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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

WILBEL FRANCSHESCO CAMACHO-DIAZ, Petitioner, v. MARKWAYNE MULLIN, et. al., Respondents.	Case No. 26-cv-03885-JAO-SBC **RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION**

I. INTRODUCTION

Petitioner requests this Court to order Immigration and Customs Enforcement (ICE) to release him from custody because, he alleges, his detention is unlawful and prolonged. He was ordered removed from the United States on January 12, 2026, and his removal order became final on February 12, 2026. Petitioner is subject to a final, executable order of removal, which means that he has no right to remain in the United States. Under 8 U.S.C. § 1231(a), ICE has authority to detain a noncitizen for 90 days to execute removal, and the Supreme Court has held that detention is presumptively reasonable for six months. Here, Petitioner was detained on April 4, 2026, meaning that he has been in post-final order detention for a little over 3 months. The presumptively reasonable six-month period of post-final order detention has not ended. Petitioner has

not provided good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. As such, the Court should deny the petition.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Venezuela, who entered the U.S. without inspection on or about October 3, 2023. *See* Exhibit 1 (Notice to Appear). [1] Petitioner was encountered by U.S. Border Patrol agents, and claimed fear of removal to his home country. *See* Exhibit 2 (I-213 dated October 4, 2023). Petitioner was released on his own recognizance and issued a Notice to Appear (NTA), placing him in removal proceedings. *See* Exhibit 1; *see also* Exhibit 2. On January 12, 2026, an immigration judge (IJ) granted the Department of Homeland Security's Motion to Pretermit and ordered Petitioner removed to Uganda or in the alternative Ecuador pursuant to an Asylum Cooperation Agreement (ACA). *See* Exhibit 3 (IJ Order granting Motion to Pretermit); *See* Exhibit 4 (IJ Removal Order). Petitioner reserved appeal of his removal order, and he had until February 11, 2026, to file an appeal of his removal order to the Board of Immigration Appeals (BIA). *See id.* Petitioner failed to file an appeal of his removal order to the BIA, making his removal order administratively final on February 12, 2026. *See* Exhibit 5 (EOIR Electronic Courts & Appeals System); 8 CFR § 1241.1(c)(An order of removal made by the immigration judge shall become final upon expiration of the time allotted for an appeal if the respondent does not file an appeal within that time).

On April 4, 2026, ICE detained Petitioner to execute his removal order. *See* Exhibit 6 (I-213); *See also* Exhibit 7 (I-200). Petitioner has been in post-order detention for a little over three months. *See id.*

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[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

III. ARGUMENT

A. Petitioner's Claim Fails Because the Government Has Rebutted Any Showing that There is No Significant Likelihood of Removal in the Reasonably Foreseeable Future.

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

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

As of today, Petitioner has been in post-final order detention for a total of three months and eleven days. As Petitioner has been in post-final order detention for less than six months, his detention is presumptively reasonable under *Zadvydas*.[2] *See* 533

[2] Because *Zadvydas* focused on detention and answered the question of what length of detention pending removal efforts would run afoul the Constitution, the Court should reject Petitioner's position that the presumptively reasonable period of detention under *Zadvydas* could run during a time that Petitioner was not actually in detention. *See* 533 U.S. at 701 (noting that "Congress previously doubted the constitutionality of *detention* for more than six months" and thereafter recognizing that period of detention to be presumptively reasonable) (emphasis added); *accord Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). ("Supreme Court read the statute to permit a

U.S. at 701. The burden is thus on Petitioner to show a "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. The record does not support a finding that "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

As it stands, it would be premature to conclude that there is no significant likelihood of removal in the reasonably foreseeable future before permitting ICE an opportunity to complete the diligent efforts it has taken to effect Petitioner's removal. ICE has taken the exact steps it needs to take to ensure their removal efforts bear fruit. Evidence of progress, even slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy. *See Kim v. Ashcroft*, Case No. 02cv1524-J (LAB), ECF No. 25 at 8 (S.D. Cal. June 2, 2003) (finding that petitioner's one year and four-month detention does not violate *Zadvydas* given respondent's production of evidence showing governments' negotiations are in progress and there is reason to believe that removal is likely in the foreseeable future); *see Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug. 15, 2019) ("the record at this stage in the litigation does not support a finding that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future."); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3 (denying petition because "Respondents have set forth evidence that demonstrates progress and the reasons for the delay in Petitioner's removal"). Given ICE's diligent the circumstances of Petitioner's case at this point do not support a finding that his case would be stuck in limbo such that his detention would be unreasonably lengthy—let alone indefinite.

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'presumptively reasonable' *detention* period of six months after a final order of removal. . .") (emphasis added).

IV. CONCLUSION

For the reasons stated herein, Respondents respectfully request the Court to deny the habeas petition.

DATED: July 14, 2026

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s/ *Antonio Estrada*
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