IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MANUEL TELLEZ, Petitioner, v. ICE, Respondent.	Civil Action No. 3:25-CV-02575-D-BK

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner seeks his immediate release from immigration detention and an order of supervision. *See* ECF No. 3. As explained herein, Petitioner shows no entitlement to habeas relief, and he is not entitled to immediate release. The Court should deny the relief requested in the habeas petition.

I. Factual Background

Petitioner is a native and citizen of Cuba. App. p. 16. On or about February 23, 1995, he was admitted to the United States as a public interest parolee. *Id.* On August 21, 2007, he was convicted in the United States District Court for the Southern District of Florida of conspiracy to possess with intent to distribute cocaine in amount of 5 kilograms or more in violation of 21 U.S.C. § 846, and conspiracy to carry a firearm during a drug trafficking offense in violation of 21 U.S.C. § 924(o). App. p. 8. The court sentenced him to 192 months' imprisonment. App. p. 9.

Petitioner was placed into removal proceedings with the issuance of a Notice to Appear on October 28, 2020, App. pp. 15-19. On November 12, 2020, an immigration judge ordered him removed to Cuba. App. p. 21. Petitioner waived appeal. *Id.*

On December 18, 2020, ICE Enforcement and Removal Operations ("ERO") determined it was unable to remove Petitioner to Cuba in the reasonably foreseeable future and released Petitioner on an order of supervision. App. p. 6, at ¶ 6. On January 28, 2021, ICE nominated this case to the government of Cuba for consideration of accepting Petitioner. App. p. 2, at ¶4. A response is still pending. *Id.*

On May 27, 2025, ERO arrested and detained Petitioner based on his final order of removal. App. p. 6, at ¶ 7. ERO is pursuing a third country removal to Mexico. *Id.* Mexico has agreed to consider accepting Cuban nationals with final orders of removal on a case-by-case basis, and from January 20, 2025, to September 13, 2025, ICE has removed 1,014 Cuban nationals to Mexico. App. p. 3, at ¶ 5. Due to the government of Mexico's willingness to accept Cuban nationals with final orders of removal, and the number of Cuban nationals that Mexico has accepted, Desk Officer Emmanuel Espinal believes removal of Petitioner is likely in the reasonably foreseeable future. App. p. 3, at ¶ 6,

II. Argument & Authorities

A. Petitioner's Claims Fail on the Merits Because ICE is Authorized to Detain and Deport Him.

ICE can lawfully detain Petitioner. It is undisputed that Petitioner is subject to a final order of removal. As such, and as explained below, Petitioner can be detained under 8 U.S.C. § 1231(a)(6). Additionally, ICE followed all applicable policies in re-detaining

Petitioner.

1. ICE Lawfully Detained Petitioner Pursuant to 8 U.S.C. § 1231(A).

ICE's detention authority stems from 8 U.S.C. § 1231, which provides for the detention and removal of aliens with final orders of removal. Section 1231(a)(1)(A) directs immigration authorities to remove an individual with a final order of removal within a period of 90 days, which is known as the "removal period." During the removal period, ICE must detain the alien. 8 U.S.C. § 1231(a)(2) ("shall detain"). If the removal period expires, ICE can either release an individual pursuant to an Order of Supervision as directed by § 1231(a)(3) or may continue detention under § 1231(a)(6).

Petitioner is outside the 90-day mandatory removal period. However, he is still eligible for ICE detention as he is an alien with a final order of removal who is present in the country illegally. *See* 8 U.S.C. § 1227(a)(1)(B). As such, ICE has statutory authority to detain Petitioner to effectuate his removal order from the United States and he is not entitled to a bond hearing or release, as § 1231(a)(6) does not require such process. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 574, 581 (2022) (holding § 1231(a)(6)'s plain text "says nothing about bond hearings before immigration judges or burdens of proof"). Petitioner's detention is therefore lawful.

2. Petitioner's Detention is Proper Because it Has Not Exceeded the Time Limit Allowed by Statute and the Supreme Court.

Petitioner's claim that his detention violates *Zadvydas* lacks merit, because he has been detained less than six months. The Supreme Court set forth a framework to mount a Due Process challenge to post-final order detention in *Zadvydas v. Davis*, 533 U.S. 678

(2001). That framework provides that, while the government cannot indefinitely detain an alien before removal, detention for up to six months is "presumptively reasonable." *Id.* at 701. Because Petitioner has been detained less than six months, his challenge must fail.

The Supreme Court has recognized that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003). When evaluating "reasonableness" of detention, the touchstone is whether an alien's detention continues to serve "the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699.

In *Zadvydas*, the Supreme Court considered the government's ability to detain an alien subject to a final order of removal before the removal is effectuated. 533 U.S. at 699. The Supreme Court held that the government cannot detain an alien "indefinitely" beyond the 90-day removal period, limiting "post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States." 533 U.S. at 682, 689. The Court further held that a detention period of six months is "presumptively reasonable." *Id.* at 701. Then after this first six months, the burden is on the petitioner to show "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future" before the burden shifts back to the government to rebut that showing. *Id.*

Here, Petitioner's *Zadvydas* challenge fails as he has not been detained six months, making his detention presumptively reasonable. Second, there is no non-speculative indication in the record that his removal is not reasonably foreseeable. On the contrary, ERO is pursuing a third country removal to Mexico. App. p. 3, at ¶ 5. Mexico has agreed to consider accepting Cuban nationals with final orders of removal on a case-by-case basis. *Id.* From January 20, 2025 to September 13, 2025, ICE has removed 1,014 Cuban nationals to Mexico. *Id.* Due to the government of Mexico's willingness to accept Cuban nationals with final orders of removal, and the number of Cuban nationals that Mexico has accepted, Officer Emmanuel Espinal believes removal of Petitioner is likely in the reasonably foreseeable future. *Id.*

By contrast, Petitioner has produced no evidence to establish that ICE will be unable to remove him. Indeed, Petitioner fails to assert *any* evidence regarding his impending removal, let alone enough evidence to establish that there is *no* significant likelihood of his removal to Mexico or a third country in the reasonably foreseeable future. *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1365 (N.D. Ga. 2002) ("Petitioner's bare allegations are insufficient to demonstrate a significant unlikelihood of his removal in the reasonably foreseeable future."). This is insufficient to satisfy his burden under *Zadvydas*. *See Fahim*, 227 F. Supp. 2d at 1366 ("[P]etitioner, in effect, seeks to place the burden on the Government to show when it will remove petitioner, whereas the Supreme Court held that it is petitioner's burden first to show good reason to believe that there is no significant likelihood of removal. All petitioner has shown is the passage of some time.").

III. Conclusion

Because confinement for less than six months is presumptively reasonable, the Petition fails on the merits. For these reasons, the Court should dismiss the Petition, stay consideration of the Petition, or deny relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 17, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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