

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LEONARDO SUAREZ CASTANEDA,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26-cv-1010-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER,	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On July 14, 2026, Petitioner filed a petition for a writ of habeas corpus (“Petition”) challenging his immigration detention. ECF No. 1. At the time of filing, Petitioner was detained under 8 U.S.C. § 1226(a) while his removal proceedings were ongoing. On August 6, 2026, however, an Immigration Judge ordered Petitioner removed to Colombia, and Petitioner waived appeal. Jones Decl. ¶ 13; Ex. E. As a result, Petitioner is now detained post-final order of removal pursuant to 8 U.S.C. § 1231(a).

Respondent therefore files this Motion to Dismiss. Because Petitioner’s former § 1226(a) detention is now moot, and because any challenge to his current detention is governed by *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Petition should be dismissed for four reasons: (1) Petitioner’s § 1226(a) claim is moot; (2) any *Zadvydas* claim is premature; (3) Petitioner cannot show entitlement to relief under *Zadvydas*; and (4) Petitioner’s medical-care allegations raise conditions-of-confinement claims that are not cognizable in habeas corpus.

BACKGROUND

For purposes of background, Respondent relies on the Declaration of Deportation Officer Justin Jones (“Jones Decl.”), submitted with this filing. The declaration accurately summarizes the circumstances underlying Petitioner’s custodial status and immigration history, and Respondent refers the Court to it for the factual record.

LEGAL FRAMEWORK

Since Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court’s final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. § 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the “removal period,” detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is “reasonably necessary” to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, “may be detained beyond the removal period”). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. “After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701 (emphasis added); *see also* 8

C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that “in order 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.” 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52) (internal quotations omitted).

ARGUMENT

Now that Petitioner is detained post-final order of removal, the Petition should be dismissed for four reasons. First, to the extent the Petition challenged Petitioner’s pre-final order of removal detention, that claim is now moot because Petitioner is no longer detained pursuant to that authority. Second, to the extent Petitioner challenges his post-final order of removal detention, that claim should be dismissed for failure to state a claim because it is premature under *Zadvydas*. Third, even assuming Petitioner could state a claim for relief under *Zadvydas*—which he cannot—he fails to show that he is entitled to relief. Fourth, Petitioner’s conditions-of-confinement claim regarding alleged denial of medical care is not cognizable in habeas corpus and must be dismissed because § 2241 does not provide a remedy for allegations concerning detention conditions.

I. Petitioner’s Claim Challenging His Pre-Final Order of Removal Detention Is Moot

To the extent Petitioner raised a claim challenging his pre-final order of removal detention, that claim is now moot and must be dismissed.

“Article III of the Constitution limits the jurisdiction of the federal courts to the consideration of ‘Cases’ and ‘Controversies.’” *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335 (11th Cir. 2001) (quoting U.S. CONST. art. III, § 2). “The doctrine of mootness derives directly from the case-or-controversy limitation because an action that is moot cannot be characterized as an active case or controversy.” *Id.* (internal quotations omitted).

“A cause of action becomes moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Djadju v. Vega*, 32 F.4th 1102, 1106 (11th Cir. 2022). Courts evaluate mootness based on “events at the present time, not at the time the complaint was filed.” *Id.* If subsequent events “deprive the court of the ability to give the plaintiff meaningful relief,” the case is moot and must be dismissed. *Al Najjar*, 273 F.3d at 1336. “Dismissal is required because mootness is jurisdictional.” *Id.*

Here, when Petitioner filed the Petition, he was detained pursuant to § 1226(a). ICE/ERO encountered Petitioner on April 7, 2026, after his arrest by Florida authorities. Jones Decl. ¶ 8; Ex. B. ICE/ERO took Petitioner into immigration custody on April 10, 2026. *Id.* ¶ 9. Petitioner subsequently appeared for two custody redetermination hearings under § 1226(a). The Immigration Court denied bond on April 22, 2026 and again on May 12, 2026. Jones Decl. ¶¶ 10, 12; Exs. C, D.

However, on August 6, 2026, Petitioner appeared with counsel for an individual merits hearing. The Immigration Court denied his application for relief, ordered him removed, and Petitioner waived appeal. Jones Decl. ¶ 13; Ex. E. As a result, his removal order became

administratively final. See 8 C.F.R. § 1241.1(b)(1). Petitioner is now detained under § 1231(a). Jones Decl. ¶ 14.

Because § 1226(a) no longer governs Petitioner's detention, it is "altogether inappropriate" for the Court to address whether his prior detention was lawful. *De La Teja v. United States*, 321 F.3d 1357, 1363 (11th Cir. 2003). The claim is moot. See *id.* at 1362–63; *H.N. v. Warden, Stewart Det. Ctr.*, No. 7:21-CV-59-HL-MSH, 2021 WL 4203232, at *2 (M.D. Ga. Sept. 15, 2021); *Dixit v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:18-CV-157-HL, 2019 WL 12267340, at *2 (M.D. Ga. Sept. 17, 2019).

II. Petitioner Fails to State a Claim Because the Petition Is Premature Under *Zadvydas*

To the extent Petitioner challenges his post-final order detention, the claim is governed by *Zadvydas*, but it is premature.

The Eleventh Circuit has held that the six-month period "must have expired at the time [the petitioner's] § 2241 petition was filed in order to state a claim under *Zadvydas*." *Akinwale*, 287 F.3d at 1052; see also *Themeus v. U.S. Dep't of Justice*, 643 F. App'x 830, 833 (11th Cir. 2016). Here, the Immigration Court ordered Petitioner removed on August 6, 2026. Jones Decl. ¶ 13; Ex. E. Petitioner waived appeal, so the order became final that same day. Thus, the 90-day removal period began August 6, 2026 and will end November 4, 2026. 8 U.S.C. § 1231(a)(1)(A), (a)(1)(B)(i). Under *Zadvydas*, the six-month presumptively reasonable detention period will not expire until February 6, 2027. 533 U.S. at 700.

The Court received the Petition on July 14, 2026—before the removal order became final. ECF No. 1. Petitioner therefore remains within both the statutory 90-day removal period and the presumptively reasonable *Zadvydas* period. He cannot state a *Zadvydas* claim. See *Akinwale*, 287 F.3d at 1052.

Courts throughout the Eleventh Circuit—including this Court—dismiss *Zadvydas* claims filed before expiration of the six-month period. See *S.H. v. Warden, Stewart Det. Ctr.*, No. 4:21-CV-185-CDL-MSH, 2022 WL 1280989, at *2 (M.D. Ga. Feb. 15, 2022), recommendation adopted, 2022 WL 1274385 (M.D. Ga. Apr. 28, 2022); *Singh v. Garland*, No. 3:20-CV-899, 2021 WL 1516066, at *2 (M.D. Fla. Apr. 16, 2021); *Elieenist v. Mickelson*, No. 15-61701-Civ, 2015 WL 5316484, at *3 (S.D. Fla. Aug. 18, 2015); *Maraj v. Dep't of Homeland Sec.*, No. CA 06-0580-CG-C, 2007 WL 748657, at *3 (S.D. Ala. Mar. 7, 2007); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1363–65 (N.D. Ga. 2002).

III. In the alternative, Petitioner fails to show that he is entitled to relief under *Zadvydas*

Even if Petitioner's claim were timely, he has not met his burden under *Zadvydas*. Petitioner must present “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Gozo*, 309 F. App'x at 346.

Petitioner has not offered any evidence. Conclusory assertions are insufficient. See *Novikov v. Gartland*, No. 5:17-CV-164, 2018 WL 4100694, at *2 (S.D. Ga. Aug. 28, 2018), recommendation adopted, 2018 WL 4688733 (S.D. Ga. Sept. 28, 2018).

Colombia is accepting repatriations and issuing travel documents. Jones Decl. ¶ 4; *id.* ¶ 14. ICE/ERO is currently removing noncitizens to Colombia. *Id.* ¶ 14. Petitioner's final order was issued August 6, 2026, and ICE/ERO is now within the 90-day removal period. Jones Decl. ¶¶ 13–14. Nothing indicates a barrier to obtaining travel documents or scheduling removal.

Temporary lack of progress does not establish that removal will not occur. See *Novikov*, 2018 WL 4100694, at 2; *Linton v. Holder*, No. 10-20145-Civ-Lenard, 2010 WL 4810842, at *4 (S.D. Fla. Oct. 4, 2010); *Fahim*, 227 F. Supp. 2d at 1366. The record shows a significant likelihood of removal in the reasonably foreseeable future. Petitioner's *Zadvydas* claim fails.

IV. Petitioner's Conditions-Of-Confinement Claim Is Not Cognizable

Petitioner alleges that he has been denied essential prescription medication since April 4, 2026. This is a conditions-of-confinement claim that cannot be litigated in habeas corpus.

The “essence of habeas corpus is an attack...upon the legality of...custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Claims concerning medical care “fall outside of that core.” *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). The Eleventh Circuit has held that “a § 2241 petition is not the appropriate vehicle” for such claims. *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015).

Even if Petitioner could prove denial of medical care, release is not a permissible remedy. The appropriate relief would be correction of the condition—not termination of detention. Because Petitioner is detained under § 1231(a), alleged mistreatment does not affect the legality of custody. His conditions-of-confinement claim must therefore be dismissed.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition.

Respectfully submitted, this 7th day of August, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

LEONARDO SUAREZ CASTANEDA

A# 

Stewart Detention Center

P.O. Box 248

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This 7th day of August, 2026.

BY: s/ Andressa Bryant
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