

District Judge Robert S. Lasnik  
Magistrate Judge Michelle L. Peterson

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

KAVEH KAMYAB,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-00389-RSL-MLP

**FEDERAL RESPONDENTS' RETURN  
MEMORANDUM AND MOTION TO  
DISMISS**

Noted for Consideration:  
May 8, 2025

**I. INTRODUCTION**

This Court should dismiss Petitioner Kaveh Kamyab's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Kamyab challenges his approximate seven-month post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. However, Kamyab 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 Kamyab, a noncitizen subject to an administratively final order of removal, is lawfully detained pursuant to Section 241 of the Immigration and

1 Nationality Act (“INA”). *See* 8 U.S.C. § 1231. He has not met his burden of demonstrating good  
2 reason to believe that there is no significant likelihood of his removal in the reasonably  
3 foreseeable future. *Zadvydas*, 533 U.S. at 701. Kamyab incorrectly asserts that Iran has rejected  
4 his application for travel. Pet., ¶ 9D. In fact, Kamyab’s travel document packet remains pending  
5 with the Iranian embassy, and ICE is actively working to obtain his travel document from Iran,  
6 which is currently accepting individuals removed from the United States.

7 Accordingly, the Government respectfully requests that the Court deny the Petition and  
8 grant the Government’s Motion to Dismiss. This motion is supported by the pleadings and  
9 documents on file in this case, the Declaration of Supervisory Detention and Deportation Officer  
10 Wilfredo Baez-Santiago (“Baez-Santiago Decl.”), and the Declaration of Sean M. Arenson  
11 (“Arenson Decl.”) with exhibits attached thereto. The Government does not believe that an  
12 evidentiary hearing is necessary.

## 13 II. FACTUAL AND PROCEDURAL BACKGROUND

### 14 A. Detention Authorities and Removal Procedures

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

21 When a final order of removal has been entered, a noncitizen enters a 90-day “removal  
22 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security  
23 “shall remove the alien from the United States.” *Id.* To ensure a noncitizen’s presence for  
24

1 removal and to protect the community from dangerous noncitizens while removal is being  
2 effectuated, Congress mandated detention:

3 During the removal period, the [Secretary of Homeland Security]<sup>1</sup> shall detain the  
4 alien. Under no circumstance during the removal period shall the [Secretary]  
5 release an alien who has been found inadmissible under section 1182(a)(2) or  
6 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B)  
7 of this title.

8 8 U.S.C. § 1231(a)(2).

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

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

18 8 U.S.C. § 1231(a)(6) (emphasis added).

19 During the removal period, ICE<sup>2</sup> is charged with attempting to effect removal of a noncitizen  
20 from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit on  
21 detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be  
22 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from  
23 the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six  
24 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.*, at 701.

<sup>1</sup> 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), transferred this authority to the Secretary of the Department of Homeland Security (“DHS”). *See also* 6 U.S.C. § 251.

<sup>2</sup> 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, Kamyab is the subject of an administrative order of removal that became final  
2 on August 28, 2024. Accordingly, the removal period expired on November 26, 2024. 8 U.S.C.  
3 § 1231(a)(1)(B)(i). The “presumptively reasonable” six-month period recently expired on  
4 February 28, 2025. *Zadvydas*, 533 U.S. at 701. Kamyab commenced this habeas action on March  
5 4, 2025. Dkt. 1.

6 **B. Petitioner Kamyab**

7 Kamyab is a native and citizen of Iran. Baez-Santiago Decl., ¶ 4; Arenson Decl., Ex. A  
8 (Form I-213). He was admitted to the United States as on a student visa in 1982. Baez-Santiago  
9 Decl., ¶ 5; Arenson Decl., Ex. A. His status was adjusted to conditional lawful permanent  
10 resident in 1995, and to lawful permanent resident in 1997. Baez-Santiago Decl., ¶¶ 6-7.

11 In May 2004, following a jury trial in the California Superior Court of Los Angeles County,  
12 Kamyab was convicted of three counts of Kidnapping for Ransom, Cal. Pen. Code § 209(a);  
13 Conspiracy to Commit a Crime, Cal. Pen. Code § 182(a)(1); and First-Degree Robbery, Cal. Pen.  
14 Code § 211/213(a)(1). Baez-Santiago Decl., ¶ 8; Arenson Decl., Ex. B (Criminal Records), at 3-  
15 8. He was sentenced to life with the possibility of parole for the kidnappings and six years for the  
16 robbery. *Id.*

17 On July 16, 2024, ICE took custody of Kamyab the same day that he was released from state  
18 prison. Baez-Santiago Decl., ¶ 9; Arenson Decl., Ex. C (Warrant for Arrest). He was booked into  
19 the NWIPC, and has remained there since July 16, 2024. Baez-Santiago Decl., ¶ 9; Arenson  
20 Decl., Ex. D (Notice of Custody Determination).

21 On July 15, 2024, Kamyab was served with a Notice to Appear (“NTA”) charging him as  
22 removable pursuant to three counts of 8 U.S.C. § 1227(a)(2)(A)(iii). Baez-Santiago Decl., ¶ 10;  
23 Arenson Decl., Ex. E (NTA). On July 23, 2024, an Immigration Judge (“IJ”) sustained the  
24 NTA’s charges and Iran was designated as the country of removal. Baez-Santiago Decl., ¶ 11.

1 On August 28, 2024, an IJ ordered Kamyab to be removed to Iran. *Id.*, ¶ 12; Arenson Decl., Ex.  
2 F (Order of the IJ). This order became administratively final on the same day because Kamyab  
3 waived his right to appeal the order. Arenson Decl., Ex. F, at 3.

4 ICE interviewed Kamyab to obtain information to complete a travel document application in  
5 late September of 2024. Baez-Santiago Decl., ¶ 13. In October, ICE submitted a travel document  
6 application to the Iranian embassy. *Id.*, ¶ 14.

7 On September 30, 2024, ICE notified Kamyab that his case would be reviewed for  
8 consideration of release if he had not been removed from the United States within the removal  
9 period. Arenson Decl., Ex. G (File Custody Review Notice). The notice informed him that he  
10 could submit documentation in support of his release. *Id.* Based on this custody review, on  
11 December 6, 2024, ICE determined that Kamyab's detention would continue because he had not  
12 demonstrated that, if released, he would not pose a danger to the community or a significant  
13 flight risk pending his removal. Arenson Decl., Ex. H (Decision to Continue Detention). In  
14 addition, ICE informed him that it was unable to conclude that the factors set forth at 8 C.F.R. §  
15 241.4(e) had been satisfied. *Id.*

16 In March of 2025, ICE conducted another post order custody review, which is routine when  
17 someone has been detained for over 180 days. Baez-Santiago Decl., ¶ 17. On March 18, 2025,  
18 ICE informed Kamyab that his detention would continue because ICE was unable to conclude  
19 that the factors set forth at 8 C.F.R. § 241.4(e) had been satisfied. Arenson Decl., Ex. I (Decision  
20 to Continue Detention).

21 On April 4, 2025, ICE resubmitted Kamyab's travel document application to the Iranian  
22 embassy with a request to the embassy to state when travel documents will be issued. Baez-  
23 Santiago Decl., ¶ 18. The embassy responded the same day to state that they would provide an  
24 answer in a few days. *Id.* The application for travel documents remains pending with the Iranian

embassy. *Id.*, ¶ 19. Iran is accepting individuals for removal from the United States. *Id.*, ¶ 20.  
ICE believes there is a significant likelihood that Kamyab will be removed to Iran in the  
reasonably foreseeable future. *Id.*, ¶ 21.

### III. ARGUMENT

Kamyab cannot demonstrate that his detention has become “indefinite” or unconstitutional.  
In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended duration of  
detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an implicit  
limitation of post-removal detention “to a period reasonably necessary to bring about that alien’s  
removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that Section  
1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer reasonably  
foreseeable, continued detention is no longer authorized by statute.” *Id.*, at 699.

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

1 Here, ICE has detained Kamyab for less than eight months since his order of removal became  
2 administratively final. Kamyab claims that Iran “has rejected our application for travel  
3 documents.” Pet., ¶ 9D. In fact, Kamyab’s travel document packet remains pending with the  
4 Iranian embassy, and ICE is actively working to obtain his travel document from Iran, which is  
5 currently accepting individuals removed from the United States. Baez-Santiago Decl., ¶¶ 18-20.  
6 The fact that Kamyab does not yet have a specific date of anticipated removal does not make his  
7 detention indefinite. *Diouf v. Mukasey* (“*Diouf I*”), 542 F. 3d 1222, 1233 (9th Cir. 2008).  
8 Detention becomes indefinite in situations where the country of removal refuses to accept the  
9 noncitizen or if removal is legally barred. *Id.* That is not the situation here. Consequently,  
10 Kamyab has failed to demonstrate a good reason to believe that there is no significant likelihood  
11 of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.

12 With his removal pending, the Government has significant legitimate interests in Kamyab’s  
13 continued detention to ensure that he will appear for removal. Under these circumstances, the  
14 foreseeability of removal has not become so attenuated as to require release. Accordingly,  
15 Kamyab’s detention has not become “indefinite,” and this Court should not order that he be  
16 released.

17 Furthermore, Kamyab’s continued detention until his removal is reasonable considering the  
18 Secretary’s authority to detain noncitizens determined “to be a risk to the community or unlikely  
19 to comply with the order of removal.” 8 U.S.C. § 1231(a)(6). ICE has reviewed his custody  
20 status to ensure his detention meets this standard. Arenson Decl., Ex. H.

21 Accordingly, Kamyab’s detention has not become “indefinite,” and this Court should not  
22 order that he be released.  
23  
24

IV. CONCLUSION

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

DATED this 10th day of April, 2025.

Respectfully submitted,

TEAL LUTHY MILLER  
Acting United States Attorney

s/ Sean M. Arenson

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*Attorneys for Respondents*

*I certify that this memorandum contains 1,930 words, in compliance with the Local Civil Rules.*



CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify on today's date, I electronically filed the foregoing Motion to Dismiss and [Proposed] Order, Declaration of Officer Wilfredo Baez-Santiago, and Declaration of Sean M. Arenson with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify on today's date, I arranged for service of the foregoing on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as follows:

Kaveh Kamyab, *Pro Se Petitioner*  
A#   
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DATED this 10th day of April, 2025.

s/ Katie Reed-Johnson

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