

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

AVILES MORA JARISSON,

Petitioner,

v

No. 2:26-cv-01483-SPC-DNF

I.C.E., ET AL.,

Respondents.

**RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Aviles Mora Jarisson seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking his release from immigration custody on the basis that the length of his detention is unlawful. His petition should be denied. In *Zadvydas v. Davis*, the Supreme Court held that detention following a final removal order is presumptively reasonable for six months. 533 U.S. 678 (2001). Aviles Mora had been detained for 117 days when he filed the present petition. His present detention is therefore lawful.

BACKGROUND

Mora Jarisson is a national and citizen of Cuba. (Composite Exhibit, Ex. 1 at 6.) Aviles Mora arrived in the United States as a Cuban parolee on October 7, 2006. *Id.* He adjusted his status to a legal permanent resident on June 5, 2008. *Id.*

On May 16, 2011, Aviles Mora was served with a Notice to Appear. *Id.* at 6, 14-16. He has a lengthy criminal history. *See generally* Exhibit 2. On June 7, 2017, he was ordered removed in absentia. *Id.* at 6, 12-13. Mora Jarisson was placed in immigration custody on January 8, 2026. *Id.* at 17.

On April 20, 2026, Aviles Mora filed a pro se petition for writ of habeas corpus alleging his custody violates the Due Process Clause of the Fifth Amendment.¹ *Aviles Mora v. U.S. ICE*, 2:26-cv-01397-JES-NPM, Doc. 1 (M.D. Fla.) On May 4, 2026, he filed the present case with almost identical allegations. (Doc. 1.)

Mora Jarisson is currently detained at Florida Soft Side South.

ARGUMENT

Mora Jarisson's detention does not violate the Fifth Amendment's Due Process Clause.

After a final removal order, an alien must be removed within ninety days—i.e., the removal period. 8 U.S.C. § 1231(a)(1); *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). During the removal period, the alien must be detained. 8 U.S.C. § 1231(a)(2); *Zadvydas*, 533 U.S. at 683. An alien, however, can be detained beyond that removal period. 8 U.S.C. §§ 1231(a)(1)(C), (a)(6); *Zadvydas*, 533 U.S. at 683. This is called a “post-removal” period. *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).

¹ The United States has filed a notice of related cases. (Doc. 5.)

There is no statutory limit on how long ICE can detain an alien during the post-removal period. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). Due to constitutional concerns, the U.S. Supreme Court has nevertheless interpreted the post-removal period to allow extended detention for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. In all, a reasonable length of detention “is presumptively six months.” *Guzman Chavez*, 594 U.S. at 529; *see also Akinwale*, 287 F.3d at 1052 (stating six-month period is inclusive of any ninety-day removal period).

If the presumptively reasonable period expires without removal, then a burden-shifting framework comes into play regarding the “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 689. If an alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the government must either rebut that showing or release the alien. *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018). But before that six-month period expires, any habeas challenge to the detention itself is premature. *E.g.*, *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-52 (11th Cir. 2002); *Guo Xing Song v. U.S. Attorney General*, 516 F. App’x 894, 899 (11th Cir. 2013); *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009). At bottom, “[U]ntil the six-month *Zadvydas* period concludes, detention is presumptively reasonable, and any due process claim is not ripe.” *E.g.*, *Khalil Al Ellary*, 2:26-cv-00112-KCD-DNF, Doc. 7 (M.D. Fla. Feb. 27, 2026); *Jiang v. Mukasey*, No. 2:08-cv-773-FtM-29DNF,

2009 WL 260378, at *2 (M.D. Fla. Feb. 3, 2009); *Noel v. Glades Cnty. Sheriff*, No. 2:11-cv-698-FtM-29SPC, 2011 WL 6412425, at *2 (M.D. Fla. Dec. 21, 2011).

Mora Jarisson filed the present petition well before expiration of six months in detention. He was detained on January 8, 2026, and filed the present petition on May 4, 2026. At that point, Mora Jarisson been detained for 117 days; to date, he has been in detention for 126 days.

As previously stated, it is only after six months that the parties can engage in *Zadvydas* burden-shifting related to the “significant likelihood of removal in the reasonably foreseeable future.” *See Jennings*, 583 U.S. at 299 (citation omitted); *Zadvydas*, 533 U.S. at 701 (holding the inquiry is “[a]fter this 6-month period”); *Khalil Al Ellary v. Noem*, 2:26-cv-00112-KCD-DNF (M.D. Fla. Feb. 27, 2026) (denying petition when alien had not been detained for six months). Before that time limit runs, neither *Zadvydas* nor any other binding precedent permit a challenge based on reasonable foreseeability of removal.² *See Akinwale*, 287 F.3d at 1051-52. *See Zadvydas*, 533 U.S. at 700 (stating judicial review in foreign policy matters “require courts to listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest

² Respondents acknowledge this Court has previously disagreed. *See Chumachenko v. Noem*, 2:26-cv-00344-SPC-NPM, Doc. 6 (M.D. Fla. Feb. 27, 2026).

upon foreign policy expertise”).

CONCLUSION

Federal Respondents respectfully request that the Court deny Mora Jarisson’s petition.

DATED this 13th day of May, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/Chad C. Spraker
CHAD C. SPRAKER
Assistant United States Attorney
USA No. 198
2110 First Street, Ste. 3-137
Fort Myers, Florida 33901
Telephone: 239-461-2200
Fax: 239-461-2219
Email: chad.spraker@usdoj.gov
Lead Counsel for Federal Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 13, 2026, the foregoing document was served via U.S. mail to:

Aviles Mora Jarisson

A. 

Florida Soft Side South Detention Center

54575 Tamiami Trail East

Ochopee, FL 34141

/s/ Chad C. Spraker

Assistant United States Attorney