

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

DORIAN ABAD AMBROSI,¹

Petitioner,

v.

WARDEN, FOLKSTON ICE PROCESSING
CENTER,

Respondent.

CIVIL ACTION NO.: 5:25-cv-13

REPORT AND RECOMMENDATION

Petitioner Dorian Ambrosi, who was formerly housed at the Folkston Immigration and Customs Enforcement (“ICE”) Processing Center in Folkston, Georgia, filed a 28 U.S.C. § 2241 Petition for Writ of Habeas Corpus through counsel.² Doc. 1. Ambrosi also filed a Motion for Temporary Restraining Order. Doc. 2. Respondent filed a Response to the Petition and Motion, and Ambrosi filed a Reply. Docs. 7, 9. I conducted a hearing on this matter on March 21, 2025. Doc. 15. The parties have provided ongoing updates about Ambrosi’s immigration proceedings. Docs. 18, 19, 25. For the following reasons, I **RECOMMEND** the Court **GRANT** Ambrosi’s § 2241 Petition and **DIRECT** Respondent or other ICE officials to release Ambrosi as soon as

¹ Petitioner’s counsel verified at the hearing that Petitioner’s last name is “Ambrosi.”

² Ambrosi is now housed at the Adelanto Detention Center in California. Doc. 19 at 1. Ambrosi’s transfer does not divest this Court’s jurisdiction, as Ambrosi was housed here when this cause of action was filed. See *Leffebvre v. Barr*, Civil No. 1:20-CV-0969, 2021 WL 4317987, at *1 (M.D. Penn. Sept. 23, 2021) (denying motions for change of venue based on transfers to other prisons outside of the court’s jurisdiction because the petitioner resided in the district when he filed his petition).

practicable to his family or to counsel. I also **RECOMMEND** the Court **GRANT** Ambrosi's Motion for injunctive relief, as he seeks.

BACKGROUND

Ambrosi is a native and citizen of Ecuador and came to the United States in 1995. Doc. 1 at 4, 5. Ambrosi has been married to a United States citizen since 1998, and they have lived in Connecticut for 25 years. Id. at 5. Ambrosi's criminal history includes charges relating to DUIs and other traffic violations, failures to appear, and violations of probation. Doc. 7-1 at 9.

Ambrosi was first ordered removed in 2017. After the appeal, he voluntarily removed to Ecuador in 2020. Doc. 1 at 5; Doc. 7 at 2. Ambrosi entered local politics in Ecuador and was threatened. Ambrosi contends he cannot return to Ecuador because of the threats. Doc. 1 at 6. Ambrosi has been in ICE's custody since June 2023 after he entered the United States again "without inspection at or near Santa Teresa, New Mexico." Doc. 7-1 at 1; see also Doc. 1 at 6.

An immigration judge ordered Ambrosi removed to Ecuador in March 2024. Doc. 1 at 6. A different immigration judge granted Ambrosi's request for withholding of removal in November 2024, and ICE appealed that order. Id. At the time of the hearing in this case (March 21, 2025), Ambrosi's case was pending on appeal. Counsel informed the Court that the Board of Immigration Appeals ("BIA") has now dismissed ICE's appeal and affirmed the withholding of removal. Doc. 19.

Petitioner states that his immigration case has concluded, and he cannot legally be deported to Ecuador, the only country of which he is a citizen. Id. Indeed, Respondent has informed the Court that ICE has identified and contacted three countries that were potential candidates for Ambrosi's removal, but those three countries "denied those requests to accept" Ambrosi. Doc. 22 at 2. Respondent states ICE "is diligently working to identify additional

candidate countries” for Ambrosi’s removal but has been unable to identify a country to which Ambrosi can be removed. Id.

Ambrosi is being held under 8 U.S.C. § 1231(a) because he has been ordered removed. As relief, Ambrosi seeks immediate release from ICE’s custody. Alternatively, and minimally, he requests a bond hearing before an immigration judge. Id. at 3.

DISCUSSION

Ambrosi makes several arguments challenging his ongoing detention. Doc. 1. Ambrosi also states his time in detention after the removal order was issued exceeds the presumptively reasonable six-month period, as recognized in Zadvydas v. Davis, 533 U.S. 678 (2001). Ambrosi also asserts that his ongoing detention without a bond hearing violates his due process, and advocates for analysis of that claim under Sopo v. U.S. Attorney General (“Sopo I”), 825 F.3d 1199 (11th Cir. 2016), vacated, 890 F.3d 952 (11th Cir. 2018). In addition, Ambrosi states ICE violated the Administrative Procedures Act and the Accardi doctrine by failing to conduct custody reviews that are required by ICE’s regulations and policies. Ambrosi moves for injunctive relief. Doc. 2. Respondent filed a Response, and Ambrosi filed a Reply. Docs. 7, 9. This matter is ripe for review.

I. Zadvydas Provides Ambrosi With his Requested Relief

Ambrosi is being detained under 8 U.S.C. § 1231(a)(6). He asserts his continued detention violates Zadvydas because his detention, which was approaching 24 months’ time (at the time of his original Petition), far exceeds the presumptively reasonable six-month period and his removal is not reasonably foreseeable. Doc. 1 at 22. Ambrosi states that he cannot be deported to Ecuador, his native country, and any attempts to deport him to an alternative country would be futile. Id. at 2, 25. Ambrosi contends he is entitled to release under Zadvydas because

his removal is not reasonably foreseeable and immediate release “is the most common and appropriate remedy” for a Zadvydas violation. Id. at 25.

Respondent acknowledges that Ambrosi has been detained longer than the six-month presumptively reasonable period. Doc. 7 at 7. However, Respondent also states Ambrosi cannot satisfy the requirements of a Zadvydas claim because Ambrosi cannot “provide evidence of a good reason to the believe there is no significant likelihood of removal in the reasonably foreseeable future.” Id. (quoting Akinwale v. Ashcroft, 287 F.3d 1050, 1052 (11th Cir. 2002)). At base, Respondent argues that it is clear Ambrosi will eventually be removed, either to Ecuador (if the withholding of removal is reversed on appeal) or to another country (if the withholding of removal is upheld).³ Id. at 7–8.

Ambrosi has been ordered removed and his time in detention has exceeded 90 days under 8 U.S.C. § 1231(a)(1)(A) (allowing a period of 90 days for removal once ordered). Doc. 7 at 6. Therefore, § 1231(a)(6) governs his continued detention after removal has been ordered. Johnson v. Guzman Chavez, 594 U.S. 523, 523 (2021) (noting § 1231 “governs the detention of aliens subject to reinstated orders of removal . . .”).

Under § 1231(a)(6), “[a]n alien ordered removed . . . or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period . . .” 8 U.S.C. § 1231(a)(6). This statute “does not permit indefinite detention [but, rather,] limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.”

³ This was Respondent’s position in its Response and in at the hearing. As noted, the order of withholding of removal has now been affirmed and ICE’s appeal dismissed. Therefore, the only resolution possible now is that Ambrosi will be removed to some country other than Ecuador. However, as Respondent admits, ICE has been unable to identify a country that will accept Ambrosi for removal. Doc. 22.

Zadvydas v. United States, 533 U.S. 678, 689 (2001). This post-removal period is presumptively six months, though this presumption “does not mean that every alien not removed must be released after six months.” Id. at 701. Instead, an alien can be held in post-removal “confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” Id. Therefore, a petitioner states a valid claim under Zadvydas when the petitioner (1) shows that the post-removal detention exceeds six months’ time, and (2) provides evidence of a “good reason to believe” there is “no significant likelihood of removal in the reasonably foreseeable future.” Akinwale v. Ashcroft, 287 F.3d 1050, 1052 (11th Cir. 2002). “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute [(§ 1231(a))].” Zadvydas, 533 U.S. at 699.

Ambrosi has been ordered removed and has been in post-removal detention for much longer than six months’ time. Doc. 1 at 9; Doc. 7 at 7. Thus, he plainly satisfies the first requirement under Zadvydas. Respondent concedes as much.

The parties originally disputed whether Ambrosi has provided “good reason” to believe there is a significant likelihood he will not be removed in the “reasonably foreseeable future.” Ambrosi states his removal is not reasonably foreseeable because he cannot be removed to his country of origin (Ecuador) and ICE cannot feasibly remove him to another country. Doc. 1 at 25. Ambrosi has shown he has been granted withholding of removal to Ecuador. Doc. 1-3. ICE appealed this decision, doc. 1 at 25, and the BIA dismissed the appeal and affirmed Ambrosi’s grant of withholding of removal, i.e., Ambrosi cannot be deported to Ecuador, doc. 19 at 1. By Respondent’s own admission, ICE has been unable to find a country to where Ambrosi can be removed. Indeed, Respondent asked three countries to accept Ambrosi, and all three denied the

request. Doc. 22 at 2. The Court now determines “there is no significant likelihood of [Ambrosi’s] removal in the reasonably foreseeable future.” Zadvydas, 533 U.S. at 701.

In response to Zadvydas, 28 C.F.R. § 241.4(i)(7) was added to include a “supplemental review procedure.” Under that provision, ICE headquarters initiates supplement review when the alien “submits, or the record contains, information providing substantial reason to believe that removal of a detained alien is not significantly likely in the reasonably foreseeable future.” Factors for evaluation include ICE’s history of removal efforts to third countries. If removal is not reasonably foreseeable but ICE still wants continued detention under “special circumstances,” it must justify the detention on grounds such as national security or public health concerns or by showing by clear and convincing evidence before an immigration judge that the alien is “specially dangerous.” Id. § 241.4(b)–(d), (f).

Respondent states that ICE has attempted to have Ambrosi deported to a third country, but those countries denied the requests and ICE “does not have an expected timeline for [Ambrosi’s] removal to a third country.” Doc. 22 at 2. Consequently, Ambrosi’s removal is not significantly likely to occur in the reasonably foreseeable future. But ICE has not justified Ambrosi’s continued detention based on national security or public health concerns or by a showing Ambrosi is “specially dangerous.” See Doc. 25 at 1 (Ambrosi informing the Court he was informed on August 6, 2025, that he would not be released from ICE’s custody at this time without a finding about the foreseeability of Ambrosi’s removal or the BIA’s affirmation of the withholding of his removal.). Because Ambrosi’s removal is not significantly likely to occur in the reasonably foreseeable future, § 1231 cannot authorize his continued detention. Thus, the

Zadvydas decision and § 241.4 provide Ambrosi with his requested relief. The Court should **GRANT** this portion of Ambrosi's Petition and order his release from ICE's custody.⁴

II. Preliminary Injunction

Ambrosi asserts he is likely to prevail on the merits of at least one of the claims he raises in his Petition. As such, he moves for a temporary restraining order or preliminary injunction and for his release during the pendency of his Petition. Doc. 2-1 at 2.

Respondent argues that Ambrosi is not entitled to injunctive relief because he is not entitled to relief based on any of the grounds he raises in his Petition. Doc. 7 at 20–21. Respondent also argues that Ambrosi fails to show any specific, identifiable irreparable harm if he is not released. Id. at 22. Finally, Respondent notes that Ambrosi's detention pending appeal is in the public's interest (again, this was Respondent's position while the appeal was pending). Id. at 23.

"A preliminary injunction is an 'extraordinary and drastic' remedy." Benavides, 2020 WL 3839938, at *4 (quoting Siegel v. LePore, 234 F.3d 1163, 1176–77 (11th Cir. 2000)).

⁴ Ambrosi argues in the alternative (in addition to his claim under Zadvydas) that he is entitled to relief under the Accardi doctrine because ICE has not complied with its own regulations. The Accardi doctrine derives from the notion that it "is well-settled that administrative agencies must 'comply with the procedural requirements imposed by statute.'" Benavides v. Gartland, No. 5:20-cv-46, 2020 WL 3839938, at *10 (S.D. Ga. July 8, 2020) (quoting Romano-Murphy v. C.I.R., 816 F.3d 707, 720 (11th Cir. 2016); in turn quoting Gonzalez v. Reno, 212 F.3d 1338, 1349 (11th Cir. 2002))). The doctrine has been extended to applicable regulations and "stands for the unremarkable proposition that an agency must abide by its own regulations." Walker v. Att'y Gen., 848 F. App'x 404, 404 n.1 (11th Cir. 2021); United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260 (1954).

While the Court need not address Ambrosi's Accardi doctrine claim, it appears that Ambrosi would be entitled to relief on this separate and independent ground. The parties' submissions, including a series of email exchanges, indicate that ICE most recently "reviewed" Ambrosi's case on December 30, 2024. See Docs. 1-4, 7, 9. But that "review," which took less than two hours' time, does not appear to qualify as a custody review within the meaning of the Regulations. A more recent update suggests that ICE headquarters has failed to conduct any of the required reviews under § 241.4. Doc. 25. Thus, it appears ICE has failed to follow its own regulations and Ambrosi would be entitled to relief under the Accardi doctrine.

“Indeed, ‘[w]hen a court employs the extraordinary remedy of injunction[,] it directs the conduct of a party[] and does so with the backing of its full coercive powers.’” Id. (quoting Nken v. Holder, 556 U.S. 418, 428 (2009)). For the court to grant such extraordinary relief, which should be employed in the rarest of cases, “a movant must establish four essential elements: (1) a likelihood of success on the merits of the overall case; (2) irreparable injury; (3) the threatened injury outweighs the harm the preliminary injunction would cause the other litigants; and (4) the preliminary injunction would not be averse to the public interest.” Id. (citing Chavez v. Fla. SP Warden, 742 F.3d 1267, 1271 (11th Cir. 2014)). The movant must clearly establish “the burden of persuasion as to all four elements.” Id. (quoting CBS Broad v. Echostar Communications Corp., 265 F.3d 1193, 1200 (11th Cir. 2001)). “Moreover, injunctions that do more than preserve the status quo are particularly disfavored.” Id. (quoting Powers v. Sec’y, Fla. Dep’t of Corr., 691 F. App’x 581, 583 (11th Cir. 2017)).

As discussed above, Ambrosi is entitled to relief under Zadvydas. Based on his health concerns and avowed lack of proper medical care and his continued, indefinite detention, he has shown irreparable injury that outweighs whatever perceived harm Respondent faces by releasing Ambrosi from ICE’s custody. Issuing a preliminary injunction in the form of release pending these proceedings—in light of a finding Ambrosi should be released outright from ICE’s custody—would not be averse to the public interest.⁵ Accordingly, the Court should **GRANT** Ambrosi’s Motion for Injunctive Relief.

⁵ Of course, if the Court adopts this recommendation and grants Ambrosi all requested relief in the form of release from custody, Ambrosi’s request for preliminary injunctive relief will likely be moot.

CONCLUSION

Based on the foregoing, I **RECOMMEND** the Court **GRANT** Ambrosi's § 2241 Petition and **DIRECT** Respondents or other ICE officials to release Ambrosi from ICE's custody. In addition, I **RECOMMEND** the Court **GRANT** Ambrosi's Motion for Injunctive Relief.

Any objections to this Report and Recommendation shall be filed within 14 days of today's date. Objections shall be specific and in writing. Any objection that the Magistrate Judge failed to address a contention raised in the Complaint must be included. Failure to file timely, written objections will bar any later challenge or review of the Magistrate Judge's factual findings and legal conclusions. 28 U.S.C. § 636(b)(1)(C); Harrigan v. Metro Dade Police Dep't Station #4, 977 F.3d 1185, 1192–93 (11th Cir. 2020). To be clear, a party waives all rights to challenge the Magistrate Judge's factual findings and legal conclusions on appeal by failing to file timely, written objections. Harrigan, 977 F.3d at 1192–93; 11th Cir. R. 3-1. A copy of the objections must be served upon all other parties to the action.

Upon receipt of objections meeting the specificity requirement set out above, a United States District Judge will make a de novo determination of those portions of the report, proposed findings, or recommendation to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made herein. Objections not meeting the specificity requirement set out above will not be considered by the District Judge. A party may not appeal a Magistrate Judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. Appeals may be made only from a final judgment entered by

or at the direction of a District Judge.

SO REPORTED and RECOMMENDED, this 18th day of August, 2025.

A handwritten signature in black ink, appearing to read 'B. Cheesbro', written over a horizontal line.

BENJAMIN W. CHEESBRO
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA