

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

EDUARDO ALVARDO REYES,

Petitioner,

v.

Case No. 3:26-cv-128-JEP-PDB

Warden of Florida Baker Detention
Center,¹ U.S. Immigration and Customs
Enforcement; and, U.S. Department of
Homeland Security,

Respondents.

Response to Habeas Petition

Federal Respondents move this Court to deny Petition for Writ of Habeas Corpus (“Petition”) (Doc. 1) because Petitioner’s claim is not ripe for review pursuant to 8 U.S.C. § 1231(a), nor has he demonstrated that there is good reason to believe that there is no significant likelihood of his removal from the United States in the reasonably foreseeable future.

Factual Background

Petitioner, Eduardo Alvarado Reyes, is a native and citizen of Cuba. Exh. 1:

¹ The individual having physical custody of a petitioner is the only appropriate respondent. 8 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004); *Vandersnick v. Sec’y, Fla. Dep’t of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021). Any relief the Court awards should be fashioned within the power of the immediate custodian or ICE/DHS. *See, e.g., Mirando Bravo v. Noem*, No. 2:25-cv-1046-SPC-DNF, Doc. 8 at *3 (M.D. Fla. Dec. 5, 2025) (ordering ICE *either* to bring petitioner for a bond hearing or release by a specific date).

Form I-862 at 3. Petitioner became a lawful permanent resident on July 12, 1996. *Id.* However, on June 13, 2002, Petitioner was convicted for the possession and concealment of counterfeit Federal Reserve Notes in violation of 18 U.S.C. § 472. *Id.* As a result, Petitioner was issued a Notice to Appear on May 22, 2003, and charged removable pursuant to INA §237(a)(2)(A)(iii). *Id.* On September 12, 2003, an immigration judge ordered Petitioner removed from the United States. Exh. 2: Order of Removal at 1. Petitioner was detained by ICE on October 24, 2025. Doc. 1 at ¶ 13. On December 15, 2025, served Petitioner with a Notice of Removal to Mexico. Exh. 3: Notice of Removal. To date, Petitioner has been in ICE custody for approximately 125 days.

Certified Habeas Return

ICE is detaining Petitioner under the mandatory detention provisions of 8 U.S.C. § 1231(a). *See* 28 U.S.C. § 2243 (stating “[t]he person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

Discussion

Generally, this Court has jurisdiction to consider a challenge to a petitioner’s continued detention in habeas corpus proceedings. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). While the Court has jurisdiction to consider Petitioner’s challenge to his continued detention, the Petition should be dismissed because Petitioner has failed to

establish his detention by ICE is unlawful. The relevant detention provision governing Petitioner's detention is § 241(a) of the Immigration and Nationality Act, as amended 8 U.S.C. § 1231(a), which covers detention following entry of a final removal order. This provision generally affords the Attorney General a 90-day period to accomplish removal. *See* 8 U.S.C. § 1231(a)(1)(A). The statute provides that, in certain circumstances, the Attorney General may continue to detain an alien after expiration of the 90-day removal period when the alien is:

An alien ordered removed who is inadmissible under 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

8 U.S.C. § 1231(a)(6). Hence, Petitioner's continued detention has a basis in law in that he is removable as charged under the INA. The statute provides that the removal period commences on the latest of the following events:

- i. The date the order of removal becomes administratively final.
- ii. If the removal order is judicially reviewed and if the court orders a stay of the removal of the alien, the date of the court's final order.
- iii. If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231(a)(1)(B). Here, Petitioner's Motion to reopen his removal proceedings was denied on December 10, 2025; thus, Petitioner's order of removal remains final. *See* Doc. 1 at ¶ 12.

In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a) permits the

government to detain an alien during the 90-day removal period in § 1231(a)(1), and an additional 90 days to effectuate the alien's removal from the United States. 553 U.S. at 701; *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005). Stated differently, the Supreme Court "confirmed that six months is a presumptively reasonable period to detain a removable alien awaiting deportation under such circumstances." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-1052 (11th Cir. 2002) (*citing Zadvydas*, 533 U.S. at 701).

While six months is a presumptively reasonable detention period, the *Zadvydas* Court also made clear that the six-month presumption did not mean that every alien not removed within this timeframe must be released after six months. *Zadvydas* at 701. The Court explained, "[t]o the contrary, an alien may be held in confinement until it had been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

In *Akinwale*, the Eleventh Circuit concluded that "to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post removal order detention for a period exceeding six months; **and** (2) that there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Id.* Petitioner has only been in detention for approximately 125 days or four months. Thus, pursuant to *Zadvydas*, Petitioner's current detention is deemed presumptively reasonable

and lawful.

Further, while the burden shifts to the Federal Respondents only once a petitioner satisfies his burden under *Zadvydas*, Respondents have nonetheless provided evidence to establish that Petitioner's removal is likely to occur in the reasonably foreseeable future. On December 15, 2025, an ICE deportation officer served Petitioner with a Notice of Removal evidencing the intent to remove Petitioner from the United States to Mexico. As such, Federal Respondents believe that there is a significant likelihood that Petitioner will be removed from the United States within the reasonably foreseeable future.

Conclusion

Based on the foregoing, ICE's continued detention of the Petitioner is lawful and the Court should deny his Petition.

Date: February 26, 2026

Respectfully submitted,

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/s/ Kyesha Mapp

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 26, 2026, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system. I further certify that a copy of the foregoing document will be sent to the below non-CM/ECF participant via U.S. Mail.

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/s/ Kyesha Mapp
KYESHA MAPP
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