

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-cv-20500-RKA

**BATUHAN CELIK,**

**Petitioner,**

v.

**GARRETT RIPA, Field Office Director,  
et al.,**

**Respondents,**

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**RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS**

Garrett Ripa, Field Office Director, *et al.* (“Respondents”), through the undersigned counsel, maintains that Batuhan Celik’s (“Petitioner”) Petition for Writ of Habeas Corpus (“Petition”) (ECF No. 1) should be dismissed under *Zadvydas v. Davis*, 533 U.S. 678 (2001) as premature because Petitioner has not shown post-removal order detention in excess of six months.

**I. BACKGROUND**

Petitioner is a Turkish national. (*Id.* at ¶ 6).

On November 13, 2024, the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, convicted Petitioner for Possession of Controlled Substance Paraphernalia and sentenced him to 41 days in jail. *See* Exhibit A, Form I-213, Record of Deportable/Inadmissible Alien, at 2.

On November 25, 2024, Respondents filed a Notice to Appear with the Executive Office for Immigration Review. *See* Exhibit B, Notice to Appear, at 2.

On August 1, 2025, Respondents took Petitioner into custody, and he remains detained at the Krome Service Processing Center. *See* Exhibit C, Detention History.

On December 10, 2025, the Krome Immigration Court issued a final order of removal to Turkey but granted Petitioner's application for withholding of removal. *See* (ECF No. 1 at ¶ 11).

On January 26, 2026, Petitioner filed his Petition. *See* (ECF No. 1).

## II. ARGUMENT

Petitioner argues that his continued detention “violates the Constitution, laws, and treaties of the United States, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678” because it went “over the six-month ceiling period in *Zadvydas*”. *See* Petition at ¶ 3, 16 [ECF No. 1]. Apparently, Petitioner came to this conclusion by adding the time he spent in Respondent's custody *prior* to the final order of removal. Using the time spent in detention *prior* to a final order of removal in calculating the removal period is a misinterpretation of the statute and the Supreme Court decision in *Zadvydas*. Here, the removal period has not passed because Petitioner has been detained for fewer than 90 days. Therefore, his habeas petition should be dismissed as premature.

Section 1231(a)(1)(A) of the Title 8, United States Code, governs the detention and removal of aliens ordered removed and the issues Petitioner raises in this case. The statute provides that “when an alien is ordered removed,” Immigration and Customs Enforcement (“ICE”) shall detain and “remove the alien from the United States within a period of 90 days (referred to as the removal period).” 8 U.S.C. § 1231(a)(1)(A). The statute further provides that the removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of removal of the alien, the date of the court's final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

Section 1231(a)(1)(B).

Nonetheless, “federal law authorizes aliens...to be detained beyond the ordinary 90-day removal period” in § 1231(a)(1)(B). *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002) (citing 8 U.S.C. § 1231(a)(6)). Such extended detention period is found in § 1231(a)(6), which states:

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 paragraph (3).

§ 1231(a)(6) (emphasis added).

In *Zadvydas*, the Supreme concluded that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *Id.* (stating “for the sake of uniform administration in the federal courts, we recognize that [six-month] period.”). *Zadvydas v. Davis*, 533 U.S. 678, 701(2001).

Additionally, in *Akinwale*, the Eleventh Circuit clarified that 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. *Akinwale*, 287 F.3d at 1052. (emphasis added).

If a petitioner has been detained fewer than six months, then the § 2241 petition should be dismissed as premature. *See Phadael v. Ripa*, No. 24-CV-22227-RKA, 2024 U.S. Dist. LEXIS 109481, 2024 WL 3088350, at \*3 (S.D. Fla. June 21, 2024) (Because the petitioner “filed his Petition . . . comfortably within *both* the six-month period of presumptive reasonableness under *Zadvydas* and the ninety-day mandatory detention period set by § 1231(a)(1), . . . his § 2241 petition must be dismissed as premature.”) (emphasis in original); *Allotey v. Mia. Field Off. Dir., Immigr*, 24-cv-24765-DPG, 2024 WL 5375519, 2024 LEXIS 239135, \*5 (Dec. 10, 2014)

(denying habeas petition as premature under *Zadvydas* when petitioner had only been detained for eighteen days prior to filing the habeas petition).

Here, Petitioner's removal period began on December 15, 2025, the date the order of removal became final. *See* 8 C.F.R. § 1241.1(b) (a removal order becomes final upon waiver of appeal by the alien). Petitioner filed his habeas petition on January 26, 2026. Thus, as of the date of the filing of his habeas petition, he had been detained for a total of forty-two days. *See Singh v. Donelan*, 2015 U.S. Dist. LEXIS 59734, at 6 (D. Mass. Mar. 4, 2007) (citing *Akinwale*, 287 F.3d at 1052) ("federal courts generally hold that the six-month post-removal period 'must have expired at the time [the detainee's] 2241 petition was filed in order to state a claim under *Zadvydas*'").

Accordingly, the Petition should be dismissed as premature.

Respectfully submitted,

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