

1 ADAM GORDON
United States Attorney
2 MICHAEL D. WALLACE
Maryland Bar No. 9912160256
3 Assistant U.S. Attorney
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8714
Email: Michael.Wallace4@usdoj.gov

6 Attorneys for Respondent

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

10
11 MOHAMMAD HASSAN YOUSEFI,

12 Petitioner,

13
14 v.

15 CHRISTOPHER J. LAROSE,

16 Respondent.
17

Case No. 26-cv-0272-RBM-VET

**RETURN IN OPPOSITION TO
PETITIONER'S HABEAS
PETITION**

18
19 **I. INTRODUCTION**

20 Petitioner Mohammad Yousefi has filed a habeas petition. ECF No. 1. For the
21 reasons set forth below, the Court should deny Petitioner's request for relief and dismiss
22 the petition.

23 **II. FACTUAL AND PROCEDURAL BACKGROUND**

24 Petitioner is a citizen and national of Iran. Declaration of Deportation Officer
25 Christian Castellanos (Castellanos Decl.) at ¶ 3. Petitioner originally entered the United
26 States on September 6, 2024. *Id.* at ¶ 4. He was determined to be inadmissible under 8
27 U.S.C. § 1182(a)(7)(A)(i)(I), placed in expedited removal proceedings pursuant to 8
28 U.S.C. § 1225(b)(1), and taken into Immigration and Customs Enforcement (ICE)

1 custody pursuant to 8 U.S.C. § 1225(b)(1)(B). Immigration and Customs Enforcement
2 (ICE) referred Petitioner to an asylum officer who made a negative credible fear finding.
3 Castellanos Decl. at ¶¶ 5, 6. On November 4, 2024, an immigration judge made a
4 positive credible fear determination and vacated the asylum officer’s decision.
5 Castellanos Decl. at ¶ 7. He was then issued a Notice to Appear (NTA) on November
6 5, 2024. Exhibit (Ex.) 1 (Notice to Appear). The filing of the NTA initiated removal
7 proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. On September 3, 2025,
8 an immigration judge denied Petitioner’s applications for relief and ordered Petitioner
9 removed to Iran. Ex. 2 (IJ Removal Order). The removal order became final on October
10 3, 2025, as Petitioner reserved appeal but did not file an appeal. *See* 8 C.F.R. § 1241.1.
11 Petitioner remains mandatorily detained pursuant to 8 U.S.C. § 1231(a).

12 ICE’s Enforcement and Removal Operations (ERO) is in possession of
13 Petitioner’s valid Iranian passport. Castellanos Decl. at ¶ 11. ICE ERO scheduled
14 Petitioner for a flight on January 25, 2026 but had to be removed due to filing of this
15 petition. *Id.* ERO can schedule his removal Petitioner to Iran again as soon as this Court
16 lifts its order enjoining removal. *Id.* at ¶12.

17 **III. ARGUMENT**

18 ICE’s authority to detain noncitizens who are subject to a final order of removal
19 is governed by 8 U.S.C. § 1231(a). When an alien has been found to be unlawfully
20 present in the United States and a final order of removal has been entered, the
21 government ordinarily secures the alien’s removal during a subsequent 90-day statutory
22 “removal period.” 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General
23 “shall detain” the alien during this removal period. 8 U.S.C. § 1231(a)(2).

24 The Supreme Court held in *Zadvydas* that when removal is not accomplished
25 during the 90-day removal period, the statute “limits an alien’s post-removal-period
26 detention to a period reasonably necessary to bring about the alien’s removal from the
27 United States” and does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689.
28 The Supreme Court has held that six months constitutes a “presumptively reasonable

1 period of detention.” *Id.* at 701. Courts have repeatedly declined to grant habeas relief
2 where the presumptively reasonable six-month period has not yet elapsed. *See*
3 *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22,
4 2025) (“The government is entitled to its six-month presumptive period before
5 Petitioner’s continued § 1231(a)(6) detention poses a constitutional issue.”); *Guerra-*
6 *Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July
7 17, 2025) (“The Court finds that the Petition is premature because Petitioner has not
8 been detained for more than six months. Petitioner has been in detention since May 29,
9 2025; therefore, his two-month detention is lawful under *Zadvydas*.”) (citations
10 omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn.
11 Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes
12 the release based on changed circumstances, “the revocation would merely restart the
13 90-day removal period, not necessarily the presumptively reasonable six-month
14 detention period under *Zadvydas*”).

15 Even after the period of presumptive reasonableness has run, release is not
16 required under *Zadvydas* unless “there is *no* significant likelihood of removal in the
17 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701 (emphasis added). As the
18 Supreme Court instructed, “the habeas court must ask whether the detention in question
19 exceeds a period reasonably necessary to secure removal. It should measure
20 reasonableness primarily in terms of the statute’s basic purpose, namely, *assuring the*
21 *alien’s presence at the moment of removal*.” *Id.* at 699 (emphasis added). In so holding,
22 the Supreme Court recognized that detention is presumptively reasonable pending
23 efforts to obtain travel documents, because the noncitizen’s assistance is often needed
24 to obtain the travel documents, and because a noncitizen who is subject to an imminent,
25 executable warrant of removal becomes a significant flight risk, especially if he or she
26 is aware that it is imminent.

27 The Supreme Court also instructed that detention could exceed six months: “This
28 6-month presumption, of course, does not mean that every alien not removed must be

1 released after six months. To the contrary, an alien may be held in confinement until it
2 has been determined that there is no significant likelihood of removal in the reasonably
3 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good
4 reason to believe that there is no significant likelihood of removal in the reasonably
5 foreseeable future, the Government must respond with evidence sufficient to rebut that
6 showing.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the
7 alien to show, after a detention period of six months, that there is ‘good reason to believe
8 that there is no significant likelihood of removal in the reasonably foreseeable future.’”
9 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
10 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

11 Here, Petitioner’s case is premature as the six-month presumptively reasonable
12 removal period will not end until approximately April 3, 2026. *See, e.g., Khalilova v.*
13 *Smith*, No. 25-cv-2140 JLS (DDL), 2025 WL 3089522 (S.D. Cal. Nov. 5, 2025) (finding
14 habeas petition was unripe for review where *Zadvydas* six-month period had not
15 expired; dismissing petition without prejudice); *Muradyan v. Warden*, No. 26-cv-63-
16 CAB-AHG, 2026 WL 184206 (S.D. Cal. Jan. 23, 2026) (same); *Ali v. Barlow*, 446 F.
17 Supp. 2d 604, 609-610 (E.D. Va. 2006) (same); *Gonzales v. Naranjo*, No. EDCV 12-
18 1392 DSF (FFM), 2012 WL 6111358 (C.D. Cal. 2012) (same); *Waraich v. Ashcroft*,
19 No. CVF051036, 2005 WL 2671406, at *1 (E.D. Cal. Oct. 19, 2005) (same). *But see*
20 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1093 (C.D. Cal. 2020) (“At no point did the
21 *Zadvydas* Court preclude a noncitizen from challenging their detention before the end
22 of the presumptively reasonable six-month period.”).

23 Even if the removal period had extended beyond six months, Petitioner cannot
24 show that there is no significant likelihood of removal in the reasonably foreseeable
25 future . ICE ERO has Petitioner’s valid Iranian passport and had arranged his removal
26 to Iran. Petitioner had a seat on a flight for January 26, 2026. Castellanos Decl. at ¶11.
27 This alone demonstrates that Petitioner will be removed in the reasonably foreseeable
28 future. Thus, Petitioner not only fails to meet his burden, but Respondents have

1 affirmatively shown that there is a significant likelihood of Petitioner’s removal to Iran
2 “promptly” in the reasonably foreseeable future. *See* Castellano Decl. at ¶12. Once the
3 Court lifts its stay of Petitioner’s removal, Respondents will promptly effectuate
4 Petitioner’s removal.

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

22 Because the record shows that Petitioner is not entitled to habeas relief, there is
23 no need for an evidentiary hearing in this matter. *See Schriro v. Landrigan*, 550 U.S.
24 465, 474 (2007) (“[I]f the record refutes the applicant’s factual allegations or otherwise
25 precludes habeas relief, a district court is not required to hold an evidentiary hearing.”).

26 ICE expects Petitioner’s removal to Iran to occur in the reasonably foreseeable
27 future. Petitioner is thus unlikely to succeed on the merits of his claim that ICE’s alleged
28 failure to follow agency regulations merits his release.

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IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss Petitioner’s habeas petition or deny the Petitioner’s petition and the requested relief.

DATED: January 28, 2026

ADAM GORDON
United States Attorney

s/ Michael D. Wallace
MICHAEL D. WALLACE
Assistant United States Attorney
Attorneys for Respondent