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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 MOHAMMAD IMRAN YOUSAFZAI,
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13 Petitioner,
14 v.
15 CHRISTOPHER LAROSE, et al.,
16
17 Respondents.
18
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Case No. 26-cv-1745-BAS-MMP
**RETURN TO AMENDED 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 55 days since his removal order became final on February
25 25, 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 Afghanistan with legal status in South Africa,
3 who attempted to illegally enter the United States about five miles east of Tecate,
4 California, on about September 23, 2024.¹ Exhibit 1 (I-213). Petitioner did not then
5 have any valid entry documents to enter the United States and had not been admitted or
6 paroled into the United States. Petitioner did not then have any valid entry documents
7 to enter the United States and had not been admitted or paroled into the United States.
8 He was determined to be inadmissible under 8 U.S.C. §1182(a)(6)(A)(i), placed in
9 expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1), and taken into
10 Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C.
11 § 1225(b)(1)(B). Petitioner has remained in ICE custody since his entry into the United
12 States. On October 23, 2024, Petitioner was issued a Notice to Appear (NTA). The filing
13 of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against
14 Petitioner, and those proceedings remain ongoing. Within his removal proceedings
15 under § 1229a, Petitioner applied for relief from removal before an immigration judge
16 (IJ), including asylum under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C.
17 § 1231(b)(3), and relief under the Convention Against Torture. During the proceedings,
18 Petitioner was offered and accepted a pre-conclusion voluntary departure to France or,
19 in the alternative, to Afghanistan by December 24, 2025. Ex. 2 (VR Order). ICE
20 Enforcement and Removal Operations (ERO) requested permission from France to
21 remove Petitioner to France. Within the Order and pursuant to 8 C.F.R. 1241.1(f), the
22 voluntary departure order became a final order if Petitioner does not depart prior to the
23 end of the voluntary departure period. ICE ERO voluntarily extended the departure
24 period to prevent conversion of the voluntary departure order to a final order to allow
25 more time for France to respond. On February 25, 2026, France declined Petitioner's

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27 ¹ 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 travel. The voluntary departure therefore is now a final removal order to Afghanistan.
2 ICE ERO offered Petitioner additional countries to which to agree to removal.
3 Petitioner declined.

4 Petitioner has an administratively final order of removal and is mandatorily
5 detained under 8 U.S.C. § 1231(a).

6 III. ARGUMENT

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

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

23 Petitioner filed a habeas petition, arguing that he is entitled to immediate release
24 or a bond hearing because his detention has become unconstitutionally prolonged. *See*
25 ECF No. 8. At the time his petition was filed on April 13, 2026, Petitioner was subject
26 to a final removal order. *See* 8 C.F.R. § 1241.1(f) (An IJ’s order of removal “shall
27 become final . . . [i]f an immigration judge issues an alternate order of removal in
28 connection with a grant of voluntary departure, upon overstay of the voluntary departure

1 period...or upon overstay of the voluntary departure period granted or reinstated by the
2 Board or the Attorney General).²

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

10 As previously noted, Petitioner’s removal period began 55 days ago when his
11 removal order became administratively final—“so he is still in the 90-day window of
12 statutorily mandated detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025
13 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s “detention
14 is not merely legal, but required” at this time. *Id.* Because Petitioner must be detained
15 during the current 90-day statutory removal period, he cannot demonstrate that he “is
16 in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
17 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
18 reasonable pending the government’s efforts to effectuate his removal for six months
19 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that
20 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest, August
21 25, 2026. *See id.*

22 In the end, because Petitioner’s post-final order detention is within the 90-day
23 statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.
24 § 1231(a). Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*,
25 2025 WL 3171897, at *1 (denying petitioner habeas relief because “he is still in the

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27 ² In removal proceedings, Petitioner is referred to as the “respondent.” *See* 8 C.F.R.
28 § 1001.1(r) (“The term respondent means a person named in a Notice to Appear issued
in accordance with section 239(a) of the [INA]. . .”).

1 90-day window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-
2 3441-JES-MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also*
3 *Khalilova v Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal.
4 Nov. 5, 2025) (“[B]ecause the six-month period of presumptive reasonableness [under
5 *Zadvvdas*] has not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et*
6 *al.*, No. 25-CV-03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025)
7 (same).

8 **IV. CONCLUSION**

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

11 DATED: April 21, 2026

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