

District Judge James L. Robart
Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANWAR MOHAMED JEYLANI,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-00343-JLR-BAT

FEDERAL RESPONDENTS'
RETURN MEMORANDUM AND
MOTION TO DISMISS

Noted for Consideration:
April 25, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Anwar Mohamed Jeylani's Petition for Writ of Habeas Corpus. Dkt. No. 1 ("Pet."). Jeylani challenges his approximate 8-month post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. However, Jeylani has failed to demonstrate that his continued detention by U.S. Immigration and Customs Enforcement ("ICE") has become indefinite or unconstitutional. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Dismissal is appropriate here because Jeylani, a noncitizen subject to an administratively final order of removal, is lawfully detained pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. He has not met his burden of demonstrating

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1 good reason to believe that there is no significant likelihood of his removal in the reasonably
2 foreseeable future. *Zadvydas*, 533 U.S. at 701. Jeylani incorrectly asserts that Somalia will not
3 accept his return. Pet., ¶ 9D. Somalia has not denied ICE's application for a travel document.
4 In fact, ICE is actively working to obtain his travel document from Somalia, which is currently
5 accepting individuals removed from the United States.

6 Accordingly, the Government respectfully requests that the Court deny the Petition and
7 grant the Government's Motion to Dismiss. This motion is supported by the pleadings and
8 documents on file in this case, the Declaration of Deportation Officer Robert Andron ("Andron
9 Decl."), and the Declaration of Michelle R. Lambert ("Lambert Decl.") with exhibits attached
10 thereto. The Government does not believe that an evidentiary hearing is necessary.

11 II. FACTUAL AND PROCEDURAL BACKGROUND

12 A. Detention Authorities and Removal Procedures

13 The INA governs the detention and release of noncitizens during and following their
14 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
15 detention periods are generally referred to as "pre-order" (meaning before the entry of a final
16 order of removal) and, relevant here, "post-order" (meaning after the entry of a final order of
17 removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a)
18 (authorizing post-order detention).

19 When a final order of removal has been entered, a noncitizen enters a 90-day "removal
20 period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
21 "shall remove the alien from the United States." *Id.* To ensure a noncitizen's presence for
22 removal and to protect the community from dangerous noncitizens while removal is being
23 effectuated, Congress mandated detention:

1 During the removal period, the [Secretary of Homeland Security]¹ shall detain
2 the alien. Under no circumstance during the removal period shall the [Secretary]
3 release an alien who has been found inadmissible under section 1182(a)(2) or
1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or
1227(a)(4)(B) of this title.

4 8 U.S.C. § 1231(a)(2).

5 Section 1231(a)(6) authorizes DHS to continue detention of noncitizens after the
6 expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not
7 mandate detention and does not place any temporal limit on the length of detention under that
8 provision:

9 An alien ordered removed who is inadmissible under section 1182, removable
10 under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has
11 been determined by the [Secretary of Homeland Security] to be a risk to the
community or unlikely to comply with the order of removal, *may* be detained
beyond the removal period and, if released, shall be subject to the terms of
supervision in paragraph (3).

12
13 8 U.S.C. § 1231(a)(6) (emphasis added).

14 During the removal period, ICE² is charged with attempting to effect removal of a
15 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time
16 limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen
17 may be detained only “for a period reasonably necessary to bring about that [noncitizen’s]
18 removal from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further
19 identified six months as a presumptively reasonable time to bring about a noncitizen’s removal.
20 *Id.*, at 701.

21
22 ¹ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining
noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002),
23 transferred this authority to the Secretary of the Department of Homeland Security (“DHS”). *See also* 6 U.S.C.
§ 251.

24 ² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority
to execute removal orders.

1 In this case, Jeylani is the subject of an administrative order of removal that became
2 final on August 20, 2024. Accordingly, the removal period expired on November 18, 2024. 8
3 U.S.C. § 1231(a)(1)(B)(i). The “presumptively reasonable” six-month period recently expired
4 on February 20, 2025. *Zadvydas*, 533 U.S. at 701. Jeylani commenced this habeas action on
5 February 22, 2025. Dkt. No. 1.

6 **B. Petitioner Jeylani**

7 Jeylani is a native and citizen of Somalia. Pet., ¶ 9D; Andron Decl., ¶ 3; Lambert Decl.,
8 Ex. A (Form I-213). He entered the United States in 2014 as a refugee and became a Lawful
9 Permanent Resident the following year. Andron Decl., ¶¶ 4-5.

10 In March of 2019, Jeylani pled guilty to Attempted Child Molestation in the Second
11 Degree, RCW §§ 9A.28.020, 9A.44.086; Communication with a Minor for Immoral Purposes,
12 RCW § 9.68A.090(2), and Commercial Sexual Abuse of a Minor, RCW § 9.68A.100. Andron
13 Decl., ¶ 6; Lambert Decl., Ex. B (Criminal Records), at R25-13. He was sentenced to serve 90
14 months of confinement. Lambert Decl., Ex. B, at R39. On March 12, 2024, ICE took custody
15 of Jeylani after he was released from state prison. Lambert Decl., Ex. A, at R94; Ex. C
16 (Warrant for Arrest). He was booked into the NWIPC. Andron Decl., ¶ 8; Lambert Decl., Ex.
17 D (Notice of Custody Determination).

18 DHS issued a Notice to Appear (“NTA”) charging Jeylani as removable pursuant to 8
19 U.S.C. § 1227(a)(2)(A)(iii) (two counts), 8 U.S.C. § 1227(a)(2)(A)(i), 8 U.S.C.
20 § 1227(a)(2)(A)(i), and 8 U.S.C. § 1227(a)(2)(E)(i). Andron Decl., ¶ 9; Lambert Decl., Ex. E
21 (NTA). In May of 2024, an Immigration Judge (“IJ”) sustained the NTA’s charges and Somalia
22 was designated as the country of removal. Andron Decl., ¶ 10. On August 20, 2024, an IJ
23 ordered Jeylani be removed to Somalia. *Id.*, ¶ 11; Lambert Decl., Ex. F (Order of the IJ). This
24

1 order became administratively final on the same day because Jeylani waived his right to appeal
2 the order. Lambert Decl., Ex. F, at L4.

3 ICE interviewed Jeylani to obtain information to complete a travel document application
4 in late October of 2024. Andron Decl., ¶ 12. In December, ICE submitted a travel document
5 application to the Somali government. *Id.*, ¶ 13. This application is still pending. *See id.*, ¶ 14.
6 Somalia is accepting individuals for removal from the United States. *Id.*, ¶ 16. ICE anticipates
7 that Jeylani will be removed to Somalia in the reasonably foreseeable future. *Id.*

8 In October of 2024, ICE notified Jeylani that his case would be reviewed for
9 consideration of release if he had not been removed from the United States within the removal
10 period. Lambert Decl., Ex. G (File Custody Review Notice). The notice informed him that he
11 could submit documentation in support of his release. *Id.* Based on this custody review,
12 including review of the information submitted by Jeylani, ICE determined that Jeylani's
13 detention would continue because he had not demonstrated that, if released, he would not pose a
14 danger to the community or a significant flight risk pending his removal. Lambert Decl., Ex. H
15 (Decision to Continue Detention). Earlier this month, ICE notified Jeylani that he would not be
16 released from custody because Somalian travel documents are being issued and there is a
17 significant likelihood that his removal will occur in the reasonably foreseeable future. Lambert
18 Decl., Ex. I (Decision to Continue Detention). In addition, ICE informed him that it was unable
19 to conclude that the factors set forth at 8 C.F.R. § 241.4(e) had been satisfied. *Id.*

20 III. ARGUMENT

21 Jeylani cannot demonstrate that his detention has become "indefinite" or
22 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended
23 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an
24 implicit limitation of post-removal detention "to a period reasonably necessary to bring about

1 that alien's removal from the United States." *Zadvydas*, 533 U.S. at 689. It was further
2 specified that Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, "once removal
3 is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.*,
4 at 699.

5 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
6 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*
7 (stating that "for detention to remain reasonable, as the period of post-removal confinement
8 grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink").
9 However, the Supreme Court determined that it is "presumptively reasonable" for the
10 Government to detain a noncitizen for six months following entry of a final removal order,
11 while it worked to remove the noncitizen from the United States. *Id.*, at 701. Thus, the
12 Supreme Court implicitly recognized that six months is the *earliest* point at which a
13 noncitizens' detention could raise constitutional issues. *Id.* Moreover, the Supreme Court noted
14 the six-month presumption "does not mean that every alien not removed must be released after
15 six months. To the contrary, an alien may be held in confinement until it has been determined
16 that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

17 Here, ICE has detained Jeylani for less than eight months since his order of removal
18 became administratively final. Jeylani claims that Somalia "will not accept his return." Pet.,
19 ¶ 9D. However, Somalia is accepting individuals for removal from the United States. Andron
20 Decl., ¶ 16. Furthermore, ICE is actively working to obtain a travel document for Jeylani's
21 removal. The fact that Jeylani does not yet have a specific date of anticipated removal does not
22 make his detention indefinite. *Diouf v. Mukasey* ("*Diouf I*"), 542 F. 3d 1222, 1233 (9th Cir.
23 2008). Detention becomes indefinite in situations where the country of removal refuses to
24 accept the noncitizen or if removal is legally barred. *Id.* That is not the situation here.

1 Consequently, Jeylani has failed to demonstrate a good reason to believe that there is no
2 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
3 701.

4 With his removal pending, the Government has significant legitimate interests in
5 Jeylani's continued detention to ensure that he will appear for removal. Under these
6 circumstances, the foreseeability of removal has not become so attenuated as to require release.
7 Accordingly, Jeylani's detention has not become "indefinite," and this Court should not order
8 that he be released.

9 Furthermore, Jeylani's continued detention until his removal is reasonable considering
10 the Secretary's authority to detain noncitizens determined "to be a risk to the community or
11 unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6). ICE recently conducted
12 a review of his custody status to ensure his detention meets this standard. Lambert Decl., Exs.
13 H, I.

14 Accordingly, Jeylani's detention has not become "indefinite," and this Court should not
15 order that he be released.

16 IV. CONCLUSION

17 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
18 the Petition and dismiss this matter.

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1 DATED this 28th day of March, 2025.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 1,873*
17 *words, in compliance with the Local Civil Rules.*