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6
7 UNITED STATES DISTRICT COURT
8 Southern District of California

9
10 JAKELIN BORREGO MARQUEZ,
11 Petitioner,

v.

12
13 CHRISTOPHER J. LaROSE ; *et al.*,
14 Respondents.

) Case Number: 3:25-cv-03538-LL-VET
)
) **PETITIONER'S TRAVERSE AND**
) **MEMORANDUM IN SUPPORT OF**
) **PETITION**

1 Respondent's Return urges the court to deny the petition for two reasons. First, it says the
2 respondents had a valid reason to revoke the 2019 Order of Supervision. Second, it says that
3 petitioner is not yet a person with prolonged detention. Respondents are wrong.

4 As a threshold matter, petitioner commends respondents for filling in some of the details
5 surrounding her various cases. Petitioner's attorney did not have access to the EOIR Record of
6 Proceedings because he is not petitioner's attorney in the removal case. Petitioner agrees with the
7 more detailed recitation of facts.

8 **Unlawful Revocation of Order of Supervision.**

9 First, Respondents indirectly seem to admit that their agents did not follow the regulations
10 pertaining to the revocation of the 2019 Order of Supervision. That is, respondents ignore the
11 circumstances of the revocation and divert attention by arguing that respondents had a good reason
12 to revoke the Order of Supervision. Moreover, respondents argue the issue is moot because
13 respondent was removed to Mexico (even though she if from Cuba). Respondent disagrees and
14 submits that the respondents should be obligated to obey the law, just like everyone else.

15 The petition alleges that the respondents revoked the 2019 Order of Supervision without any
16 explanation and sent petitioner to Mexico. The Response states that the Order of Supervision was
17 revoked because of petitioner's extensive criminal history. However, respondent's were aware of
18 petitioner's criminal history at the time they put her on an Order of Supervision in 2019. It does
19 appear that in 2023 petitioner was convicted of wrongful appropriation in Utah. See attached Rap
20 Sheet from petitioner's unlawful re-entry criminal case. The new conviction is arguably a valid
21 reason to revoke the Order of Supervision. But respondents did not comply with the law. A lawful
22 revocation of an Order of Supervision requires both a written explanation and a prompt informal
23 interview. Petitioner alleges that she received neither. (§ 25). Respondents do not directly contest
24 this allegation. This implies to petitioner's attorney a concession the rules were not followed.

25 Still, respondents did remove petitioner to Mexico. As an aside, respondents presented
26 petitioner with an impossible dilemma: deportation to the American gulag at Guantanamo Bay,
27 Cuba or deportation to a violent Mexico. Petitioner returned to the USA after she was menaced by
28 kidnappers in Mexico (§ 25). Petitioner had to choose between a possible unlawful life in the USA

1 or a death in Mexico; so, she attempted to unlawfully re-enter the USA. She was caught and sent to
2 the Otay Mesa Detention Center, where she remains today. Petitioner does not agree that her
3 February 2025 removal to Mexico moots out the apparent unlawful revocation of the Order of
4 Supervision. Petitioner also disputes that she has no fear-based claim of removal to Mexico. She
5 tried to return to the safety of the USA because she was fleeing kidnappers in Mexico. Petitioner
6 contends that the government should be expected and obligated to obey the law. The main reason
7 for this contention is that if the law and regulations do not apply to respondents, then they do not
8 apply to anyone. The state of nature without law is a terrifying “war of all against all” and life is
9 “solitary, poor, nasty, brutish, and short.” Hobbes, Thomas. *Leviathan*. 1651. Fortunately, the
10 United States Constitution presumably remains the supreme law of the land and we are still a nation
11 subject to the rule of law. The law and regulations apply to all and they matter. So, the court should
12 grant the habeas petition for the unlawful revocation of the Order of Supervision.

13 **Prolonged detention**

14 Second, respondents argue that *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) does not
15 compel respondents to release petitioner from detention. Petitioner disagrees. Here is why.

16 Respondents argue that petitioner’s *Zadvydas* prolonged detention clock commenced on
17 October 14, 2025 when the Order of Expedited Removal became final. If correct, then petitioner has
18 only suffered around three months of detention after the final order. Petitioner disagrees with
19 respondent’s time calculation. The reason is that it omits the 11 months that petitioner was detained
20 at the Adelanto detention center in 2019. Although most of the time in Adelanto was when
21 petitioner was litigating her removal case, at least a month or so was after the immigration judge’s
22 order of removal. That time in detention should be added to the current time in detention. “Courts in
23 the Ninth Circuit, and most courts across the country, calculate detention “cumulatively based on all
24 post-removal order detentions to determine whether *Zadvydas*’s presumption of reasonableness is
25 exceeded.” *Phan v. Warden of Otay Mesa Det. Facility*, Case No.: 25-cv-02369-AJB-BLM, 2025
26 WL 3141205, at *3 (S.D. Cal. Nov. 10, 2025) (collecting cases).

27 If the court finds the detention is prolonged, it must consider whether Respondents have
28 shown that Petitioner’s removal is reasonably foreseeable. See *Zadvydas*, 533 U.S. at 699-700.

1 Under *Zadvydas*, the burden is on the petitioner to first provide a “good reason to believe that there
2 is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. If the
3 petitioner makes this showing, then the burden shifts to the government to “respond with evidence
4 sufficient to rebut that showing.” *Id.*” *Joseph v. Casey, et al.*, No. 3:25-CV-3560-JES-KSC, 2025
5 WL 3751705, at * 4. (S.D. Cal. Dec. 29, 2025).

6 In this case there is good reason to believe that there is no significant likelihood of removal
7 in the reasonably foreseeable future. This is so for a few reasons. First, the DHS has not removed
8 petitioner since her latest detention in August 2025. The Response makes vague references to
9 seeking a third country for removal without any specifics. No third countries are named. Petitioner
10 does not believe her removal to any country in the world is imminent.

11 So, for all of these reasons—the peculiar revocation of the Order of Supervision; the many
12 months in detention; and the doubtful removal to an unspecified third country—the court should
13 order petitioner’s release on the same terms as her prior Order of Supervision. If indeed respondents
14 are able to find a country of removal for petitioner it is a simple matter of lawfully revoking the
15 Order of Supervision and effecting her removal from the United States.

16 DATED: 9 January 2026

17 Respectfully submitted,
18 /s/ William Baker
19 William Baker (157 906)
20 MORENO & ASSOCIATES
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