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

ARISDALIA MERINO CORDERO,

Petitioner,

v.

MERRICK B. GARLAND, et al.,

Respondents.

Case No. 26-cv-02382-BJC-GC

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

I. INTRODUCTION

Petitioner has filed an amended petition for writ of habeas corpus. This Court should deny this petition on the ground that 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 has been in custody for about 9 weeks since her removal order became final, Respondent respectfully asks the Court to deny this habeas petition.

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II. BACKGROUND

Petitioner is a native and citizen of Cuba, who entered the United States without being admitted or paroled on June 15, 2022, and was thereafter taken into Immigration and Customs Enforcement (ICE) custody. *See* Exhibit 1 (Notice to Appear).¹ She released on her own recognizance and was placed in removal proceeding before an Immigration Judge (IJ). *See* Exhibit 1; *see also* Exhibit 2 (I213). On April 30, 2025, Petitioner was ordered removed in absentia for failing to appear for her removal proceedings; her removal order became final on that day. *See* Exhibit 3 (IJ removal Order); *see also* 8 CFR § 1241.1(e) (“An order of removal made by the immigration judge at the conclusion of proceedings under section 240 of the Act shall become final if an immigration judge orders an alien removed in the alien's absence, immediately upon entry of such order”). On March 16, 2026, Petitioner was encountered by border patrol agents. *See* Exhibit 2. Petitioner was then detained so that immigration authorities could execute her removal order. *See id.* As of today, Petitioner has been detained for about 63 days, that is, about 9 weeks. On April 15, 2026, Petitioner filed her petition for Writ of Habeas Corpus, and on May 1, 2026, petitioner filed an amended petition. *See* ECF 1; 9. For the reasons set forth below, Petitioner’s amended petition should be denied.

III. ARGUMENT

A. The 90-day removal period under 8 U.S.C. § 1231(a)(1) has not expired.

“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

¹ The attached exhibits are true copies, with redactions of private information, of documents 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 she is entitled to immediate release
13 or a bond hearing. *See* ECF No. 1 at 8; *see also* ECF No. 5 at 8. At the time her petition
14 was filed on April 15, 2026, Petitioner was subject to a final removal order. Because
15 Petitioner is subject to a final, executable order of removal, her detention is governed
16 by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578 (explaining that § 1231(a)
17 “governs the detention, release, and removal of individuals ‘ordered removed’”). That
18 statute requires that Petitioner be detained for 90 days following “[t]he date the order
19 of removal becomes administratively final” while the government seeks to execute
20 removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is known as the “removal period.” *Id.*
21 § 1231(a)(1).

22 As previously noted, Petitioner’s removal period began about nine weeks ago
23 when she was detained —“so [s]he is still in the 90-day window of statutorily mandated
24 detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025 WL 3171897, at *1
25 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s “detention is not merely legal,
26 but required” at this time. *Id.* Because Petitioner must be detained during the current
27 90-day statutory removal period, she cannot demonstrate that she “is in custody in
28 violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under § 1231(a)(6) and

1 *Zadvydas*, Petitioner's post-final order detention is presumptively reasonable pending
2 the government's efforts to effectuate her removal for six months following the final
3 order of removal. *See Zadvydas*, 533 U.S. at 701. This means that Petitioner's claim of
4 prolonged detention would not be ripe until, at the earliest, June 14, 2026. *See id.*

5 In the end, because Petitioner's post-final order detention is within the 90-day
6 statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.
7 § 1231(a). Moreover, the record does not support a finding that Petitioner would be
8 indefinitely detained.

9 **B. Petitioner's Second Claim is Unsupported.**

10 Petitioner also asserts that she is afraid that if a third country of removal is
11 identified, ICE will immediately deport her there without being given adequate time to
12 investigate whether she could be persecuted in that country. Petitioner's claim that she
13 may not be removed to a third country without adequate notice and an opportunity to
14 be heard is subject to ongoing litigation, with the Supreme Court staying an injunction
15 imposed by a district court ordering the government to provide notice and an
16 opportunity to be heard like that requested here. *See Dep't of Homeland Sec. v. D.V.D.*,
17 145 S. Ct. 2153 (2025). Given the Supreme Court's reversal of that injunction,
18 Respondents' position is that imposition of a similar injunction would be reversed here.

19
20 **IV. CONCLUSION**

21 For the reasons stated herein, Respondent respectfully requests the Court to
22 dismiss the petition for lack of standing or, in the alternative, deny the habeas petition
23 on its merits.

24 DATED: May 18, 2026

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