

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YEZID SHABANA,

Petitioner,

v.

SECRETARY, U.S. DEPARTMENT
OF HOMELAND SECURITY
("DHS"), et al. (all official capacity),¹

Respondents.

Case No. 2:26-cv-805-JES-NPM

A No. 
Palestine

Response to Habeas Petition

Petitioner Yezid Shabana challenges his detention by DHS and Immigration and Customs Enforcement ("ICE") as unreasonably delayed. The Federal Respondents disagree.

This is Shabana's second habeas that is facially premature under *Zadvydas* since his removal order only just became final. See *Shabana v. Noem* ("*Shabana 1*"), No. 2:25-cv-1188-JES-DNF, 2026 WL 237456 (M.D. Fla. Jan. 29, 2026). So the Court must—once again—deny the Petition. *Id.*

Background

The Court has already heard the relevant facts of detention. *Id.* at *1; *Shabana*

¹ The Glades County Sheriff should be terminated from this case with DHS or ICE being left as the only remaining Respondents. *Mota-Constanzo v. ICE*, No. 2:26-cv-369-KCD-DNF, 2026 WL 681819, at *2 n.3 (M.D. Fla. Mar. 11, 2026).

1, Doc. 9. Shabana's removal became final when the immigration judge ("IJ") ordered him removed, and Shabana waived appeal. (Ex. 1 at 3-4); 8 C.F.R. § 1241.1(b). That occurred on November 13, 2025. (Ex. 1 at 1, 4). As of today, only 148 days have passed since Shabana's removal order became final.

Since the IJ ordered Shabana's removal, ICE has been making efforts to remove him. (Ex. 2 at 2). Shabana seems to believe he can only be removed to Canada or Jordan since his removal order specified those countries. (Ex. 1 at 3). That is not the law. 8 U.S.C. § 1231(b)(2) (specifying countries for removal). What matters is that the IJ did not grant Shabana asylum or withholding to any nation—including his home of Palestine. (Ex. 1 at 1-2). ICE has absolutely no SLRRFF burden at this time, but it requested travel documents from Israel and is awaiting approval. (Ex. 2 at 2).

This challenge follows.

Certified Habeas Return

The Court has the power to grant writs of habeas corpus where (among other instances) the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioners bear the burden to prove custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

Shabana has a final removal order. At this point, Shabana is removable from the United States. The Attorney General (through her delegates) has a statutory obligation to execute that removal. 8 U.S.C. § 1231(a)(5).

ICE is detaining Shabana under 8 U.S.C. § 1231(a)(6) pending his removal. ICE

is working towards executing removal.

The period of Shabana's detention is still well within the presumptively reasonable limits established in *Zadvydas*. Even if he were able to challenge detention before then, Shabana cannot show that there is no SLRRFF.

Discussion

Shabana challenges his detention under various theories. These claims fail. As described below, the Court has no jurisdiction. Even if it did, detention has not extended to a length creating constitutional questions.

A. Lack of Jurisdiction

While Respondents believe the Court lacks jurisdiction, the undersigned realizes it will fail here. Plus, Jurisdiction is a non-waivable matter should Respondents choose to appeal. So for the brief purpose of preservation, Respondents contend 8 U.S.C. § 1252(g), (b)(9) strip jurisdiction. Even if the Court finds jurisdiction, Shabana's claims still fail. *See Tran v. Warden*, No. 2:25-cv-1224-KCD-NPM, 2026 WL 672969 (M.D. Fla. Mar. 10, 2026).

B. Constitutionally Lawful Detention

Even if the Court disagrees with the above, it must still deny the writ. Shabana cannot make a claim for unlawfully prolonged detention at this time. Nor can he litigate SLRRFF prematurely.

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). Yet indefinite detention would present obvious constitutional concerns. *Id.* So the Supremes interpret this 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 v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (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 SLRRFF. *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*, 287 F.3d at 1051-52; *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).² At bottom, “This presumptively reasonable six month period

² Some districts disagree. *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008). Of course, *Akinwale* binds the Court. Even if it didn’t, *Cesar* and any progeny are wrong. *Zadvydas* recognized the presumptive six-month period for the specific “sake of uniform administration in the federal courts.” *Zadvydas*, 533 U.S. at 701. That was not an invitation to make up exceptions to this ripeness doctrine—like *Cesar* did.

must have expired at the time of the filing of a petition.” *E.g.*, *Jiang v. Mukasey*, No. 2:08-cv-773-FtM-29DNF, 2009 WL 260378, at *2 (M.D. Fla. Feb. 3, 2009) (Steele, J.); *Noel v. Glades Cnty. Sheriff*, No. 2:11-cv-698-FtM-29SPC, 2011 WL 6412425, at *2 (M.D. Fla. Dec. 21, 2011) (Steele, J.); *see also Lam v. ICE*, No. 2:25-cv-1202-KCD-DNF, 2026 WL 628248 (M.D. Fla. Mar. 6, 2026) (dismissal of habeas petition as premature, petition only detained for four months “squarely within window in which his detention is presumptively reasonable”).

Shabana’s removal order became final on November 13. Although detained since then, he has only been in post-removal-order detention for 148 days. This timeline is well under the 180-day period that is presumptively reasonable. That is fatal to jurisdiction. *Akinwale*, 287 F.3d at 1051-52.

The Court already decided this case with clear instructions:

Shabana has not been detained for more than 180 days following the beginning of the statutory removal period. Thus, this claim is precluded by the plain language of the detention statute and by *Zadvydas*. *See also Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (“This six-month period thus must have expired at the time Akinwale’s § 2241 petition was filed in order to state a claim under *Zadvydas*.”).

...

... Should his detention continue past *Zadvydas*’s presumptively reasonable detention period he may, of course, refile his petition.

Shabana 1, 2026 WL 237456, at *2. Since Shabana’s claim is still premature, the Court must once again dismiss without prejudice. *Id.*; *Jiang*, 2009 WL 260378, at *2.

Even if the Court were to get past the bright-line cutoff, there is no way for

Shabana to show no SLRRFF exists. *See Zadvydas*, 533 U.S. at 689. At this point, ICE is working toward removal “the reasonably foreseeable future.” *See id.* It recently took Shabana into detention, had him ordered removed, and requested travel documents from Israel to repatriate him to Palestine. There is no evidentiary support to rebut ICE’s SLRRFF determination. In fact, ICE demonstrated it is expeditiously working to remove Shabana.

The allegations that ICE concluded that it cannot remove and should release him are simply wishful thinking—not the reality in which Shabana finds himself. To be clear, ICE believes there is SLRRFF and is actively working to remove Shabana. While it has no current obligation to do so, ICE demonstrated SLRRFF by promptly requesting travel documents to repatriate him.

In short, Shabana’s claims fail as premature and meritless, nonetheless.

Conclusion

For those reasons, the Court must deny the Petition.

Certificate of Service

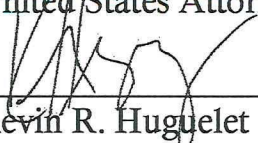
I certify that a copy of this Response and Exhibits will be mailed today by regular US Mail to the following:

Yezid Shabana
A# 
Glades County Detention Center
1297 East SR 78
Moore Haven, FL 33471

Date: April 10, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney



Kevin R. Huguelet
Assistant United States Attorney
Florida Bar Number 125690
Kevin.Huguelet@usdoj.gov
2110 First Street, Suite 3-137
Fort Myers, Florida 33901
(239) 461-2237

(Lead counsel for Federal Respondents)