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

MUHAMMAD AMIR NAZIR,

Petitioner,

v.

WARDEN, Otay Mesa Detention Center,
et al.,

Respondents.

Case No. 26-cv-1378-RBM-DEB

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

I. INTRODUCTION

Respondents request the Court deny this petition on the ground that 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. Because Petitioner has been in custody for about 76 days since his removal order became final on December 25, 2025, Respondents respectfully ask the Court to deny this habeas petition.

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II. BACKGROUND

Petitioner is a native and citizen of Pakistan with legal status in South Africa, who attempted to enter the United States at the San Ysidro Point of Entry, California, on December 25, 2025.¹ Exhibit 1 (I-213). Petitioner did not then have any valid entry documents to enter the United States and had not been admitted or paroled into the United States. He was determined to be inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). A Notice of Order of Expedited Removal issued the same day pursuant to 8 U.S.C. 1225(b)(1). Ex. 2 (Notice of Order of Removal). Immigration and Customs Enforcement's (ICE) placed Petitioner into custody pursuant to 8 U.S.C. § 1231(a).

Petitioner has an administratively final order of removal and remains mandatorily detained under 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

¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from Immigration and Customs Enforcement (ICE) counsel. Other facts have been obtained from ICE counsel.

1 period of post-removal detention constitutes a “presumptively reasonable period of
2 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
3 period unless “there is no significant likelihood of removal in the reasonably foreseeable
4 future.” *Id.*

5 Petitioner filed a habeas petition, arguing that he is entitled to immediate release
6 or a bond hearing because his detention has become unconstitutionally prolonged. *See*
7 ECF No. 1. At the time his petition was filed on March 4, 2026, Petitioner was subject
8 to a final removal order. ICE issued an Order of Removal in compliance with 8 C.F.R.
9 §235.3(b)(7) on December 25, 2025. 8 C.F.R. §235(b)(7)(“Any removal order entered
10 by an examining immigration officer pursuant to section 235(b)(1) of the Act must be
11 reviewed and approved by the appropriate supervisor before the order is considered
12 final.”). Petitioner cannot, and has not, challenged the issuance or execution of the
13 expedited removal order. *See Mendoza-Linares v. Garland*, 51 F.4th 1146, 1153-1160
14 (9th Cir. 2022)(Holding that the Court does not have jurisdiction removal under 8 U.S.C.
15 §1252 over due process challenge to the implementation or operation of an expedited
16 order of removal issued pursuant to 8 U.S.C. §1225(b)(1)).

17 Because Petitioner is now subject to a final, executable order of removal, his
18 detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578
19 (explaining that § 1231(a) “governs the detention, release, and removal of individuals
20 ‘ordered removed’”). That statute requires that Petitioner be detained for 90 days
21 following “[t]he date the order of removal becomes administratively final” while the
22 government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is
23 known as the “removal period.” *Id.* § 1231(a)(1).

24 As previously noted, Petitioner’s removal period began 76 days ago when his
25 removal order became administratively final—“so he is still in the 90-day window of
26 statutorily mandated detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025
27 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s “detention
28 is not merely legal, but required” at this time. *Id.* Because Petitioner must be detained

1 during the current 90-day statutory removal period, he cannot demonstrate that he “is
 2 in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
 3 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
 4 reasonable pending the government’s efforts to effectuate his removal for six months
 5 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that
 6 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest, June
 7 25, 2026. *See id.*

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

19 IV. CONCLUSION

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

22 DATED: March 11, 2026

ADAM GORDON

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24 s/ Michael D. Wallace
 25 MICHAEL D. WALLACE
 26 Assistant United States Attorney
 27 Attorneys for Respondent
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