U.S. Department of Justice

United States Attorney
District of New Jersey
Civil Division

970 Broad Street, Suite 700
Newark, NJ 07102
alex.silagi@usdoj.gov

main: (973) 645-2700
direct: (973) 353-6001
fax: (973) 297-2010

Assistant United States Attorney
Deputy Chief, Civil Division

December 19, 2025

BY ECF
Honorable Claire C. Cecchi, U.S.D.J.
U.S. District Court for the District of New Jersey
50 Walnut Street
Newark, NJ 07102

Re: *Salem v. Bondi,* No. 25-16731
Expedited Answer to § 2241 Petition

Dear Judge Cecchi:

This Office represents Respondents in this habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE") under a final order of removal. We write pursuant to the Court's direction at today's conference to provide an expedited response to the petition, ECF No. 1, which the Court should dismiss or deny for the reasons below.

Petitioner, a native of Egypt, is subject to a final order of removal. Pet. ¶ 1. ICE detained the petitioner on March 12, 2025, under a final order of removal from June 29, 2010, due to a visa overstay. Pet. at ¶¶1, 14. On June 3, 2025, BIA entered a stay of removal. *Id.* at ¶¶ 29, 38; ECF No. 1-9 (BIA order granting a stay of removal).

Where, as here, an alien is subject to a final order of removal, there is a 90-day "removal period," during which the government "shall" remove the alien. 8 U.S.C. § 1231(a)(1). Detention during this period is mandatory. *See* 8 U.S.C. § 1231(a)(2). There are at least three potential outcomes if the government does not remove an alien during the 90-day mandatory removal period. First, the government may release the alien subject to conditions of supervised release. *See* 8 U.S.C. § 1231(a)(3). Second, the government may extend the removal period if the alien "fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C. § 1231(a)(1)(C). And third, the government may further detain certain categories of aliens, including those "inadmissible" under 8 U.S.C. § 1182, as Petitioner is here. *See* 8 U.S.C. § 1231(a)(6). Continued detention under this

third category is often referred to as the "post-removal-period." *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).

The Immigration and Nationality Act ("INA") does not set a limit on how long detention in the "post-removal-period" can last. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). But the Supreme Court in *Zadvydas* held that the government may only detain aliens in the post-removal-period for the time "reasonably necessary to bring about that alien's removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). And, the Supreme Court clarified, a six-month period of detention is "presumptively reasonable." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

Petitioner cannot show that his detention under § 1231(a)(6) is unlawful. The Supreme Court in *Zadvydas* observed that "this 6-month presumption, of course, does not mean that every alien not removed must be released after six months," and courts have concluded that an alien who has been held longer than six months still bears an initial burden of proof to secure bond. *Filmon v. Hendricks*, No. 13-6739 (DMC), 2013 WL 6154440, at *3 (D.N.J. Nov. 15, 2013) (quoting *Zadvydas*, 533 U.S. at 701). In such instances, "in order 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 in the reasonably foreseeable future." *Id.* at *4 (quoting *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)).

Here, Petitioner points mainly to the passage of time to substantiate his claim that removal is not reasonably foreseeable. But "the mere passage of time [is] insufficient to meet the petitioner's initial burden to demonstrate no significant likelihood of removal under the Supreme Court's holding in *Zadvydas*." *Beckford v. Lynch*, 168 F. Supp. 3d 533, 539 (W.D.N.Y. 2016)). There is no indication here that Egypt will not, or cannot, provide travel documents. And Petitioner has provided no evidence of his own mandatory efforts to obtain travel documents from Egypt or explain why those documents cannot be had. *Cf. Joseph v. United States*, 127 F. App'x 79, 81 (3d Cir. 2005) (rejecting *Zadvydas* claim and noting, "Alva has produced no documentary evidence, however, from either the Antiguan Embassy or anyone connected with the Antiguan government to substantiate his contention that travel documents will not be issued in the reasonably foreseeable future."); *Resil v. Hendricks*, No. 11-2051, 2011 WL 2489930, at *5 (D.N.J. June 21, 2011) ("*Zadvydas* does not save an alien who fails to provide requested [information necessary] to effectuate his removal.").[1]

[1] *But see Patel v. Bondi*, 25-16218 (KMW), ECF No. 15-17 (granting release under order of supervision to noncitizen detained after six-month mark).

Petitioner also raises his partner's health issues. *See* Pet. at ¶ 24; ECF No. 1-14 at ¶ 8 (affidavit of the petitioner's wife describing her health issues). Those issues, while serious, are distinguishable from the circumstances in *Orozco Alfonso v. Soto*, No. 25-17371 (EP) (granting release pending decision on habeas petition under *Lucas v. Hadden*, 790 F.2d 365, 367 (3d. Cir. 1986)), which the parties discussed at today's conference.

We thank the Court for its attention to this matter.

Respectfully submitted,

TODD BLANCHE
U.S. Deputy Attorney General

JORDAN FOX
Chief of Staff &
Associate Deputy Attorney General
Special Attorney

By: *s/ Alex Silagi*
ALEX D. SILAGI
Assistant United States Attorney
Deputy Chief, Civil Division

cc: Counsel of record (by ECF)