

United States District Court
Western District of Texas
El Paso Division

Maria Isabel Perez Caal,
Petitioner,

v.

No. 3:25-CV-00153-LS

Mary Anda-Ybarra, in her official capacity as
Field Office Director, El Paso Field Office,
U.S. Immigration and Customs Enforcement;
Martin Sarellano Jr., in his official capacity
as Assistant Field Office Director, El Paso
Field Office, U.S. Immigration and Customs
Enforcement; U.S. Immigration and Customs
Enforcement Agency; Todd M. Lyons, in his
Official capacity as Acting Director, U.S.
Immigration and Customs Enforcement;
Thomas Homan, in his official capacity as
White House Border Czar; and Kristi Noem,
In her official capacity as Secretary, U.S.
Department of Homeland Security,
Respondents.

Response to Show Cause Order

Respondents submit this response per this Court's Order to Show Cause dated May 5, 2025. *See* ECF No. 5. Petitioner Maria Perez Caal is mandatorily detained in the custody of U.S. Immigration and Customs Enforcement ("ICE") under 8 U.S.C. § 1231(a)(1)(A), because she has a final order of removal. *See* ECF No. 1 at 8 (alleging that the appeal of her asylum denial was dismissed on April 18, 2025).¹ Congress mandates detention during the 90-day period following

¹ This allegation contradicts the allegation found later in the petition within paragraph 14 of ECF No. 1 at 18, which alleges that the appeal is still pending and that there is no "active removal order" in effect. It appears, however, that this outdated information was inadvertently left in the petition, as Petitioner concedes at paragraph 75 that the appeal was dismissed in April 2025. ECF No. 1 at 33.

the entry of a final order of removal. 8 U.S.C. § 1231(a)(1)(A). As such, Petitioner is lawfully detained.

Moreover, the removal period may be extended under certain circumstances, but the statute does not specify a time limit on this post-removal period. *Id.* The Supreme Court has read an implicit limitation into the statute and held that the alien may be detained only for a period reasonably necessary to remove the alien from the United States. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001); 8 C.F.R. § 241.13. Six months is the presumptively reasonable timeframe in the post-removal context. *Zadvydas*, 533 U.S. at 701. Although the Court recognized this presumptive period, *Zadvydas* “creates no specific limits on detention . . . as ‘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.’” *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006) (quoting *Zadvydas*, 533 U.S. at 701).

To state a claim for relief under *Zadvydas*, Petitioner must show that: (1) she is in DHS custody; (2) she has a final order of removal; (3) she has been detained in *post*-removal-order detention for six months or longer; and (4) there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 700. Petitioner does not and cannot make this showing, as her removal order has been final less than 90 days. Her detention, therefore, is mandatory under 8 U.S.C. § 1231(a)(1)(A), and her claim under *Zadvydas* is premature.²

²² To the extent Petitioner argues that her detention is unlawful due to her pending visa application and the accompanying administrative stay of removal, her claim lacks merit and is unsupported by law. *See* ECF No. 1, at ¶¶ 14–16. Petitioner does not explain how an administrative stay of removal, as opposed to a judicial stay of removal, affects the mandatory nature of the 90-day removal period, if at all. Indeed, the regulations indicate that the 90-day removal period “will be extended during the period the stay is in effect.” 8 C.F.R. § 214.204(b)(2). If the visa application is ultimately denied, the stay will be automatically lifted as of the date the denial is final. 8 C.F.R. § 214.204(q)(3).

Petitioner is lawfully detained, and this Court should deny the habeas petition.

Respectfully submitted,

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