

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

ISRAEL GODINEZ PEREZ,

Petitioner,

v.

Case No. 2:25-cv-429-JES-NPM

KRISTI NOEM, Secretary, Department
of Homeland Security (“DHS”) and
GARRETT RIPA, Miami Field Office
Director, U.S. Immigration and
Customs Enforcement (“ICE”) (all
official capacity),

Respondents.

_____ /

Response to Habeas Petition

Respondents Kristi Noem and Garrett Ripa respond to Petitioner Israel Godinez Perez’s Petition for Habeas Corpus (Doc. 1).¹ Specifically, detention is lawful, and the Court must deny the Petition.

To be sure, ICE understands the Court’s previous ruling. (Doc. 16). Given the decision, it need not reargue jurisdiction stripping and notice of third-country removal. As it relates to lawful detention under *Zadvydas*, however, multiple recent Southern District cases confirm the presumably reasonable detention period runs from the date of actual detention—not an expired statutory removal period. *Barrios v. Ripa*, No. 1:25-

¹ ICE is an agency within DHS. This Motion refers to both as ICE without differentiation as the distinction between the entities is irrelevant for these purposes.

cv-22644-GAYLES, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025) (holding claim premature and rejecting argument that aggregate prior detentions considered for *Zadvydas* purposes); *Guerra-Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300 (S.D. Fla. July 17, 2025) (holding claim premature when removal period ended in 2014); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 1895479, at *7-8 (S.D. Fla. July 8, 2025) (same for 2011). The Court is free to disagree with its Southern District colleagues' decisions. But on the ripeness of a *Zadvydas* claim, they were correct.

As explained, the Court cannot issue the Writ.

Certified Return

Through a habeas application, petitioner must establish his custody is somehow unlawful. 28 U.S.C. § 2241(c). On a habeas return, the Government must certify “the true cause of the detention.” 28 U.S.C. § 2243. After, the Court must “dispose of the matter as law and justice require.” *Id.*

Godinez Perez chose to enter the United States illegally. 8 U.S.C. § 1325(a) (creating misdemeanor for unlawful entry). An immigration judge (“IJ”) ordered him removed on the condition of withholding from Mexico. That order was final in 2010. At that point, Godinez Perez was removable from the United States. The Attorney General (through her delegates) has a statutory obligation to execute that removal. 8 U.S.C. § 1231(a)(1)(A), (a)(3).

Withholding of removal to his native Mexico does not grant Godinez Perez any legal status. *Thamotar v. U.S. Attorney General*, 1 F.4th 958, 968 (11th Cir. 2021) (A

“withholding of removal only protects a noncitizen from being removed to a particular country—nothing prevents DHS from removing him to a third country.”); *see also* 8 U.S.C. §§ 1231(b)(3), (h). A withholding “only bars deporting an alien to a particular country or countries.” *INS v. Aguirre-Aguirre*, 526 U.S. 415, 419 (1999). So ICE may “remov[e] the alien to a third country other than the country to which removal has been withheld.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021) (cleaned up).

ICE is detaining Godinez Perez under 8 U.S.C. § 1231(a)(6) pending his removal to a third country. (Doc. 11 at 3-4). There are various restrictions on third-country removal. (*Id.*). And to date, no third country accepted Godinez Perez. ICE, however, continues to work towards executing removal. The period of detention is still well within the presumptively reasonable limits established in *Zadvydas*. Even if Godinez Perez were able to challenge detention before then, he cannot show there is no significant likelihood of removal in the reasonably foreseeable future.

In short, there is no basis to grant the Writ right now.

Argument

As argued before, this claim is premature. Even if it weren’t, Godinez Perez cannot meet his burden that there is no significant likelihood of removal. The Court must deny the Habeas Petition.

A. Claim Unripe

Godinez Perez challenges the length of his detention under *Zadvydas*. But that claim has not matured given the presumptively reasonable period of detention. Nor is

that presumption rebuttable before the period ends. What's more, permitting any *Zadvydas* claim during this time violates separation of powers.

1. *Beginning of Six-Month Period*

The presumptively reasonable period of detention begins at detention. While that time may be coterminous with the beginning of the removal period, 8 U.S.C. § 1231(a), those dates need not necessarily be the same. *Zadvydas* concerned the constitutionality of potentially indefinite detention. It did not award due process rights based on the statutory structure of the INA. To conclude otherwise flies in the face of the INA itself and controlling interpretation of this issue.

For these claims, the “basic question” is “whether the detention in question exceeds a period reasonably necessary to secure removal.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Court “used the words ‘detain’ and ‘custody’ to refer exclusively to physical confinement and restraint.” *Jennings v. Rodriguez*, 583 U.S. 281, 311 (2018). *Zadvydas* protects against unconstitutionally indefinite detention; it did not interpret starting an imaginary detention clock based on statutory periods divorced from physical restraint. Again, to conclude the detention period started with the statutory removal time requires a corresponding finding that ICE unconstitutionally detained Godinez Perez for the last fifteen years. That is a factual impossibility. Yet it also imposes an impossible burden on ICE—requiring it to justify a decade-and-a-half detention if the burden shifts. *See Zadvydas*, 533 U.S. at 701 (“And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.”).

Akinwale and other courts recognize that calculating time will often begin when detention is required (i.e., start of the removal period). 8 U.S.C. § 1231(a)(2)(A). But this would only be the case where petitioner challenges detention beginning at that time. If—as here—petitioner gets detained years later, no reasonable interpretation of *Zadvydas*, *Akinwale*, or any other binding law suggests the six-month period can expire before detention occurs. Many cases on this exact issue hold the period begins with actual detention. *E.g.*, *Cheng Ke Chen v. Holder*, 783 F. Supp. 2d 1183, 1192 (N.D. Ala. 2011) (rejecting claim as premature for petitioner who was not detained during removal period because “it defies common sense to suggest that *Zadvydas* time can run while a petitioner is not in custody”).² Again, *Zadvydas* “exclusively” addressed “physical confinement and restraint.” *Jennings*, 583 U.S. at 311.

Since the parties’ briefing, Judge Ruiz faced the same argument in *Girgorian*, 2025 WL 1895479. There, petitioner’s statutory removal period started in 2011. *Id.* at *2. He was “free to remain in the United States in the fourteen years since removal was deferred.” *Id.* at *8. Regarding *Zadvydas*, petitioner “was not in ICE post-removal-period detention until his detention on June 23, 2025.” *Id.* This was the correct answer

² See also *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436 n.7 (S.D.N.Y. 2017); *Rodriguez-Guardado v. Smith*, 271 F. Supp. 3d 331, 335 n.8 (D. Mass. 2017); *Rivera v. Hassell*, No. 4:15-01497-WMA-SGC, 2016 WL 4257692, at *3 (N.D. Ala. July 12, 2016), *R&R adopted*, 2016 WL 4257052 (Aug. 10, 2016); *Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *3 (W.D. Wash. Apr. 25, 2012); *Raia v. Aviles*, No. 11-3374 (WJM), 2011 WL 2710275, at *5 & n.9 (D.N.J. July 6, 2011); *Thelemaque v. Barr*, No. 20-20467-CIV-ALTONAGA/Reid, 2020 WL 13551808, at *2 & n.1 (S.D. Fla. Mar. 30, 2020); *Aionesei-Lupu v. Barr*, No. 1:20-cv-22998-BLOOM, 2020 WL 8679783, at *2 (S.D. Fla. July 23, 2020); *Cruz v. Lumpkin*, No. H-23-2224, 2023 WL 4566252, at *1 n.7 (S.D. Tex. July 17, 2023).

because there was no detention in the interim, so the removal period was not the relevant date for analyzing a *Zadvydas* claim.

The answer here is the same. Godinez Perez is in the “post-removal period” under 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 683. It is “presumptively reasonable” for ICE to detain an individual with that status for a total of six months. *Id.* at 701. To this day, Godinez Perez is still within that reasonable detention period.

A dicta footnote in *Akinwale* does not alter this outcome. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1053 n.3 (11th Cir. 2002). In part, *Akinwale* decided whether the action was premature. *Id.* at 1051-52. There was no doubt it was since petitioner filed four months after he was “taken into custody.” *Id.* 1051. In dicta and its related footnote, *Akinwale* stated the six-month term was inclusive of the removal period (i.e., six months in total, not six months on top of the ninety-day removal period). ICE does not dispute that. Instead, *Akinwale*’s express holding is relevant: petitioner “must show post-removal order detention in excess of six months.” *Id.* at 1052.

There is no way Godinez Perez can make that showing. It is undisputed he has not been in physical detention for six months. As explained, the constitutional detention period cannot start running without some form of constraint. This case is unripe because *Zadvydas* does not protect against detention that never existed.

That said, there are form over substance constitutional issues that could arise in the *Zadvydas* context. Such concerns are well taken. Those issues, however, would be considered on an individual basis. And they do not exist here.

For instance, say ICE released a removable alien on day 181. Then, after he stepped out the front gate, ICE immediately redetained him and argued a new six-month clock started. There would be an obvious argument that detention never ended, and perhaps a habeas writ would be proper.

Or consider a closer call. If petitioner was detained for the ninety-day removal period ten years ago, then released on an order of supervision, would detention for removal now start with a new clock or pickup from ninety-one days? It depends on who one asks as some courts say *Zadvydas* time doesn't aggregate and redetention begins the time anew. *Barrios*, 2025 WL 2280485, at *8 (rejecting aggregation).

Yet there are no similar concerns in this case. Everyone agrees Godinez Perez was never in federal detention (or other custody) before April 25. True, ICE should have detained him sooner. 8 U.S.C. § 1231(a)(2)(A). Yet that failure to detain does not somehow render his current detention constitutionally infirm.

Since *Zadvydas* is based on constitutional concerns surrounding indefinite detention—not the structure of the INA—the period runs from the date of actual detention (or some form of custodial restraint). Holding otherwise requires an interpretation of § 1231 that impliedly grants rights. Yet this reading would be atextual:

Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies.

8 U.S.C. § 1231(h).

Because the *Zadvydas* period started on April 25, ICE is well within the presumptively reasonable period of detaining Godinez Perez under § 1231(a)(6).

2. *Presumption Irrebuttable*

Godinez Perez seeks to challenge the likelihood of removal before six months. But this Circuit (and *Zadvydas* itself) does not permit a writ challenging length of detention when petitioner has been in detention less than six months. Put different, the “presumptively reasonable period of detention” is irrebuttable during that time. See *Zadvydas*, 533 U.S. at 701.

In no uncertain terms, the Eleventh established a two-part test to stating these claims. *Akinwale*, 287 F.3d at 1052. The first element follows:

to state a claim under *Zadvydas* the alien . . . must show post-removal order detention in excess of six months

Id. The Eleventh reaffirmed its holding several times. *Guo Xing Song v. U.S. Attorney General*, 516 F. App’x 894, 899 (11th Cir. 2013); *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009); *Vaz v. Skinner*, 634 Fed. App’x 778, 782 (11th Cir. 2015); *Ivantchouk v. U.S. Attorney General*, 417 Fed. App’x 918, 921 (11th Cir. 2011).

That has been the law in this Circuit for over twenty years. At no point since then has the Eleventh even suggested the six-month period is rebuttable. In fact, *Akinwale* holds the opposite by setting a bright-line rule for six months of detention before a challenge. Commentors specifically criticize that holding. Ian Bratlie & Adriana Lafaille, *A 180-Day Free Pass? Zadvydas and Post-Order Detention Challenges Brought Before the Six-Month Mark*, 30 Geo. Immigr. L.J. 213,233-34 (2016) (“These courts assume that if a detainee has not been detained for more than six months, any habeas petition lacks merit and must be dismissed.”). Nor is the Eleventh Circuit

alone. The Fifth follows the same bright-line rule. *Chance v. Napolitano*, 453 F. App'x 535, 536 (5th Cir. 2011); *Agyei-Kodie v. Holder*, 418 F. App'x 317, 318 (5th Cir. 2011); *Okpoju v. Ridge*, 115 F. App'x 302, 302 (5th Cir. 2004).

To be sure, there are cases in support of Godinez Perez's position—holding the six-month presumptive period is rebuttable. *E.g.*, *Medina v. Noem*, No. 25-cv-1768-ABA, 2025 WL 2306274, at *5-7 (D. Md. Aug. 11, 2025). Whatever other districts are deciding on this issue, however, is beside the point. The Court must follow *Akinwale*. *E.g.*, *United States v. Kazmende*, No. 1:22-CR-236-SDG-CCB, 2023 WL 3872209, at *8 (N.D. Ga. Mar 17, 2023) (noting a district court is “bound to follow” published Eleventh Circuit law and “is not free to write on a clean slate” (cleaned up)).

Even if the Court were to examine the rationale underlying the Eleventh's bright-line rule, it was right that the presumption is irrebuttable before the time expires.

The whole *Zadvydas* detention-period dilemma comes from this holding:

We realize that recognizing this necessary Executive leeway will often call for difficult judgments. *In order to limit the occasions when courts will need to make them, we think it practically necessary to recognize some presumptively reasonable period of detention. . . .*

. . .

. . . We do have reason to believe, however, that *Congress previously doubted the constitutionality of detention for more than six months. Consequently, for the sake of uniform administration in the federal courts, we recognize that period.* After this 6-month period, once the alien 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 that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink. This 6-

month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Zadvydas, 533 U.S. at 700-01 (emphasis added).

There is no reading of this language suggesting *Zadvydas* left open the opportunity to challenge detention before that period expires. Confirming this, the Court explained itself multiple times:

And according to the Court, a period reasonably necessary to bring about the alien's removal from the United States is presumptively six months. After that point, if the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must either rebut that showing or release the alien.

Johnson v. Guzman Chavez, 594 U.S. 523, 529 (2021) (cleaned up); *see also Jennings v. Rodriguez*, 583 U.S. 281, 298-99 (2018); *Clark v. Martinez*, 543 U.S. 371, 378 (2005); *Jama v. ICE*, 543 U.S. 335, 347-48 (2005). The Supreme Court created the *Zadvydas* framework; it has the power to define those borders. Despite its existence since 2001, no opinion suggests *Zadvydas* claims could be brought before six months elapse.

It is nothing short of mental gymnastics to doubt *Zadvydas* established a bright-line rule permitting six months of detention before a claim could arise. Along with *Zadvydas* itself, at least four other Supreme Court decisions describe these claims and their burden shifting as occurring “after” the six-month period. *Johnson*, 594 U.S. at 529; *Jennings*, 583 U.S. at 298-99; *Clark*, 543 U.S. at 378; *Jama*, 543 U.S. at 347-48. Depending on the part of speech, the word “after” conveys concepts like “during the period of time following (an event),” “behind,” and “later.” *After*, New Oxford

American Dictionary (3d ed. 2010). Multiple compositions of Supreme Court panels presumably all knew those definitions. Put simply, after means after. Taking an Occam's razor approach, the Eleventh accepted the Supreme's rule for what it said—holding that was the first element of this claim.

Zadvydas was an attempt to engraft a constitutional limitation on a statute authorizing potentially indefinite detention. Notably, the primary tool of construction selected was avoiding an unconstitutional reading. *Zadvydas*, 533 U.S. at 689-90. The Supremes did not invent a cause of action where none existed; rather, they placed an outer limit on a constitutionally problematic statutory provision. “In later cases, the Supreme Court confirmed this narrow understanding of *Zadvydas*, stressing that the constitutional concern of endless civil detention was the driving force behind its holding.” *Castaneda v. Perry*, 95 F.4th 750, 757 (4th Cir. 2024). So “the clear takeaway from *Demore* and *Jennings* is that *Zadvydas* should not be expanded beyond the context of the *indefinite and potentially permanent* detention involved there.” *Id.* (cleaned up).

A related example is notable. In *Demore v. Kim*, the Supreme Court held ICE may detain aliens pending their removal proceedings. 538 U.S. 510, 513 (2003). *Demore* distinguished *Zadvydas* largely on the basis that detention had a fixed endpoint (i.e., conclusion of removal proceedings). *Id.* 528-31. So unlike the “indefinite and potentially permanent” custody in *Zadvydas*, detention pending removal proceedings is constitutionally acceptable. *Id.* at 528 (cleaned up).

Nothing about Godinez Perez's detention is indefinite or potentially

permanent. He is removable and detained pending acceptance from a third country. Should a willing third country not be identified by the end of the six-month period, then ICE will need to release him or Godinez Perez may challenge detention on a *Zadvydas* theory. At that point, the *Zadvydas* burden shifting framework would control any dispute. And ICE would need to justify detention if Godinez Perez can carry his burden. Until that time, however, the claim is premature and detention reasonable.

The above is sufficient to deny the Writ and dismiss this action. But there are constitutional concerns also favoring denial.

3. *Separation of Powers*

Essentially every question related to immigration is “exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference.” *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952). This is not a recent development. *Trump v. Hawaii*, 585 U.S. 667, 702 (2018) (“For more than a century, this Court has recognized that the admission and exclusion of foreign nationals is a fundamental sovereign attribute exercised by the Government’s political departments.” (cleaned up)). That power, however, is always “subject to important constitutional limitations.” *Zadvydas*, 533 U.S. at 695. “In these cases, we focus upon those limitations.” *Id.*

Other principles of judicial review come into play too. *Id.* at 700. Courts “recognize primary Executive Branch responsibility” in this field. *Id.* They must also “give expert agencies decisionmaking leeway in matters that invoke their expertise.” *Id.* Important here, that includes “Executive Branch primacy in foreign policy

matters.” *Id.* These basic separation-of-powers principles “require courts to listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise.” *Id.*

The Executive branch is attempting to remove Godinez Perez to a third country. This goes to the core of the Executive’s power to enforce immigration laws and conduct foreign policy negotiations. *See United States v. Texas*, 599 U.S. 670, 679 (2023) (“That principle of enforcement discretion over arrests and prosecutions extends to the immigration context, where the Court has stressed that the Executive’s enforcement discretion implicates not only normal domestic law enforcement priorities but also foreign-policy objectives.” (cleaned up)); *Biden v. Texas*, 597 U.S. 785, 805-06 (2022) (“That is no less true in the context of immigration law, where the dynamic nature of relations with other countries requires the Executive Branch to ensure that enforcement policies are consistent with this Nation’s foreign policy.” (cleaned up)). Until Godinez Perez’s detention raises a constitutional problem, the political branches (namely, the Executive) must be permitted to pursue law enforcement and foreign policy objectives without interference.

Deference to the political branches is especially pronounced in a case like this. Third-country removals demand nuanced and sensitive security and foreign policy considerations. *Kiyemba v. Obama*, 561 F.3d 509, 519 (D.C. Cir. 2009) (Kavanaugh, J., concurring); *see also* 8 C.F.R. §§ 241.13, 241.14. They involve negotiating with other nations to accept individuals who are not from there. For instance, the Executive may

negotiate agreements for other countries to take in removable aliens with asylum claims. 8 U.S.C. § 1158(a)(2) (Safe Third Country Agreements). These are foreign policy matters, “in which courts have long been *hesitant* to intrude absent congressional authorization.” *See Alvarez v. ICE*, 818 F.3d 1194, 1210 (11th Cir. 2016) (cleaned up). The political branches “are generally better situated to consider sensitive foreign policy issues that immigration cases may implicate, and involvement of the courts into their domain can in some instances undermine the Government’s ability to speak with one voice in this area.” *Id.* (cleaned up). The Executive branch cannot effectively conduct third-party removal negotiations with other sovereigns while being ordered to disclose the status of those discussions.

An on-the-nose example helps here. *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981 (D. Md. July 22, 2025). In *Ghamelian*, petitioner’s removal period expired decades earlier. Yet *Zadvydas* relief was inappropriate for his current detention because petitioner had only been in actual ICE custody for a month. *Ghamelian* acknowledged policy musings about the necessity of detention were “not the legal standard this Court must apply.” *Id.* at *4. Rather, it recognized such factors “do not permit this Court to ignore Executive Branch primacy in foreign policy matters.” *Id.* (cleaned up). Like *Ghamelian*, denial of the Habeas Petition is appropriate.

ICE (more accurately its assigned lawyer) understands more than most that this administration takes an aggressive stance on immigration. “It bears repeating that elections have consequences and the President is entitled to enact his agenda.” *Am.*

Fed. of Teachers v. U.S. Dep't of Educ., No. SAG-25-628, 2025 WL 2374697, at *2 (D. Md. Aug. 14, 2025) (cleaned up). “The role of courts is not to assess whether executive decisions are wise.” *Id.* Rather, here, it is the Court’s duty to step in when an unlawful detention exists. 28 U.S.C. § 2241(c). Nothing about this detention is unlawful. ICE has legal authority to detain Godinez Perez for removal. And—currently—his detention does not violate the Constitution as interpreted by *Zadvydas* and its progeny.

Whether one agrees with this administration or not, it is a significant breach of separation of powers for the Judicial branch to opine on whether the Executive should pursue a policy of detention pending third-country removal. Premature *Zadvydas* claims amount to the Judiciary injecting itself into the Executive’s removal decision—effectively demanding a justification status update during the “uniform” period in which the Supreme Court granted “Executive leeway” to pursue removal. *Zadvydas*, 533 U.S. at 701.

That should end the analysis. If the Court disagrees, however, Godinez Perez still cannot carry his burden on a *Zadvydas* claim.

B. Initial Burden

Confusingly, Godinez Perez contends the burden for his own claim is on ICE. That is not the law. *E.g.*, *Metellus v. Holder*, No. 3:11-cv-372-J-34JBT, 2011 WL 1740187, at *1 (M.D. Fla. May 5, 2011) (Howard, J.).

The *Zadvydas* burden-shifting framework starts with petitioner putting the ball in play. Specifically, he must offer “good reason to believe that there is no significant

likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701; see e.g., *Clark*, 543 U.S. at 378 (An “alien is eligible for conditional release if he can demonstrate that there is no significant likelihood of removal in the reasonably foreseeable future.” (cleaned up)). Should he do so, “the Government must respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701.

“An alien may be held in confinement past the six month period if he fails to show that there is no significant likelihood of removal in the reasonably foreseeable future.” E.g., *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002). It is not enough for petitioners to speculate they will not be removed soon or say there is a “lack of visible progress.” *Id.* Instead, a petitioner must provide “evidence that the search for a third country is futile, or thus that his detention is solely punitive or arbitrary at this point.” See *Doe v. Becerra*, No. 23-cv-00072-BLF, 2023 WL 218967, at *4 (N.D. Cla. Jan. 17, 2023).

Godinez Perez’s position seems to be that since an appropriate third country hasn’t been identified; it won’t be in the reasonably foreseeable future and detention is potentially indefinite unless ICE provides evidence otherwise. Yet that puts the cart before the horse. Petitioners cannot meet their initial burden on conclusory argument. As one case put it:

The Court concludes that [petitioner] in effect seeks to place the burden on the respondents to show when they will remove [him]. However, the Supreme Court has held that it is [petitioner’s] burden first to show good reason to believe that there is no significant likelihood of removal. See *Zadvydas*, 533 U.S. at 701. Unlike situations where a petitioner may never be successfully repatriated, there is no reason to believe that [petitioner] will not ultimately be returned to Pakistan in the

near future.

Salim v. Sessions, No. H-18-2287, 2019 WL 13218806, at *6 (S.D. Tex. Sept. 4, 2019).

That ICE cannot return Godinez Perez to Mexico does not exclude other acceptable countries to which he may be removed. Under the current administration, third-country removals have occurred, and agreements have been negotiated with countries to accept noncitizen aliens.

There is nothing about Godinez Perez's situation that suggests there is no significant likelihood of removal in the foreseeable future. For about fifteen years after his final order of removal, ICE seemingly took no action. In April, ICE took him into custody with the intention to remove. Since then, ICE attempted removal to a third country. That country (Guatemala) denied the request. Still, this demonstrates ICE made and is continuing to attempt removal within the reasonably foreseeable future. There are no factual allegations—much less evidentiary support—to the contrary.

Apparently for the first time, ICE is working to remove Godinez Perez. Whether it will be able to remove him to a third country remains to be seen. Yet nothing about Godinez Perez or his circumstances suggests there is no significant likelihood of removal. ICE may detain Godinez Perez for a presumptively reasonable six-month period as it works toward that third-country removal.

Since Godinez Perez cannot meet his burden at this stage, so the Court cannot grant the Writ.

Conclusion

For those reasons, detention is lawful, and the Court must deny the Petition.

Date: August 25, 2025

Respectfully submitted,

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