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

ANTHONY JOSE MENDOZA PEREZ,
Petitioner,

v.

CHRISTOPHER J. LAROSE, et al.;
Respondents.

Case No. 26-cv-02508-DMS-MSB

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

I. INTRODUCTION

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. As more fully explained below, because Petitioner has been in custody for less than a month since his removal order became final on April 3, 2026, this habeas petition is premature. Thus, Respondents respectfully ask the Court to deny this petition.

II. BACKGROUND

Petitioner is a native and citizen of Venezuela, who entered the United States on September 12, 2023, without being admitted or paroled. *See* Exhibit 1 (Notice to Appear). He was taken into custody but was subsequently released. *See* Exhibit 2 (I-

1 213). On April 29, 2025, Petitioner was encountered by the ICE Enforcement and
2 Removal Operations in Miami at the Seminole County Jail pursuant to an arrest for
3 operating a vehicle without a driving license. *See id.* Petitioner was taken into custody
4 and was issued a Notice to Appear (NTA). *See* Exhibit 1.

5 On December 19, 2025, the Department of Homeland Security (DHS) filed a
6 Motion to Pretermitt Petitioner's previously filed applications for asylum, withholding
7 of removal and protections under the convention against torture pursuant to an Asylum
8 Cooperation Agreement with Uganda. *See* Exhibit 3 (Immigration Judge's Order dated
9 03.03.2026); *see also* Exhibit 4 (Department of Justice – Executive Office for
10 Immigration Review Case Details). On January 21, 2026, DHS provided Petitioner with
11 a bond hearing pursuant to 8 U.S.C. § 1226(a) as ordered by Honorable Judge Andrew
12 G. Schopler. *See* Exhibit 5 (District Courts Order dated 01.08.2026); *see also* Exhibit 6
13 (IJ order dated 01.21.2026). Petitioner timely filed an appeal before the Board of
14 Immigration Appeals, but has since filed a Motion to Withdraw the Bond Appeal, and
15 the Motion remains pending. *See* Exhibit 7 (BIA Bond Appeal Receipt); *See also*
16 Exhibit 8 (Motion to Withdraw Appeal).

17 On March 3, 2026, the Immigration Judge (IJ) granted DHS' Motion to Pretermitt,
18 and ordered Petitioner removed to Uganda. *See* Exhibit 3. Petitioner had until April 2,
19 2026, to file an appeal regarding his removal order to Uganda before the Board of
20 Immigration Appeals. *See id.* Instead of filing an appeal of the IJs removal order,
21 Petitioner instead filed a Motion to Reopen an In-Absentia order with the IJ. *See* Exhibit
22 9 (IJ Order dated 3.12.2026). Because Petitioner was never ordered removed In-
23 Absentia, the Motion to Reopen was denied. *See id.* Because Petitioner never appealed
24 the IJs removal order, his removal order to Uganda became final on April 3, 2026. *See*
25 Exhibit 3. Because Petitioners removal order is now final, Petitioner is detained under
26 8 U.S.C. § 1231(a)

III. ARGUMENT

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

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

Here, Petitioner’s removal order became final on April 3, 2026, when Petitioner’s removal order became final when Petitioner failed to file a timely appeal before the BIA. *See* 8 C.F.R. § 1241.1(c) (An IJ’s order of removal “expiration of the time allotted for an appeal if the respondent does not file an appeal within that time”). The INA requires that a noncitizen ordered removed be detained for 90 days following “[t]he date the order of removal becomes administratively final” while the government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is known as the “removal period.” *Id.* § 1231(a)(1).

Petitioner’s removal period began less than a month ago, “so he is still in the 90-day window of statutorily mandated detention.” *Tumasov v. Doe I*, No. 25-CV-2704-AGS-JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,”

1 as Judge Schopler has put it, a petitioner’s “detention is not merely legal, but required”
2 at this time. *Id.* As the record reflects, Petitioner remains detained under § 1231(a) while
3 the government actively seeks to execute his removal to Uganda. Indeed, under
4 § 1231(a)(6) and Supreme Court precedent, Petitioner’s post-final order detention is
5 presumptively reasonable pending the government’s efforts to effectuate his removal
6 for six months following the final order of removal. *See Zadvydas*, 533 U.S. at 701.
7 This means that Petitioner’s claim of prolonged detention would not be ripe until, at the
8 earliest, October 3, 2026. *See id.*

9 In the end, because Petitioner’s post-final order detention is within the 90-day
10 statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.
11 § 1231(a). Thus, his petition for a writ of habeas corpus must be denied at this time. *See*
12 *Tumasov*, 2025 WL 3171897, at *1 (denying petitioner habeas relief because “he is still
13 in the 90-day window of statutorily mandated detention”); *see also Khalilova v. Smith*,
14 No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025)
15 (“[B]ecause the six-month period of presumptive reasonableness [under *Zadvydas*] has
16 not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et al.*, No. 25-CV-
17 03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

18 IV. CONCLUSION

19 For the reasons stated herein, Respondents respectfully request that the Court
20 deny the habeas petition.

21
22 DATED: April 28, 2026

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23
24 s/ Antonio Estrada

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