
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

AUGUSTO LAZA CUESTA,
Petitioner,

v. Case No. 2:26-cv-675-KCD-DNF

WARDEN, et al.,
Respondents.

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

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TABLE OF AUTHORITIES

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Gupta v. McGahey, 709 F.3d 1062, 1065 (11th Cir. 2013)
Singh v. U.S. Att’y Gen., 945 F.3d 1310, 1314 (11th Cir. 2019)

I. INTRODUCTION

Petitioner Augusto Laza Cuesta respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

Respondents attempt to justify Petitioner’s continued detention under 8 U.S.C. § 1231. However, the Supreme Court has made clear that post-removal-order detention is **not indefinite** and must remain tied to a realistic likelihood of removal. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Here, Petitioner has been detained beyond the **presumptively reasonable six-month period**, and the Government has failed to establish that removal is reasonably foreseeable. Accordingly, his continued detention violates the **Due Process Clause of the Fifth Amendment**.

II. JURISDICTION

This Court retains jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the **legality and duration of his detention**, not the validity of his removal order.

The Supreme Court has expressly confirmed habeas jurisdiction in this context:

- *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (holding § 1252(b)(9) does not bar detention challenges)
- *Zadvydas*, 533 U.S. at 687 (recognizing habeas review of post-removal detention)

Respondents’ reliance on 8 U.S.C. § 1252(g) is misplaced. That provision applies only to discrete actions such as commencing proceedings or executing removal orders, not constitutional challenges to prolonged detention. *Reno v. AADC*, 525 U.S. 471, 483 (1999).

III. FACTUAL BACKGROUND

Petitioner, a Cuban national, entered the United States in 1991 and has lived in this country for over **30 years**.

After being released under an Order of Supervision in 2001, Petitioner:

- Reported to ICE for **over two decades without incident**
- Fully complied with all supervision requirements

- Maintained strong family and community ties

On October 20, 2025, Petitioner appeared at his scheduled ICE appointment and was detained **without resistance**.

This extensive compliance history demonstrates that Petitioner is **not a flight risk**.

Petitioner is now 61 years old and has a pending family-based immigration petition. See Exh. 3.

IV. PROLONGED DETENTION UNDER ZADVYDAS

Under *Zadvydas*, detention beyond six months is **presumptively unreasonable**. 533 U.S. at 701.

Once that period has passed:

“the burden shifts to the Government to respond with evidence sufficient to rebut that showing.” *Id.* at 701–02.

Petitioner’s detention has now exceeded six months. Therefore:

- His claim is ripe
- The burden has shifted to the Government

Respondents have failed to provide:

- A confirmed removal date
- Valid travel documents
- Evidence of acceptance by any country

Accordingly, continued detention is **unconstitutional under Zadvydas**.

V. REMOVAL IS NOT REASONABLY FORESEEABLE

A. Cuba Is Not a Viable Option

Removal to Cuba remains speculative due to:

- Limited diplomatic cooperation
- Risk of imprisonment as a perceived defector
- Longstanding barriers to repatriation

Speculative removal is insufficient under *Zadvydas*, 533 U.S. at 701.

B. Mexico Attempt Demonstrates Failure

The Government relies on a failed attempt to remove Petitioner to Mexico.

However:

- Mexican authorities refused entry
- No agreement exists to accept Petitioner
- No future removal plan has been presented

A failed removal attempt demonstrates **lack of feasibility**, not likelihood.

C. Eleventh Circuit Authority

The Eleventh Circuit has emphasized that detention cannot continue where removal is not realistically achievable.

Singh v. U.S. Att'y Gen., 945 F.3d 1310, 1314 (11th Cir. 2019).

The Government must show removal is **actual and attainable**, not speculative.

VI. ALLEGED NON-COMPLIANCE DOES NOT JUSTIFY DETENTION

Respondents assert that Petitioner failed to comply with removal.

Under *Singh*, non-compliance must be:

- Willful, and
- Material to preventing removal

945 F.3d at 1314.

Here:

- Petitioner acted under coercion and fear
- No evidence shows removal would have occurred
- No valid travel documents existed

Thus, alleged non-compliance cannot justify **indefinite detention**.

VII. CONDITIONS OF CONFINEMENT SUPPORT HABEAS RELIEF

Habeas corpus protects against unlawful detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

Courts recognize that constitutional violations during detention are relevant to relief. *Muhammad v. Close*, 540 U.S. 749, 751 (2004).

Petitioner has suffered:

- Physical assault while restrained
- Retaliation
- Medical neglect
- Punitive isolation

See Exh. 1.

These conditions render detention **punitive rather than civil**, violating due process.

VIII. PETITIONER IS NOT A FLIGHT RISK OR DANGER

The record establishes:

- Over 20 years of ICE compliance
- Voluntary reporting prior to detention
- No recent criminal history
- Strong family support

Detention must be justified by actual risk. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).

No such risk exists here.

IX. EXHIBITS

Exhibit 1: Complaint and evidence of abuse

Exhibit 2: ICE compliance and family support

Exhibit 3: Response to previous case filed

X. CONCLUSION

The Constitution does not permit **indefinite civil detention based on speculation**.

Petitioner has demonstrated:

- Detention beyond six months
- No significant likelihood of removal
- Long-term compliance
- Constitutional violations

Under *Zadvydas*, continued detention is unlawful.

RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus
2. Order immediate release under supervision; OR
3. In the alternative, order an individualized bond hearing
4. Grant any further relief deemed just and proper

Respectfully submitted,

Augusto Laza Cuesta
Petitioner, Pro Se