

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

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YOHANY HERNANDEZ HERNANDEZ
PETITIONER

vs

CASE NO 2:26 CV 1718 KCD-KRH

WARDEN, FLORIDA SOUTH SIDE
DETENTION CENTER
RESPONDENT

RESPONSE TO FEDERAL RESPONDENT RESPONSE

Come now PETITIONER YOHANY HERNANDEZ HERNANDEZ AND PRO-SE before this court in good faith asking this court to have leeway in this response for my resources in this facility for any legal matter are almost none. The respondent has recognized that PETITIONER has exceeded the presumptively reasonable period contemplated by *Zadvydas v. Davis*, but it claims that PETITIONER has impeded removal efforts and therefore his continued detention for the purpose of seeking removal from the United States is permissible. Respondent has alleged that PETITIONER has thwarted all efforts by respondent in their removal of his person to Mexico claiming evidence that PETITIONER fail to cooperate, refuse to get on the bus, board the bus, and sign necessary form to obtain travel documentation.

Discussion

On February 2, 2026 sought to deport PETITIONER to Mexico, PETITIONER'S only concern is travel documentation for Mexico to be able to travel in Mexico fearing that I.C.E. is going to compel a voluntary deportation and not an above-board removal attempt complied with statutory and constitutional requirements. Deportation to Mexico is not legal and constitutional because I.C.E. provides no paperwork, no visa from Mexico just a border cross to a country that within a week PETITIONER will be living in the streets, as a homeless hiding from Mexico's version of I.N.S. F. I. am very aware of this in Mexico Cubans are being mistreated, killed, kidnapped and belittled, there is no humanitarian help as I.C.E. would claim, there is no

I.L.E. inform us at that moment that those who were afraid for their lives to go to Mexico to step to the right and those who were not to the left so Petitioner did the only thing he felt that was right concerning his fears and he step to the right. At no time was he advice that he was going to be punish for this, advice after this matter was sought from a lawyer and he was inform that I.L.E. to offer him the chance to be heard at that time it was his DUE process, according to ANDRIASIAN v's IMMIGRATION AND NATURALIZATION SERV., 180 F.3d. 1033, 1041 (9th Cir. 1999) (Failing to notify individual who are subject to deportation that they have the right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both I.N.S. regulation and constitutional rights to due process). SEE ALSO D.V.D. v's U.S. Dept. of Homeland Security --- F. Supp. 3d. ---, 2026 WL 521557 (D. MASS Feb. 25, 2026) (Setting aside D.H.S.'s current third-country removal policy because it violates noncitizen's right to seek fear-based relief under the convention against torture). I.L.E. makes no attempt to show it has a plan in place to lawfully removed Petitioner. The Eight Circuit has held on numerous occasions that pursuant to the Accardi Doctrine an agency must follow its self imposed procedural rules when making discretionary decisions that effect an individual's right. SEE, eg. (2000 U.S. Dist. LEXIS 61) MURNELLY v's United States Postal Service, 805 F. 2d. 295, 302 (8th Cir. 1986) (Acknowledging that the Postal Service had to abide by its self-imposed procedural rules, which were printed in an internal Postal manual), Respondent claims that Petitioner's Advydas claim fails because he holds the keys to his freedom in his pocket and could likely effectuate his removal by providing the information requested by I.C.E. That makes no sense since Petitioner has no passport, or any other documentation available that I.C.E. is seeking and they are aware of this but chose to make this frivolous claims that Petitioner is not cooperating to keep detaining him and violating his 5th and 8th Amendments hoping that Cuba somehow accepts him. So the argument that Petitioner somehow conspire or acts to prevent this removal to Mexico is moot. They offer the verbal asylum and now they say that I refuse, they should be directed by this Court to follow through on the asylum that's part of the constitution when one fears for his safety in a country that is not their own and refuses to give the require paper or document necessary to live in that country and not be thrown in the street where nothing but harm will happen to the petitioner.

CONCLUSION

For the foregoing reason I ask this court to direct I.C.E. For an Asylum hearing For Petitioner to be heard and express his Fears of His Removal to Mexico, also that they should provide Petitioner For TRAVEL Documentation a visa and work-permits from Mexico, not just to compel him to voluntarily deport him self to a Country that offers nothing but homelessness, threat of being killed in the streets or worst being kidnapp. This is what I.C.E. is offering Petitioner. So I ask this court for a proper relief whatever notice and hearing requirement it believes proper or to outright release him under proper supervision being that Respondent is violating Petitioners 5th and 8th Amendment by continued DETENTION.

Date 6/10/26

Respectfully submitted:

~~Yohany Hernandez Hernandez~~
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 Att: 