

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 DZANSIR GOKOEV,

12 Petitioner,

13
14 v.

15 JAREMY[sic] CASEY, et al.,

16 Respondents.
17

Case No. 26-cv-2127-DMS-AHG

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

18
19 **I. INTRODUCTION**

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

23 **II. FACTUAL AND PROCEDURAL BACKGROUND**

24 Petitioner is a citizen and national of Russia. Declaration of Deportation Officer
25 Edgar Olvera (Olvera Decl.) at ¶ 4; Exhibit (Ex.) 1 (I-213). Petitioner originally entered
26 the United States illegally on or about October 3, 2022. *Id.* He was determined to be
27 inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). He was then issued a Notice to
28 Appear (NTA) on December 6, 2023. Ex. 2 (NTA). The filing of the NTA initiated

1 removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. Petitioner failed
2 to appear at the master calendar hearing on April 29, 2025. Decl. at ¶ 6. The immigration
3 judge ordered Petitioner removed. The removal order became final that day. *Id.* at ¶ 6;
4 8 C.F.R. § 1241.1. ICE detained Petitioner on January 17, 2026. *Id.* at ¶ 7. Petitioner
5 remains mandatorily detained pursuant to 8 U.S.C. § 1231(a).

6 ICE’s Enforcement and Removal Operations (ERO) has worked diligently to
7 remove Petitioner to Russia including submitting a travel document request. *Id.* at ¶ 9.

8 **III. ARGUMENT**

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

15 Petitioner filed a habeas petition, arguing that he is entitled to release or a bond
16 hearing because his detention has become unconstitutionally prolonged. ECF No. 1. At
17 the time his petition was filed on April 3, 2026, Petitioner was subject to a final removal
18 order. Petitioner’s removal order became final on April 29, 2025, because Petitioner
19 failed to appear at his master calendar hearing. *See* 8 C.F.R. § 1241.1(e) (An IJ’s order
20 of removal “shall become final . . . [i]f and immigration judge orders an alien removed
21 in the alien’s absence, immediately upon entry of such order”).¹

22 Because Petitioner is now subject to a final, executable order of removal, his
23 detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578
24 (explaining that § 1231(a) “governs the detention, release, and removal of individuals
25 ‘ordered removed’”). That statute requires that Petitioner be detained for 90 days

26
27 ¹ 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 following “[t]he date the order of removal becomes administratively final” while the
2 government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is
3 known as the “removal period.” *Id.* § 1231(a)(1).

4 Petitioner’s removal period began less than 90 days ago when he was
5 detained in order to execute his final removal order—“so he is still in the 90-day
6 window of statutorily mandated detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-
7 JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s
8 “detention is not merely legal, but required” at this time. *Id.* Because Petitioner must be
9 detained during the current 90-day statutory removal period, he cannot demonstrate that
10 he “is in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
11 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
12 reasonable pending the government’s efforts to effectuate his removal for six months
13 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that
14 Petitioner’s claim of prolonged detention will not be ripe until, at the earliest, July 17,
15 2026. *See id.* Here, Petitioner has been detained for about 87 days since the removal
16 order became final. This falls well within the six-month presumptively reasonable
17 period.

18 The Supreme Court held in *Zadvydas* that when removal is not accomplished
19 during the 90-day removal period, the statute “limits an alien’s post-removal-period
20 detention to a period reasonably necessary to bring about the alien’s removal from the
21 United States” and does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689.
22 The Supreme Court has held that six months constitutes a “presumptively reasonable
23 period of detention.” *Id.* at 701. Courts have repeatedly declined to grant habeas relief
24 where the presumptively reasonable six-month period has not yet elapsed. *See*
25 *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22,
26 2025) (“The government is entitled to its six-month presumptive period before
27 Petitioner’s continued § 1231(a)(6) detention poses a constitutional issue.”); *Guerra-*
28 *Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July

1 17, 2025) (“The Court finds that the Petition is premature because Petitioner has not
2 been detained for more than six months. Petitioner has been in detention since May 29,
3 2025; therefore, his two-month detention is lawful under *Zadvydas*.”) (citations
4 omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn.
5 Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes
6 the release based on changed circumstances, “the revocation would merely restart the
7 90-day removal period, not necessarily the presumptively reasonable six-month
8 detention period under *Zadvydas*”).

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

21 The Supreme Court also instructed that detention could exceed six months: “This
22 6-month presumption, of course, does not mean that every alien not removed must be
23 released after six months. To the contrary, an alien may be held in confinement until it
24 has been determined that there is no significant likelihood of removal in the reasonably
25 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good
26 reason to believe that there is no significant likelihood of removal in the reasonably
27 foreseeable future, the Government must respond with evidence sufficient to rebut that
28 showing.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the

1 alien to show, after a detention period of six months, that there is ‘good reason to believe
2 that there is no significant likelihood of removal in the reasonably foreseeable future.’”
3 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
4 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

5 To the extent Petitioner is challenging ICE’s decision to detain him 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.”).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: April 14, 2026

ADAM GORDON
United States Attorney

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