IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00530-DDD-KAS

ALEKSEJS JEFREMOVS, a/k/a Armen Bagdayan,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity;
GEORGE VALDEZ Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity;
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity; and
TODD BLANCHE, Acting Attorney General, U.S. Department of Justice, in his official capacity,

Respondents.[1]

RESPONDENTS' MOTION TO VACATE ORDER DIRECTING RESPONDENTS NOT TO REMOVE PETITIONER FROM THE DISTRICT OF COLORADO (ECF No. 5)

Respondents move for an expedited ruling to vacate Magistrate Judge Starnella's February 12, 2026, Order directing Respondents not to remove Petitioner from the District of Colorado unless or until that order was vacated by this Court or the Court of Appeals for the Tenth Circuit. *See* ECF No. 5 at 2. Respondents seek this relief on the following grounds:

[1] This filing amends the caption to identify the current official capacity Respondents. *See* Fed. R. Civ. P. 25(d) (when an officer is named in his official capacity, "[t]he officer's successor is automatically substituted as a party" and "[l]ater proceedings should be in the substituted party's name").

1. Petitioner is a citizen of Latvia. ECF No. 11-1 at ¶ 4. On May 4, 2005, an Immigration Judge issued Petitioner a final order of removal. *Id.* at ¶ 8. In November 2025, Petitioner was detained by ICE due to his pending final order of removal. *Id.* at ¶¶ 16, 17.

2. On February 11, 2026, Petitioner filed an Application for a Writ of Habeas Corpus, asserting that his continued detention by Immigration and Customs Enforcement ("ICE") violates 8 U.S.C. § 1231(a)(1)(A) as interpreted by *Zadvydas v. Davis*, 533 U.S. 678 (2001), and his due process rights. *See generally* ECF No. 1. Specifically, Petitioner contended that his detention, post final order of removal, is unlawful because there is no significant likelihood of his removal in the reasonably foreseeable future. *See id.*

3. The case was initially directly assigned to Magistrate Judge Starnella. On February 12, 2026, Magistrate Judge Starnella ordered Respondents to show cause as to why the Petition should not be granted. *See* ECF No. 5. That Order also ordered Respondents not to remove Petitioner from the District of Colorado or the United States of America unless or until that order was vacated by this Court or the Court of Appeals for the Tenth Circuit, "pursuant to the All Writs Act, and in order to preserve the Court's jurisdiction." *Id.* The case was subsequently reassigned to this Court and referred to Magistrate Judge Starnella. *See* ECF Nos. 12, 14.

4. On February 18, 2026, Respondents responded to the Court's Order to Show Cause, explaining that the Petition should be denied because Petitioner could not demonstrate that his detention, pending removal, violates 8 U.S.C. § 1231 or *Zadvydas*. *See* ECF No. 11. With their Response, Respondents included a declaration from a deportation officer explaining the status of DHS's efforts to remove Petitioner to his country of citizenship, Lativa. *See* ECF No. 11-1 at ¶¶ 4, 19-25. Specifically, in that declaration, Respondents stated that the Latvian Embassy had

confirmed Petitioner's registration and that the Embassy would proceed to issue Petitioner a travel document. *Id.* at ¶¶ 23, 24.

5. The only issue pending in this matter is Petitioner's challenge to his ongoing detention, based on his assertion that there is no significant likelihood of his removal in the reasonably foreseeable future. *See* ECF Nos. 1, 11, and 16.

6. In April 2026, ICE received confirmation that Latvia will issue Petitioner a final travel document. Once that document is issued, it is good for fifteen days.[2] This travel document will allow Respondents to enact the final order of removal and end his detention.

7. The Court has discretion to vacate its prior order prohibiting Respondents from removing Petitioner from this District. *See, e.g.*, *Elephant Butte Ir. Dist. of N.M. v. U.S. Dep't of Interior*, 538 F.3d 1299, 1306 (10th Cir. 2008) ("[E]very order short of a final decree is subject to reopening at the discretion of the district judge." (citation omitted)); *Friedman v. Dollar Thrifty Auto. Grp., Inc.*, No. 12-cv-02432-WYD-KMT, 2015 WL 8479746, at *2 (D. Colo. Dec. 10, 2015) (noting that the court has "plenary power to revisit and amend interlocutory orders as justice requires" (citation omitted)). Indeed, the Court's order expressly contemplated that the Court might vacate it at some point in the future; the Order stated that the Petitioner shall not be removed "unless or until this Court or the Tenth Circuit Court of Appeals vacates this Order." ECF No. 5.

8. Here, the do-not-remove-or-transfer is not warranted. *First*, The Court has jurisdiction over the case because Petitioner was located in this district at the time the case was

[2] Undersigned counsel understands that the travel document will be issued if and when this Court vacates the do-not-remove-or-transfer order. However, if circumstances change such that the travel document must issue sooner (before the Court rules on this motion), Respondents may seek expedited consideration of this motion.

filed, and his potential transfer to another district after that would not destroy its jurisdiction. To be sure, it is generally the case that "jurisdiction for § 2241 proceedings normally lies only in the petitioner's 'district of confinement.'" *Serna v. Commandant, USDB Leavenworth*, 608 F. App'x 713, 714 (10th Cir. 2015) (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)). But it is "well established that jurisdiction attaches on the initial filing for habeas corpus relief" and "is not destroyed by a transfer of the petitioner." *Id.* (quoting *Santillanes v. U.S. Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985)). That is, because an order prohibiting transfer outside the district would not aid this Court's jurisdiction, the All Writs Act does not authorize the Court to issue such an order.

9. *Second*, even if the All Writs Act did authorize an order restricting transfer outside the district, Congress, in the Immigration and Nationality Act (INA), divested the Court of authority (even under the All Writs Act) to issue such an order. 8 U.S.C. § 1231(g)(1) provides that "[t]he Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal." And 8 U.S.C. § 1252(a)(2)(B)(ii) provides that "no court shall have jurisdiction to review . . . any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter to be in the discretion of the Attorney General." The Tenth Circuit has held that one type of decision that Congress has placed within the Attorney General's discretion—that is thus outside the scope of judicial review—is the decision of where to house a detained noncitizen. In *Van Dinh v. Reno*, the Tenth Circuit held that 8 U.S.C. § 1252(a)(2)(B)(ii) deprived the court of jurisdiction, in a class action lawsuit, to restrain the Attorney General's power to transfer noncitizens to appropriate facilities by granting injunctive relief. 197 F.3d 427, 433-34 (10th Cir. 1999). Accordingly, the INA prevents this Court from

issuing an order prohibiting Respondents from transferring Petitioner to another detention facility outside this district.

10. *Third*, enjoining Respondents from removing Petitioner from the United States is problematic in this case, where the sole issue is whether Petitioner's removal is significantly likely in the reasonably foreseeable future. *See* ECF No. 1. As Respondents explained in their response to the Order to Show Cause, removal *is* significantly likely in the reasonably foreseeable future—indeed, Petitioner could be removed imminently (and thus no longer subject to ICE detention), but for the Court's Order preventing removal.

11. In any event, given the developments since Magistrate Judge Starnella entered the Order prohibiting Petitioner's removal, and in the interest of justice, the Court should exercise its discretion to vacate that Order. The only remaining issue in the case is Petitioner's continued detention, and whether there is a significant likelihood he will be removed from the United States in the reasonably foreseeable future. Petitioner's removal to Latvia would resolve that issue. And, if Petitioner is removed, he will no longer be in ICE custody, and this habeas case will therefore become moot. *See Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1110 (10th Cir. 2010) ("The crucial question [in determining mootness] is whether granting a *present* determination of the issues offered will have some effect in the real world." (emphasis in original)). Since Magistrate Judge Starnella entered the Order, Respondents have determined that they can arrange for Petitioner's removal to his native country, Latvia, imminently—within fifteen days of issuance of the travel document, which Respondents understand can happen quickly. But Respondents cannot effectuate Petitioner's removal unless the Order is vacated.

12. Accordingly, in the interests of justice, Respondents request that the Court vacate the Order, at ECF No. 5, prohibiting Respondents from transferring Petitioner outside this district or removing him from the United States.

13. If this motion is granted, undersigned counsel will notify the Court of Petitioner's removal from the United States to Latvia by filing a status report within five business days after Petitioner is removed.

14. Undersigned counsel certifies that, pursuant to D.C.COLO.L.CivR 7.1(a), she conferred about this motion with Petitioner, through counsel, who stated that Petitioner opposes the relief sought in this Motion.

For the reasons set forth above, Respondents respectfully request that the Court enter an order, on an expedited basis, vacating the Order of September 16, 2025, directing Respondents not to remove Petitioner from the District of Colorado or the United States of America.

Dated: April 22, 2026

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CERTIFICATE OF COMPLIANCE WITH LENGH LIMITATIONS

I hereby certify that the foregoing paper complies with the length limitation set forth in DDD Civ. P.S. III(A)(1).

s/ Leslie Schulze

United States Attorney's Office

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 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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