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10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF ARIZONA**

12 Saied Salimitari,

13 Petitioner,

14 v.

15 David R. Rivas, *et al.*,

16 Respondent

No. CV-25-03991-PHX-SMB-MTM

**RESPONSE TO PETITION FOR
 WRIT OF HABEAS CORPUS
 (DOC. 1)**

18 Respondents David R. Rivas, Warden, San Luis Regional Detention Center;
 19 Gregory J. Archambeault, San Diego Field Office Director, U.S. Immigration and Customs
 20 Enforcement; Pamela Jo Bondi, Attorney General of the United States; and Kristi Noem,
 21 Secretary of the Department of Homeland Security, (“Respondents”), by and through
 22 undersigned counsel, respond in opposition to the Petition for Writ of Habeas Corpus (Doc.
 23 1).

24 **I. BACKGROUND**

25 Petitioner, Saied Salimitari, a native and citizen of Iran, entered the United States as
 26 a visitor on or about January 1, 1979. Exhibit A, ¶ 5, Declaration of Jose J. Ruiz,
 27 Deportation Officer (DO) for San Diego CA Field Office, El Centro, CA sub-Office, U.S.
 28 Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations

1 (ERO). On September 5, 1980, he became a Legal Permanent Resident (LPR) under [REDACTED]
2 [REDACTED] as a child of a sibling of a United States Citizen. Petitioner's status as an LPR was
3 rescinded on November 8, 1984. *Id.* On June 12, 1984, Immigration and Naturalization
4 Service (INS) determined that Petitioner obtained that status through fraud; namely, his
5 mother did not have the claimed sibling relationship. *Id.*

6 Under [REDACTED], Petitioner applied for and was granted temporary residence
7 based on his Application for Status as a Temporary Resident, filed on May 4, 1988. *Id.* ¶
8 6. In it he claimed he entered the United States on January 1, 1979, on a B-2 Visa, which
9 expired on March 26, 1979. *Id.* On May 3, 1989, Petitioner received temporary resident
10 status under section 245A of the Immigration and Nationality Act (INA). *Id.*

11 On December 6, 1990, Petitioner filed an application to adjust status from temporary
12 to permanent residence status under [REDACTED]. *Id.* ¶ 7. At the time Petitioner was
13 granted temporary residence status, his relating file of [REDACTED] was not consolidated
14 with [REDACTED]. *Id.* After the files were consolidated, a review of the complete record
15 showed that Petitioner was not eligible for temporary residence status. *Id.* ¶ 8. USCIS later
16 consolidated the two files with the primary A-number being [REDACTED]. *Id.*

17 On September 27, 2012, USCIS denied Petitioner's application to adjust his status
18 to permanent residence status due to his criminal history and other ineligibility criteria. *Id.*
19 ¶ 9. The denial letter issued by USCIS specifically identified Petitioner's criminal history.
20 *Id.* ¶ 10.

21 On October 21, 2002, Petitioner was convicted in the State of Texas at the Collin
22 County Court for the offense of assault in violation of section 22.01 of the Texas Penal
23 Code and sentenced to 364 days of confinement, \$1,000 fine, two years community
24 supervision, sentence suspended. *Id.* ¶ 11. On October 21, 2002, he was also convicted of
25 misdemeanor violation of a protective order, Texas Code of Civil Procedure section
26 17.297. *Id.* On March 21, 2003, Petitioner was convicted of misdemeanor assault causing
27 bodily injury/family member (TX P.C. sec. 22.01) and sentenced to 270 days confinement.
28 *Id.* On March 21, 2003, he was also convicted of misdemeanor violation of a protective

1 order, and misdemeanor interfering with an emergency phone call. *Id.* He was sentenced
2 to 270 days confinement. *Id.* ¶ 12. While incarcerated in 2003, Petitioner was the subject
3 of an investigation for confiding in another inmate that he was going to kill Assistant
4 District Attorney Wilson, several Frisco Police Officers, and his former wife. *Id.* ¶ 14.

5 On May 2, 2003, Petitioner was served with an NTA wherein he was charged with
6 removability under INA § 237(a)(2)(E)(i) (Crime of Domestic Violence); INA §
7 237(a)(2)(E)(ii) (Violation of a Protective Order); and INA § 237(a)(1)(B) (Remained in
8 the United States for a Time Longer Than Permitted). *Id.* ¶ 13. Petitioner was detained at
9 Rolling Plains Detention Center in Haskell, Texas from October 20, 2003, to November
10 19, 2003. *Id.* ¶ 15. He was transferred to Dallas County Jail-Lew Sterrett where he was
11 held from November 19, 2003, to March 24, 2004. *Id.* He was returned to Rolling Plains
12 Detention Center from March 24, 2004, until October 24, 2005. *Id.*

13 On November 29, 2004, the immigration court found Petitioner removable as
14 charged, and he accepted a removal order to Iran and waived appeal. On October 24, 2005,
15 Petitioner was released with an order of supervision. *Id.* ¶ 16. Petitioner thereafter failed to
16 leave the country pursuant to that removal order. *Id.* In August 2009, Petitioner filed a
17 motion to reopen, claiming that the June 12, 2009, Iranian election constituted changed
18 country conditions. *Id.* Petitioner included an I-589 application for asylum and withholding
19 of removal with his motion. *Id.* The immigration court denied his motion. Petitioner
20 appealed to the BIA and on April 28, 2011, the Board reopened his proceedings and
21 remanded the case back to the immigration judge. *Id.* ¶ 17.

22 In April 2013, DHS filed a Form I-261, adding three additional factual allegations
23 concerning the termination of temporary resident status without introducing new charges.
24 *Id.* ¶ 18. On October 21, 2014, an immigration judge ordered Petitioner removed in
25 absentia. *Id.* ¶ 19. On September 15, 2015, Petitioner filed a motion to reopen that was
26 granted on October 21, 2016. *Id.* During hearings spanning between 2017 and 2018,
27 Petitioner and two witnesses testified in support of his I-589 application for asylum and
28 withholding of removal. *Id.* ¶ 20. On April 16, 2019, the immigration court issued a written

1 decision denying all relief and ordering Petitioner removed to Iran. *Id.* In this written
2 decision, the immigration judge determined that Petitioner was not a credible witness. *Id.*

3 On July 17, 2025, Petitioner arrived for his scheduled office visit with ICE/ERO
4 San Diego Non-Detained Unit. *Id.* ¶ 21. He was taken into custody and processed in San
5 Diego, California. *Id.* On August 5, 2025, Petitioner was transferred to the San Luis
6 Regional Detention Center in San Luis, Arizona. *Id.* As of the date of this declaration,
7 Petitioner is in custody at San Luis Regional Detention Center. *Id.*

8 Petitioner refused to cooperate in providing information to request an Emergency
9 Travel Document. *Id.* ¶ 22. On October 22, 2025, DO Ruiz interviewed Petitioner with the
10 form I-217 Information for Emergency Travel Document or Passport. *Id.* Petitioner would
11 not fill out the form and instead stated that he was going to contact his lawyer before
12 providing that information. *Id.* DO Ruiz left him the form I-217, told him to fill it out and
13 that he would return in a couple of days. *Id.* On October 24, 2025, DO Ruiz interviewed
14 Petitioner once again to obtain the information needed for his Emergency Travel
15 Document. *Id.* ¶ 23. Petitioner returned the form I-217 to him blank. *Id.* Petitioner stated
16 that he didn't call his lawyer, and he was not going to provide the requested information.
17 *Id.* On October 24, 2025, DO Ruiz served Petitioner with a Failure to Comply form which
18 he also refused to sign. *Id.*

19 As an alien who has been ordered removed based on removability under INA §
20 237(a)(2), 8 U.S.C. § 1227(a)(2), Petitioner is currently detained pursuant to INA §
21 241(a)(6), 8 U.S.C. § 1231(a)(6), pending execution of his administratively final order of
22 removal to Iran. *Id.* ¶ 24.

23 **II. PETITIONER'S DETENTION IS AUTHORIZED BY 8 U.S.C. § 1231(a)(6)**

24 Petitioner cannot prove there is no significant likelihood of removal in the
25 reasonably foreseeable future where, as here, he himself refuses to cooperate to obtain
26 travel documents to Iran.

27 Petitioner relies on the Supreme Court's opinion in *Zadvydas v. Davis*, 533 U.S. 678
28 (2001), to allege a violation of his constitutional rights. Ordinarily, once an alien has been

1 ordered removed, the Government “shall remove the alien from the United States within a
2 period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This is commonly referred to as the “removal
3 period.” However, another provision, 8 U.S.C. § 1231(a)(6), permits detention of an alien
4 after the removal period for certain categories of aliens. Although the post-removal-period
5 detention statute contains no time limit on detention, in *Zadvydas*, the Supreme Court
6 explained that the Fifth Amendment’s Due Process Clause “limits an alien’s post-removal-
7 period detention to a period reasonably necessary to bring about the alien’s removal from
8 the United States. It does not permit indefinite detention.” 533 U.S. at 689.

9 To avoid reading the statute as violating the Fifth Amendment Due Process Clause
10 and to create uniform standards for evaluating challenges to post-removal-period detention,
11 the Supreme Court held that any detention of six months or less was a “presumptively
12 reasonable period of detention,” and that “an alien may be held in confinement until it has
13 been determined that there is no significant likelihood of removal in the reasonably
14 foreseeable future.” *Id.* at 701. Conversely, the Court also held that “[a]fter this 6-month
15 period, once the alien provides good reason to believe that there is no significant likelihood
16 of removal in the reasonably foreseeable future, the Government must respond with
17 evidence sufficient to rebut that showing.” *Id.*

18 The purpose of § 1231(a)(6) detention is to effectuate removal. *See Demore v. Kim*,
19 538 U.S. 510, 527 (2003) (analyzing *Zadvydas* and explaining the removal period was
20 based on the “reasonably necessary” time in order “to secure the alien’s removal”). The
21 statute provides that—if the alien is not removed—the alien “shall be subject to
22 supervision” under relevant regulations with certain requirements. 8 U.S.C. § 1231(a)(3).
23 Here, Petitioner has been detained for approximately four months while the Government
24 attempts to execute his valid final removal order to Iran. His continued detention, while the
25 Government seeks to effectuate his removal and enforce a valid removal order, violates
26 neither section 1231 nor *Zadvydas*. 533 U.S. at 689.

27 To be entitled to release, it is Petitioner’s burden to establish that there is no
28 likelihood of removal in the reasonably foreseeable future to warrant release under

1 *Zadvydas*. See *Zadvydas*, 533 U.S. at 689. Petitioner claims incorrectly that removals to
2 Iran are not possible due to a lack of formal government relations. Four months is simply
3 insufficient time to establish that the Government is unable to effectuate Petitioner's
4 removal in the reasonably foreseeable future. *Id.*

5 Critically, Petitioner is unable to establish that there is no significant likelihood of
6 his removal to Iran, where he has failed to cooperate with the process of obtaining travel
7 documents to Iran. Petitioner completely refused to cooperate in providing information to
8 request an Emergency Travel Document. Exhibit A, ¶ 22. On October 22, 2025, DO Ruiz
9 interviewed Petitioner with the form I-217 Information for Emergency Travel Document
10 or Passport. *Id.* Petitioner would not fill out the form and instead stated that he was going
11 to contact his lawyer before providing that information. *Id.* DO Ruiz left him the form I-
12 217, told him to fill it out and that he would return in a couple of days. *Id.* On October 24,
13 2025, DO Ruiz interviewed Petitioner once again to obtain the information needed for his
14 Emergency Travel Document. *Id.* ¶ 23. Petitioner returned the form I-217 to him blank. *Id.*
15 Petitioner stated that he didn't call his lawyer, and he was not going to provide the
16 requested information. *Id.* On October 24, 2025, DO Ruiz served Petitioner with a Failure
17 to Comply form which he also refused to sign. *Id.* Petitioner filed what seems to be a reply
18 to the motion for preliminary injunction in which he contends that he has given some
19 information to ICE in the past, but he does not deny that he refused to cooperate with DO
20 Ruiz to obtain travel documents. See Doc. 22.

21 In *Pelich v. INS*, 329 F.3d 1057, 1057 (9th Cir.2003), the Court held that,
22 notwithstanding *Zadvydas*, the statutory exception of 8 U.S.C. § 1231(a)(1)(C)(the
23 provision at issue here) authorizes the government to continue detaining an alien whose
24 refusal to apply in good faith for travel documents prevents it from removing him from the
25 United States. The Ninth Circuit explained that the risk of indefinite detention that
26 motivated the Supreme Court's statutory interpretation in *Zadvydas* does not exist when the
27 alien "has the keys [to freedom] in his pocket and could likely effectuate his removal by
28 providing the information requested by the INS." See *Pelich*, 329 F.3d at 1060 (internal

1 quotation marks omitted). We held that a “detainee cannot convincingly argue that there is
2 no significant likelihood of removal in the reasonably foreseeable future if the detainee
3 controls the clock.” *Id.*

4 In *Lema v. INS*, the Ninth Circuit held that when an alien refuses to cooperate fully
5 and honestly with officials to secure travel documents from a foreign government, the alien
6 cannot meet his or her burden to show there is no significant likelihood of removal in the
7 reasonably foreseeable future. *Lema v. I.N.S.*, 341 F.3d 853, 856–57 (9th Cir. 2003). They
8 held that “[w]e cannot know whether an alien’s removal is a “remote possibility,”
9 *Zadvydas*, 533 U.S. at 690, until the alien makes a full and honest effort to secure travel
10 documents.” Indeed, “a particular alien may have a very good chance of being removed,
11 but if that alien is refusing to cooperate fully with officials to secure travel documents,
12 neither the INS nor a court can sensibly ascertain the alien’s chance of removal.” Finally,
13 the Court held in *Lema*, that “the due process concerns that motivated the Supreme Court
14 in *Zadvydas* do not apply when an alien may have “the keys [to freedom] in his pocket.”
15 See *Pelich*, 329 F.3d at 1060 (internal quotation marks omitted). Accordingly, the Ninth
16 Circuit held that “8 U.S.C. § 1231(a)(1)(C) authorizes continued detention of a removable
17 alien so long as the alien fails to cooperate fully and honestly with officials to obtain travel
18 documents. *Lema*, 241 F.3d at 856-57.

19 **III. THE GOVERNMENT HAS NO PLANS TO REMOVE PETITIONER TO A** 20 **THIRD COUNTRY**

21 Petitioner cannot establish that his constitutional rights have been violated through
22 lack of due process to remove him to a third country where, as here, there is no attempt or
23 intent to remove him to a third country. The Government has no current plan to remove
24 Petitioner to any country other than Iran. Petitioner has not shown and cannot show that he
25 is at substantial risk of removal to a third country.

26 This Court has no jurisdiction to entertain an action when the petitioner lacks
27 standing. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). A petitioner lacks
28 standing when his suit is not grounded in an “actual or imminent” injury. *Id.* Although “an
allegation of future injury may suffice” for standing purposes, the threatened injury must

1 be “certainly impending,” or there must be a “substantial risk that the harm will occur.”
2 *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (quoting *Clapper v. Amnesty*
3 *Int’l USA*, 568 U.S. 398, 409, 414 n.5 (2013)). This Court has no jurisdiction to grant relief
4 based on the pure speculation that the Government might try to remove him to a third
5 country.

6 **IV. CONCLUSION**

7 Petitioner’s Motion for Preliminary Injunction should be denied.

8 RESPECTFULLY SUBMITTED November 19, 2025.

9
10 TIMOTHY COURCHAINE
11 United States Attorney
12 District of Arizona

13 /s/ Brock Heathcotte
14 BROCK HEATHCOTTE
15 Assistant United States Attorney
16 *Attorneys for the Respondents*

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