

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ZOILA ESPERANZA MARQUEZ-MURILLO,

Petitioner,

v.

PAM BONDI,
US Attorney General;
KRISTI NOEM,
Secretary of Department of
Homeland Security;
ROBERT LYNCH,
Field Office Director for the
Michigan Field Office;
WARDEN of North Lake Correctional Facility

Respondents.

Case No. 1:25-cv-01489

Hon. Robert J. Jonker
U.S. District Judge

Hon. Ray Kent
U.S. Magistrate Judge

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner's habeas petition should be denied. She is lawfully detained under 8 U.S.C. § 1231(a) following a final removal order issued on May 19, 2025, and her detention fully comports with due process. The Supreme Court has long held that detention incident to removal—both during proceedings and after a final order—is constitutionally permissible so long as the Government follows the procedures Congress established. ICE has adhered to that framework and has diligently pursued Petitioner's removal, including months of efforts to accommodate her request to travel with her U.S. citizen child. With that issue resolved, ICE finalized travel arrangements, transferred her to the staging facility, and scheduled her removal for tomorrow, foreclosing any claim that removal is not reasonably foreseeable.

Petitioner is not entitled to release or a bond hearing, and her removal renders the petition moot. In addition, the only proper respondent is her immediate custodian—the Acting Detroit Field Office Director, United States Immigration and Customs Enforcement (ICE)—and the additional officials she named should be dismissed.

BACKGROUND

Petitioner is a native and citizen of Honduras. (Pet. ¶ 6, PageID.4.) On December 3, 2018, United States Border Patrol encountered Petitioner near Antelope Wells, New Mexico. (Ex. A, Declaration of Demetrius Patillo (Patillo Decl.) ¶ 5.) ICE issued Petitioner a Form I-860, Notice and Order of Expedited Removal, on December 4, 2018. (*Id.* ¶ 6.) While in custody, Petitioner expressed a fear of return to Honduras and was provided a credible fear interview, which resulted in a positive fear finding by the asylum officer. (*Id.*)

On March 11, 2019, ICE released Petitioner on her own recognizance and issued her a Form I-862, Notice to Appear (NTA). (*Id.* ¶ 7.) The NTA charged petitioner with inadmissibility under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), because she is an alien present in the United States without being admitted or paroled, or who arrived at a time or place other than as designated by the Attorney General, and under section 212(a)(7)(A)(i)(I) as an immigrant who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the INA, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required. (*Id.*)

The Detroit Police Department arrested Petitioner for child abuse and neglect, nonviolent, on April 27, 2022. (*Id.* ¶ 8.) A warrant was requested; however, the disposition of this arrest was not available to Respondents. (*Id.*)

On February 14, 2025, Customs and Border Protection (CBP) encountered Petitioner at the Fort Street Cargo Facility in Detroit, Michigan, and detained her without bond under INA § 235 as an applicant for admission who is seeking admission, and who is not clearly and beyond doubt entitled to admission. (*Id.* ¶¶ 9-10; Pet. ¶ 1, PageID.2.) CBP transported her the ICE Enforcement and Removal Operations (ERO) facility in Geauga, Ohio. (Patillo Dec. ¶ 9.)

On August 19, 2019, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal, with the Detroit Immigration Court. (*Id.* ¶ 11.) She appeared in the Detroit Immigration Court with her attorney on November 5, 2019, where she admitted the allegations in the NTA were true and conceded that she was removable pursuant to the charges in the NTA. (*Id.* ¶ 12.)

Petitioner appeared in immigration court again with her attorney on June 20, 2024. (*Id.* ¶ 13.) She began her testimony in support of her asylum application, however, the case was continued to allow Petitioner to explore an alternative form of relief. (*Id.*)

On March 7, 2025, venue was changed from the Detroit Immigration Court to the Cleveland Ohio Immigration Court due to Petitioner's detention in Ohio. (*Id.* ¶ 14.) Petitioner appeared in the Cleveland Immigration Court with her attorney on March 17, 2025, at which time she withdrew her request to be released on bond. (*Id.* ¶ 15.) On May 2, 2025, Petitioner and her attorney appeared in immigration court where she testified in support of her asylum application, but the case was continued due to time constraints. (*Id.* ¶ 16.) Petitioner provided additional testimony in support her asylum application on May 19, 2025. (*Id.* ¶ 17.) The immigration judge ordered Petitioner removed to Honduras. (*Id.*) Both parties waived their right to appeal, and the removal order became final on May 19, 2025. (*Id.*)

Petitioner informed ICE ERO on June 2, 2025, she wanted to bring her United States Citizen child to Honduras. (*Id.* ¶ 18.) At that time, Petitioner's child was in the care of her brother and sister-in-law. (*Id.*) On June 16, 2025, ICE ERO requested a travel document for Petitioner's child. (*Id.* ¶ 19.) ICE ERO spoke to the child's caretaker on June 26, 2025, and informed them that they needed to attempt to get the child a passport so she could travel to Honduras with Petitioner. (*Id.* ¶ 20.) On July 28, 2025, ICE ERO visited the United States Passport Office in Detroit, Michigan, and obtained a form to request passport issuance to a child as well as instructions for how to complete the form. (*Id.* ¶ 21.) ICE ERO forwarded the form to the facility where Petitioner was housed. (*Id.*) On August 7, 2025, ICE ERO mailed the passport application to the person identified as being able to assist the child's guardian in the passport application process. (*Id.* ¶ 22.) ICE ERO emailed the child's passport application and paperwork related to exigent family circumstances to the passport office on September 30, 2025. (*Id.* ¶ 23.) On November 20, 2025, the child's father stated he wanted the child to remain his custody in the United States and did not want the child to travel to Honduras with Petitioner. (*Id.* ¶ 24.)

Petitioner was transferred to North Lake Correctional Facility in Baldwin, Michigan, on June 14, 2025. (Pet. ¶ 1, PageID.3.)

Petitioner filed a petition for a writ of habeas corpus on November 19, 2025, asking the Court to order Respondents to release her or schedule a bond hearing.

On November 23, 2025, Petitioner was transferred to Richwood Correctional Center in Richwood, Louisiana, in preparation for removal. (Patillo Decl. ¶ 25.) She is scheduled to be removed to Honduras tomorrow, November 27, 2025. (*Id.* ¶ 26.)

ARGUMENT

I. Petitioner's detention under 8 U.S.C. § 1231(a) is lawful and comports with due process.

On May 19, 2025, after multiple hearings and the conclusion of testimony, an immigration judge ordered Petitioner removed to Honduras. (Ex. A, Patillo Decl. ¶ 17.) Both parties waived appeal, making the order final the same day. (*Id.*) Once an order becomes final, a noncitizen enters the statutory removal period, and detention is governed by § 1231(a). *See Johnson v. Guzman Chavez*, 594 U.S. 523, 535–36 (2021). Detention during the 90-day removal period is mandatory, 8 U.S.C. § 1231(a)(2), and continued detention thereafter is expressly authorized so long as removal remains reasonably foreseeable. *Id.* § 1231(a)(6).

This statutory framework fully satisfies the Fifth Amendment. The Supreme Court has repeatedly held that in the immigration context, due process is defined by—and coextensive with—the procedures Congress has prescribed. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 116, 138–40 (2020). Mandatory detention during and after removal proceedings is a constitutionally permissible component of that system. *Demore v. Kim*, 538 U.S. 510, 531 (2003). And in *Zadvydas v. Davis*, the Court recognized that up to six months of post-order detention is presumptively reasonable under the Due Process Clause. 533 U.S. 678, 701 (2001).

The Sixth Circuit likewise has repeatedly upheld detention under § 1231(a) where the government is acting to execute a valid removal order. In *Hamama v. Adducci*, the court held that detention under § 1231(a)(6) does not violate due process where the government is taking affirmative steps to secure travel documents and effectuate removal. 912 F.3d 869, 879–80 (6th Cir. 2018). And in *Martinez v. LaRose*, the court rejected a due process challenge where ICE was coordinating removal, concluding that because the petitioner's removal is reasonably foreseeable, his continued detention does not violate due process. 968 F.3d 555, 557 (6th Cir. 2020).

Here, Petitioner's detention falls squarely within that statutory and constitutional framework. ICE has diligently pursued removal, and Petitioner is scheduled to be removed to Honduras tomorrow. (Ex. A, Patillo Decl. ¶¶ 25–26.) Because removal is reasonably foreseeable and because the agency has complied with the procedures Congress established, Petitioner's detention is both lawful and fully consistent with the Fifth Amendment.

II. Petitioner's detention is constitutionally permissible because the agency has diligently pursued Petitioner's removal and intends to remove her tomorrow.

Sixth Circuit precedent also clear that removal is “reasonably foreseeable” under *Zadvydas* where ICE is actively securing travel documents or otherwise taking steps to remove the noncitizen. In *Rosales-Garcia*, the court held that removal remains reasonably foreseeable when the Government continues efforts to repatriate the individual, even when those efforts take time. 322 F.3d at 409. And in *Hamama*, the Sixth Circuit held that ongoing communication with foreign governments and active pursuit of travel documentation defeats any claim that removal is not reasonably foreseeable. 912 F.3d at 879–80.

After Petitioner's removal became final, she informed ICE she wished to bring her child to Honduras. (Ex. A, Patillo Decl. ¶ 18.) ICE immediately began taking steps to comply with Petitioner's request including requesting a travel document for the child, asking the child's caretakers to apply for the child's passport, and mailing the application to the passport office. (*Id.* ¶¶ 19–23.) These efforts show ongoing, diligent attempts to obtain the documents Petitioner requested before removal could occur. On November 20, 2025, the child's father notified ICE that he wanted the child to remain in the United States and would not consent to the child's travel to Honduras. (*Id.* ¶ 24.) With that obstacle removed, ICE immediately finalized Petitioner's removal arrangements. (*Id.* ¶¶ 25–26.) On November 23, 2025, ICE transferred Petitioner to the Richwood Correctional Center in Louisiana in preparation for her imminent removal. (*Id.* ¶ 26.) She is

scheduled to be removed tomorrow, November 27, 2025. (*Id.*) These continuous and documented actions confirm that ICE has diligently pursued removal at every step. Petitioner cannot meet the threshold burden to show that removal is not reasonably foreseeable.

Finally, the record shows that ICE's removal efforts were delayed only because Petitioner expressly requested that her minor United States citizen child accompany her to Honduras. (Ex. A, Patillo Decl. ¶ 18.) ICE acted diligently for months to accommodate this request, including repeated engagement with family members, the United States Passport Office, and the detention facility. Courts uniformly hold that delays attributable to the noncitizen cannot support a *Zadvydas* claim. *See, e.g., Pelich v. INS*, 329 F.3d 1057, 1060 (9th Cir. 2003) (no *Zadvydas* claim where noncitizen's own actions cause delay); *Lema v. INS*, 341 F.3d 853, 857 (9th Cir. 2003) (same). Here, once Petitioner's requested family-unity proceedings were resolved—not by ICE, but by the father's opposition—ICE secured removal arrangements immediately.

III. The Detroit ICE Field Office Director is the only proper respondent.

A writ of habeas corpus may only be issued “to the person having custody of the person detained.” 28 U.S.C. § 2243. Except in extraordinary circumstances, the only proper respondent in a habeas corpus case is the detainee's immediate custodian. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). In the immigration context, that is the ICE Field Office Director. *Id.*

Here, the petition names Secretary Noem and Attorney General Bondi, but they are not proper respondents to this habeas action. *See Roman*, 340 F.3d at 322 (reasoning that “adopting a broader definition of ‘custodian’” that encompasses any official with control over an alien's detention and release “would complicate and extend the duration of habeas corpus proceedings”); *Escobar-Ruiz v. Raycraft*, No. 1:25-CV-1232, 2025 WL 3039255, at *8 (W.D. Mich. Oct. 31, 2025) (dismissing the Attorney General as an improper respondent to a habeas petition).

The acting Detroit ICE Field Office Director, who is Kevin Raycraft, not Robert Lynch, is a proper respondent in this case and Secretary Noem and Attorney General Bondi should be dismissed.

CONCLUSION

The government respondents respectfully request that the Court deny the petition for a writ of habeas corpus because she is not detained in violation of federal law or the Constitution.

Respectfully submitted,

TIMOTHY VERHEY
United States Attorney

Dated: November 26, 2025

/s/ Carolyn Almassian
CAROLYN ALMASSIAN
Assistant United States Attorney
Post Office Box 208
Grand Rapids, MI 49501-0208
(616) 456-2404
Carolyn.Almassian@usdoj.gov
Attorney for Respondents