

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 26-cv-00530-KAS

ALEKSEJS JEFREMOVS, a/k/a Armen Bagdayan,

Petitioner,

v.

JUAN BALTASAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado,
in his official capacity;

ROBERT HAGAN, Field Office Director, Denver Field Office, U.S. Immigration and
Customs Enforcement, in his official capacity;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official
capacity; and

PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 5)

In accordance with the Court's Order dated February 12, 2026, ECF No. 5, Respondents respond to the Petition for Writ of Habeas Corpus filed by Aleksejs Jefremovs ("Petitioner"), ECF No. 1.

As explained further below, in 2005, Petitioner, who is a citizen of Latvia, was issued a final order of removal. *Id.* at 2. Following that order, Petitioner was released without any conditions until, in December 2018, U.S. Immigration and Customs Enforcement (ICE) issued him an Order of Supervision. *Id.* On November 27, 2025, Petitioner was taken into ICE custody at the Denver International Airport. *Id.*

Petitioner challenges his ongoing detention on the ground that it violates the Immigration and Nationality Act (“INA”), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and his due process rights. He contends that his detention is not warranted because, he asserts, there is no significant likelihood of his removal in the reasonably foreseeable future, and because his removal period ran many years ago (though he was only detained recently).

The Court should deny the Petition. Petitioner has been detained for less than three months while ICE works to arrange his removal—well within the six-month presumptively reasonable detention period recognized in *Zadvydas*. And Petitioner’s argument that he cannot now be detained because his initial removal period has passed is contrary to statute and Supreme Court case law.

FACTUAL BACKGROUND

Petitioner was born in the former Soviet Union, and specifically, in what is now Latvia. ECF No. 1 at ¶ 28. He is a Latvian citizen. See Ex. 1 at ¶ 4 (Declaration of Irma Quinones). In October 2002, Petitioner submitted an asylum application under a false name. *Id.* ¶ 5. In December 2002, the then-U.S. Immigration and Naturalization Service (INS) issued a Notice to Appear, charging Petitioner with being inadmissible to the U.S. pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and initiating removal proceedings against him under 8 U.S.C. § 1229a. *Id.* ¶ 6.

In May 2005, Petitioner was issued a final order of removal in absentia. *Id.* ¶ 8. In September 2015, Petitioner was convicted for driving under the influence and sentenced to prison time. *Id.* ¶ 9. ICE then targeted him for removal, and on September

25, 2015, encountered and arrested Petitioner. *Id.* ¶ 10. Petitioner, who had then filed an application for adjustment of status with U.S. Citizenship and Immigration Services (USCIS), was released under an Order of Supervision. *Id.* ¶¶ 10, 11.

In November 2015, Petition filed a motion to reopen his removal proceedings, seeking to rescind the order of removal against him. *Id.* ¶¶ 12. On January 25, 2016, the immigration judge denied the motion.¹ Petitioner filed second and third motions to reopen, which were all denied. *Id.* ¶¶ 14-15.

In November 2025, ICE targeted Petitioner for arrest due to his unlawful status and prior arrest. *Id.* ¶ 16. On November 27, 2025, Petitioner was detained in Denver and his Order of Supervision was revoked. *Id.* ¶ 16. Petitioner remains detained at the Denver Contract Detention Facility pursuant to 8 U.S.C. § 1231. *Id.* ¶¶ 17-18.

Since his detention, ICE has attempted removal. *See id.* ¶¶ 19-25. ICE provided Petitioner with a Latvian travel document application, but Petitioner has refused to complete that application. *Id.* ¶ 19. On January 17, 2026, ICE served Petitioner with a Form I-229(a), Warning for Failure to Depart, which notifies Petitioner of the consequences of failing to make a timely application for a travel document, including that the removal period shall be extended beyond 90 days and he will remain in detention if he fails to complete a travel document application. *Id.* ¶ 20. On January 18,

¹ With his Petition, Petitioner filed a document titled "Order of Supervision" that appears to indicate that Petitioner's final order of removal was issued January 25, 2016. *See* ECF No. 1-2. However, January 25, 2016, was the day the immigration judge denied Petitioner's first motion to reopen removal proceedings. *See* Ex. 2 (Jan. 25, 2016 Order of Immigration Judge denying Motion to Reopen). In any event, whether Petitioner's removal order became final in 2005 or 2016 is immaterial to resolving the issues in this case.

2026, ICE issued a Notice of Failure to Comply Pursuant to 8 C.F.R. § 241.4(g), which informed Petitioner that he would remain in ICE custody until he demonstrates that he is making reasonable efforts to comply with the order of removal as well as ICE's efforts to remove him. *Id.* ¶ 21.

On January 29, 2026, ICE submitted a travel document request for Petitioner to the Embassy for the Republic of Latvia. *Id.* ¶ 22. On February 2, 2026, a Latvian Embassy representative informed ICE that the name Aleksejs Jefremovs is in the Latvian Registry, and that the embassy will proceed to issue a travel document for Petitioner. *Id.* ¶¶ 23-24. Based on this information, ICE believes that Petitioner's removal is likely to be able to occur in the reasonably foreseeable future. *See id.* ¶ 25. Respondents note that—unless and until it is lifted—the Court's prior Minute Order directing Respondents not to remove Petitioner from the District of Colorado, *see* ECF No. 5, would prevent that removal.

ARGUMENT

Petitioner asserts that his ongoing detention by ICE violates 8 U.S.C. § 1231(a), as interpreted by the Supreme Court in *Zadvydas*, and his Fifth Amendment right to due process. But his arguments lack merit.

I. Section 1231 permits Petitioner's detention beyond the initial 90-day removal period.

In Claim One, Petitioner contends that his order of removal was issued May 2005, therefore, the 90-day statutory removal period expired in August 2005. ECF No. 1 at 11. Petitioner argues that nothing in Section 1231 allows the government to re-start

the removal period by re-detaining a noncitizen. *Id.* Petitioner's statutory arguments are unavailing, for two independent reasons.

First, there is no statutory provision requiring release after the 90-day removal period has elapsed. That is, Section 1231 does not *mandate* release on supervision for *all* individuals after they have been detained 90 days based on their removal order. Rather, “§ 1231 . . . contains specific provisions mandating or authorizing DHS to extend detention beyond 90 days.” *Guzman Chavez*, 594 U.S. at 541; *see id.* at 529 (recognizing that “the statute does not specify a time limit on how long DHS may detain an alien in the post-removal period”). For example, individuals like Petitioner who have been determined to be inadmissible under Section 1182 may be detained beyond the initial 90-day removal period. *See* 8 U.S.C. § 1231(a)(6) (“An alien ordered removed who is inadmissible under section 1182 of this title . . . may be detained beyond the removal period”).

Second, Petitioner has not cooperated with ICE in securing travel documents to Latvia to effectuate his removal. *See* ECF No. 1 ¶¶ 48; Ex. A ¶¶ 19. Section 1231(a)(1)(C) allows ICE to extend the removal period and detain a non-citizen until he cooperates with ICE and completes the travel document application. 8 U.S.C. § 1231(a)(1)(C); *cf.* *Sing v. Barr*, No. 17-cv-03057-DDD, 2019 WL 2452822, at *3 (D. Colo. June 12, 2019) (permitting ICE to continue to maintain noncitizen in custody under 8 U.S.C. § 1231(a)(1)(C) “so long as he refuses to sign his travel documents”). Petitioner was informed that the 90-day period would be extended because of his failure to cooperate

in ICE's removal efforts. As such, Petitioner's removal period is extended until he completes the travel-document application.

Petitioner's detention is thus authorized by statute.

II. Petitioner's detention is within the *Zadvydas* six-month presumptively reasonable period of detention to effectuate removal.

In Claim Two, Petitioner argues that his current detention violates his due process rights because he is detained beyond the 90-day removal period and there is no likelihood of removal in the reasonably foreseeable future. *Id.* at 11-12. This argument fails.

Petitioner is within the six-month presumptively reasonable detention period to effectuate removal prescribed in *Zadvydas*. That presumptively reasonable six-month period refers to a period of detention during which the government seeks to execute the removal order. See *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (explaining that under *Zadvydas*, the "period reasonably necessary to bring about the alien's removal from the United States is presumptively six months"). As explained above, Petitioner was not taken into ICE custody when his removal order was issued, and he had not spent any time in ICE detention pursuant to his removal order until he was detained earlier on November 27, 2025. The six-month presumptively-reasonable period thus did not begin for Petitioner until that date, and—because Petitioner has been detained for less than three months—his detention is presumptively reasonable.²

² To be clear, *Zadvydas* did not *prohibit* detention beyond six months after a final order. Rather, the Court stated that, after six months, if "the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the [g]overnment must respond with evidence sufficient to rebut that showing."

Under *Zadvydas*, it is only *after* the six-month presumptively reasonable period of detention to effect removal that the Court should consider release for lack of significant likelihood of removal. See *Guzman Chavez*, 594 U.S. at 529 (emphasis added). (“*After that point*, if the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must . . . rebut that showing” (emphasis added)); cf. *Bokole v. McAleenan*, 1:18-cv-00583-JB-LF, 2019 WL 2024922, at *5 (D.N.M. May 8, 2019) (finding that the petitioner’s claim challenging the constitutionality of his current detention was premature because the presumptively reasonable six-month period had not yet expired). In other words, *after* the six-month presumptively reasonable detention period passes, the noncitizen can seek to show that his detention will be indefinite. At that point, the “onus is on the alien to ‘provide[] good reason to believe’ there is no significant likelihood of removal in the reasonably foreseeable future “*before* ‘the Government must respond with evidence sufficient to make that showing.’” *Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004) (emphasis added) (quoting *Zadvydas*, 533 U.S. at 701). In other words, the noncitizen must meet his burden *before* the government’s evidentiary obligation is triggered.

533 U.S. at 701. In any event, because Petitioner is well within the presumptively reasonable six-month period, the Court need not engage in the significant-likelihood-of-removal analysis at this point.

III. Petitioner has not met his burden to show there is no significant likelihood of removal in the reasonably foreseeable future.

Even if the Court were to consider Petitioner's likelihood-of-removal argument at this early stage, it should find that Petitioner has not met his burden—or that the government has sufficiently rebutted it and shown his removal is significantly likely in the reasonably foreseeable future. As discussed above, on January 29, 2026, ICE submitted a travel document request for Petitioner to the Embassy for the Republic of Latvia. Ex. A ¶ 22. On February 2, 2026, a Latvian Embassy representative informed ICE that Petitioner's (correct) name is in the Latvian Registry, and that the Embassy will proceed to issue a travel document for Petitioner. *Id.* ¶¶ 23-24. Based on this information, ICE believes Petitioner's removal can likely occur in the reasonably foreseeable future. *See id.* ¶ 25.

Petitioner's likelihood-of-removal argument turns largely on a letter from the Embassy for the Republic of Latvia from March 2017, which stated that he is a non-citizen of Latvia and thus cannot be issued a passport from that country. *See* ECF No. 1 ¶¶ 8, 46, 49, 56, 62; ECF No. 1-3. But more recent information from that Embassy—based on communications with ICE approximately two weeks ago—is that Latvia *does* have a record of Petitioner, and that it *will* issue a travel document for him. *See* Ex. 1 ¶¶ 23-24. The available evidence does not provide an explanation for this apparently changed stance in the intervening nine years since the 2017 letter cited by Petitioner. But the burden rests with Petitioner to show no significant likelihood of removal in the reasonably foreseeable future, *see Zadvydas*, 533 U.S. at 701; *Soberanes v. Comfort*, 388 F.3d at 1311, and he has not done so on this record, *see, e.g., Shahzad v. Gurule*,

2013 WL 6710114, at *2 (D. Ariz. Dec. 19, 2013) (petitioner failed to meet burden where Pakistan had not rejected the proposed removal and “Pakistani authorities continue[d] to say they were working to obtain proper documentation to facilitate Petitioner’s removal”); *cf. Nkwanga v. Maurer*, No. 06-cv-00262-MSK-MEH, 2006 WL 2475261, at *1 (D. Colo. Aug. 24, 2006) (finding that the petitioner failed to demonstrate that he was entitled to relief under *Zadvydas* where he failed to provide evidence indicating that his continued detention in the foreseeable future was likely).

IV. That Petitioner was not detained and removed during the initial 90-day removal period does not foreclose the government from detaining him now while it works to effect removal.

Not every noncitizen who is ordered removed is taken into custody and removed during the initial 90-day removal period. *See Zadvydas*, 533 U.S. at 701 (“We doubt that when Congress shortened the removal period to 90 days in 1996 it believed that all reasonably foreseeable removals could be accomplished in that time.”). “[T]he Executive Branch . . . retains discretion over whether to remove a noncitizen from the United States.” *United States v. Texas*, 599 U.S. 670, 679 (2023). For example, whether ICE seeks to detain and remove an individual may depend on resource constraints and practical obstacles. *Id.* (recognizing that in the decades since § 1231(a)(2) was enacted, “resource constraints necessitated prioritization in making immigration arrests”); *Johnson v. Guzman Chavez*, 594 U.S. 523, 546 (2021) (recognizing that “DHS routinely holds aliens under [8 U.S.C. § 1231(a)] when geopolitical or practical problems prevent it from removing an alien within the 90-day period”).

A decision by DHS not to detain and remove a noncitizen immediately after the noncitizen has been ordered removed does not bar DHS from later detaining and removing the alien. In general, “as we have held time and again, an official’s crucial duties are better carried out late than never” because “a statutory rule that officials ‘shall’ act within a specific time does not by itself ‘preclude[e] action later.’” *Nielsen v. Preap*, 586 U.S. 392, 411 (2019) (quoting *Barnhard v. Peabody Coal Co.*, 537 U.S. 149, 158 (2003)). More specifically, Congress has provided express authority for the detention of noncitizens ordered removed *after* the initial removal period. “In addition to setting out a 90-day removal period, § 1231 expressly authorizes DHS to . . . continue the detention of aliens if removal cannot be effectuated within the 90 days.” *Guzman Chavez*, 594 U.S. at 546; *id.* at 541 (“[T]he rest of § 1231 . . . contains specific provisions mandating or authorizing DHS to extend detention beyond 90 days . . .”).

CONCLUSION

For the reasons stated above, the Court should deny the Petition.

Dated: February 18, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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