UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROLAND PENA QUESADA,

Petitioner,

v. Case No. 2:26-cv-1728-SPC-NPM

TODD BLANCHE, et al.,

Respondents.
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Response to Habeas Petition

Petitioner Roland Pena Quesada again challenges his detention by U.S. Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE") in a second pro se habeas petition filed on May 21, 2026, as unreasonably prolonged and violative of the Due Process Clause of the Fifth Amendment and seeks immediate release.[1]

Background

Petitioner's immigration background was detailed in the federal Respondent's initial petition (ECF 9) to Petitioner's February 23, 2026, Petition filed in Case No. 2:26-cv-505-KCD-DNF, which response is incorporated herein, and as set forth by the Court in its March 19, 2026 Order, 2026 WL 776141, in that case:

[1] The federal Respondents filed a notice of related case (ECF 5) noting that Quesada filed a previous pro se habeas petition on February 23, 2026, *Pena v. U.S. Dept. of Homeland Security, et al.*, Case Number 2:26-cv-505-KCD-DNF, which was dismissed by Judge Dudek on March 19, 2026, "without prejudice to [his] refiling a new petition should his current detention exceed the six-month mark."

Quesada is a native of Cuba who entered the United States in 2007. (Doc. 9 at 1.) He was later convicted of a felony and sentenced to prison. (*See* Doc. 9-1 at 3.) Removal proceedings were started, and in 2011, an immigration judge ordered him removed. (Doc. 9-3 at 1.) When that removal did not come to fruition, Quesada was placed on an order of supervision. (Doc. 9-4 at 1.)

On November 30, 2025, Quesada attended a routine ICE check-in appointment, was detained, and his supervision was revoked. (Doc. 9-1 at 3; Doc. 9-5 at 1.) That same day, ICE provided him with an informal interview to contest the revocation and detention. (Doc. 9-1 at 3; Doc. 9-5 at 3.) Quesada was not released after the interview. Instead, ICE twice attempted to remove him to Mexico. (Doc. 9-1 at 3.) When Quesada refused to get on the bus for that transfer, he was transferred back to Florida. (Doc. 9-1 at 3.) Shortly thereafter, he filed this petition for writ of habeas corpus. (Doc. 1.) ICE plans to continue efforts to remove him to Mexico. (Doc. 9-1 at 3.)

The Court dismissed Quesada's first petition on March 19, 2026, finding that "Quesada's legal challenge to the length of his detention is premature" but did so without prejudice to Quesada "refiling a new petition should his current detention exceed the six-month mark, and he can demonstrate there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

Certified Habeas Return

The Court has power to grants writs of habeas corpus where (among other instances) petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioners bear the burden to prove custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

Discussion

As noted in the federal Respondents' previous March 17, 2026, response filed in Case No. 2:26-cv-505-KCD-DNF, an IJ ordered Pena Quesada removed and the

Attorney General (through her delegates) has a statutory obligation to execute that removal. 8 U.S.C. § 1231(a)(1)(A), (a)(3). ICE is detaining Pena Quesada under 8 U.S.C. § 1231(a)(6) pending his removal.

Because Pena Quesada was first detained on November 30, 2025, he is just at the 180-day mark as of the date of the filing of this response (172 days as of the date of his second petition, under *Zadvydas*. *E.g.*, *Jiang*, 2009 WL 260378, at *2 ("This presumptively reasonable six month period must have expired at the time of the filing of a petition.")). As noted in the March 17, 2026, declaration, which is attached as Exh. 4 to his May 21 second petition, ICE "will continue with efforts to remove Petitioner via third County removal to Mexico."[2] ECF 1 at 44. As the Court noted in its March 19, 2026 Order, "ICE twice attempted to remove him to Mexico."[3]

When ICE executes a removal order, an alien must comply and assist. Failure to do so results in detention and tolling any *Zadvydas* time. 8 U.S.C. § 1231(a)(1)(C). As set forth in the March 17, 2026 declaration (ECF 1 at 44), Quesada previously failed to comply with removal to Mexico. "*Zadvydas* does not save an alien who fails to

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[2] The undersigned has requested updated information from ICE regarding SLRFF since the since the March 17, 2026 deportation officer declaration filed in response to the first petition. No updates have been provided or are available at this time. The undersigned will supplement the record should such information become available. Should the Court conclude that the prior declaration lacks sufficient detail to meet the government's burden in justifying continued detention, we will comply with any order that may issue.

[3] Petitioner makes a lengthy *Zadvydras* argument in his May 12 petition in which he aggregates his total detention time since the entry of his final removal order. ECF 1 at pp. 19-34. Aggregation aside, looking at his current detention history as of May 28, 2026, attached as Exh. 1, he has been detained 180 days on the date of the filing of this response and under 180 days as of the date of filing of his second petition.

provide requested documentation to effectuate his removal." *Pelich v. INS*, 329 F.3d 1057, 1060 (9th Cir. 2003). *See also Singh v. U.S. Att'y General*, 945 F.3d 1310, 1314 (11th Cir. 2019). Specifically, *Singh* reads the plain language of § 1231(a)(1)(C) for what it says—extending the detention period if the alien "fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure." *Id.* (citation omitted). Here, the only evidence of noncompliance remains ICE's March 17, 2016, declaration in which a deportation officer affirms that Pena Quesada refused to get dressed or get on the bus when ICE was attempting to remove him to Mexico.[4] (ECF 1 at 44). Quesada argues that there is no SLRFF because Cuba and Mexico have refused to accept Petitioner and offers the conclusory statement that "[a]ccording to the ICE officer at the detention center, they are waiting on a decision from Washington as to what to do with the Cubans (This clearly indicated that whatever path for removal the government may have had as evaporated.)" ECF 1 at ¶ 37, p. 25.

Because ICE attempted to remove Quesada and the only thing that stopped it was Quesada's conduct, this is a quintessential example of a petitioner holding the "keys to his freedom in his pocket." *See Pelich*, 329 F.3d at 1060; *Singh*, 945 F.3d at 1314. Although this Court did not make such a finding in its March 19, 2026, Order, the federal Respondents' position is that the *Zadvydas* period is on hold until Quesada complies with ICE's efforts to secure his removal.

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[4] In his petition, Quesada disputes the removal acts described in the deportation officer's affidavit submitted by the federal Respondents. ECF 1 at ¶ 28, pp. 25-26.

Conclusion

For those reasons, the Court should deny the Petition.

Certificate of Service

I certify that a copy of this Response and Exhibits will be sent by US Mail on May 29, 2026, to the following:

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Respectfully submitted,
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