

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.

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