

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

JORGE S. PEREZ-MARRERO,

Case No. 2:26-cv-674-SPC-DNF

Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS**

Petitioner, Jorge S. Perez-Marrero, by and through undersigned counsel, respectfully submits this Reply to Respondents' Opposition and states as follows:

I. RESPONDENTS MISCHARACTERIZE THE NATURE OF PETITIONER'S CLAIM

Respondents' opposition rests on the premise that Petitioner's habeas claim is premature under *Zadvydas v. Davis* because six months of detention have not yet elapsed. This framing mischaracterizes the Petition and improperly narrows the issues before the Court.

Petitioner does not rely solely on the passage of time to establish a constitutional violation. Rather, the Petition challenges the lawfulness of detention based on the absence of any meaningful likelihood of removal, the Government's

failure to justify revocation of long-standing supervised release, and the arbitrary nature of re-detention after years of compliance with all conditions imposed by the Department of Homeland Security. As reflected in the record, Petitioner was previously released under an Order of Supervision after removal efforts proved unsuccessful, and he remained compliant for nearly a decade. These facts place this case well outside the ordinary framework relied upon by Respondents.

II. DETENTION IS UNLAWFUL WHERE REMOVAL IS NOT REASONABLY FORESEEABLE

Respondents' reliance on a rigid six-month rule ignores the fundamental holding of *Zadvydas*, which limits detention to a period reasonably necessary to effectuate removal. The six-month period is a presumption, not a safe harbor for detention that lacks a legitimate removal purpose.

Here, the Government has provided no evidence that removal is likely in the reasonably foreseeable future. The record reflects that Petitioner lacks travel documents and that ICE merely expresses an intent to remove him to Mexico. There is no indication that Mexico has agreed to accept Petitioner, nor that any concrete steps have been successfully undertaken to secure removal.

This absence of evidence is particularly significant given Petitioner's history. The Government previously attempted removal and was unable to accomplish it, resulting in Petitioner's release under supervision in 2016. That

history is not incidental; it is dispositive. It demonstrates that removal has already proven impracticable, and Respondents have failed to identify any changed circumstances that would now make removal likely.

Under these circumstances, continued detention is not reasonably related to the purpose of effectuating removal and therefore exceeds statutory and constitutional limits.

III. RESPONDENTS FAIL TO ADDRESS PETITIONER'S LONG HISTORY OF SUPERVISED RELEASE AND COMPLIANCE

A central defect in Respondents' opposition is the complete failure to engage with Petitioner's extended period of supervised release. For nearly a decade, Petitioner lived in the community under an Order of Supervision, complied with all reporting requirements, and remained available to immigration authorities.

Respondents do not allege that Petitioner violated any condition of supervision, absconded, or posed a danger during that time. Nor do they explain what has changed to justify his re-detention. Instead, they rely on generalized assertions that removal is foreseeable, without providing any factual support.

Such conclusory statements are insufficient. Where the Government has previously failed to remove an individual and has allowed that individual to remain in the community under supervision for years, it bears a heightened

burden to demonstrate that circumstances have materially changed. Respondents have not met that burden.

IV. THE REVOCATION OF PETITIONER'S ORDER OF SUPERVISION VIOLATED DUE PROCESS

Petitioner's re-detention stems from the revocation of his Order of Supervision in October 2025. The record reflects that this revocation was carried out without meaningful procedural safeguards.

Federal regulations require that a noncitizen be provided with notice of the reasons for revocation and an opportunity to respond. They further require an individualized determination that continued release is no longer appropriate. Petitioner was not afforded these protections in any meaningful way.

Instead, ICE issued a standardized notice asserting a "significant likelihood of removal" without providing supporting evidence or addressing Petitioner's individual circumstances. There is no indication that ICE considered Petitioner's long-standing compliance, his lack of violations, or less restrictive alternatives to detention. The deprivation of liberty without adequate process renders the detention constitutionally infirm.

V. CONTINUED DETENTION IS DISPROPORTIONATE AND UNRELATED TO ANY LEGITIMATE GOVERNMENTAL PURPOSE

Immigration detention is civil in nature and must remain tethered to its regulatory purpose. Where that purpose cannot be fulfilled, continued detention becomes punitive and unconstitutional.

In this case, detention no longer serves the purpose of effectuating removal. The Government has not demonstrated that removal is realistically achievable, and Petitioner's history establishes that supervision is an effective alternative. Moreover, Petitioner suffers from serious medical and mental health conditions, including schizophrenia and hypertension, which are exacerbated by detention conditions. These factors further underscore the unreasonableness of continued confinement.

VI. RESPONDENTS' ARGUMENT REGARDING THE ADMINISTRATIVE PROCEDURE ACT DOES NOT DEFEAT HABEAS RELIEF

Respondents contend that Petitioner's APA claim is improperly raised in this proceeding. Even assuming *arguendo* that the APA claim is not independently cognizable, the underlying constitutional violations remain squarely before this Court under its habeas jurisdiction. The unlawful nature of Petitioner's detention, including the absence of a realistic removal timeline and the failure to follow required procedures, provides a sufficient basis for relief under 28 U.S.C. § 2241.

CONCLUSION

Respondents' opposition relies on a mechanical application of a six-month presumption while disregarding the specific facts of this case, including prior failed removal efforts, nearly a decade of compliance under supervision, and the absence of any evidence that removal is reasonably foreseeable. The Constitution does not permit continued detention based on speculation or administrative convenience. For these reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus, order his immediate release under appropriate conditions of supervision, and grant such further relief as the Court deems just and proper.

DATED this 20th of March, 2026.

Respectfully submitted,

Yaritssa Plasencia
Yaritssa Plasencia, Esq.
Florida Bar No.: 1021659
Great American Law Firm PLLC
100 Frandorson Cir., Ste. 202C
Apollo Beach, FL 33572
Phone: (407) 929-9292
greatamericanlaw@gmail.com
Attorney for Petitioner