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

11 HRACHYA SAKOYAN,

12
13 Petitioner,

Case No. 25-cv-03406-BAS-MSB

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

14 v.

15 KRISTI NOEM, Secretary of the
16 Department of Homeland Security, et al.,

17 Respondents.
18

19 **I. INTRODUCTION**

20 Respondents hereby submit their return to Petitioner’s habeas petition, and for
21 the reasons set forth below, respectfully ask the Court to deny the petition.

22 **II. BACKGROUND**

23 Petitioner is a native and citizen of Armenia, who entered the United States
24 without proper entry documents on December 1, 2024, and was thereafter booked into
25 Immigration and Customs Enforcement (ICE) custody and processed for expedited
26 removal. *See* Declaration of Jesus Blanco (“Blanco Decl.”) at ¶¶ 3–4. After receiving a
27 positive credible fear determination by U.S. Citizenship and Immigration Services
28 (USCIS), Petitioner was placed in removal proceedings before an Immigration Judge

1 (IJ). *See id.* at ¶ 5. On July 28, 2025, the IJ ordered Petitioner removed to Armenia but
2 granted him withholding of removal under the Immigration and Nationality Act. *See id.*
3 at ¶ 6. The order became final on August 28, 2025, after no appeal was filed. *See id.*
4 Since the conclusion of Petitioner’s removal proceedings, ICE has been working as
5 expeditiously as possible to identify a third country where Petitioner may be removed
6 and “believes there is a significant likelihood of removal to a third country in the
7 reasonably foreseeable future.” *See id.* at ¶¶ 7–14, 16.

8 III. ARGUMENT

9 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
10 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
11 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
12 (2022). The INA provides that an alien ordered removed must be detained for 90 days
13 pending the government’s efforts to secure the alien’s removal through negotiations
14 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
15 detain” the alien during the 90-day removal period under subsection (a)(1)).

16 Section 1231(a)(6) “authorizes further detention if the Government fails to
17 remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
18 Detention authority under this statute, however, is limited to “a period reasonably
19 necessary to bring about the alien’s removal from the United States” and “does not
20 permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month
21 period of post-removal detention constitutes a “presumptively reasonable period of
22 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
23 period unless “there is no significant likelihood of removal in the reasonably foreseeable
24 future.” *Id.*

25 If an individual ordered removed “is not removed to his or her country of choice
26 or citizenship, he or she shall be removed to any of the following countries” listed in 8
27 U.S.C. § 1231(b)(2)(E). *Hadera v. Gonzales*, 494 F.3d 1154, 1156–57 (9th Cir. 2007).
28 The enumerated countries are:

- 1 (i) The country from which the alien was admitted to the United States
- 2 (ii) The country in which is located the foreign port from which the alien
- 3 left for the United States or for a foreign territory contiguous to the United
- 4 States.
- 5 (iii) A country in which the alien resided before the alien entered the
- 6 country from which the alien entered the United States.
- 7 (iv) The country in which the alien was born.
- 8 (v) The country that had sovereignty over the alien's birthplace when the
- 9 alien was born.
- 10 (vi) The country in which the alien's birthplace is located when the alien
- 11 is ordered removed.

12 *Id.* (quoting § 1231(b)(2)(E)(i)–(vi)). “If removal to any of these countries is
13 ‘impracticable, inadvisable, or impossible,’ the individual shall be removed to ‘another
14 country whose government will accept the alien into that country.’” *Id.* (quoting
15 § 1231(b)(2)(E)(vii)).

16 Here, Petitioner was granted withholding of removal to Armenia—his country of
17 birth and citizenship, as well as the country designated during his removal proceedings.
18 Petitioner has not designated any other country for removal. Apart from Armenia, there
19 appears to be no other country that would meet the definitions under subsections (i)
20 through (vi), and Petitioner has made no showing to the contrary. *See Rokhfirooz v.*
21 *Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, at *2 (S.D. Cal. Sept. 15,
22 2025) (“A prisoner bears the burden of demonstrating that ‘he is in custody in violation
23 of the Constitution or laws or treaties of the United States.’”) (quoting 28 U.S.C.
24 § 2241(c)(3), brackets omitted). Because removal to the above enumerated countries is
25 “impracticable, inadvisable, or impossible,” ICE may remove Petitioner to a third
26 country that will accept Petitioner’s removal. 8 U.S.C. § 1231(b)(2)(E)(vii).

27 As illustrated in Petitioner’s brief, recent developments in international relations
28 between the United States and several other countries have made probable ICE’s
removal of immigrants, like Petitioner, that it previously was unable to remove to third
countries. *See* ECF No. 1 at 5 (describing the United States’ recent foreign policy deals
with countries around the world). Against this backdrop and invoking its authority

1 under 8 U.S.C. § 1231(b)(2)(E), ICE continues to detain Petitioner for purposes of
2 enforcing his removal order to a third country. *See* Blanco Decl. at ¶¶ 7, 17.

3 Since Petitioner’s order of removal, ICE has worked as expeditiously as possible
4 to effectuate his resettlement in a third country. On August 19, 2025, local Enforcement
5 and Removal Operations (ERO) sent a request to Removal and International Operations
6 (RIO) concerning third country removal in this case. *See id.* at ¶ 7. Local ERO has since
7 been regularly seeking updates from RIO on whether it has identified a country where
8 Petitioner may be removed. *See id.* at ¶¶ 9–13. Although RIO is still in the process of
9 identifying countries that may be willing to accept Petitioner for removal, the record
10 reflects that ICE is working diligently, “actively working with the Department of State
11 on avenues to remove Petitioner to a third country,” and “believes there is a significant
12 likelihood of removal to a third country in the reasonably foreseeable future.” *Id.* at
13 ¶¶ 10, 16. *See also Zadvydas*, 533 U.S. at 700 (instructing district courts “to listen with
14 care when the Government’s foreign policy judgments, including, for example, the
15 status of repatriation negotiations, are at issue, and to grant the Government appropriate
16 leeway when its judgments rest upon foreign policy expertise.”).

17 As it stands, Petitioner’s detention is still within the six-month period that
18 *Zadvydas* found to be presumptively reasonable. *See* 533 U.S. at 700–01 (recognizing
19 a six-month period of post-final order detention to be presumptively reasonable “for the
20 sake of uniform administration in the federal courts” and “to limit the occasions when
21 courts will need to make” difficult judgments involving foreign policy matters). Thus,
22 Petitioner’s claim is not ripe for review, and it would be premature to conclude that
23 there is no significant likelihood of removal in the reasonably foreseeable future before
24 permitting ICE an opportunity to complete its diligent efforts to effect Petitioner’s
25 removal. *See Khalilova v. Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at
26 *4 (S.D. Cal. Nov. 5, 2025) (“[B]ecause the six-month period of presumptive
27 reasonableness has not passed, Petitioner’s claim is not ripe for review[.]”). Evidence
28 of progress, even slow progress, in negotiating a petitioner’s repatriation will satisfy

1 *Zadvydas* until the petitioner’s detention grows unreasonably lengthy. *See, e.g., Sereke*
2 *v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug. 15, 2019)
3 (“The record at this stage in the litigation does not support a finding that there is no
4 significant likelihood of Petitioner’s removal in the reasonably foreseeable future.”);
5 *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D.
6 Cal. Oct. 13, 2020) (denying petition because “Respondents have set forth evidence that
7 demonstrates progress and the reasons for the delay in Petitioner’s removal”).

8 Petitioner also suggests that once a third country is identified, ICE will
9 immediately deport him there without being given adequate time to investigate whether
10 he could be persecuted in that country. *See* ECF No. 1 at 14. ICE attests, however, that
11 once a third country is identified, it “will provide Petitioner with written notice, and if
12 Petitioner claims a fear of removal to the identified country, he will be referred to an
13 asylum officer for processing of the fear-based claims.” Blanco Decl. at ¶ 17. The
14 evidence further shows that ICE will generally wait at least 24 hours following the
15 notice of third country removal before executing it, and under no circumstances would
16 removal be executed in less time than that without the noncitizen being provided
17 “reasonable means and opportunity to speak with an attorney prior to removal.” *Id.* at
18 ¶ 15. Thus, Petitioner’s concern that he will not receive adequate notice and an
19 opportunity to be heard prior to his third country removal is not borne out by the
20 evidence in this case.

21 IV. CONCLUSION

22 For the reasons stated herein, Respondents respectfully request that the Court
23 deny the habeas petition.

24 DATED: December 11, 2025

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