

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

JIDIER ANTONIO SAAVEDRA,	:	
	:	
Petitioner,	:	
	:	Case No. 4:25-CV-244-CDL-CHW
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER,¹	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On July 28, 2025, Petitioner filed an application for a writ of habeas corpus (the “Petition”). ECF No. 1. On August 1, 2025, Respondent was directed to file a comprehensive response within twenty-one days. ECF No. 3. Respondent now files this Motion to Dismiss in lieu of a comprehensive response and requests that the Petition be dismissed.

BACKGROUND

Petitioner is a native and citizen of Cuba. Declaration of Assistant Field Office Director Traci Horrach (“Horrach Decl.”) ¶ 3 & Ex. A.² On March 28, 1980, Petitioner was admitted into the United States as a lawful permanent resident (“LPR”). *Id.*

On May 7, 2014, Petitioner was convicted of Possession of a Schedule IV Substance and Attempt to Obtain Controlled Substances by Fraud, both 3rd Degree Felonies, in the Fifteenth

¹ Petitioner names multiple officials as respondents to the Petition. However, only the warden of the facility where a petitioner is detained is the proper respondent to a habeas petition under 28 U.S.C. § 2241. Because Petitioner is presently detained at Stewart Detention Center, the Court should dismiss all respondents other than the Warden of Stewart Detention Center. 28 U.S.C. § 2243 provides that the proper respondent to a § 2241 petition is “the person having custody of the person detained.” “The consistent use of the definite article in reference to the custodian indicates that there is generally only one proper respondent to a given prisoner’s habeas petition.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).

² Respondent is filing an unsigned version of the Declaration because the Declarant is out of the office and unavailable. Respondent will file the signed Declaration on Monday August 25, 2025 or as soon as practicable.

Judicial Circuit in and for Palm Beach County, Florida Circuit Court. Horrach Decl. ¶ 4 & Ex. B. On the same day, Petitioner was convicted (in a separate criminal case) of Fraudulent Use of a Personal Identification and Attempt to Obtain Controlled Substances by Fraud, also both 3rd Degree Felonies, in the same court. *Id.* ¶ 5 & Ex. C. On June 3, 2014 (but ordered *nunc pro tunc* to May 7, 2014), Petitioner was convicted of Trafficking Hydrocodone, a 1st Degree Felony, and Possession of a Schedule IV Controlled Substance, a 3rd Degree Felony. *Id.* ¶ 6 & Ex. D.

For each of the above listed criminal cases, Petitioner was sentenced to 5 years in state prison to run concurrently with each other. *Id.* ¶¶ 4-6 & Ex. C at 2. During Petitioner's term of incarceration, Immigration and Customs Enforcement ("ICE") placed a detainer on Petitioner on April 24, 2017. Horrach Decl. ¶ 7 & Ex. E. On April 9, 2018, Petitioner was taken into ICE/Enforcement and Removal Operations ("ERO") custody and served with a Notice to Appear ("NTA") charging him with inadmissibility pursuant to Immigration and Nationality Act ("INA") sections 237(a)(2)(A)(ii), 237(a)(2)(B)(i) and 237(a)(2)(A)(iii) (8 U.S.C. §§ 1227(a)(2)(A)(ii), (a)(2)(B)(i), and (a)(2)(A)(iii)) and placed Petitioner into removal proceedings pursuant to INA § 240 (8 U.S.C. § 1229a). *Id.* ¶ 7 & Ex. E.

On August 8, 2018, an Immigration Judge ("IJ") ordered Petitioner removed from the United States. *Id.* ¶ 8 & Ex. F. Petitioner appealed the removal order to the Board of Immigration Appeals ("BIA"), and on January 4, 2019, the BIA issued its decision dismissing Petitioner's appeal. *Id.* ¶ 9. The Fifteenth Judicial Circuit granted Petitioner's request for post-conviction relief, following which, on June 18, 2019, the Department of Homeland Security ("DHS") moved to reopen and terminate Petitioner's removal proceedings. *Id.* ¶ 10. On August 21, 2019, DHS's motion was granted. *Id.*

On October 4, 2019, Petitioner was convicted in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida Circuit Court of the following: (1) possession of hydrocodone in violation of Florida Statute 893.13(6); (2) possession of marijuana with the intent to deliver in violation of Florida Statute 893.16(6); (3) fraudulent use of personal identification in violation of Florida Statute 817.568(2)(a); (4) attempt to obtain a controlled substance by fraud in violation of Florida Statute 893.13(7)(a); and (5) felon in possession of a firearm in violation of Florida Statute 790.23. Horrach Decl. ¶ 11 & Ex. G. On October 22, 2019, DHS issued an NTA to Petitioner charging Petitioner as being inadmissible pursuant to INA Section 237(a)(2)(A)(ii), (a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(C) (8 U.S.C. § 1227(a)(2)(A)(ii), (a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(C)) based on the October 4, 2019 convictions. *Id.* ¶ 12. On November 15, 2019, the IJ issued a written order on removability sustaining all of the charges except the charge based on INA Section 237(a)(2)(A)(iii) for having been convicted of an aggravated felony, an offense related to illicit trafficking of a controlled substance. *Id.* ¶ 12 & Ex. H.

On January 9, 2020, Petitioner appeared before the IJ for an individual merits hearing at which time Petitioner withdrew all applications for relief without prejudice. Horrach Decl. ¶ 13 & Ex. I. The IJ ordered Petitioner removed to Cuba. *Id.* The parties agreed that DHS would not oppose a motion to reopen Petitioner's case if filed by Petitioner upon imminent removal to Cuba. *Id.* On January 21, 2020, Petitioner was released from ICE/ERO custody. *Id.* ¶ 14.

On March 17, 2025, ICE/ERO encountered Petitioner at the Coweta County Sheriff's Office and he was taken into ICE/ERO custody. *Id.* ¶ 15. Petitioner is detained pursuant to INA Section 236(c) (8 U.S.C. § 1226(c)). *Id.* On or about May 13, 2025, ICE/ERO conducted a review of Petitioner's custody status and determined to continue his detention. *Id.* ¶ 15 & Ex. J.

ARGUMENT

In his Petition, Petitioner argues that his detention is unlawful and seeks release from custody. Despite the Petition ostensibly laying out three claims, Petitioner argues in each that his detention post-final order of removal has become prolonged under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Whether couched in terms of substantive due process, procedural due process, or a statutory violation, courts in the Eleventh Circuit review all such claims under the framework of *Zadvydas v. Davis*. Under that framework, the Petition is premature and should be dismissed.

The Petition is premature on its face under *Zadvydas* because Petitioner has been detained post-final order of removal for less than six months. The Petition should be dismissed because Petitioner is not entitled to any relief.

Since Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in § 1231(a)(1) that DHS shall remove an alien within ninety (90) days of the date the order of removal becomes administratively final. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the “removal period,” detention is mandatory. *See id.* at § 1231(a)(2). If ICE does not remove an alien during the removal period, detention may continue if it is “reasonably necessary” to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). In *Zadvydas*, the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. *Zadvydas*, 533 U.S. at 700. “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.” *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13.

The Eleventh Circuit has made clear that “[t]his six-month period thus must have expired at the time [Petitioner’s] § 2241 petition was filed in order to state a claim under *Zadvydas*.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002); *see also Themeus v. U.S. Dep’t of Justice*, 643 F. App’x 830, 833 (11th Cir. 2016); *Guo Xing Song v. U.S. Att’y Gen.*, 516 F. App’x 894, 899 (11th Cir. 2013). Even if the Petition was filed after the six-month post-removal detention period—which it was not—Petitioner also carries the burden to establish that there is no “reasonable likelihood of removal” in the foreseeable future. *Zadvydas*, 533 U.S. at 701.

Here, Petitioner was ordered removed on January 9, 2020. Horrach Decl. ¶ 13 & Ex. I. His removal order became administratively final the same day, when he waived appeal. *See* 8 C.F.R. § 1241.1(b). Petitioner most recently entered ICE/ERO custody on March 17, 2025, after ICE/ERO officials encountered him at the Coweta County Sheriff’s Office. Horrach Decl. ¶ 15. Petitioner filed the Petition on July 22, 2025—less than six months later.³ Therefore, Petitioner has not been detained beyond the presumptively reasonable six-month period under *Zadvydas*, and the Petition should be dismissed as premature. *See Akinwale*, 287 F.3d at 1052; *Themeus*, 643 F. App’x at 833; *Guo Xing Song*, 516 F. App’x at 899.

Courts throughout the Eleventh Circuit—including this Court—have dismissed non-citizens’ habeas applications raising *Zadvydas* claims where the presumptively reasonable six-month period had not expired when they filed their petitions. *Singh v. Garland*, No. 3:20-cv-899, 2021 WL 1516066, at *2 (M.D. Fla. Apr. 16, 2021); *Garcon v. Warden, Irwin Cty. Det. Ctr.*, No. 7:16-CV-158-WLS-MSH, 2017 WL 9250368, at *2 (M.D. Ga. Aug. 30, 2017), *recommendation*

³ Although the Court received the Petition on July 28, 2025, Petitioner signed it on July 22, 2025. Pet. 13-14, ECF No. 1. “Under the prison mailbox rule, a pro se prisoner’s court filing is deemed filed on the date it is delivered to prison authorities for mailing.” *United States v. Glover*, 686 F.3d 1203, 1205 (11th Cir. 2012) (internal quotation marks omitted). “Unless there is evidence to the contrary, like prison logs or other records, we assume that a prisoner’s motion was delivered to prison authorities on the day he signed it.” *Id.*

adopted, 2018 WL 2056562 (M.D. Ga. Feb. 27, 2018); *Elieenist v. Mickelson*, No. 15-61701-Civ, 2015 WL 5316484, at *3 (S.D. Fla. Aug. 18, 2015), *recommendation adopted*, 2015 WL 5308882 (S.D. Fla. Sept. 11, 2015); *Maraj v. Dep't of Homeland Sec.*, No. CA 06-0580-CG-C, 2007 WL 748657, at *3 (S.D. Ala. Mar. 7, 2007); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1363-65 (N.D. Ga. 2002). The Court should similarly dismiss the Petition here.⁴

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition.

Respectfully submitted, this 22nd day of August, 2025.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney
Georgia Bar No. 545410
United States Attorney's Office
Middle District of Georgia
P. O. Box 2568
Columbus, Georgia 31902
Phone: (706) 649-7728
michael.morrill@usdoj.gov

⁴ Petitioner may attempt to argue that his previous period of post-final order of removal detention—between January 9, 2020 and January 21, 2020—should be added to the current period of detention in calculating whether he has been detained beyond the six-month presumptively reasonable period. If made, this argument should be rejected. *See Meskini v. Attorney General of United States*, No. 4:14-CV-42, 2018 WL 1321576 (M.D. Ga. Mar. 14, 2018). Regardless, the additional 12 days do not get Petitioner past the six-month post-removal order detention threshold. Petitioner's detention, from March 17, 2025 until the date he filed his Petition on July 22, 2025, has lasted approximately four months. Even adding the additional 12 days, Petitioner is short of the six-month post-removal order threshold.

CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

JIDIER ANTONIO SAAVEDRA
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 22nd day of August, 2025.

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

J.A.S.,

Petitioner,

v.

Warden, STEWART DETENTION CENTER,
et al.,

Respondent.

Case No. 4:25-CV-244-CDL-AGH
28 U.S.C. § 2441

**DECLARATION OF ASSISTANT FIELD OFFICE DIRECTOR TRACI
HORRACH**

1. I, Traci Horrach, am employed with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO). I currently serve as Assistant Field Office Director working at Stewart County Detention Center in Lumpkin, Georgia.
2. I have reviewed the relevant documents involving Jidier Antonio Saavedra (the Petitioner), whose alien registration number is 035-415-659. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. Petitioner is a 48-year-old native and citizen of Cuba who entered the United States on March 28, 1980 as a Lawful Permanent Resident (LPR). Exhibit A, Form I-213: Record of Deportable/Inadmissible Alien, dated September 20, 2017.
4. On May 7, 2014, Petitioner was convicted in the 15th Judicial Court for Palm Beach County, Florida for the offense of possession of hydrocodone, in violation of FL statute 893.13(6)(a) and for attempt to obtain controlled substance by fraud, in violation of FL statute 893.13(7)(a)9. The petitioner was sentenced to five years state prison. Case number 14-003438. Exhibit B, Palm Beach County, Florida 15th Judicial Court Criminal Records, dated May 7, 2014.

5. On May 7, 2014, Petitioner was convicted in the 15th Judicial Court for Palm Beach County, Florida for the offense of fraudulent use of personal identification, in violation of FL statute 817.568(2)(a) and attempt to obtain controlled substance by fraud, in violation of FL statute 893.13(7)(a)9. The petitioner was sentenced to five years state prison. Case number 14-000597A. Exhibit C, Palm Beach County, Florida 15th Judicial Court Criminal Records, dated May 7, 2014.
6. On June 3, 2014, Petitioner was convicted in the 15th Judicial Court for Palm Beach County, Florida for the offense of trafficking hydrocodone 4G-28G, in violation of FL statute 893.135(1)(c)1a and possession schedule IV substance, in violation of FL statute 893.13(6)(a). The petitioner was sentenced to five years state prison. Case number 14-000597. Exhibit D, Palm Beach County, Florida 15th Judicial Court Criminal Records, dated June 3, 2014.
7. On April 24, 2017, ICE/ERO placed a detainer on Petitioner after encountering him at the Florida Department of Corrections, Wakulla Annex. The petitioner was taken into ICE/ERO custody on or about April 9, 2018. He was served a Notice to Appear (NTA) charging him with removability pursuant to Immigration and Nationality Act (INA) 237(a)(2)(A)(ii), 237(a)(2)(B)(i) and 237(a)(2)(A)(iii) and placed him in removal proceedings pursuant to INA § 240. Exhibit E, Form I-862: Notice to Appear, dated September 21, 2017.
8. On August 8, 2018, an Immigration Judge ordered the petitioner removed from the United States. Exhibit F, Order of the Immigration Judge, dated August 8, 2018.
9. The petitioner filed an appeal with the Board of Immigration Appeals (BIA) on September 17, 2018. On January 4, 2019, the BIA issued its decision dismissing the petitioner's appeal.
10. On or about June 18, 2019, DHS filed a Motion to Reopen and Terminate the petitioner's removal proceedings after the 15th Judicial Court for Palm Beach County, Florida granted the petitioner's request for post-conviction relief. On August 21, 2019, the motion was granted.
11. On October 4, 2019, Petitioner was convicted in the 15th Judicial Court for Palm Beach County, Florida of: (1) possession of hydrocodone in violation of Florida Statute 893.13(6); (2) possession of marijuana with the intent to deliver in violation of Florida Statute 893.16(6); (3) fraudulent use of personal identification in violation of Florida Statute 817.568(2)(a); (4) attempt to obtain a controlled substance by fraud in violation of Florida Statute 893.13(7)(a); and (5) felon in possession of a firearm in violation of

Florida Statute 790.23. The petitioner was sentenced to a total of five years state prison. Exhibit G, Palm Beach County, Florida 15th Judicial Court Criminal Records, dated October 4, 2019.

12. On or about October 22, 2019, DHS issued the petitioner a NTA charging him with removability pursuant to sections 237(a)(2)(A)(ii), (a)(2)(A)(iii) (to wit: 101(a)(43)(B)), 237(a)(2)(B)(i) and 237(a)(2)(C) of the INA based on his convictions. On November 15, 2019, the Immigration Judge issued a written decision sustaining all of the charges except INA 237(a)(2)(A)(iii) for having been convicted of an aggravated felony, an offense related to illicit trafficking of a controlled substance. Exhibit H, Order of the Immigration Judge, dated November 15, 2019.
13. On January 9, 2020, the petitioner appeared before the Miami, Florida Immigration Court for an individual merits hearing, he withdrew all applications for relief without prejudice, and the Immigration Judge ordered removed to Cuba. The parties agreed that DHS would not oppose a motion to reopen the petitioner's case if filed by the Petitioner upon imminent removal to Cuba. Exhibit I, Order of the Immigration Judge, dated January 9, 2020.
14. On January 21, 2020, the petitioner was released from ICE/ERO custody.
15. On March 17, 2025, ICE/ERO encountered the petitioner at the Coweta County Sheriff's Office and he was taken into ICE/ERO custody. He is currently detained pursuant to INA § 241(a).
16. On or about May 13, 2025, ICE/ERO reviewed the petitioner's custody status and determined to continue his detention. Exhibit J, Decision to Continue Detention, dated July 23, 2025.

Pursuant to Title 28, U.S. Code Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, this the 22nd of August 2025.

Traci Horrach
Assistant Field Office Director
Stewart Detention Center
Lumpkin, Georgia