

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Yoandris L. Rosales Fuentes,

Petitioner,

Case No. 2:26-cv-864-SPC-DNF

v.

U.S. Immigration and Enforcement,
et al.,

Respondents.

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

Petitioner Yoandris Rosales Fuentes files another writ of habeas corpus¹ pursuant to 28 U.S.C. § 2241, seeking his release from immigration custody, on supervision, 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.

¹ As noted in the Amended Notice of Related Cases (ECF 8), Fuentes had filed a previous habeas petition in Case No. 2:26-cv-1134-KCD-NPM, which was denied without prejudice (ECF 4) by Judge Dudek because the petition was largely in Spanish. Fuentes filed another habeas petition in Case No. 2:26-cv-1558-KCD-KRH, which was denied on June 3, 2026, without prejudice "to him refiling a new petition should his current detention exceed the six-month mark and he can demonstrate there is no significant likelihood of removal in the reasonably foreseeable future." ECF 17 at 4. Finally, there is another Fuentes habeas petition (which appears to be identical to his first petition) pending in Case No. 2:26-cv-1861-KCD-KRH.

678 (2001). Fuentes had been detained for 135 days when he filed the present petition. His present detention is therefore lawful.

BACKGROUND

The following is Fuentes' background, as summarized by the Court in Case No. 2:26-cv-1558-KCD-KRH, ECF 17:

Fuentes was ordered removed from the United States by an immigration judge on January 3, 2013. He was not removed at that time but instead placed on supervision. On January 22, 2026, ICE took him into custody to execute his removal order.

The following is Fuentes' background, as summarized by the federal respondents to the habeas petition in Case No. 2:26-cv-1558-KCD-KRH, ECF 16 (without the record cites from the Composite Exhibit filed with the response):

Yoandris Rosales Fuentes is a national and citizen of Cuba.² Fuentes was paroled the United States on July 20, 2006, at Brownsville, Texas. After criminal convictions in New Jersey and Florida, considered aggravated felonies, a Final Administrative Removal Order was entered and served on January 3, 2013. Fuentes was taken into ICE custody on January 12, 2013, and released on an order of supervision on March 19, 2013.

Yoandris Rosales Fuentes was placed in immigration custody, after an ICE detainer, on January 22, 2026. His supervision was revoked on June 1, 2026, which he refused to sign. Fuentes was informally interviewed on May 13, 2026, making statements about his immigration paperwork and prior jail time. Fuentes is currently detained at Florida Soft Side South,³ and was "nominated for removal to Mexico" on June 1, 2026, which will be attempted "within the next fourteen days."⁴

² Fuentes attaches a letter indicating a fear of returning to Cuba, as he did in his previous petitions. (ECF 2 at 22-24.)

³ Fuentes is now detained at Glades County Detention Center. *See* Exhibit 1.

⁴ Although the declaration filed in response to Fuentes' second habeas petition in Case No. 2:26-cv-1558ICD-KRN attested an attempt at removal would occur in the next 14

On June 5, 2026, Fuentes filed another pro se petition for writ of habeas corpus alleging his custody is lawful under *Zadvydas v. Davis* and the Fifth Amendment Due Process Clause, and that his housing placement (at Florida Soft Side South) is “beyond inhumane.” ECF 2 at 6-7. On June 14, 2026, Fuentes was transferred to Glades County Detention Center, which the federal respondents submit should moot the latter claim (which is not a cognizable claim for habeas relief). *See* Exhibit 1 (updated detention history).

ARGUMENT

Yoandris L. Rosales Fuentes’ 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

days, such has not occurred as of the date of this response. *See* ECF 16, Comp. Exh. 1 at 30, ¶ 6.

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 701. If an alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the government must either rebut that showing or release the alien. *Id.* 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, “until the six-month *Zadvydas* period concludes, detention is presumptively reasonable, and any due process claim is not ripe.” *E.g., Al Ellary v. Noem*, Case No. 2:26-cv-112-KCD-DNF, 2026 WL 548048, at *1 (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).

Yoandris L. Rosales Fuentes has again filed another habeas petition before

expiration of six months in detention. He was detained on January 22, 2026, and filed the present petition on June 5. At that point, Fuentes had been detained for 135 days; to date, he has been in detention for 146 days.

As previously stated, it is only after six months that the parties can engage in *Zadvydas* burden-shifting related to the “significant likelihood of removal in the reasonably foreseeable future.” *See Jennings*, 583 U.S. at 299 (citation omitted); *Zadvydas*, 533 U.S. at 701 (holding the inquiry is “[a]fter this 6-month period”); *Al Ellary*, 2026 WL 548048, at *1–2 (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. *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

The federal Respondents respectfully request Yoandris Rosales Fuentes’ habeas petition be denied based on the arguments set forth herein.

DATED this 16th day of June, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 16, 2026, a true and correct copy of the foregoing application was sent by United States Mail to Petitioner Glades County Detention Center (where he is currently detained).

/s/Kelley C. Howard-Allen
Kelley C. Howard-Allen
Assistant United States Attorney