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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 AYOUBA CAMARA,

Petitioner,

12
13 v.

14 JEREMY CASEY,

Respondent.

Case No. 26-cv-02782-RSH-MSB

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

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18 **I. INTRODUCTION**

19 Respondents respectfully request the Court deny this petition as post-removal
20 order detention is statutorily mandated under 8 U.S.C. § 1231(a) for a period of 90 days
21 following the date that a noncitizen’s removal order becomes final. Because Petitioner
22 has been in custody for 10 days since his removal order became administratively final
23 on May 4, 2026, Respondents respectfully ask the Court to deny this habeas petition.

24 **II. BACKGROUND**

25 Petitioner is a native and citizen of Guinea, who entered the United States without
26 inspection near Calexico, California, on December 20, 2024. See EHe was immediately
27 apprehended by U.S. Border Patrol agents and has remained in immigration custody for
28 over 16 months since that day. ECF No. 1 (Petition) at 4. Upon arrest, Petitioner was

1 determined to be inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), placed in expedited
2 removal proceedings pursuant to 8 U.S.C. § 1225(b)(1), and taken into Immigration and
3 Customs Enforcement (ICE) custody pursuant to 8 U.S.C. § 1225(b)(1)(B). He was then
4 interviewed by an asylum officer pursuant to 8 U.S.C. § 1225(b)(1)(B) and a Notice to
5 Appear (NTA) was issued on February 3, 2025. *See* Exhibit 3 at 1. The filing of the
6 NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner.

7 On November 5, 2025, an Immigration Judge (IJ) ordered Petitioner removed to
8 Guinea and denied all applications for relief. *See* Exhibit 4 at 6. Petitioner reserved
9 appeal to the Board of Immigration Appeals (BIA). *Id.* at 7. On May 4, 2026, the BIA
10 denied petitioner’s appeal and his 90-day statutory removal period under 8 U.S.C. §
11 1231(a) commenced. *See* Exhibit 5 at 5.

12 III. ARGUMENT

13 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
14 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
15 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
16 (2022). The INA provides that an alien ordered removed must be detained for 90 days
17 pending the government’s efforts to secure the alien’s removal through negotiations
18 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
19 detain” the alien during the 90-day removal period under subsection (a)(1)).

20 Section 1231(a)(6) “authorizes further detention if the Government fails to
21 remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
22 Detention authority under this statute, however, is limited to “a period reasonably
23 necessary to bring about the alien’s removal from the United States” and “does not
24 permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month
25 period of post-removal detention constitutes a “presumptively reasonable period of
26 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
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28

1 period unless “there is no significant likelihood of removal in the reasonably foreseeable
2 future.” *Id.*

3 Petitioner filed a habeas petition arguing, among other things, that his detention
4 for over 16 months has become unconstitutionally prolonged and violates his right to
5 due process under the Fifth Amendment. ECF No. 1 at 4, 6-7. These points are well
6 argued. However, five days after Petitioner filed his petition for writ of habeas corpus,
7 the BIA ruled in his case and dismissed his appeal. *See Exhibit 5 at 5.* Accordingly, as
8 of May 4, 2026, his order of removal is administratively final, unless further appealed,
9 and the law requires Petitioner’s mandatory detention for a period of 90 days. 8 U.S.C.
10 § 1231(a). This statute requires that Petitioner be detained for 90 days following “[t]he
11 date the order of removal becomes administratively final” while the government seeks
12 to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is known as the “removal
13 period.” *Id.* § 1231(a)(1).

14 As previously noted, Petitioner’s removal period began 10 days ago when his
15 removal order became administratively final—“so he is still in the 90-day window of
16 statutorily mandated detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025
17 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s “detention
18 is not merely legal, but required” at this time. *Id.* Because Petitioner must be detained
19 during the current 90-day statutory removal period, he cannot demonstrate that he “is
20 in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
21 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
22 reasonable pending the government’s efforts to effectuate his removal for six months
23 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that
24 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest,
25 November 4, 2026. *See id.*

26 To the extent Petitioner asserts that he has been in custody for more than 16
27 months, almost all of that time was before his removal order became administratively
28 final and would thus not count toward the 90-day removal period that governs his

1 present custody. *See Tumasov*, 2025 WL 3171897, at *1 (“Any pre-removal-order
2 custody does not count toward the 90-day removal period, which began once Tumasov’s
3 removal order was administratively final and during which the government shall detain
4 him.”) (simplified, quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8
5 U.S.C. § 1231(a)(1)(A)).

6 In the end, because Petitioner’s post-final order detention is within the 90-day
7 statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.
8 § 1231(a). Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*,
9 2025 WL 3171897, at *1 (denying petitioner habeas relief because “he is still in the
10 90-day window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-
11 3441-JES-MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also*
12 *Khalilova v. Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal.
13 Nov. 5, 2025) (“[B]ecause the six-month period of presumptive reasonableness [under
14 *Zadvvdas*] has not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et*
15 *al.*, No. 25-CV-03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025)
16 (same).

17 **IV. CONCLUSION**

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

20 DATED: May 14, 2026

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22 *s/ Hunter V. Norton*

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