

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
PETITION FOR WRIT OF HABEAS CORPUS – 28 U.S.C. § 2241.**

JAVIER ABREU LEDON,

Civil Action No. Case No. 2:26-cv-00680-JES-NPM

Petitioner,

v.

**Warden, Alligator Alcatraz Detention Facility;
Kristi Noem, Secretary of Homeland Security;
Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement;
Field Office Director, ICE Enforcement and Removal Operations, Miami Field Office,
Respondents.**

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

I. EXECUTIVE SUMMARY

Petitioner, a long-term U.S. resident, former lawful permanent resident, respectfully submits this traverse in response to the Federal Respondents' Opposition (Doc. 12). Petitioner challenges the legality of his continued detention, which has persisted since October 30, 2025, under a final removal order issued June 16, 2005, and continues despite the Government's failure to effectuate removal.

This Traverse focuses on the pre-removal unreasonableness of Petitioner's detention. The Government relies heavily on a generalized recitation of *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the six-month presumptive "reasonableness" period. That framework, however, does not justify indefinite detention when removal is practically impossible or not imminent, which is the case here. *Petitioner has no connection* to Mexico, the country to which ICE asserts it intends to remove him, and there is no evidence or plan demonstrating a feasible or imminent removal.

Given these facts, the continued detention is arbitrary, unjustifiable, and unconstitutional, and the Court should order Petitioner's immediate release or, alternatively, an individualized custody review consistent with due process.

II. INTRODUCTION AND REQUESTED RELIEF

Respondents assert that Petitioner's detention is lawful because:

1. He has been detained for less than six months, which they claim is presumptively reasonable under *Zadvydas*;
2. He is subject to a final removal order; and
3. ICE intends to remove him to Mexico.

These assertions fail to justify continued confinement. The statutory framework does not authorize indefinite detention, particularly when removal is impossible or not foreseeable. Moreover, Respondents have not conducted an individualized custody review, considered less restrictive alternatives, or accounted for Petitioner's strong community ties and minimal flight risk.

Petitioner respectfully requests that the Court:

1. Grant the writ of habeas corpus and order immediate release; or
2. In the alternative, order prompt individualized custody review consistent with due process, including proper allocation of the burden of proof and consideration of less restrictive alternatives;
3. Enjoin Respondents from transferring Petitioner outside this Court's jurisdiction without notice.

III. HABEAS JURISDICTION AND SCOPE

A. Jurisdiction

This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's detention, including both statutory and constitutional claims. Habeas jurisdiction extends to detention challenges irrespective of whether a final removal order exists. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

B. Scope of Traverse

This Traverse responds solely to arguments raised in Respondents' Opposition, focusing on the illegality of detention and emphasizing pre-removal unreasonableness, procedural defects, and constitutional violations.

IV. PRE-REMOVAL UNREASONABLENESS

The Government contends that detention is presumptively reasonable because Petitioner has been detained less than six months. This argument misapplies the Zadvydas framework, which addresses post-removal-order detention when removal is foreseeable.

Here, removal is not imminent or realistic. Petitioner's detention is prolonged, dating back to October 30, 2025, under a final removal order issued June 16, 2005. The Government has not provided evidence of a feasible plan to remove Petitioner, and ICE's assertion of removal to Mexico is speculative and unsubstantiated.

- Petitioner has no familial, residential, or legal connection to Mexico.
- There is no evidence that Mexico will accept him or that removal can occur in the reasonably foreseeable future.

Under these circumstances, continued detention constitutes pre-removal unreasonableness, which Eleventh Circuit and Middle District of Florida courts have recognized as a basis for habeas relief. See *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002); *Khalil Al Ellary v. Noem*, 2:26-cv-00112-KCD-DNF (M.D. Fla. Feb. 27, 2026).

V. MANDATORY AND DISCRETIONARY DETENTION

A. Mandatory Detention under INA § 236(c)

Respondents rely on § 236(c) to justify detention. However, mandatory detention cannot be applied categorically to justify confinement that is effectively indefinite. Courts require individualized review, particularly where removal is not feasible. See *Demore v. Kim*, 538 U.S. at 532–33 (Kennedy, J., concurring).

B. Discretionary Detention under INA § 236(a)

Similarly, discretionary detention under § 236(a) must include meaningful consideration of flight risk, danger to the community, and less restrictive alternatives. ICE's cursory assessments and reliance on prior custody orders fail to satisfy due process.

C. Post-Removal Detention under INA § 1231(a)

Even assuming § 1231 applies, detention must be reasonably related to removal. Zadvydas recognizes that prolonged detention without a realistic removal plan violates constitutional limits. In this case, Respondents have no credible evidence of imminent removal, and detention is therefore unlawful.

VI. FACTUAL AND PROCEDURAL DEFICIENCIES

- ICE and the Immigration Judge have failed to provide individualized custody review.
- The February 12, 2026 IJ order incorrectly asserts that Petitioner did not pay filing fees; EOIR records confirm full compliance.
- Petitioner has never been given meaningful consideration of less restrictive alternatives.

These procedural errors demonstrate denial of due process, particularly given the arbitrary and indefinite nature of detention.

VII. AS-APPLIED DUE PROCESS VIOLATIONS

Petitioner has:

- No recent criminal history;
- Strong community ties;
- Minimal risk of flight;
- Been detained for months under a removal order that cannot be executed; and

- No connection to Mexico, the asserted destination for removal.

Extended detention under these circumstances violates both substantive and procedural due process, requiring the Government to justify confinement by clear and convincing evidence, which it cannot. See *Guerrero-Sanchez v. Warden*, 905 F.3d 208 (3d Cir. 2018); *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013).

VIII. REQUESTED RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

1. Assume jurisdiction under 28 U.S.C. §§ 2241 and 1331;
2. Declare that Petitioner's continued detention violates the Fifth Amendment;
3. Order immediate release from ICE custody; or, alternatively,
4. Order prompt individualized custody review, including consideration of less restrictive alternatives; and
5. Enjoin Respondents from transferring Petitioner outside this Court's jurisdiction without notice.

Respectfully submitted; March 4, 2026. Counsel for Petitioner Javier Abreu Ledon

By: /s/ Yoel Lemus, Esq.

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