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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
9

10 RAUL SANCHEZ BUENO (aka
11 RAUL BUENO SANCHEZ),

12 Petitioner,

13 v.

14 GREGORY J. ARCHAMBEAULT, et
15 al.,

16 Respondents.
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Case No.: 25-cv-2509-BEN-MMP

**RESPONDENTS' RESPONSE IN
OPPOSITION TO PETITIONERS'
HABEAS PETITION**

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I. Introduction

Petitioner has filed a habeas petition pursuant to 28 U.S.C. § 2241. For the reasons set forth below, the Court should deny Petitioner’s requests for relief and dismiss the petition.

II. Factual and Procedural Background

Petitioner is a citizen and national of Mexico. On June 5, 2013, Petitioner’s most recent order of removal was reinstated. Declaration of Hugo Lara Ramirez (Hugo Decl.) at ¶ 4. On November 2, 2022, Petitioner was granted Withholding of Removal to Mexico. *Id.* at ¶ 5. On November 16, 2022, Petitioner was released from ICE custody. *Id.* at ¶ 5. On May 9, 2025, ICE re-detained Petitioner to execute his removal order to a third country. *Id.* at ¶ 6.

On May 14, 2025, ICE sent a request to the Guatemalan Consulate inquiring if Guatemala would accept Petitioner. *Id.* at ¶ 7. On May 15, 2025, the request was denied. *Id.* On May 14, 2025, ICE sent a request to the El Salvador Consulate inquiring if El Salvador would accept Petitioner. *Id.* at ¶ 8. On May 16, 2025, the request was denied. *Id.* On May 14, 2025, ICE sent a request to the Panama Consulate inquiring if Panama would accept the Petitioner. *Id.* at ¶ 9. On May 23, 2025, the request was denied. *Id.*

On September 12, 2025, ERO San Diego sent a request to ERO Removal and International Operations (RIO) requesting a third country removal. *Id.* at ¶ 12.

On September 24, 2025, ERO San Diego sent another request to ERO RIO on an update on third country removal. *Id.* at ¶ 13.

On October 7, 2025, ERO San Diego requested an update to ERO RIO on third country removal. *Id.* at ¶ 14.

On October 24, 2025, ERO San Diego confirmed there was no update yet on a third country removal. *Id.* at ¶ 15.

ERO San Diego continues to work with ERO RIO for a third country removal. *Id.* at ¶ 16.

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1 **III. Argument**

2 **A. The Court Lacks Jurisdiction Over the Petition**

3 At the outset, the Court should deny Petitioner’s habeas petition because he has
4 failed to name as a respondent the warden of the facility where he is detained. *See* 28
5 U.S.C. § 2243 (“The writ, or order to show cause shall be directed to the person having
6 custody of the person detained.”). Petitioner’s habeas claims challenge his current
7 physical confinement. “[C]ore habeas petitioners challenging their present physical
8 confinement [must] name their immediate custodian, the warden of the facility where
9 they are detained, as the respondent to their petition.” *Doe v. Garland*, 109 F. 4th 1188,
10 1197 (9th Cir. 2024) (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004)). “[T]he
11 Court cannot exercise jurisdiction over [Petitioner’s] Petition so long as he fails to name
12 as respondent the warden of the detention facility where he is being detained.”
13 *Mukhamadiev v. U.S. Dep’t of Homeland Security*, No. 25-cv-1017-DMS-MSB, 2025
14 WL 1208913, at *3 (S.D. Cal. Apr. 25, 2025). As Petitioner has failed to name his
15 immediate custodian, the petition should be dismissed for lack of jurisdiction.

16 **B. Petitioner is Lawfully Detained**

17 Authority to detain noncitizens who are subject to a final order of removal is
18 governed by 8 U.S.C. § 1231(a). *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
19 detain” the alien during the 90-day removal period); *see also Zadvydas v. Davis*, 533
20 U.S. 678, 683 (2001).

21 Petitioner is subject to a final, executable order of removal, which means that he
22 has no right to remain in the United States. He has a temporary right not to be repatriated
23 to Mexico, but he has no right not to be resettled in a third country. ICE has long-
24 standing authority to remove noncitizens and resettle them in third countries where
25 removal to the country designated in the final order is “impracticable, inadvisable, or
26 impossible.” 8 U.S.C. § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b) (outlining
27 framework for designation). Accordingly, noncitizens like Petitioner, who have
28 received protection against removal to the designated country (either withholding of

1 removal under 8 U.S.C. § 1231(b)(3) or CAT protection), may be removed and resettled
2 in third countries.

3 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall
4 remove the noncitizen to any of the following countries:

5 (i) The country from which the alien was admitted to the United
6 States.

7 (ii) The country in which is located the foreign port from which the
8 alien left for the United States or for a foreign territory contiguous to the
9 United States.

10 (iii) A country in which the alien resided before the alien entered
11 the country from which the alien entered the United States.

12 (iv) The country in which the alien was born.

13 (v) The country that had sovereignty over the alien's birthplace
14 when the alien was born.

15 (vi) The country in which the alien's birthplace is located when the
16 alien is ordered removed.

17 (vii) If impracticable, inadvisable, or impossible to remove the alien
18 to each country described in a previous clause of this subparagraph,
19 another country whose government will accept the alien into that country.

20 *Id.*

21 Accordingly, if the Secretary of Homeland Security is unable to remove a
22 noncitizen to a country of designation or an alternative country in subparagraph (D), the
23 Secretary may, in her discretion, remove the noncitizen to any country listed in
24 subparagraphs (E)(i) through (E)(vi).

25 An alien ordered removed must be detained for 90 days pending the
26 government's efforts to secure the alien's removal through negotiations with foreign
27 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien
28 during the 90-day removal period); *see also Zadvydas v. Davis*, 533 U.S. 678, 683
(2001). The statute "limits an alien's post-removal detention to a period reasonably
necessary to bring about the alien's removal from the United States" and does not permit
"indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that a
six-month period of post-removal detention constitutes a "presumptively reasonable
period of detention." *Id.* at 683; *see also Clark v. Martinez*, 543 U.S. 371, 377 (2005)
("[T]he presumptive period during which the detention of an alien is reasonably

1 necessary to effectuate his removal is six months...”); *Lema v. INS*, 341 F.3d 853, 856
2 (9th Cir. 2003).

3 Release is not mandated after the expiration of the six-month period unless “there
4 is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
5 533 U.S. at 701; *see also Clark*, 543 U.S. at 377. The Supreme Court limited the statute,
6 allowing post-removal detention “to a period reasonably necessary to bring about that
7 alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. “[O]nce removal
8 is no longer foreseeable, continued detention is no longer authorized by statute.” *Id.* at
9 699. Ultimately, “an alien can be held in confinement until it has been determined that
10 there is no significant likelihood of removal in the reasonably foreseeable future
11 [(“SLRRFF”).” *Id.*

12 The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the alien to
13 show, after a detention period of six months, that there is ‘good reason to believe that
14 there is no significant likelihood of removal in the reasonably foreseeable future.’”
15 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
16 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003). The alien must make such
17 a showing to shift the burden to the government.

18 [O]nce the alien provides good reason to believe that there is no significant
19 likelihood of removal in the reasonably foreseeable future, the
20 Government must respond with evidence sufficient to rebut the showing.
And for the detention to remain reasonable, as the period of prior post-
removal confinement grows, what counts as the “reasonably foreseeable
future” conversely would have to shrink.

21 *Zadvydas*, 533 U.S. at 701.

22 Petitioner cannot show that there is no significant likelihood of removal in the
23 reasonably foreseeable future. ICE is in the process of obtaining travel documents from
24 a third country pursuant to 8 U.S.C. § 1231(b)(2)(E). To effectuate Petitioner’s removal
25 to a third country, ICE submitted resettlement requests to the Guatemalan, Salvadoran,
26 and Panamanian consulates. Hugo Decl. at ¶¶ 7-9. Despite receiving denials from those
27 three countries, ERO San Diego continues to work with ERO RIO for a third country
28 removal.

1 If ICE obtains travel documents for resettlement in a third country, Petitioner will
2 have an opportunity to seek to reopen his removal proceedings. *See* 8 U.S.C. §
3 1229a(c)(7) (Motions to reopen); 8 C.F.R. § 1003.23(b) (“Reopening or reconsideration
4 before the immigration court”). Movants can also seek an emergency stay of removal.
5 *See generally* 8 C.F.R. §§ 1003.2(f), 1003.23(b)(v). Judicial review of that process will
6 be exclusive to the Ninth Circuit. *See* 8 U.S.C. § 1252(b)(6), (9).

7 To the extent Petitioner is challenging ICE’s decision to detain him for the
8 purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
9 (“Except as provided in this section and *notwithstanding any other provision of law*
10 (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*
11 *corpus provision*, and sections 1361 and 1651 of such title, no court shall have
12 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
13 decision or action by the Attorney General to commence proceedings, adjudicate cases,
14 or *execute removal orders* against any alien under this chapter.”) (emphasis added); *see*
15 *also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There
16 was good reason for Congress to focus special attention upon, and make special
17 provision for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
18 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
19 the initiation or prosecution of various stages in the deportation process.”); *Limpin v.*
20 *United States*, 828 Fed. App’x 429 (9th Cir. 2020) (holding district court properly
21 dismissed under 8 U.S.C. § 1252(g) “because claims stemming from the decision to
22 arrest and detain an alien at the commencement of removal proceedings are not within
23 any court’s jurisdiction”).

24 **C. Conditions of Confinement**

25 To the extent Petitioner asserts claims regarding conditions of his confinement
26 and medical care, the Court lacks jurisdiction over such claims because they do not
27 challenge the lawfulness of her custody. An individual may seek habeas relief under 28
28 U.S.C. § 2241 if she is “in custody” under federal authority “in violation of the

1 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c). But habeas
2 relief is available to challenge only the legality or duration of confinement. *Pinson v.*
3 *Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th
4 Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The
5 writ of habeas corpus historically “provide[s] a means of contesting the lawfulness of
6 restraint and securing release.”). The Ninth Circuit squarely explained how to decide
7 whether a claim sounds in habeas jurisdiction: “[O]ur review of the history and purpose
8 of habeas leads us to conclude the relevant question is whether, based on the allegations
9 in the petition, release is *legally required* irrespective of the relief requested.” *Pinson*,
10 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934
11 (9th Cir. 2016) (The key inquiry is whether success on the petitioner’s claim would
12 “necessarily lead to immediate or speedier release.”). Here, Petitioner’s claims
13 regarding the conditions of his confinement do not arise under § 2241. *See Nettles*, 830
14 F.3d at 933 (“We have long held that prisoners may not challenge mere conditions of
15 confinement in habeas corpus.”); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025
16 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks
17 jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as
18 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065);
19 *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873, at *1 (S.D. Cal.
20 Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241 because they were
21 not arguing they were unlawfully in custody and receiving the requested relief would
22 not entitle them to release). Thus, such claims do not arise under § 2241 and the petition
23 should be dismissed.

24 Moreover, Petitioner claims his medical care has been inadequate under the Fifth
25 Amendment due process clause. To demonstrate that officials violate the rights of an
26 immigration detainee based on their deliberate indifference to medical needs, Petitioner
27 must establish the following:

- 28 (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put

1 the plaintiff at substantial risk of suffering serious harm; (iii) the defendant
2 did not take reasonable available measures to abate that risk, even though
3 a reasonable official in the circumstances would have appreciated the high
4 degree of risk involved—making the consequences of the defendant's
5 conduct obvious; and (iv) by not taking such measures, the defendant
6 caused the plaintiff's injuries.

7 *Fraihat v. U.S. Immigr. & Customs Enft*, 16 F.4th 613, 636 (9th Cir. 2021) (quoting
8 *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018). The third factor
9 requires a showing that officials' conduct was "objectively unreasonable," a standard
10 which requires "more than negligence but less than subjective intent – something akin
11 to reckless disregard." *Id.* (quoting *Castro v. County of Los Angeles*, 833 F.3d 1060, 1071
12 (9th Cir. 2016)).

13 Petitioner has fallen far short of demonstrating a due process violation
14 surrounding his medical care. While he asserts that he has vision problems, he did not
15 report any such problems during his initial physical exam and tested with perfect 20/20
16 vision. *See* ECF No. 1-2 at 19.

17 **IV. CONCLUSION**

18 For the foregoing reasons, Respondents respectfully request that the Court
19 dismiss the petition.

20 DATED: November 12, 2025

ADAM GORDON
United States Attorney

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22 SHELDON A. SMITH
23 Special Assistant United States Attorney
24 Attorneys for Respondents
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13 SOUTHERN DISTRICT OF CALIFORNIA

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15 RAUL BUENO SANCHEZ),

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18 GREGORY J. ARCHAMBEAULT, et
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Case No. 25-cv-2509-BEN-MMP

**DECLARATION OF HUGO LARA
RAMIREZ IN SUPPORT OF
RESPONDENTS' RESPONSE IN
OPPOSITION TO PETITIONER'S
HABEAS PETITION**

21 I, Hugo Lara Ramirez, do hereby declare:

22 1. I am employed by the U.S. Department of Homeland Security (DHS),
23 Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations
24 (ERO), in the San Diego Field Office, as a Deportation Officer (DO). I have held this
25 position since May 2024.

26 2. I am currently assigned to the Otay Mesa suboffice and my responsibilities
27 include enforcing final orders of deportation and removal from the United States for aliens
28 and requesting travel documents from foreign consulates as part of the removal process. I
am familiar with the repatriation of Mexican nationals.

1 3. I am currently responsible for monitoring this case. I make this declaration
2 based upon my own personal knowledge and experience as a law enforcement officer and
3 information provided to me in my official capacity as a DO in the ICE ERO San Diego Field
4 Office. I make this declaration based on review of Petitioner Raul Sanchez Bueno's alien
5 file ([REDACTED]), consultation with other ICE officers, and review of official documents
6 and records maintained by ICE.

7 4. On June 5, 2013, Petitioner's order of removal was reinstated.

8 5. On November 2, 2022, Petitioner was granted Withholding of Removal to
9 Mexico.

10 5. On November 16, 2022, Petitioner was released from ICE custody.

11 6. On May 9, 2025, ICE re-detained Petitioner to execute his removal order to a
12 third country.

13 7. On May 14, 2025, ICE sent a request to the Guatemalan Consulate inquiring if
14 Guatemala would accept Petitioner. On May 15, 2025, the request was denied.

15 8. On May 14, 2025, ICE sent a request to the El Salvador Consulate inquiring if
16 El Salvador would accept Petitioner. On May 16, 2025, the request was denied.

17 9. On May 14, 2025, ICE sent a request to the Panama Consulate inquiring if
18 Panama would accept the Petitioner. On May 23, 2025, the request was denied.

19 10. On July 29, 2025, Petitioner filed a Motion to Reopen/Recalendar his prior
20 proceedings to withdraw his application for Withholding of Removal but this motion was
21 rejected by the Immigration Court.

22 11. On August 4, 2025, Petitioner filed a second Motion to Reopen/Recalendar his
23 prior proceedings to withdraw his application for Withholding of Removal but this motion
24 was rejected by the Immigration Court.

25 12. On September 12, 2025, ERO San Diego sent a request to ERO Removal and
26 International Operations (RIO) requesting a third country removal.

27 13. On September 24, 2025, ERO San Diego sent another request to ERO RIO on
28 an update on third country removal.

1 14. On October 7, 2025, ERO San Diego requested an update to ERO RIO on third
2 country removal.

3 15. On October 24, 2025, ERO San Diego confirmed there was no update yet on a
4 third country removal.

5 16. ERO San Diego continues to work with ERO RIO for a third country removal.
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8 I declare under penalty of perjury of the laws of the United States of America that the
9 foregoing is true and correct.

10 Executed this 12 day of November 2025.

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13 _____
14 Hugo Lara-Ramirez
15 Deportation Officer
16 San Diego Field Office
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