UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-CV-20987-LEIBOWITZ

KEINNE RODRIGUEZ CASAS,

Petitioner,

v.

WARDEN, KROME NORTH PROCESSING CENTER,

Respondent.

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RESPONDENTS' RETURN ON ORDER TO SHOW CAUSE

Respondent, by and through the undersigned Assistant United States Attorney, respectfully submit this Return on this Court's Order to Show Cause (ECF No. 4) why Petitioner Keinne Rodriguez Casas's ("Petitioner") *pro se* Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241, (the "Petition") (ECF No. 1) should not be granted. In his Petition, Rodriguez Casas claims (1) that he is being unlawfully detained "without an individualized bond hearing" (*id.* at 2) and (2) that there "is no significant likelihood of removal in the reasonably foreseeable future" (*id.* at 7), and he asks this court to "order an immediate individualized bond hearing" or "order Petitioner's immediate release" (*id.* at 8). This Court should deny the Petition because (1) Petitioner was convicted of possession of cocaine, a "controlled substances" offense in 8 U.S.C § 1227(a)(2)(B), making Petitioner subject to mandatory detention, pursuant to 8 U.S.C § 1226(c)(1)(B); and (2) Petitioner, who is not yet subject to a final order of removal, has not been in custody for more than 180 days, meaning his claim under *Zadvydas v. Davis*, 533 U.S. 678 (2001), is in inapplicable or, in the alternative, premature.

BACKGROUND

Petitioner Keinne Rodriguez Casas is a native and citizen of Cuba. *See* Exh. A, Form I-213, Record of Deportable/Inadmissible Alien, (Form I-213) dated November 19, 2025; *see also* Exh. B, Form I-213 dated March 8, 2019. On March 8, 2019, Petitioner presented himself at the Hidalgo Texas Port of Entry seeking admission. . *See id.* Petitioner was apprehended by Customs and Border Protection (CBP) upon entry and taken into custody. *Id.*

On March 21, 2019, the Department of Homeland Security (DHS) issued Petitioner a Notice to Appear (NTA) charging him with inadmissibility pursuant to INA § 212(a)(7)(A)(i)(I), as amended, as an immigration 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. *Id.* On April 09, 2019, Petitioner was released from custody on parole, which expired on April 8, 2020. *See* Exh. C, Form I-94, Arrival/Departure Record.

On March 19, 2020, Petitioner filed Form I-485, Application to Register Permanent Residence or Adjust Status pursuant to the Cuban Adjustment Act (CAA). *See* Exh. D, Declaration of Deportation Officer Ricardo J. Herrero. On January 19, 2021, the application to adjust status was approved retroactive to March 8, 2019, under the CAA. *See* Exh. D, Declaration of Deportation Officer Ricardo J. Herrero; *see also* Exh. E, Lawful Permanent Resident card. Following the grant of his lawful permanent resident status, Petitioner moved the immigration court to terminate removal proceedings. *See* Exh. D, Declaration of Deportation Officer Ricardo J. Herrero. On March 19, 2021, the Immigration Judge

terminated Petitioner's removal proceedings. *See* Exh. F, Immigration Judge order dated March 18, 2021.

On January 19, 2023, Petitioner was arrested for aggravated assault with a firearm, possession of cocaine, possession of cannabis, improper exhibition of a weapon/firearm, and leaving the scene of an accident. *See* Exh. G, Criminal Records. On August 4, 2023, Petitioner was charged with assault, possession of cocaine, leaving the scene of an accident with property damage, and careless driving. *Id.* On November 12, 2024, the Petitioner was found guilty of all charges and was sentenced to 26 days imprisonment with credit for time served and one year of probation. *Id.*

On October 30, 2025, Petitioner was encountered by Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Charlotte County Jail in Punta Gorda, Florida, after being arrested on a probation violation warrant. *See* Exh. A, Form I-213 dated November 19, 2025; *see also* Exh. J, Form I-200, Warrant for Arrest of Alien dated November 19, 2025; Exh. K, Form I-286, Notice of Custody Determination dated November 19, 2025. An Immigration Detainer (I-247) was issued, and the case was referred for further processing. *See* Exh. D, Declaration of Deportation Officer Herrero. Petitioner was transferred to the Turner Guilford Knight Correctional Center, in Miami-Dade County, FL. *Id.* An Immigration Detainer followed. *Id.*

On November 19, 2025, the DHS issued Petitioner a NTA charging him with removability under INA § 237(a)(2)(B)(i), as amended, in that after admission he has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802), other than a single offense

involving possession for one's own use of 30 grams or less of marijuana. *See* Exh. L, NTA dated November 19, 2025.

On January 8, 2026, Petitioner attended an initial master calendar hearing where the Immigration Judge advised him of his rights and provided him with additional time to secure legal representation. *See* Exh. M, Notice of Hearing for January 8, 2026, hearing. Petitioner's next hearing is March 10, 2026. *See* Exh. N, Notice of Hearing for March 10, 2026, hearing.

To date, Petitioner has not requested a custody redetermination hearing. *See* Exh. D, Declaration of Deportation Officer Ricardo J. Herrero. Petitioner is currently detained at the Krome North Service Processing Center in Miami, Florida. *See* Exh. O, Detention History.

ARGUMENT

This Court should dismiss the Petition because 8 U.S.C. § 1252(g) strips this Court of jurisdiction and Petitioner failed to exhaust his administrative remedies. Alternatively, this Court should deny the Petition on the merits because Petitioner is being lawfully detained pursuant to 8 U.S.C § 1227(a)(2)(B) and 8 U.S.C § 1226(c)(1)(B), and Petitioner's claim under *Zadvydas,* 533 U.S. 678, is in applicable or, in the alternative, premature.

I. This Court Lack Jurisdiction Over the Petition.

"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. Title 8, United States Code, Section 1252(g) Strips This Court of Jurisdiction.

Section 1252(g) categorically bars jurisdiction over "*any* cause or claim by or on behalf of any alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence proceedings*, adjudicate cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g) (emphasis added). The Secretary of Homeland Security's decision to *commence removal proceedings*, including the decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar. In other words, detention clearly "aris[es] from" the decision to commence removal proceedings against an alien. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take [plaintiff] into custody and to detain him during removal proceedings"); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir. 2020) ("The text of § 1252(g)... strips us of jurisdiction to review... [T]o perform or complete a removal, the [Secretary of Homeland Security] must exercise [her] discretionary power to detain an alien for a few days. That detention does not fall within some other part of the deportation process.") (cleaned up) (internal quotations and citations omitted); *Valencia-Mejia v. United States*, No. CV 08–2943 CAS (PJWx), 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) ("The decision to detain plaintiff until his hearing before the Immigration Judge *arose from* this decision to commence proceedings[.]") (emphasis added); *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010) (citing *Khorrami v. Rolince*, 493 F. Supp. 2d 1061 (N.D. Ill. 2007) ("[Plaintiff's] detention necessarily *arises from* the decision to initiate

removal proceedings against him.") (emphasis added); *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008) (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007) ("The [Secretary] may arrest the alien against whom proceedings are commenced and detain that individual until the conclusion of those proceedings. ... Thus, an alien's detention throughout this process *arises from* the [Secretary]'s decision to commence proceedings[]" and review of claims arising from such detention is barred under § 1252(g)) (emphasis added). Put in the Supreme Court's words, detention pending removal is a "specification" of the decision to commence proceedings. *See Reno v. Am.-Arab Anti-Discrimination Comm.* ("*AADC*"), 525 U.S. 471, 485 n.9 (1999) ("§ 1252(g) covers" a "specification of the decision to 'commence proceedings'").

As such, judicial review of the Petitioner's claims is barred by § 1252(g). *See Gupta v. McGahey*, 709 F.3d 1063, 1065 (11th Cir. 2013).

B. Petitioner Failed to Exhaust His Administrative Remedies.

This Court can, in the alternative, dismiss on the grounds that Petitioner failed to exhaust his administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Here, Petitioner has not availed himself of the administrative remedies available to him in that he has not sought a bond redetermination hearing before an Immigration Judge.

See Exh. D, Declaration of Deportation Officer Ricardo J. Herrero. For this reason, the Petition should be dismissed for failure to exhaust his administrative remedies.

II. Petitioner is Subject to Mandatory Detention.

If this Court finds that it has jurisdiction over the Petition, the Court should nonetheless deny Petitioner's claim that he is entitled to a bond hearing because Petitioner failed to consider how he is subject to mandatory detention due to his conviction for possession of cocaine, *see* Exh. P (describing how Petitioner was sentenced to 26 days' imprisonment for possession of cocaine). Title 8, United States Code, Section 1227(a)(2)(B) states that "Any alien. . . shall . . . be removed if the alien. . . has been convicted of a violation . . . relating to a controlled substance," and a conviction for possession of cocaine, like Petitioner's conviction, is an offense "relating to a controlled substance," *see, e.g. Chamu v. U.S. Attorney General*, 23 F.4th 1325 (11th Cir. 2022); *Rodriguez v. Holder Jr.*, 619 F.3d 1077, 1080 (9th Cir. 2010); *Zuniga-Ayala v. Garland*, Appeal No. 23-60118, 2024 WL 1507854 (5th Cir. 2024). Title 8, United States Code, Section § 1226(c)(1)(B), meanwhile, mandates the detention of any alien who has been convicted of a controlled substance offense. 8 U.S.C § 1226(c)(1)(B) (describing how the Attorney General "shall take into custody" any who committed an offense in 8 U.S.C § 1227(a)(2)(B)).[1]

Thus, 8 U.S.C § 1227(a)(2)(B) and 8 U.S.C § 1226(c)(1)(B) mandate the detention of Petitioner, meaning his habeas claim of unlawful detention lacks merit, and this Court should deny the Petition on the merits because Petitioner is ineligible for release or consideration of release on bond.

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[1] Petitioner seeks to collaterally attack his conviction, claiming that his guilty plea "was entered based on ineffective assistance of counsel" (ECF No. 1 at 4), but that claim is rebutted by his own admission that Petitioner was, in fact, "using cocaine" (*id.* at 10).

III. Petitioner's Claims of "Prolonged Detention" Lacks Merit.

Pro se Petitioner appears to be arguing that his current detention violates *Zadvydas v. Davis*, 533 U.S. 678 (2001), because he is subject to "prolonged detention" (ECF No. 1 at 7). That claim lacks merit for two reasons.

A. Petitioner, Who Is Not Yet Subject to a Final Removal Order, Has Been Detained Less Time Than the Supreme Court Found Presumptively Reasonable.

In *Zadvydas*, the Supreme Court held that a six-month detention of an alien pending removal is presumptively reasonable. *Zadvydas*, 533 U.S. at 699-701 (stating "for the sake of uniform administration in the federal courts, we recognize that [six-month] period."). Here, Petitioner – who has been in custody since November of 2025 (ECF No. 1 at 7), is not subject to a final removal order, and is subject to mandatory detention, *supra*, – has not yet been detained for six months, meaning he has been detained for less time than the Supreme Court found presumptively reasonable in *Zadvydas.* 533 U.S. at 699-701. In such circumstances, courts in this District have routinely dismissed petitions, like the one currently before this Court, when a petitioner, like the one here, seeks relief before being detained more than six months. *See, e.g. Phadael v. Ripa*, Case No. 24-CV-22227-RKA, 2024 U.S. Dist. LEXIS 109481, 2024 WL 3088350, at *3 (S.D. Fla. June 21, 2024) (Because the petitioner "filed his Petition . . . comfortably within both the six-month period of presumptive reasonableness under *Zadvydas* and the ninety-day mandatory detention period set by § 1231(a)(1) [which governs those subject to a final removal order], his § 2241 petition must be dismissed as premature."(emphasis removed); *Allotey v. Mia. Field Off. Dir., Immigr*, Case No. 24-CV-24765-DPG, 2024 WL 5375519, 2024 LEXIS 239135, *5 (denying habeas petition has premature under *Zadvydas* when petitioner had only been detained for eighteen days prior to filing the habeas petition).

For this reason, this Court should deny Petitioner's claim of a Due Process violation.

B. Petitioner Cannot Establish That Removal Is Not Likely to Occur.

Moreover, this Court can deny Petitioner's Constitutional challenge because Petitioner cannot meet his burden of proving that his removal will not reasonably foreseeable after a final order of removal. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) ("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 with evidence sufficient to rebut that showing."); *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 failed 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").

CONCLUSION

This Court lacks jurisdiction to hear the Petition because 8 U.S.C. § 1252(g) strips this Court of jurisdiction and Petitioner failed to exhaust his administrative remedies. For these reasons, this Court should dismiss the Petition. Alternatively, this Court should deny the Petition on the merits because Petitioner is being lawfully detained pursuant to 8 U.S.C § 1227(a)(2)(B) and 8 U.S.C § 1226(c)(1)(B) and Petitioner's claim under *Zadvydas,* 533 U.S. 678, is inapplicable, or in the alternative, premature.

A copy of this Return was provided to Keinne Rodriguez Casas, *Pro Se*, A# 201451345, Krome North Service Processing Center, Inmate Mail/Parcels, 18201 SW 12th Street, Miami, FL 33194.

Respectfully submitted,

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