

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JUN 15 2026 AM 11:58  
FILED - USDC - FLMD - FTM

GUSTAVO BARRERA ACOSTA,

Case No. 2:26-cv-01737-SPC-KRH

Petitioner,

v.

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

Respondents.  
\_\_\_\_\_

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT  
OF HABEAS CORPUS**

Petitioner Gustavo Barrera Acosta respectfully submits this Reply to Respondents' response. This Reply does not raise new grounds for relief. It responds to Respondents' assertions that the Petition is premature, that Petitioner allegedly refused to sign documents, that Petitioner is allegedly a danger to the community, and that continued detention remains justified. Respondents still have not shown that Petitioner's removal is significantly likely in the reasonably foreseeable future.

**I. THE PETITION IS NOT PREMATURE UNDER THE FACTS OF THIS CASE**

Respondents' prematurity argument should be rejected. Petitioner is not challenging a recent immigration order or asking this Court to review the validity of the 1996 exclusion order. Petitioner challenges his present, continued civil detention by ICE.

Petitioner has been detained by ICE since February 13, 2026, under an exclusion order dated May 6, 1996. The order is nearly thirty years old. This is not a routine case where removal is presently arranged and only ministerial steps remain. The long age of the order, Petitioner's Cuban nationality, his prior release under supervision, and the lack of current travel documentation show that the Court may review whether continued detention is lawful.

The government cannot defeat habeas review merely by labeling the Petition premature while offering no concrete proof that removal is imminent or reasonably foreseeable.

**II. RESPONDENTS HAVE NOT PRODUCED TRAVEL DOCUMENTS OR PROOF OF  
ACCEPTANCE BY CUBA OR ANY RECEIVING COUNTRY**

The controlling issue is whether removal is significantly likely in the reasonably foreseeable future. Respondents have not met that burden. They have not produced valid travel documents. They have not produced proof that Cuba has accepted Petitioner. They have not

produced proof of acceptance by any receiving country. They have not produced a confirmed flight itinerary, a final travel authorization, or any specific evidence that removal is scheduled and capable of being completed.

If Respondents rely on AAPI, diplomatic communications, consular processing, or any other receiving-country process, they must show actual acceptance or concrete progress. General statements that removal efforts are ongoing are not enough. Speculation about possible future removal does not justify continued civil detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Clark v. Martinez*, 543 U.S. 371 (2005).

Petitioner's prior history further supports release. ICE has previously released him under supervision after prior periods of detention. That history demonstrates that removal has not been practically obtainable for years and that supervision has been sufficient to protect the government's interests.

### **III. THE ALLEGED REFUSAL TO SIGN DOCUMENTS DOES NOT JUSTIFY CONTINUED DETENTION**

Respondents also appear to rely on an allegation that Petitioner refused to sign documents for removal or for the border. That assertion does not establish that removal is reasonably foreseeable and does not justify continued detention.

First, Respondents have not identified the specific document Petitioner allegedly refused to sign. They have not shown what the document was, why it was required, whether it was necessary for Cuba or another receiving country, or whether signing it would have resulted in actual issuance of travel documents.

Second, Petitioner is legally blind. Any alleged refusal to sign paperwork must be evaluated in light of that disability. A blind detainee cannot fairly be accused of noncooperation unless the document was read and explained to him in a manner he could understand and unless reasonable accommodation was provided.

Third, even assuming ICE asked Petitioner to sign some document, Respondents still have not shown that Cuba has accepted him, that any receiving country has accepted him, or that travel documents have been issued. An alleged refusal to sign an unspecified form does not prove that removal is significantly likely in the reasonably foreseeable future.

### **IV. RESPONDENTS' DANGER-TO-THE-COMMUNITY ASSERTION IS CONCLUSORY AND CAN BE ADDRESSED BY SUPERVISION**

Respondents' claim that Petitioner is a danger to the community is unsupported by the type of individualized evidence required to justify continued civil immigration detention. Civil detention is not punishment. It must serve a legitimate regulatory purpose and cannot become indefinite or excessive.

Petitioner has a long history of reporting to immigration authorities and complying with supervision requirements. ICE has previously released him under supervision, which shows that less restrictive conditions have been adequate. Respondents have not shown why conditions of supervision would now be insufficient.

Any legitimate concern regarding appearance, reporting, or public safety can be addressed through reasonable conditions, including regular ICE check-ins, residence reporting,

address updates, telephone reporting, electronic monitoring if deemed necessary, and compliance with any travel-document process that is clearly explained and reasonably accommodated because of Petitioner's blindness.

#### **V. PETITIONER'S LEGAL BLINDNESS WEIGHS STRONGLY AGAINST CONTINUED DETENTION**

Petitioner is legally blind and receives disability-related benefits due to blindness. His condition affects his ability to read documents, navigate detention, understand paperwork, access services, and protect himself in a custodial setting. Respondents have not shown that continued detention is necessary despite this disability or that the facility can adequately accommodate his needs.

Petitioner's blindness is also directly relevant to Respondents' noncooperation argument. If ICE claims Petitioner refused to sign a document, the government must show that the document was properly read and explained to him and that he was reasonably accommodated. Respondents have not made that showing.

#### **VI. CONCLUSION**

Respondents have not shown that Petitioner's removal is significantly likely in the reasonably foreseeable future. They have not produced travel documents, proof of acceptance by Cuba, proof of acceptance by any receiving country, or proof that removal is scheduled and imminent. Their assertions of prematurity, alleged refusal to sign paperwork, and danger to the community do not cure that evidentiary gap.

For these reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order Petitioner's release under appropriate conditions of supervision. In the alternative, Petitioner requests an immediate individualized custody review at which the government bears the burden of justifying continued detention with current, specific evidence.

Respectfully submitted,

/s/ Gustavo Barrera Acosta  
GUSTAVO BARRERA ACOSTA  
Petitioner, Pro Se