

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, BROWNSVILLE DIVISION

Tokareva v. Venegas

Civil Action No. 1:26-cv-0309 (S.D. Tex. Mar. 17, 2026) (magistrate judge's report and recommendation) · No.
Civil Action No. 1:26-cv-0309 · Decided March 17, 2026

SUMMARY

A magistrate judge recommends dismissing without prejudice Anna Tokareva’s 28 U.S.C. § 2241 habeas petition challenging her immigration detention. The recommendation concludes that only four months had passed since her final order of removal, making her detention presumptively reasonable under Zadvydas v. Davis and her claim premature and not ripe. The report also recommends closing the case and advises the parties regarding objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Brownsville Division
WRITING FOR THE COURT	United States Magistrate Judge
JURISDICTION	United States District Court for the Southern District of Texas, Brownsville Division
DECIDED	March 17, 2026
DOCKET	Civil Action No. 1:26-cv-0309
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention after entry of a final order of removal.
STANDARD OF REVIEW	Subject-matter jurisdiction may be examined sua sponte, and the party invoking federal jurisdiction bears the burden of establishing it. Pro se pleadings are liberally construed, but must still comply with the rules governing federal courts.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Anna Tokareva v. Francisco Venegas

TOPICS

federal habeas corpus

immigration detention

removal proceedings

subject matter jurisdiction

civil procedure

PRACTICE AREAS

immigration

federal habeas corpus

civil procedure

QUESTIONS PRESENTED

1. Whether Tokareva's § 2241 challenge to her post-removal-order immigration detention was ripe when fewer than six months had elapsed since entry of the final removal order.
2. Whether the district court had subject-matter jurisdiction over the premature habeas claim.
3. Whether the petition should be dismissed without prejudice.

HOLDINGS

1. A § 2241 challenge under Zadvydas to post-removal-period immigration detention is premature when fewer than six months have elapsed since the final removal order, absent circumstances establishing that there is no significant likelihood of removal in the reasonably foreseeable future.
2. Because the claim was not ripe, the court lacked subject-matter jurisdiction and the § 2241 petition should be dismissed without prejudice.

KEY QUOTATIONS

“Up to six months of immigration detention after entry of a final removal order is, therefore, “presumptively reasonable.””

“This is fatal to Tokareva’s § 2241 Petition because it falls short of six months; it falls within the window of presumptive reasonableness.”

FACTUAL BACKGROUND

Anna Tokareva, a Russian citizen proceeding pro se, was detained at the El Valle Detention Center in Texas beginning in August 2025. An order of removal was entered on October 27, 2025, and the opinion found no indication that she had appealed that order to the Board of Immigration Appeals. Tokareva alleged that she was detained beyond the time reasonably necessary to effectuate her removal and sought release or an individualized custody hearing; she also stated that a U-visa petition was pending before USCIS.

PROCEDURAL HISTORY

Tokareva filed a § 2241 petition while detained by immigration authorities at the El Valle Detention Center. The magistrate judge recommended dismissal without prejudice because only four months had elapsed since the final removal order and the claim was not ripe under *Zadvydas v. Davis*. The recommendation advised that the case be closed and notified the parties of the fourteen-day objection period.

DISPOSITION

other

CASES CITED

- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Aetna Casualty & Surety Co. v. Hillman, 796 F.2d 770, 775 (5th Cir. 1986)
- Rivero v. Fidelity Investments, Inc., 1 F.4th 340, 344 (5th Cir. 2021), cert. denied, 142 S. Ct. 1670 (2022)
- Arbaugh v. Y & H Corp., 546 U.S. 500, 514 (2006)
- Lujan v. Defenders of Wildlife, 504 U.S. 555, 559-60 (1992)
- Shields v. Norton, 289 F.3d 832, 835 (5th Cir. 2002), cert. denied sub nom. Schuehle v. Norton, 537 U.S. 1071 (2002)
- Contender Farms, L.L.P. v. U.S. Department of Agriculture, 779 F.3d 258, 267 (5th Cir. 2015)
- Sample v. Morrison, 406 F.3d 310, 312 (5th Cir. 2005) (per curiam)
- Goodrich v. United States, 3 F.4th 776, 779 (5th Cir. 2021)
- Carver v. Atwood, 18 F.4th 494, 498 (5th Cir. 2021)
- Zadvydas v. Davis, 533 U.S. 678, 688-89, 700-01 (2001)
- Dawson Farms, LLC v. Farm Service Agency, 504 F.3d 592, 607 (5th Cir. 2007)
- Texas v. United States, 524 F. Supp. 3d 598, 614 (S.D. Tex. 2021)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- E.E.O.C. v. Simbaki, Ltd., 767 F.3d 475, 484 (5th Cir. 2014)
- Frazier v. Wells Fargo Bank, N.A., 541 F. App'x 419, 421 (5th Cir. 2013)
- Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)