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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDUARDO ALVARADO REYES, Petitioner, v. WARDEN, CALIFORNIA CITY IMMIGRATION PROCESSING CENTER ET AL., Respondents.	CASE NO. 1:26-CV-05222-KES-HBK RESPONSE TO PETITION

I. INTRODUCTION

Petitioner Eduardo Alvarado Reyes seeks release from immigration detention under 28 U.S.C. § 2241. He does not challenge his final order of removal. Instead, he challenges his current detention under 8 U.S.C. § 1231. The governing statute, regulations, and controlling Ninth Circuit precedents show that detention is lawful and reasonable in this posture.

First, § 1231 requires detention during the removal period and authorizes continued detention afterwards when, among other things, the noncitizen is unlikely to comply with the removal order. 8 U.S.C. § 1231(a)(2), (a)(6). Second, where the noncitizen refuses to cooperate with removal, § 1231(a)(1)(C) extends the removal period and permits continued custody. 8 U.S.C. § 1231(a)(1)(C). Third, under *Zadvydas v. Davis*, detention remains "presumptively reasonable" for six months and may continue beyond that window unless the

noncitizen shows "no significant likelihood of removal in the reasonably foreseeable future"—a showing that cannot be met when the noncitizen's own non-cooperation is the obstacle. 533 U.S. 678, 701 (2001).

The record reflects: (1) a final removal order since 2003; (2) DHS custody since October 2025; (3) the record of refusals includes Reyes's December 15, 2025, June 24, 2026, July 1, 2026, refusals to proceed with removal to Mexico; (4) notices of intended removal to Mexico. In these circumstances, detention remains authorized under § 1231 and is constitutional as applied.

II. BACKGROUND

Reyes is a citizen of Cuba whose removal order became administratively final on September 12, 2003. Exh. A at 11. Immigration and Customs Enforcement (ICE) released him on an order of supervision in 2004, after it assessed that removal to Cuba was not reasonably foreseeable. *Id.* at 9.

On October 25, 2025, ICE detained him to execute his removal order. *Id.* at 2.

Once detained, he filed a motion to reopen that an immigration judge (IJ) denied. Exh. B at 1–10. He did not appeal.

He also filed a habeas petition in the Middle District of Florida that remains pending. *Reyes v. Warden, Baker County Detention Center*, (M.D. Fla.). In that case, the district court denied the *Zadvydas* claim and has taken the claim related to revocation of the order of supervision (OSUP) under advisement. Dkt. No. 12; Exh. C.

Since his detention, ICE identified Mexico as a third country willing to accept him for removal. Reyes refused removal on December 15, 2026, June 24, 2026, and July 1, 2026. *Travis Mears* Decl. at 3, Dkt. No. 7.

III. ARGUMENT

A. The first-filed Florida case can resolve the overlapping detention; this later-filed petition should be dismissed without prejudice or stayed.

The first petition and the government's response address the same detention questions at issue here. No. 3:26-cv-00128-JEP-PDB, Dkt. Nos. 1, 10–15. Allowing two cases to

proceed at the same time risks parallel adjudication and conflicting orders.

Dismissal fits Ninth Circuit precedent where the first-filed forum can fully resolve the dispute, and no jurisdiction or timing risk exists. The Ninth Circuit has affirmed dismissal in similar circumstances. *Pacesetter Sys., Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94–95 (9th Cir. 1982). It has favored a stay only to protect a unique statutory-appeal concern and jurisdictional issues absent here. *Alltrade, Inc. v. Uniweld Prods., Inc.*, 946 F.2d 622, 623–25 (9th Cir. 1991). The Supreme Court also endorses "wise judicial administration," and leaves the decision to dismiss to the Court's discretion. *Kerotest Mfg. Co. v. C-O-Two Fire Equip. Co.*, 342 U.S. 180, 183–84 (1952).

The Court should dismiss without prejudice under the first-filed rule. If the Court declines to dismiss the proceedings, it should stay them pending the Florida judgment. A short stay here avoids duplicate briefing, keeps this Court free to address any remaining issues after the first judgment, and prevents a two-track custody regime.

B. Detention is authorized under 8 U.S.C. § 1231.

Under 8 U.S.C. § 1231, DHS must detain a noncitizen during the 90-day removal period that begins when the removal order becomes final, and DHS may continue detention in defined circumstances.

Detention is mandatory during the removal period under Section 1231(a)(2). Detention is discretionary beyond that period under Section 1231(a)(6) when, among other grounds, the decision maker determines the noncitizen is unlikely to comply with the removal order. Separately, Section 1231(a)(1)(C) extends the removal period—and permits continued detention—whenever the noncitizen fails or refuses to make timely, good-faith applications for travel or other documents or otherwise acts to prevent removal. 8 U.S.C. § 1231(a)(1)(C), (a)(2), (a)(6).

The Ninth Circuit applies § 1231(a)(1)(C) as written. In *Pelich v. INS*, the court held that a noncitizen who refuses to cooperate with removal efforts cannot claim unlawful "indefinite" detention; the noncitizen "has the keys to his freedom in his pocket." 329 F.3d 1057, 1060–61 (9th Cir. 2003) (citation modified). In *Lema v. INS*, the Court likewise

concluded that misrepresentations about nationality and refusal to secure travel documents defeat claims that removal is not reasonably foreseeable. 341 F.3d 853, 856–57 (9th Cir. 2003). And in *Diouf v. Mukasey*, the court explained that documented obstruction under § 1231(a)(1)(C) aligns the detention timeline with the noncitizen's conduct and forecloses arguments that DHS exhausted its time while removal was impeded. 542 F.3d 1222, 1230–31 (9th Cir. 2008). Courts have also rejected *Zadvydas* claims where the record shows repeated non-cooperation that extended the removal period. *Medhani v. Noem*, No. 3:26-cv-00594-CAB-JLB, 2026 WL 809914, at *2–*3 (S.D. Cal. Mar. 24, 2026).

The regulations implement the same framework. 8 C.F.R. § 241.4 authorizes continued detention beyond the removal period and sets out custody-review factors, including whether the noncitizen is unlikely to comply with the removal order or poses risk; 8 C.F.R. § 241.13 provides the specialized process for determining whether removal is significantly likely in the reasonably foreseeable future—triggered only after the noncitizen first offers "good reason" to believe removal cannot be effected—and contemplates continued custody while DHS pursues removal (including scenarios where § 1231(a)(1)(C) extends the period for non-cooperation). 8 C.F.R. §§ 241.4, 241.13.

Here, § 1231 authorizes DHS's custody of Reyes. His removal order became administratively final twenty years ago. Exh. A at 11–12. Once detained in 2025, his refusal to cooperate extended the removal period, making detention mandatory under § 1231(a)(2) and permissible afterwards when DHS determined non-compliance with the removal order is likely. 8 U.S.C. § 1231(a)(1)(C), (a)(2), (a)(6).

C. Continued detention is authorized and constitutional where removal is foreseeable and Reyes's non-cooperation extends the removal clock.

The Immigration and Nationality Act (INA) does not reward obstruction. Congress mandated detention during the 90-day removal period and authorized continued detention thereafter to effect removal and ensure compliance with final orders. 8 U.S.C. § 1231(a)(2), (a)(6). *Zadvydas* reads § 1231(a)(6) to permit detention only as long as reasonably

necessary to achieve removal, measured against the statute's purpose: assuring the noncitizen's presence at the moment of removal. 533 U.S. 678, 689–90, 699–701 (2001).

When non-cooperation is the only obstacle, removal remains reasonably foreseeable and detention remains lawful. Ninth Circuit precedent is clear: a detainee who refuses to cooperate "controls the clock" and cannot plausibly claim there is no significant likelihood of removal in the reasonably foreseeable future. *Pelich* 329 F.3d at 1060–61; *Lema*, 341 F.3d at 856–57. *Diouf* confirms detention in this posture is governed by § 1231 and is not "indefinite" where removal remains attainable; the timeline may restart or extend from each documented obstruction under § 1231(a)(1)(C). 542 F.3d 1222, 1228–31 (9th Cir. 2008).

Federal courts have credited DHS's operational pathway for removals to Mexico—including Cuban nationals—supporting foreseeability and undercutting generalized "no pathway" claims where no fear is asserted and DHS is actively coordinating removal. *Navarro*, 2026 WL 816791, at *2; *Sanchez*, 2026 WL 160882, at *3.

Reyes has not met his burden. He has not shown Mexico "would refuse to accept him, or that his removal is barred by our own laws." *Diouf*, 542 F.3d at 1233. Courts deny release when petitioners fail to cooperate with ICE and consular efforts to obtain travel documents. *Jupiter v. McAleenan*, 2020 WL 4919712, at *2 (C.D. Cal. July 10, 2020); *Lema*, 341 F.3d at 856–57; *Pelich*, 329 F.3d at 1060–61. The same principles apply here.

The record shows repeated non-cooperation that both extends the removal period and demonstrates that Reyes is unlikely to comply with the removal order if released. DHS read and served Form I-229A and Form I-294 multiple times and afforded him opportunities to assert fear to Mexico; Reyes refused to sign or depart, and he never asserted fear. *Travis Mears* Decl. at 3, Dkt. No. 7. Section 1231(a)(1)(C) extends the removal period for failure or refusal to cooperate, making detention mandatory during the extended period and permissible afterwards under § 1231(a)(6) where non-compliance is likely. 8 U.S.C. § 1231(a)(1)(C), (a)(2), (a)(6). Courts sustain detention beyond the removal period when non-compliance is documented. *Andemicael v. Noem*, 2026 WL 734522, at *4 (C.D.

Cal. Feb. 12, 2026), *report and recommendation adopted*, 2026 WL 734588 (C.D. Cal. Feb. 20, 2026); *Medhani*, 2026 WL 809914, at *2–*3.

This is the balance *Zadvydas* and § 1231 strike: detention may continue so long as reasonably necessary to accomplish removal; where removal is feasible once the detainee cooperates—and the detainee persistently refuses—continued custody serves the statute's core purpose and remains constitutional. *Zadvydas*, 533 U.S. at 699–701; *Clark v. Martinez*, 543 U.S. 371, 377–78 (2005).

IV. CONCLUSION

For the reasons above, Reyes's detention is authorized under 8 U.S.C. § 1231 and remains reasonable under *Zadvydas*. The record shows a final order and documented obstruction—conduct that places him in failure-to-comply status and extends the removal period under § 1231(a)(1)(C). In the Ninth Circuit, a noncitizen who controls the clock cannot meet *Zadvydas*'s requirements. District courts deny release and injunctions where non-cooperation extends the removal period and removal remains feasible. ICE has operational pathways to remove Reyes to Mexico consistent with § 1231(b)(2), and removal can be scheduled promptly upon cooperation; the only barrier is Reyes's refusal to cooperate. The petition should be denied.

Dated: July 13, 2026

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By: /s/ JONATHAN WILLIAMS
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PROOF OF SERVICE

I certify that I am an employee in the Office of the United States Attorney for the Eastern District of California and a person of such age and discretion to be competent to serve papers; that on July 13, 2026, I prepared these documents for mailing and sent them to a member of the U.S. Attorney support staff to place in the United States Mail at Sacramento, California, to deliver to the addressee, at the place and address stated below, which is the last known address.

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