

DISTRICT JUDGE ROBERT S. LASNIK
MAGISTRATE JUDGE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAVEH KAMYAB,

Petitioner,

v.

PAMELA BONDI, *et.al.*,

Respondents.

No. CV25-389-RSL-MLP

KAVEH KAMYAB'S RESPONSE TO
FEDERAL RESPONDENT'S RETURN

Kaveh Kamyab, through counsel, respectfully responds to ICE's memorandum urging the Court to extend his detention. As discussed below, ICE's response is misleading and incomplete. Because there is not "good reason to believe" that Iran will accept Mr. Kamyab in the reasonably foreseeable future, the Court should grant the writ and order his release on appropriate conditions.

I. ARGUMENT

A. Background and Procedural History

Mr. Kamyab is a citizen of Iran who was ordered removed on July 23, 2024. ICE claims to have submitted two requests for travel documents to the Iranian embassy, most recently on April 4, 2025. ICE's response does not contain copies of those requests, and the Iranian Embassy reports to Mr. Kamyab's family that they have not

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1 received and are not considering any request for travel documents.¹ Iran has not
2 interviewed Mr. Kamyab. ICE seems to agree that there is no evidence Iran has
3 assessed any aspect of the travel application that ICE reports submitting.

4 On March 4, 2025, Mr. Kamyab filed a petition under 18 U.S.C. § 2241 asking
5 the Court to order his release on conditions because there was no significant likelihood
6 of removal in the reasonably foreseeable future and because his continued detention
7 violated his constitutional rights. Dkt. 1. The Court ordered a response pursuant to 28
8 U.S.C. § 2243. Dkt. 7.

9 28 U.S.C. § 2243 requires the government to “make a return certifying the true
10 cause of the detention.” The person detained then “may, under oath, deny any of the
11 facts set forth in the return or allege any other material facts.” *Id.* Both parties may
12 supplement their filings with leave of court. *Id.*² The Court then must “hear and
13 determine the facts and dispose of the matter as law and justice require.” *Id.*

14 ICE filed a § 2243 return on April 10, 2025. So far as counsel can determine,
15 that return “certifies” that the “true cause” of Mr. Kamyab’s detention is 8 U.S.C.
16 § 1231(a)(6), which authorizes post-removal detention until there is not “good cause to
17 believe” that Mr. Kamyab will be removed to Iran in the “reasonable foreseeable
18 future.” ICE also elaborately describes Mr. Kamyab’s criminal and immigration history
19 and reports that ICE has tried to obtain travel documents for him.

20 ICE’s response includes a declaration from a supervisory deportation officer
21 who asserts, without explanation, that “HQ RIO,” which did not submit a declaration,
22 “believes there is a significant likelihood of removal in the reasonably foreseeable
23

24 ¹ ICE’s return stated that it expected a response to its April 4, 2025, communication
25 within days. As of the deadline for filing this response, ICE counsel had not been able
to determine whether ICE had received any response from Iran.

26 ² Here, the Court’s order authorized ICE to file a reply not specifically contemplated by
the statute. Dkt. 7.

1 future.” So far as ICE’s response discloses, the only reason for HQ RIO’s “belief” is the
2 fact that Iran is accepting individuals for removal from the United States.” Dkt. 9 at 4.

3 ICE’s response does not disclose, however, that that the U.S. Department of
4 State has designated Iran as one of only 15 “uncooperative” countries that does *not*
5 facilitate the return of its nationals. *See* Ex. 1. Iran is on this list because it does not
6 “conduct[] interviews, issu[e] travel documents in a timely manner, [or] accept[] the
7 physical return of their nationals by scheduled commercial or charter flights consistent
8 with ICE and/or foreign government removal guidelines.” *Id.* Therefore, while it is true
9 that ICE has accepted citizens for return from the United States, ICE’s response
10 misleadingly omits that ICE deported only 26 people to Iran last year,³ leaving an
11 estimated 1,058 Iranian citizens in immigration detention⁴ and another 2,618 on the
12 non-detained docket awaiting travel documents. *See* Ex. 1.

13 **B. Objections and Request for Discovery**

14 Pursuant to 28 U.S.C. § 2243, Mr. Kamyab, under oath, “denies . . . the facts set
15 forth in the return” as follows:

16 First, Mr. Kamyab denies that “ICE is actively working to obtain his travel
17 document from Iran, which is currently accepting individuals removed from the United
18 States.” As of March 25, 2025, more than eight months after his removal order, Iran
19 reports that ICE had not even requested a travel document and had not engaged in any
20 discussions about his removal. *See* Ex. 2. ICE’s return does not disclose any
21 communications that may have occurred with Iran in the last month. Iran has not
22 interviewed Mr. Kamyab.

23 _____
24 ³ Annual Report, Fiscal Year 2024 (dated Dec. 19, 2024), at 101, available at
25 <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last visited Apr. 23,
2025).

26 ⁴ ICE Enforcement and Removal Operations Statistics, ICE,
<https://www.ice.gov/statistics> (last visited Apr. 23, 2025).

1 Second, Mr. Kamyab denies that Iran is “currently accepting individuals
2 removed from the United States.” Publicly available documents establish that Iran does
3 not “conduct[] interviews, issu[e] travel documents in a timely manner, [or] accept[] the
4 physical return of their nationals by scheduled commercial or charter flights consistent
5 with ICE and/or foreign government removal guidelines.” *See* Ex. 1. Though it
6 accepted about two dozen people last year, the backlog of Iranians awaiting travel
7 documents numbers in the thousands.

8 Finally, Mr. Kamyab denies that he refused an interview. *See* Ex. 3.

9 Although Iran’s designation as an uncooperative country should suffice to
10 establish that Mr. Kamyab’s removal is not “substantially likely” to occur in the
11 reasonably foreseeable future, discovery may assist the Court to “determine the facts”
12 needed to “dispose of the matter as law and justice require.” 28 U.S.C. § 2243. If the
13 Court concludes that discovery would be helpful, Mr. Kamyab respectfully suggests the
14 Court order “HQ RIO,” which is the body with direct knowledge, to submit sworn
15 testimony detailing the reasons for its “belief” that he will be removed expeditiously,
16 along with any communications with Iran that support that belief. Those
17 communications may be filed under seal, if diplomacy requires. *See generally Kilmar-*
18 *Abrego v. Noem, et al.*, No. CV25-951-PX, Dkt. 79 (D. Md., April 15, 2025) (Ordering
19 discovery).

20 **C. The Court should order Mr. Kamyab’s release on appropriate**
21 **conditions.**

22 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court rejected the
23 government’s claimed authority to imprison people forever after they had been ordered
24 deported. The Supreme Court instead concluded that the legality of prolonged detention
25 is subject to a sliding scale. The government has six months to effectuate removal
26 without Court oversight. *Id.* at 701. After that time, a federal court should order the

1 petitioner released on appropriate conditions when it concludes there is not “good
2 reason to believe” that removal will occur in the “reasonably foreseeable future.” *Id.* As
3 the petitioner’s detention grows longer, what counts as the “reasonably foreseeable
4 future” correspondingly shrinks. *Id.*

5 The Supreme Court also rejected the government’s insistence that courts should
6 unquestioningly accept the government’s “belief” about whether removal was
7 “significantly likely in the reasonably foreseeable future.” *See also id.* (“The
8 Government seems to argue that . . . a federal habeas court would have to accept the
9 Government’s view about whether the implicit statutory limitation is satisfied in a
10 particular case, conducting little or no independent review of the matter. In our view,
11 that is not so.”). To the contrary, the Court admonished district courts not to “abdicat[e]
12 their legal responsibility to review the lawfulness of an alien’s continued detention.” *Id.*
13 When exercising that “legal responsibility,” courts should consider whether the
14 government has credibly explained the delay. *See Lema v. U.S. I.N.S.*, 214 F. Supp. 2d
15 1116, 1118 (W.D. Wash. 2002) (“The continuing failure of a destination country to
16 respond to a request for travel documents may provide the Court with ‘good reason to
17 believe’ that deportation is not [significantly] likely in the reasonably foreseeable future
18 . . . where the destination country’s lack of response is combined with the INS’ inability
19 to explain the silence and the absence of any indication that the situation may
20 change.”).

21 As demonstrated by the fact that thousands of deported Iranians who live in the
22 United States on the non-detained docket, Ex. 1, for the last two decades Iran’s refusal
23 to cooperate with deportations of its citizens has been sufficient for ICE, following
24 *Zadvydas*, to release people like Mr. Kamyab on appropriate conditions. Unfortunately,
25 for the foreseeable future, the responsibility of “review[ing] the lawfulness of
26 [Mr. Kamyab’s] continued detention” will fall to the Court. In exercising that

responsibility here, the Court should consider that ICE’s response makes no effort to explain either the delay or the bases for its “belief” and instead conceals the context necessary to determine whether Iran is likely to issue a travel document in the reasonably foreseeable future. *See also Singh v. Whitaker*, 362 F. Supp. 3d 93, 101–02 (W.D.N.Y. 2019) (“[I]f DHS has no idea of when it might reasonably expect Singh to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.”) (internal citations omitted).

II. CONCLUSION

Mr. Kamyab does not need to prove he will never be removed, only that there is not “good reason” to believe his removal is “substantially likely” in the “reasonably foreseeable future.” *See D’Alessandro v. Mukasey*, 628 F. Supp. 2d 368, 404 (W.D.N.Y. 2009) (“[T]he burden upon the detainee is not to ‘demonstrate’ no reasonably foreseeable, significant likelihood of removal or ‘show that his detention is indefinite . . .’ Rather, the detainee need only provide ‘good reason to believe’ that removal is not significantly likely in the reasonably foreseeable future.”). Considering the undisputed evidence that Iran does not cooperate with ICE by issuing travel documents in a timely manner and ICE’s inability to offer any explanation for its claimed “belief” that he will be deported in the reasonably foreseeable future, Mr. Kamyab more than meets this burden. The Court should grant his petition and order his release on conditions.

DATED this 1st day of May 2025.

Respectfully submitted,

s/ *Gregory Murphy*
Assistant Federal Public Defender
Attorney for Kaveh Kamyab

I certify this response contains 1,637 words in compliance with the Local Civil Rules.