UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YUNIER CASTELLANOS

Petitioner,

v. Case No. 2:26-cv-01716-SPC-NPM

ICE,

Respondent.
_____/

FEDERAL RESPONDENT'S OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Yunier Castellanos ("Castellanos" or "Petitioner") seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking his immediate 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). As explained below, Castellanos obtained a stay of removal in immigration court that prevented the U.S. Immigration and Customs Enforcement ("ICE") from effectuating his removal. Because the period of the stay should not be included in calculating the six-month period under *Zadvydas*, 8 U.S.C. § 1231(a)(1)(C), Castellanos's detention remains presumptively reasonable. Consequently, his present detention is therefore lawful.

BACKGROUND

Castellanos is a national and citizen of Cuba. Composite Exhibit A at 1. On or about September 8, 1999, he was paroled into the United States in Miami, Florida. *Id.* at 2.

On October 25, 2005, Castellanos was convicted of assault in the Circuit Court of Hillsborough County, Florida. Ex. A at 2. On July 14, 2010, he was convicted of aggravated battery with a deadly weapon in the Circuit Court of Hillsborough County, Florida. *Id.*

On March 7, 2013, Castellanos was issued a Notice to Appear and placed in removal proceedings. Ex. A at 8-10. On March 19, 2013, an immigration judge ordered him removed from the United States. *Id.* at 12, 16-17. On June 17, 2013, he was released on an Order of Supervision ("OSUP"). *Id.* at 20.

On November 17, 2025, ICE encountered Castellanos, and he was detained for removal. Ex. A at 3-5. His OSUP was revoked, and he was offered an informal interview. *Id.* at 15. He received two notices of removal informing him of ICE's intent to remove him to Mexico. *Id.* 10-11. He is currently detained at the Florida Soft-Sided Facility-South. *Id.* at 18.

ICE advises that Castellanos filed an emergency motion to reopen immigration proceedings and requested a stay of removal. On November 24, 2025, ICE advises that an immigration judge granted a stay of removal until the motion to reopen was

adjudicated. On January 6, 2026, the immigration judge denied the motion to reopen. Ex. A at 13. ICE advises that Castellanos has filed an emergency motion to stay with the Board of Immigration Appeals, but no stay has been entered.

On May 20, 2026, Castellanos filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Doc. 1.

ARGUMENT

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).

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 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).

Here, Castellanos was detained on November 17, 2025, and filed the present petition on May 20, 2025. Although he had been in detention for 184 days before filing the petition and a total of 193 days, to date, the six month presumptively reasonable period under *Zadvydas* has not yet expired. The Court should not include the 43-day period from November 24, 2025, to January 6, 2026, during

which ICE was prohibited from removing Castellanos because he had obtained a stay of removal in the immigration court. *See* 8 U.S.C. § 1231(a)(1)(C) ("The removal period shall be extended beyond a period of 90 days and the alien may remain in detention . . . if the alien . . . acts to prevent the alien's removal subject to an order of removal."); *Akinwale*, 287 F.3d at 1052, fn.4 (noting that a stay of deportation "interrupted the running of time under *Zadvydas*"). Thus, for purposes of calculating the presumptively reasonable period under *Zadvydas*, Castellanos had been detained for 141 days when he filed the petition and for a total of 150 days during which time he has been subject to removal. Consequently, the length of his detention is lawful.

It is only afterward that the parties can engage in *Zadvydas* burden-shifting related to the "significant likelihood of removal in the reasonably foreseeable future." *See Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018) (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.[1] *See Akinwale*, 287 F.3d at 1051-52.

[1] Federal Respondent acknowledges this Court has previously disagreed. *See Chumachenko v. Noem*, 2:26-cv-00344-SPC-NPM, Doc. 6 (M.D. Fla. Feb. 27, 2026).

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 upon foreign policy expertise").

As explained above, the presumptively reasonable period under *Zadvydas* has not expired. However, if the Court determines that the six-month period has expired, the burden is on the Federal Respondent to demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") to continue detaining Castellanos. Although ICE maintains that SLRRFF exists, the undersigned has not received adequate documentation to raise that argument in this response. Attached for the Court's review is a copy of the Declaration of Deportation Officer Kristian Estrada, which was provided to the United States Attorney's Office. Ex. A at 21-23.

CONCLUSION

Federal Respondent respectfully requests that Castellanos' petition be denied.

Dated: May 29, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 29, 2026, I sent a copy of the foregoing via U.S. Mail to the following non-CM/ECF participants:

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