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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SUNDARARAJU PERIYANNAN, Petitioner, v. JEREMY CASEY, et al.; Respondents.	Case No. 26-cv-03700-RSH-JLB **RESPONSE TO AMENDED 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 three days since his removal order became final on August 19, 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 India, who previously entered the United States as a Crewmember. Exhibit 1 (Notice of Referral to the immigration judge). On December 3, 2025, Petitioner was detained by U.S. Immigration and Customs

Enforcement (ICE) and placed in asylum-only proceedings. Exhibit 2 (I-213). On December 9, 2025, Petitioner was served with a Notice of Referral to an immigration judge (IJ). Exhibit 1. On April 21, 2026, an IJ denied all of petitioner's applications for relief. Exhibit 3 (IJ Order dated April 21, 2026). On May 22, 2026, Petitioner filed an appeal of the IJs decision to the Board of Immigration Appeals (BIA). Exhibit 4 (BIA Receipt). However, on August 19, 2026, the BIA summarily dismissed Petitioner's appeal as untimely. Exhibit 5 (BIA Decision dated August 19, 2026). As such, Petitioner's removal order became final on August 19, 2026. *See* 8 C.F.R. § 1241.1(a) (An IJ's order of removal "shall become final . . . [u]pon dismissal of an appeal by the Board of Immigration Appeals"). This means that Petitioner has been in post-removal order detention for only two days as of today. *Id.*

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 August 19, 2026, when the BIA dismissed his appeal of the IJ's decision. *See* 8 C.F.R. § 1241.1(a) (An IJ's order of removal "shall become final . . . [u]pon dismissal of an appeal by the Board of Immigration Appeals"). 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 two days ago, "so he is still in the 90-day window of statutorily mandated detention." *Tumasov v. Doe 1*, No. 25-CV-2704-AGS-JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). "In other words," as Judge Schopler has put it, a petitioner's "detention is not merely legal, but required" at this time. *Id.* Indeed, under § 1231(a)(6) and Supreme Court precedent, Petitioner's post-final order detention is presumptively reasonable pending the government's efforts to effectuate his removal for six months following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that Petitioner's claim of prolonged detention would not be ripe until, at the earliest, February 19, 2026. *See id.*

While Petitioner asserts that he has been in immigration custody for over nine months, almost all of that time was before his removal order became administratively final and would thus not count toward the 90-day removal period that governs his present custody. *See Tumasov*, 2025 WL 3171897, at *1 ("Any pre-removal-order custody does not count toward the 90-day removal period, which began once Tumasov's removal order was administratively final and during which the government shall detain him.") (simplified, quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8 U.S.C. § 1231(a)(1)(A)).

In the end, because Petitioner's post-final order detention is within the 90-day statutory removal period, Petitioner is in lawful custody under the INA. *See* 8 U.S.C.

§ 1231(a). Thus, his petition for a writ of habeas corpus must be denied at this time. *See Tumasov*, 2025 WL 3171897, at *1 (denying petitioner habeas relief because "he is still in the 90-day window of statutorily mandated detention"); *see also Khalilova v. Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025) ("[B]ecause the six-month period of presumptive reasonableness [under *Zadvvdas*] has not passed, Petitioner's claim is not ripe for review[.]"); *Ao v. Noem et al.*, No. 25-CV-03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

IV. CONCLUSION

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

DATED: August 21, 2026

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