

ADAM GORDON
United States Attorney
CAMILLE SAVEDRA
California Bar No. 336490
Assistant U.S. Attorney
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-5084
Email: camille.savedra@usdoj.gov

Attorneys for Respondent

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

MAHMOUD IDRIS,

Petitioner,

v.

WARDEN JEREMY CASEY,

Respondent.

Case No.: 26-cv-02494-JLS-SBC

**RESPONSE IN OPPOSITION TO
HABEAS PETITION**

I. INTRODUCTION

Mahmoud Idris ("Petitioner") has filed a petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner requests the Court to order his immediate release from custody. However, Petitioner's request is not ripe for review. Respondent therefore requests the Court deny the habeas petition.

II. BACKGROUND

Petitioner is a citizen and national of Sudan. *See* Exhibit 1 (Form I-213).¹ Petitioner originally entered the United States on or about October 1, 2025 near the

¹The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel. Other facts have been obtained from ICE counsel.

1 Calexico, California port of entry. *See id.* Petitioner was subsequently issued a Notice
2 to Appear (NTA) under § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA)
3 as an alien present in the United States who has not been admitted or paroled, or who
4 arrived in the United States at any time or place other than designated by the Attorney
5 General. *See* Exhibit 2 (Notice to Appear). Since that time, removal proceedings were
6 initiated against Petitioner, pursuant to 8 U.S.C. § 1229a. Petitioner subsequently filed
7 asylum applications for relief from withholding. *See* Exhibit 3 (Decision and Order of
8 the Immigration Judge). In turn, the Department of Homeland Security (DHS) filed a
9 Motion to Pretermitt (“Motion”) the Petitioner’s applications for relief because
10 Petitioner is subject to the Asylum Cooperative Agreement (ACA) with Uganda. *See*
11 *id.* On January 8, 2026, an Immigration Judge denied Petitioner’s applications for relief,
12 granted the Motion, and ordered Petitioner removed to Uganda. *Id.*

13 On February 7, 2026, the appeal period expired for Petitioner and the government
14 to appeal the removal order to the Board of Immigration Appeals (BIA). *See* Exhibit 3
15 (“Any appeal is due at the Board of Immigration Appeals within (30) calendar days of
16 this decision.”). As such, the removal order became administratively final on that date.
17 Petitioner’s 90-day removal period expired on May 8, 2026. Petitioner remains lawfully
18 detained under 8 U.S.C. § 1231(a) until Immigration and Customs Enforcement (ICE)
19 can obtain a travel document and effectuate Petitioner’s removal to Uganda.

20 III. ARGUMENT

21 A. Petitioner’s Detention is Lawful and He Has Not Established That There 22 is No Significant Likelihood of Removal in the Reasonably Foreseeable 23 Future

24 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
25 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
26 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
27 (2022). The INA provides that an alien ordered removed must be detained for 90 days
28 pending the government’s efforts to secure the alien’s removal through negotiations

1 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
2 detain” the alien during the 90-day removal period under subsection (a)(1)).

3 Section 1231(a)(6) “authorizes further detention if the Government fails to
4 remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
5 Detention authority under this statute, however, is limited to “a period reasonably
6 necessary to bring about the alien’s removal from the United States” and “does not
7 permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month
8 period of post-removal detention constitutes a “presumptively reasonable period of
9 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
10 period unless “there is no significant likelihood of removal in the reasonably foreseeable
11 future.” *Id.*

12 Because Petitioner is now subject to a final, executable order of removal, his
13 detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578
14 (explaining that § 1231(a) “governs the detention, release, and removal of individuals
15 ‘ordered removed’”). That statute requires that Petitioner be detained for 90 days
16 following “[t]he date the order of removal becomes administratively final” while the
17 government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is
18 known as the “removal period.” *Id.* § 1231(a)(1). Here, Petitioner filed a habeas
19 petition, arguing that he is entitled to release, because his detention has become
20 unconstitutionally prolonged. *See* ECF No. 1. At the time his petition was filed on April
21 20, 2026, Petitioner was subject to a final removal order and his 90-day removal period
22 had not yet expired.

23 Petitioner additionally argues there is no significant likelihood of his removal in
24 the nearest foreseeable future. *See* ECF No. 1 at 4-5. However, Petitioner’s removal
25 order became final on February 7, 2026, when Petitioner and the government opted not
26 to appeal the decision of the immigration judge. *See* Exhibit 3; 8 C.F.R. § 1241.1. Under
27 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
28 reasonable pending the government’s efforts to effectuate his removal for six months

1 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. Petitioner has thus
2 been in post-final order detention, under 8 U.S.C. § 1231(a), for *eleven days*, which is
3 well within the six months of post-removal confinement that *Zadvydas* found to be
4 presumptively reasonable. *See Zadvydas*, 533 U.S. at 700–01. This means that
5 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest, August
6 6, 2026. *See id.*

7 To the extent Petitioner asserts that he has been under prolonged custody, almost
8 all of that time was before his removal order became administratively final and would
9 thus not count toward the 90-day removal period that governs his present custody. *See*
10 *Tumasov*, 2025 WL 3171897, at *1 (“Any pre-removal-order custody does not count
11 toward the 90-day removal period, which began once Tumasov’s removal order was
12 administratively final and during which the government shall detain him.”) (simplified,
13 quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8 U.S.C.
14 § 1231(a)(1)(A)).

15 On this record, Petitioner cannot show that there is no significant likelihood of
16 removal in the reasonably foreseeable future, and it would be premature to reach that
17 conclusion before permitting ICE an opportunity to complete its diligent efforts to effect
18 his removal. “[E]vidence of progress, albeit slow progress, in negotiating a petitioner’s
19 repatriation will satisfy *Zadvydas* until the petitioner’s detention grows unreasonably
20 lengthy.” *Kim v. Ashcroft*, Case No. 02cv1524-J (LAB) slip op., at 7 (S.D. Cal. June 2,
21 2003) (finding that petitioner’s one-year and four-month detention does not violate
22 *Zadvydas* given respondent’s production of evidence showing governments’
23 negotiations are in progress and there is reason to believe that removal is likely in the
24 foreseeable future) [Exs. 26-34.]; *see also Sereke v. DHS*, Case No. 19cv1250 WQH
25 AGS, ECF No. 5 at *5 (S.D. Cal. Aug. 15, 2019) (“the record at this stage in the
26 litigation does not support a finding that there is no significant likelihood of Petitioner’s
27 removal in the reasonably foreseeable future.”) [Exs. 35-39.]; *Marquez v. Wolf*, Case
28 No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3 (denying petition because

1 “Respondents have set forth evidence that demonstrates progress and the reasons for
2 the delay in Petitioner’s removal”).

3 Finally, to the extent Petitioner is challenging ICE’s decision to detain him for
4 the purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
5 (“Except as provided in this section and *notwithstanding any other provision of law*
6 *(statutory or nonstatutory), including section 2241 of Title 28, or any other habeas*
7 *corpus provision, . . . no court shall have jurisdiction to hear any cause or claim by or*
8 *on behalf of any alien arising from the decision or action by the Attorney General to*
9 *commence proceedings, adjudicate cases, or execute removal orders against any alien*
10 *under this chapter.*”) (emphasis added); *see also Reno v. Am.-Arab Anti-Discrimination*
11 *Comm.*, 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus
12 special attention upon, and make special provision for, judicial review of the Attorney
13 General’s discrete acts of commencing proceedings, adjudicating cases, and executing
14 removal orders—which represent the initiation or prosecution of various stages in the
15 deportation process.”) (simplified); *Limpin v. United States*, 828 Fed. App’x 429 (9th
16 Cir. 2020) (holding that the district court properly dismissed under 8 U.S.C. § 1252(g)
17 “because claims stemming from the decision to arrest and detain an alien at the
18 commencement of removal proceedings are not within any court’s jurisdiction”).

19 IV. CONCLUSION

20 For the reasons stated herein, Respondent respectfully requests that the Court
21 deny the relief requested in the petition.

22 DATED: May 19, 2026

ADAM GORDON
United States Attorney

24 s/ Camille Savedra
25 CAMILLE SAVEDRA
26 Assistant United States Attorney
27 Attorneys for Respondent
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