

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Carlos Gustavo Pardo Gomez v. United States Immigration and Custom Enforcement, and FNU LNU, Director of the Torrance County Detention Facility

Pardo-Gomez · No. 1:25-cv-00872-SMD-JMR · Decided January 8, 2026

SUMMARY

Proposed Findings and Recommended Disposition in Carlos Gustavo Pardo Gomez v. United States Immigration and Customs Enforcement, pending in the United States District Court for the District of New Mexico. The magistrate judge recommends denying the petitioner’s 28 U.S.C. § 2241 habeas petition and supplemental motion for release, concluding that Zadvydas v. Davis does not apply to detention under 8 U.S.C. § 1225(b)(2)(A) during ongoing removal proceedings before a final order of removal. The parties were notified that objections were due within 14 days of service.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Jennifer M. Rozzoni
DECIDED	January 8, 2026
DOCKET	1:25-cv-00872-SMD-JMR
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner brought a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his immigration detention under Zadvydas v. Davis and filed a supplemental motion for release. The magistrate judge issued proposed findings and a recommended disposition advising denial of both requests.
STANDARD OF REVIEW	The magistrate judge reviewed the habeas petition and record under the referral authority of 28 U.S.C. § 636(b)(1)(B) and (b)(3), and recommended an ultimate disposition subject to de novo review of timely and specific objections.
PRECEDENTIAL VALUE	Nonprecedential proposed findings and recommended disposition
PARTIES	Carlos Gustavo Pardo Gomez v. United States Immigration and Custom Enforcement, FNU LNU, Director of the Torrance County Detention Facility

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether *Zadvydas v. Davis*'s limits on detention after a final order of removal apply to an alien detained under 8 U.S.C. § 1225(b)(2)(A) during ongoing removal proceedings and a pending appeal.
2. Whether Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A), before entry of a final order of removal, violated due process.

HOLDINGS

1. The *Zadvydas* framework does not apply to an alien detained under 8 U.S.C. § 1225(b)(2)(A) during removal proceedings before the removal order becomes final.
2. Petitioner failed to establish that his detention under § 1225(b)(2)(A) during a pending BIA appeal violated due process.

KEY QUOTATIONS

“The due process analysis in Zadvydas applies to aliens with final orders of removal. Zadvydas does not apply to aliens like Petitioner—detained under 8 U.S.C. § 1225(b)(2)(A) during removal proceedings.” (at 5)

FACTUAL BACKGROUND

Petitioner, a Venezuelan citizen, entered the United States without inspection, admission, or parole in May 2024 and was initially released on his own recognizance. An immigration judge denied his asylum claim and ordered removal while granting withholding of removal to Venezuela; Petitioner appealed the asylum ruling to the Board of Immigration Appeals. He was detained under 8 U.S.C. § 1225(b)(2)(A) while that appeal remained pending and argued that continued detention violated due process because removal was not reasonably foreseeable.

PROCEDURAL HISTORY

Petitioner entered the United States without inspection, was issued a notice to appear, and was later ordered removed by an immigration judge, who granted withholding of removal to Venezuela. Petitioner appealed the denial of asylum to the Board of Immigration Appeals, and he remained detained during the pending appeal. After ICE responded to the § 2241 petition, Petitioner filed no reply, and the magistrate judge recommended denial because no final order of removal existed and *Zadvydas* did not govern detention under 8 U.S.C. § 1225(b)(2)(A).

DISPOSITION

other

CASES CITED

- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Zadvydas v. Davis, 533 U.S. 678 (2001)
- Clark v. Martinez, 543 U.S. 371, 378 (2005)
- Demore v. Kim, 538 U.S. 510, 511-12 (2003)
- Jennings v. Rodriguez, 583 U.S. 281, 300-01 (2018)
- Utoliti v. Ceja, No. 25-cv-00418-GPG-CYC, 2025 WL 2418598, at *6 (D. Colo. May 29, 2025)
- United States v. One Parcel of Real Prop., With Buildings, Appurtenances, Improvements, & Contents, Known as: 2121 E. 30th St., Tulsa, Oklahoma, 73 F.3d 1057, 1060 (10th Cir. 1996)

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