

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

CONROY CONDECORE,
Petitioner,

v.

Case No. 2:26-cv-1704-SPC-NPM

U.S. ATTORNEY GENERAL, ET AL.,
Respondents.

FEDERAL RESPONDENTS' RESPONSE TO HABEAS PETITION

Petitioner Conroy Condecore challenges his ongoing detention by immigration authorities. He alleges that his detention at the hands of U.S. Immigration and Customs Enforcement's ("ICE") is unlawful. Petition for Writ of Habeas Corpus ("Petition"), ECF No. 1.

Background

Condecore is a citizen and national of Jamaica. *See* Petition for Writ of Habeas Corpus, ECF No. 1 ("Petition"), ¶ 66. He entered the United States on or about October 4, 2015 as a B-2 visitor but overstayed his visa. *See* Composite Exhibit A, p. 5. He was encountered in 2020 at a Florida Department of Corrections probation office and was issued a Notice to Appear placing him in removal proceedings. *Id.* On September 15, 2020, Condecore was ordered removed from the United States. Petition, ¶¶ 2, 68; *see also* ECF No. 1-2. Condecore was released from immigration custody on an order of supervision ("OSUP") on September 17, 2020. Petition, ¶¶ 3,

36; *see also* ECF No. 1-3. Condecro remained in the United States under the OSUP until November 20, 2025 when ICE determined it was appropriate to revoke the OSUP under 8 C.F.R. § 241.1. Petition, ¶¶ 7, 24, 80; *see also* ECF No. 1-4 at pp. 1-2. An informal interview was conducted that day. Composite Exhibit A, p. 3.

On May 19, 2026, this matter commenced with the filing of a petition for writ of habeas corpus. ECF No. 1. On May 20, 2026, this Court issued an order to show cause why the petition should not be granted. ECF No. 6. The government now timely responds to the Petition.

Certified Habeas Return

The Court has power to grant writs of habeas corpus where (among other instances) a 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 of proof in establishing that his detention violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021). Condecro was denied relief from removal and ordered removed from the United States on September 15, 2020. He is currently detained under 8 U.S.C. § 1231(a) pending ICE’s execution of that removal order.

Discussion

I. Petitioner May Be Detained for the Purpose of Executing His Final Order of Removal.

An alien must be removed within ninety days of issuance of a final removal order—a period known as 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 may be detained beyond that removal period, a period known as the “post-removal” period. 8 U.S.C. §§ 1231(a)(1)(C), (a)(6); *Zadvydas*, 533 U.S. at 683; *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021). Though there is no statutory limit on how long ICE can detain an alien during the post-removal period, indefinite detention would present obvious constitutional concerns. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). Accordingly, the Supreme Court has interpreted 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, a burden-shifting framework comes into play regarding the significant likelihood of removal in the reasonably foreseeable future (“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 (finding Petitioner’s detention as of the date on which the petition was filed presumptively reasonable); *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).¹ At bottom, “This presumptively reasonable six

¹ Some districts disagree. *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008); *see also Munoz-Saucedo v. Pittman*, No. 25-2258 (CPO), 2025 WL 1750346, *1 (D.N.J. June 24, 2025). Of course,

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.).

Here, Petitioner was ordered removed on September 15, 2020. His order is now final. *See* 8 C.F.R. § 1241.31. As *Zadvydas* contemplates, Petitioner may indeed be detained so that ICE can seek his removal from the United States. *Zadvydas*, 533 U.S. at 689.

II. The Burden Has Shifted to the Government.

Petitioner has been in detention since November 20, 2025 bringing the total number of days in excess of the 180-day threshold for what is considered to be presumptively reasonable. *See Akinwale*, 287 F.3d at 1051-52. The Court need not consider whether aggregation is at play given this continuous period of detention. ICE avers that removal is significantly likely to occur in the reasonably foreseeable future based on the following documentation: declaration of Deportation Officer Jorge Cuadra. *See* Composite Exhibit A, pp. 8-10. *But see Betancourt v. Alcatraz*, No. 2:26-CV-1403-KCD-NPM, 2026 WL 1320246, at *2 (M.D. Fla. May 13, 2026); *Londres v. Warden, S. Fla. Det. Facility*, No. 2:26-CV-935-JES-NPM, 2026 WL 1260847, at *2 (M.D. Fla. May 8, 2026); *Vidal Vazquez v. Fla. Soft Side Det. Ctr.*, No. 2:26-CV-01020-

Akinwale binds the Court. Even if it did not, *Cesar*, *Munoz-Saucedo* and any progeny are incorrect. *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.

SPC-NPM, 2026 WL 1127501, at *2 (M.D. Fla. Apr. 27, 2026).

III. Revocation of Petitioner's OSUP Was Legally Sound.

Petitioner's OSUP was revoked on November 20, 2025. *See* ECF No. 1-4, pp. 1-3. Petitioner was notified of the basis for ICE's revocation of his OSUP in the revocation documentation. *Id.* He was also provided an informal interview on November 20, 2025. Composite Exhibit A, p. 3.²

Section 241.13 “establishes special review procedures for those aliens who are subject to a final order of removal and are detained . . . where the alien has provided good reason to believe there is no significant likelihood of removal . . . in the reasonably foreseeable future.” 8 C.F.R. § 241.13(a). If ICE determines there is no SLRRFF at a given point in time it can release an alien under an OSUP—which appears to have happened for Condecro in 2020. *Id.* § 241.13(h); *see* ECF No. 1-3. But release on OSUP does not confer legal status to remain in the United States forever. OSUPs must specifically “promote the ability of [ICE] to effect the alien's removal as ordered, or removal to a third country, should circumstances change in the future.” 8 C.F.R. § 241.13(h)(1). And circumstances have changed here. If ICE detains an individual on this basis it must then provide the alien with an informal interview—allowing the alien to respond and submit any evidence regarding SLRRFF. *Id.* § 241.13(i)(3). This was done here. Composite Exhibit A, p. 3. If ICE determines

² The revocation documents reference 8 C.F.R. § 241.4 whereas the declaration of Officer Cuadra references § 241.13. For reasons discussed further below, § 241.13 appears to be the appropriate regulatory framework. Respondents aver, however, that their actions comply with the requirements set forth under either regulatory scheme.

revocation and detention remain appropriate after that interview—as it did here—the alien may seek another request for review based on any additional evidence. 8 C.F.R. § 241.13(j).

Likewise, the procedure required by § 241.4 does not change the outcome. That provision sets out procedures and “authority to continue an alien in custody or grant release or parole.” 8 C.F.R. § 241.4(a). For aliens released on an OSUP, authorities have broad powers to revoke that supervision order. *Id.* § 241.4(l). Again, notice and interview procedures apply when ICE revokes release due to violations of OSUP conditions. *Id.* § 241.4(l)(1), (3). Yet one subsection—§ 241.4(l)(2)—does not include those notice, explanation, or interview requirements. *Id.* § 241.4(l)(2); *Tanha v. Warden, Balt. Detention Facility*, No. 1:25-cv-02121-JRR, 2025 WL 2062181, at *6 n.10 (D. Md. July 22, 2025). Regardless, of the notice procedure required, § 241.4(l) vests broad “discretion” if “in the opinion of the revoking official” ICE should “enforce a removal order” (among other options). 8 C.F.R. § 241.4(l)(2).

This “regulation permits the Government extraordinarily broad discretion to revoke an OSUP.” *Tran v. Baker*, No. 1:25-cv-01598-JRR, 2025 WL 2085020, at *4 (D. Md. July 24, 2025). In fact,

the regulation does not compel the Government to demonstrate what facts or factors, if any, it considered in deciding to revoke; nor does the regulation (or any other authority of which the court has been made aware) require the Government to demonstrate what, if any, steps it took to effect or secure removal prior to OSUP revocation.

Id.; see also *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *6 (S.D. Fla. Sept. 9, 2025) (noting differences between both subsections). This district has

recently recognized the deference afforded to ICE when it decides the time is appropriate to revoke an OSUP and enforce a removal order. *See e.g., Valdes-Santovenia v. Ripa*, No. 2:25-cv-01063-JES-DNF, 2025 WL 3771264, at *3 (M.D. Fla. Dec. 31, 2025) (Steele, J.); *Tran v. Warden, Florida Soft Side South*, No. 2:25-cv-1224-KCD-NPM, 2026 WL 672969 at *8 (M.D. Fla. Mar. 10, 2026).

As described above, ICE revoked OSUP here based on its discretionary determinations under either § 241.4(l) or § 241.13(i) and Condecro cannot establish a violation under either regulation, particularly where notice and an informal interview have been provided. Respondents aver that Condecro was initially placed on OSUP in 2020 based on lack of SLRRFF, meaning that revocation of OSUP would properly fall under 8 C.F.R. § 241.13(i). And ICE's reference to both 8 C.F.R. § 241.4 in the 2025 OSUP revocation documentation does not doom its defense. *Tran*, 2026 WL 672969 at *9 (use of the wrong regulatory label is irrelevant where the core rationale has not changed and the reasoning articulated is sound under the correct label).

Crucially, the decision to revoke an OSUP is entirely discretionary and beyond the Court's review—any judicial review is arguably limited to the process by which revocation occurred.³ *Navarro v. Bondi*, No. 8:25-cv-3213-KKM-NHA, 2025 WL 3275944, at *2 (M.D. Fla. Nov. 25, 2025) (“In the present context, courts differentiate between the decision to revoke an OSUP and a failure to follow procedures in doing so.” (cleaned up)); *Cesay v. Kurzdorfer*, 781 F. Supp. 3, 137, 154 (W.D.N.Y. May 2,

³ Revocation of an OSUP is clearly a “decision or action” to “execute removal orders” stripped from the Court's jurisdiction. 8 U.S.C. § 1252(g).

2025). Put bluntly: courts “will not further scrutinize ICE’s discretionary decision” in that regard. *Oddo*, 2025 WL 1892445, at *8; *Yi Mei Zhen v. ICE*, No. 3:25-cv-01507-PAB, 2025 WL 2258586, at *10 (N.D. Ohio Aug. 7, 2025). For these reasons, Petitioner has not met his burden to demonstrate that his detention is unlawful based upon perceived regulatory deficiencies in the revocation of his OSUP.

Even were further notice and an interview required, the proper relief would be ordering additional process, not outright release. *See Tran*, 2026 WL 672969 at *9 (“The writ of habeas corpus is a profound remedy, not a penalty for bureaucratic typos.”); *see also Yi Mei*, 2025 WL 2258586, at *10 n.19 (noting “even if these procedures have not yet been completed, courts have found that such procedures may take place after the detention has occurred”). The remedy sought—release from custody—is “an overreach and not the appropriate cure.” *Tanha*, 2025 WL 2062181, at *6; *see also Tran*, 2025 WL 2085020, at *6-7 (holding errors in notice procedure “do not entitle [petitioner] to release from detention”). The proper remedy to any procedural deficiency would be—at most—ordering ICE to provide Condecare with whatever additional 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.”).

True, some courts have ordered release when they believed ICE should have provided more robust notice and hearing. *E.g., Grigorian*, No. 25-CV-22914-RAR,

2025 WL 2604573, at *8-10. Federal Respondents respectfully disagree. The regulations mandate notice and—in some instances—an opportunity to be heard via an informal interview. 8 C.F.R. §§ 241.4(l)(1); 241.13(i)(3). And if that does not result in release, the alien can request a more thorough review. 8 C.F.R. §§ 241.4(l)(3); 241.13(j).

IV. Petitioner’s *Accardi* and APA Claims Fail.

Turning first to Condecors’s suggestion that the Administrative Procedure Act gives rise to a claim for relief—Petition, ¶¶ 53-57—such relief is not available where, as here, adequate alternate relief is available. By the APA’s terms, it is available only for final agency action “for which there is no other adequate remedy in court.” 5 U.S.C. § 704. Thus, Petitioner’s APA claim is independently barred by this limitation in 5 U.S.C. § 704. In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, “necessarily imply the invalidity of their confinement” those claims “must be brought in habeas.” 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, “given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an “adequate remedy” through which Petitioner can challenge his detention. Even if Petitioner’s APA claim had merit, which it does not, the result would be the same as that in habeas—release from detention. The

Supreme Court's holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234- 35 (1953)); *see also Tran v. Warden, Florida Soft Side South*, No. 2:25-cv-1224-KCD-NPM (M.D. Fla. Mar. 10, 2026), Dkt. 16 at pp. 16-17.

Nor has Condecrore shown that deviation from the OSUP revocation procedures amounts to a due process violation. Condecrore 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 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, Condecrore 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.

Conclusion

For the foregoing reasons Petitioner may be detained under 8 U.S.C. § 1231 because he is subject to a final order of removal. Revocation of his OSUP was legally sufficient. Given his time in detention, the burden has shifted to the government to demonstrate that his removal from the United States is significantly likely to occur in the reasonably foreseeable future. Federal Respondent contends that has been demonstrated through the attached declaration while acknowledging that the Court has found to the contrary in similar matters.

Date: May 27, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 27, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system which will furnish copies of these documents to all registered counsel of record.

Dated: May 27, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney