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6
7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 ONEL MONTES DE OCA,

10 Petitioner,

11 v.

12 WARDEN, CALIFORNIA CITY
IMMIGRATION PROCESSING CENTER,

13 Respondents.
14

CASE NO. 1:26-CV-05251-JLT-SAB

**RESPONDENTS' RESPONSE TO PETITION
FOR WRIT OF HABEAS CORPUS**

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16 **INTRODUCTION**

17 Petitioner is detained under 8 U.S.C. § 1231(a)(6) because he is subject to an administratively
18 final order of removal. His detention has not become unconstitutionally prolonged.

19 **FACTUAL BACKGROUND**

20 Petitioner is a native and citizen of Cuba who was ordered removed from the United States on
21 March 27, 2009, and Petitioner waived appeal of the decision. Ex. 1. Petitioner was on an order of
22 supervision. Ex. 2. On May 3, 2026, the Department of Homeland Security (DHS), Immigration and
23 Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) revoked Petitioner's release
24 and took him into custody. Ex. 3. ERO is pursuing third-country removal. *Id.*
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LEGAL ARGUMENT

I. Petitioner is properly detained pursuant to a final administrative order of removal.

8 U.S.C. § 1231(a) provides that when an alien is ordered removed, the alien must be detained until he is removed for up to ninety days. 8 U.S.C. § 1231(a). This removal period begins upon the most recent of: the removal becoming administratively final; the court issuing a final order (if the removal order is judicially reviewed and there is a stay of removal); or the alien being released from detention or confinement (if detained or confined outside of an immigration process). 8 U.S.C. § 1231(a)(1)(B). A removal order becomes administratively final upon waiver of appeal. 8 C.F.R. § 1241.1(b).

Those who are deportable under 8 U.S.C. § 1227(a)(2) may be detained beyond that ninety-day removal period while the government pursues removal. 8 U.S.C. § 1231(a)(6). The Supreme Court has recognized that there is no set amount of time at which such post-order detention becomes unconstitutional, but that six months of detention is a presumptively reasonable amount of time to effect removal. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001)). After those six months, the alien must show good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.

Here, Petitioner's removal order became administratively final over ninety days ago and his detention, therefore, falls outside the removal period. As Petitioner is deportable as charged under § 1227(a)(2), Ex. 4, Petitioner's detention is presumptively reasonable for up to six months. Petitioner has only been in custody for about three months, however, and has not provided good reason to believe that his removal is not significantly likely to occur in the reasonably foreseeable future.

For those reasons, his detention is lawful.

CONCLUSION

For the reasons set forth above, Respondents respectfully request that the Court deny the Petition

1 for a Writ of Habeas Corpus. Respondents do not request a hearing.
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4 Dated: July 30, 2026

ERIC GRANT
United States Attorney

6 By: /s/ Sean Davis
7 SEAN DAVIS
8 Special Assistant United States Attorney
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