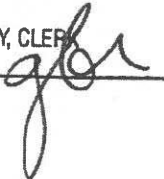


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UNITED STATES DISTRICT COURT
U.S. District Court
Western District of Louisiana (Lafayette)

IANA KIM

Plaintiff,

v.

Warden South Louisiana I C E Processing
Center

Director I C E New Orleans Field Office

U S Dept of Homeland Security

Defendants.

No.: 6:25-cv-00912-DCJ-DJA

TO: All Parties and their Counsel of records

**PETITIONER'S OBJECTIONS TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
Petitioner **Iana Kim**, pro se, respectfully submits the following objections to the
Magistrate Judge's Report and Recommendation, which erroneously recommends
dismissal of her Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 as premature.

I. The Recommendation Is Based on a Factual Error — Petitioner Has Been in Detention and Removal Proceedings for Over One Year

The Magistrate Judge incorrectly concludes that Petitioner Hana Kim's habeas corpus petition is premature under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Petitioner respectfully offers the following clarification regarding the timeline of her detention and removal proceedings, which may affect the analysis under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Petitioner was taken into U.S. Immigration and Customs Enforcement (ICE) custody on May 10, 2024, and has remained detained without release since that date. During this time, she was placed in removal proceedings that extended over a significant period. A final order of removal was entered on April 17, 2025.

As of the date of this filing (August 18, 2025), Petitioner has now been in immigration detention for more than 15 months in total, including approximately four months since the final order of removal was entered.

While *Zadvydas* focuses on post-removal order detention under 8 U.S.C. § 1231, courts have recognized that the overall length of detention, including the time during removal proceedings, may be relevant in assessing whether continued detention remains constitutionally permissible. In this case, Petitioner's total time in custody and the length of time ICE has had to facilitate removal support the argument that prolonged detention is no longer justified absent evidence that removal is significantly likely in the reasonably foreseeable future.

1 Moreover, courts have held that extensive total detention, even if part of it precedes a final
2 removal order, is relevant in determining whether continued detention violates due
3 process. In *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003), the Sixth Circuit held that
4 unreasonably prolonged detention, regardless of whether under § 1226 or § 1231, raises
5 significant constitutional concerns—especially when the Government fails to act with
6 diligence.
7

8 Continued detention imposes a substantial financial burden on the Government, requiring
9 ongoing allocation of limited detention resources. This cost is unjustified when there is no
10 evidence that removal can be achieved soon, and no justification for indefinite detention
11 where progress toward removal has stalled.
12

13 In light of the prolonged and uncertain duration of Petitioner's detention, the absence of a
14 removal plan, and the pending nature of appellate proceedings, continued detention at this
15 stage raises serious due process concerns. As recognized in *Zadvydas* and further
16 supported by *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003), prolonged immigration detention
17 without a reasonable prospect of removal violates the constitutional guarantees of due
18 process.
19

20 Accordingly, Petitioner respectfully submits that dismissal of her habeas petition on the
21 grounds of prematurity is not supported by the facts or governing legal standards.
22

23 **II. This Court Has Jurisdiction Over Petitioner's Detention Claim**

24 Petitioner does not challenge the legality of her removal order. Rather, she challenges the
25 length and lawfulness of her continued detention under § 2241, which this Court has
26 jurisdiction to review. See *Zadvydas v. Davis*, 533 U.S. at 687 (district court has habeas
27 jurisdiction over claims challenging post-removal detention).
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5 *Demore v. Kim*, 538 U.S. 510 (2003) (recognizing due process limitations on immigration
6 detention).
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11 **III. Continued Detention Beyond Six Months Without Likelihood of Removal**
12 **Violates Due Process**
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16 Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), immigration detention beyond six months
17 after a final removal order violates the Due Process Clause of the Fifth Amendment if there
18 is no significant likelihood of removal in the reasonably foreseeable future. Once a
19 noncitizen makes a showing that removal is unlikely to occur soon, the burden shifts to the
20 Government to rebut that showing with evidence.
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26 In this case, Petitioner respectfully submits that she has met her burden under *Zadvydas*. No
27 removal arrangements have been made during the entire time she has been in custody—now
28 over 15 months. ICE has not provided any documentation, timelines, or consular
29 correspondence to indicate that removal is imminent. Petitioner has fully cooperated with
30 ICE and has not obstructed the removal process in any way.
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38 Further, an important and newly developed fact makes removal within the six-month post-
39 order period particularly infeasible: Respondent has filed an administrative appeal
40 challenging the final removal order. As the Court is aware, such appeals often remain
41 pending for many months or longer due to administrative backlogs. While the appeal
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1 remains unresolved, the removal order is effectively stayed, and ICE cannot lawfully
2 execute it.
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5 This pending appeal makes it clear that removal is not reasonably foreseeable at this time.
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8 Because final removal cannot proceed while an appeal is pending, the six-month
9 presumption of reasonableness articulated in *Zadvydas* has already lapsed without
10 meaningful progress toward removal.
11

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13 Petitioner thus satisfies the legal threshold under *Zadvydas* for demonstrating a
14 constitutional violation. It is now the Government's burden to rebut this showing with clear
15 evidence that removal is significantly likely in the reasonably foreseeable future. To date,
16 the Government has not provided any such evidence.
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19 Accordingly, continued detention under these circumstances—where removal is stayed,
20 uncertain, and without evidence of near-term feasibility—violates the Due Process Clause
21 and renders continued detention unlawful.
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23 24 **IV. Conclusion and Relief Requested**

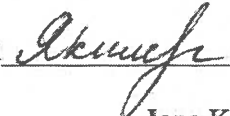
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26 Because Petitioner has been detained for over a year without a realistic prospect of removal
27 and without due process, her continued detention violates constitutional standards set by the
28 Supreme Court in *Zadvydas*.
29

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31 **Petitioner respectfully requests that this Court:**
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34 1. **Reject the Magistrate Judge's Report and Recommendation;**
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- 1 2. **Grant the writ of habeas corpus** and order Petitioner's immediate release, or in the
- 2
- 3 alternative,
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- 5 3. **Order Respondents to show cause** why Petitioner should not be released under
- 6
- 7 *Zadvydas*.
- 8
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14 Respectfully submitted,
15 August 18, 2025
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22 _____/s/ Iana Kim 
23
24 Iana Kim
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By _____ /s/ IANA KIM 
Pro-se Plaintiff

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