

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JAVIER ABREU LEDON,

Petitioner,

Case No. 2:26-cv-680-JES-NPM

v.

WARDEN, ALLIGATOR ALCATRAZ
DETENTION FACILITY, et al,

Respondents.

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

Petitioner Javier Abreu Ledon 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). Javier Abreu Ledon had been detained for 127 days when he filed the present petition. His present detention is therefore lawful.

BACKGROUND

Javier Abreu Ledon is a national and citizen of Cuba. (Composite Exhibit A at

1.)

Javier Abreu Ledon last entered the United States on or about May 29, 2005, as an Arriving Alien. *Id.* at 3-5. He had a prior Order of Removal dated August 31, 2004, but he departed the United States while that Order of Removal was outstanding. *Id.* at 1-2. A superseding Notice to Appear was filed with the Immigration Court. *Id.* at 3-5. On June 16, 2005, Javier Abreu Ledon was ordered removed from the United States, after which he was placed in OSUP on June 28, 2005. *Id.* at 6, 8.

Javier Abreu Ledon was then arrested again in March 2011, released on an OSUP and then served time in federal prison. *Id.* at 7-8; Doc. 1. On October 30, 2025, Javier Abreu Ledon was detained by ICE to pursue removal. *Id.* at 10-12. On November 24, 2025, Javier Abreu Ledon was served with notice of removal that ICE intends to remove him to Mexico. *Id.* at 9. Javier Abreu Ledon is currently detained at Florida Soft-Side Facility South. *Id.* at 13. He has been in current ICE custody since October 30, 2025, for a total of 149 days. *Id.* On March 5, 2026, Javier Abreu Ledon filed a petition for writ of habeas corpus alleging his custody violates the Due Process Clause of the Fifth Amendment. (Doc. 1.)

ARGUMENT

Javier Abreu Ledon'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. 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).

Javier Abreu Ledon filed the present petition well before expiration of six months in detention. He was detained on October 30, 2025, and filed the present petition on March 5, 2026. At that point, Javier Abreu Ledon been detained for 127 days; to date, he has been in detention for 149 days.

It is only afterward that the parties can 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.¹ *See Akinwale*, 287 F.3d at 1051-52. *See 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

¹ 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).

issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise”).

CONCLUSION

The Federal Respondents respectfully assert that they have shown good cause why the writ should not be granted.

DATED March 27, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on March 27, 2026, I filed the foregoing documents and any exhibits referenced therein using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

s/ Stephanie S. Leuthauser
STEPHANIE S. LEUTHAUSER
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