

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

LEONARDO CAMPOS MOLINA

CIVIL ACTION

VERSUS

NO. 25-1040-BAJ-SDJ

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.

RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C.
§ 2241 BY RESPONDENTS U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
AND PAMELA BONDI

Petitioner Leonardo Campos Molina is a Cuban national who U.S. Immigration and Customs Enforcement (ICE) is detaining to execute a final order of removal. Because his continued detention pending removal is authorized by 8 U.S.C. § 1231(a)(6), the petition should be denied.¹

I. FACTUAL AND PROCEDURAL BACKGROUND

Mr. Molina is a citizen of Cuba who was paroled into the United States at Brownsville, Texas, on or about November 8, 2015. *See Ex. 2*, Notice to Appear, at 1. He later received lawful permanent residency status, effective as of his date of entry on November 8, 2015. *Id.* Unfortunately, Mr. Molina then developed an extensive criminal history. In particular, on May 15, 2019, Mr. Molina was arrested for the crime of “Larceny,” for which he was convicted on October 16, 2019, with a sentence of sixteen days of imprisonment. *Id.* at 6. Approximately a year later, he was arrested for “Burglary.” *Id.* And on September 6, 2023, Mr. Molina had his

¹ The following Respondents join this filing: U.S. Immigration and Customs Enforcement and U.S. Attorney General Pamela Bondi. The undersigned does not represent Kevin Jordan, Warden, Louisiana ICE Processing Center, because he is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply with equal force to Warden Jordan as he is detaining the Petitioner at the request of the United States.

probation revoked and was sentenced to two years of imprisonment by the Thirteenth Judicial Circuit Court for Hillsborough County, Florida, based on the following offenses:

- Possession of a Controlled Substance (Fentanyl) and Possession of Drug Paraphernalia;
- Possession of Cocaine and Possession of Drug Paraphernalia;
- Three Counts of Grand Theft in the Third Degree (\$750 – \$5,000); and
- Burglary of an Unoccupied Structure.

Id. at 6-7. Copies of the underlying criminal records are attached as **Exs. 3-8**. ICE assumed custody of Mr. Molina following his release from state prison. **Ex. 2**, at 9.

On March 12, 2025, ICE served a Notice to Appear on Mr. Molina, which charged him with removability under Section 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA) [8 U.S.C. § 1227(a)(2)(B)(i)] based on the criminal conviction for Possession of Cocaine. *Id.* at 1-4. The Notice directed Mr. Molina to appear before an immigration judge in Miami, Florida, on April 17, 2025. *Id.* at 1. On May 20, 2025, an immigration judge determined that Mr. Molina “is removable/inadmissible as charged in the Notice to Appear” and directed his removal to Cuba. **Ex. 1**, Final Order of Removal, at 1. The judge also noted in the order that Mr. Molina “made no application(s) for relief from removal under 8 C.F.R. § 1240.11” and that he waived his right to appeal. *Id.* at 1-2. The order of removal therefore became final on that date. *See* 8 C.F.R. § 1241.1.

Mr. Molina is currently detained at the Louisiana ICE Processing Center in Angola, Louisiana. Mr. Molina filed his petition seeking a writ of habeas corpus on November 13, 2025, which is within six months of the date of his final order of removal. *See* Pet’n, ECF No. 1.

II. LEGAL FRAMEWORK FOR DETENTION PENDING REMOVAL UNDER 8 U.S.C. § 1231

Because Mr. Molina is currently subject to a final order of removal, the statutory basis for his detention is 8 U.S.C. § 1231. That statute requires the Government to “remove the alien from

the United States within a period of 90 days (in this section referred to as the ‘removal period’).” 8 U.S.C. § 1231(a)(1)(A). As relevant here, that removal period runs from “[t]he date the order of removal becomes administratively final,” *id.* § 1231(a)(1)(B), which was May 20, 2025, for Mr. Molina. *See Ex. 1*, at 1; *cf.* 8 C.F.R. § 1241.1.

“During the removal period, the Attorney General shall detain the alien,” and “[u]nder no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.”² 8 U.S.C. § 1231(a)(2)(A); *see also* 8 C.F.R. § 241.3(a). However, even after the 90-day removal period, the alien’s release from detention is not guaranteed. “An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title 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 and, if released, shall be subject to the terms of supervision in” 8 U.S.C. § 1231(a)(3). 8 U.S.C. § 1231(a)(6). The decision regarding release is discretionary. Here, because Mr. Molina was found by an immigration judge to be removable under 8 U.S.C. § 1227(a)(2)(B)(i) based on his prior criminal conviction for cocaine possession, *Ex. 1*; *Ex. 2*, at 1-4, his detention is authorized under 8 U.S.C. § 1231(a)(6).

The Supreme Court has held that 8 U.S.C. § 1231(a)(6) does not require bond hearings for aliens after six months of detention or require the Government to bear the burden of proving by clear and convincing evidence that an alien poses a flight risk or a danger to the community. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 576 (2022). Rather, the alien has the burden to

² The INA references the Attorney General and is cited in this brief as written. However, while the Attorney General once exercised this authority, much of it has now been transferred to the Secretary of Homeland Security. *See Clark v. Martinez*, 543 U.S. 371, 374 n.1 (2005). Many of the INA’s references to the Attorney General are now understood to refer to the Secretary. *Id.*; *see also* Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002).

“demonstrate[] to the satisfaction of the Attorney General or her designee that his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien’s removal from the United States.” 8 C.F.R. § 241.4(d)(1). “Before making any recommendation or decision to release a detainee,” the pertinent reviewing officials “must conclude that: (1) Travel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest; (2) The detainee is presently a non-violent person; (3) The detainee is likely to remain nonviolent if released; (4) The detainee is not likely to pose a threat to the community following release; (5) The detainee is not likely to violate the conditions of release; and (6) The detainee does not pose a significant flight risk if released.” *Id.* § 241.4(e). Further, 8 C.F.R. § 241.4(f) sets forth eight factors, which “should be weighed in considering whether to recommend further detention or release of a detainee”

The Supreme Court has interpreted 8 U.S.C. § 1231(a)(6) to limit a noncitizen’s detention beyond the removal period to the period “reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). While “indefinite detention” is not allowed, the Court has held that a period of six months from the start of the removal period is a “presumptively reasonable period of detention.” *Id.* at 689, 701. However, the Supreme Court has cautioned that this “presumption, of course, does not mean that every alien not removed must be released after six months.” *Id.* at 701. “To the contrary, 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.” *Id.* Thus, it is a petitioner’s initial burden to show—after the presumptively reasonable six-month period—that there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701; *see also*

Andrade v. Gonzales, 459 F.3d 538, 543 (5th Cir. 2006). If the burden shifts, “the Government must respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701.

Through 8 U.S.C. § 1231(b)(1)-(2), Congress has delineated the countries to which an alien with a final order of removal may be removed. In particular, should it become infeasible to remove an alien to the country designated in their final order of removal, Congress has provided a fail-safe option: permitting removal to “another country whose government will accept the alien into that country.” 8 U.S.C. § 1231(b)(2)(E)(vii); *cf. also id.* § 1231(b)(1)(C)(iv).

III. ARGUMENT

A. Mr. Molina Has Not Satisfied His Burden of Showing That Removal Is Not Reasonably Foreseeable

The sole reason that Mr. Molina offers to explain why his removal is not reasonably foreseeable is the assertion that “[t]here exists no repatriation agreement between Cuba and the United States concerning Petitioner.” Pet’r’s Mem. ¶ 11. But he nowhere shows that removal to a third country, as permitted under the INA, is unavailable. The petition should therefore be denied.

Relying on *Zadvydas*, Mr. Molina states that his detention is not authorized because his removal to Cuba is not significantly likely to occur in the reasonably foreseeable future. Pet’r’s Mem. ¶ 11, ECF No. 1-1. That argument mirrors the assertion made by one of the petitioners in *Zadvydas*. See 533 U.S. at 686 (noting lack of repatriation agreement with Cambodia). Namely, Mr. Molina’s position turns on the lack of a repatriation agreement between the United States and his country of origin, Cuba. Mr. Molina contends that his removal is not reasonably foreseeable due to an alleged lack of diplomatic relationship between the United States and Cuba, and he argues that the resulting “indefinite detention” violates 8 U.S.C. § 1231 and is unconstitutional. Pet’r’s Mem. ¶¶ 11-12, 25.

It is true that reasonable foreseeability of removal is the touchstone of the *Zadvydas* inquiry, but Mr. Molina still “bears the initial burden of proof in showing that no such likelihood of removal exists.” *Andrade*, 459 F.3d at 543. And “[c]onclusory statements” asserted by a petitioner, without more, are insufficient to satisfy this burden. *Id.*; *see also Duong v. Tate*, No. H-24-4119, 2025 WL 933947, at *3 (S.D. Tex. Mar. 27, 2025) (stating that “[s]peculation and conjecture are not sufficient” to carry the petitioner’s burden of establishing no significant likelihood of removal under *Zadvydas*).³

At this stage, even if Mr. Molina’s removal to Cuba were not feasible, it does not follow that there is no significant likelihood of Mr. Molina’s removal in the reasonably foreseeable future. As previously addressed, if an alien cannot be removed to the country designated in their final order of removal, removal may be permitted to “another country whose government will accept the alien into that country.” 8 U.S.C. § 1231(b)(2)(E)(vii); *cf. also id.* § 1231(b)(1)(C)(iv). And aside from conclusory allegations, which are insufficient under *Zadvydas* and *Andrade*, Mr. Molina has failed to offer any evidence showing that he cannot be removed to a third country. Mr. Molina has therefore not carried his burden under *Zadvydas*.⁴

Otherwise, Mr. Molina’s approximate six-month detention is well within the length of time that other courts in the Fifth Circuit have found to be reasonable.⁵ And given Mr. Molina’s

³ *See also Abdimalikhuzha v. ICE*, No. 1:25-CV-00261, 2025 WL 1196008, at *1 (W.D. La. Apr. 23, 2025) (same and citing *Andrade*) (“When a petitioner comes forward with nothing more than conclusory allegations, he fails to shift the burden to the government under *Zadvydas*”); *Shah v. Wolf*, No. 3:20-CV-994-C-BH, 2020 WL 4456530, at *3 (N.D. Tex. July 13, 2020) (“Speculation and conjecture are not sufficient to carry this burden; nor is a ‘lack of visible progress’ in his removal sufficient in and of itself to show no significant likelihood of removal in the reasonably foreseeable future.”), *report and recommendation adopted*, 2020 WL 4437484 (Aug. 3, 2020).

⁴ Counsel for the Government understands that ICE anticipates removing Mr. Molina to Mexico within the next month. In that case, Mr. Molina’s removal is not only reasonably foreseeable; it is imminent.

⁵ *See, e.g., Delgado-Rosero v. Warden, LaSalle Det. Ctr.*, No. 1:16-CV-01250, 2017 WL 2580509, at *3-4 (W.D. La. May 1, 2017), *report and recommendation adopted*, 2017 WL 2579250 (June 13, 2017) (17 months); *Barrera-Romero v. Cole*, No. 1:16-cv-00148, 2016 WL 7041710, at * 5 (W.D. La. Aug. 19, 2016) (20 months); *M.P. v. Joyce*, No. 1:22-CV-06123, 2023 WL 5521155, at *4 (W.D. La. Aug. 10, 2023), *report and recommendation adopted*, 2023 WL 5517263 (Aug. 25, 2023) (18 months at the time of Court’s opinion and collecting cases).

extensive criminal history, including multiple drug and burglary convictions, **Ex. 2**, at 6-7; **Exs. 3-8**, there is no reason to believe that Mr. Molina will not commit further crimes in the United States if released. *Cf. Zadvydas*, 533 U.S. at 700 (“And if removal is reasonably foreseeable, the habeas court should consider the risk of the alien’s committing further crimes as a factor potentially justifying confinement within that reasonable removal period.”). So there is also no basis to order his release from detention.

Mr. Molina’s petition for a writ of habeas corpus should therefore be denied.

B. Mr. Molina’s Continued Detention Is Necessary Because He Poses a Danger to the Community and Is Not Likely to Comply with Removal Efforts

Based on his criminal history, Mr. Molina’s continued detention is also necessary to protect the community and to secure his presence for removal from the United States.⁶

As discussed above, Mr. Molina has an extensive criminal history, including convictions for burglary, grand theft, and possession of cocaine and fentanyl. **Ex. 2**, at 6-7; **Exs. 3-8**. He also previously had his state probation revoked based on his possession of fentanyl and drug paraphernalia. **Exs. 3-8**. And the Supreme Court has recognized in *Zadvydas* that a failure to comply with conditions of release may justify continued detention. 533 U.S. at 700 (“[T]he alien may no doubt be returned to custody upon a violation of those conditions [of release].”).

Because Mr. Molina has shown an inability to comply with conditions of release and a sustained history of criminal activity, his continued detention is appropriate to execute his final order of removal. His petition for a writ of habeas corpus should therefore be denied.

⁶ In *Tran v. Mukasey*, 515 F.3d 478, 483-85 (5th Cir. 2008), the Fifth Circuit held that a risk of danger to the community based on an alien’s mental illness does not justify continued, indefinite detention. However, for the reasons discussed above, the Government does not contend that Mr. Molina’s current detention is indefinite. To the contrary, ICE is actively working to secure Mr. Molina’s removal to a third country. Mr. Molina’s criminal history therefore provides an additional basis for why release is not appropriate while ICE continues processing him for removal.

C. Any Order of Release Should Be with Conditions

For the reasons discussed above, the Government does not believe there is any legal or factual basis to grant Mr. Molina's habeas petition and order his release. But if the Court disagrees, the United States requests that any release be subject to the statutory and regulatory conditions at 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.5(a) and any Order of Supervision issued thereunder.

Consistent with 8 C.F.R. § 241.5(b), the Government also requests that the Court require Mr. Molina to post bond in an amount "sufficient to ensure compliance with the conditions of the order, including surrender for removal." *Cf. also Zadvydas*, 533 U.S. at 695 ("[W]e nowhere deny the right of Congress to remove aliens, to subject them to supervision with conditions when released from detention, or to incarcerate them where appropriate for violations of those conditions.").

IV. CONCLUSION

The United States requests that the Court deny the petition for a writ of habeas corpus.

Baton Rouge, Louisiana, this 16th day of December, 2025.

UNITED STATES OF AMERICA, by

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CERTIFICATE OF SERVICE

A filed copy of this *Response to Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241* was mailed to the petitioner, Leonardo Campos Molina, at the Louisiana ICE Processing Center, Attn: Raymond Louis, 17544 Tunica Trace, Angola, LA 70712.

/s/ Chase E. Zachary
Chase E. Zachary, LBN 37366
Assistant United States Attorney

LIST OF EXHIBITS

Respondents submit the attached exhibits with this response:

Exhibit No.	Description
1	Final Order of Removal, May 20, 2025
2	Notice to Appear, Jan. 29, 2025
3	State Criminal Records, Part 1
4	State Criminal Records, Part 2
5	State Criminal Records, Part 3
6	State Criminal Records, Part 4
7	State Criminal Records, Part 5
8	State Criminal Records, Part 6