

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Fidel A. Pena-Gil v. Todd M. Lyons, Robert Hagan, and Warden,
Aurora Contract Detention Facility

Pena-Gil · No. 25-cv-03268-PAB-NRN · Decided November 24, 2025

SUMMARY

The United States District Court for the District of Colorado granted Fidel A. Pena-Gil’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. Applying *Zadvydas v. Davis* and *Clark v. Martinez*, the court held that his cumulative immigration detention exceeded the presumptively reasonable six-month period and that the government had not shown a significant likelihood of removal in the reasonably foreseeable future. The court ordered respondents to release Pena-Gil within 48 hours and denied his motion for a preliminary injunction as moot.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Philip A. Brimmer
JURISDICTION	United States District Court for the District of Colorado
DECIDED	November 24, 2025
DOCKET	25-cv-03268-PAB-NRN
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 from continued immigration detention. The court granted the petition, ordered his release within 48 hours, denied his motion for a preliminary injunction as moot, declined to grant additional non-habeas relief, and did not reach the remaining claims.
STANDARD OF REVIEW	The court evaluated the lawfulness and duration of petitioner's confinement under 28 U.S.C. § 2241 and applied the burden-shifting framework of <i>Zadvydas v. Davis</i> .
PRECEDENTIAL VALUE	unpublished_nonprecedential
PARTIES	Fidel A. Pena-Gil v. Todd M. Lyons, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement, Robert Hagan, Field Director of the Denver Field Office, Warden, Aurora Contract Detention Facility

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QUESTIONS PRESENTED

1. Whether petitioner's continued immigration detention violated the Fifth Amendment and the Immigration and Nationality Act under the framework of *Zadvydas v. Davis* and *Clark v. Martinez*.
2. Whether nonconsecutive periods of immigration detention may be aggregated in determining whether the six-month presumptively reasonable detention period under *Zadvydas* has elapsed.
3. Whether respondents rebutted petitioner's showing that there was no significant likelihood of removal in the reasonably foreseeable future.
4. Whether a § 2241 habeas petition could support an order requiring respondents to follow specified procedures before removing petitioner to a third country.
5. Whether petitioner's requests for declaratory relief were moot after the court ordered his release.

HOLDINGS

1. *Zadvydas* governs the constitutionality of petitioner's detention regardless of whether his detention is governed by pre-IIRIRA or post-IIRIRA statutory provisions.
2. Petitioner's nonconsecutive periods of immigration detention may be aggregated, and his approximately 20 months of prior detention together with his current detention exceeded the six-month presumptively reasonable period under *Zadvydas*.
3. Petitioner met his burden to show good reason to believe that there was no significant likelihood of his removal to Cuba or a third country in the reasonably foreseeable future.
4. Respondents failed to provide evidence sufficient to rebut petitioner's showing because the ICE declaration merely stated that removal to Cuba was being pursued and did not establish that Cuba had acknowledged the request, identify concrete removal steps, or provide a timeframe for removal.
5. A petition under 28 U.S.C. § 2241 may challenge the fact or duration of confinement and provide release or a bond hearing, but it does not authorize an additional injunction requiring respondents to follow specified procedures before removing petitioner to a third country.
6. Petitioner's requests for declarations that his detention violated regulations, the Fifth Amendment, and the INA were moot because release would make those declarations have no effect on respondents' behavior and no mootness exception applied.

KEY QUOTATIONS

“Zadvydas held that a six-month period of post-removal detention is presumptively reasonable, but “[a]fter 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.”” (at 3)

“Unsubstantiated assertions that the government will pursue removal are insufficient to satisfy its burden.”
(at 10)

“A “petition for writ of habeas corpus is only available to challenge the fact or duration of confinement.””
(at 11)

FACTUAL BACKGROUND

Pena-Gil, a Cuban national who entered the United States during the 1980 Mariel Boatlift, was convicted of making false statements in acquiring a firearm. An immigration judge ordered him excluded and subject to deportation in January 1989, and he remained in immigration custody for approximately 20 months before being released because the government could not deport him to Cuba or a third country. After complying with government reporting directives for decades, he was detained again in June 2025; ICE unsuccessfully attempted to arrange removal to Mexico and asserted that it was pursuing removal to Cuba without providing evidence that removal was reasonably foreseeable.

PROCEDURAL HISTORY

Pena-Gil filed a petition for a writ of habeas corpus on October 16, 2025, challenging his immigration detention and potential removal. Respondents filed a response and petitioner filed a reply; neither party requested a hearing. The district court granted the petition on the Zadvydas claims in Counts Two and Three and ordered release within 48 hours.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

No remand was ordered. Respondents were ordered to release Fidel A. Pena-Gil from custody within 48 hours. His motion for a preliminary injunction was denied as moot; the request for attorney's fees was not considered because it did not comply with D.C.COLO.LCivR 54.3.

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Clark v. Martinez*, 543 U.S. 371 (2005)
- *Siguenza v. Moniz*, 2025 WL 2734704 (D. Mass. Sept. 25, 2025)
- *Nguyen v. Scott*, 2025 WL 2419288 (W.D. Wash. Aug. 21, 2025)
- *Bailey v. Lynch*, 2016 WL 5791407 (D.N.J. Oct. 3, 2016)
- *Tang v. Bondi*, 2025 WL 2637750 (W.D. Wash. Sept. 11, 2025)
- *Momennia v. Bondi*, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025)

- Vaskanyan v. Janecka, 2025 WL 3050075 (C.D. Cal. Sept. 10, 2025)
- Ahmed v. Freden, 744 F. Supp. 3d 259, 267 (W.D.N.Y. 2024)
- Morales-Fernandez v. I.N.S., 418 F.3d 1116, 1124 (10th Cir. 2005)
- Banks v. Dretke, 540 U.S. 668, 689 n.10 (2004)
- Scott v. Mullin, 303 F.3d 1222, 1232 (10th Cir. 2002)
- Rios v. Noem, 2025 WL 3141207 (S.D. Cal. Nov. 10, 2025)
- Basri v. Barr, 469 F. Supp. 3d 1063, 1066 (D. Colo. 2020)
- Fay v. Noia, 372 U.S. 391, 430-31 (1963)
- Robert v. Austin, 72 F.4th 1160, 1164 (10th Cir. 2023)
- Riley v. I.N.S., 310 F.3d 1253, 1257 (10th Cir. 2002)
- Vaupel v. Ortiz, 244 F. App'x 892, 896 (10th Cir. 2007)
- A.N.M.L. v. Garland, 2021 WL 1853577 (S.D. Cal. May 10, 2021)

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