

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Francisco Allue Garcia v. Warden, Otero County Processing Center,
Mary De Anda-Ybarra, Todd Lyons, Current Secretary, U.S.
Department of Homeland Security, and Pamela Bondi

Francisco Allue Garcia v. Warden, Otero County Processing Center, No. 26-CV-0706-KWR-JMR (D.N.M. 2026)
· No. No. 26-CV-0706-KWR-JMR · Decided March 16, 2026

SUMMARY

The United States District Court for the District of New Mexico conducts an initial review of Francisco Allue Garcia’s 28 U.S.C. § 2241 habeas petition challenging prolonged immigration detention and a proposed third-country removal. The court orders the government to respond to the petition and motion to stay removal, denies without prejudice the motion for immediate release, and directs Garcia to pay the filing fee or seek in forma pauperis status.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kea W. Riggs
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 16, 2026
DOCKET	No. 26-CV-0706-KWR-JMR
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 petition challenging prolonged immigration detention and proposed removal to a third country, along with motions to stay removal and for immediate release. On initial review, the court declined to summarily dismiss the petition, ordered the United States Attorney's Office to respond, and denied the motion for immediate release without prejudice.
STANDARD OF REVIEW	Initial review of a habeas petition for summary dismissal; the court determined that the petition was not subject to summary dismissal.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court memorandum opinion and order
PARTIES	Francisco Allue Garcia v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Todd Lyons, Current Secretary, U.S.

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QUESTIONS PRESENTED

1. Whether Garcia was entitled to immediate release under *Zadvydas v. Davis* based on the length of his immigration detention.
2. Whether Garcia's § 2241 petition alleging prolonged detention and proposed removal to a third country without due process could be summarily dismissed at initial review.

HOLDINGS

1. Immediate release was not warranted because Garcia's final removal order had been entered approximately one month earlier, placing him within the presumptively reasonable 90-day removal period under 8 U.S.C. § 1231(a)(1)(A) and *Zadvydas v. Davis*. The motion for immediate release was therefore denied without prejudice.
2. The petition was not subject to summary dismissal at initial review, so the respondents were ordered to answer it.

KEY QUOTATIONS

“During the 90-day removal period, ... [the noncitizen] must be held in custody.” (at 2)

FACTUAL BACKGROUND

Garcia entered the United States in 2020, was released on his own recognizance, and was re-detained on August 20, 2025. Immigration officials entered a removal order on February 11, 2026; they denied asylum but granted withholding of removal, leaving Garcia subject to removal to a safe third country that would accept him. The removal order reflected that Garcia waived appeal.

PROCEDURAL HISTORY

Garcia filed a § 2241 habeas petition while detained at the Otero County Processing Center. He alleged that his detention had become prolonged under *Zadvydas v. Davis* and that officials planned to remove him to a third country without due process. The court ordered the respondents to answer the petition and respond to the motion to stay removal, denied immediate release without prejudice, and directed Garcia to pay the filing fee or seek in forma pauperis status.

DISPOSITION

other

CASES CITED

- Torres-Torres v. Miller, 2020 WL 4430519 (D.N.M. July 31, 2020)
- Lowmaster v. Dir., Bureau of Prisons, 2024 WL 5135970 (D. Kan. Dec. 17, 2024)
- Danderson v. Page, 2024 WL 3913051 (E.D. Okla. Aug. 20, 2024)
- Us v. Doll, 2018 WL 1400539 (M.D. Pa. Mar. 20, 2018)
- Zadvydas v. Davis, 533 U.S. 678 (2001)

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