

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case 26-22758-CIV-BLOOM

ROBERTO JIMENEZ-PARES,
Petitioner,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT.,
Respondent..

/

RESPONSE TO ORDER TO SHOW CAUSE

Respondents hereby respond to the Court's Order to Show Cause (ECF No. 8) why the Petition for Writ of Habeas Corpus filed by Roberto Jimenez-Pares should not be granted.

PROCEDURAL AND FACTUAL HISTORY

Petitioner Roberto Francisco Jimenez Pares is a citizen and national of Cuba. Petitioner last entered the United States on or about August 22, 1984, and subsequently became a Lawful Permanent Resident (LPR). *See* Ex. A, Form I-213, Record of Deportable/Inadmissible Alien. Petitioner's extensive criminal history in the United States dates back to 1992. *See* Ex. B, Declaration of Deportation Officer.

Petitioner was placed in removal proceedings on July 18, 2003, for committing crimes involving moral turpitude and trafficking in controlled substances. *Id.* On December 30, 2003, an Immigration Judge in Miami, Florida ordered his removal from the United States. Petitioner did not appeal that decision, and it became final. *Id.*

On August 13, 2004, Customs and Border Protection (CBP) officials encountered Petitioner and determined that he had previously been stripped of his LPR status due to his

criminal history and ordered removed. *Id.* CBP then placed Petitioner in removal proceedings once again. *Id.*

On February 22, 2006, an Immigration Judge in Miami, Florida, again ordered Petitioner removed from the United States. *Id.* Petitioner did not appeal the order, and it became final. *Id.* Petitioner, however, did not depart the United States. *Id.*

In 2011, Petitioner was convicted of aggravated assault on a law enforcement officer, resisting a law enforcement officer with violence, grand theft of a motor vehicle and driving with a suspended license. *Id.* Petitioner was sentenced to a term of imprisonment of two years and nine months. *See* Ex. A, Form I-213, Record of Deportable/Inadmissible Alien.

On April 13, 2011, Enforcement and Removal Operations (ERO) encountered Petitioner upon his release from custody by the Florida Department of Corrections (FDC). *Id.* ERO subsequently released Petitioner on an Order of Supervision on or about July 14, 2011. *Id.*

On December 14, 2012, Petitioner was convicted of grand theft in Miami-Dade County, Florida and sentenced to five months and twenty-eight days of imprisonment. *See* Ex. C, Notice of Revocation of Release. (Mar. 30, 2026). On July 17, 2014, Petitioner was convicted in Miami-Dade County, Florida of grand theft of a motor vehicle and driving with a suspended license and was sentenced to six months and seventeen days of imprisonment. *Id.* On March 26, 2026, Petitioner was convicted in Lee County, Florida of driving without a license and sentenced to 180 days of imprisonment. *Id.*

On March 30, 2026, ERO served Petitioner with a Notice of Revocation of Release. *Id.* At that time, Petitioner was taken into ERO custody. *See* Ex. D, Detention History. ERO conducted an informal interview. *See* Ex. B, Declaration of Deportation Officer.

There are no pending applications for relief. *See* Ex. B, Declaration of Deportation Officer. On April 3, 2026, ERO served Petitioner with a Notice of Removal to Mexico. *See* Ex. F, Notice of Removal (Apr. 3, 2026). Petitioner is currently being held at Krome North Service Processing Center pending his removal to Mexico. *See* Ex. D, Detention History.

ARGUMENT

The habeas statute, 28 U.S.C. § 2241, empowers the Court to issue a writ of habeas corpus in cases where a detained person is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. Petitioner here, however, has not alleged any facts demonstrating that his detention is unlawful. In any event, Petitioner is lawfully detained and the Court should deny his Petition.

As explained above, Petitioner is subject to a final order of removal and ICE has lawfully revoked his supervised release and re-detained him for the purpose of carrying out his removal to Mexico. Petitioner is lawfully detained under 8 U.S.C. § 1231(a)(6) and, despite his allegations to the contrary (*see* Petition at ¶ 13), he has not been detained long enough to state a valid claim of prolonged detention under *Zadvydas v. Davis*. 533 U.S. 678 (2001).

I. This Court Lacks Jurisdiction Over Petitioner’s Claim.

“Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted); *see also Johansen v. Combustion Eng’g, Inc.*, 170 F.3d 1320, 1328 n.4 (11th Cir. 1999) (“A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist arises.”). For these reasons, before this Court can proceed, it must determine whether it has jurisdiction over this action. *See Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1323 (11th Cir. 2012)

(“Prior to making an adjudication on the merits, we must assure ourselves that we have jurisdiction to hear the case before us.”).

A. Congress Stripped this Court of Jurisdiction to Prevent the Execution of Removal Orders.

As explained above, Petitioner is subject to a final order of removal that was entered in 2006. Although he was out of custody pursuant to an Order of Supervision, DHS revoked Petitioner’s supervised release and took Petitioner into custody for the purpose of executing his removal. *See* Ex. C, Notice of Revocation of Release. DHS has the discretionary authority to revoke an order of supervision if “(i) the purposes of release have been served, (ii) the alien violates a condition of release, (iii) it is appropriate to enforce a removal order or to commence removal proceedings against an alien, or (iv) the conduct of the alien, or any other circumstance indicates that release is no longer appropriate. 8 C.F.R. § 241.4(l)(2) (emphasis added).

By asking this Court to order his re-release, Petitioner is asking the Court to prevent ICE from executing his final removal order. The Court, however, lacks jurisdiction to grant such relief. Federal law precludes a district court from interfering with the government’s decision or action to execute an order of removal. 8 U.S.C. § 1252(g). Section 1252(g) specifically states that “no court shall have jurisdiction to hear any cause or claim by ... any alien arising from the decision or action by [ICE] to ... execute removal orders against any alien.” 8 USC § 1252(g). This provision applies “notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision.” *Id.*

The Eleventh Circuit has explained that “[s]ection 1252(g) bars review over ‘any’ challenge to the execution of a removal order – and makes no exception for those claiming to challenge the government’s ‘authority’ to execute their removal orders.” *Camarena v. Dir., Immigr. & Customs Enf’t*, 988 F.3d 1268, 1273 (11th Cir. 2021) (holding that where there is no challenge to the validity

of a removal order, district courts lack jurisdiction to hear any “cause or claim brought by an alien arising from the government’s decision to execute a removal order”). The petitioners in *Camarena* were in a virtually identical situation as the one in which Petitioner is here: (a) they did not challenge the existence of their orders of removal, (b) they remained in the United States via an order of supervision, and (c) they filed habeas petitions after DHS attempted to execute orders of removals. Under these circumstances, the Eleventh Circuit found that the district court lacked jurisdiction to grant relief because section 1252(g) strips courts of jurisdiction to prevent the execution of removal orders. *Id.* at 1272-73.

Here, like the petitioners in *Camarena*, Petitioner does not challenge the existence of his order of removal. Instead, he incorrectly argues that his detention has been unlawfully prolonged, and requests immediate release from detention. Section 1252(g), as interpreted by the Eleventh Circuit in *Camarena*, deprives this Court of jurisdiction to grant such relief. *See also Rivera-Amador v. Rhoden*, Case No. 3:25-CV-1460-WWB-SJH, 2025 WL 3687452, at *3 (M.D. Fla. Dec. 19, 2025) (holding that Section 1252(g) “divests the Court of jurisdiction” from enjoining respondents from detaining and deporting petitioner subject to a removal order); *Mapoy v. Carroll*, 185 F.3d 224, 230 (4th Cir. 1999) (holding that district court lacked jurisdiction to hear a challenge to execution of order of deportation pursuant to § 1252(g)); *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *3 (S.D. Fla. Aug. 8, 2025) (“The Court finds that § 1252(g) deprives it of subject-matter jurisdiction over Respondent’s decision to revoke the OSUP...”).

II. Petitioner’s Detention Pending Removal Does Not Violate his Constitutional Rights

Petitioner is detained pending his removal, as permitted by 8 U.S.C. § 1231(a)(6), and his assertion that his detention is unlawfully prolonged is incorrect.

A. ICE Lawfully Detained Petitioner Pursuant to 8 U.S.C. § 1231.

Section 241 of the Immigration and Nationality Act (8 U.S.C. § 1231) states, “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231 (a)(1)(A). That period is called the “removal period,” and the Attorney General must detain the alien during the “removal period”. 8 U.S.C. § 1231(a)(2)(A).

In *Zadvydas v. Davis*, the Supreme Court held that an alien subject to a final removal order may be detained beyond § 1231’s 90-day removal period for an additional period “reasonably necessary to secure removal.” 533 U.S. 678, 699 (2001). Such detention is “presumptively reasonable” for six months. *Id.* at 701. However, “[t]his 6-month presumption . . . does not mean that every alien not removed must be released after six months.” *Id.* Rather, an alien, “may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit held that, in order to state a claim under *Zadvydas*, “the [alien] not only must show post removal order detention in excess of six months, but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” 287 F.3d at 1052. To do so, a petitioner cannot merely rest on his own conclusory assertions—actual proof or evidence is needed. *Akinwale*, 287 F.3d at 1052 (“[T]o state a claim under *Zadvydas* the alien . . . must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”). Where an alien cannot meet his burden of establishing that there is not a substantial likelihood of removal in the reasonably foreseeable future, a petition for habeas corpus should be dismissed. *See, e.g., Oladokun v. U.S. Atty. Gen.*, 479 F. App’x 895, 897 (11th Cir. 2012); *Akinwale*, 287 F.3d at 1052.

Despite his allegation that he has been detained longer than six months, Petitioner was taken into ICE custody only on March 30, 2026 (*see* Exh. D, Detention History). As such, he has not been detained long enough to state a claim for unreasonable detention under *Zadvydas* and *Akinwale*. But even setting aside Petitioner's failure to clear the threshold bar of detention longer than six months, the Court should deny Petitioner's constitutional challenge because he has not met his burden of proving there is no significant likelihood that he will be removed. *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434 (S.D.N.Y. 2017) (describing how *Zadvydas* "places an initial burden on the detainee" to establish that the "no significant likelihood" standard has been met). In order to satisfy his burden under *Zadvydas*, the petitioner must present more than "mere assertions that removal is unforeseeable." *Juma v. Mukasey*, 2009 WL 2191247, at *3 (S.D.N.Y. July 23, 2009). Other than his assertion that, "Petitioner's removal to Cuba or Mexico is not reasonably foreseeable because there is no immigration agreement between Cuba and the United States" (Petition at ¶ 13), Petitioner here provides no support for the suggestion that he is subject to indefinite detention without likelihood of removal. As indicated above, Petitioner will be removed to Mexico, not Cuba.

Accordingly, Petitioner has failed to state a claim entitling him to relief under *Zadvydas*.

CONCLUSION

For the foregoing reasons, Respondents respectfully submit that the Petition for Writ of Habeas Corpus should be dismissed or denied.

Respectfully submitted,

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