

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

HANSEDT MENDES MESA,

Petitioner,

Case No. 3:26-cv-1147-MMH-MCR

v.

WARDEN, NORTH FLORIDA
DETENTION CENTER, et al.,

Respondents.

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

Petitioner Hansedt Mendes Mesa seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking his immediate release from immigration custody on the basis that his detention is in violation of the Due Process Clause of the 5th Amendment and the Immigration and Nationality Act. 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). Hansedt Mendes Mesa was detained for 68 days when he filed the present petition and therefore the petition was filed prematurely. Any procedural error in revoking Hansedt Mendes Mesa's order of supervision is best remedied by way of ordering the procedure and not release. Hansedt Mendes Mesa's detention is therefore lawful.

BACKGROUND

Hansedt Mendes Mesa is a national and citizen of Cuba who was entered the United States on January 17, 1995. (Ex. 1 at 2, I-213 Record of Deportable/Inadmissible Alien, Dated February 2, 2026). Hansedt Mendes Mesa was convicted of murder and was most recently encountered by ICE on February 2, 2026, because he was in custody serving an 18-year sentence. *Id.* On February 9, 2006, he was ordered removed and he waived appeal, making the order final. (Ex. 2, Order of the Immigration Judge Dated, February 9, 2006). Hansedt Mendes Mesa was released on an order of supervision on March 24, 2006. (Ex. 3, Order of Supervision, Dated March 24, 2006). On February 27, 2026, Hansedt Mendes Mesa was returned to immigration custody. (Ex. 4, Detention History, Accurate as of May 27, 2026).¹

On May 5, 2026, Hansedt Mendes Mesa filed a petition for writ of habeas corpus alleging his detention violates the Due Process Clause of the 5th Amendment and that ICE has failed to comply with their own regulations. (Doc. 1)

He is currently detained at California City Corrections Center.

ARGUMENT

I. Hansedt Mendes Mesa'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

¹ Presumably, Hansedt Mendes Mesa's order of supervision was revoked or intended to be revoked when he was detained on February 27, 2026. However, the undersigned has not yet received revocation documents, despite making requests for the documents to support this response. Should documentation become available, they will be provided by way of supplemental response.

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. 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. *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018). 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). Finally, if the alien “acts to prevent the alien’s removal subject to an order of removal”, the removal period shall be extended. See 8 USC 1231(a)(1)(C).

Hansedt Mendes Mesa filed the present petition well before expiration of six months in detention. He was most recently detained for immigration purposes on February 27, 2026, and filed the present petition on May 5, 2026. At that point, Hansedt Mendes Mesa had been detained for 68 days. At time of filing this response, Hansedt Mendes Mesa has only been detained for 89 days. (Ex. 3). His prior period of immigration detention should not be aggregated, however, even if it were, he would still only have 44 days additional since the entry of the final order, making the total 133 days in custody as of the filing of this response. 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”); *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. 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”). Hansedt Mendes Mesa must have been detained beyond the 6 months at the time the petition was filed, or his filing was premature. See *Akinwale*, 287 F.3d 1050, 1052 (11th Cir. 2002) (“This six-month period thus must have expired at the time [the petitioner’s] § 2241 petition was filed in order to state a claim under *Zadvydas*.”).²

II. Petitioner’s *Accardi* Claim Fails.

Hansedt Mendes Mesa has not shown that deviation from the OSUP revocation procedures amounts to a due process violation. Hansedt Mendes Mesa relies on *United States ex rel. Accardi v. Shaughnessy*, where the Supreme Court established a doctrine—now known as the “*Accardi* doctrine”—that generally requires an agency to follow its regulations. See 347 U.S. 260 (1954). But the Supreme Court in *Accardi* did not determine the sweeping principle that agencies violate due process any time they fail to

² See also *Mehighlovesky v. U.S. Dep’t of Homeland Sec.*, No. CIV. 12-902 RHK/JJG, 2012 WL 6878901, at *2 (D. Minn. Dec. 7, 2012), *report and recommendation adopted*, No. CIV. 12-902 RHK/JJG, 2013 WL 187553 (D. Minn. Jan. 17, 2013) (“There is a good policy reason for dismissing premature *Zadvydas* actions, even when post-removal-order detention has exceeded six months by the time the case is decided. If the rule were otherwise, removable aliens would have no incentive to wait for their potential *Zadvydas* claims to ripen, and the federal courts might then be inundated with pre-emptive *Zadvydas* claims brought by aliens who are unwilling to give the Government six months to effect their removal.”)

follow some regulation in a way that affects a party's rights. As the Supreme Court has clarified, *Accardi* "enunciates[s] principles of federal administrative law rather than of constitutional law." *Bd. of Curators of Univ. of Missouri v. Horowitz*, 435 U.S. 78, 92 n.8 (1978). "*Accardi* is based on administrative law principles, not constitutional due process requirements." *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 212 (D.D.C. 2020) (explaining limits on the *Accardi* doctrine). Here, Hansedt Mendes Mesa has not shown that any arguable violations of the regulatory provisions at issue amount to a due process violation, since he has not shown that he will be denied any notice and opportunity to be heard on the basis for which his release was revoked. In fact, Hansedt Mendes Mesa was provided with a post-detention custody review, wherein they informed him his custody would continue because "you may pose a threat to the public safety or the community. There are no other humanitarian, medical, or custodial issues present in your case. Your removal is apparent [i]n the foreseeable future". (Ex. 5 at 1, Decision to Continue Detention, Dated May 9, 2026). Hansedt Mendes Mesa was also informed he would be provided a personal interview in relation to the custody determination. *Id.* In any event, the proper remedy to any procedural deficiency would be—at most—ordering ICE to provide Hansedt Mendes Mesa with whatever process the Court deems appropriate. See, e.g., *I.V.I. v. Baker*, No. JKB-25-1572, 2025 WL 1811273, at *3 (D. Md. July 1, 2025) ("And while habeas is a proper vehicle to challenge detention that is without statutory authority or violative of the Constitution, it is not a proper vehicle for vindicating every procedural error the Government may have committed along the way.").

CONCLUSION

Respondents respectfully request Hansedt Mendes Mesa's petition be denied.

DATED this 27th day of May, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 27, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to the following CM/ECF participant listed below:

Hansedt Mendes Mesa
California City Corrections Center
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California City, CA
Tele: (760) 491-8126

Petitioner

/s/ Matthew T. Brodersen
Matthew T. Brodersen
Special Assistant United States Attorney

EXHIBIT LIST

Exhibit No.	Title	Description
1	I-213	Record of Deportable/Inadmissible Alien, Dated February 2, 2026
2	Removal Order	Order of the Immigration Judge Dated, February 9, 2006
3	Order of Supervision	Order of Supervision, Dated March 24, 2006
4	Detention History	Detention History, Accurate as of May 27, 2026
5	Decision to Continue Detention	Decision to Continue Detention, Dated May 9, 2026