

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Hector Hernandez v. Warden of Alligator Alcatraz

Hernandez · No. 2:26-cv-00271-SPC-NPM · Decided February 10, 2026

SUMMARY

The United States District Court for the Middle District of Florida dismissed Hector Hernandez’s 28 U.S.C. § 2241 habeas petition without prejudice. The court held that Hernandez’s conclusory allegations did not establish regulatory violations or demonstrate that his removal was not reasonably foreseeable under *Zadvydas v. Davis*, and allowed him 21 days to file an amended petition.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	February 10, 2026
DOCKET	2:26-cv-00271-SPC-NPM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 challenging immigration detention, alleged regulatory violations in revoking his release under an order of supervision, and asserted that continued detention violated the Fifth Amendment because removal was not reasonably foreseeable.
STANDARD OF REVIEW	The court assessed whether the petition's allegations and supporting facts were sufficient to warrant habeas relief; conclusory allegations unsupported by specifics are insufficient to obtain habeas relief or an evidentiary hearing.
PRECEDENTIAL VALUE	Unknown; district court opinion identified as per curiam and no precedential designation appears in the text.
PARTIES	Hector Hernandez v. Warden of Alligator Alcatraz

TOPICS

- federal habeas corpus
- immigration detention
- removal proceedings
- due process
- procedural due process

PRACTICE AREAS

immigration

federal habeas corpus

constitutional law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether Hernandez's allegations were sufficient to establish that the government violated regulations when it revoked his release under an order of supervision.
2. Whether Hernandez's continued immigration detention violated the Fifth Amendment under *Zadvydas v. Davis* because removal was not reasonably foreseeable.
3. Whether the petition contained sufficient factual allegations to warrant habeas relief or an evidentiary hearing.

HOLDINGS

1. A habeas petitioner challenging continued immigration detention must provide sufficient facts giving good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future; bare or conclusory allegations are insufficient.
2. Hernandez was not entitled to habeas relief because his petition did not allege enough facts to demonstrate a violation of applicable regulations or a due-process violation under *Zadvydas* and the Fifth Amendment.

KEY QUOTATIONS

“applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” (533 U.S. at 693)

“if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” (533 U.S. at 700-01)

*“Hernandez’s bare allegations are not enough to demonstrate a violation of regulations or to establish a due process claim under *Zadvydas* and the Fifth Amendment.”* (Opinion and Order)

FACTUAL BACKGROUND

Hernandez alleged that the government unlawfully detained him after revoking his release under an order of supervision without complying with applicable regulations or providing a reason. He also alleged that his continued detention violated the Fifth Amendment because his removal was not reasonably foreseeable. The petition omitted details concerning his entry into the United States, removal and asylum proceedings, prior immigration detention, the circumstances of his arrest and release revocation, and governmental efforts to deport him.

PROCEDURAL HISTORY

Hernandez filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The district court found that the petition lacked sufficient factual detail to establish either regulatory violations or a due-process violation under

Zadvydas v. Davis. The court dismissed the petition without prejudice and granted Hernandez 21 days to file an amended petition.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. Hernandez may file an amended petition within 21 days of the order; otherwise, the court will enter judgment and close the case without further notice.

CASES CITED

- Zadvydas v. Davis, 533 U.S. 678 (2001)
- Fahim v. Ashcroft, 227 F. Supp. 2d 1359, 1365 (N.D. Ga. 2002)
- Tejada v. Dugger, 941 F.2d 1551, 1559 (11th Cir. 1991)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA FORT MYERS DIVISION HECTOR HERNANDEZ, Petitioner, v. Case No.: 2:26-cv-00271-SPC-NPM WARDEN OF ALLIGATOR ALCATRAZ, Respondent, / OPINION AND ORDER Before the Court is Hector Hernandez’s Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Doc. 1). Hernandez claims his detention is unlawful because the government revoked his release under an order of supervision without complying with regulations or providing a reason for the revocation.

He also claims his detention violates the Fifth Amendment because removal is not reasonably foreseeable. But the petition does not include enough detail to warrant habeas relief. In *Zadvydas v. Davis*, the Supreme Court recognized that the Fifth Amendment’s Due Process Clause “applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” 533 U.S. 678, 693 (2001).

The Court held “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” 533 U.S. 678, 700-01 (2001). The Court established a “presumptively reasonable period of detention” of six months—the 90-day removal period plus an additional 90 days. *Id.* Courts consider the constitutionality of continued detention under a burden-shifting framework: After this 6-month period, once 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 the showing.

Id. Hernandez’s petition does not carry the initial burden of proof. A habeas petitioner’s “bare allegations are insufficient to demonstrate a significant unlikelihood of his removal in the

reasonably foreseeable future.” *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1365 (N.D. Ga. 2002); see also *Tejada v. Dugger*, 941 F.2d 1551, 1559 (11th Cir. 1991) (holding that a petitioner is not entitled to habeas relief—or even an evidentiary hearing—“when his claims are merely conclusory allegations unsupported by specifics[.]” (internal quotation marks and citations omitted)).

Hernandez’s bare allegations are not enough to demonstrate a violation of regulations or to establish a due process claim under *Zadvydas* and the Fifth Amendment. The petition does not include important facts like when and how Hernandez entered the United States, the status of any removal and asylum proceedings, any prior periods of immigration detention, the circumstances surrounding his arrest and the revocation of his order of supervision, and any efforts the government has made to deport him.

The Court finds that Hernandez is not entitled to habeas relief on any ground in his petition. Accordingly, the petition (Doc. 1) is DISMISSED without prejudice. Hernandez may file an amended petition within 21 days of this order. Otherwise, the Court will enter judgment and close this case without further notice. DONE AND ORDERED in Fort Myers, Florida on February 10, 2026.

UNITED STATES DISTRICT JUDGE SA: FTMP-1