

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

YAMIL VASALLO GONZALEZ
NORONA,

Plaintiff,

v.

Case No. 2:26-cv-837-SPC-NPM

WARDEN, FLORIDA SOFT
SIDE FACILITY SOUTH, et al.,

Defendant.

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

Petitioner Vasallo Gonzalez Norona 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. Respondents contend that 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). Vasallo Gonzalez Norona had been detained for 243 days when he filed the present petition and for 253 days as of the date of this response.

BACKGROUND

Vasallo Gonzalez Norona is a national and citizen of Cuba. Composite Ex. 1 at 3. He was ordered to be deported to Cuba on December 21, 2017. *Id.* Vasallo Gonzalez Norona was released on an order of supervised release on March 23, 2018.

Id. On May 22, 2025, Vasallo Gonzalez Norona reported to ICE ERO ORL and was instructed to return on July 23, 2025, with proof of arrangements to depart. *Id.* Vasallo Gonzalez Norona returned on July 23, 2025, but advised that he would not be complying with providing departure arrangements. *Id.* He also presented an I-246, Application for Stay of Deportation or Removal, to file that same day. *Id.* The I-246 was later denied. *Id.* at 5. Vasallo Gonzalez Norona was placed in immigration custody on July 23, 2025. *Id.* at 1.

Vasallo Gonzalez Norona is currently detained at Florida Soft Side South. *Id.* at 6. On March 23, 2026, Vasallo Gonzalez Norona filed a petition for writ of habeas corpus. Dkt. 1.

CERTIFIED HABEAS RETURN

The Court has power to grants writs of habeas corpus where (among other instances) petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears 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).

Vasallo Gonzalez Norona was ordered removed by an Immigration Judge in 2017. Ex. 1 at 3. At that point, Vasallo Gonzalez Norona was 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)(1)(A), (a)(3). ICE is detaining Vasallo Gonzalez Norona under 8 U.S.C. § 1231(a)(6) pending his removal. ICE represented

to undersigned counsel that they are attempting to remove Vasallo Gonzalez Norona to Mexico but did not provide any documentary proof of that to counsel.

The period of Vasallo Gonzalez Norona's detention is outside the presumptively reasonable limits established in *Zadvydas*, so ICE must show that there is SLRRFF.

ARGUMENT

A. Lack of Jurisdiction¹

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted).

In the context of immigration habeas cases related to removal—like here—the INA divests this Court's jurisdiction. 8 U.S.C. §§ 1252(b)(9), (g). As discussed, the Court lacks jurisdiction over Vasallo Gonzalez Norona's claims. Regardless of how he words the matter, Vasallo Gonzalez Norona challenges detention to execute a final order of removal.

1. Jurisdiction Stripping Under § 1252(g)

There is no jurisdiction to review “any” claim “arising from the decision or action” to “execute removal orders.” 8 U.S.C. § 1252(g). This provision bars habeas review in federal courts when the claim arises from a decision or action to “execute” a final order of removal. *Reno v. American-Arab Anti-Discrimination Committee (AADC)*,

¹ Undersigned counsel is making this argument solely to preserve the record.

525 U.S. 471, 482 (1999).

Courts consistently hold that § 1252(g) eliminates subject-matter jurisdiction over challenges—including constitutional claims—to an arrest or detention for the purpose of executing a final removal order. *E.g.*, *Camarena v. ICE*, 988 F.3d 1268, 1273-74 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal order.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).² Likewise, § 1252(g) precludes review of the method by which ICE chooses to commence removal proceedings. *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its plain terms, the provision bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.”).

ICE detained him to execute the final removal order and ICE is in the process of executing removal. This action is an effort to interfere with or halt that legal process. The INA plainly strips the Court’s jurisdiction in these instances. 8 U.S.C. § 1252(g).

The Court lacks jurisdiction for a separate reason.

² See also *Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018) (“Under a plain reading of the text of the statute, the Attorney General’s enforcement of long-standing removal orders falls squarely under the Attorney General’s decision to execute removal orders and is not subject to judicial review.”); *Tazu v. U.S. Attorney General*, 975 F.3d 292, 297 (3d Cir. 2020) (“The plain text of § 1252(g) covers decisions about whether and when to execute a removal order.”); *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022); *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021).

2. *Jurisdiction Stripping Under § 1252(b)(9)*

There is no jurisdiction to review “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” outside a case reviewing the final removal order. 8 U.S.C. § 1252(b)(9). This is known as the “zipper clause.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257 (11th Cir. 2020). The zipper clause is “a jurisdictional bar where” petitioner seeks “review of an order of removal [or] the decision to seek removal.” *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020) (cleaned up).

There is a single path for judicial review of removal orders—“a petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5). Reading § 1252(a)(5) and (b)(9) together, courts conclude petitioners must funnel all aspects of challenges to removal proceedings through that avenue. *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (“The REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals.”); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (There is “clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).”).

The zipper clause encompasses more than § 1252(g). *AADC*, 525 U.S. at 483. Under these provisions, “most claims that even relate to removal” are improper in a district court. *E.O.H.C. v. DHS*, 950 F.3d 177, 184 (3d Cir. 2020). There are limitations on how broadly courts interpret the zipper clause. *E.g. Canal A*, 964 F.3d at 1257. But a claim obviously “arises from a removal proceeding when the parties are challenging

removal proceedings.” *Id.* (cleaned up); *see also Regents of Cal.*, 591 U.S. at 19.

Here, the crux of this case challenges ICE’s execution of Vasallo Gonzalez Norona’s final removal order to stop the removal process. These are the exact claims barred by the zipper clause. 8 U.S.C. § 1252(b)(9).

3. *Conclusion of Jurisdiction Stripping*

As discussed above, Vasallo Gonzalez Norona’s claims fall squarely within the INA’s jurisdiction-stripping provisions of 8 U.S.C. §§ 1252(g) and (b)(9). The Court, therefore, lacks subject-matter jurisdiction and must dismiss.

B. Constitutionally Lawful Detention

1. *Relevant Case Law*

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).³ At bottom, “This presumptively reasonable six month period 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.).

2. Analysis

Petitioner, Vasallo Gonzalez Norona had been in custody for 243 days at the time he filed his petition. This is over the 180-day limit set forth in *Zadvydas*. ICE counsel represented to undersigned counsel that ICE is working to deport Vasallo Gonzalez Norona to Mexico. Undersigned counsel has not received any documentary evidence or more information about the intended third-country removal. If

³ 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.

undersigned counsel receives documentary evidence before this Court rules on Vasallo Gonzalez Norona's petition, she will amend this response.

CONCLUSION

Respondents respectfully request that Vasallo Gonzalez Norona's petition be denied.

DATED this 2nd day of April, 2026.

Respectfully submitted,

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