

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

NAIM DULОВI,

Petitioner,

Case No. 2:26-cv-643-SPC-NPM

v.

MATTHEW MORDANT, et al.,

Respondents.

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

Petitioner Naim Dulovi 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. 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). Dulovi had been detained for 40 days when he filed the present petition. His present detention is therefore lawful.

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BACKGROUND

Dulovi is a native of former Yugoslavia.¹ (Composite Exhibit, Ex. 1 at 5, 6; Mencia Decl., Ex. 2 ¶ 15.) On October 18, 1993, he was admitted to the United States on a non-immigrant visitor for pleasure (B-2) visa with authorization to remain in the United States through April 17, 1994. (Composite Exhibit, Ex. 1 at 3; Mencia Decl., Ex. 2 ¶ 7.) He did not depart the United States following his admission. (Mencia Decl., Ex. 2 ¶ 7.) On September 14, 2022, he was convicted of “Aggravated Assault – Police Officer – Strongarm” and sentenced to 18 months probation. (Composite Exhibit, Ex. 1 at 3; Mencia Decl., Ex. 2 ¶ 8.)

On February 5, 2001, he was served with a Notice to Appear. (Composite Exhibit, Ex. 1 at 8; Mencia Decl., Ex. 2 ¶ 9.) He was ordered removed on May 14, 2001. (Composite Exhibit, Ex. 1 at 3, 10; Mencia Decl., Ex. 2 ¶ 10.) The removal order provides he is ordered removed to Yugoslavia or in the alternative to Macedonia. (Composite Exhibit, Ex. 1 at 9.) He was released from immigration custody on February 26, 2002, under an order of supervision due to a lack of a

¹ A declaration and ICE’s most recent Form I-213 lists Dulovi’s citizenship as North Macedonia. (Composite Exhibit, Ex. 1 at 1; Mencia Decl., Ex. 2 ¶ 6.) The same declaration, however, later clarifies that Dulovi is “stateless as he is a born national of Yugoslavia and deemed non-citizen of North Macedonia” (Mencia, Decl., Ex. 2 ¶ 15.) Likewise, a November 14, 2000, Notice to Appear charges Dulovi as a native of the former Yugoslavia and a citizen of the former Yugoslavia. (Composite Exhibit, Ex. 1 at 6.)

significant likelihood of removal in the reasonably foreseeable future. (Composite Exhibit, Ex. 1 at 3; Mencia Decl., Ex. 2 ¶ 11.)

Dulovi was again placed in immigration detention on January 26, 2026,² for the purpose of effecting his removal. (Composite Exhibit, Ex. 1 at 2.) ICE issued a notice of revocation informing Dulovi that ICE intends to remove him from the United States. (Composite Exhibit, Ex. 3 at 19; Mencia Decl., Ex. 2 ¶ 13.) Dulovi but did not have any comments. (Composite Exhibit, Ex. 3 at 18; Mencia Decl., Ex. 2 ¶ 13.) Because Dulovi is stateless, ICE intends to proceed with third country removal. (Mencia Decl., Ex. 2 ¶ 15.)

On March 6, 2026, Dulovi filed a petition for writ of habeas corpus alleging his custody violates the Due Process Clause of the Fifth Amendment, regulations governing procedures for revoking an order of supervision, and the *Accardi* doctrine. (Doc. 1.)

On March 13, 2026, Dulovi was served with a notice of revocation of release signed by Supervisory Detention and Deportation Officer Georgia Garcia. (Composite Exhibit, Ex. 1 at 14-15.) It indicates Dulovi's order of supervision had been revoked under 8 C.F.R. § 241.13(i) because circumstances had changed such

² A declaration appears to list an incorrect date of January 6, 2026. (Mencia Decl., Ex. 2 ¶¶ 12-13.)

that there is a significant likelihood of removal in the foreseeable future. *Id.* Dulovi was provided an informal interview on March 14, 2026. *Id.* at 16.

Dulovi is currently detained at Florida Soft Side South.

ARGUMENT

I. Dulovi'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. If an alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the government must either rebut that showing or release the alien. *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018).

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). At bottom, “[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).

Dulovi filed the present petition well before expiration of six months in detention. He was detained on January 26, 2026, and filed the present petition on March 6, 2026. At that point, Dulovi been detained for 40 days; to date, he has been in detention for 49 days.

It is only after six months that the parties 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.³ See *Akinwale*, 287 F.3d at 1051-52; see also *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”).

Even if the Court were to employ *Zadvydas*’s burden shifting framework, Dulovi has failed to show there is good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. See *Jennings*, 583 U.S. at 299. Dulovi’s petition makes little attempt to meet his initial burden. He asserts without elaboration that “Respondents have been unable to effectuate removal for approximately two decades, and no new facts or developments support a conclusion that removal has become practicable.” (Petition, Doc. 1 ¶ 26.) That ICE was previously unable to remove a petitioner is insufficient to meet a petitioner’s initial burden under *Zadvydas*. See *Godinez Perez v. Noem*, No. 2:25-CV-00429-JES-NPM, 2025 WL 2806557, at **1, 3

³ Respondents acknowledge this Court has previously disagreed. See *Rudenko v. Sec’y, Dep’t of Homeland Sec.*, No. 2:25-CV-1157-JES-NPM, 2026 WL 291012, at *3 (M.D. Fla. Feb. 4, 2026); *Perez v. Noem*, No. 2:25-CV-00429-JES-NPM, 2025 WL 2306735, at *3 (M.D. Fla. Aug. 11, 2025).

(M.D. Fla. Oct. 2, 2025) (rejecting *Zadvydas* challenge even though ICE had made no attempt to remove the petitioner for 15 years).

II. ICE has complied with its regulations regarding revocation of an order of supervision.

ICE complied with its regulations in revoking Dulovi's order of supervision. ICE revoked Dulovi's order of supervision under 8 C.F.R. § 241.13(i). (Composite Exhibit, Ex. 1 at 8.) Title 8 C.F.R. § 241.13(i)(3) provides,

Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

Here, agency records show that on March 6, 2026, Dulovi was provided a notice of revocation of release informing him ICE determined there is a significant likelihood of removal in reasonably foreseeable future. (Composite Exhibit, Ex. 1 at 14-15.) The notice was executed by Supervisory Detention and Deportation Officer Georgie Garcia. *Id.* at 15.⁴ On March 14, 2026, Dulovi was provided an informal interview and opportunity to respond to the reasons for revocation of his order of

⁴ Supervisory Detention and Deportation Officers (SDDOs) have been delegated authority by the Miami Field Office Director to issue a notice of revocation of release. (Ex. 3, July 16, 2025, Memorandum Regarding Delegation of Signature Authority.)

supervision. *Id.* at 16. Because revocation of Dulovi's supervision follows the procedure set forth in § 241.13(i)(3), his detention is lawful.

CONCLUSION

Respondents respectfully request Dulovi's petition be denied.

DATED this 16th day of March, 2026.

Respectfully submitted,

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