

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

YEZID SHABANA,

Petitioner,

v.

KRISTI NOEM, ET AL.,

Respondents.

Case No. 2:25-cv-1188-JES-DNF

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**RESPONDENTS' OPPOSITION TO PETITION FOR WRIT  
OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Petitioner Yezid Shabana (“Petitioner”) seeks the grant of a petition for writ of habeas corpus (“Petition”) pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by Immigration and Customs Enforcement (“ICE”) and seeking his immediate release from custody on an order of supervision. Petitioner also brings challenges pursuant to the Fifth Amendment to the United States Constitution. His petition must be denied.

**BACKGROUND**

Petitioner’s citizenship presents unique circumstances. According to the Petition, he is effectively stateless as a native of Hebron, Palestine. *See* Petition, ¶¶ 3,11. Government records reflect that he was born in Jordan with current Palestinian citizenship. *See* Form I-213, Record of Deportable/Inadmissible Alien (“Exhibit A”)

at 1-2; Form I-862, Notice to Appear (“Exhibit B”) at 1. Petitioner entered the United States on September 4, 2023 on an F-1 student visa for the purpose of attending St. Leo University. Exhibit A at 2. After completing his course of study, Petitioner was allowed to remain in the United States while he participated in the Optional Practical Training program. *Id.* Petitioner remained in the United States without authorization after May 15, 2024, when the Optional Practical Training period ended. *Id.*

On August 6, 2025, Respondents came into contact with Petitioner while he was being detained in Pasco County, Florida for pending fraud charges. Exhibit A at 2. At that time, Respondents became aware that Petitioner had overstayed his visa and Respondents assumed custody. *Id.* Petitioner was placed in removal proceedings before the Executive Office for Immigration Review. *Id.*; *see also* Exhibit B. Petitioner’s applications for relief before EOIR were ultimately denied and he was issued an order of removal. *See* Order of the Immigration Judge dated November 13, 2025 (“Exhibit C”). The removal order directed that Petitioner be removed to Canada or Jordan in the alternative. *Id.* 3. Both Petitioner and the Department of Homeland Security waived appeal of the decision, rendering his removal order final as of November 13, 2025. *Id.* at 4. Petitioner remains detained at this time. Petition, ¶¶ 2-3. On December 18, 2025, a mere 35 days following the issuance of his final order of removal, Petitioner filed the instant Petition. ECF No. 1. On December 23, 2025, this Court ordered that by January 12, 2026, Respondents show cause why the Petition should not be granted. ECF No. 5. In response to this Court’s order, ECF No. 5, and for the reasons set forth below, Respondents respectfully request that this Court deny all relief.

## LEGAL STANDARD

The Court has the power to grant a writ of habeas corpus where a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941). “The burden rests on the person in custody to prove his detention is unlawful.” *Benito Vasquez v. Moniz*, No. 25-11737-NMG, 2025 WL 1737216, at \*1 (D. Mass. June 23, 2025).

## ARGUMENT

### **I. Respondents Noem, Bondi, and Ripa Are Improperly Named.**

The only appropriate respondent to a habeas case is the official with physical custody of petitioner. 28 U.S.C. § 2243 (“The writ, or order to show cause shall be directed to the person having custody of the person detained.”); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) (“[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.”). Accordingly, all Respondents, with the exception of Respondent Hardin, are improper parties to this action and should be dismissed.

### **II. 8 U.S.C. § 1252(g) Precludes Review of Petitioner’s Claims**

There is no jurisdiction to review “any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This provision bars habeas review in federal courts when the claim arises from “discrete acts of commencing proceedings, adjudicating cases,

and executing removal orders.” *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) (“*AADC*”) (cleaned up). These activities “represent the initiation or prosecution of various stages in the deportation process” that Congress had “good reason” to withhold from judicial review. *Id.*

This bar is subject to limitations and must be applied “to just those three specific actions” listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, “courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). Here, Petitioner is subject to a final order of removal—Petition, ¶ 8; Exhibit C—and he challenges ICE’s detention incidental to the execution of that order. *Id.* This matter thus falls squarely within the specific actions *Jennings* contemplated, namely the discrete action of executing a removal order, and this Court lacks jurisdiction to hear Petitioner’s claims. *See e.g., Rivera-Amador v. Rhoden*, No. 3:25-CV-1460-WWB-SJH, 2025 WL 3687452, at \*2 (M.D. Fla. Dec. 19, 2025).

### **III. Petitioner’s Detention is Lawful**

An alien with a final order of removal is subject to the detention and removal standards set forth at 8 U.S.C. § 1231. The statute directs that an alien ordered removed be removed within 90 days of his order becoming final and that he remain detained during that timeframe. 8 U.S.C. § 1231 (a)(1)(A); (a)(2)(A). But even where removal is not effected on that schedule, the government is permitted to continue to detain an alien—or to detain him again in the future for the purpose of executing the order—

and there is no statutory limit on how long that post-removal detention period may last. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). However, due to constitutional concerns, the U.S. Supreme Court has nevertheless interpreted the post-removal period to allow extended detention for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). In all, a reasonable length of detention “is presumptively six months.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021); *see also Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (stating six-month period is inclusive of any ninety-day removal period).

If the presumptively reasonable period expires without removal, then a burden-shifting framework comes into play that considers the “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 689. But before that six-month period expires, any habeas challenge to the detention itself is premature. *E.g.*, *Akinwale*, 287 F.3d at 1051-52; *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).

Here, Petitioner urges the Court to apply the burden-shifting framework prematurely by arguing that notwithstanding the fact that Respondents remain within the 90-day removal period *and* the 180-day presumptively reasonable period, his removal cannot be deemed likely in the reasonably foreseeable future. *See* Petition, ¶¶ 12-14, 21. To adopt this position would not only cut short the 90-day period the immigration statute requires that an individual be detained for the purpose of effecting

removal but would also run afoul of *Zadvydas*. Put simply, Petitioner’s habeas action is grossly premature and Respondents remain well within the period of time our precedent has deemed to be presumptively reasonable. Petitioner has cited no actual authority to the contrary, instead baldly asserting that “Although Petitioner has not yet reached the six-month presumptive period discussed in *Zadvydas*, his continued detention already serves no legitimate immigration purpose where removal is not significantly likely in the reasonably foreseeable future.” Petition, ¶ 20. Petitioner asserts—without any support whatsoever—that removal efforts to Jordan and Canada have proven unfruitful, and that there is no country to remove him to. *Id.* at ¶¶ 10, 12, 14, 21. This is hardly sufficient for Petitioner to meet his burden of persuasion in habeas proceedings, fails to overcome the time periods both statute and precedent have afforded the government to coordinate removal efforts, and also fails to consider that removal is not limited to only the countries designated in an order of removal. *See* 8 U.S.C. § 1231(b)(1)(C) (explaining alternative country of removal options). Petitioner has failed to demonstrate how his current detention is unlawful where he is (1) subject to a final order of removal that the government intends to execute, (2) within the 90-day removal period provided for by statute, and (3) within the 180-day period of time precedent has deemed presumptively reasonable.

### CONCLUSION

The court should deny this petition. This Court is barred from considering Petitioner’s claims under 8 U.S.C. § 1252(g). Furthermore, Petitioner—detained for a mere 56 days as of the date of this filing—has been properly detained pursuant to 8

U.S.C. § 1231 consistent with the applicable regulations and he remains well within the time period deemed to be presumptively reasonable for the purposes of effecting removal. Respondents have acted lawfully and this Petition should be denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 8, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system which will serve a copy to all counsels of record.

Dated: January 8, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney