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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
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12 GOSMAN LAPORTE,

13 Petitioner,

14 v.

15 WARDEN OF IMPERIAL REGION
16 DETENTION; et al.,

17 Respondents.
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Case No.: 26-cv-2678-TWR-AHG

RESPONSE TO PETITION

21 Respondents request the Court deny this petition on the ground that post-removal
22 order detention is statutorily mandated under 8 U.S.C. § 1231(a).

23 On March 18, 2026, an Immigration Judge (IJ) denied Petitioner's applications for
24 relief from removal and ordered Petitioner removed. Exhibit 1 (IJ Removal Order).
25 Petitioner reserved appeal of the IJ's order but did not file a timely and sufficient appeal to
26 the Board of Immigration Appeals. Accordingly, Petitioner is subject to a final order of
27 removal and detained pursuant to 8 U.S.C. § 1231(a). 8 C.F.R. § 1241.1(c).
28

1 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8 U.S.C.
2 § 1231(a), authorizes the detention of noncitizens who have been ordered removed from the
3 United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575 (2022). The INA provides
4 that an alien ordered removed must be detained for 90 days pending the government’s
5 efforts to secure the alien’s removal through negotiations with foreign governments. *See* 8
6 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien during the 90-day
7 removal period under subsection (a)(1)).

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

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

23 Petitioner “is still in the 90-day window of statutorily mandated detention.” *Tumasov*
24 *v. Doe I*, No. 25-cv-2704-AGS-JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025).
25 “In other words,” Petitioner’s “detention is not merely legal, but required” at this time. *Id.*
26 Because Petitioner must be detained during the current 90-day statutory removal period, he
27 cannot demonstrate that he “is in custody in violation” of the law. *See* 28 U.S.C.

1 § 2241(c)(3). Moreover, under § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order
2 detention is presumptively reasonable pending the government’s efforts to effectuate his
3 removal for six months following the final order of removal. *See Zadvydas*, 533 U.S. at 701.

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

12 For the foregoing reasons, the Court should deny Petitioner’s request for relief.
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14 DATED: May 4, 2026

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