

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 26-20864-CIV-DAMIAN

SERGIO MONTELIER CHAVIANO and
MARIO RODRIGUEZ IZQUIERDO,
Petitioners,

v.

MIAMI ICE FIELD OFFICE DIRECTOR,
Respondent.

RESPONSE TO ORDER TO SHOW CAUSE

Respondent Miami ICE Field Office Director, hereby responds to the Court's Order to Show Cause (ECF No. 4).

Petitioners Sergio Montelier Chaviano and Mario Rodriguez Izquierdo ("Petitioners") challenge their detention by U.S. Immigration and Customs Enforcement ("ICE") pursuant to the expedited removal provisions of 8 U.S.C. § 1225(b)(1).

Petitioners argue that their detention without a bond hearing violates their constitutional due process rights (Ground One) and that they are entitled to a bond hearing under 8 U.S.C. § 1226(a) (Ground II),

PETITIONERS' BACKGROUND AND PRIOR PROCEEDINGS

Rodriguez-Izquierdo

On or about March 18, 2022, CBP encountered Rodriguez Izquierdo at or near San Luis, AZ, near the United States/Mexico border. Exhibit A, I-213, Record of Deportable/Inadmissible Alien. He admitted he unlawfully entered the United States without valid travel documents and without inspection by an immigration officer. *Id.* CBP determined that Petitioner was inadmissible and initiated removal proceedings pursuant to section 240 of INA by issuing a

Notice to Appear (NTA), dated March 18, 2022. Exhibit B, Notice to Appear. The NTA charged Petitioner with removability under section 212(a)(6)(A)(i) of the INA, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. On March 19, 2022, ICE issued an order releasing Petitioner on his own recognizance. Exhibit C, Order of Release on Recognizance.

On June 5, 2025, upon motion of DHS, the Immigration Judge dismissed the Petitioner's removal proceedings under section 240 of the INA, pursuant to 8 C.F.R. § 239.2(a)(7). Exhibit D, Order of the Immigration Judge. Immediately thereafter, ICE Enforcement and Removal Operations (ERO) officers encountered Petitioner and detained him pursuant to INA § 235, to pursue expedited removal proceedings. Exhibit E, Declaration of Deportation Officer; Exhibit F, Record of Sworn Statement; Exhibit G, Notice . On June 17, 2025, Petitioner appealed the Immigration Judge's June 5, 2025, order dismissing removal proceedings to the Board of Immigration Appeals (Board). Exhibit G, Notice and Order of Expedited Removal.

On June 18, 2025, he was referred to U.S. Citizenship and Immigration Services (USCIS) for an interview. Exhibit E. On June 24, 2025, ERO served him with an Expedited Removal Order, Form I-860. Exhibit G.

On June 18, 2025, Petitioner filed his first habeas petition, claiming he was improperly placed in expedited removal proceedings because he had already been in the United States more than two years. *Rodriguez Izquierdo v. Ripa*, No. 0:25-cv-61231-DSL (S.D.Fla.). The district court dismissed the petition for lack of jurisdiction on June 30, 2025. Petitioner appealed the district court's decision to the Eleventh Circuit Court of Appeals. *See Rodriguez Izquierdo v.*

Ripa., No. 25-12275 (11th Cir.). On November 6, 2025, the Eleventh Circuit dismissed Rodriguez Izquierdo's appeal for lack of prosecution.

On July 18, 2025, an immigration judge granted a bond to Rodriguez Izquierdo under INA 236(a). On July 30, 2025, DHS filed a notice of appeal from the immigration judge's order granting custody redetermination in the case, arguing that Petitioner is subject to expedited removal under INA 235(b)(2)(A). Exhibit H, Automated Case Information. On September 24, 2025, the BIA vacated the IJ's bond decision, finding that Rodriguez Izquierdo was subject to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and based on the plain language of section 235(b)(2)(A) of the INA, the Immigration Judge lacked authority to hear bond requests or to grant bonds to aliens who are present in the United States without admission. Exhibit I, BIA order.

On September 16, 2025, Rodriguez Izquierdo filed a second petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, alleging that the automatic stay provisions at 8 C.F.R. § 1003.19(i) violate the INA (Immigration and Nationality Act), his due process rights, and his continued detention is inherently punitive. *Rodriguez Izquierdo v. Miami Field Office Director*, No. 0:25-cv-61845-RS (S.D.Fla.). On October 24, 2025, the district court denied Rodriguez Izquierdo's amended petition and motion to expedite consideration of the case, finding that he was subject to INA § 235(b)(2)(A), and once the BIA dismissed his appeal, he would be subject to INA § 235(b)(1). *Rodriguez Izquierdo*, No. 0:25-cv-61845-RS (S.D.Fla.) at D.E. 15.

On January 21, 2026, the BIA dismissed Rodriguez Izquierdo's appeal from the immigration judge's decision to dismiss removal proceedings, finding that Rodriguez Izquierdo "does not have a right to be in, and remain in, removal proceedings. See *Matter of H.N. Ferreira*, 28 I&N Dec. 765, 768 n. 2 (BIA 2023) (explaining a person has no right to be placed into

removal proceedings by DHS for the purposes of seeking relief); Matter of Andrade Jaso and Carbajal Ayala, 27 I&N 557, 559 (BIA 2019).” Exhibit J, Board of Immigration Appeals decision dated Jan. 21, 2026.

On February 13, 2026, Rodriguez Izquierdo was served with a Notice to Appear, charging him with inadmissibility pursuant to section 212(a)(6)(A)(i) of the INA, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General and Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act. The NTA notes that “This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture” and that “Section 235(b)(1) order was vacated pursuant to: x 8CFR 208.30.” Exhibit K, Notice to Appear. Rodriguez Izquierdo’s master calendar hearing is scheduled for March 4, 2026. Exhibit L, Notice of Hearing.

Rodriguez Izquierdo remains detained at Broward Transitional Center. Exhibit M, Detention History.

Montelier Chaviano

Montelier Chaviano entered the United States without inspection on or about February 7, 2022. *See* Exh. N, Form-213, Record of Deportable/Inadmissible Alien (Form I-213) dated February 07, 2022.

He was encountered by the U.S. Customs and Border Patrol on or about February 7, 2022, and was placed in INA § 240 removal proceedings by issuance of a Notice to Appear dated February 10, 2022. *See* Exh. N, Form I-213 dated February 07, 2022; *see also* Exh. O, Notice to Appear dated February 10, 2022. Montelier Chaviano claimed fear of return to Cuba at that encounter. *See* Exh. N, Form I-213 dated February 07, 2022. He was released on his own recognizance via Form I-220A on or about February 23, 2022. *See* Exh. P, Form I-220A, Order of Release on Recognizance dated February 10, 2022. Removal proceedings under INA § 240 were dismissed upon DHS's *ore tenus* motion to dismiss on May 22, 2025. *See* Exh. Q, Immigration Judge order granting dismissal dated May 22, 2025. Montelier Chaviano, through counsel, opposed DHS's motion to dismiss, and reserved appeal of the immigration judge's dismissal order. *Id.* On October 7, 2025, the BIA affirmed the dismissal of removal proceedings. *See* Exh. R, Decision of the BIA dated October 07, 2025.

Following the IJ's decision to dismiss removal proceedings, ERO placed Montelier Chaviano in custody pursuant to INA § 235, to process him for expedited removal. *See* Exh. S, Detention History. On May 22, 2025, DHS issued a Notice and Order of Expedited Removal. *See* Exh. T, Form I-860, Notice and Order of Expedited Removal dated May 22, 2025.

On June 23, 2025, the district court denied Montelier Chaviano's amended habeas petition, finding that it lacks subject matter jurisdiction to review an expedited removal order by way of habeas petition under INA §§ 242(a) and (e). *See* Exh. U, Order of Amended Petition for

Writ of Habeas Corpus. The district court also found no due process violation as applied to Chaviano. *Id.* Chaviano appealed the decision to the Eleventh Circuit in Case No. 25-12153, and the court of appeals has set oral argument for the week of March 10. *See* Exh. V, Docket for Case Number 25-12153 before the Eleventh Circuit Court of Appeals.

On November 10, 2025, DHS issued Form I-869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge. *See* Exh. W, Form I-869 dated June 26, 2025; *see also* Exh. X, Form I-863, Notice of Referral to Immigration Judge dated June 26, 2025.

On November 14, 2025, the IJ vacated DHS's credible fear determination. *See* Exh. Y, Immigration Judge Order vacating DHS's credible fear determination dated November 14, 2025. On November 17, 2025, a Notice to Appear was filed with the immigration court, charging Chaviano with inadmissibility pursuant to Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act. *See* Exh. Z, Notice to Appear dated November 14, 2026.

On December 2, 2025, an I-261 was filed with the immigration court, withdrawing the 212(a)(7)(A)(i) charge and adding a charge of inadmissibility pursuant to INA 212(a)(6)(A)(i) of the Immigration and Nationality Act (Act), as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other

than designated by the Attorney General. *See* Exh. AA, Form I-261, Additional Charges of Inadmissibility/Deportability dated December 02, 2025.

On January 6, 2026, Chaviano denied the charge. *See* Exh. Z, Notice to Appear dated November 14, 2026. The immigration court sustained the charge and designated Cuba as the country of removal. *Id.*

On February 14, 2026, the immigration judge granted DHS's motion to pretermitt Chaviano's asylum application and ordered Chaviano to be removed to Ecuador pursuant to the Asylum Cooperative Agreement. *See* Exh. BB, Immigration Judge order dated February 14, 2026. On February 17, 2026, Chaviano filed an appeal from the decision with the BIA. *See* Exh. CC, BIA receipt for appeal dated February 18, 2026.

Montelier Chaviano remains detained at Broward Transitional Center. *See* Exh. S, Detention History, Detention History.

ARGUMENT

I. The Court Lacks Jurisdiction to Review DHS's Decision to Place Petitioners in Expedited Removal Pursuant to 8 U.S.C. § 1225(b)(1).

An alien present in the United States without admission or parole may be removed from the United States by, *inter alia*, expedited removal under 8 U.S.C. § 235(b)(1) or removal proceedings before an immigration judge under INA § 240. *See* INA §§ 235(b)(1), 8 U.S.C. § 1225(b)(1); INA § 240, 8 U.S.C. § 1229(a). Respondents have discretion to place aliens in expedited removal under 8 U.S.C. § 1225(b)(1) or to initiate removal proceedings before an immigration judge under 8 U.S.C. § 1229a. *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 524 (BIA 2011).

The governing regulations do not limit DHS's authority to choose between expedited removal and removal proceedings to the time of the initial encounter but rather authorize DHS to initiate expedited removal at any time as long as an alien fits within specified criteria. 8 C.F.R. § 235.3(b)(1)(ii). (emphasis added). Here, although Respondents were previously placed in removal proceedings under § 1229a, the Department of Homeland Security elected to seek dismissal of those removal proceedings and place each Petitioner in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1) instead. See 8 C.F.R. § 235.1(f)(2) (providing that an alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated port of-entry is subject to the provisions of [INA § 212(a)] and to removal under 8 U.S.C. § 1225(b) or 8 U.S.C. § 1229a); *Matter of W-C-B-*, 24 I&N Dec. 118, 122 (BIA 2007) (affirming the dismissal of proceedings when removal proceedings under 8 U.S.C. § 1229a are not necessary to remove the respondent from the United States”).

As explained above, each Petitioners appealed the Immigration Judge's order dismissing his respective removal proceedings under 8 U.S.C. § 1229a, and the Board of Immigration Appeals affirmed the dismissals. Therefore, each Petitioner is now unquestionably in expedited removal under 8 U.S.C. § 1225(b)(1).

To the extent Petitioners challenge the dismissal of their removal proceedings under 8 U.S.C. § 1229a, this Court lacks jurisdiction. Habeas petitions brought under 28 U.S.C. § 2241 are only appropriate for challenging detention itself. Plaintiffs' detention is not the result of the dismissal of his § 1229a proceedings but of each Petitioner's placement in expedited removal proceedings under 8 U.S.C. § 1225(b)(1). Insofar as Petitioners challenge DHS's decision to place them in expedited removal, the Court also lacks jurisdiction. Congress has “significantly limited the power of federal courts to review [8 U.S.C.] § 1225(b)(1) expedited removal orders.”

United States v. Herrera-Orozco, No. C-11-542, 2011 WL 3739160, at *1 (S.D. Tex. Aug. 23, 2011) (citing *Brumme v. INS*, 275 F.3d 443, 447 (5th Cir. 2001)).

Through their habeas petition, Petitioners challenge their detention, which arose from the expedited removal process. Based on the plain language of Congress's amendments to the Immigration and Nationality Act (INA) in 1996, federal courts lack subject matter jurisdiction to hear any claims "arising from" or "relating to" the expedited removal process established under 8 U.S.C. § 1225(b)(1). *See* 8 U.S.C. § 1252(a)(2)(A)(i). Because each Petitioner's detention was a necessary part of the expedited removal process, it "arises from" and is "related to" that process, such that Congress's plain language in 8 U.S.C. § 1252(a)(2)(A)(i) precludes federal court review of either Petitioner's habeas claim.

Section 1252(a)(2)(A)(i) and (iii) state in pertinent part: "[n]otwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) [i.e., an order of expedited removal]," or "the application of [§ 1225(b)(1)] to individual aliens, including the [credible-fear] determination made under section 1225(b)(1)(B)," except as provided in section 1252(e). 8 U.S.C. § 1252(a)(2)(A)(i), (iii).¹

¹ Subsection 1252(e) permits habeas review of expedited removal determinations in only three limited areas: "(A) whether the petitioner is an alien, (B) whether the petitioner was ordered removed under such section, and (C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence" or has been admitted as a refugee or been granted asylum. Subsection 1252(e) also contemplates generalized challenges to the legality or constitutionality of section 1225(b), or regulations implementing section 1225(b). 8 U.S.C. § 1252(e)(3)(A)-(B). None of these enumerated exceptions allowing judicial review are present in this case.

Congress established the expedited removal system through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which amended the INA, to aggressively expedite removal of aliens lacking a legal basis to remain in the United States. *Kucana v. Holder*, 558 U.S. 233, 249 (2010). The expedited removal system was adopted in large part to address the growing number of smuggled aliens who arrived in the United States with no entry documents, declared asylum immediately upon arrival, and then overcrowded immigration court dockets and detention centers, in some cases only to be released into the general population. H.R. Rep. No. 104-469, at 107, 117-18 (Conf. Rep.) (1996). Under the expedited removal system, in accordance with 8 U.S.C. § 1225(b)(1) and 8 U.S.C. § 1252(a)(2)(A)(i), aliens like Petitioners here, who illegally cross the border without valid entry documents or a visa may be placed in expedited removal proceedings, and DHS's decisions in implementing and executing the expedited removal proceedings are not subject to judicial review.

Each Petitioner's detention "arises from" and "relates to" the operation and implementation of his removal. Indeed, as another district court has explained, each Petitioner's detention is a "secondary, temporary, and constitutionally permissible aspect of the expedited removal process" itself. *Castro v. Department of Homeland Security*, 163 F. Supp. 3d 157, 173 (E.D. Pa. 2016), *aff'd*, 835 F.3d 422 (3d Cir. 2016); *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) (explaining that "[d]etention is necessarily part of [the] deportation procedure" because otherwise aliens arrested for deportation could hurt the United States while awaiting deportation proceedings); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (explaining that "[p]roceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation"). Since each Petitioner's detention is necessarily related to the operation and

implementation of his expedited removal order, the propriety of his continued detention cannot be reviewed by this Court based on subsection 1252(a)(2)(A)(i).

Such limitations on judicial review fall within Congress's plenary power over the admission of aliens. *See Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972) (quoting *Boutilier v. INS*, 387 U.S. 118, 123 (1967)). For inadmissible aliens who unlawfully enter the United States, "[w]hatever the procedure authorized by Congress is, it is due process." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (internal citations omitted). Thus, where Congress has indicated its intent to preclude judicial review of a determination made by one of the political branches with respect to an alien deemed inadmissible just after crossing the border, this Court lacks subject matter jurisdiction. Each Petitioner's detention falls within Congress's stated limitations on judicial review, and Petitioners have not met their burden of establishing subject matter jurisdiction. *See Monteliev Chaviano v. Bondi et al.*, Case No. 25-CV-22451-MD (ECF No. 32 at 9) ("This Court agrees with Respondents that the jurisdiction-stripping provisions of Sections 1252(a) and (e)(2) apply to bar Petitioner's habeas petition.").

Consistent with the provisions of 8 U.S.C. § 1252, courts in this district have agreed that no jurisdiction exists in district court for challenges, like those made by Petitioners here, to expedited removal. *See, e.g., Torrez v. Swacina*, 2020 U.S. Dist. LEXIS 68977, at *6-10; 2020 WL 13551822, No. 20-20650-CV-Altonaga/Goodman (S.D. Fla. Apr. 17, 2020) (dismissing habeas petition and finding the court lacked jurisdiction to hear the petitioner's challenge related to expedited removal); *Del Cid v. Barr*, 394 F.Supp.3d (S.D. Fla. 2019) (finding jurisdiction-stripping provisions of the INA foreclose review of expedited removal order, provision did not violate Suspension Clause, and alien not entitled to emergency stay of removal). Congress has made clear in 8 U.S.C. § 1252 that it created no avenue for judicial review of a challenge to the

expedited removal process—including the conduct of the credible fear interview and determination—and Petitioners’ claims do not fall within the limited categories of 8 U.S.C. § 1252(e) for which judicial review is available.

II. Petitioners are Detained Under the Authority Provided in INA § 235(b)(1), Which Requires Mandatory Detention Without Bond.

Petitioners suggest that they are entitled to a bond hearing under 8 U.S.C. § 1226(a) (*see* Petition at Ground Two), but that is incorrect. Petitioners are not eligible for a bond hearing because they are ins in expedited removal and detained under the authority provided in 8 U.S.C. § 1225(b)(1) – *not* 8 U.S.C. § 1226(a). Petitioners suggest, in conclusory fashion, that they are “no longer in expedited removal” because DHS has initiated new proceedings under 8 U.S.C. § 1229a following their credible fear screenings. But the initiation of such proceedings for the purpose of allowing Petitioners to pursue asylum does not mean that Petitioners are no longer in expedited removal.

Under 8 U.S.C. § 1225, “[i]f immigration officials determine that [an] alien is inadmissible because of certain misrepresentations or lack of proper documentation, the alien is to be removed without further hearing or review unless the alien indicates an intention to apply for asylum or a fear of persecution.” *Florida v. United States*, 2022 WL 2431414, at *2 (N.D. Fla. May 4, 2022) (Wetherell, J.) (cleaned up). In such cases, an alien who enters the country intending to apply for asylum is referred “for an interview by an asylum officer.” 8 U.S.C. § 1225(b)(1)(A)(ii). “If the officer determines at the time of the interview that [the] alien has a credible fear of persecution[,] the alien *shall be detained for further consideration of the application for asylum.*” *Id.* § 1225(b)(1)(B)(ii) (emphasis added). This detention is mandatory. *See id.* § 1225(b)(1)(B)(iii)(IV) (“Any alien subject to the procedures under this clause shall be

detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.” (emphasis added)).

The Attorney General, in *Matter of M-S-*, unequivocally recognized that 8 U.S.C. §§ 1225, which requires detention, and 1226(a), which allows for consideration of release on bond, do not overlap but describe “different classes of aliens.” 27 I&N Dec. at 516. The Attorney General also held that aliens present without admission and placed into expedited removal proceedings are detained under 8 U.S.C. § 1225 even if like Petitioners here, they are later placed in 8 U.S.C. § 1229(a) removal proceedings. 27 I&N Dec. at 518-19.

Accordingly, Petitioners are still in expedited removal under 8 U.S.C. § 1225(b)(1) and they are not eligible for bond while their proceedings under 8 U.S.C. § 1229a are pending. *See* Order at ECF No. 22 in *Buriev v. Warden, Broward Transitional Center*, Case No. 25-60459-CIV-ALTMAN (entered September 26, 2025) (finding that 8 U.S.C. § 1225(b)(1) required detention of alien seeking asylum).

III. Petitioners’ Detention Does Not violate the Due Process Clause of the Fifth Amendment.

As for Petitioners’ due process claim based on the length of time that they have been detained (Petition at Ground One), Petitioners’ detention pending their § 1229a proceedings does not violate the due process clause of the Fifth Amendment. Upon Petitioner Chaviano’s earlier habeas petition, this Court found no due process violation for those detained for even longer periods than the four months at the time of the hearing. *See Chaviano v. Bondi.*, Case 1:25-cv-22451-MD, DE 32 at 17-18 (S.D. Fla. June 23, 2025):

This Court agrees that Petitioner does have due process rights. As discussed herein and on the record at the hearing before this Court, Petitioner does not deny that he is presently here illegally and that he has been afforded hearings before the Immigration Court as well as at least two credible fear interviews thus far. Petitioner has not provided any authority that demonstrates that his detention for

the last month, approximately, pursuant to Section 1225(b)(1)(B)(iii)(IV), violates due process. To the contrary, there is ample authority for the principle that detention, even for far longer periods, pending immigration proceedings does not violate due process rights. *See, e.g., O.D. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-222-CDL-MSH, 2021 WL 5413968, at *5 (M.D. Ga. Jan. 14, 2021), *report and recommendation adopted*, 2021 WL 5413966 (M.D. Ga. Apr. 1, 2021) (denying due process challenge to nineteen months in immigration custody, nothing, “a significant factor weighing against a finding that Petitioner’s detention has become unreasonably prolonged is the fact that he has been provided with a bond hearing, a custody re-determination, and BIA *de novo* review of the [Immigration Judge]’s custody decision”); *Sigal v. Searls*, No. 1:18-CV-00389, 2018 WL 5831326, at *5, 9 (W.D.N.Y. Nov. 7, 2018) (denying habeas relief to petitioner detained for seventeen months after “tak[ing] into account all of the factual circumstances”); *see also Hylton v. Shanahan*, No. 15-CV-1243-LTS, 2015 WL 3604328, at *6 (S.D.N.Y. June 9, 2015) (detention without bail for roughly two years did not violate due process); *Luna-Aponte v. Holder*, 743 F. Supp. 2d 189, 197 (W.D.N.Y. 2010) (three years).

As Respondents point out, Petitioner has not submitted evidence that he has been detained for any other purpose than resolution of his removal proceedings. *See Resp. at 17–18.* Taking into consideration all of the circumstances presented here, this Court finds Petitioner has not shown a basis for finding that his due process rights have been violated as the result of his detention.”

Chaviano, Case 1:25-cv-22451-DAMIAN, DE 32 at 17-18.

Petitioners’ current due process claim fares no better.

CONCLUSION

For the reasons provided above, the Petition should be dismissed or denied.

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