

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 25-cv-60459-ALTMAN

DAVRONBEK BURIEV,

Petitioner,

v.

**WARDEN, GEO, BROWARD
TRANSITIONAL CENTER and
GARRETT RIPA, FIELD OFFICE
DIRECTOR,**

Respondents.

RESPONDENTS' BRIEF CONCERNING MOOTNESS

Respondents, by and through the undersigned Assistant U.S. Attorney, hereby respond to the Court's Order directing submission of a brief concerning the mootness of Petitioner's ("Buriev") claim challenging his pre-removal detention under 8 U.S.C. § 1225(b) [ECF No. 20]. As the Defendant is now subject to an administratively final order of removal, the Petitioner's claim that his pre-removal detention violated his due process rights is moot. In addition, as the Petitioner's present detention pursuant to 8 U.S.C. § 1231 is lawful, the habeas petition should be dismissed as premature under *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), as set forth below.

Factual and Procedural History

Buriev filed his Petition for a Writ of Habeas Corpus, alleging that his detention pursuant to 8 U.S.C. § 1225(b) was in violation of his First, Fourth, and Fifth Amendment rights. *See* [ECF No. 1, 5] at 6-8. The government filed its Response to the Petition indicating that Buriev was subject to expedited removal as an applicant for admission, and subject to mandatory

detention pursuant to INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). *See generally* [ECF No. 14]. The government responded further that detention under 8 U.S.C. § 1225(b) was not a violation of Buriev's Due Process Rights. *Id.*

Following referral of his case to an immigration judge, Buriev filed an application for relief from removal. On June 17, 2025, a hearing on the merits of Buriev's application for relief was conducted by the immigration court. The immigration court determined that the application was frivolous, made an adverse credibility finding, and denied the application. It was ordered that Buriev be removed to Uzbekistan. Any appeal by Buriev to the Board of Immigration Appeals was due by July 17, 2025, and Buriev did not timely file an appeal. As noted by the Court, because Buriev did not appeal, the removal order became final. [ECF No. 20] at 1 (citations omitted).

Memorandum of Law

i. Buriev's Habeas Petition is Moot

"Article III of the Constitution limits the jurisdiction of federal courts to the consideration of 'Cases' and 'Controversies'. . . . In turn, the 'case or controversy' constraint imposes on federal courts a 'dual limitation' known as 'justiciability,'" a doctrine that "'prevents courts from encroaching on the powers of the elected branches of government and guarantees that courts consider only matters presented in an actual adversarial context.'" *Soliman v. United States ex rel. INS*, 296 F.3d 1237, 1242 (11th Cir. 2002) (citations omitted); *see also Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335 (11th Cir. 2001) (same). "The doctrine of mootness derives directly from the case or controversy limitation because 'an action that is moot cannot be characterized as an active case or controversy' . . . 'a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.'" *Soliman*, 296 F.3d at 1242 (citations omitted). "If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the

ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.” *Al Najjar*, 273 F.3d at 1336.

Now that Buriev is subject to a final order of removal, the government “unquestionably has the authority to detain him, and indeed is statutorily required to do so.” *See De La Teja v. United States*, 321 F.3d 1357, 1362 (11th Cir. 2003) (citing 8 U.S.C. § 1231). Accordingly, as the government is no longer holding Buriev pursuant to 8 U.S.C. § 1225(b), it would be “unnecessary and altogether inappropriate” to determine whether Buriev’s detention under § 1225(b) was a violation of Buriev’s constitutional rights. *See id.* (citing *Al Najjar*, 273 F.3d at 1339). Such an opinion “would be purely advisory in nature,” and as a result Buriev’s Petition challenging his detention under the expedited removal statute must be dismissed as moot. *Id.* at 1363-64.

ii. **Buriev is Properly Detained Pursuant to 8 U.S.C. § 1231 Pending Removal**

INA Section 241, 8 U.S.C. § 1231, governs detention following entry of an administratively final order of removal. In section 241 cases, the removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231 (a)(1)(B).

Here, as the removal order is not subject to additional judicial review, and the Petitioner is detained under an immigration process, the removal period began on the date the order of removal became administratively final: July 18, 2025. *See* § 241(a)(1)(B)(i) of the Act; 8 U.S.C. § 1231(a)(1)(B)(i) 1.

Title 8 U.S.C. § 1231(a) directs ICE to detain and remove an alien subject to a final order of removal within the 90-day removal period prescribed therein. *See* 8 U.S.C. § 1231(a)(1)(A). Notwithstanding § 1231(a)(1)(B), 8 U.S.C. § 1231(a)(6) authorizes the extension of the 90-day removal period, and *Zadvydas v. Davis*, 533 U.S. 678 (2001), provides that ICE may continue to detain an alien for a presumptively reasonable detention period of 180 days. *See Zadvydas*, 533 U.S. at 701.

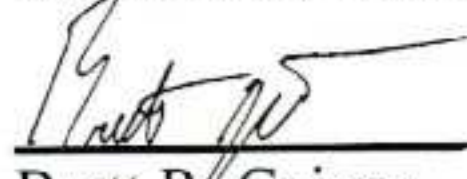
“Although not expressly stated, the Supreme Court appears to view the six-month period to include the 90-day removal period plus 90 days thereafter.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002) (per curiam). Further, to state a claim under *Zadvydas*, “the alien not only must show post-removal 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 and the reasonably foreseeable future.” *Id.*

In this case, any claim for relief based upon the period of post-removal order detention would be premature under *Zadvydas*. Buriev’s post-removal detention began on July 18, 2025. As the Petitioner’s claims regarding pre-removal detention are moot, and any claim regarding post-removal detention is pre-mature, Buriev’s Petition should be dismissed.

Respectfully submitted,

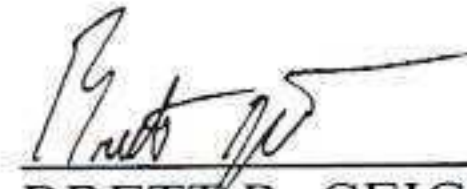
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 13, 2025, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, giving notice to all those registered to receive the same. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified.



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