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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 YOANDYS CHAVEZ CRUZ,

12 Petitioner,

13 v.

14 WARDEN OF THE GOLDEN STATE
15 ANNEX DETENTION FACILITY, et al.,

16 Respondents.
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No. 1:26-cv-05760 JLT EPG (HC)

A-Number: 074-125-848

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN PART,
GRANTING THE PETITION FOR WRIT OF
HABEAS CORPUS, DENYING MOTION
FOR DEFAULT JUDGMENT, DIRECTING
RESPONDENTS TO IMMEDIATELY
RELEASE PETITIONER, AND DIRECTING
CLERK OF COURT TO CLOSE CASE

(Docs. 1, 10, 13)

19 Petitioner, a citizen of Cuba, is proceeding with a petition for writ of habeas corpus
20 pursuant to 28 U.S.C. § 2241. He was admitted to the United States in 1996 and has lived here
21 since, later adjusting his status to legal permanent resident. (Doc. 1, ¶ 2.) In 2015, he was
22 convicted of numerous property crimes, including theft, trespass, and financial transaction card
23 fraud, for which he was sentenced to five years imprisonment. (Doc. 11-1, ¶ 8.) Upon his release
24 in July 2018, he was transferred to ICE custody, removal proceedings were initiated, and an
25 immigration judge ordered him removed to Cuba. (*Id.*, ¶¶ 9–10.) In October 2018, he was
26 released on an Order of Supervision after DHS determined removal to Cuba in the foreseeable
27 future was unlikely. (*Id.*, ¶¶ 11.) Since then, according to Respondents, Petitioner has sustained
28 several other convictions, including for driving under the influence, battery, cruelty to children,

1 and burglary. (*Id.*, ¶ 12.) In addition, in August 2025, Petitioner violated his OSUP after he failed
2 to report at a schedule check in. (*Id.*, ¶ 13.)

3 On January 13, 2026, Petitioner was taken into ICE custody and served with a Notice of
4 Revocation indicating that DHS had determined he could be expeditiously removed from the
5 United States. (*Id.*, ¶ 14.) On February 18 2026, Petitioner was served with a notice of intent to
6 remove him to Mexico, which he refused to sign, along with a Warning for Failure to Depart
7 (Form I -229). (*Id.*, ¶ 15.) On four separate occasions in June and July 2026, he was served with
8 the Form I -229, which he again refused to sign. (*Id.*, ¶¶ 16–17.) On July 23, 2026, he filed the
9 instant petition, seeking immediate release

10 August 27, 2026, the magistrate judge issued findings and recommendations that the
11 petition for writ of habeas corpus be granted, Respondents be directed to immediately release
12 Petitioner, and additionally that Respondents be barred from removing Petitioner to a third
13 country if Petitioner asserts a fear-based claim for relief from removal without first providing him
14 a meaningful opportunity to be heard on his fear-based claim. (Doc. 13.) On August 31, 2026,
15 Respondents filed timely objections. (Doc. 14.)

16 According to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of the
17 case. Having carefully reviewed the entire file, including Respondents’ objections, the Court
18 concludes the findings and recommendations are supported by the record and proper analysis in
19 part.

20 As the magistrate judge points out (Doc. 13 at 5–6), the six-month presumptively
21 reasonable detention period and “the burden shifting framework from *Zadvydas* [*v. Davis*, 533
22 U.S. 678, 683 (2001),] does not apply” to challenges to “ICE’s authority to re-detain [petitioner]
23 after he was issued a final order of removal, detained, and subsequently released on an [order of
24 supervision].” *Yan-Ling X. v. Lyons*, 813 F. Supp. 3d 1157, 1163 (E.D. Cal. 2025). Here,
25 however, it is not entirely clear from the record whether Petitioner was re-detained solely
26 pursuant to 8 C.F.R. § 241.13(i)(2) based upon Respondents’ assertion that there were changed
27 circumstances regarding the chances of Petitioner’s removal, or whether Respondents may also
28 have relied upon the fact that Petitioner violated the terms of his OSUP by committing additional

1 crimes and failing to report for a scheduled check in. Thus, the Court will assume for purposes of
2 this analysis that the “more demanding” *Zadvydas* standard applies. *See Ruiz-Acosta* 2026 WL
3 1846727, at *2 (applying *Zadvydas* standard where it was unclear whether petitioner was
4 previously detained after he was ordered removed).

5 Even so, Petitioner has met his initial burden to show there is good reason to believe there
6 is no significant likelihood of removal in the reasonably foreseeable future. Petitioner argues that
7 his detention has become impermissibly prolonged because he has been detained for longer than
8 the presumptively six months and the government has been unable to obtain travel documents to
9 remove him to Cuba or any other country. (*See* Doc. 1, ¶ 24.) Crucially, Respondents have not
10 produced evidence that Mexico has formally accepted Petitioner. (*Id.*) As several other courts
11 have explained, though DHS may have an informal arrangement with the Mexican government to
12 allow third country removals to Mexico, Mexico only accepts individuals who consent to be
13 removed there. *Ruiz-Acosta v. Cent. Valley Annex*, No. 1:26-CV-04371-DAD-JDP (HC), 2026
14 WL 1846727, at *3 (E.D. Cal. June 26, 2026); *see also Garcia Lopez v. Warden, California City*,
15 No. 1:26-CV-05318-DJC-AC, 2026 WL 2323196, at *3 (E.D. Cal. Aug. 11, 2026); *id.* at *2 n. 1
16 (collecting cases). The record is devoid of any evidence suggesting Mexico will accept Petitioner
17 in the absence of his consent. Therefore, Respondents fail to rebut Petitioner’s showing. Though
18 the Court has concerns about Petitioner’s criminal history, under these circumstances, binding
19 Ninth Circuit authority directs that Petitioner be released subject to appropriate conditions. *See*
20 *Tuan Thai v. Ashcroft*, 366 F.3d 790, 797 (9th Cir. 2004).

21 The magistrate judge also recommended enjoining Respondents from effectuating any
22 third country removal absent additional procedures, including a hearing before an immigration
23 judge if Petitioner asserts fear of going to that Country. The Court finds it is premature to offer
24 such relief. The record does not suggest that Respondents are contemplating removal to any
25 country other than Mexico. Because removal to Mexico is not likely to occur, the Court finds no
26 need for the recommended injunctive relief related to third country removal.

27 Thus, the Court **ORDERS**:

- 28 1. The findings and recommendations issued on August 27, 2026 (Doc. 32) are

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