

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

DANIEL ANTONIO VILLAR
AGUILAR,

Petitioner,

v.

MARY DE ANDA-YBARRA,
et al.

Respondents.

Judge Kathleen Cardone

Docket No: 3:26-cv-00088-KC

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

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INTRODUCTION

Petitioner apologizes for any confusion and admits that he is subject to a final order of removal as noted in Respondents' Response. ECF # 3-1. Petitioner appreciates the Court's request for clarification and submits this timely Reply to the Court's Order at ECF # 4.

Petitioner is subject to a final order of removal dated May 27, 2014. ECF # 3, page 1, ¶ 2. Over the last eleven (11) years, Respondents have not secured his removal to Cuba. Petitioner has been detained since July 17, 2025, which is well more than the 180 days permitted by the Supreme Court's precedent in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Petitioner should be released if there is "no likelihood of removal in a reasonably foreseeable future." *Id.* at 533 U.S. at 680.

ARGUMENT

A. There Is Substantial Evidence That Removal to Cuba Is Not Reasonably Foreseeable.

Respondents do not cite to any basis for their claim that "there is good reason to believe that" Petitioner's removal to Cuba is likely in the reasonably foreseeable future. *See* ECF #3, pages 2-4. Respondents merely rely on the burden-shifting process from *Zadvydas* to argue that Petitioner should not receive the Constitutional protection of a writ of habeas corpus. Respondents' lack of a response is striking.

In other recent habeas corpus actions, Respondent ICE has produced sworn declarations from ICE Enforcement and Removal Operations ("ERO") officers that

state that ICE has contacted the Consulate for the foreign country and requested travel documents for the petitioner's transfer to that country. Issuance of these travel documents demonstrates that the receiving country has agreed to that petitioner's repatriation. Examples of these *recent* ICE ERO officer declarations are attached and incorporated hereto as Exhibit A through C.

Respondents offer none of the same reassurances here. Cuba may have refused to accept Mr. Villar Aguilar's return to Cuba sometime in the past eleven years. It is possible that Cuba has refused his return to his birth country on more than one occasion. We do not know because Respondents have not provided evidence to the Court. Respondents simply rely on procedure and say, "trust us, we will remove him soon." The *Zadvydas* court did not condone extended detention in these situations.

Where Respondent ICE *has* contacted a foreign country's consulate, the questions become:

1. When was the request for travel documents placed?
2. How long does that Consulate usually take to approve and issue travel documents or respond with a refusal?
3. How likely is it that the Consulate will issue the travel documents in the next 30 or 60 days?

Here, we do not know if ICE has requested that Cuba accept Mr. Villar Aguilar's return to that country. This lack of evidence should satisfy the initial burden to show that removal is not likely under *Zadvydas*, and shift the burden to the Respondents to show what, if any, efforts toward removal have been made.

Since Mr. Villar Aguilar has been in custody for the past two hundred and three (203) days, and because he has apparently not been asked to sign any requests for travel documents to Cuba, this Court should find that no there is significant likelihood of his removal to Cuba in the reasonably foreseeable future.

CONCLUSION

Based on the record and the arguments set forth in ECF # 3 and in this Reply Brief, the Court should grant the Petitioner's request for a Writ of Habeas Corpus and he should be released on Respondent's supervision until such time when Cuba has agreed to accept his return to that country.

Dated: February 4, 2026

Respectfully submitted,

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