

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YUNIER HURTADO DE ARMAS,

Petitioner,

Case No. 2:26-cv-01671-SPC-NPM

v.

WARDEN, FLORIDA SOFT SIDE
SOUTH DETENTION CENTER, et al.,

Respondents.

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

Petitioner Yunier Hurtado De Armas challenges his ongoing detention by immigration authorities. He alleges that Immigration his ongoing detention is improper under the Fifth Amendment to the U.S. Constitution. Dkt 1 at 10. Petitioner's detention pursuant to a final and executable order of removal is lawful.

BACKGROUND

Hurtado De Armas is a citizen and national of Cuba. Composite Exhibit 1 at 15. He entered the United States on or about December 8, 2014, at or near Miami, Florida. *Id.* at 2. He was granted lawful permanent resident status on February 13, 2016, retroactive to December 8, 2014. *Id.* He was convicted in 2016 of Transporting Illegal Aliens. *Id.* at 2. He was order removed on June 8, 2017, and waived his right to appeal so the order became final that day. *Id.* at 14. He was detained in ICE custody

until September 6, 2017, then released on an order of supervision. *Id.* at 26.

On January 25, 2026, Hurtado De Armas arrived in the United States at Miami International Airport from Cuba. *Id.* at 16. He presented himself for inspection using an unexpired Cuban passport and unexpired Permanent Resident Card. *Id.* Hurtado admitted that he had been ordered removed and had been attempting to self-deport but was refused entry to Cuba. *Id.* He was taken into ICE custody the next day. *Id.* at 15. A Warrant of Removal/Deportation was issued the next day. *Id.* at 19-20.

Hurtado De Armas has been in ICE custody since January 26, 2026. *Id.* at 15-16.¹ Previously, he was detained from the entry of the final order of removal on June 8, 2017, through September 6, 2017, a total of 90 days by undersigned counsel's calculation. Ex. 1 at 26. Since his detention on January 26, 2026, he has been in custody for 112 days at the time of filing his petition, and 122 days to date. A Notice of Removal to Mexico was prepared for him but does not appear to have been served. *Id.* at 18. He was served with a Notice to Alien of File Custody Review stating that his custody status would be reviewed on or about June 5, 2026. *Id.* at 24-25.

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

¹ Undersigned counsel is unsure why the detention history does not include the period from January 26, 2026, through February 6, 2026, but understands that Petitioner was detained during that time. Compare Dkt. 1 at 15-16 with 26.

establishing that his detention violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

Hurtado De Armas was ordered removed from the United States on June 8, 2017. He is currently detained under 8 U.S.C. § 1231(a) pending ICE’s execution of that removal order.

DISCUSSION

After a final removal order is issued, 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 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).

There is no statutory limit on how long ICE can detain an alien during the post-removal period yet indefinite detention would present obvious constitutional concerns. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). So 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 then 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; *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, “This presumptively reasonable six 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.).

Though he was initially detained for the 90-day removal period, he was subsequently released. ICE has now redetained him for the purpose of seeking his removal once more.

SLRRFF

Because Hurtado De Armas’s detention has exceeded the presumptively reasonable period, SLRRFF must be established by Respondents. In response to the United States Attorney’s Office’s request for specific evidence that there is a significant likelihood the Petitioner will be removed in the reasonably foreseeable future, we were provided with the attached declaration. Ex. 1 at 27-29. In light of the Court’s rulings in many previous cases presenting similar circumstances, the United States Attorney’s Office anticipates that the Court will conclude it lacks sufficient detail to meet the government’s burden in justifying continued prolonged detention. We await and will

comply with any order that may issue.

DATED this 28th day of May, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Mamie V. Wise
MAMIE V. WISE
Assistant United States Attorney
Florida Bar No. 65570
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: 813-274-6000
Facsimile: 813-274-6114
E-mail: mamie.wise@usdoj.gov

Lead Counsel for Federal Respondents