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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 CARLOS ALBERTO RAMIREZ
13 ALVAREZ,

14 Petitioner,

15
16 v.

17 U.S. IMMIGRATION AND CUSTOMS
18 ENFORCEMENT (ICE),

19 Respondent.
20

Case No. 26-cv-02369-TWR-AHG

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

21 **I. INTRODUCTION**

22 Respondent requests the Court deny this petition on the ground that post-removal
23 order detention is statutorily mandated under 8 U.S.C. § 1231(a) for a period of 90 days
24 following the date that a noncitizen’s removal order becomes final. Because Petitioner
25 has been in custody for about 54 days since his removal order became final on February
26 26, 2026, Respondent respectfully asks the Court to deny this habeas petition.

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1 **II. BACKGROUND**

2 Petitioner is a native and citizen of Cuba, who entered the United States illegally
3 and without inspection near Eagle Pass, Texas, on July 3, 2021. Exhibit 1 (I-213).¹
4 Petitioner did not then have any valid entry documents to enter the United States and
5 had not been admitted or paroled into the United States. He was determined to be
6 inadmissible under 8 U.S.C. §1182(a)(7)(A)(i)(I), placed in expedited removal
7 proceedings pursuant to 8 U.S.C. § 1225(b)(1), and taken into Immigration and Customs
8 Enforcement (ICE) custody pursuant to the expedited order of removal under 8 U.S.C.
9 § 1225(b)(1)(B). *Id.* At that time, a deportation officer issued a Notice to Appear (NTA)
10 to Petitioner and Petitioner was released on his own recognizance. Exhibit 2 (Notice to
11 Appear). The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C.
12 § 1229a, against Petitioner. On October 17, 2023, Petitioner was ordered removed to
13 Cuba. Exhibit 3. Petitioner subsequently appealed the removal order to the Board of
14 Immigration Appeals (BIA).

15 On September 24, 2025, Petitioner was apprehended and taken into ICE custody
16 again because Petitioner still lacked any valid entry documents to enter the United States
17 and had not been admitted or paroled into the United States. Exhibit 4. One month later,
18 ICE attempted to remove Petitioner to Cuba, however Cuba refused to accept him
19 because the removal order was not final. On February 26, 2026, the BIA affirmed
20 Petitioner's removal order. Exhibit 5. Therefore, Petitioner's removal order became
21 administratively final that day. 8 C.F.R. § 1241.1(d). Since that time, ICE attempted to
22 remove Petitioner to Mexico, however Petitioner refused removal to Mexico. *See*
23 Exhibit 6. At this time, another third country has not been identified for Petitioner's
24 removal. As such, Petitioner remains mandatorily detained under 8 U.S.C. § 1231(a)
25 pending his removal to Mexico or a third country.

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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 **III. ARGUMENT**

2 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
3 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
4 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
5 (2022). The INA provides that an alien ordered removed must be detained for 90 days
6 pending the government’s efforts to secure the alien’s removal through negotiations
7 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
8 detain” the alien during the 90-day removal period under subsection (a)(1)).

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

18 Petitioner filed a habeas petition, arguing that he is entitled to release or a bond
19 hearing because his detention has become unconstitutionally prolonged. *See* ECF No.
20 1. At the time his petition was filed on April 10, 2026, Petitioner was subject to a final
21 removal order. Petitioner’s removal order became final on February 26, 2026, because
22 BIA affirmed the IJ’s decision. 8 C.F.R. § 1241.1(d).

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

1 known as the “removal period.” *Id.* § 1231(a)(1).

2 As previously noted, Petitioner’s removal period began eight weeks ago (54 days)
3 when his removal order became administratively final—“so he is still in the 90-day
4 window of statutorily mandated detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-
5 JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s
6 “detention is not merely legal, but required” at this time. *Id.* Because Petitioner must be
7 detained during the current 90-day statutory removal period, he cannot demonstrate that
8 he “is in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
9 § 1231(a)(6) and *Zadvydass*, Petitioner’s post-final order detention is presumptively
10 reasonable pending the government’s efforts to effectuate his removal for six months
11 following the final order of removal. *See Zadvydass*, 533 U.S. at 701. This means that
12 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest, August
13 26, 2026. *See id.*

14 To the extent Petitioner asserts that he has been under prolonged custody, almost
15 all of that time was before his removal order became administratively final and would
16 thus not count toward the 90-day removal period that governs his present custody. *See*
17 *Tumasov*, 2025 WL 3171897, at *1 (“Any pre-removal-order custody does not count
18 toward the 90-day removal period, which began once Tumasov’s removal order was
19 administratively final and during which the government shall detain him.”) (simplified,
20 quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8 U.S.C.
21 § 1231(a)(1)(A)).

22 Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*, 2025
23 WL 3171897, at *1 (denying petitioner habeas relief because “he is still in the 90-day
24 window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-3441-JES-
25 MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also Khalilova v.*
26 *Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025)
27 (“[B]ecause the six-month period of presumptive reasonableness [under *Zadvvdass*] has
28 not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et al.*, No. 25-CV-

1 03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

2 **IV. CONCLUSION**

3 For the reasons stated herein, Respondent respectfully requests the Court
4 immediately lift the order enjoining removal out of the District and deny the habeas
5 petition on its merits.

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7 DATED: April 21, 2026

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8
9 *s/ Camille Savedra*

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