UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

EDUARDO VEGA HERNANDEZ,

Petitioner,

v. Case No. 3:26-cv-00008-MMH-MCR

WARDEN, NORTH FLORIDA
DETENTION FACILITY, et al.,

Respondents.
_______________________________________/

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Eduardo Vega Hernandez challenges his detention by the U.S. Department of Homeland Security ("DHS") and the U.S. Immigration and Customs Enforcement ("ICE"), arguing that he is unlawfully detained "pending final removal order[,]" Doc. 1 at ¶ 4, in violation of 8 U.S.C. § 1231(a)(6), Doc. 1 at Ground One. However, because Petitioner has not cooperated with ICE's efforts to remove him, the Court should deny the writ and dismiss the action.

FACTUAL BACKGROUND

Petitioner Eduardo Vega Hernandez is a 58-year-old male who is a native and citizen of Cuba. Exhibit 1, Form I-213 Record of Deportable/Inadmissible Alien at 1. Petitioner was paroled into the United States on November 22. 2002. Ex. 1 at 2. On May 16, 2022, Petitioner applied for permanent resident status, but his application was denied by the United States Citizenship and Immigration Service on November 27, 2024. Ex. 1 at 2.

Petitioner was issued a Notice to Appear on May 16, 2025. Exhibit 2, Form I-862, Notice to Appear. The Notice to Appear charged Petitioner with inadmissibility as an immigrant not in possession of a valid immigrant visa. Ex. 2 at 4. Petitioner was ordered removed to Cuba by an Immigration Judge on June 26, 2025. Exhibit 3, Order of the Immigration Judge. Petitioner waived his right to appeal, so his removal order became final on June 26, 2025. *See* Ex. 3 at 6. Petitioner has remained in immigration detention since his removal order became final.

On July 1, 2025, Petitioner was served with a Notice of Removal informing him of ICE's intention to remove him to Mexico. Exhibit 4, Notice of Removal. Petitioner refused to sign the Notice. Ex. 4 at 2. On February 19, 2026, Petitioner was advised of specific requirements he needed to complete to assist ICE with obtaining a travel document and was given thirty days to comply with his obligations. Exhibit 5, Form I-229, Warning for Failure to Depart and Instruction Sheet. Petitioner failed to sign the required documents, and on March 6, 2026, Petitioner was advised that as a result of his failure to sign, his detention would be continued. Exhibit 6, Notice of Failure to Comply at 1.

MEMORANDUM OF LAW

I. LEGAL STANDARD

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C.

§ 2241(c)(3). Petitioner bears the burden of proving his custody violates federal law. *Whitfield v. United States Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

II. CERTIFIED HABEAS RETURN

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). Petitioner is detained pursuant to 8 U.S.C. § 1231(a)(6).

III. ARGUMENT

Generally, this Court has jurisdiction in a habeas corpus proceeding to consider a challenge to a petitioner's continued detention by immigration authorities. *See Zadvydas v. Davis,* 533 U.S. 678 (2001). While the Court has jurisdiction to hear Petitioner's challenge to his continued detention, the Petition should be dismissed because Petitioner has failed to comply with his obligations to assist with his removal and has failed to establish that his removal is not significantly likely to occur in the reasonably foreseeable future.

A. Petitioner's Detention Is Lawful Under 8 U.S.C. § 1231.

Following entry of an order of removal, immigration detention is governed by 8 U.S.C. § 1231. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 544 (2021) ("§ 1231 explains what to do if the alien is ordered removed."); *see also Deshati v. Noem*, No. 25-CV-15940-ESK, 2025 WL 3204227, at *2 (D.N.J. Nov. 17, 2025) ("The statute governing post-final order of removal immigration detention is 8 U.S.C. § 1231.").

Pursuant to section 1231(a)(1)(A), "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." Detention during the removal period is mandatory. 8 U.S.C. § 1231(a)(2)(A). The Government may detain an alien beyond the statutory removal period if he is inadmissible under 8 U.S.C. § 1182, was ordered removed because of certain criminal convictions, or has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal. 8 U.S.C. § 1231(a)(6). If such an alien is later released, they are subject to supervision as provided for in 8 U.S.C. § 1231(a)(3).

In *Zadvydas*, the Supreme Court held that indefinite detention of aliens raises serious constitutional concerns. 533 U.S. 678, 690-99 (2001). Once an order of removal is final, the Government may continue to detain an alien only for a reasonable amount of time. *See id.* at 699-701. The reasonableness of the detention is to be measured "primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Id.* at 699. The Supreme Court held that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *Id.* at 700-01. "Although not expressly stated, the Supreme Court appears to view the six-month period to include the 90-day removal period [from section 1231(a)(1)(A)] plus 90 days thereafter." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

After that six-month period has passed, if the alien "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 1052 (quoting *Zadvydas*, 533 U.S. at 701). Thus, "in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* If an alien makes these showings, then the burden shifts to the Government to rebut the presumption with sufficient evidence establishing that there is "a significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701.

B. Petitioner's Failure To Cooperate In His Removal Extends The Presumptively Reasonable Post-Removal Detention Period.

Petitioner's order of removal was final on June 26, 2025; thus, the six-month period concluded on or about December 23, 2025. As such, he ostensibly has met the first prong of the test. However, Petitioner is required to assist in efforts to remove him pursuant to 8 U.S.C. § 1253(a). The 90-day removal period found in 8 U.S.C. § 1231(a)(1)(A) is extended, and the alien may remain in detention, if the alien (1) "fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure" or (2) "conspires or acts to prevent the alien's removal" 8 U.S.C. § 1231(a)(1)(C). The Eleventh Circuit noted that "if the removal period was extended by operation of § 1231(a)(1)(C), then ICE can continue to detain [the petitioner] because 'the keys to [the petitioner's] freedom [are] in his pocket and [he] could likely effectuate his removal by providing the information requested,' so he 'cannot convincingly argue that there is no significant likelihood of removal.'" *Singh v. United States Att'y Gen.*, 945 F.3d 1310, 1314 (11th Cir. 2019) (quoting *Pelich v. I.N.S.*, 329 F.3d 1057, 1060 (9th Cir. 2003)); *see also Vaz v. Skinner*, 634 F. App'x 778, 782 (11th Cir. 2015) ("Because Petitioner is responsible for thwarting his removal, he cannot show that there is no reasonable likelihood that he will not be removed in the reasonably foreseeable future if he cooperates with DHS and voluntarily signs for the travel document."); *Oladokun v. United States Att'y Gen.*, 479 F. App'x 895, 897 (11th Cir. 2012) ("Oladokun fails to 'provide[ ] good reason to believe that there is no significant likelihood of [his] removal in the reasonably foreseeable future,'" because his "non-cooperation is the only barrier to his removal." (quoting *Zadvydas*, 533 U.S. at 701)); *Balogun v. I.N.S.*, 9 F.3d 347, 351 (5th Cir. 1993) ("The alien should not be allowed to profit from his own wrong and *contra non valentem agere nulla currit praescriptio*."); *Riley v. Greene*, 149 F. Supp. 2d 1256, 1262 (D. Colo. 2001) (tolling the detention period when an alien intentionally causes a delay); *Sango-Dema v. District Director*, 122 F. Supp. 2d 213, 221 (D.Mass.2000) (alien cannot trigger right to freedom from indefinite detention "with his outright refusal to cooperate with INS officials"); *but see Bernshtein v. United States Att'y Gen.*, No. 3:25-CV-1153-JEP-PDB, 2026 WL 352907, at *4 (M.D. Fla. Feb. 9, 2026) (stating that "a simple refusal" to complete an application for travel documents is not enough and requiring the government to show that the petitioner acted in bad faith).

Here, Petitioner has refused to sign the necessary paperwork to assist ICE to secure his removal. If Petitioner cooperates with removal efforts, his removal is reasonably foreseeable. If Petitioner fails to cooperate, he "cannot convincingly argue that there is no significant likelihood of removal." *Singh*, 945 F.3d at 1314 (quoting *Pelich*, 329 F.3d at 1060. Petitioner's period of detention should be tolled because has refused to cooperate with ICE to effectuate his removal

Conclusion

Based on the foregoing reasons and citations of authority, this Court should deny the Petition (Doc. 1) and dismiss this action.

Dated: March 12, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 12, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, and on March 13, 2026, will mail a copy of the foregoing to the following individual, who is not a CM/ECF participant:

Eduardo Vega Hernandez, A#[redacted]
Folkston D. Ray ICE Processing Center
3262 Highway 252 East
Folkston, Georgia 31537
Petitioner

/s/ Katherine R. Branch
KATHERINE R. BRANCH
Assistant United States Attorney