

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:26-cv-20646-JB

RENE MATAMORO-MORA,

Petitioner,

v.

KROME SERVICE PROCESSING CENTER, *et al.*

Respondents.

_____ /

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Respondents Warden, Krome Service Processing Center, and Field Office Director, U.S. Immigration and Customs Enforcement,¹ by and through the undersigned Assistant United States Attorney, hereby file this Response to Petitioner Rene Matamoro-Mora's Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 and state as follows:

BACKGROUND

Petitioner Rene Matamoro-Mora ("Petitioner") is subject to a Final Order of Removal entered in 1995. He has been in ICE custody since October 26, 2025, when ICE encountered him and took him into custody pursuant to a final order of removal. On November 7, 2025, ICE ERO revoked the Petitioner's Order of Supervision and issued him a Notice of Revocation of Release.

¹ A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at Krome Service Processing Center. Therefore, the proper respondent is Charles Parra, in his official capacity as the Assistant Field Office Director in charge of the Krome Service Processing Center. Therefore, Respondent Field Office Director, U.S. Immigration and Customs Enforcement, must all be dismissed as improper.

Then, on November 8, 2025, ICE ERO conducted an informal interview and issued the Petitioner a Warrant of Removal/Deportation and a Notice of Removal to Mexico.

Now, the Petitioner files the instant Petition challenging his immigration detention. *See* Petition, D.E. 1, at 2–3. However, Petitioner does not present any valid arguments as to why his detention is unlawful. Instead, he claims (1) that his detention since October 26, 2025, is unlawfully prolonged, (2) that general due process protections due to his age and health warrant release, (3) that his rehabilitation warrants release, and (4) that there is an unlikelihood of his removal. *See* Petition, D.E. 1, at 6. As demonstrated below, Petitioner’s release was appropriately revoked and Petitioner is lawfully in custody, subject to a Final Order of removal.

FACTUAL BACKGROUND

Petitioner is a native and citizen of Cuba, who entered the United States at an unknown time and place. *See* Form I-213, Record of Deportable Alien (Form I-213), dated October 26, 2025, attached as Exhibit A. On January 14, 1993, Petitioner was convicted in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami Dade County, Florida, for the offense of Sexual Battery on a Minor By a Person of Familial or Custodial Authority, in violation of Florida Statute 794.041. *See* Judgment and Sentence, Case No. 91-19238, attached as Exhibit B. Petitioner was sentenced to 17 years imprisonment. *See* Ex. B, Judgment and Sentence.

On January 25, 1994, an Immigration Judge ordered Petitioner removed from the United States to Cuba, pursuant to INA §§212(a)(7)(A)(i)(I) and 212(a)(2)(B). *See* Immigration Judge Order, dated January 25, 1994, attached as Exhibit C. Petitioner appealed to the Board of Immigration Appeals and on March 15, 1995, the appeal was dismissed. *See* Declaration of Deportation officer Gunnar Pedersen (Feb. 12, 2026), attached as Exhibit D. On or about March 14, 2005, Petitioner was released on an Order of Supervision (“OSUP”). *See* Ex. D, Declaration of DO Pedersen; *see also* Detention History, attached as Exhibit E.

On or about October 26, 2025, Petitioner was encountered by ICE ERO and taken into custody pursuant to his final removal order. *See* Ex. A, Form I-213, dated October 26, 2025. On that same day, Petitioner was issued a warning regarding his removal and a warrant for his arrest. *See* Form I-294, Warning to Alien Ordered Removed or Deported, dated October 26, 2025, attached as Exhibit F; *see also* Form I-200, Warrant for Arrest of Alien, dated October 26, 2025, attached as Exhibit G.

On November 7, 2025, ICE ERO revoked the Petitioner's release and issued him a Notice of Revocation of Release. *See* Notice of Revocation of Release, dated November 7, 2025, attached as Exhibit H. On November 8, 2025, ICE ERO conducted an informal interview and issued the Petitioner a Warrant of Removal/Deportation and a Notice of Removal to Mexico. *See* Form I-205, Warrant of Removal/Deportation, dated November 8, 2025, attached as Exhibit I; *see also* Notice of Removal, dated November 8, 2025, attached as Exhibit J. On January 23, 2026, Petitioner was issued a Warning for Failure to Depart. *See* Form I-229(a), Warning for Failure to Depart, dated January 23, 2026, attached as Exhibit K. Petitioner is currently detained at Krome North Service Processing Center, pursuant to the final removal order. *See* Ex. E, Detention History.

On December 16, 2025, DHS was notified that Cuba declined to accept Petitioner for repatriation. *See* Ex. D, Declaration of DO Pedersen, at ¶ 15. On December 19, 2025, Petitioner's case was referred to ERO's travel unit, to stage Petitioner at an ERO location along the border for removal. *See* Ex. D, Declaration of DO Pedersen, at ¶ 16. On January 23, 2026, Petitioner was issued a Warning for Failure to Depart. *See* Ex. K, Form I-229(a), Warning for Failure to Depart, dated January 23, 2026. On February 6, 2026, the district court enjoined Petitioner's transfer from the jurisdiction of the Southern District of Florida during the pendency of the habeas petition. *See* Ex. D, Declaration of DO Pedersen, at ¶ 18. On February 7, 2026, DHS cancelled Petitioner's flight for staging for removal to Mexico. *See* Ex. D, Declaration of DO Pedersen, at ¶ 19. Petitioner

is currently detained at Krome North Service Processing Center, pursuant to the final removal order. *See* Ex. E, Detention History.

INA § 241(b)(2)(E) authorizes the DHS to remove aliens subject to final orders of removal to alternative countries, including another country whose government will accept the alien. ICE intends to remove the petitioner to Mexico pursuant to INA § 241(b)(2)(E) once the temporary restraining order is lifted. *See* Ex. D, Declaration of DO Pedersen, at ¶ 21. The petitioner will be transferred to one of the corresponding ICE field offices along the southwest border that processes third-country removals to Mexico. *See* Ex. D, Declaration of DO Pedersen, at ¶ 24. The receiving ERO field office will then notify Mexico's Instituto Nacional de Migracion (INM) of the petitioner's upcoming removal to Mexico. *See* Ex. D, Declaration of DO Pedersen, at ¶ 25. Following INM's final acceptance, he will immediately be transported to the Customs and Border Patrol corresponding port of entry for removal to Mexico. *See* Ex. D, Declaration of DO Pedersen, at ¶ 26. Each ICE field office along the southwest border that processes third-country removals to Mexico removes a varying amount each week. Removals take place from each corresponding office from once a week to several times a week. *See* Ex. D, Declaration of DO Pedersen, at ¶ 27. Therefore, ICE determines that there is a significant likelihood of removal in the reasonably foreseeable future. *See* Ex. D, Declaration of DO Pedersen, at ¶ 28. ICE intends to follow proper procedures for third-country removals for the petitioner as set forth in the *Guidance Regarding Third Country Removals*, issued by the DHS Secretary on March 30, 2025. *See* Ex. D, Declaration of DO Pedersen, at ¶ 29.

ARGUMENT

The habeas statute, 28 U.S.C. § 2241, empowers the Court to issue a writ of habeas corpus in cases where a detained person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. Petitioner here, however, has not alleged any facts

demonstrating that his detention is unlawful. In any event, Petitioner is lawfully detained and the Court should deny his Petition.

I. This Court Lacks Jurisdiction Over Petitioner's Claims.

“Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted); *see also Johansen v. Combustion Eng'g, Inc.*, 170 F.3d 1320, 1328 n.4 (11th Cir. 1999) (“A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist arises.”). For these reasons, before this Court can proceed, it must determine whether it has jurisdiction over this action. *See Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1323 (11th Cir. 2012) (“Prior to making an adjudication on the merits, we must assure ourselves that we have jurisdiction to hear the case before us.”).

A. Congress Stripped this Court of Jurisdiction to Prevent the Execution of Removal Orders.

Petitioner is, in essence, asking this Court to prevent ICE from executing his removal order by ordering his immediate release. *See* Petition, D.E. 1, at 7. This Court, however, lacks jurisdiction to grant such relief. Federal law precludes a district court from interfering with the government's decision or action to execute orders of removal. 8 U.S.C. § 1252(g). Section 1252(g) specifically states that “no court shall have jurisdiction to hear any cause or claim by ... any alien arising from the decision or action by [ICE] to ... execute removal orders against any alien.” 8 USC § 1252(g). This provision applies “notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision.” *Id.*

The Eleventh Circuit has explained that “[s]ection 1252(g) bars review over ‘any’ challenge to the execution of a removal order – and makes no exception for those claiming to challenge the government’s ‘authority’ to execute their removal orders.” *Camarena v. Dir., Immigr. & Customs Enf't*, 988 F.3d 1268, 1273 (11th Cir. 2021) (holding that where there is

challenge to the validity of a removal order, district courts lack jurisdiction to hear any “cause or claim brought by an alien arising from the government’s decision to execute a removal order”). The petitioners in *Camarena* were in virtually identical situations as the one Petitioner finds himself in, in that (a) they did not challenge their orders of removal, (b) remained in the United States via an order of supervision, and (c) filed habeas petitions after DHS attempted to execute orders of removals. Under these circumstances, the Eleventh Circuit found that the district court lacked jurisdiction to grant relief because Section 1252(g) strips courts of jurisdiction to prevent the execution of removal orders. *Id.* at 1272–73.

Here, like the petitioners in *Camarena*, Petitioner does not challenge the validity or existence of the order of removal. Instead, he suggests his re-detention was unlawful, and he requests immediate release from detention. Section 1252(g), as interpreted by the Eleventh Circuit in *Camarena*, deprives this Court of jurisdiction to grant such relief. *See also Rivera-Amador v. Rhoden*, Case No. 3:25-CV-1460-WWB-SJH, 2025 WL 3687452, at *3 (M.D. Fla. Dec. 19, 2025) (holding that Section 1252(g) “divests the Court of jurisdiction” from enjoining respondents from detaining and deporting petitioner subject to a removal order); *Mapoy v. Carroll*, 185 F.3d 224, 230 (4th Cir. 1999) (holding that district court lacked jurisdiction to hear a challenge to execution of order of deportation pursuant to § 1252(g)); *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *3 (S.D. Fla. Aug. 8, 2025) (“The Court finds that § 1252(g) deprives it of subject-matter jurisdiction over Respondent’s decision to revoke the OSUP...”).

In summary, Congress divested this Court of jurisdiction to prevent the execution of removal orders, meaning it should dismiss the Petition for lack of jurisdiction.

B. The Habeas Statute Does Not Provide Jurisdiction Over a Claim Challenging the Revocation of an OSUP

To the extent Petitioner’s argues that the revocation of his supervised release was unlawful, the habeas statute, 28 U.S.C. § 2241, does not provide for judicial review. This Court’s jurisdiction

pursuant to 28 U.S.C. § 2241, by its plain language, permits courts to rule on claims related to an “applicant’s commitment or detention.” 28 U.S.C. § 2241. The clear language of the statute and “the common-law history of the writ” showed that “the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.” *Alawieh v. Tweedie*, Case No. 25-10614-LTS, 2025 WL 3171170, at *3 (D. Mass. 2025), *appeal docketed*, No. 25-2238 (1st Cir. Dec. 31, 2025) (quoting *Preiser v. Rodriguez*, 411 U.S. 475 (1973)) (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). If a “petitioner seeks relief that ‘falls outside the scope of the writ as it was understood when the Constitution was adopted,’ [those] claims are beyond the reach of a federal court’s habeas jurisdiction.” *Id.* (quoting *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 119 (2020)). Thus, to prevail, Petitioner must show that the alleged violations that he claims, based on the factual predicate that he alleges, fall within the reach of this Court’s ability to grant habeas relief. *See, generally, Mayers v. U.S. Dept. of I.N.S.*, 175 F.3d 1289, 1300 (11th Cir. 1999) (describing how in *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265, 268, (1954), the Supreme Court explained that the “crucial question is whether the alleged conduct . . . deprived petitioner of any of the rights guaranteed [to] him by the statute or by the regulation issued pursuant thereto.”).

In this case, Petitioner cannot do so. As a district court recently observed, “[w]hile some procedural violations may, in some circumstances, rise to the level of a due process violation,” not all alleged violations “rise to the level of a due process violation and/or would independently entitle [a petitioner] to a grant of habeas relief in the form of release from detention.” *Van v. Oddo*, Case No. 3:25-CV-00322, 2025 WL 3492736, at *4 (W.D. Pa., Dec. 5, 2025) (finding no habeas relief for alleged failures to provide notice for reasons of revocation and lack of “informal review”). This is particularly true in this case where Petitioner does not even identify how, if at

all, ICE failed to properly revoke his OSUP, let alone how such failure would entitle him to release from detention. Plaintiff has plainly failed to allege a Constitutional or statutory violation warranting habeas relief and the Court is without jurisdiction to grant such relief. *Id.*²

II. On the Merits, the Revocation of Petitioner’s OSUP Comports with Applicable Regulations and the Constitution.

If this Court finds that it has jurisdiction, it should nonetheless deny the Petition on the merits because Petitioner’s claim that his detention violates his Constitutional rights lacks merit. To the contrary, Petitioner—who is subject to a final order of removal—is being lawfully detained, pursuant to 8 U.S.C. § 1231(a)(6), and his suggestion that there is “no likelihood of removal,” *see* D.E. 1-2 at 2, lacks merit. For these reasons, this Court should deny the Petition.

To the extent that Petitioner claims that Respondents did not follow the procedures in 8 C.F.R. § 241.4(l) (concerning revocation of release) or 8 C.F.R. § 241.13 (concerning the determination of whether there is a significant likelihood of removing a detained alien in the reasonably foreseeable future) to revoke his OSUP and re-detain him, his claim lacks merit. DHS complied with the statutory and regulatory requirements in revoking Petitioner’s order of supervision in that DHS provided Petitioner notice, an informal interview, and an opportunity to address the reasons for the revocation. *See* Ex. D, Declaration of DO Pedersen; Ex. H, Notice of Revocation of Release, November 7, 2025; Ex. I, Form I-205, Warrant of Removal/Deportation, dated November 8, 2025.

Although the applicable statute, 8 U.S.C. § 1231(a)(3), is silent as to revocation procedures for an individual released pursuant to an Order of Supervision, ICE has issued Post-Order Custody Regulations (“POCR”), *see* 8 C.F.R. § 241.4, describing the mechanisms for custody reviews,

² Some opinions from this District found that this Court has jurisdiction, rejecting arguments related only to the jurisdiction-stripping provision in 8 U.S.C. § 1252. *See, e.g., Espinoza-Sorto v. Aguedlo et al.*, Case No. 25-CV-23201-DLG (DE 26); *Grigorian v. Bondi*, Case No. 25-CV-22914-RAR, 2025 WL 1895479, at *3 (S.D. Fla., July 8, 2025).

release from ICE custody, and revocation of release for individuals with final orders of removal. The specific regulatory provisions concerning revocation of release are contained at 8 C.F.R. § 241.4(l) and provide significant discretion to ICE to revoke release. *See Leybinsky v. U.S. Immigr. & Customs Enf't*, 553 F. App'x 108, 110 (2d Cir. 2014) (noting the “broad discretionary authority the regulation grants ICE” to revoke release); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (explaining that while the revocation regulation “provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion ...”). For example, the regulations authorize revocation when ICE’s Field Office determines that “[t]he purposes of release have been served,” or when “[i]t is appropriate to enforce a removal order . . . against an alien,” or when “[t]he conduct of the alien, *or any other circumstance*, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2)(i)-(iv) (emphasis added).

The regulations require that, when ICE revokes release of an individual, pursuant to 8 C.F.R. § 241.4(l), ICE must conduct an “informal interview” to advise the individual of the basis for revocation and must also serve the individual with a written notice of revocation. *Id.* If ICE determines revocation remains appropriate after conducting the informal interview, then ICE will provide notice to the individual of a further custody review that “will ordinarily be expected to occur within approximately three months after release is revoked.” 8 C.F.R. § 241.4(l)(3). However, ICE is not required to “conduct a custody review under these procedures when [ICE] notifies the alien that it is ready to execute an order of removal.” 8 C.F.R. § 241.4(g)(4); *Rodriguez-Guardado*, 271 F. Supp. 3d at 335. Furthermore, if ICE determines in its “judgment [that] travel documents can be obtained, or such document is forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest.” 8 C.F.R. § 241.4(g)(3).

A. ICE complied with the POCR Regulations to Arrest Petitioner.

Here, the Assistant Field Office Director (“AFOD”) issued Petitioner a written revocation notice on November 7, 2025, explaining that ICE was revoking his release pursuant to its discretion under 8 C.F.R. §§ 241.4(l)(2)(i)-(iv). *See* Ex. H, Notice of Revocation of Release, dated November 7, 2025. Per the revocation notice, Petitioner was notified that he “will promptly be afforded an informal interview and the opportunity to respond to the reasons for the revocation and to provide evidence to demonstrate that your removal is unlikely.” *Id.* Moreover, Petitioner was given notice of the reasons for revocation, was provided an interview and had opportunity to respond to the revocation. In revoking Petitioner’s supervised release, ICE complied with the regulation that allows revocation when ICE determines that it “is appropriate to enforce a removal order . . . against an alien” and when ICE finds that the “purposes of release have been served.” 8 C.F.R. § 241.4(l)(2).

When ICE “determined that revocation was necessary to initiate [] removal . . . [n]o further justification was required.” *Doe v. Smith*, No. 18-cv-11363-FDS, 2018 WL 4696748, at *11 (D. Mass. Oct. 1, 2018). The regulation does not require the AFOD “to make a formal determination that his revocation was in the public interest[;]” instead, the AFOD has “discretion to determine when revocation is appropriate.” *Id.* The regulation provides a “short and straight path for immigrants whom the government is ready and able to remove.” *Alam v. Nielsen*, 312 F. Supp. 3d 574, 582 (S.D. Tex. 2018). As such, ICE has ample justification per its regulation to revoke release. *See Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *5 (S.D. Fla. Sept. 9, 2025) (holding that § 241.4(l) provides government has “extraordinarily broad discretion to revoke an OSUP” under similar circumstances); *Barrios*, 2025 WL 2280485, at *4 (noting the broad discretion afforded to revoke an OSUP when effectuating an order of removal and that such a decision is not subject to judicial review under §1252(g)). Courts routinely conclude that

compliance with the POCR regulations protect an individual's constitutional rights while detained while executing a removal order. *See, e.g., Moses v. Lynch*, No. 15-cv-4168, 2016 WL 2636352, at *4 (D. Minn. Apr. 12, 2016) (“When immigration officials reach continued-custody decisions for aliens who have been ordered removed according to the custody-review procedures established in the Code of Federal Regulations, such aliens receive the process that is constitutionally required.”); *Portillo v. Decker*, No. 21-cv-9506 (PAE), 2022 WL 826941, at *6 (S.D.N.Y. Mar. 18, 2022) (collecting cases supporting the conclusion that the POCR framework has routinely been deemed constitutional and noting that petitioner had not “cite[d] legal authority in support of his generalized laments about the administrative process”).

Because Petitioner cannot establish that ICE acted arbitrarily in revoking his OSUP, his argument fails, and this Court should deny the Petition. *See, e.g., Perez v. Berg*, No. 24-cv-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025), *report and recommendation adopted*, No. 24-cv-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (finding no due process violation “[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way”); *Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where “there was no regulatory violation” in connection with custody reviews).

III. Petitioner's Continued Detention Does Not Violate his Constitutional Rights

Petitioner is subject to a final order of removal and is being lawfully detained, pursuant to 8 U.S.C. § 1231(a)(6). His allegation that his removal is not reasonably foreseeable lacks merit.

A. ICE Lawfully Detained Petitioner Pursuant to 8 U.S.C. § 1231.

Section 241 of the Immigration and Nationality Act (8 U.S.C. § 1231) states, “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231 (a)(1)(A). That period is called the “removal period,” and the Attorney General must detain the alien during the “removal period”. 8 U.S.C. §

1231(a)(2)(A). The removal period is “extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C).

In *Zadvydas v. Davis*, the Supreme Court held that an alien subject to a final removal order may be detained beyond § 1231's 90-day removal period for an additional period “reasonably necessary to secure removal.” 533 U.S. 678, 699 (2001). Such detention is “presumptively reasonable” for six months. *Id.* at 701. However, “[t]his 6-month presumption . . . does not mean that every alien not removed must be released after six months.” *Id.* Rather, an alien, such as Petitioner, “may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit held that in order 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. To do so, a petitioner cannot merely rest on his own conclusory assertions—actual proof or evidence is needed. *Akinwale*, 287 F.3d at 1052 (“[T]o state a claim under *Zadvydas* the alien . . . must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”). Where an alien cannot meet his burden of establishing that there is not a substantial likelihood of removal in the reasonably foreseeable future, a petition for habeas corpus should be dismissed. *See, e.g., Oladokun v. U.S. Atty. Gen.*, 479 F. App'x 895, 897 (11th Cir. 2012); *Akinwale*, 287 F.3d at 1052.

Petitioner here has only been in custody since October 26, 2025 – far shorter than necessary to state a claim for unreasonable detention under *Zadvydas* and *Akinwale*. But even setting aside that threshold bar to Petitioner’s claim, the Court should deny Petitioner’s Constitutional challenge because he has not met his burden of proving that his removal is not reasonably foreseeable. *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434 (S.D.N.Y. 2017) (describing how *Zadvydas* “places an initial burden on the detainee” to establish that the “no significant likelihood” standard has been met). The Petition fails to include nonspeculative assertions that his removal is not reasonably foreseeable, meaning Petitioner has not met his burden. *Callender*, 281 F. Supp. 3d at 434–35 (holding that petitioner must present more than “mere assertions that removal is unforeseeable”).

B. Petitioner’s Removal is Foreseeable.

Petitioner’s claim that his removal is unforeseeable is unfounded. While Cuba, Petitioner’s country of origin, has declined to accept him, DHS is pursuing alternate removal sites pursuant to INA § 241(b)(2)(E), which authorizes the DHS to remove aliens subject to final orders of removal to alternative countries, including another country whose government will accept the alien. *See* Ex. D, Declaration of DO Pedersen, at ¶¶ 15, 22. On December 19, 2025, before the Court’s Order to Show Cause, which ordered Respondents to refrain from transferring Petitioner out of the Court’s jurisdiction, [D.E. 5] Following Cuba’s refusal to accept Petitioner, his case was referred to ERO’s travel unit, to stage Petitioner at an ERO location along the border for removal. *See* Ex. D, Declaration of DO Pedersen, at ¶ 16. Therefore, on February 7, 2026, DHS cancelled Petitioner’s flight for staging for removal to Mexico. *Id.* at ¶ 19. Upon vacatur of the stay of removal, DHS intends to continue its pursuit of the Petitioner’s removal to Mexico. *Id.* at ¶ 21. As detailed in the Declaration of Deportation Officer Pederson, ICE routinely removes persons with

final orders of removal through this process. *Id.* at ¶¶ 24–29. Accordingly, the Petitioner’s removal is reasonably foreseeable.

IV. Petitioner Cannot Challenge the Conditions of His Confinement in this Habeas Action

Petitioner appears to challenge not only the fact of his confinement, but also the conditions of his confinement. *See* Petition, D.E. 1, at 6. Such claims are not cognizable in a habeas proceeding under 28 U.S.C. § 2241.

Claims challenging the fact or duration of a sentence fall within the “core” of habeas corpus, while claims challenging the conditions of confinement fall outside of habeas corpus law. *Nelson v. Campbell*, 541 U.S. 637, 644 (2004). Habeas relief is meant to restore liberty to those individuals whom the Government lacked the authority to imprison or detain in the first instance. *See Boumediene v. Bush*, 553 U.S. 723, 779, 128 S.Ct. 2229, 171 L.Ed.2d 41 (2008) (“the privilege of habeas corpus entitles the prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law” (citation omitted)). Insofar as Petitioner’s claims do not challenge ICE’s authority to detain him, but instead the conditions under which he is confined, the Court lacks jurisdiction to grant relief. A petition for writ of habeas corpus is not the appropriate mechanism for contesting a prisoner’s conditions of confinement. *See Vaz v. Skinner*, 634 F. App’x 778, 780 (11th Cir. 2015); *Matos v. Lopez Vega*, 614 F.Supp.3d 1158, 1168 (S.D. Fla. 2020); and *A.S.M. v. Donahue*, No. 20-cv-62, 2020 WL 1847158, at *1 (M.D. Ga. Apr. 10, 2020).

CONCLUSION

Based upon the foregoing, the Petitioner’s custody is justified and consistent with applicable law and the petition should be denied.

Dated: February 12, 2026

Respectfully submitted,

**JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY**

/s/ David Werner

DAVID WERNER

Assistant United States Attorney

Fla. Bar. No. 113436

99 N.E. 4th Street

Miami, Florida 33132

Telephone: (786) 439-3194

Facsimile: (305) 530-7139

Email: David.Werner@usdoj.gov

Counsel for United States of America

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on February 12, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being traditionally served on the *pro se* Petitioner Rene Matamoro-Mora.

/s/ David Werner

By: David Werner

Assistant United States Attorney

Rene Matamoro-Mora, *Pro Se*

Alien 

Krome Service Processing Center

Inmate Mail/Parcels

18201 SW 12th Street

Miami, Florida 33194