

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

AUG 13 2026

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

EDRAY CASTRO AGUIAR,

Petitioner,

v.

Case No. 1:26-CV-05325-JTL-SAB

U.S. ATTORNEY GENERAL, ET AL.,

Respondents,

**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 the petition for writ of habeas corpus, and do not address the grounds that are covered in the petition. Respondents' are asking the Court to dismiss based on a rule that is both discretionary and flexible so that constitutional violations continue to take place.

**PETITION SHOULD NOT BE DISMISSED OR STAY BECAUSE OF RESPONDENTS
REQUEST TO USE FIRST-TO-FILE RULE**

Respondents request the Court to follow a rule that is both flexible and discretionary. Yet Respondent's fail to follow their own Mandatory Regulatory Obligations (Acarrdi Doctrine), follow Supreme Court ruling (*Zadvydas v. Davis*), and Respondent's continue to overlook the Due Process Clause of the Fifth

Amendment while continuing to violate the INA.

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.

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, Chief Judge Nunley rejected a 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.

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 continue detention, and further factual developments contained in this record. This subsequent events provide independent grounds for relief that were not before the Florida Court when that petition was initiated.

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. 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 unnecessarily 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. Respondents have visited Petitioner at California City Immigration Processing Center several times to solicit Petitioner's consent to removal to Mexico as a proposed third-country destination. Petitioner has reiterated a fear based refusal to Mexico and ICE has not provided Petitioner with any documents stating that Mexico is accepting him. ICE has no valid third-country removal order, no confirmation that Mexico has agreed to accept Petitioner, and no travel documents authorizing such removal. Quoting *Melian S. v. United States AG*, No. 1:26-CV-04512-TLN-CKD, 2026 U.S. Dist. LEXIS 143681, "Further, there is no evidence in the record that Respondents have provided Petitioner an opportunity to address fear of persecution in Mexico. An order of removal to Mexico without providing such an opportunity would also violate Petitioner's due process rights." Also taking place at California City Immigration Processing Center. Respondents have threatened Petitioner with indefinite detention if he did not consent. Petitioner's refusal to consent to removal to

Mexico was lawful, and that refusal cannot constitute a basis for continued indefinite detention. To hold otherwise would allow ICE to coerce consent to unauthorized removal destinations through indefinite confinement, a result incompatible with *Zadvydas* and the Fifth Amendment. See *Couso M. v. Warden, California City Det. Facility*, No. 1:25-CV-4977-TLN-JDP, 2026 U.S. Dist. LEXIS 171000 (July 30, 2026) Quoting *Obando Vargas v. Blanche*, No. 1:26-CV-5343-DAD-AC, 2026 U.S. Dist. LEXIS 158211, 2026 WL 2056618, at *2 (E.D. Cal. July 16, 2026), “appears to be that, because [the] Petitioner is not agreeing to voluntarily depart to a country he is not from and is under no legal obligation to go to, he may be detained indefinitely. This argument is frivolous and the Court admonishes [the] Respondents counsel to avoid wasting the Court's time and resources with such arguments in the future.”

Petitioner's 1991 removal order is to Cuba, there is no other third country on Petitioner's removal order. There is no significant likelihood of removal in the reasonably foreseeable future because Cuba has not accepted repatriation since 1991. Courts within this Circuit have repeatedly granted habeas relief to Cuban nations in materially identical circumstances. See *Barrera v. Warden, Cal. City Immigr. Processing Ctr.*, No. 1:26-CV-04377-DJC-SCR, 2026 U.S. Dist. LEXIS 160390; *Borges v. Warden, Cal. City Immigr. Processing Ctr.*, No. 1:26-CV-04693-TLN-SCR, 2026 U.S. Dist. LEXIS 160117; *Sanchez V. Warden, Cent. Valley Det. Facility*, No. 1:26-CV-04368-DJC-CKD, 2026 U.S. Dist. LEXIS 171380; *Ruiz-Acosta v. Cent Valley Annex*, No. 1:26-CV-04371-DAD-JDP(HC), 2026 U.S. Dist. LEXIS 142407; *Gonzalez-Leon v. Chestnut*, No. 1:26-CV-03984-TLN-CSK, 2026 U.S. Dist. LEXIS 149547; *Medina v. Warden, Cal City Immigr. Processing Ctr.*, No. 1:26-CV-04746; *Antonio V.R. V United States Immigr. & Customs Enft*, No. 1:26-CV-04279-MWJS, 2026 U.S. Dist. LEXIS 149971. Petitioner's current detention from 1/11/2026 is now prolonged 180+ days. Petitioner arrived at California City Immigration Processing Center on May 24, 2026 over two months ago, at that time his detention was not over the 180 days. Petitioner being told by immigration authorities that his detention will be indefinite if he did not give consent to a country that is not in his removal order from 1991 and

per *Obando Vargas v. Blanche*, “has no legal obligation to consent to” are several constitutional violations that occurred in this District. This ongoing issue warrants adjudication by this Court irrespective of the earlier file Florida action. If needed, Petitioner would send a motion to voluntarily dismiss without prejudice the Florida Petition so that this District Court can rule on the merits of this Petition for Writ of Habeas Corpus.

CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant this Writ of Habeas Corpus
2. Order Petitioner immediate release from ICE custody and place Petitioner under reasonable order of supervision consistent with *Zadvydas v. Davis*.
3. Order's Respondent to Restrain from re-arresting or re-detaining Petitioner without a change in circumstances to warrant Petitioner re-detention.

Dated on: 08/09, 2026

Respectfully submitted,



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