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

ANGEL DIDIER DEAGUEROS MOTA,

Petitioner,

v.

TODD BLANCHE, et. al,

Respondents.

Case No.: 26-CV-2830-RBM-MMP

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

I. INTRODUCTION

This Court previously found that Petitioner was subject to mandatory detention under 8 U.S.C. § 1231. *See Deagueros Mota v. Blanche*, et. al, No. 3:26-CV-1254-RBM-MSB, ECF No. 9. Although Petitioner alleges that the conviction which led to his removal order has been vacated, the removal order itself remains in place. Thus the only issue before the Court is whether there are obstacles to removal causing detention to be prolonged and indefinite under *Zavydas v. Davis*, 533 U.S. 678 (2001).

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II. FACTUAL AND PROCEDURAL BACKGROUND

Respondents incorporate by reference the factual and procedural background from its previous filings in Case No. 3:26-CV-1254-RBM-MSB, ECF Nos. 4 and 7 and provide the following additional information.

Petitioner's removal proceedings which led to his final order of removal were initiated with a Notice to Appear (NTA) issued on October 21, 2004. Exhibit 1. The NTA charged Petitioner with being an alien present in the United States without being admitted or paroled, and thus subject to removal under section 212(a)(6)(A)(i) of the Immigration and Nationality Act. At this time, Petitioner has not filed a motion to reopen the 2005 removal order. Petitioner remains mandatorily detained under 8 U.S.C. § 1231.

II. ARGUMENT

A. Petitioner is mandatorily detained under 8 U.S.C. § 1231.

This Court previously found that Petitioner is subject to mandatory detention under § 1231. At this time, the removal order underlying Petitioner's expedited removal proceedings is still valid. Petitioner has not moved to reopen those proceedings.

B. Petitioner's detention is not unconstitutionally prolonged.

Title 8, U.S.C. § 1231, provides for mandatory detention of noncitizens with final removal orders, including aliens subject to reinstatement of removal and those in withholding-only proceedings. The statute directs a final order of removal to be carried out within the ninety-day period after the removal order becomes final, often referred to as the "removal period." 8 U.S.C. § 1231. It further requires that people subject to final orders of removal be detained during the 90-day removal period. *Id.*

In *Zadvydas v. Davis*, the Supreme Court reviewed whether a noncitizen can be detained indefinitely beyond the 90-day removal period. Holding that detention of noncitizens with final orders of removal should be limited to the amount of time reasonably necessary to execute the removal order, the Court held that six months is a "presumptively reasonable period" of detention. After six months, if an individual

1 provides good reason to believe that there is no significant likelihood that they will be
2 removed in the reasonably foreseeable future, the government must rebut that showing
3 to continue detention. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

4 Notably, the government was unable to remove the *Zadvydas* petitioners within
5 the normal 90-day removal period because it could not identify any countries willing to
6 accept them, *id.* at 684–86, leaving the petitioners in what the Supreme Court later
7 characterized as a “removable-but-unremovable limbo.” *Jama v. Immigr. & Customs*
8 *Enft*, 543 U.S. 335, 347 (2005). With nowhere to send them, the government simply
9 continued to hold the petitioners in detention, with no plans to release them. *Zadvydas*,
10 533 U.S. at 684–86. This rendered the petitioners’ detention “potentially permanent.”
11 *Id.* at 691. And it was that specific circumstance -- the possibility of “indefinite and
12 potentially permanent” civil confinement, *id.* at 696 -- that led the Court to read an
13 implicit reasonable-time limitation into § 1231.

14 Here, in contrast to the affected parties in *Zadvydas*, Petitioner cannot show he
15 faces an “indefinite and potentially permanent” detention. Rather, he is being detained
16 pending an appeal of reinstatement of his 2005 removal order. These proceedings are
17 finite, as they will continue only for such time as required for the Ninth Circuit to review
18 the decision to reinstate the 2005 order. The mere fact that this appeal is pending,
19 however, should not favor granting bond or release. *See Doe v. Andrews*, No. 1:25-cv-
20 00333-JLT-HBK (HC), 2025 WL 3280777, at *11 (E.D. Cal. Nov. 25, 2025) (“While
21 Petitioner certainly has the right to pursue all available avenues to combat his removal,
22 post-*Jennings*, he does not have the right to parlay the resulting delay into a bond
23 hearing.”) (cleaned up) *see also Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir.
24 2008) (denying habeas relief when “two of [petitioner’s] three years of federal custody
25 have passed while he has been awaiting” judicial review because, “although his removal
26 has certainly been delayed by his pursuit of judicial review of his administratively final
27 removal order, he is not stuck in a ‘removable-but-not removable limbo,’ as the
28 petitioners in *Zadvydas* were[.]”)

1 Further, Petitioner's arguments regarding a change in circumstances are
2 insufficient. Petitioner's 2005 removal order still stands, and no motion to reopen has
3 been filed at this time.

4 Because these proceedings have a definite ending point, Petitioner's ongoing
5 proceedings do not present the same risk of "indefinite and potentially permanent"
6 detention at issue in *Zadvydas*.

7 III. CONCLUSION

8 For the reasons stated herein, Respondents respectfully request that the Court
9 deny the petition.

10 Dated: May 11, 2026

Respectfully submitted,

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