

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FILED

JUAN GONZALEZ,

Petitioner,

v.

**WARDEN, CALIFORNIA CITY DETENTION
CANTER,**

Respondents,

AUG 06 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

Case No. 1:26-CV-05334-TLN-AC

**PETITIONER'S TRAVERSE IN REPLY TO RESPONDENTS' REQUEST TO DISMISS TO
PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

The Court ordered Respondents to show cause why the Petition should not be granted. Respondents' filing does not meet that burden. Respondents instead are requesting to dismiss petition under first-to-file rule. The Respondents deny to respond to the merits of this petition for writ of habeas corpus, and do not address the grounds that are covered in the petition, which are completely different than the grounds in the Florida petition.

THE FIRST TO FILE RULE SHOULD NOT WARRANT DISMISSAL OR STAY

Respondents urge the Court to defer to a regulatory framework they categorize as flexible and discretionary. Yet that position overlooks a fundamental principle: Agency discretion does not supersede the constitution, binding Supreme Court presidency, or the agencies own mandatory procedures.

The Fifth Amendment Due Process Clause imposes constitutional limits on executive detention. Likewise, under the Accardi Doctrine, federal agencies are required to follow their own regulations and established procedures before depriving an individual of a protected liberty interest. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Moreover, *Zadvydas v. Davis*, 533 U.S. 687 (2001), makes clear that post-removal-order detention is subject to constitutional limitations and may not continue indefinitely based solely upon executive discretion.

Respondents cannot simultaneously ask this Court to defer to discretionary regulation while disregarding the constitutional guarantees of due process, the mandatory requirements imposed by the Accardi Doctrine, and the constitutional limitations recognized by the Supreme Court in *Zadvydas*. Agency discretion cannot excuse constitutional violations.

Moreover, this action is not a mirror image of the earlier Florida proceedings. Since the Florida petition was filed, significant additional events have occurred, including Petitioner's transfer to California, continued prolonged detention, Respondents repeated efforts to secure Petitioner's consent to removal to Mexico despite the absence of evidence that Mexico has accepted him, additional due process violations surrounding Petitioner's continued detention, and further factual developments contained in this record. These subsequent events provide independent grounds for relief that were not before the Florida Court when that petition was initiated.

Respondents contend that this action should be dismissed or stayed because Petitioner previously filed a habeas petition in the Middle District of Florida. That argument lacks merit. The first-to-file rule does not require dismissal of this petition. The first-to-file rule is not jurisdictional and is not a mandatory rule requiring dismissal whenever Civil litigation is pending elsewhere. Rather, it is a discretionary doctrine intended to promote judicial economy, consistency, and comity. Courts have repetitively recognized that it should not be applied mechanically, that only where its application will actually serve those purposes, here, dismissal or stay will not advance judicial economy. Petitioner is presently confined within this district, and this Court has jurisdiction over his current custodian. The California

Petition also addresses Petitioner's present confinement and the continuing constitutional violations occurring while he is detained in California. Recent decisions from this district confirms that dismissal is not required merely because another habeas petition is pending elsewhere. In both *Jose C.R. v. Andrews*, No. 1:26-CV-05483-TLN-CKD and *Ismel A.F. v. Warden*, No. 1:26-CV-05243-TLN-SCR, the Court rejected a two nearly identical first to file argument, holding that although another habeas action remains pending in another district, the Eastern District retains jurisdiction in that the interest of comity, consistency, and judicial economy where not served by declining jurisdiction because no conflicting substantive ruling existed and the Petitioner's substantial liberty interest favors trumps adjudication. Likewise, in *Urdaneta Simanca v. Andrews*, No. 1:26-CV-04995-DJC-CKD, Judge Calabretta expressly declined to applied the first to file rule where the Petitioner had a pending habeas Petition in the Western District of Texas, explaining that dismissal “will not serve the interest of efficiency, and judicial economy) where the Petitioner was allegedly subject to ongoing unlawful detention. The Court instead granted the Petition and ordered the Petitioner's immediate release. Those recent decisions reflect that the first to file rule is a matter of judicial discretion not an automatic bar and that Courts in this District have declined to dismiss habeas petitions where doing so will unnecessary delay review of an ongoing deprivation of liberty. Accordingly, Respondents request for dismissal or stay under the first to file rule should be denied. Furthermore, Petitioner's California petition presents continuing and current constitutional violations arising from his present detention in California, including Respondents relying on an alleged “Likelihood of Removal in a Reasonably Foreseeable Future” despite the absence of travel documents or evidence that Mexico has accepted Petitioner for removal. This ongoing issue warrants adjudication by this Court irrespective of the earlier file Florida action.

RESPONDENTS DO NOT ADDRESS ANY OF THE GROUNDS IN PETITION

Respondents do not respond to the grounds set forth on Petitioner's petition for writ of habeas corpus. Respondents do not contest that Petitioner's current detention is prolonged and therefore it is violates

Due Process and satisfies *Zadyvdas*. Respondents do not contest that there is no likelihood of removal in the reasonably foreseeable future, as stated on Petitioner's petition also satisfying *Zadyvdas*. Diplomatic impediments render removal to Mexico not significantly likely in the reasonably foreseeable future. In *Rea-Hernandez v. Bondi*, No. 2:25-CV-02609-TL, 2026 WL 322874, at *5 (W.D. Wash. Feb. 6, 2026) where the District Court recently found that, "the Mexican government does not accept individuals who do not willingly accept removal to Mexico." See ECF No. 6 at 6. This accords with similar, recent findings from other district courts. See *Lambert v. Warden*, No. EP-26-CV-00427-DB, 2026 U.S. Dist. LEXIS 74637, 2026 WL 926216, at *2 (W.D. Tex. Apr. 6, 2026); *Constant v. Perry*, No. 1:25-CV-1916 (RDA/WEF), 2026 U.S. Dist. LEXIS 117243, 2026 WL 1463965, at *5 (E.D. Va. Feb. 11, 2026); *Jumel Coke v. Bondi*, No. C26-71, 2026 U.S. Dist. LEXIS 16109, 2026 WL 221514, at *2 (W.D. Wash. Jan. 28, 2026). Even when Petitioner is taken into Mexico, it does not mean Mexico actually accepts Cuban Nations or other non-citizens as evident in *Leon v. Garland*, No. 5:25-CV-03379-HDV-AJR, 2026 U.S. Dist. LEXIS 30553 (Feb. 13, 2026), where Petitioner was removed to Mexico on Feb. 16, 2026 then detained at the Siglo XXI Immigration Detention Center in Tapachula, Chiapas (this is located at the Mexican Southern Border) and issued an exclusion order by the Mexican government requiring Petitioner to leave Mexico within 5 days. See (Dkt. 39-1). This is further evidence that the Mexican government is not truly accepting Cuban Nationals or other non-citizens even when "consent" is given. Respondents have re-detained Petitioner for over 8+ months without zero proof that they have had any discussions with Mexico or any other third-country. The only thing that Respondents have been consistent is telling Petitioner that Cuba does not accept repatriation.

CONTINUED DETENTION IS NO LONGER REASONABLY RELATED TO REMOVAL

The Supreme Court made clear that detention authority alone does not resolve the constitutional inquiry. Petitioner's detention is now over 180+ days in the current detention. The relevant question is whether detention remains reasonably related to the purpose of removal. Where removal is not realistically foreseeable, continued detention becomes constitutionally impermissible regardless of

statutory authorization. Respondents provide no evidence demonstrating that removal efforts have progressed beyond speculative intent.

The record reflects:

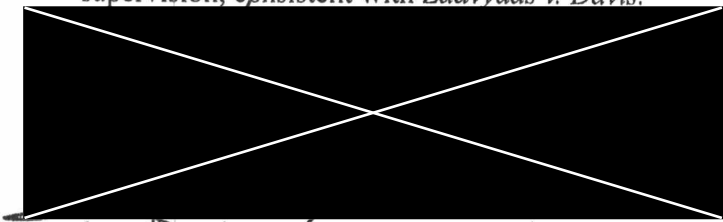
1. Prolonged detention over 180+ days;
2. No travel document has been issued;
3. No country has accepted Petitioner; and
4. Respondents provide no projected removal timeline.

Once a petitioner provides good reason to believe removal is unlikely, the burden shifts to the government to rebut that showing with evidence. *Zadvydas*, 533 U.S. At 701. Respondents have not met that burden.

CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court:

1. Find that Respondents have failed to demonstrate a significant likelihood of removal in the reasonably foreseeable future; and
2. Order Petitioner immediate release from ICE custody and place Petitioner under reasonable order of supervision, consistent with *Zadvydas v. Davis*.



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