

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

FLORENTINO JOSE ALONSO GARCIA,

Petitioner,

v.

Case No. 2:26-cv-111-SPC-NPM

**GARRETT RIPA, Field Office Director
ERO Miami, Florida,**

Respondent.

_____ /

**RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Florentino Jose Alonso Garcia seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking his immediate release from immigration custody on the basis that the length of his detention is unlawful and there is no significant likelihood of removal in the reasonably foreseeable future.

His petition should be denied. In Zadvydas v. Davis, the Supreme Court held that detention following a final removal order is presumptively reasonable for six months. 533 U.S. 678 (2001). When Petitioner's Next Friend filed the present petition on February 20, 2026, he had been detained for 104 days. As of the date of this filing (March 4, 2026), Petitioner had been detained for 114 days. His present detention is therefore lawful.

BACKGROUND

Petitioner is a native and citizen of Cuba, who alleges he has resided in the United States since 1986. See Dkt. 3 at 2. ICE advises Petitioner entered the United States without inspection at an unknown location at an unknown time, but that on an application for employment authorization, Petitioner claimed that he entered the United States at El Paso, Texas in 1986.¹ Petitioner was ordered removed from the United States on or about July 27, 2007, and subsequently released on an order of supervision (“OSUP”).²

On November 8, 2025, Petitioner reported on his OSUP and was taken into custody and detained. See Ex. A. He was formally notified that his OSUP was revoked. See Ex B at 1-2, 7-9. ICE advises Petitioner was denied repatriation to Cuba.³ On December 9, 2025, ICE notified Petitioner that he is to be removed to Mexico. See Ex. B at 3, 4-6. Petitioner is currently being held at ERO El Paso Camp East Montana. See Ex. C.

¹ Through ICE, the undersigned has requested and is presently awaiting documents supporting these statements. However, given the March 4th response deadline set by the Court’s Order (Dkt. 4), it was necessary to file this response before receiving any such supporting documents. If such documents are received before the Court rules on this Petition, the undersigned will seek such leave as may then be required to file same.

² See footnote 1 above.

³ See footnote 1 above.

On February 20, 2026, Petitioner's next friend filed the subject Petition for writ of habeas corpus alleging his custody violates the Due Process Clause of the Fifth Amendment, that there is no reasonably foreseeable likelihood he will be removed, and that his confinement has deprived him of adequate medical care, as well as proper nutrition, exercise, and mail and visitation. See generally Dkt. 3.

ARGUMENT

Petitioner's detention does not violate the Fifth Amendment's Due Process Clause.

After a final removal order, an alien must be removed within ninety days—i.e., the removal period. 8 U.S.C. § 1231(a)(1); Zadvydas v. Davis, 533 U.S. 678, 683 (2001). During the removal period, the alien must be detained. 8 U.S.C. § 1231(a)(2); Zadvydas, 533 U.S. at 683. An alien, however, can be detained beyond that removal period. 8 U.S.C. §§ 1231(a)(1)(C), (a)(6); Zadvydas, 533 U.S. at 683. This is called a “post-removal” period. Johnson v. Guzman Chavez, 594 U.S. 523, 529 (2021).

There is no statutory limit on how long ICE can detain an alien during the post-removal period. Johnson v. Arteaga-Martinez, 596 U.S. 573, 579 (2022). 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, 533 U.S. at 689. In all, a reasonable length of detention “is presumptively six

months.” Guzman Chavez, 594 U.S. at 529; see also Akinwale, 287 F.3d at 1052 (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 regarding 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 v. Ashcroft, 287 F.3d 1050, 1051-52 (11th Cir. 2002); 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). Ultimately, “[U]ntil the six-month Zadvydas period concludes, detention is presumptively reasonable, and any due process claim is not ripe.” E.g., Khalil Al Ellary, 2:26-cv-00112-KCD-DNF, Doc. 7 (M.D. Fla. Feb. 27, 2026); Jiang v. Mukasey, No. 2:08-cv-773-FtM-29DNF, 2009 WL 260378, at *2 (M.D. Fla. Feb. 3, 2009); Noel v. Glades Cnty. Sheriff, No. 2:11-cv-698-FtM-29SPC, 2011 WL 6412425, at *2 (M.D. Fla. Dec. 21, 2011).

Petitioner’s Next Friend filed the present petition well before expiration of six months in detention. He was detained on November 8, 2025, and filed the present petition on February 20, 2026. At that point, Petitioner had been detained for 104 days; to date, he has been in detention for 114 days.

It is only afterward that the parties can engage in Zadvydas burden-shifting related to the “significant likelihood of removal in the reasonably foreseeable

future.” See Jennings v. Rodriguez, 583 U.S. 281, 299 (2018) (citation omitted); Zadvydas, 533 U.S. at 701 (holding the inquiry is “[a]fter this 6-month period”); Khalil Al Ellary v. Noem, 2:26-cv-00112-KCD-DNF (M.D. Fla. Feb. 27, 2026) (denying petition when alien had not been detained for six months). Before that time limit runs, neither Zadvydas nor any other binding precedent permit a challenge based on reasonable foreseeability of removal.⁴ See Akinwale, 287 F.3d at 1051-52. See Zadvydas, 533 U.S. at 700 (stating judicial review in foreign policy matters “require courts to listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise”).

Release from custody is not available in an action alleging unconstitutional conditions of confinement.

Petitioner also challenges his conditions of confinement. See Dkt. 3 at 3. However, “release from imprisonment is not an available remedy for a conditions-of-confinement claim.” Vaz v. Skinner, 634 F. App’x 778, 781 (11th Cir. 2015) (per curiam); see also Hidalgo v. Parra, No. 2:25-CV-01214-SPC-NPM, 2026 WL 113587, at *1 (M.D. Fla. Jan. 15, 2026) (“Claims challenging the conditions of

⁴ Respondents acknowledge this Court has previously disagreed. See Chumachenko v. Noem, 2:26-cv-00344-SPC-NPM, Doc. 6 (M.D. Fla. Feb. 27, 2026).

confinement, rather than the fact or duration of confinement, are not grounds for habeas relief.”) Indeed, the Eleventh Circuit stated that if conditions of confinement violate a prisoner’s constitutional rights, “[t]he appropriate Eleventh Circuit relief . . . is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment.” Gomez v. United States, 899 F.2d 1124, 1126-27 (11th Cir. 1990).

The Eleventh Circuit has further indicated that its holding in Gomez applies to civil detainees in ICE custody. See Vaz, 634 F. App’x at 781-82 (noting that a detained alien could not obtain release based on his conditions of confinement claim); see also St. Louis v. Martin, Case No. 2:20-CV-349-FTM-60-NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020) (“[R]elease under § 2241 unavailing when the alleged constitutional violation is predicated upon the conditions of a petitioner’s confinement.”). Because Eleventh Circuit precedent precludes the Court from ordering release from custody based on conditions of confinement, to the extent the Petition relies on those bases it should be denied.

Petitioner’s Next Friend Has Not Established a Sufficient Basis to Proceed as his Next Friend

Juanita M. Brunson Alonso has filed this Petition as a “Next Friend” on behalf of Florentino Jose Alonso Garcia, whom she declares is her spouse. See Dkt. 3 at 5.

Title 28 U.S.C. § 2242 provides that an “[a]pplication for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.” (emphasis added). The underlined phrase codifies the common law, which allowed a “next friend” to litigate on behalf of a person who, for one a few recognized specific reasons, is unable to initiate a habeas action himself. See Whitmore v. Arkansas, 495 U.S. 149, 162-63 (1990). However, standing to proceed as a next friend “is by no means granted automatically to whomever seeks to pursue an action on behalf of another . . . ” Id. at 163. Rather, the would-be next friend “must provide an adequate explanation—such as inaccessibility, mental incompetence, or other disability—why the real party in interest cannot appear on his own behalf to prosecute the action” and also “must be truly dedicated to the best interests of the person on whose behalf [s]he seeks to litigate.” Id.

Brunson Alonso asserts that Petitioner “is unable to adequately seek relief on his own due to his detention, limited access to legal materials, and lack of meaningful access to writing supplies and the law library.” Dkt. 3 at 1. However, “numerous pro se petitioners in immigration custody seeking relief who face the same conditions as . . . and are able to litigate their petition.” See Giralt v. Hardin et al., Case No. 2:26-cv-97-KCD-NPM, at *2 (M.D. Fla. February 4, 2026) (copy attached as Ex. D.) Because Brunson Alonso offers no support that would warrant the special rights afforded to a next friend, she lacks standing to proceed which, in

turn, deprives the Court of jurisdiction to consider the Petition. See Francis v. Warden, FCC Coleman-USP, 246 F. App'x 621, 622 (11th Cir. 2007) (holding that, without next friend status, there was no Article III standing and thus no subject matter jurisdiction; Weber v. Garza, 570 F.2d 511, 514 (5th Cir. 1978) (holding when a "would be 'next friend'" does not provide an adequate basis to proceed, subject matter jurisdiction is lacking). Further, because Brunson Alonso is apparently not a lawyer, she cannot represent her husband. See, e.g., Marcia Turner v. Neptune Towing & Recovery, Inc., No. 8:09-CV-I071-T-27AEP, 2011 WL 2981786, at *2 (M.D. Fla. July 22, 2011) ("Under Rule 17(c), a representative does not have the right to appear on behalf of a minor or an incompetent person unless that representative is represented by counsel.").

CONCLUSION

Respondent respectfully requests Petitioner Florentino Jose Alonso Garcia's petition be denied.⁵

March 4, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

s/ Charles T. Harden III
 Charles T. Harden III

⁵ As set forth in the Certificate of Filing below, the office of the undersigned was unable to reach Petitioner's Next Friend by phone and no email address for her is known. Accordingly, should the Court wish to extend the deadline for Petitioner's Next Friend to file a Reply, see Dkt. 4 at ¶ 3, the Respondent would not object.

Assistant United States Attorney
LEAD COUNSEL
for the Federal Respondents
FBN: 97934
400 North Tampa Street, Suite 3200
Tampa, FL 33602
Phone: 813-274-6096
Fax: 813-274-6200
E-Mail: Charles.Harden@usdoj.gov

CERTIFICATE OF FILING

I hereby certify that, on the date set forth above, I filed the foregoing documents and any exhibits referenced therein using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Additionally, I caused a copy of the foregoing documents and any exhibits referenced therein to be sent to Petitioner's Next Friend by FedEx to the address listed on the Court's docket.⁶

s/ Charles T. Harden III
Charles T. Harden III
Assistant United States Attorney

⁶ The office of the undersigned attempted to reach Petitioner's Next Friend by phone to determine her email address, but the phone number listed for Petitioner's Next Friend on the Court's docket is disconnected as of March 4, 2026. Further, the office of the undersigned attempted to reach Petitioner's Next Friend at the additional phone number listed on Petitioner's medical records, see, e.g., Dkt. 3-1 at 1, but also found that number disconnected. And neither the Court's docket nor the Petition (Dkt. 3) contain an email address for Petitioner's Next Friend.