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

10  
11 BRYAN JOEL FLORES ULLOA,  
12  
13 Petitioner,  
14 v.  
15 CHRISTOPHER LAROSE, et al.,  
16  
17 Respondents.  
18  
19

Case No. 26-cv-1658-DMS-BJW  
**RETURN TO PETITION FOR WRIT  
OF HABEAS CORPUS**

20 **I. INTRODUCTION**

21 Respondents request the Court deny this petition on the ground that post-removal  
22 order detention is statutorily mandated under 8 U.S.C. § 1231(a) for a period of 90 days  
23 following the date that a noncitizen’s removal order becomes final. Because Petitioner  
24 has been in custody for about 51 days since his removal order became final on February  
25 2, 2026, Respondents respectfully ask the Court to deny this habeas petition.

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1 **II. BACKGROUND**

2 Petitioner is a native and citizen of Honduras, who entered the United States  
3 without inspection near the Tecate Port of Entry in California, on April 29, 2018.  
4 Exhibit (Ex.) 1 (I-213).<sup>1</sup> He was placed into removal proceedings pursuant to 8 U.S.C.  
5 § 1229a and subsequently ordered removed on December 4, 2020. ECF No. 1 at 12.  
6 Petitioner appealed the removal order decision to the Board of Immigration Appeals  
7 (BIA). The BIA dismissed his appeal on February 2, 2026. Ex. 2 (BIA dismissal). As a  
8 result, Petitioner has an administratively final order of removal. 8 C.F.R. § 1241.1.  
9 Petitioner then appealed the BIA decision to the 9<sup>th</sup> Circuit Court of Appeals which  
10 issued a temporary stay on removal on March 2, 2026. Petitioner was taken into custody  
11 by Immigration and Customs Enforcement on July 2, 2025, after his release from  
12 criminal confinement after receiving an eight-month sentence for his conviction for  
13 alien smuggling pursuant to 8 U.S.C. § 1324. Ex. 1.

14 Petitioner remains mandatorily detained under 8 U.S.C. § 1231(a) pending his  
15 removal to Honduras and the lifting of the temporary stay by the 9<sup>th</sup> Circuit Court of  
16 Appeals.

17 **III. ARGUMENT**

18 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8  
19 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered  
20 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575  
21 (2022). The INA provides that an alien ordered removed must be detained for 90 days  
22 pending the government’s efforts to secure the alien’s removal through negotiations  
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27 <sup>1</sup> The attached exhibits are true copies, with redactions of private information, of  
28 documents obtained from Immigration and Customs Enforcement (ICE) counsel. Other  
facts have been obtained from ICE counsel.

1 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall  
2 detain” the alien during the 90-day removal period under subsection (a)(1)).

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

12 Petitioner filed a habeas petition, arguing that he is entitled to immediate release  
13 or a bond hearing because his detention has become unconstitutionally prolonged. *See*  
14 ECF No. 1. At the time his petition was filed on March 16, 2026, Petitioner was subject  
15 to a final removal order. Petitioner’s removal order became final on February 2, 2026,  
16 because the BIA dismissed Petitioner’s appeal. *See* 8 C.F.R. § 1241.1(a) (An IJ’s order  
17 of removal “shall become final . . . upon dismissal of an appeal by the Board of  
18 Immigration Appeals”).

19 Because Petitioner is now subject to a final, executable order of removal, his  
20 detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578  
21 (explaining that § 1231(a) “governs the detention, release, and removal of individuals  
22 ‘ordered removed’”). That statute requires that Petitioner be detained for 90 days  
23 following “[t]he date the order of removal becomes administratively final” while the  
24 government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is  
25 known as the “removal period.” *Id.* § 1231(a)(1).

26 As previously noted, Petitioner’s removal period began about seven weeks ago  
27 (51 days) when his removal order became administratively final—“so he is still in the  
28 90-day window of statutorily mandated detention.” *Tumasov v. Doe I*, No. 25-cv-2704-

1 AGS-JLB, 2025 WL 3171897, at \*1 (S.D. Cal. Nov. 13, 2025). “In other words,”  
2 Petitioner’s “detention is not merely legal, but required” at this time. *Id.* Because  
3 Petitioner must be detained during the current 90-day statutory removal period, he  
4 cannot demonstrate that he “is in custody in violation” of the law. *See* 28 U.S.C.  
5 § 2241(c)(3). Moreover, under § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order  
6 detention is presumptively reasonable pending the government’s efforts to effectuate  
7 his removal for six months following the final order of removal. *See Zadvydas*, 533 U.S.  
8 at 701. This means that Petitioner’s claim of prolonged detention would not be ripe  
9 until, at the earliest, July 19, 2026. *See id.*

10 To the extent Petitioner asserts that he has been in custody for about 9 months,  
11 almost all of that time was before his removal order became administratively final and  
12 would thus not count toward the 90-day removal period that governs his present  
13 custody. *See Tumasov*, 2025 WL 3171897, at \*1 (“Any pre-removal-order custody does  
14 not count toward the 90-day removal period, which began once Tumasov’s removal  
15 order was administratively final and during which the government shall detain him.”)  
16 (simplified, quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8 U.S.C.  
17 § 1231(a)(1)(A)).

18 In the end, because Petitioner’s post-final order detention is within the 90-day  
19 statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.  
20 § 1231(a). Moreover, the record does not support a finding that Petitioner would be  
21 indefinitely detained because ICE can promptly execute his removal to Honduras once  
22 Petitioner cooperates with providing the information needed for the travel document  
23 request. Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*,  
24 2025 WL 3171897, at \*1 (denying petitioner habeas relief because “he is still in the  
25 90-day window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-  
26 3441-JES-MSB, 2026 WL 50758, at \*1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also*  
27 *Khalilova v. Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at \*4 (S.D. Cal.  
28 Nov. 5, 2025) (“[B]ecause the six-month period of presumptive reasonableness [under

1 *Zadvvdas*] has not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et*  
2 *al.*, No. 25-CV-03256-BAS-VET, 2025 WL 3535207, at \*1 (S.D. Cal. Dec. 9, 2025)  
3 (same).

4 In addition, Petitioner’s conviction qualifies as an aggravated felony pursuant to  
5 8 U.S.C. § 1101(a)(43)(N). He is thus subject to mandatory detention under 8 U.S.C. §  
6 1226(c).

7 **IV. CONCLUSION**

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

10 DATED: March 25, 2026

ADAM GORDON

United States Attorney

11 *s/ Michael D. Wallace*

12 MICHAEL D. WALLACE

13 Assistant United States Attorney

14 Attorneys for Respondent