

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LUIS SANTIAGO RIVERO
GONZALEZ,

Petitioner,

Case No. 2:26-cv-681-KCD-NPM

v.

WARDEN, ALLIGATOR DETENTION
CENTER, OCHOPEE, FL),
US ATTORNEY GENERAL,

Respondents.

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

Petitioner Luis Rivero Gonzalez 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, and ICE should not have revoked his order of supervision. 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). Rivero Gonzalez had been detained for 98 days when he filed the present petition. An order of supervision is not a permanent entitlement. Gonzalez's detention is therefore lawful.

BACKGROUND

Rivero Gonzalez is a national and citizen of Cuba who was paroled in the United States on September 18, 1999. (Composite Exhibit, Ex. 1 at 1-2.) He has a lengthy criminal history including convictions for aggravated battery, resisting arrest with violence, domestic battery by strangulation, false imprisonment, and grand theft. *Id.* at 4-14.

Rivero Gonzalez was ordered removed from the United States on April 23, 2007, and placed on an order of supervision on September 7, 2017. *Id.* at 2, 21, 27. Rivero Gonzalez was placed in immigration custody on or about December 3, 2025. *Id.* at 1-2. He was served with a notice of revocation and provided an informal interview the same day. *Id.* at 15, 17.

On March 11, 2026, Rivero Gonzalez filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Fifth Amendment. (Doc. 1.)

On April 1, 2026, at 3:00 p.m., Rivero Gonzalez was served again with a notice of revocation of release. *Id.* at 22-24. The notice provides that Rivero Gonzalez's release has been revoked pursuant to 8 C.F.R. § 241.4(l) because it is appropriate to enforce his removal order and his conduct or other circumstances indicates that release is no longer appropriate. *Id.* at 22. Also on April 1, 2026, Rivero Gonzalez was provided an informal interview in which he was provided an opportunity to

respond to the reasons for revocation. *Id.* at 25. Later that day Rivero Gonzalez was provided a second notice of release pursuant to 8 C.F.R. § 241.13(i). *Id.* at 26. The notice indicates that circumstances have changed such that there is a significant likelihood of removal in the reasonably foreseeable future. *Id.*

He is currently detained at Florida Soft Side South.

ARGUMENT

I. **Rivero Gonzalez’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. If an alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the government must either rebut that showing or release the alien. *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018). 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).

Rivero Gonzalez filed the present petition well before expiration of six months in detention. He was detained on December 3, 2025, and filed the present petition on March 11, 2026. At that point, Rivero Gonzalez been detained for 98 days; to date, he has been in detention for 119 days.

As previously stated, it is only after six months that the parties can engage in

Zadvydas burden-shifting related to the “significant likelihood of removal in the reasonably foreseeable future.” See *Jennings*, 583 U.S. at 299 (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. 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 issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise”).

II. ICE lawfully revoked Rivero Gonzalez’s order of supervision.

ICE complied with its regulations in revoking Rivero Gonzalez’s order of supervision. Title 8 C.F.R. § 241.13(i)(3) provides,

Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

Here, agency records show that on December 3, 2025, and April 1, 2026, Rivero Gonzalez was provided a notice of revocation of release. (Composite Exhibit, Ex. 1 at 15, 17, 26-27.) Also on December 3, 2025, and April 1, 2026, Rivero Gonzalez was provided an informal interview and opportunity to respond to the reasons for revocation of his order of supervision. *Id.* at 15, 25. Although the initial December 3, 2025, notice of revocation cited 8 C.F.R. § 241.1 as the basis for revocation, ICE has since provided notice that Rivero Gonzalez's revocation was revoked because there is a significant likelihood of removal in reasonably foreseeable future. *Id.* at 26-27. By doing so ICE has provided Rivero Gonzalez notice of the core rationale for the basis of his removal. *See Franco Rodriguez v. Acting Dir. U.S. Immigr. & Customs Enft, Miami Field Off.*, No. 2:26-CV-2-KCD-DNF, 2026 WL 746563, at *6 (M.D. Fla. Mar. 17, 2026).

Finally, Rivero Gonzalez's contention that ICE should not have revoked his order of supervision fails to recognize an order of supervision is not a permanent entitlement. *Lageyre - Ravelo v. Lyons*, No. 2:25-CV-1171-KCD-DNF, 2026 WL 575183, at *5 (M.D. Fla. Mar. 2, 2026). ICE provided Rivero Gonzalez the regulatory requirements of notice and an informal interview following revocation of his order of supervision. His present detention is therefore lawful.

CONCLUSION

Respondents respectfully request Rivero Gonzalez's petition be denied.

DATED this 1st day of April, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/Chad C. Spraker
CHAD C. SPRAKER
Assistant United States Attorney
USA No. 198
2110 First Street, Ste. 3-137
Fort Myers, Florida 33901
Telephone: 239-461-2200
Email: chad.spraker@usdoj.gov
Lead Counsel for Federal Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 1, 2026, I sent the foregoing document

via U.S. mail to:

Luis Santiago Rivero Gonzalez
A 
Florida Soft Side South
54575 Tamiami Trail East
Ochopee, FL 34141

/s/ Chad C. Spraker
Assistant United States Attorney