

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

DAVID FERRER LESCAILLE,

Petitioner,

v.

KELIE WALKER, ET AL.,

Respondents.

Case No. 2:26-cv-0011-KCD-NPM

**RESPONDENTS' RESPONSE TO THE COURT'S DIRECTIVE
AT ECF NO. 18**

PROCEDURAL BACKGROUND

Petitioner is a citizen of Cuba. *See* ECF No. 1, Petition for Habeas Corpus ("Petition"), ¶¶ 17, 22. On October 2, 2003, Petitioner was ordered removed from the United States. *Id.* at ¶¶ 1, 22; *see also* ECF No. 1-1. However, due to the inability to execute that order he was released on an order of supervision. Petition, ¶¶ 2, 23. On November 12, 2025, Respondent U.S. Immigration and Customs Enforcement ("ICE") revoked Petitioner's order of supervision and detained him for the purpose of executing his longstanding final deportation order. *Id.* at ¶¶ 3, 17, 24. Petitioner then filed a petition for writ of habeas corpus 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 January 20, 2026, the federal

government responded in opposition to Petitioner's request. ECF No. 12.

On May 14, 2026, this Court directed Respondents to show that there is a significant likelihood of Petitioner's removal in the reasonably foreseeable future no later than May 21, 2026. ECF No. 18. Federal Respondents hereby respond.

DISCUSSION

Federal Respondents concede that the presumptively reasonable period of detention has now elapsed. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Accordingly, the burden shifts to the government to demonstrate a significant likelihood of removal in the reasonably foreseeable future. *Id.*

In response to our request for specific evidence that there is a significant likelihood the Petitioner will be removed in the reasonably foreseeable future, the U.S. Attorney's Office was provided with the following: (1) Notice of Removal dated May 18, 2026; (2) Form I-229(a), Warning for Failure to Depart dated March 20, 2026; and (3) Declaration of Paul J. Castro (collectively attached as "Exhibit A"). In light of this District's rulings in many previous cases presenting similar circumstances,¹ the United States Attorney's Office anticipates that the Court will conclude that these materials lack sufficient detail to meet the government's burden in justifying continued

¹ See e.g. *Suarez-Rosabal v. Warden, Florida Soft Side South, et al.*, No. 2:26-cv-1376-KCD-DNF (M.D. Fla. May 20, 2026) (ordering release after the presumptively reasonable period expired where the record reflected "the total absence of any travel documents for his removal"); *Betancourt v. Alcatraz*, No. 2:26-CV-1403-KCD-NPM, 2026 WL 1320246, at *2 (M.D. Fla. May 13, 2026) (finding the burden shifted where Mexico refused entry and ICE relied on a declaration from a Deportation Officer describing the procedures to be followed to effect removal to Mexico); *Londres v. Warden, S. Fla. Det. Facility*, No. 2:26-CV-935-JES-NPM, 2026 WL 1260847, at *2 (M.D. Fla. May 8, 2026) (finding burden-shifting framework triggered and SLRRFF not established where ICE asserted that they are seeking removal but did not explain why progress had not been made in Petitioner's 184 days in custody); *Blanco Rivero v. Noem, et al.*, No. 2:26-cv-00353, 2026 WL 820499, at *2 (M.D. Fla. Mar. 25, 2026) (finding ICE absence of documentation to support SLRRFF amounted to "hope and a placeholder.").

prolonged detention. We await and will comply with any order that may issue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 21, 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: May 21, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney