U.S. Border Patrol and served
8 a Notice to Appear (“NTA”) in immigration court charging him as removable under 8 U.S.C.
9 § 1182(a)(6)(A)(i). *See* Ex. B at 1. Due to limited detention capacity, initially Ardiles-Adraz was
10 released on an Order of Release on Recognizance with instructions to report to ICE. Baez-Santiago
11 Decl. ¶ 5.

12 Less than three months later, Ardiles-Adraz was arrested in New York for assault, and a
13 court there issued an order of protection requiring him to stay away from a named victim. Ex. C at
14 4. When Ardiles-Adraz reported to ICE, he presented the protective order, and the ICE agent
15 confirmed the arrest for assault. Baez-Santiago Decl. ¶ 6. Ardiles-Adraz was taken into custody
16 and later transferred to the NWIPC. *Id.* He had a bond hearing before an Immigration Judge in
17 March 2024 but withdrew his request for release. Ex. D.

18 On August 6, 2024, an Immigration Judge ordered Ardiles-Adraz be removed to Colombia,
19 or alternatively Venezuela in the event Colombia declined repatriation. Ex. A at 1. Represented by
20 counsel, Ardiles-Adraz waived the opportunity to apply for asylum, withholding of removal, and
21 withholding under the Convention Against Torture. *Id.* at 2; Baez-Santiago Decl. ¶ 7. He also
22 waived his right to appeal the removal order, so it became administratively final that day. Ex. D.
23 at 3; Baez-Santiago Decl. ¶ 8. On October 30, 2024, the Colombian consulate advised that Ardiles-
24

1 Adraz is not eligible for repatriation to Colombia, so ICE activated planning for removal to
2 Venezuela. Baez-Santiago Decl. ¶ 9. After ICE completed ICE Air checks and determined that
3 Ardiles-Adraz was administratively ready for removal, he requested and received a panel interview
4 on March 5, 2025, regarding his detention. *Id.* ¶ 11. He remains detained pending removal.

5 III. ARGUMENT

6 Ardiles-Adraz cannot demonstrate that his detention has become “indefinite” or
7 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended
8 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an implicit
9 limitation of post-removal detention “to a period reasonably necessary to bring about that alien’s
10 removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that Section
11 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer reasonably
12 foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

13 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
14 burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.*
15 (stating that “for detention to remain reasonable, as the period of post-removal confinement grows,
16 what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). However,
17 the Supreme Court determined that it is “presumptively reasonable” for the Government to detain
18 a noncitizen for six months following entry of a final removal order, while it worked to remove
19 the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court implicitly recognized
20 that six months is the *earliest* point at which a noncitizen’s detention could raise constitutional
21 issues. *Id.* Moreover, the Supreme Court noted the six-month presumption “does not mean that
22 every [noncitizen] not removed must be released after six months. To the contrary, [a noncitizen]

1 may be held in confinement until it has been determined that there is no significant likelihood of
2 removal in the reasonably foreseeable future.” *Id.*

3 Here, ICE has detained Ardiles-Adraz for less than eight months since his order of removal
4 became administratively final. Though international relations previously made removal
5 challenging, conditions have recently changed. Baez-Santiago Decl. ¶ 12. On Saturday, March 22,
6 the governments of the United States and Venezuela agreed to resume flights returning
7 Venezuelans who had been ordered removed from the United States. Vanessa Buschschluter, *US*
8 *deportations to Venezuela resume after dispute*, BBC NEWS, Mar. 24, 2025,
9 <https://www.bbc.com/news/articles/cgm1r0wjdyno>. The first such flight landed in Venezuela on
10 Sunday, March 23. Annie Correal and Shawn McCreesh, *Venezuela Accepts Flight Carrying*
11 *Deportees From U.S. for First Time in Weeks*, NY TIMES, Mar. 23, 2025,
12 <https://www.nytimes.com/2025/03/23/us/politics/venezuela-us-deportation-flight.html>.

13 With this change in international relations, ICE is actively preparing to submit a formal
14 travel document request to the Venezuelan consulate for Ardiles-Adraz’s removal. Baez-Santiago
15 Decl. ¶¶ 10, 12. ICE possesses his valid Venezuelan national identification card, which supports
16 consular processing. *Id.* ¶ 10. ICE has also completed ICE Air checks and determined that Ardiles-
17 Adraz is administratively ready for removal. *Id.* ¶ 11. In further preparation for removal, on March
18 25 Ardiles-Adraz was transferred from the NWIPC to the Florence Processing Center in Arizona
19 to support removal planning and logistical coordination. *Id.* ¶ 13.

20 The fact that Ardiles-Adraz does not yet have a specific date of anticipated removal does
21 not make his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008).
22 Detention becomes indefinite in situations where the country of removal refuses to accept the
23 noncitizen or if removal is legally barred. *Id.* That seems to no longer be the situation here.

1 Consequently, Ardiles-Adraz has failed to demonstrate a good reason to believe that there is no
2 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
3 701.

4 With his removal pending, the Government has significant legitimate interests in Ardiles-
5 Adraz's continued detention to ensure that he will appear for removal. Under these circumstances,
6 the foreseeability of removal has not become so attenuated as to require release. Accordingly,
7 Ardiles-Adraz's detention has not become "indefinite," and this Court should not order that he be
8 released.

9 **IV. CONCLUSION**

10 For the foregoing reasons, the Government respectfully requests that this Court deny the
11 Petition and dismiss this matter.

12 Dated March 31, 2025.

13 Respectfully submitted,

14 TEAL LUTHY MILLER
15 Acting United States Attorney

16 s/ Annalisa L. Cravens
ANNALISA L. CRAVENS, TX # 24092298
Assistant United States Attorney
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, Washington 98101
Phone: 206-553-7970
Fax: 206-553-4073
E-mail: annalisa.cravens@usdoj.gov

20 *Counsel for the Government*

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22 *I certify that this memorandum contains 1,792 words,*
23 *in compliance with the Local Civil Rules.*