

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

YUDIESKY MACHADO GONZALEZ,

Petitioner,

v.

Case No. 2:26-cv-806-SPC-NPM

WARDEN, FLORIDA SOFT SIDE
SOUTH DETENTION CENTER, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Yudiesky Machado 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. 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). Machado Gonzalez had been detained for 121 days when he filed the present petition. His present detention is therefore lawful.

BACKGROUND

Machado Gonzalez is a national and citizen of Cuba. Composite Exhibit 1 at 3. He entered the United States on or about April 10, 2004 near Key West, Florida, and then was paroled into the United States pending 240 proceedings. *Id.* at 1, 6. On or about December 4, 2004, Machado Gonzalez was intercepted on board a vessel

with 25 undocumented aliens. *Id.* Machado Gonzalez has multiple convictions for Alien Smuggling and has received sentences from ten to twenty-four months imprisonment. *Id.* at 20. On March 4, 2008, Machado Gonzalez was ordered removed and placed on an order of supervised release. *Id.*

Machado Gonzalez was placed in immigration custody on November 18, 2025. *Id.* at 11-12. On January 12, 2026, Machado Gonzalez was served with a copy of a Notice of Removal to Mexico. *Id.* at 10. Machado Gonzalez is currently detained at Florida Soft Side South. *Id.* at 14. Machado Gonzalez was served with a Notice of Revocation of Release on March 30, 2026. *Id.* at 17. He also was given an informal interview on March 30, 2026. *Id.* at 18.

On March 19, 2026, Machado Gonzalez filed a petition for writ of habeas corpus arguing that he had not been provided an adequate opportunity to challenge his prolonged detention. Dkt. 1 at 2.

ARGUMENT

Machado 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. 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).

Machado Gonzalez filed the present petition before expiration of six months

in detention. He was detained on November 18, 2025 and filed the present petition on March 19, 2026. At that point, Machado Gonzalez been detained for 121 days; to date, he has been in detention for 132 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.¹ 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”).

¹ 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).

CONCLUSION

Respondents respectfully request Machado Gonzalez's petition be denied.

DATED this 30th day of March, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Mamie V. Wise
MAMIE V. WISE
Assistant United States Attorney
Florida Bar No. 65570
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: 813-274-6000
Facsimile: 813-274-6200
E-mail: mamie.wise@usdoj.gov

Lead Counsel for Federal Respondents