

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DENNIS GUTIERREZ,

Petitioner,

v.

Case No. 2:26-cv-628-SPC-NPM
Case No. 2:26-cv-664-KCD-NPM²

WARDEN, SOUTH FLORIDA SOFT-
SIDED FACILITY SOUTH, et al.,¹

Respondents.

RESPONSE TO HABEAS PETITION

Petitioner Dennis Gutierrez challenges his ICE detention. The Court lacks jurisdiction because here, **this petitioner has a final order of removal, and therefore is subject to mandatory detention under 8 U.S.C. § 1231.** This detention authority has already been decided by the Supreme Court in *Johnson v. Guzman Chavez*, 594 US 523 (2021). In *Johnson*, the Supreme Court held that §1231, not §1226, governs the detention of aliens subject to reinstated orders of removal, meaning those aliens are not entitled to a bond hearing while they pursue withholding of removal. Moreover,

¹ The U.S. Attorney General is designated on Pacer as a Respondent. This response is filed on behalf of federal respondents.

² As stated in the notice of related cases filed on this same date, it appears that petitioner filed the same case in the SDFL which were transferred to the MDFL by two different SDFL judges resulting in two MDFL case numbers for the same habeas petition filed by Dennis Gutierrez. In Case No. 2:26-cv-628-SPC-NPM, the response is due March 13, 2026. The response is due March 27, 2026 in Case No. 2:26-cv-664-KCD-NPM, with two different response dates. The undersigned may need to supplement this response as a result of the different response dates assigned to the same petition.

his detention during this period is reasonable and does not exceed limits established in *Zadvydas*. So the Court should deny the Petition.

Background

Dennis Gutierrez is a citizen and national of Cuba. (ECF 1 at ¶ 15). He was paroled into this country on May 22, 1999, in Miami, Florida, and timely adjusted to LPR status on February 5, 2002, retroactive to his date of entry. *Id.*; Exhibit 1 (I-213). After his release, Gutierrez was convicted of certain state crimes, including a cocaine conviction on January 22, 2015, after which he was detained by ICE, issued an NTA, and ordered removed on September 20, 2016, cancelling his LPR status. Exhibit 1; Exhibit 2 (Removal Order); Exhibit 3 (NTA); Exhibit 4 (Detention History); ECF 1 at ¶¶ 24-27, 35-37. Gutierrez further claims that his April 28, 2025, application for a U visa (accompanied by a U visa certification form from the Miami-Dade State Attorney's Office related to a 10-year old case) should preclude or affect his removal or detention. ECF 1 at ¶¶ 28-34, 96-99.

On December 5, 2025, he was taken into ICE custody after encountering Gutierrez and confirming he was in the United States illegally with a final removal order. Exhibit 1; ECF 1 at ¶¶ 39-41. Gutierrez is currently detained at Florida Soft Side³. On March 4, 2026, Gutierrez filed this habeas petition alleging violations of the

³ According to ICE, Petitioner filed a motion for bond. On January 20, 2026, an ILJ took no action as the ILJ does not have jurisdiction for bond hearings after removal orders (*see* Exhibit 5 - "no action"). According to ICE, Petitioner filed a motion to reopen immigration proceedings, which was denied by an immigration judge on February 12, 2026.

Immigration and Naturalization Act (INA), claiming “humanitarian equities,” including being a “certified U victim,” and the Due Process Clause, seeking his immediate release. ECF 1.

Certified Habeas Return

The Court has power to grants writs of habeas corpus where (among other instances) petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

After Gutierrez’s conviction, he was ordered removed and issued a final removal order. The Attorney General (through her delegates) has a statutory obligation to execute that removal. 8 U.S.C. § 1231(a)(1)(A), (a)(3). ICE is detaining Gutierrez under 8 U.S.C. § 1231 pending his removal, and ICE is working towards executing. Moreover, the period of Gutierrez’s detention is still well within the presumptively reasonable limits established in *Zadvydas*.

Discussion

Gutierrez challenges his ICE detention. As described below, the Court has no jurisdiction. Even if it did, detention has not extended to a length creating constitutional questions; nor did ICE violate any law in proceeding with removal.

A. Lack of Jurisdiction

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins.*

Co. of Am., 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted).

In the context of immigration habeas cases related to removal—like here—the INA divests this Court’s jurisdiction. 8 U.S.C. §§ 1252(b)(9), (g). As discussed, the Court lacks jurisdiction over Gutierrez’s claims. Regardless of how it is phrased, Gutierrez challenges his detention to execute a final order of removal.

1. *Jurisdiction Stripping Under § 1252(g)*

There is no jurisdiction to review “any” claim “arising from the decision or action” to “execute removal orders.” 8 U.S.C. § 1252(g). This provision bars habeas review in federal courts when the claim arises from a decision or action to “execute” a final order of removal. *Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 482 (1999).

Courts consistently hold that § 1252(g) eliminates subject-matter jurisdiction over challenges—including constitutional claims—to an arrest or detention for the purpose of executing a final removal order. *E.g.*, *Camarena v. ICE*, 988 F.3d 1268, 1273-74 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal order.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).⁴ Likewise, § 1252(g) precludes

⁴ See also *Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018) (“Under a plain reading of the text of the statute, the Attorney General’s enforcement of long-standing removal orders falls squarely under the Attorney General’s decision to execute removal orders and is not subject to judicial review.”); *Tazu v. U.S. Attorney General*, 975 F.3d 292, 297 (3d Cir. 2020) (“The

review of the method by which ICE chooses to commence removal proceedings. *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its plain terms, the provision bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.”).

Gutierrez’s OSUP was revoked and ICE detained him to execute the final removal order. He is well within the presumptively reasonable period of detention (as detailed below). And ICE is in the process of executing removal. This action is an effort to interfere with or halt that legal process. The INA plainly strips the Court’s jurisdiction in these instances. 8 U.S.C. § 1252(g).

Some courts hold there is jurisdiction to review compliance with OSUP revocation regulations. *E.g.*, *Cesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 154 (W.D.N.Y. 2025) (“In other words, while courts cannot question the discretion that is exercised, they can address the process used to exercise that discretion.”). Respectfully, those decisions are mistaken.

“When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged.” *Camarena*, 988 F.3d at 1272 (cleaned up). Challenges to ICE’s detention of Gutierrez fall directly within the jurisdiction-stripping provisions. However, the Court lacks jurisdiction for a separate reason.

plain text of § 1252(g) covers decisions about whether and when to execute a removal order.”); *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022); *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021).

2. *Jurisdiction Stripping Under § 1252(b)(9)*

There is no jurisdiction to review “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” outside a case reviewing the final removal order. 8 U.S.C. § 1252(b)(9). This is known as the “zipper clause.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257 (11th Cir. 2020). The zipper clause is “a jurisdictional bar where” petitioner seeks “review of an order of removal [or] the decision to seek removal.” *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020) (cleaned up).

There is a single path for judicial review of removal orders—“a petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5). Reading § 1252(a)(5) and (b)(9) together, courts conclude petitioners must funnel all aspects of challenges to removal proceedings through that avenue. *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (“The REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals.”); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (There is “clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).”).

The zipper clause encompasses more than § 1252(g). *AADC*, 525 U.S. at 483. Under these provisions, “most claims that even relate to removal” are improper in a district court. *E.O.H.C. v. DHS*, 950 F.3d 177, 184 (3d Cir. 2020). There are limitations on how broadly courts interpret the zipper clause. *E.g. Canal A*, 964 F.3d at 1257. But a claim obviously “arises from a removal proceeding when the parties are challenging

removal proceedings.” *Id.* (cleaned up); *see also Regents of Cal.*, 591 U.S. at 19. Here, the crux of this case challenges ICE’s execution of Gutierrez’s final removal order in an attempt to stop the removal process. These are the exact claims barred by the zipper clause. 8 U.S.C. § 1252(b)(9).

3. *Conclusion of Jurisdiction Stripping*

As discussed above, Gutierrez’s claims fall squarely within the INA’s jurisdiction-stripping provisions of 8 U.S.C. §§ 1252(g) and (b)(9). The Court, therefore, lacks subject-matter jurisdiction and must dismiss.

B. Constitutionally Lawful Detention

Even if the Court disagrees with the above, it must still deny the writ. Carmentes cannot make a claim for unlawfully prolonged detention at this time. Nor can he litigate SLRRFF prematurely.

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). Yet indefinite detention would present obvious constitutional concerns. *Id.* So the Supremes interpret this 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 v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (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 SLRRFF. *Zadvydas*, 533 U.S. at 689. But before that six-month period expires, any habeas challenge to the detention itself is premature. *E.g.*, *Akinwale*, 287 F.3d at 1051-52; *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).⁵ At bottom, "This presumptively reasonable six month period must have expired at the time of the filing of a petition." *E.g.*, *Jiang v. Mukasey*, No. 2:08-cv-773-FtM-29DNF, 2009 WL 260378, at *2 (M.D. Fla. Feb. 3, 2009) (Steele, J.); *Noel v. Glades Cnty. Sheriff*, No. 2:11-cv-698-FtM-29SPC, 2011 WL 6412425, at *2 (M.D. Fla. Dec. 21, 2011) (Steele, J.).

Gutierrez was first detained on December 5, 2025, and filed this habeas challenge (in two cases), on March 4, 2026. At that point, Gutierrez's had been detained for 89 days, and to date, 98 days. Either timeline is well under the 180-day period that is presumptively reasonable. That is fatal to jurisdiction. *Akinwale*, 287 F.3d

⁵ Some districts disagree. *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008). Of course, *Akinwale* binds the Court. Even if it didn't, *Cesar* and any progeny are wrong. *Zadvydas* recognized the presumptive six-month period for the specific "sake of uniform administration in the federal courts." *Zadvydas*, 533 U.S. at 701. That was not an invitation to make up exceptions to this ripeness doctrine—like *Cesar* did.

at 1051-52. *E.g.*, *Jiang*, 2009 WL 260378, at *2 (“This presumptively reasonable six month period must have expired at the time of the filing of a petition.”).

To contend ICE cannot detain him for the purpose of removal, as Gutierrez does, would effectively eliminate ICE’s ability to ever remove an alien unless it does so within the presumptively reasonable timeframe. *Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *3 (Apr. 25, 2012). *Zadvydas* doesn’t sweep that broad. It goes without saying an alien must be detained (or otherwise in custody) to effect removal unless the alien leaves voluntarily. Gutierrez has not left voluntarily, and ICE is attempting to remove him. If the Court accepts his position, it is unclear how ICE would be able to remove Gutierrez—which ICE is actively working toward. *But see Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“We think it clear that detention or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens, would be valid. Proceedings to exclude or expel would be vain if those accused could not be held in custody . . . while arrangements were being made for their deportation.”).

ICE recognizes the Court has held the *Zadvydas* period is coterminous with the statutory removal and post-removal periods—meaning it can run while an alien is outside detention. *Godinez Perez v. Noem*, No. 2:25-cv-00429-JES-NPM, 2025 WL 2806557, at *2 (M.D. Fla. Oct. 2, 2025) (Steele, J.); *see also Beltran v. ICE*, No. 2:25-cv-01174-SPC-NPM, 2026 WL 21252 (M.D. Fla. Jan. 5, 2026).

Respectfully, ICE disagrees based on the INA and *Zadvydas* itself, finding a better approach in *Lam v ICE*, et al., 2:25-cv-1202-KCD-DNF, ECF 24 at 5-8

(collecting cases regarding *Zadvydas* aggregation and cumulative calculations, declining to “endorse a blanket rule,” and finding the “better approach is to afford the government a new six-month presumptively reasonable period for each discrete detention” absent any improper motive), and in three Southern District cases, which made clear, this period begins at the start of an alien’s actual detention and begins again when ICE makes a renewed effort to remove after failing long ago. *Barrios v. Ripa*, No. 1:25-cv-22644-GAYLES, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025) (holding claim premature and rejecting argument that aggregate prior detentions considered for *Zadvydas* purposes); *Guerra-Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300 (S.D. Fla. July 17, 2025) (holding claim premature when removal period ended in 2014); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 1895479, at *7-8 (S.D. Fla. July 8, 2025) (same for 2011). Other courts agree. *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) (“The government is entitled to its six-month presumptive period before Petitioner’s continued § 1231(a)(6) [re-]detention poses a constitutional issue.”).

With *Zadvydas*, the “basic question” is “whether the detention in question exceeds a period reasonably necessary to secure removal.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Court “used the words ‘detain’ and ‘custody’ to refer exclusively to physical confinement and restraint.” *Jennings v. Rodriguez*, 583 U.S. 281, 311 (2018). *Zadvydas* protects against unconstitutionally indefinite detention; it did not interpret starting an imaginary detention clock based on statutory periods divorced from

physical restraint. Again, to conclude the detention period started with the statutory removal time requires a corresponding finding that ICE has been unconstitutionally detaining Gutierrez. That is a factual impossibility. Yet it also imposes an impossible burden on ICE—requiring it to justify over a decade detention if the burden shifts. *See Zadvydas*, 533 U.S. at 701 (“And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.”).

Akinwale and other courts recognize that calculating time will often begin when detention is required (i.e., start of the removal period). 8 U.S.C. § 1231(a)(2)(A). But this would only be the case where petitioner challenges detention beginning at that time. If—as here—petitioner gets detained years later, no reasonable interpretation of *Zadvydas*, *Akinwale*, or any other binding law suggests the six-month period can expire before detention occurs. Many cases on this exact issue hold the period begins with actual detention. *E.g.*, *Cheng Ke Chen v. Holder*, 783 F. Supp. 2d 1183, 1192 (N.D. Ala. 2011) (rejecting claim as premature for petitioner who was not detained during removal period because “it defies common sense to suggest that *Zadvydas* time can run while a petitioner is not in custody”).⁶ Again, *Zadvydas* “exclusively” addressed

⁶ *See also Callender v. Shanahan*, 281 F. Supp. 3d 428, 436 n.7 (S.D.N.Y. 2017); *Rodriguez-Guardado v. Smith*, 271 F. Supp. 3d 331, 335 n.8 (D. Mass. 2017); *Rivera v. Hassell*, No. 4:15-01497-WMA-SGC, 2016 WL 4257692, at *3 (N.D. Ala. July 12, 2016), *R&R adopted*, 2016 WL 4257052 (Aug. 10, 2016); *Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *3 (W.D. Wash. Apr. 25, 2012); *Raia v. Aviles*, No. 11-3374 (WJM), 2011 WL 2710275, at *5 & n.9 (D.N.J. July 6, 2011); *Thelemaque v. Barr*, No. 20-20467-CIV-ALTONAGA/Reid, 2020 WL 13551808, at *2 & n.1 (S.D. Fla. Mar. 30, 2020); *Aionesei-Lupu v. Barr*, No. 1:20-cv-

“physical confinement and restraint.” *Jennings*, 583 U.S. at 311.

Here, Gutierrez is in the “post-removal period” under 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 683. It is “presumptively reasonable” for ICE to detain an individual with that status for a total of six months. *Id.* at 701. To this day, Gutierrez is still within that reasonable detention period.

A dicta footnote in *Akinwale* does not alter this outcome. 287 F.3d at 1053 n.3. In part, *Akinwale* decided whether the action was premature. *Id.* at 1051-52. There was no doubt it was since petitioner filed four months after he was “taken into custody.” *Id.* 1051. In dicta and its related footnote, *Akinwale* stated the six-month term was inclusive of the removal period (i.e., six months in total, not six months on top of the ninety-day removal period). ICE does not dispute that. Instead, *Akinwale*’s express holding is relevant: petitioner “must show post-removal order detention in excess of six months.” *Id.* at 1052.

There is no way Gutierrez can make that showing. It is undisputed he has not been in physical detention for six months. As explained, the constitutional detention period cannot start running without some form of constraint. This case is unripe because *Zadvydas* does not protect against detention that never existed.

Importantly, that six-month period is a bright-line, irrebuttable presumption of constitutionally acceptable detention. See *Zadvydas*, 533 U.S. at 701; *Akinwale*, 287

22998-BLOOM, 2020 WL 8679783, at *2 (S.D. Fla. July 23, 2020); *Cruz v. Lumpkin*, No. H-23-2224, 2023 WL 4566252, at *1 n.7 (S.D. Tex. July 17, 2023).

F.3d at 1052.⁷ It is only “after” this time that SLRRFF and *Zadvydas* burden-shifting comes into play. *Guzman Chavez*, 594 U.S. at 529 (cleaned up); *see also Jennings*, 583 U.S. at 298-99; *Clark v. Martinez*, 543 U.S. 371, 378 (2005); *Jama v. ICE*, 543 U.S. 335, 347-48 (2005). After means “following in time or place or subsequently to the time when or later in time.” *Intellectual Ventures I LLC v. Ubiquiti, Inc.*, No. 1:23-cv-00865-JCG, 2025 WL 1640270, at *3 (D. Del. June 10, 2025) (cleaned up). The word gets used to “describe a temporal sequence.” *Id.*; *see also Arlaine & Gina Rockey, Inc. v. Cordis Corp.*, No. 02-22555-CIV, 2004 WL 5504978, at *42 (S.D. Fla. Jan. 5, 2004) (giving “after” its “ordinary meanings” like “following in time”). Until the Supreme Court recognizes a *Zadvydas* challenge *during* that six-month period, the Court cannot create that cause of action where none exists in derogation of *Akinwale*. *See* 287 F.3d at 1052 (“This six-month period thus must have expired . . . in order to state a claim under *Zadvydas*.”).

To require detailed justification from ICE before the *Zadvydas* period expires is a significant infringement on separation of powers principles. Essentially every question related to immigration is “exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference.” *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952). This isn’t a recent development. *Trump v.*

⁷ *See also 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); *Vaz v. Skinner*, 634 Fed. App’x 778, 782 (11th Cir. 2015); *Ivantchouk v. U.S. Attorney General*, 417 Fed. App’x 918, 921 (11th Cir. 2011); *Chance v. Napolitano*, 453 F. App’x 535, 536 (5th Cir. 2011); *Agyei-Kodie v. Holder*, 418 F. App’x 317, 318 (5th Cir. 2011); *Okpoju v. Ridge*, 115 F. App’x 302, 302 (5th Cir. 2004).

Hawaii, 585 U.S. 667, 702 (2018) (“For more than a century, this Court has recognized that the admission and exclusion of foreign nationals is a fundamental sovereign attribute exercised by the Government’s political departments.” (cleaned up)). That power, however, is always “subject to important constitutional limitations.” *Zadvydas*, 533 U.S. at 695. “In these cases, we focus upon those limitations.” *Id.*

Other principles of judicial review come into play too. *Id.* at 700. Courts “recognize primary Executive Branch responsibility” in this field. *Id.* They must also “give expert agencies decisionmaking leeway in matters that invoke their expertise.” *Id.* Important here, that includes “Executive Branch primacy in foreign policy matters.” *Id.* These basic separation-of-powers principles “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.” *Id.*

The Executive branch is attempting to remove Gutierrez—who was convicted of grand theft, armed burglary, and to sell/manufacture/deliver/possess with intent cocaine, and he is from Cuba—a country with a government that has been traditionally hostile to the United States. The Executive’s efforts to remove Gutierrez in these circumstances go to the very core of its power to enforce immigration laws and conduct delicate, ever-shifting foreign policy negotiations. *See United States v. Texas*, 599 U.S. 670, 679 (2023) (“That principle of enforcement discretion over arrests and prosecutions extends to the immigration context, where the Court has stressed that the Executive’s enforcement discretion implicates not only normal domestic law

enforcement priorities but also foreign-policy objectives.” (cleaned up)); *Biden v. Texas*, 597 U.S. 785, 805-06 (2022) (“That is no less true in the context of immigration law, where the dynamic nature of relations with other countries requires the Executive Branch to ensure that enforcement policies are consistent with this Nation’s foreign policy.” (cleaned up)). Until Gutierrez’s detention raises a constitutional problem—i.e., after six months—the political branches (namely, the Executive) must be permitted to pursue law enforcement and foreign policy objectives without interference.

Conclusion

For those reasons, the Court should deny the Petition based on the arguments set forth herein.

Date: March 13, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Kelley C. Howard-Allen
KELLEY C. HOWARD-ALLEN
Assistant United States Attorney
Florida Bar No. 085464
400 North Tampa Street, Suite 3200
Tampa, FL 33602
Tel: (813) 274-6000
Email: kelly.howard@usdoj.gov

Lead Counsel for Federal Respondents