

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JORGE VALDES VILLARREAL,

Petitioner,

Case No. 2:26-cv-00743-JES-DNF

v.

WARDEN, FLORIDA SOFT SIDE SOUTH,
et al.,

Respondents.

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

Petitioner Jorge Valdes Villarreal ("Valdes Villarreal") 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). Valdes Villarreal had been detained for 66 days when he filed the present petition. His present detention is therefore lawful.

BACKGROUND

Valdes Villarreal is a 59-year old national and citizen of Cuba. (Composite Exhibit, Ex. A at 1.) Valdes Villarreal was paroled into the United States on August 24, 1995, near Miami, Florida. Ex. A at 2.

On April 22, 2003, Valdes Villarreal submitted an application to Register Permanent Resident Status or Adjust Status (Form I-485). Ex. A at 2. On November 21, 2008, his application was denied based on criminal history. *Id.* ICE advises he was then referred to the Executive Office of Immigration Review for removal proceedings. On or about November 4, 2010, an Immigration Judge ordered Valdes Villarreal removed. *Id.* ICE advises that Valdes Villarreal did not appeal, so the removal order became final.

Valdes Villarreal was previously in ICE detention from April 19, 2011, to May 6, 2011, totaling 17 days.¹ Ex. A at 7. ICE advises that he was released on an Order of Supervision (“OSUP”) on May 6, 2011.²

Valdes Villarreal was taken into ICE custody again on January 10, 2026, while reporting for his OSUP. Ex. A at 1-2. The OSUP was revoked, and he has been in custody since the revocation. *Id.* at 6-7. He is currently detained at the Florida Soft Side South Facility. *Id.* at 7. On January 10, 2026, he was provided notification and an interview. *Id.* at 4.

¹ Valdes Villarreal alleges that he was in ICE custody for over six months. Doc. 1 at ¶ 4.

² ICE advises re second OSUP.

On March 16, 2026, Valdes Villarreal filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act Due Process Clause of the Fifth Amendment. (Doc. 1. at 6-7)

ARGUMENT

I. Valdes Villarreal’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).

Valdes Villarreal filed the present petition well before expiration of six months in detention. He was detained on January 10, 2026, and filed the present petition on March 16, 2026. At that point, Valdes Villarreal been detained for 66 days; to date, he has been in detention for 80 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.³ 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. Release from custody is not available in an action alleging unconstitutional conditions of confinement.

Valdes Villarreal also challenges his conditions of confinement. See Doc. 1 at ¶¶ 57-59. “[R]elease from imprisonment is not an available remedy for a conditions-of-confinement claim.” *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015 (per curiam); see also *Hidalgo v. Parra*, No. 2:25-CV-01214-SPC-NPM, 2026 WL 113587, at *1 (M.D. Fla. Jan. 15, 2026) (“Claims challenging the conditions of confinement, rather than the fact or duration of confinement, are not grounds for habeas relief.”) Indeed, in *Gomez v. United States*, the Eleventh Circuit stated that if conditions of confinement violate a prisoner’s constitutional rights, “[t]he appropriate Eleventh Circuit relief . . . is to require the discontinuance of any

³ Respondents acknowledge this Court has previously disagreed. See *Chumachenko v. Noem*, 2:26-cv-00344-SPC-NPM, Doc. 6 (M.D. Fla. Feb. 27, 2026).

improper practices, or to require correction of any condition causing cruel and unusual punishment.” *Gomez v. United States*, 899 F.2d 1124, 1126-27 (11th Cir. 1990).

The Eleventh Circuit has further indicated that its holding from *Gomez* applies to civil detainees in ICE custody. *See Vaz*, 634 F. App’x at 781-82 (noting that a detained alien could not obtain release based on his conditions of confinement claim). This district has further refused to permit any exception for civil detainees in ICE custody. As stated in *St. Louis v. Martin*, “[R]elease under § 2241 unavailing when the alleged constitutional violation is predicated upon the conditions of a petitioner’s confinement.” No. 220CV349FTM60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020). Because Eleventh Circuit precedent precludes the Court from ordering release from custody, the petition should be denied.

CONCLUSION

Respondents respectfully request Valdes Villarreal’s petition be denied.

DATED this 30th day of March, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 30, 2026, I sent a copy of the foregoing via
U.S. Mail to the following non-CM/ECF participants:

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/s/Christopher J. Emden
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