

**MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA**

PABLO GOMEZ,

Petitioner

v.

Case No. 2:26-cv-00103-SPC-DNF

PAM BONDI, Attorney General of the
United States;
KRISTI L. NOEM, Secretary,
Department of Homeland Security;
TODD LYONS, Acting Director,
U.S. Immigration and Customs
Enforcement; DAREN MONGALIN,
Director of the Executive Office for
Immigration Review (EOIR); GARRETT
J. RIPA, Field Office Director - Miami
ERO; KEVIN GUTHRIE, Executive
Director, Florida Division of Emergency
Management (FDEM) and Unknown
Warden, South Florida Detention Center,

Respondents.

**PETITIONER'S REPLY TO RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS**

COMES NOW Petitioner Pablo Gomez, by and through undersigned
counsel, and respectfully submits this Reply to Respondents' Response in
Opposition ("Response") to Petitioner's Petition for Writ of Habeas Corpus

(“Petition”). The Response fundamentally mischaracterizes both the nature of Petitioner's claims and the applicable legal framework. This case does not challenge the execution of a removal order or seek to interfere with immigration enforcement. Rather, Petitioner challenges his unlawful arrest without probable cause and his re-detention without the procedural protections required by the Constitution and federal regulations. These claims fall squarely within this Court's habeas jurisdiction and warrant immediate relief.

Argument

A. This Court Has Jurisdiction Over Petitioner's Constitutional Claims

Respondents argue that jurisdiction-stripping provisions in 8 USCS § 1252 bar this Court from hearing Petitioner's claims. This argument fails because Petitioner's constitutional and statutory challenges to his arrest and re-detention are not challenges to the execution of a removal order.

This Court has jurisdiction under 28 USCS § 2241 to grant habeas relief where a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” Petitioner's detention violates both the Fourth and Fifth Amendments and the Immigration and Nationality Act (“INA”), claims properly adjudicated pursuant to 28 USCS § 2241.

a. This Court Has Jurisdiction Over Petitioner's Fourth Amendment Claim

Petitioner's Fourth Amendment claim challenges his initial arrest without probable cause on December 12, 2025. *See* Doc. 8.1. This arrest occurred during an “enforcement operation conducted in South Florida under Operation Sand Hill” pursuant to 287g on the INA. *Id.* Petitioner was detained without any probable cause or warrant. Respondents do not challenge this contention.

The jurisdiction-stripping provision in 8 U.S.C. § 1252 applies narrowly “only to three discrete actions that the Attorney General (“AG”) may take:” to “commence proceedings, adjudicate cases, or execute removal orders.” *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original). Section 1252 does not, nor can it, imbue Respondents with extraconstitutional powers. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (“The aliens here, however, do not seek review of the Attorney General's exercise of discretion . . . And the extent of that authority is not a matter of discretion.”).

The unlawfulness of this arrest violates the Fourth Amendment and renders Petitioner’s resulting detention unlawful. *See Durruthy v. Pastor*, 351 F.3d 1080, 1088 (11th Cir. 2003) (“Plainly, an arrest without probable cause violates the right to be free from an unreasonable search under the Fourth Amendment.”); *Arizona v. United States*, 567 U.S. 387, 407 (2012) (“If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”).

Not only was Petitioner's arrest unlawful, but any subsequent proof of his removability discovered as a result of this stop is "fruit of the poisonous tree." See *Peoples v. Campbell*, 377 F.3d 1208, 1224 (11th Cir. 2004) (in considering a petition for habeas corpus, the court noted that "[i]f the arrest was illegal, it would appear that the evidence gathered by law enforcement officials subsequent to this 'illegal arrest' . . . should have been suppressed as the fruits of a poisonous tree."). Respondents' constitutional violation is distinct from any decision to execute a removal order, and thus, the zipper clause in Section 1252 is immaterial. See *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020) ("As we have said before, §1252(b)(9) 'does not present a jurisdictional bar'" where those bringing suit "are not asking for review of an order of removal") (internal citations omitted).

Because Petitioner's detention stems from this unlawful arrest, his continued custody is constitutionally infirm. The proper remedy is release from unlawful detention.

b. This Court Has Jurisdiction Over Petitioner's Fifth Amendment Claim

Similarly, 8 USCS § 1252 does not strip jurisdiction over Petitioner's procedural due process claims. *Kong v. United States*, 62 F.4th 608, 609, 614 (1st Cir. 2023) ("Section 1252(g)'s bar on judicial review of claims 'arising from' the government's decision to 'execute removal orders' does not preclude jurisdiction over the challenges to the legality of the detention at issue here.").

Petitioner's Fifth Amendment claims challenge Respondents' failure to provide notice, justification, or a meaningful opportunity to be heard before revoking his Order of Supervision and re-detaining him. These procedural protections are required by the Constitution regardless of whether a removal order exists. *Guerrero v. Noem*, 2026 LX 37812, at *11 (S.D. Fla. Feb. 27, 2026) (“Yet ‘the government's decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if they fail to live up to the conditions of release.’”) (internal citations omitted).

Despite Respondents' arguments to the contrary, Petitioner's rights to due process have been violated. Respondents revoked Petitioner's Order of Supervision without timely notice or an interview. Respondents detained Petitioner on December 12, 2025, after an unlawful stop and seizure. He was detained for over a month before being provided notice that his Order of Supervision was revoked on January 15, 2026. *See* Doc. 8.3 p. 2. It was not until *after* the Petition was filed, approximately two and a half months after Petitioner's detention, that Respondents completed a form indicating they performed an interview on February 27, 2026. Doc. 8.4. Respondents' failure to provide notice and an interview “upon revocation” of Petitioner's Order of Supervision violates his rights to due process and necessitates his release. *See* 8 C.F.R. § 241.4(I)(1).

c. This Court has Jurisdiction Over Respondents' Violation of the INA

Respondents do not allege that Petitioner violated any condition of his Order of Supervision. He committed no new crimes, missed no check-ins, and posed no danger to the community. Despite this exemplary compliance, Respondents re-detained him without notice, without explanation, and without any opportunity to be heard.

Federal regulations require specific procedures before an Order of Supervision may be revoked. 8 C.F.R. § 241.4(l). Importantly, the INA sets forth the reasons and process for revocation of an Order of Supervision:

Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

8 C.F.R. §§ 241.4(l)(1), 241.13(i)(2); *see also United States v. Chinchilla*, 987 F.3d 1303, 1310 (11th Cir. 2021) (“In order to remove an unlawful alien subject to an order of supervision, immigration officials must first revoke the order of supervision and must notify the alien of “the reasons for revocation””) (internal citations omitted). “ICE, like any agency, has the duty to follow its own federal regulations” *Gomez-Alcina*, 2025 U.S. Dist. LEXIS 262743, at *4 (M.D. Fla. Dec. 19, 2025) (internal citations omitted).

As set forth above, Respondents' own exhibits show that they failed to provide notice "upon revocation" of Petitioner's Order of Supervision and did not "promptly" provide an informal interview. *See* Docs. 8.3-8.4. In fact, Respondents did not bother to conduct the interview until after this Petition was filed. "Because ICE violated its own regulations when it detained Petitioner without notifying him of the reasons why he was being detained, he is arguably entitled to habeas relief." *Gomez-Alcina*, 2025 U.S. Dist. LEXIS 262743, at *5.

B. Respondents' Zadvydas Arguments Are Premature and Misplaced

Respondents devote substantial argument to the six-month presumptively reasonable detention period established in *Zadvydas*. However, this framework does not apply where, as here, Petitioner's detention violates the Constitution and INA from its inception.

Conclusion

Petitioner's detention violates the Fourth and Fifth Amendments to the United States Constitution and the INA. Petitioner has demonstrated a substantial likelihood of success on the merits and will suffer irreparable injury absent relief.

Respectfully submitted this 5th day of
March, 2026.

/s/ Katherine H. Blankenship

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CERTIFICATE OF SERVICE

I certify that on March 5, 2026, I electronically filed the foregoing
document, and it is available for viewing and downloading from the Court's
CM/ECF system.

/s/ Katherine H. Blankenship

Katherine H. Blankenship