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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

FLORENTINO JOSE ALONSO GARCIA,

Petitioner,

Case No. 2:26-cv111-SPC-NPM

v.

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

Respondent

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

I. PRELIMINARY STATEMENT

Respondent's Opposition rests almost entirely on a single premise: that Petitioner filed his habeas petition before the six-month *Zadvydas* presumption expired, and therefore the Court cannot consider whether his removal is reasonably foreseeable. But this argument misstates the law, ignores the factual record, and attempts to convert a rebuttable presumption into an absolute bar. The Supreme Court has never held that a detainee must wait exactly six months before raising a constitutional challenge to indefinite detention—only that after six months, the burden shifts. Nothing prevents a court from considering evidence showing that removal is not reasonably foreseeable, especially where, as here, the government has already admitted that Cuba refused repatriation and has attempted to remove Petitioner to a country where he is not a citizen.

Respondent also argues that Petitioner cannot proceed through a next friend, but the Opposition misapplies *Whitmore* and ignores the practical realities of immigration detention, including the limited access to legal materials, writing supplies, and communication resources that Petitioner faces—facts Respondent does not dispute.

Finally, Respondent's attempt to dismiss Petitioner's conditions-of-confinement allegations misses the point. Petitioner does not seek release solely *because* of conditions;

he seeks release because his detention is unconstitutional under *Zadvydas*. The conditions evidence simply underscores the urgency of judicial intervention.

For these reasons, and those explained below, the Petition should be granted.

II. STATEMENT OF FACTS

Respondent does not dispute the core facts:

- Petitioner is a Cuban national who has lived in the United States since 1986.
- He was ordered removed in 2007 and lived for years under an Order of Supervision without incident.
- On November 8, 2025, he reported as required and was taken into custody.
- ICE acknowledges that Cuba denied repatriation. Respondent states: “ICE advises Petitioner was denied repatriation to Cuba.” (Opp. at 2).
- ICE then attempted to remove him to Mexico, despite no evidence that Mexico will accept him.
- Petitioner has now been detained for months with no viable removal option.

These facts establish that removal is not reasonably foreseeable.

III. ARGUMENT

A. Respondent Misstates the Six-Month Framework Under *Zadvydas*

Respondent argues the Petition is “premature” because Petitioner had been detained for only 104 days when the Petition was filed. (Opp. at 1). But *Zadvydas* does **not** create a jurisdictional bar. It creates a **presumption**, not a prohibition.

The Supreme Court held:

“After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond.”

—*Zadvydas*, 533 U.S. at 701.

Nothing in *Zadvydas* prevents a detainee from presenting evidence **before** six months have elapsed. Courts routinely consider such evidence when the record clearly shows removal is not reasonably foreseeable.

Here, Respondent has already admitted:

- Cuba refused repatriation. (Opp. at 2).
- ICE has no confirmation that Mexico will accept Petitioner.
- ICE is “awaiting documents” and has no concrete removal plan. (Opp. at 2 n.1).

These admissions show that removal is not reasonably foreseeable **now**, regardless of the calendar.

Respondent cites *Akinwale*, but that case involved a detainee who **interrupted** his detention through a stay of removal—facts not present here. Courts in this district have repeatedly rejected Respondent’s rigid interpretation of the six-month rule.

B. The Government Has Not Shown Any Significant Likelihood of Removal

Even if the burden had not yet shifted, Respondent has provided **no evidence** that removal is likely:

- No travel documents
- No acceptance from Cuba
- No acceptance from Mexico
- No alternative country identified
- No timeline
- No diplomatic progress

Respondent’s only statement is that ICE “notified Petitioner that he is to be removed to Mexico.” (Opp. at 2). But notification is not evidence of feasibility. Mexico has no obligation to accept a Cuban national.

The government’s speculation cannot justify continued detention.

C. Petitioner’s Long-Term Compliance Undermines Any Claim of Danger or Flight Risk

Respondent does not dispute that:

- Petitioner lived under supervision for years
- He complied with all reporting requirements
- He appeared voluntarily on November 7, 2025
- He has no record of absconding

This history eliminates any legitimate governmental interest in continued detention.

D. Petitioner's Conditions-of-Confinement Allegations Support, But Do Not Form, His Habeas Claim

Respondent argues that "release from imprisonment is not an available remedy for a conditions-of-confinement claim." (Opp. at 5). But Petitioner does **not** seek release *because* of conditions. He seeks release because his detention is unconstitutional under *Zadvydas*.

The conditions evidence simply demonstrates:

- the severity of the harm caused by indefinite detention
- the urgency of judicial intervention
- the lack of meaningful access to legal materials, which supports next-friend standing

Respondent's argument is therefore irrelevant.

E. Petitioner's Next Friend Has Standing

Respondent claims Petitioner's spouse cannot proceed as next friend because other detainees have filed pro se petitions. (Opp. at 7). But *Whitmore* requires only:

1. **Inability to litigate due to disability, inaccessibility, or similar barrier, and**
2. **Dedication to the detainee's best interests.**

Both are satisfied here.

1. Petitioner is unable to litigate on his own behalf

Respondent quotes Petitioner's statement that he lacks:

“meaningful access to writing supplies and the law library.” (Opp. at 7, quoting Petition).

Respondent does not dispute this. In fact, Respondent’s own filing acknowledges that the government could not even contact Petitioner’s spouse due to communication limitations. (Opp. at 8 n.5).

If ICE cannot reliably reach family members, it is unreasonable to expect Petitioner to litigate a federal habeas petition from detention.

2. Petitioner’s spouse is unquestionably dedicated to his best interests

Respondent offers no evidence to the contrary. She is his wife, she filed promptly, and she has diligently pursued relief.

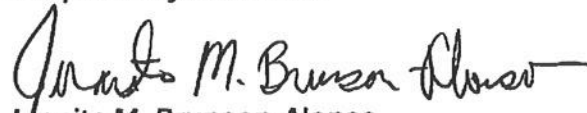
Next-friend standing is appropriate.

IV. CONCLUSION

For the reasons stated above, Petitioner respectfully requests that the Court:

- 1. Reject Respondent’s Opposition,**
- 2. Grant the Petition for Writ of Habeas Corpus, and**
- 3. Order Petitioner’s immediate release under appropriate conditions of supervision.**

Respectfully submitted



Juanita M. Brunson-Alonso

Next Friend for Petitioner

Pro Se