

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'
REPLY

Noted for Consideration:
April 25, 2025

I. INTRODUCTION

Petitioner Anwar Mohamed Jeylani, who is subject to a final order of removal from the United States, is detained by U.S. Immigration and Customs Enforcement ("ICE") pursuant to 8 U.S.C. § 1231(a)(6). Jeylani alleges that his continued detention is unconstitutional and seeks a writ of habeas corpus ordering his release from ICE custody. Dkt. No. 1, Pet. However, Jeylani has not met his initial burden of demonstrating good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Jeylani relies on a conclusory assertion in support of his request for habeas: "ICE has not been able to effectuate my removal because my country, Somalia, will not accept my return." Pet., ¶ 9(D). This is untrue and not enough to meet his burden.

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1 In response to this Court's Order for Return and Status Report (Dkt. No. 6), Federal
2 Respondents filed a Return Memorandum and Motion to Dismiss (Dkt. No. 7 "Mot.") providing
3 the facts of Jeylani's removal process, the legal basis for Jeylani's immigration detention, and
4 its active efforts to effectuate his removal to Somalia. Somalia is accepting individuals for
5 removal from the United States and has not rejected Jeylani's pending application for a travel
6 document. Dkt. No. 8, Andron Decl., ¶ 16. ICE believes that there is a significant likelihood of
7 Jeylani's removal in the reasonably foreseeable future. *Id.*

8 Jeylani does not address any of Federal Respondents' factual assertions or legal
9 arguments in his Response. (Dkt. No. 10 "Response"). Instead, he raises a misguided
10 procedural issue concerning Federal Respondents' return and then requests unnecessary
11 discovery. Overall, Jeylani has failed to demonstrate that his continued detention has become
12 indefinite or unconstitutional. *Zadvydas*, 533 U.S. at 701.

13 Accordingly, the Government respectfully requests that the Court deny the Petition and
14 dismiss this matter in its entirety.

15 II. ARGUMENT

16 Jeylani's only response to Federal Respondents' return is an inapplicable procedural
17 issue. Jeylani alleges that Federal Respondents' motion to dismiss does not meet requirements
18 of Federal Rule of Civil Procedure 12(b)(6). Response, at 1-2. As Jeylani concedes, Federal
19 Respondents did not identify Rule 12(b)(6) as the legal basis for their return. This is because
20 Rule 12 does not apply to the instant return and request for dismissal of Jeylani's habeas
21 petition.

22 Jeylani filed his habeas petition pursuant to 28 U.S.C. § 2241. This Court ordered the
23 respondents to file a return and status report as provided in 28 U.S.C. § 2243. Dkt. No. 6.
24 Specifically, the Court ordered the return to explain "why the Court should not grant

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1 petitioner's petition," include "a memorandum of authorities," and "submit evidence directed at
2 the issue of petitioner's 'entry' into the United States and the likelihood of removal." *Id.*, ¶ 2.
3 Federal Respondents' return fulfilled this order and asked this Court to dismiss the habeas
4 petition. In its Order, the Court also provided Jeylani with the opportunity to serve a response
5 to the return. *Id.*, ¶ 3. In his response, Jeylani makes the misplaced argument that if this Court
6 grants Federal Respondents' return pursuant to Rule 12(b)(6) that such a decision "would turn
7 the Rule 12(b)(6) analysis on its head by assuming the truth of the factual assertions in the
8 answer rather than in the complaint." Response, at 2. Yet this proceeding does not involve a
9 complaint or implicate any of the sections of Rule 12.

10 Rule 12 applies to responsive pleadings described in Rule 8 and served pursuant to Rule
11 4. *See* Rule 12(a)(1) (explaining when a defendant must serve an answer). Rule 12(b) directs
12 defendants how to present defenses to claims for relief in motions. In contrast here, a petition,
13 not a complaint, has been filed. Furthermore, service of the habeas petition was not controlled
14 by Federal Rule of Civil Procedure 4, as it would be if this was litigation commenced by filing
15 and service of a complaint and summons. Order, ¶ 1 (directing service). Finally, this Court
16 ordered respondents to respond to the petition as provided by 28 U.S.C. § 2243 with a return
17 and a status report addressing certain issues. *Id.*, ¶ 2; 28 U.S.C. § 2242 (directing a court to
18 issue the writ or "order directing the respondent to show cause why the writ should not be
19 granted"). The Court's order – not Rule 8 – set forth what was to be included in the return.
20 Accordingly, Rule 12(b)(6) is not the applicable legal standard here.

21 Additionally, this Court should deny Jeylani's request for discovery. Response, at 2-3.
22 Parties in habeas proceedings are not entitled to discovery as a matter of course. *Bracy v.*
23 *Gramley*, 520 U.S. 899, 904 (1997). Jeylani has not demonstrated that good cause exists for
24 this Court to exercise its discretion to order discovery. *See* Rule 6(a) of the Rules Governing

1 Section 2254 Cases in the United States District Courts. Absent a showing of good cause, a
2 court should deny a motion for leave to conduct discovery. *Rich v. Calderon*, 187 F.3d 1064,
3 1067-68 (9th Cir. 1999).

4 Discovery is unnecessary here. This is a straightforward post-removal order habeas
5 action. Jeylani fails to demonstrate that this Court would require any further evidence to
6 determine whether there is a significant likelihood of his removal in the reasonably foreseeable
7 future. He does not dispute that his travel document application is pending with the Somali
8 government. Instead, he seeks discovery about the number of people removed to Somalia this
9 year and the average time it takes to obtain a travel document. Response, at 3. But neither of
10 these interrogatory requests are specific to Jeylani's application for a travel document.
11 *Atikurraheman v. Garland*, No. 24-cv-262, 2024 WL 2819242, at *5 (W.D. Wash. May 10,
12 2024), *report and recommendation adopted*, 2024 WL 2818574 (W.D. Wash. June 3, 2024).
13 Jeylani's remaining proposed interrogatory requests information that is addressed by the ICE
14 declaration already filed in this litigation. Response, at 3.

15 While Jeylani has concluded that Somalia will not accept his return (Pet., ¶ 9(D)), he has
16 provided no support for this statement. Somalia has not denied Jeylani's travel document
17 application. Andron Decl., ¶¶ 12-16. Somalia is accepting individuals for removal from the United
18 States. *Id.*, ¶ 16. Furthermore, as reported by ICE in December of 2024, ICE continues to remove
19 Somali nationals from the United States. Annual Report, Fiscal Year 2024 (dated Dec. 19,
20 2024), at 101, *available at* <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last
21 visited Apr. 23, 2025).

22 Discovery is allowed in habeas cases only in rare circumstances. This instance does not
23 fit such a circumstance.

24

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III. CONCLUSION

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

DATED this 25th day of April, 2025.

Respectfully submitted,

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I certify that this memorandum contains 1,101 words, in compliance with the Local Civil Rules.