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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
11

12 JESUS SANTANA PEREZ,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN; et al.,

16 Respondents.
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Case No.: 26-cv-3544-TWR-VET

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

21 On June 15, 2026, Petitioner filed a habeas petition under 28 U.S.C. § 2241. ECF No.
22 1. The Court then issued an order requiring Respondents to show cause why Petitioner
23 should not be granted an individualized bond hearing before an immigration judge under 8
24 U.S.C. § 1226(a). ECF No. 2. Petitioner is subject to a final order of removal and his
25 detention is mandatory under 8 U.S.C. § 1231(a). Respondents are currently scheduling a
26 removal flight for Petitioner's removal and anticipate effectuating Petitioner's removal to
27 Mexico within the next seven days. Respondents therefore respectfully request that the
28 Court deny the habeas petition.

1 Petitioner is a native and citizen of Mexico. On May 21, 2026, Petitioner was
2 transferred from criminal custody to ICE custody pursuant to an honored immigration
3 detainer. On May 22, 2026, Petitioner was served with a Notice of Intent to Issue a Final
4 Administrative Removal Order pursuant to 8 U.S.C. § 1228. On June 10, 2026, a Final
5 Administrative Removal Order was issued for Petitioner's removal. Petitioner did not
6 submit any documents to DHS challenging his removability. Respondents are currently
7 scheduling a removal flight for Petitioner's removal and anticipate effectuating Petitioner's
8 removal to Mexico within the next seven days.

9 An alien ordered removed must be detained for ninety (90) days pending the
10 government's efforts to secure the alien's removal through negotiations with foreign
11 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien
12 during the 90-day removal period). The statute "limits an alien's post-removal detention to
13 a period reasonably necessary to bring about the alien's removal from the United States"
14 and does not permit "indefinite detention." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
15 The Supreme Court has held that a six-month period of post-removal detention constitutes
16 a "presumptively reasonable period of detention." *Id.* at 683. Release is not mandated after
17 the expiration of the six-month period unless "there is no significant likelihood of removal
18 in the reasonably foreseeable future." *Id.* at 701.

19 In *Zadvydas*, the Supreme Court held: "[T]he habeas court must ask whether the
20 detention in question exceeds a period reasonably necessary to secure removal. It should
21 measure reasonableness primarily in terms of the statute's basic purpose, namely, *assuring*
22 *the alien's presence at the moment of removal.*" *Id.* at 699 (emphasis added). In so holding,
23 the Court recognized that detention is presumptively reasonable pending efforts to obtain
24 travel documents, because the noncitizen's assistance is needed to obtain the travel
25 documents, and a noncitizen who is subject to an imminent, executable warrant of removal
26 becomes a significant flight risk, especially if he or she is made aware that removal is
27 imminent.

28 The Supreme Court also held that the detention could exceed six months: "This 6-

1 month presumption, of course, does not mean that every alien not removed must be released
2 after six months. To the contrary, an alien may be held in confinement until it has been
3 determined that there is no significant likelihood of removal in the reasonably foreseeable
4 future.” *Id.* at 701. “After this 6-month period, once the alien provides good reason to
5 believe that there is no significant likelihood of removal in the reasonably foreseeable
6 future, the Government must respond with evidence sufficient to rebut that showing and
7 that the noncitizen has the initial burden of proving that removal is not significantly likely.”
8 *Id.*

9 Here, the petition should be denied as unripe. Petitioner’s removal order was issued
10 on June 10, 2026. Petitioner “is still in the 90-day window of statutorily mandated
11 detention.” *Tumasov v. Doe 1*, No. 25-cv-2704-AGS-JLB, 2025 WL 3171897, at *1 (S.D.
12 Cal. Nov. 13, 2025). “In other words,” Petitioner’s “detention is not merely legal, but
13 required” at this time. *Id.* Because Petitioner must be detained during the current 90-day
14 statutory removal period, he cannot demonstrate that he “is in custody in violation” of the
15 law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under § 1231(a)(6) and *Zadvydass*, Petitioner’s
16 post-final order detention is presumptively reasonable pending the government’s efforts to
17 effectuate his removal for six months following the final order of removal. *See Zadvydass*,
18 533 U.S. at 701. Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*,
19 2025 WL 3171897, at *1 (denying petitioner habeas relief because “he is still in the 90-day
20 window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-3441-JES-
21 MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also Khalilova v. Smith*,
22 No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025) (“[B]ecause
23 the six-month period of presumptive reasonableness [under *Zadvvdass*] has not passed,
24 Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et al.*, No. 25-CV-03256-BAS-
25 VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

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1 For the reasons stated above, Respondents respectfully request that the Court deny
2 the requests for relief and dismiss the petition.

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4 DATED: June 22, 2026

Respectfully submitted,

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