

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

NOEL TRABA RAMIREZ,

Petitioner,

Case No. 2:26-cv-801-SPC-NPM

v.

SOUTH FLORIDA DETENTION
FACILITY,

Respondent.

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

Petitioner Noel Traba Ramirez (“Traba Ramirez” or “Petitioner”) 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). Traba Ramirez has been detained for 80 days. His present detention is therefore lawful.

BACKGROUND

Traba Ramirez is a national and citizen of Cuba who last entered the United States on or about January 23, 2022, near the San Luis Port of Entry. (Composite

Exhibit, Ex. A at 1-2.) He did not have any legal documents allowing him to remain in the United States. *Id.* Traba Ramriez was issued a Notice to Appear per section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”) and released on his own recognizance. *Id.* at 19-22. In his I-213 from 2022, Traba Ramirez indicated that he had a fear of returning to Cuba. *Id.* at 2. ICE advises that DHS moved to dismiss his INA 240 proceeding and the Immigration Judge granted the motion, which closed that INA 240 proceeding.

On January 6, 2026, he was placed in immigration custody. Ex. A at 4-6. On the same day, he was served with a Notice and Order of Expedited Removal (“Expedited Removal Order”). *Id.* at 7-8. He was provided with an opportunity to answer questions, and he refused. *Id.* at 11-15. ICE advises that Traba Ramirez has not filed another I-589 (Application for Asylum and For Withholding of Removal) after the Expedited Removal Order.¹ Consequently, ICE advises that the Expedited Removal Order is final.

Traba Ramirez is currently detained at Florida Soft-Sided Facility South. Ex. A at 23. As of the time of this filing, Traba Ramirez has been detained for 80 days.

¹ In the petition, Traba Ramirez states “I was applied for asylum in a court case that was still in progress, I was permitted to be in United States with also a work permit issued by Department of Homeland Security (DHS)”. (Doc. 1 at 6) He further states “I received my work permit on October 2024, two years later of beign applied and admitted for asylum in 2022.” *Id.* Thus, it appears Traba Ramirez’s claim of asylum relates to his INA 240 proceeding initiated with his 2022 detention, which ICE advises is closed after being dismissed by an Immigration Judge upon a motion to dismiss by DHS.

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

ARGUMENT

Traba Ramirez’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).

Traba Ramirez filed the present petition well before expiration of six months in detention. He was detained on January 6, 2026, and filed the present petition on March 16, 2026. At that point, Traba Ramirez been detained for 69 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.² 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”).

CONCLUSION

Traba Ramirez’s Petition for Writ of Habeas Corpus should be denied.

DATED: March 27, 2026

Respectfully submitted,

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² 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).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 27, 2026, I sent a copy of the foregoing
via U.S. Mail to the following non-CM/ECF participants:

Noel Traba Ramirez
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/s/ Christopher J. Emden
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