ADAM GORDON
United States Attorney
HUNTER V. NORTON
Assistant U.S. Attorney
D.C. Bar No. 1780736
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-8592
Email: Hunter.Norton2@usdoj.gov

Attorneys for Respondent

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ARTUR ASHOTOV SIMONYAN,

Petitioner,

v.

CHRISTOPHER J. LAROSE, *Otay Mesa Detention Center*, *et al.*,

Respondents.

Case No. 26-cv-01564-DMS-MMP

RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Respondents request the Court deny this petition because Petitioner's post-removal order detention is statutorily mandated under 8 U.S.C. § 1231(a) for a period of 90 days following the date that a noncitizen's removal order becomes final. Because Petitioner's current immigration detention has been for less than 90 days, Respondents respectfully ask the Court to deny this habeas petition.

II. BACKGROUND

Petitioner is a native and citizen of Azerbaijan. Declaration of Deportation Officer La'Shaniece Wilson (Wilson Decl.) at ¶ 4.[1] On March 27, 2005, Petitioner was admitted to the United States as a Lawful Permanent Resident. During the period from September 25, 2008, to July 27, 2010, Petitioner had at least five criminal apprehensions. On June 1, 2011, Petitioner was convicted of assault with a deadly weapon in violation of California Penal Code (CPC) § 245(a)(1), for which he was sentenced to two years of incarceration. On August 2, 2011, Petitioner was taken into ICE custody. On August 11, 2011, DHS placed Petitioner in removal proceedings under the Immigration and Nationality Act (INA) § 240, 8 U.S.C. § 1229a, via the filing of a Notice to Appear (NTA). The NTA charged Petitioner with removability under INA § 237(a)(2)(A)(iii), for having been convicted of an aggravated felony in June 2011. Wilson Decl. ¶¶ 4-10.

On February 1, 2012, an Immigration Judge ordered Peitioner removed to Azerbaijan. On June 13, 2012, Petitioner was released from ICE custody on an Order of Supervision because ICE was unable to obtain a travel document at that time. During the period from March 6, 2013, to July 21, 2017, Petitioner had at least seven criminal apprehensions. Wilson Decl. ¶¶ 11-13.

[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from Immigration and Customs Enforcement (ICE) counsel. Other facts have been obtained from ICE counsel.

On August 23, 2017, Petitioner was released from jail into ICE custody after having been arrested for grand theft in violation of CPC § 487(a). On that date, Petitioner was released from ICE custody on an Order of Supervision. On July 4, 2018, Petitioner was released from jail into ICE custody after having been arrested for carrying a loaded firearm in violation of CPC § 25850(a). Wilson Decl. ¶¶ 14-15.

On July 12, 2018, Petitioner was released from ICE custody on an Order of Supervision because ICE was unable to obtain a travel document at that time. On July 18, 2023, Petitioner was convicted of taking a vehicle without consent in violation of the California Vehicle Code (CVC) § 10851(a), for which he was sentenced to two years in prison. On August 14, 2024, Petitioner was convicted of reckless evading in violation of CVC § 2800.2, for which he was sentenced to two years in prison. On July 2, 2025, Petitioner was convicted of possession of firearms in violation of CPC § 29800(a)(1), for which he was sentenced to two years in prison. Wilson Decl. ¶¶ 16-19.

On December 30, 2025, Petitioner was released from prison into ICE custody to effectuate his removal order. On that date, Petitioner was provided a written notice of revocation of release. At this time, ICE does not have documentation of the informal interview that was provided to Petitioner. ICE is not seeking to remove Petitioner to a third country. Since Petitioner's re-detention in December 2025, ICE has worked diligently to effectuate his removal to Azerbaijan. On January 24, 2026, ICE sent a travel document request (TDR) to the Consulate General of the Republic of Azerbaijan. On February 3, 2026, and March 5, 2026, ICE contacted the Consulate General of the Republic of Azerbaijan to request updates on the TDR. ICE is pending a response. Once ICE obtains a travel document for Petitioner, his removal can be effectuated promptly.

III. ARGUMENT

Petitioner's Detention is Statutorily Mandated for 90 Days

"Section 241(a) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered removed from the United States." *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575

(2022). The INA provides that an alien ordered removed must be detained for 90 days pending the government's efforts to secure the alien's removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien during the 90-day removal period under subsection (a)(1)).

Section 1231(a)(6) "authorizes further detention if the Government fails to remove the alien during those 90 days." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Detention authority under this statute, however, is limited to "a period reasonably necessary to bring about the alien's removal from the United States" and "does not permit indefinite detention." *Id.* 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 701. Release is not mandated after the expiration of the six-month period unless "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

Petitioner filed a habeas petition, requesting immediate release from detention. *See* ECF No. 1. Petitioner's removal order became final on February 1, 2012, and because Petitioner is now subject to a final, executable order of removal, his detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578 (explaining that § 1231(a) "governs the detention, release, and removal of individuals 'ordered removed'"). That statute requires that Petitioner be detained for 90 days following "[t]he date the order of removal becomes administratively final" while the government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is known as the "removal period." *Id.* § 1231(a)(1).

As previously noted, Petitioner's current removal period and immigration detention began 84 days ago on December 3, 2025—"so he is still in the 90-day window of statutorily mandated detention." *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). "In other words," Petitioner's "detention is not merely legal, but required" at this time. *Id.* Because Petitioner must be detained during the current 90-day statutory removal period, he cannot demonstrate that he "is

in custody in violation" of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under § 1231(a)(6) and *Zadvydas*, Petitioner's post-final order detention is presumptively reasonable pending the government's efforts to effectuate his removal for six months following the final order of removal. *See Zadvydas*, 533 U.S. at 701. Here, previous failures to obtain travel documents and Petitioner's lengthy periods of criminal incarceration have now put him well past the six-months following his final order of removal in 2012. However, Respondents argue this period should reset for each new period of immigration detention since Petitioner has previously been released by ICE, and only returned to ICE custody after periods of state criminal incarceration. *See* Wilson Decl.

Because Petitioner's current post-final order detention is within the 90-day statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C. § 1231(a). Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*, 2025 WL 3171897, at *1 (denying petitioner habeas relief because "he is still in the 90-day window of statutorily mandated detention"); *Prokopev v. LaRose*, No. 25-cv-3441-JES-MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also Khalilova v. Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025) ("[B]ecause the six-month period of presumptive reasonableness [under *Zadvvdas*] has not passed, Petitioner's claim is not ripe for review[.]"); *Ao v. Noem et al.*, No. 25-CV-03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

IV. CONCLUSION

For the reasons stated herein, Respondent respectfully requests the Court to deny the habeas petition on its merits.

DATED: March 23, 2026

ADAM GORDON
United States Attorney

s/ *Hunter Norton*
HUNTER V. NORTON
Assistant United States Attorney