

District Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRYAN STANLEY JORDAN MEJIA,

Petitioner,

v.

IMMIGRATION AND CUSTOMS
ENFORCEMENT FIELD OFFICE
DIRECTOR,

Respondent.

Case No. 2:26-cv-00033-TSZ

RESPONDENT'S SUPPLEMENTAL
BRIEF

Noted for Consideration:
March 13, 2026

Pursuant to this Court's Order, Respondent submits this supplemental briefing to address (1) the standards set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001); (2) the status of the interview referral to U.S. Citizenship and Immigration Services ("USCIS") for Petitioner; and (3) the status of Petitioner's appeal before the Board of Immigration Appeals ("BIA"). Dkt. No. 13, Minute Order.

As set forth in Respondent's return (Dkt. No. 9), Petitioner's detention is governed by 8 U.S.C. § 1231(a)(6). At the time Petitioner commenced this habeas litigation, Petitioner's detention fell within the six-month presumptively reasonable period defined in *Zadvydas*. Return,

1 at 7-8. However, Respondent recognizes that the presumptively reasonable period ended on
2 February 25, 2026.

3 To address potential due process concerns under the Fifth Amendment, the Supreme Court
4 in *Zadvydas v. Davis*, 533 U.S. 678 (2001), construed 8 U.S.C. § 1231(a)(6) to limit detention to
5 a period reasonably necessary to accomplish removal, establishing a presumptively reasonable
6 six-month period after the removal period begins. *Id.*, at 689, 701. After six months, the
7 noncitizen bears the initial burden to provide good reason to believe there is no significant
8 likelihood of removal in the reasonably foreseeable future; if met, the burden shifts to the
9 government to rebut that showing with evidence of foreseeability. *Id.*, at 701. The “reasonably
10 foreseeable future” is not rigidly defined but considers factors such as diplomatic efforts, travel
11 document procurement, and alternative removal options, without requiring a specific timeline.
12 See *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008). Detention does not violate due
13 process merely because it exceeds six months; rather, it must be shown to be potentially indefinite,
14 lacking a legitimate immigration purpose. *Zadvydas*, 533 U.S. at 690-91; see also *Rodriguez*
15 *Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022).

16 The inquiry of whether detention has become unreasonable focuses on whether there is a
17 significant likelihood of removal in the reasonably foreseeable future, a flexible concept that
18 accounts for ongoing diplomatic negotiations, procurement of travel documents, and exploration
19 of alternative removal destinations. *Zadvydas*, 533 U.S. at 701; see also *Prieto-Romero*, 534 F.3d
20 at 1063-65. The Ninth Circuit has clarified that this analysis requires a case-specific evaluation
21 of factors including the government’s good-faith efforts, the duration of detention relative to
22 removal prospects, and the availability of third-country options. *Rodriguez Diaz*, 53 F.4th at
23 1208.

1 Petitioner claims that his detention will be indefinite because of his pending BIA appeal.
2 Dkt. No. 14, Resp. This appeal is still pending. Reed Supp. Decl., ¶ 4. ICE cannot remove
3 Petitioner while this appeal is pending. *Id.*, ¶ 5. However, if the BIA dismisses this appeal, ICE
4 intends on continuing with Petitioner's removal to Mexico. *Id.*, ¶ 6. In anticipation of the BIA's
5 decision, ICE provided Petitioner with notice of intent of removal to Mexico in November 2025.
6 *Id.*, ¶ 6. In response, Petitioner claimed fear of being sent to Mexico. *Id.* This resulted in ICE
7 referring him to USCIS for an interview regarding his fear claim. *Id.*, ¶ 7. On March 11, 2026,
8 ICE followed up with USCIS and learned that the interview is expected to be scheduled soon. *Id.*

9 Mexico has been accepting El Salvadorian citizens from the United States. *Id.*, ¶ 8. ICE
10 is actively preparing to address Petitioner's fear claim while his BIA appeal is pending. Thus,
11 the issue of whether Mexico is a viable third country option for Petitioner will be settled to allow
12 for Petitioner's removal to Mexico or another country if the BIA dismisses his appeal.

13 While Petitioner's post-order detention has now exceeded six months, the Supreme Court
14 implicitly recognized that six months is the *earliest* point at which a noncitizens' detention could
15 raise constitutional issues. *Zadvydas*, 533 U.S. at 701. "This 6-month presumption, of course,
16 does not mean that every [noncitizen] not removed must be released after six months." *Id.*
17 Petitioner's detention still serves a purpose as he is subject to a final order of removal and ICE is
18 working to effect a third-country removal once it is able to do so.

19 For the foregoing reasons, Respondent respectfully requests that this Court deny the
20 Petition.

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1 DATED this 13th day of March, 2026.

2 Respectfully submitted,

3 s/ Michelle R. Lambert

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13 I certify that this memorandum contains 680
14 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing and following supporting declaration with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

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I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Bryan Stanley Jordan Mejia, *Pro Se* Petitioner
A# [REDACTED]
NW Detention Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 13th day of March, 2026.

s/ Albert Kidd
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