



**U.S. Department of Justice**

United States Attorney  
District of New Jersey  
*Civil Division*

Jessica Laserna  
Assistant United States Attorney

970 Broad Street, Suite 700  
Newark, NJ 07102  
jessica.laserna@usdoj.gov

main: (973) 645-2700  
direct: (973) 297-2019

January 5, 2026

**Via ECF**

Honorable Christine P. O'Hearn, U.S.D.J.  
United States District Court  
Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets  
Camden, NJ 08101

**Re: *Chintaman Pendse v. Warden, et al.*, No. 25-19125 (CPO)  
Expedited Answer to § 2241 Petition**

Dear Judge O'Hearn:

This Office represents Respondents in the above-referenced habeas matter brought by Petitioner Sunil Chintaman Pendse. Petitioner is detained under 8 U.S.C. § 1231(a)(5) because he is subject to reinstatement of a prior final order of removal. Therefore, this Court should deny the Petition.

**I. Background**

Petitioner is a native of India and a citizen of Canada. Pet. ¶ 21. On or about March 28, 2015, Petitioner was encountered by U.S. Customs and Border Protection ("CBP") and issued an Expedited Order of Removal. Pet. ¶ 22; Ans. Ex. 1, Form I-213 at 2. That same day, he was removed from the United States. *Id.* Form I-213 at 2. Petitioner subsequently re-entered the United States. Pet. ¶ 22.

On December 29, 2025, Petitioner was arrested by U.S. Immigration and Customs Enforcement ("ICE") pursuant to a Warrant of Removal. Ans. Ex. 1, Form I-213 at 2. A Deportation Officer reinstated his prior order of removal and issued written warnings and guidance regarding removal. Ans. Ex. 2, Reinstated Order with attachments.<sup>1</sup> Petitioner is detained at Delaney Hall in New Jersey. Pet. ¶ 24. According to ICE, Petitioner does not currently have any pending proceedings in immigration court.

---

<sup>1</sup> ICE has provided this Office unsigned version of the Exhibits 1 and 2. ICE has also provided this Office signed versions of the same documents, which we attach as Exhibit 3.

## II. Procedural History

Petitioner initiated this habeas action on December 31, 2025. *See* Pet. He asserted claims for alleged violations of his Fifth Amendment due process rights and of § 236(a) of the Immigration and Naturalization Act (“INA”), 8 U.S.C. § 1226(a). Petitioner seeks release or continued supervision pending resolution of his immigration proceedings. Pet. ¶ 6 and Prayer for Relief.

On January 4, 2026, the Court issued an Expedited Order to Answer, directing Respondents to file an answer by noon on January 6, justifying Petitioner’s detention with certified agency records. ECF No. 3, ¶¶ (1)-(8). Upon receipt of the Court’s Order, this Office promptly notified ICE of the requested information, and ICE has informed this Office that they are working diligently to gather responsive documents. ICE has provided some of the documents, *see* Exs. 1-3, but has indicated to this Office that they are unable to provide all the documents as they are not the custodians of the A-File and did not have it in their possession. Respondents recognize that the three attachments do not satisfy the Court’s Order in full and that the Order expressly gave Respondents notice that the failure to comply with the Order “shall result in an Order of immediate release without further notice or an opportunity to be heard.” Respondents accordingly will be prepared to promptly release Petitioner upon order of the Court.

Respondents offer the following explanation regarding Petitioner’s detention and the attached documents in response to the Court’s order.

## III. Argument

Petitioner first argues his detention violates 8 U.S.C. § 1226(a) and the due process clause of the Fifth Amendment. However, Petitioner is lawfully detained under 8 U.S.C. § 1231(a)(5) because he is subject to reinstatement of a prior final order of removal entered on March 28, 2015. Ans. Ex. 1, Form I-213 at 2; Ans. Ex. 2, Reinstated Order.<sup>2</sup> Pursuant to § 1231(a)(5), the “prior order of removal . . . is not subject to being reopened or reviewed” and Petitioner “shall be removed under the prior order at any time after the reentry.” Here, Petitioner re-entered the United States illegally after having been removed and, as a result, ICE detained Petitioner to reinstate the removal order. As a result, his detention arises under 8 U.S.C.

---

<sup>2</sup> ICE has advised this Office that despite its diligent efforts, it was unable to provide a certification for this response. We are providing the Court with copies of all relevant documents this Office has received from ICE.

§ 1231(a). Respondents position is that Petitioner has not received a bond hearing because he is subject to mandatory detention and is therefore not eligible for bond. *See* 8 U.S.C. § 1231(a)(5); *see also Johnson v. Guzman Chavez*, 141 S. Ct. 2271 (2021); *but see Tadros v. Noem*, No. 25-4108 (EP), 2025 WL 1678501, at \*3 (D.N.J. June 13, 2025) (agreeing with petitioner that “his final order of removal triggered the six-month detention period under *Zadvydas*, and thus lapsed long ago”). Petitioner has been detained for approximately 8 days since his arrest on December 29, 2025. According to ICE, there have not been any apparent efforts to affect his removal. Since he is less than one month into his detention, he cannot prevail on a due process claim here. *But see Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 400 (D.N.J. 2025) (granting, in third-country removal context, release with no conditions of supervision to noncitizen detained under six months and raising noting concerns with mandatory detention during 6-month period).

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 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.*

Here, Petitioner is less than 30-days into the mandatory 90-day removal period during which DHS is required to detain him and initiate the removal process. Based on *Zadvydas*, any challenge to a post-removal-order detention by an alien who has been detained “for less than six months must be dismissed as premature.” *Kevin A.M. v. Essex Cnty. Corr. Facility*, No. 21-11212 (SDW), 2021 WL 4772130, at \*2 (D.N.J.

Oct. 12, 2021); *see also Luma v. Aviles*, No. 13-6292 (ES), 2014 WL 5503260, at \*4 (D.N.J. Oct. 29, 2014) (“To state a claim under *Zadvydas*, the presumptively reasonable six-month removal period must have expired at the time the Petition was filed; any earlier challenge to post-removal-order detention is premature and subject to dismissal.”); *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008) (collecting cases). *But see Wang v. Noem*, 25-cv-18053-CPO (D.N.J.), ECF No. 31 (ordering immediate release under *Zadvydas* of an alien subject to a final order of removal); *see also Munoz-Saucedo*, 789 F. Supp. 3d at 400 (disagreeing with decisions like *Kevin A.M.* and granting writ for under 6 months of detention).

Accordingly, Respondents respectfully request that the Court deny habeas relief and deny the Petition. 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

JOHN F. BASIAK JR.  
Assistant United States Attorney  
Chief, Civil Division

By: /s/ Jessica Laserna  
JESSICA LASERNA  
Assistant United States Attorney  
*Attorneys for Respondents*

cc: Counsel of record (via ECF)