

United States District Court
Western District of Texas
El Paso Division

RAIDEL BLANCO,

Petitioner,

v.

PAMELA JO BONDI, *et al.*,

Respondents.

No. 3:26-CV-00229-KC

Federal¹ Respondents' Response to Petitioner's Writ of Habeas Corpus

Federal Respondents timely submit this response per this Court's Order dated January 30, 2026, directing service and ordering a response by February 13, 2026. *See* ECF No. 2 at *3. In his petition for writ of habeas corpus under 28 U.S.C. § 2241, Mr. Blanco ("Petitioner") seeks release from civil immigration detention, claiming that his 5-month post-removal-order detention has been become indefinite, contrary to statute and the Fifth and Eighth amendments. *See* ECF Nos. 1-1, 3. Petitioner's claims lack merit, and this petition should be denied.

Petitioner has a final order of removal from August 19, 2025, which mandated his detention under 8 U.S.C. § 1231(a) during the 90 days following the entry of his final order. Ex. A (ERO Declaration) ¶ 7. Detention can be extended past the removal period in the exercise of discretion where removal is reasonably foreseeable. 8 U.S.C. § 1231(a)(6). ICE decided in its discretion to continue Petitioner's detention past the 90-day removal period, which is a decision protected from judicial review. 8 U.S.C. § 1252(a)(2)(B).

Petitioner has not shown here that there is no likelihood of removal in the reasonably

¹ The named warden in this action is not a federal employee. The Department of Justice does not represent him in this action. The Federal Respondents, however, have detention authority over aliens detained under 8 U.S.C. § 1231(a).

foreseeable future. Even if Petitioner were able to make such a showing, the burden would shift to Respondents who can show that removal to Cuba or to a third country is, in fact, significant likely in the reasonably foreseeable future. For these reasons, the Court should deny this habeas petition.

I. Facts and Procedural History

Petitioner is a native and citizen of Cuba. ECF No. 1 at ¶ 1. Petitioner was paroled into the United States on April 20, 2004, and adjusted states to that of Lawful Permanent Resident. *Id.* ¶ 4. After criminal convictions made Petitioner removable, Petitioner was ordered removed on August 19, 2025. *Id.* at ¶¶ 5-7; *see also* ECF No. 3 at *10. For the following 90 days, Petitioner's detention was mandated by statute during the statutory removal period. 8 U.S.C. § 1231(a). ICE properly completed its 90-day Post Order Custody Review on November 22, 2025. *Id.* at ¶ 8.

ICE has been making efforts to remove Petitioner to Cuba. *Id.* at ¶¶ 9, 12-13. Additionally, Petitioner has been offered multiple times to be removed to Mexico instead and Petitioner has refused to go to Mexico. *Id.* at ¶¶ 9-11. Petitioner is tentatively scheduled to be removed to Cuba in early March. *Id.* at 12.

II. Detention Is Lawful Under 8 U.S.C. §1231(a)(6).

The authority to detain aliens after the entry of a final order of removal is set forth in 8 U.S.C. § 1231(a). That statute affords ICE a 90-day mandatory detention period within which to remove the alien from the United States following the entry of the final order. 8 U.S.C. § 1231(a)(2). The 90-day removal period begins on the latest of three dates: the date (1) the order becomes "administratively final," (2) a court issues a final order in a stay of removal, or (3) the alien is released from non-immigration custody. 8 U.S.C. § 1231(a)(1)(B).

Not all removals can be accomplished in 90 days, and certain aliens may be detained beyond the 90-day removal period. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Under §

1231, the removal period can be extended in a least three circumstances. *See Glushchenko v. U.S. Dep't of Homeland Sec.*, 566 F.Supp.3d 693, 703 (W.D. Tex. 2021). Extension is warranted, for example, if the alien presents a flight risk or other risk to the community. *Id.*; *see also* 8 U.S.C. § 1231(a)(1)(C); (a)(6). An alien may be held in confinement until there is “no significant likelihood of removal in a reasonably foreseeable future.” *Zadvydas*, at 533 U.S. at 680.

III. There Is No Good Reason to Believe That Removal to South Africa Is Not Significantly Likely in the Reasonably Foreseeable Future.

Petitioner cannot show “good reason” to believe that removal is unlikely. In *Zadvydas*, the U.S. Supreme Court held that § 1231(a)(6) “read in light of the Constitution’s demands, limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States” but “does not permit indefinite detention.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by the statute.” *Id.* at 699. The Court designated six months as a presumptively reasonable period of post-order detention but made clear that the presumption “does not mean that every alien not removed must be released after six months.” *Id.* at 701.

Once the alien establishes that he has been in post-order custody for more than six months at the time the habeas petition is filed, the alien must provide a “good reason” to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *See Andrade v. Gonzales*, 459 F.3d 538, 543–44 (5th Cir. 2006); *Gonzalez v. Gills*, No. 20–60547, 2022 WL 1056099 at *1 (5th Cir. Apr. 8, 2022). Unless the alien establishes the requisite “good reason,” the burden will not shift to the government to prove otherwise. *Id.*

The “reasonably foreseeable future” is not a static concept; it is fluid and country-specific, depending in large part on country conditions and diplomatic relations. *Ali v. Johnson*, No. 3:21–CV–00050–M, 2021 WL 4897659 at *3 (N.D. Tex. Sept. 24, 2021). Additionally, a lack of visible

progress in the removal process does not satisfy the petitioner's burden of showing that there is no significant likelihood of removal. *Id.* at *2 (collecting cases); *see also Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003). Conclusory allegations are also insufficient to meet the alien's burden of proof. *Nagib v. Gonzales*, No. 3:06-CV-0294-G, 2006 WL 1499682, at *3 (N.D. Tex. May 31, 2006) (citing *Gonzalez v. Bureau of Immigration and Customs Enforcement*, No. 1:03-CV-178-C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004)). One court explained:

To carry his burden, [the] petitioner must present something beyond speculation and conjecture. To shift the burden to the government, [the] petitioner must demonstrate that "the circumstances of his status" or the existence of "particular individual barriers to his repatriation" to his country of origin are such that there is no significant likelihood of removal in the reasonably foreseeable future.

Idowu, 2003 WL 21805198, at *4 (citation omitted).

There is no dispute that Petitioner's removal order has been final since August 2025. ECF No. 3 at *10; Ex. A (ERO Declaration). Petitioner, nonetheless, argues that his continued detention pending removal is contrary to statute and in violation of his Constitutional rights under the 5th and 8th amendments. ECF No. 3 at *7. Petitioner, however, provides no reasoning as to why his removal is unlikely, but instead makes a conclusory statement that he cannot be removed to Cuba or any other country. *See* ECF No. 3 at *10.

Petitioner's conclusory and speculative claims are wholly insufficient to meet his burden of proof under *Zadvydas*. *See Nogales v. Dept. of Homeland Sec.*, No. 21-10236, 2022 WL 851738 at *1 (5th Cir. Mar. 22, 2022) (citing *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021)); *Akbar v. Barr*, SA-20-CV-01132-FB, 2021 WL 1345530 (W.D. Tex. Mar. 5, 2021); *see also Andrade*, 459 F.3d at 543–44; *Boroky v. Holder*, No. 3:14-CV-2040-L-BK, 2014 WL 6809180, at *3 (N.D. Tex. Dec. 3, 2014). As such, Petitioner cannot meet his burden to show that there is no

significant likelihood of removal in the reasonably foreseeable future. See *Thanh v. Johnson*, No. EP-15-CV-403-PRM, 2016 WL 5171779, at *4 (W.D. Tex. Mar. 11, 2016) (denying habeas relief where government travel documents). The burden of proof, therefore, does not shift to Federal Respondents to prove that removal is likely.

Even if the burden did shift to ICE, ICE is making continuous efforts to remove petition either to Cuba or to a third country. Ex. A (ERO Declaration) ¶¶ 9-12. Indeed, ICE has offered to remove Petitioner to Mexico multiple times if he did not wish to wait for his removal to Cuba. *Id.* at ¶¶ 9-11. At this time, Petitioner is tentatively scheduled for removal to Cuba in early March. *Id.* at ¶ 12.

Moreover, ICE is complying with post-order-custody-review regulations. *Id.* ¶ 8. There is no basis for a due process argument here when ICE is complying with *Zadvydas* standards and providing Petitioner sufficient procedural safeguards throughout his post-removal detention.

IV. Conclusion

There is no good reason to believe that removal to Cuba or to a third country in the reasonably foreseeable future is unlikely. Continued detention under 1231(a)(6), therefore, is lawful. Accordingly, the Court should deny this petition.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, I caused the Federal Respondents' Response to Petitioner's Writ of Habeas Corpus (Dkt. 6), Declaration in Support (Dkt. 6-1), to be served on Petitioner, Raidel Blanco, by sending copies via certified U.S. mail as follows:

Raidel Blanco
A# 
ERO El Paso Camp East Montana
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/s/ Nathan Ripley
Nathan Ripley
Special Assistant United States Attorney