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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FRANKLIN RODRIGUEZ, Petitioner, v. MARKWAYNE MULLIN, *et al.*, Respondents.	Case No.: 26-cv-4107-BAS-DDL **RESPONSE TO PETITION**

On July 17, 2026, Petitioner filed a habeas petition under 28 U.S.C. § 2241. ECF No. 1. Petitioner seeks release based on the contention that there is no significant likelihood of removal in the reasonably foreseeable future under *Zadvydas v. Davis*, 533 U.S. 678 (2001). However, Petitioner is not subject to a removal order. Accordingly, the petition fails to state a sufficient habeas claim, and the petition should be denied.

The Supreme Court has held that "[h]abeas Corpus Rule 2(c) is more demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition must 'specify all the grounds for relief available to the petitioner' and 'state the facts supporting each ground.'" *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules Governing Section

2254 Cases in the United States District Court ("Federal Habeas Rules"); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."). As stated by the Advisory Committee's Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, "notice pleading is not sufficient, for the petition is expected to state facts that point to a real possibility of constitutional error.") (internal quotation marks omitted).

Here, the entire petition is premised on Petitioner's assertion that he, "on information and belief, was ordered removed in 2022." ECF No. 1 at 2. However, Petitioner was not ordered removed in 2022 and is not now subject to a removal order. On December 14, 2022, Petitioner unlawfully entered the United States at or near Marquesas Keys, Florida. *See* Exhibit 1. Petitioner did not then have any valid entry documents to enter the United States. He was determined to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and placed in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1). Exhibit 2 (Notice of Expedited Removal). However, Petitioner was not taken into Immigration and Customs Enforcement (ICE) custody due to a lack of bedspace and was instead released from custody. *See* Exhibit 1. In June 2026, Petitioner was arrested by Miami Dade County police and then transferred to immigration custody pursuant to an immigration detainer. Upon being re-detained, Petitioner's process through the expedited removal process continued and he was interviewed by an asylum officer, pursuant to 8 U.S.C. § 1225(b)(1)(B). After receiving a positive credible fear determination, Petitioner was issued a Notice to Appear (NTA). Exhibit 3. The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. As those proceedings remain ongoing, Petitioner remains detained under 8 U.S.C. § 1225(b).

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Accordingly, as Petitioner is not subject to a final order of removal, the petition fails to state a claim and Respondents respectfully request the Court deny the petition.

DATED: July 24, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney

s/ Erin Dimbleby
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Attorney for Respondents