

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

MAYKEL CABALLERO LEEN,

Petitioner,

v.

Case No.: 4:26-cv-00685-CDL-AGH

MARKWAYNE MULLIN, et al.,

Respondents.

PETITIONER'S STATUS REPORT

Petitioner MAYKEL CABALLERO LEEN, by and through undersigned counsel, respectfully submits this Status Report pursuant to the Court's Order of August 6, 2026 (Doc. 8), which directed the parties to file a status report on or before August 20, 2026. Counsel for the parties conferred by electronic mail on August 18, 2026, and Respondents informed the undersigned that the ICE deportation officer tried to serve Petitioner with a third-country removal notice on August 12, 2026, following the Court's Order, which Petitioner "refused to sign." At the time of filing, Petitioner has not yet received a copy of the notice. Petitioner does not concede the accuracy or completeness of any account of the August 12, 2026 event, and reserves the right to respond once Respondents produce the underlying record. Petitioner provides the following status report concerning these events.

I. PROCEDURAL BACKGROUND

Petitioner filed his Verified Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 on April 24, 2026 (Doc. 1). Respondents filed their response and motion to dismiss,

supported by the Declaration of Deportation Officer Charles Gillikin (Doc. 6; Doc. 6-1). Petitioner filed his response to the motion to dismiss on June 2, 2026 (Doc. 7). The Petition has been fully briefed and ripe for decision since June 2, 2026.

Petitioner remains detained by U.S. Immigration and Customs Enforcement (“ICE”) at Stewart Detention Center in Lumpkin, Georgia. Petitioner’s order of removal to Cuba became final on October 6, 2020. He was detained under that order until DHS released him on an Order of Supervision (Form I-220B) on October 30, 2020, because Cuba would not accept him. He was then re-detained on February 24, 2026 — 177 days as of the date of this filing, and more than six months in total when considering all detention. Even if not aggregated, the six-month period that *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), identifies as presumptively reasonable will elapse, as to this period of custody standing alone, on August 24, 2026.

II. EFFORTS TO REMOVE PETITIONER TO MEXICO

Petitioner has not been removed. Counsel is aware of no evidence that Cuba has changed the position reflected in Respondents’ own declaration, which states that Cuba denied repatriation on March 26, 2026. See Doc. 6-1 ¶¶ 13–14.

On August 18, 2026, counsel for Respondents advised undersigned counsel by email that, based on information he had received, an ICE deportation officer attempted to serve Petitioner with a notice of removal to a third country on or about August 12, 2026, and that Petitioner did not sign it. Counsel for Respondents offered to provide a copy of the notice. Undersigned counsel requested a copy the same day but has not received a copy at the time of filing.

Without the documents, Petitioner can provide the following information: ICE has been attempting to remove him to Mexico, a country that is neither his country of nationality nor the country designated in his order of removal. ICE contends that Petitioner's "refusal" to be removed to Mexico is a refusal for purposes of permitting continued detention.

As Petitioner explained in his papers, Courts have concluded that in identical circumstances—Cubans who cannot be removed to Cuba and who do not wish to go to Mexico—the "refusal" to go to Mexico is not a refusal for purposes of section 1231(a)(1)(C). *See* (Doc. 7 at 5) (citing *Losada Diaz v. Parra*, 2026 WL 1223375, at *4 (S.D. Fla. Jan. 25, 2026)); *see also ee Martinez-Marino v. Sheriff of Baker Cnty. Sheriff's Off.*, No. 3:25-CV-854-JEP-MCR, 2026 WL 681812, at *5 (M.D. Fla. Mar. 11, 2026) ("For the same reasons expressed above, the Court declines to find that Petitioner's 'refusals' to be removed to Mexico have prevented his removal") (ordering release where Cuba would not accept petitioner and government could not prove significant likelihood of removal in the foreseeable future).

Martinez-Marino is instructive on this point. There "was no indication that Petitioner made any affirmative misrepresentations or refused to accurately provide ICE with any requested information, refused to complete necessary forms, physically interfered with his impending removal, or otherwise constructed a ploy to prevent his removal." *Id.* at *5. The only evidence offered by the government was that the petitioner "refused removal to Mexico" and expressed a desire to remain in the United States if he could not be deported to Cuba. *Id.* Because respondents there offered no evidence that the petitioner

“actually impeded ICE’s ability to remove him” other than refusing to go to Mexico, the court concluded that the six-month period expired and was not tolled under section 1231(a)(1)(C). Indeed, the court expressly “decline[d] to find that Petitioner’s ‘refusals’ to be removed to Mexico have prevented his removal. *Id.*”

III. CONCLUSION

In sum, Petitioner has not received all the information about the government’s efforts to remove him to Mexico. However, his desire not to be removed to Mexico should not operate to toll the presumptive period under *Zadvydas* or otherwise effect consideration of the grounds presented in the petition. Instead, the effort shows that ICE cannot satisfy its burden to demonstrate that there is a real, definite plan for Petitioner’s removal.

Dated: August 20, 2026

Respectfully submitted,

/s/ James M. Slater

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