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

ALIAKSANDRA DANILCHYK,
Petitioner,

v.

MARKWAYNE MULLIN,
Respondent.

Case No.: 3:26-cv-2455-RSH-MMP

RESPONSE TO PETITION

I. INTRODUCTION

This is the second habeas Petition that Petitioner filed in April 2026 to challenge her immigration detention which began on October 5, 2025. Her first Petition¹ was dismissed² because she did not meet her burden of demonstrating that she “is in custody in violation of the Constitution or laws or treaties of the United States.” Her present Petition, which includes just a few additional inconsequential sentences, suffers from the same fundamental defect, and it should be dismissed accordingly.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Belarus who sought admission into the United States at the San Ysidro Port of Entry on October 5, 2025, at a time when she did not

¹ Petition, Case No. 3:26-cv-02230-RSH-DDL, ECF No. 1 (filed April 9, 2026)

² Order Dismissing Petition for Writ of Habeas Corpus, Case No. 3:26-cv-02230-RSH-DDL, ECF No. 2 (filed April 13, 2026)

1 have valid documents to enter or remain in the United States. She was issued a Notice
 2 to Appear on November 6, 2025 and was ordered removed from the United States (to
 3 Belarus) on April 22, 2026 after an immigration judge denied her claims for asylum and
 4 related relief. Petitioner reserved appeal of the removal order, and her appeal, if any, is
 5 due on May 22, 2026.

6 Petitioner's first habeas Petition,³ which she filed on April 9, 2026, was
 7 ultimately dismissed per this Court's Order⁴ dated April 13, 2026. The Court pointed
 8 out that Petitioner "bears the burden of demonstrating that '[sh]e is in custody in
 9 violation of the Constitution or laws or treaties of the United States.'" Order Dismissing
 10 Petition for Writ of Habeas Corpus, Case No. 3:26-cv-02230-RSH-DDL, ECF No. 2
 11 (quoting 28 U.S.C. § 2241(c)(3)). The Court determined that Petitioner failed to meet
 12 that burden and explained its rationale as follows:

13 Petitioner . . . requests her immediate release, but beyond general reference to the
 14 due process clause and the Administrative Procedure Act does not provide a legal
 15 basis for the relief she seeks. Petitioner's allegations do not establish that "[sh]e
 16 is in custody in violation of the Constitution or laws or treaties of the United
 States." 28 U.S.C. § 2241(c)(3).

17 Petitioner then filed the present habeas Petition (ECF No. 1) on April 17, 2026,
 18 seeking the same relief as the first Petition. The only significant change is that the
 19 present Petition includes a single reference to *Zadvydas v. Davis* (see ECF No. 1, pg.
 20 6).

21 **III. ARGUMENT**

22 Petitioner's present habeas Petition is materially indistinguishable from her
 23 previous Petition which was dismissed because she did not meet her burden of
 24 establishing that she is entitled to habeas relief. The only substantive addition is a
 25 cursory reference to *Zadvydas v. Davis*—a decision that addresses prolonged detention
 26

27 ³ Petition, Case No. 3:26-cv-02230-RSH-DDL, ECF No. 1 (filed April 9, 2026)

28 ⁴ Order Dismissing Petition for Writ of Habeas Corpus, Case No. 3:26-cv-02230-RSH-DDL, ECF No. 2

1 after a *final removal order* is entered. *Zadvydas*, however, does not apply here.
2 Petitioner does not allege that her detention is governed by the statutory framework
3 discussed in *Zadvydas*, nor does she allege that her detention has become indefinite in
4 the manner contemplated by *Zadvydas*. Simply mentioning this case, without any
5 supporting factual allegations or legal argument, is insufficient to state a cognizable
6 habeas claim, and it does not cure the issues discussed in the Court's previous Order.⁵
7 Petitioner's mere reference to *Zadvydas* does not cure the pleading deficiencies of her
8 prior filing and her Petition should be dismissed accordingly.

9 **IV. CONCLUSION**

10 For the foregoing reasons, the Petition should be dismissed.

11 DATED: April 29, 2026

Respectfully submitted,

12 ADAM GORDON
13 United States Attorney

14 s/ Allie E. Malone
15 ALLIE E. MALONE
16 Assistant United States Attorney
17 Attorneys for Respondent
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27 ⁵ Order Dismissing Petition for Writ of Habeas Corpus, Case No. 3:26-cv-02230-RSH-
28 DDL, ECF No. 2