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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PEDRO VIEL LARIOT,
[redacted]

Petitioner,

v.

WARDEN *et al*,

Respondents.

No. 1:26-CV-05261-JLT-EGC

OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner is lawfully detained pursuant to 8 U.S.C. § 1231(a)(6). Though he claims he is in prolonged detention, Petitioner holds that keys to his release by cooperating in his removal to Mexico. His detention is permissible for two separate reasons: 1) he violated the terms of his supervised release by committing crimes and 2) he can now be removed from the United States so long as he cooperates in his removal as he is required to do. Indeed, his removal order states, "any alien who willfully fails or refuses to depart from the United States pursuant to a final order of removal . . . shall be fined and/or imprisoned for up to ten years." Declaration, Ex. 2.

BACKGROUND

Petitioner is a native and citizen of Cuba. He was admitted to the United States in September 1995 as a refugee. Declaration Ex. 1 at p. 3. His status was adjusted to that of lawful permanent resident in March 1999. Declaration Ex. 1 at p. 3. In October 2002, Petitioner was convicted in the

Connecticut Superior Court of Robbery in the second degree for which he was sentenced to 7 years in prison. Declaration Ex. 1 at p. 3.

Petitioner was ordered removed from the United States on November 15, 2007. Declaration, ¶ 6, Ex. 2 at p. 5. Petitioner waived appeal and his order became final. Because Petitioner was not removed during the removal period, he was placed on supervision. Declaration, ¶ 6, Ex. 2 at p. 5. Per the terms of his supervision, Petitioner was not permitted to be involved in any criminal activities. Declaration, ¶ 7, Ex. 3 at p. 8. He was also placed on notice that if he violated any of the conditions of his supervision, he may be "taken into Service custody." Declaration Ex. 3 at p. 8.

During his time on supervision, Petitioner committed various crimes. See Declaration Ex. 4. In March 2018, Petitioner was convicted of four drug offenses: 1) Possession of Cocaine; Possession of a Controlled Substance; 3) Possession of drug paraphernalia; 4) possession of cannabis. Exhibit A. On March 11, 2019, Petitioner was sentenced to 2 years in prison for aggravated battery deadly weapon after he violated community control. Exhibit B. In January 2022, Petitioner was convicted of misdemeanor battery in violation of Florida State Code 784.03(1). Ex. C. He was also convicted of felony false imprisonment and misdemeanor battery. Ex. D.

Petitioner was placed in immigration detention on January 13, 2026. Declaration, ¶ 9. Cuba has denied Petitioner's repatriation. Declaration, ¶ 10; ECF 1 at 10. ERO ICE can, however, effectuate Petitioner's removal order by removing him to a third country, Mexico. Every week for the past month, Petitioner has been advised of his third country removal to Mexico, and that he will be in failure to comply status if he does not cooperate with his removal to Mexico. Declaration, ¶¶ 12–15. ERO ICE can remove Petitioner to Mexico within three to four days of Petitioner's cooperation.

ARGUMENT

Petitioner was re-detained because his removal can now be effectuated and because he committed various crimes in violation of the conditions of his release. *See* 8 C.F.R. §§241.13(i)(1) (allowing detention for up to six months to effect removal upon violation of supervised release); 241.13(i)(2) (an alien can be detained if DHS determines there is a significant likelihood of removal in the reasonably foreseeable future).

Petitioner would have been removed from the United States already, but for his lack of cooperation with removal efforts. He holds the keys to release in his hands through deportation. Petitioner should not be permitted to flout his removal order and then dictate the terms of his release.

Third country removals are permissible subject to certain safeguards. Here, Petitioner is being given the opportunity to cooperate in his removal. Petitioner has not indicated that he has fear of removal to Mexico nor does he make any such claim in his petition. He simply does not want to leave the United States as ordered.[1] Under *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001), Petitioner bears the burden of demonstrating that his removal is not reasonably likely in the reasonably foreseeable future. Unlike the petitioners in *Zadvydas*, ICE has identified a country that Petitioner can be removed to, but his cooperation is required. It cannot be that he can obstruct the execution of his removal order and then claim that his removal is unlikely because of his obstruction. Indeed, it would defy all logic to allow Petitioner to obstruct his removal and then let him benefit from his obstruction by gaining release from custody.

For these reasons the petition should be denied.

Dated: July 31, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: */s/ Shelley D. Weger*
SHELLEY D. WEGER
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Attorneys for Respondents

[1] If he is not removed to Mexico, pursuit of removal to another third country for which Petitioner's cooperation may not be necessary could be the next step.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers. She also certifies that on July 31, 2026, a copy of the OPPOSITION was served by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee: **Pedro Viel Lariot**
[redacted]
CALIFORNIA CITY (ICE)
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/s/ Shelley D. Weger
SHELLEY D. WEGER