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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

FERNANDO RAMIREZ CASTILLO,

Petitioner,

v.

WARDEN, ADELANTO PROCESSING CTR, et al.,

Respondents.

No. 5:25-cv-03476-MWF-E

FEDERAL RESPONDENTS' ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

[Filed Concurrently with Exhibit 1, Notice of Revocation of Release; Exhibit 2, Form I-200, Warrant of Arrest of Alien; and Exhibit 3, Declaration of Deportation Officer Christopher A. Jenson]

Honorable Judge Charles F. Eick
United States Magistrate Judge

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

Federal Statutes

Rules

Regulations

I. INTRODUCTION

On December 20, 2025, through counsel, Petitioner Fernando Ramirez Castillo filed a Petition for Writ of Habeas Corpus ("Petition") pursuant to 28 U.S.C. § 2241. Petition [Dkt. No. 1]. Petitioner, a Mexican citizen, alleges that his current immigration detention violates the Due Process Clause of the Fifth Amendment, asserting that Respondents lack statutory authority to detain him following the expiration of the removal period and that his re-detention was unlawful. *Id.* ¶¶ 51-57. Petitioner further seeks immediate release or, in the alternative, a bond hearing at which Respondents would be the burden of justifying continued detention. *Id.* ¶¶ 12-13 & at 12-13.

Petitioner's claims fail as a matter of law. Petitioner is detained pursuant to an administratively final order of removal under 8 U.S.C. § 1231(a)(6). A grant of deferral of removal under the Convention Against Torture ("CAT") does not terminate a final removal order, does not confer lawful status, and does not divest the Department of Homeland Security ("DHS") of its statutory authority to detain a noncitizen pending removal. *See* 8 C.F.R. § 1208.17(a).

On December 17, 2025, Immigration and Customs Enforcement ("ICE") lawfully revoked Petitioner's prior release based on changed circumstances, including the determination that Petitioner could be expeditiously removed pursuant to his final order of removal and that his case was under active third-country review for issuance of a travel document. *See* Exh. 1, Notice of Revocation of Release. ICE served Petitioner with a Notice of Revocation of Release explaining these grounds and executed a Form I-200, Warrant of Arrest of Alien, placing Petitioner into custody at the Adelanto ICE Processing Center within this District. *Id.*; *see also* Exh. 2, Form I-200, Warrant of Arrest of Alien.

Petitioner has not yet been detained anywhere near the six months of presumptively reasonable detention pursuant to a final removal order, after which the burden shifts to the government to submit evidence to show that there is a significant likelihood of removal in the reasonably foreseeable future. As discussed below, he has only been detained for a total of about ninety (90) days, in the aggregate.

Because Petitioner's detention is expressly authorized by statute, removal remains reasonably foreseeable, and his speculative challenges as to potential third-country removal are unripe, the Petition should be denied.

II. STATEMENT OF FACTS

Petitioner is not a citizen or national of the United States. He is a citizen and national of Mexico by virtue of birth. *See* Exh. 3, Declaration of Deportation Officer Christopher A. Jenson ¶ 5.

Petitioner entered the United States illegally, without inspection and/or admission at or near Calexico, CA, POE on or about January 14, 2001. *Id.* ¶ 6.

On or about January 20, 2010, DHS detained Petitioner. He was granted a $5,000 bond by an IJ and released by DHS on bond on February 8, 2010. *Id.* ¶ 7.

On or about January 20, 2010, DHS served Petitioner with a Notice to Appear, Form I-862, pursuant to Section 216(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* ¶ 8.

On March 3, 2003, Petitioner was convicted for the offense of Inflict Corporal Injury to Spouse/Cohabitant- PC 273.5 (A) and sentenced to 3 days in jail. *Id.* ¶ 9.

On October 23, 2009, Petitioner was arrested for violation of California Penal Code, (PC) 148.9(a) Giving False Information to a Police Officer and sentenced on November 2, 2009, to 5 days jail. *Id.* ¶ 10.

Petitioner was convicted on June 11, 2007, for the offense of Corporal Injury to a Child-PC 273(d)(a) and sentenced to 25 days jail and probation. *Id.* ¶ 11.

On September 13, 2012, Petitioner was arrested and charged for the offense of Rape Spouse by Force/Fear/Etc PC (262(A)(1); and Inflict Corporal Injury Spouse/Cohab-PC (273.5(A). These charges were later dropped for lack of sufficient evidence. *Id.* ¶ 12.

On September 15, 2012, Petitioner appeared before an IJ. Pleadings were completed. He admitted alienage, identity, and admitted he entered the United States illegally and without inspection. *Id.* ¶ 13.

DHS re-detained Petitioner on September 18, 2012. *Id.* ¶ 14.

On October 18, 2012, Petitioner was granted bond by an IJ at the Immigration Court in Los Angeles in the amount of $7000. *Id.* ¶ 15.

On June 27, 2016, and IJ granted Petitioner deferral of removal to Mexico under CAT. *Id.* ¶ 16.

On December 17, 2025, Immigration and Customs Enforcement (ICE) officers from the Los Angeles Field Office (LAFO) Enforcement and Removal Operations (ERO) assigned to the Los Angeles Non-Detained Unit (NDU), encountered Petitioner during a scheduled interview. Deportation Officers (DO) conducted records check of DHS, BIA and 9th Circuit databases and found no stay of removal in place. *Id.* ¶ 17.

On December 17, 2025, ERO served Petitioner with a Notice of Revocation of Release. This notice was signed by a Supervisory Detention and Deportation Officer (SDDO), a delegated authority to revoke under 8 CFR, Section 241.4(c)(4), which states in part that: "All references to the Executive Associate Commissioner, the Director of the Detention and Removal Field Office, and the district director in this section shall be deemed to include any person or persons (including a committee) designated in writing by the Executive Associate Commissioner, the Director of the Detention and Removal Field Office, or the district director to exercise powers under this section." *Id.* ¶ 18.

The Notice of Revocation of Release also advised Petitioner that he must show that he is making reasonable efforts to comply with the order of removal and that he is cooperating with ICE's efforts to remove him by taking whatever actions ICE requests to effectuate his removal. The Notice also advised him that any willful failure or refusal on his part to make timely application in good faith for travel or other documents necessary for his departure may subject him to criminal prosecution under 8 U.S.C. § 1253(a).

Attached hereto as Exhibit A is a true and correct copy of the Notice of Revocation of Release. *Id.* ¶ 19.

ICE considers the Petitioner a priority for removal based on his criminal and immigration history and intends to remove him to a third country. *Id.* ¶ 20.

III. STATUTORY BACKGROUND

Detention or release of a noncitizen is authorized "pending a decision on whether the alien is to be removed from the United States." *See* 8 U.S.C. § 1226(a). By its plain text, 8 U.S.C. § 1226(a) applies only before the IJ has decided on removal. *Id*. Once an IJ enters a removal order and it becomes administratively final – as is the case here - detention authority shifts away from 8 U.S.C. § 1226(a). *See* 8 U.S.C. § 1231(a)(6). Immigration and Nationality Act ("INA") § 241(a) governs the detention of aliens subject to a final order of removal. *See* INA § 241(a). DHS "shall detain" an alien subject to a final order of removal during a 90-day "removal period." *Id.*

IV. ARGUMENT

A. Petitioner's Detention Is Authorized by 8 U.S.C. 1231(a)(6)

The INA requires detention of removable aliens during a 90-day removal period, 8 U.S.C. § 1231(a)(1), and permits continued detention under § 1231(a)(6), but only for the time "reasonably necessary" to effect removal, because indefinite detention raises Fifth Amendment Due Process concerns. *Zadvydas v. Davis*, 533 U.S. 678, 689–90 (2001). The presumptively reasonable period for removal is six months. *Id.* at 701. After that period, "if the alien 'provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,' the Government must either rebut that showing or release the alien." *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (quoting *Zadvydas*, 533 U.S. at 689–701). Pre-final removal order detention under 8 U.S.C. § 1226(a) and periods during which a noncitizen is not in DHS custody do not count toward the *Zadvydas* calculation. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Here, Petitioner's removal order became administratively final on June 27, 2016.

Petition ¶ 29. Petitioner was first detained by DHS, pre-final order of removal, on January 20, 2010. Exh. 3 ¶ 7. DHS released the Petitioner from custody on bond on February 8, 2010. *Id*. On September 18, 2012, DHS re-detained Petitioner, pre-final order of removal, at the Ventura County Jail after yet another criminal arrest. *Id* ¶ 14. DHS released the Petitioner from custody on bond on October 18, 2012. *Id* ¶ 15. DHS most recently re-detained Petitioner, post-removal order, on December 17, 2025. *Id* ¶ 17-18. Petitioner remains detained. *Id*.

Even assuming arguendo that the Court were to aggregate all periods of DHS custody – including Petitioner's pre-final order of removal detention – the total amount of DHS detention is approximately ninety (90) days, well short of the six-month (180-day) *Zadvydas* threshold. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Accordingly, under any calculation, Petitioner cannot establish a presumptively unreasonable period of detention.

Since Petitioner has been detained for less than six months, he has failed to show that *Zadvydas* requires his release. *See Pelich v. I.N.S.*, 329 F.3d 1057, 1059 (9th Cir. 2003) (noting that "*Zadvydas* places the burden on the alien" to make the requisite showing). Petitioner asserts that he must be immediately released. Petition at 12. But the Supreme Court was clear in *Zadvydas* that there is no such "automatic release" at six months. Instead, a non-citizen with a final removal order "may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Moreover, even beyond six months, under *Zadvydas* detention is still justified unless there is no reasonable likelihood of removal in the reasonably foreseeable future.

B. Removal to Alternative Third Party Countries is Lawful

By law, the government may remove non-citizens with final removal orders to any "country whose government will accept the alien into that country" when removal to their home nation would be "impracticable, inadvisable, or impossible." 8 U.S.C. §§1231(b)(1)(C)(iv), (2)(E)(vii). A grant of deferral of removal under CAT bars removal *only* to the country where torture is likely and does no vacate the underlying removal order, restrict DHS's statutory authority to effectuate removal to a third country, or require DHS to reopen immigration proceedings before doing so. 8 C.F.R. § 1208.17(a). To the contrary, DHS retains discretion under 8 C.F.R. § 241.15 to effectuate removal to any country authorized by statute once an order is final.

Petitioner does not even contend that his removal is not reasonably foreseeable. Petition at 1-14. In fact, Petitioner affirmatively states that he faces "imminent removal to a third country" from the United States. *Id.* at 2. Petitioner's allegation of "imminent" removal confirms that removal is reasonably foreseeable, defeating any claim of indefinite detention under *Zadvydas* and rendering his demand that DHS first reopen proceedings legally unfounded. In short, Petitioner cannot simultaneously claim imminent removal and argue DHS lacks authority to carry it out. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Additionally, Petitioner does not establish that his case is radically different than other third country removals. Here, the government is attempting to remove Petitioner to a third country, following the grant of deferral of removal under CAT to his home nation of Mexico. Exh. 3 ¶ 20. The government is actively pursuing a third country removal. *Id.*

Petitioner has not proven that he is stuck in unremovable limbo. Nor is he. His removal to third countries is not barred. And he has not established prolonged government inaction; to the contrary, he has provided evidence himself that the government is seeking third country removal. Petition, ¶ 20. Understanding that Petitioner may object to third countries that the government might identify, the delay inherent in the extended notice and objection process does not itself establish indefiniteness under the *Zadvydas* criteria.

Even if the Court were to accept that Petitioner had met his initial burden to show that his removal is not significantly likely in the reasonably foreseeable future, Respondents have rebutted that showing by confirming that the government is seeking third counry removal. Exh. 3 ¶; *see also Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008) (cleaned up) (distinguishing between detention of uncertain duration where removal is possible and detention where removal is not feasible due to institutional barriers such as a lack of repatriation agreement with the country of removal); *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008) (providing as examples of "no significant likelihood of removal" where the country of removal refuses to accept the petitioner or the removal is barred by U.S. law).

C. The Petition Fails to Plead Any Factual Basis for Granting Relief

Federal habeas petitioners are subject to a higher pleading standard than Fed. R. Civ. P. Rule 8 and must make specific factual allegations. *See* Rules Governing Section 2254 Cases, Rule 2(c)(1)-(2) (federal habeas petitions must "specify all the grounds for relief," and "state the facts supporting each ground"); *see also Mayle v. Felix*, 545 U.S. 644, 655 (2005) (Fed. R. Civ. P. 8(a) requires only "fair notice" whereas Habeas Rule 2(c) is "more demanding" and that federal habeas petitions are "expected to state facts that point to a real possibility of constitutional error") (citations omitted); *Jones v. Gomez*, 66 F.3d 199, 204-05 (9th Cir. 1995) (conclusory allegations unsupported by a statement of specific facts do not warrant habeas relief), cert, denied, 517 U.S. 1143 (1996); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (allegations that are vague, conclusory, or unsupported by a statement of specific facts, are insufficient to warrant relief and subject to summary dismissal). Petitioner bears the burden of proving that he is being held contrary to law by a preponderance of the evidence. *See Lorentsen v. Hood*, 223 F.3d 950, 954 (9th Cir. 2000).

Here, the Petition is conclusory and vague, and unsupported by a statement of specific facts. The Petition does not meet the basic pleading requirements for federal habeas petitions, and it is insufficient to justify relief.

1. <u>The Petition's Fifth Amendment Allegations Are Insufficient</u>

As to purported Fifth Amendment claims, the Petition simply states that Respondents re-detained Petitioner "with no notice or reasoning". Petition, ¶ 36. Petitioner's claim that he was detained "with no notice" is not true because he was provided with a Notice of Revocation of Release at the time of his re-detention that stated the reasons for his re-detention. Exh. 1. Moreover, there are no specific factual allegations sufficient to establish that his detention was unlawful or that he will not be able to object to a potential third country in the future. *Id.* ¶ 56.

Petitioner asserts, without evidence, that DHS violates Due Process because DHS plans to remove him to a third country "without affording him the right to present evidence and testimony to establish whether or not his life or freedom would be threatened due to his race, religion, nationality, membership in a particular social group or political opinion, violates his rights under INA §241(b)(3)(C) and her rights to due process under the 5th Amendment to the Constitution, regulations notwithstanding." *Id.* Petitioner cannot support his habeas claim by speculating about some indefinite point in the future.

Article III requires a concrete, actual or imminent injury; mere speculation about possible future injury is insufficient. *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (making plain that plaintiff must show an injury or threat of injury that is "real and immediate," not "conjectural" or "hypothetical"); *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) ("Each of these cases demonstrates what we have said many times before and reiterate today: Allegations of possible future injury do not satisfy the requirements of Art. III. A threatened injury must be 'certainly impending' to constitute injury in fact."). Relatedly, the mere "possibility" of irreparable harm is insufficient to sustain his burden here. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). Instead, he must show "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). He cannot do so.

After all, "[i]ssuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22. "Absent a sufficient likelihood that [he] will again be wronged *in a similar way*," *Lyons*, 461 U.S. at 111 (emphasis added), Petitioner cannot establish standing to seek an injunction much less irreparable harm. *See, e.g.*, *Hai Chieu Dam v. Timothy Robbins*, 2:25-cv-08133-JWH-MAA, Docket No. 7 at 6 (C.D. Cal. Sept. 16, 2025) (declining to address whether petitioner was "in custody" because petition for an injunction barring re-detainment was not ripe). Recently, where a petitioner argued that "his future detention is not speculative because the call-in for a physical appointment is a typical ruse to re-detain noncitizens on supervised release, and that he still faces a risk of unlawful future detention," the court found that he "fail[ed] to sufficiently allege an injury or threat of injury because the event giving rise to the Petition has passed and Petitioner's alleged threat of future injury is too speculative and unripe" and relatedly that he "fail[ed] to present sufficient allegations or evidence of the threat of future injury to confer Article III standing." *J.P. v. Santacruz*, No. 8:25-CV-01640-FWS-JC, 2025 WL 2998305, at *4 (C.D. Cal. Oct. 24, 2025). Because DHS is still actively in the process of securing third country removal, Petitioner cannot rely only on speculative future harm.

V. CONCLUSION

Respondents respectfully request that the Court deny the habeas petition and dismiss the action.

Dated: January 14, 2026

Respectfully submitted,

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L.R. 11-6.1 Certification

Counsel of record for Federal Respondents certifies that this brief contains 3,500 words, which complies with the word limit of L.R. 11-6.1.

Dated: January 14, 2026

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