

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Yana Lanivska v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Todd Lyons, Kristi Noem, and Pamela Bondi

Yana Lanivska v. Warden, Otero County Processing Center, et al., No. 26-cv-0044-KWR-GBW (D.N.M. Jan. 14, 2026) · No. No. 26-cv-0044-KWR-GBW · Decided January 14, 2026

SUMMARY

The United States District Court for the District of New Mexico partially granted and partially denied Yana Lanivska’s motion to expedite consideration of her 28 U.S.C. § 2241 petition challenging immigration detention under *Zadvydas v. Davis*. The court ordered the respondents to answer within 21 days, permitted an optional reply within 14 days, and added additional respondents to the case.

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	January 14, 2026
DOCKET	No. 26-cv-0044-KWR-GBW
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a pro se 28 U.S.C. § 2241 habeas petition challenging immigration detention and moved to expedite consideration of the petition. The court ordered the respondents to answer but denied further emergency relief at that stage.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum opinion and order
PARTIES	Yana Lanivska v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Todd Lyons, Kristi Noem, Pamela Bondi

TOPICS

[immigration detention](#)[federal habeas corpus](#)[removal proceedings](#)[immigration](#)[civil procedure](#)

PRACTICE AREAS

[Immigration](#)[Federal habeas corpus](#)[Civil procedure](#)

QUESTIONS PRESENTED

1. Whether the court should expedite consideration of Lanivska's § 2241 petition and grant emergency relief concerning her immigration detention.
2. Whether additional government officials and entities should be added as respondents in the immigration habeas proceeding.
3. What response and briefing schedule should govern the habeas petition.

HOLDINGS

1. The motion to expedite was granted in part and denied in part: the court expedited the case by ordering an answer and setting a briefing schedule, but declined to grant further emergency relief at that time.
2. The court ordered the Clerk's Office to add the additional respondents named in the caption.
3. The court recognized, without deciding the merits, that under *Zadvydas v. Davis* detention during attempted removal is presumptively reasonable for six months, after which a petitioner who provides good reason to believe removal is not significantly likely in the reasonably foreseeable future may require the Government to rebut that showing with sufficient evidence.

KEY QUOTATIONS

“After this 6-month period, once the [petitioner] 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 [th]e showing” that the custody is unconstitutional.” (at 1)

“On this record, the Court will grant the Motion, in part. The Court will order Respondents to answer the Petition and set a briefing schedule but declines to grant further emergency relief at this time.” (at 1-2)

FACTUAL BACKGROUND

Lanivska was detained in immigration custody after a final order of voluntary departure was entered on October 16, 2025. She contended that her involuntary removal was not reasonably foreseeable, that the six-month presumptive period discussed in *Zadvydas* should not apply because she was willing to depart voluntarily, and that immigration officials had not released her passport. The court noted these allegations but did not resolve the merits of the detention claim at this stage.

PROCEDURAL HISTORY

Lanivska filed a § 2241 petition challenging her immigration detention on the ground that removal was not reasonably foreseeable and filed a motion to expedite. The district court granted the motion in part, denied it in part, added additional respondents, and established a briefing schedule requiring the United States Attorney's Office to answer the petition.

DISPOSITION

other

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Torres-Torres v. Miller*, 2020 WL 4430519 (D.N.M. July 31, 2020)
- *Lowmaster v. Dir., Bureau of Prisons*, 2024 WL 5135970, at *1 (D. Kan. Dec. 17, 2024)
- *Danderson v. Page*, 2024 WL 3913051, at *2 (E.D. Okla. Aug. 20, 2024)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
_____ YANA LANIVSKA, Petitioner, v. No. 26-cv-0044-KWR-GBW
WARDEN, Otero County Processing Center, MARY DE ANDA-YBARRA, Field Officer Director
of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs
Enforcement; TODD LYONS, Acting Director Immigration and Customs Enforcement; KRISTI
NOEM, Secretary, U.S. Department Of Homeland Security; AND PAMELA BONDI, U.S.
Attorney General, Respondents,¹ MEMORANDUM OPINION AND ORDER This matter is
before the Court on Petitioner Yana Lanivska's pro se 28 U.S.C. § 2241 Habeas Petition (Doc.

1) (Petition). Also before the Court is Petitioner's Motion to Expedite Consideration of Petition
(Doc. 2) (Motion). Petitioner challenges her immigration detention on the ground that her
involuntary removal is not reasonably foreseeable.

The Petition cites *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Zadvydas* holds that where
immigration officials are attempting to effectuate a removal, detention is presumptively reasonable
for six (6) months. 533 1 While Petitioner submitted a 28 U.S.C. § 2241 petition naming his
warden and U.S. Immigration and Customs Enforcement, the Court adds the above-mentioned
parties as additional Respondents.

See *Torres- Torres v. Miller*, 2020 WL 4430519 (D.N.M. July 31, 2020) (discussing the party
respondents in an immigration habeas case); *Lowmaster v. Dir., Bureau of Prisons*, 2024 WL
5135970, at *1 (D. Kan. Dec. 17, 2024) ("the Court notes that it routinely substitutes the" proper
parties as "respondent in habeas cases"); *Danderson v. Page*, 2024 WL 3913051, at *2 (E.D.

Okla. Aug. 20, 2024) (substituting the proper party respondent in a habeas case). U.S. at 682.
However, "[a]fter this 6-month period, once the [petitioner] 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 [th]e showing" that the custody is unconstitutional.

Id. at 701. Here, the final order of voluntary departure was entered on October 16, 2025. See Doc.
1 at 2. Petitioner appears to argue the six-month period does not apply because she is willing to
leave voluntarily, and immigration officials have not released her passport.

On this record, the Court will grant the Motion, in part. The Court will order Respondents to answer the Petition and set a briefing schedule but declines to grant further emergency relief at this time. The Clerk's Office shall email a copy of the Petition (Doc. 1) to Roberto Ortega, the Civil Chief at the United States Attorney's Office (USAO), and Allison Shokes, who handles § 2241 petitions for that office.

The USAO must answer the pro se Petition within twenty-one (21) days of entry of this Order. See Habeas Rules 1(b), 4 (courts have discretion to set a time for respondents to answer a habeas petition). The answer must address the merits of Petitioner's claims.

The answer may also address whether Petro Lanivskyi should be allowed to proceed as Petitioner's Next Friend. Petitioner may file an optional reply within fourteen (14) days after the answer is filed. IT IS ORDERED that the Petitioner's Motion to Expedite Consideration of Petition (Doc. 2) is GRANTED, in part, and DENIED, in part, as set forth above; and the Clerk's Office shall email a copy of the Petition (Doc.

1) and this Order to the United States Attorney's Office at the following email addresses: roberto.ortega@usdoj.gov (Roberto Ortega, USAO Civil Chief) and allison.shokes@usdoj.gov (Allison Shokes, AUSA). 2 IT IS FURTHER ORDERED that the USAO must answer the Petition within twenty- one (21) days of entry of this Order; and if Petitioner wishes to file an optional reply, he must do so within fourteen (14) days after the response is filed.

IT IS FINALLY ORDERED that the Clerk's Office shall ADD the additional party Respondents set forth in the caption of this Order. SO ORDERED.
_____/S/_____ HON. KEA W. RIGGS UNITED STATES
DISTRICT JUDGE 3