

Magistrate Judge Brian A. Tsuchida

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

G.R.R.,

Petitioner,

v.

JULIO HERNANDEZ, *et al.*,

Respondents.

Case No. 2:26-cv-01000-BAT

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
April 13, 2026.

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner G.R.R., a noncitizen subject to an administratively final order of removal, pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner brings this habeas litigation pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his immigration detention.

Petitioner asserts that Federal Respondents indicated that Petitioner was arrested due to "incriminating records and culpable information" against Petitioner that has not been released. Dkt 1, ¶ 9. Petitioner asserts that Fifth Amendment due process was violated and he should have

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 received a bond hearing prior to re-detention. *Id.*, ¶¶ 33-35. Petitioner asserts that his continued
2 detention is unlawful and that he should be released from custody. Dkt. 1, Prayer for Relief, ¶¶ d-
3 e.

4 Petitioner is a citizen of Mexico that entered the United States at an unknown time and
5 location. In 2023, he was encountered by immigration authorities in Washington and eventually
6 released on bond. In 2024, an immigration judge denied all his applications for relief except
7 voluntary departure. However, Petitioner did not pay the required voluntary departure bond.
8 Petitioner appealed the immigration judge decision to the Board of Immigration Appeals (“BIA”).
9 Petitioner was detained by immigration authorities in October 2025. In January 2026, the BIA
10 dismissed Petitioner’s appeal and determined he had failed to submit proof of voluntary departure
11 bond, hence Petitioner’s voluntary departure has become an administratively final order of
12 removal. ICE is arranging to remove Petitioner to Mexico pursuant to that final order.

13 The habeas petition should be denied.

14 II. FACTUAL AND PROCEDURAL BACKGROUND

15 A. Detention Authorities and Reinstated Removal Orders

16 The INA governs the detention and release of noncitizens during and following their
17 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
18 detention periods are generally referred to as “pre-order” (meaning before the entry of a final
19 order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of
20 removal). *Compare* 8 U.S.C. §§ 1225, 1226 (authorizing pre-order detention) *with* § 1231(a)
21 (authorizing post-order detention).

22 When a final order of removal has been entered, an alien enters a 90-day “removal period.”
23 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security “shall
24 remove the alien from the United States.” *Id.*

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

[A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [the Secretary of Homeland Security] 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).

8 U.S.C. § 1231(a)(6) (emphasis added).

Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has identified six months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701. The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating that “for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen’s detention could raise constitutional issues. *Id.*

B. Agency Discretion to Execute Removal Orders

Congress has expressly limited federal court jurisdiction over claims that interfere with the execution of a removal order. *See* 8 U.S.C. § 1252(g); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). This includes claims that would delay removal while seeking relief where there is no immigration related stay of removal. For example, the Ninth Circuit has

1 held that district courts may not enjoin removal based on a noncitizen's pursuit of reopening of
2 removal proceedings. *Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022).

3 A court must determine whether it has jurisdiction to consider a petitioner's due process
4 claim. *See Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430-31 (2007)
5 (“[A] federal court generally may not rule on the merits of a case without first determining that it
6 has jurisdiction.”). In general, a district court may exercise jurisdiction over a § 2241 habeas
7 petition when the petitioner is in custody and alleges that the custody violates the Constitution,
8 laws, or treaties of the United States. 28 U.S.C. § 2241(c); *Maleng v. Cook*, 490 U.S. 488, 490
9 (1989). Under the jurisdictional bar set forth in 8 U.S.C. § 1252(g), however, “no court shall have
10 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or
11 action by the Attorney General to commence proceedings, adjudicate cases, or execute removal
12 orders against any alien[.]” 8 U.S.C. § 1252(g).

13 This jurisdictional bar applies “notwithstanding any other provision of law,” including §
14 2241. *Id.* The Supreme Court has narrowly construed § 1252(g) to apply only to “a limited subset
15 of deportation claims” arising directly from the three enumerated actions. *Reno*, 525 U.S. at 483.

16 The Ninth Circuit has further clarified that the discretion to execute a removal order
17 includes the discretion to decide when to do so. *Rauda*, 55 F.4th at 777-78; *see e.g., Aleman v.*
18 *Bondi*, No. 2:25-CV-02346-JNW, 2026 WL 102457, at *4 (W.D. Wash. Jan. 14, 2026); *Velasco*
19 *Gomez v. Scott*, No. C25-0522JLR-BAT, 2025 WL 1726465, at *4–6 (W.D. Wash. June 20,
20 2025).

21 **D. Petitioner G.R.R.**

22 Petitioner is a citizen of Mexico. Declaration of Jordan Steveson (“Steveson Decl.”), Exh.
23 A, Form I-213. On July 6, 2023, Petitioner was first encountered immigration authorities in
24 Kennewick, Washington. *Id.* Petitioner was apprehended at that time and issued a notice to appear.

Id.; Exh. B, Notice to Appear. Petitioner was charged with removal from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). On October 18, 2023, an immigration judge granted Petitioner bond of \$9,000, which was posted that same date. Steveson Decl., Exh. A, Form I-213.

On April 11, 2024, an immigration judge denied all of Petitioner's applications for relief. Steveson Decl., Exh. C, IJ Order. The immigration judge granted post conclusion voluntary departure which required \$500 bond within five days of the order, or an alternate order of removal would take effect. *Id.* Petitioner reserved appeal. *Id.*

Petitioner did not pay the voluntary departure bond or file proof of payment. Declaration of Deportation Officer Kurtis Reed ("Reed Decl."), ¶ 9. On May 13, 2024, Petitioner filed an appeal with the Board of Immigration Appeals. Reed Decl., ¶ 7. On October 1, 2025, Petitioner reported to the Richland, Washington ICE field office for a check-in. Steveson Decl., Exh. A, Form I-213; Reed Decl., ¶ 8. Petitioner was detained by ICE at that time. *Id.* On January 8, 2026, the BIA dismissed Petitioner's appeal. Reed Decl., ¶ 9; Steveson Decl., Exh. D, BIA Order. The BIA did not reinstate the voluntary departure and Petitioner was ordered removed to Mexico. Reed Decl., ¶ 9; Steveson Decl., Exh. C, IJ Order.

On February 6, 2026, Petitioner filed a petition for review with the Ninth Circuit.² There is no stay of removal. Reed Decl., ¶ 10. ICE is working to remove Petitioner to Mexico. Reed Decl., ¶ 12.

III. ARGUMENT

A. ICE's detention of Petitioner is lawful under 8 U.S.C. § 1231(a).

Petitioner's challenge to his post-order detention should be denied as premature. The plain language of 8 U.S.C. § 1231(a)(2) requires his detention during the 90-day removal

² Petitioner is filing anonymously. Accordingly, Federal Respondents are not including the case citation.

1 period. 8 U.S.C. § 1231(a)(2). His removal order became final on January 8, 2026. Steveson
2 Decl., Exh. D, BIA Order. Accordingly, Petitioner has only now been detained approximately 90
3 days. Thus, Petitioner improperly sought habeas relief during the initial 90-day removal
4 period. *Kholesouvan v. Morones*, 386 F.3d 1299, 1301 (9th Cir. 2004) (affirming dismissal of
5 habeas petition brought during 90-day removal period).

6 Petitioner requests immediate release. However, Petitioner is subject to an
7 administratively final order of removal and ICE expects he will be removed in the normal course.

8 Congress has expressly limited federal court jurisdiction over claims that interfere with
9 the execution of a removal order. *See* 8 U.S.C. § 1252(g); *Reno v. Am.-Arab Anti-Discrimination*
10 *Comm.*, 525 U.S. at 482. The Due Process Clause does not preserve judicial review when
11 executing a final order of removal. *Rauda v. Jennings*, 55 F.4th 777-78. Petitioner is subject to
12 an administratively final order of removal since January 8, 2026. Reed Decl., ¶ 9. The
13 Government is making arrangements to remove Petitioner to Mexico, as directed by his final
14 order of removal. Accordingly, there is no jurisdiction to grant Petitioner's request for release.

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1 IV. CONCLUSION

2 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
3 the Petition.

4 Dated this 8th day of April, 2026.

5 Respectfully submitted,

6 s/ Jordan C. Steveson

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16 I certify that this memorandum contains 1,673
17 words, in compliance with the Local Civil Rules.
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