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-389-RSL-MLP

FEDERAL RESPONDENTS' REPLY

Noted for Consideration:
May 8, 2025

I. INTRODUCTION

This Court should deny Petitioner Kaveh Kamyab's habeas petition. U.S. Immigration and Customs Enforcement ("ICE") detains Kamyab pursuant to 8 U.S.C. § 1231(a)(6) pending the execution of his removal order issued on August 28, 2024.[1] Kamyab alleges that his continued detention is unconstitutional because there is no significant likelihood of removal in the reasonably foreseeable future. Dkt. No. 1, Pet. However, Kamyab 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). Kamyab relies on a conclusory assertion in support of his request for habeas: "ICE has not been able to

[1] In his Response (Dkt. No. 11), Kamyab incorrectly states that he was ordered removed on July 23, 2024. Resp., at 1. The correct date is August 28, 2024, as demonstrated by the final order of removal. Dkt. No. 10, Ex. F.

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effectuate my removal to Iran . . . However, Iran has rejected our application for travel documents on the grounds that I am not a citizen of that country." Pet., ¶ 9(D). This is untrue and does not meet his burden.

In response to this Court's Order for Return and Status Report (Dkt. No. 7), Federal Respondents filed a Return Memorandum and Motion to Dismiss (Dkt. No. 8 "Mot.") providing the facts of Kamyab's removal process, the legal basis for Kamyab's immigration detention, and its active efforts to effectuate his removal to Iran. Iran is accepting individuals for removal from the United States and has not rejected Kamyab's pending application for a travel document. Dkt. No. 9, Baez-Santiago Decl., ¶¶ 20-21. As a result, ICE believes that there is a significant likelihood of Kamyab's removal in the reasonably foreseeable future. Id., ¶ 21.

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

II. ARGUMENT

While he concedes that he is subject to a final order of removal, and does not dispute his serious criminal history, Kamyab asserts that his now approximate 9-month post-order detention is unconstitutional on the basis that there is not a significant likelihood of his removal in the reasonably foreseeable future. Resp., at 1-2. In his Response, Kamyab does not dispute that Iran is accepting citizens for return from the United States. Resp., at 2. Instead, he emphasizes that Iran is an "uncooperative country" and lists the number of Iranian citizens in immigration detention or on the non-detained docket. Yet these facts do not demonstrate that Kamyab's removal is not likely to occur in the reasonably foreseeable future.

ICE provided this Court with facts concerning Kamyab's travel document application. Dkt. No. 10, Baez-Santiago Decl., ¶¶ 13-14; 18-19. Furthermore, ICE submits supplemental information with this Reply. Declaration of Brett Booth ("Booth Decl."). In contrast, the

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information that Kamyab provides is generalized to Iranian citizens in immigration detention and the number of Iranian citizens on the non-detained docket awaiting travel documents, without delineation as to what stage the detained individuals are in their removal proceedings or any of the individuals' criminal histories. Resp., at 3. Furthermore, the individuals on the non-detained docket are not comparable here as they either were never detained like Kamyab, or they have been released from detention.

Additionally, this Court should deny Kamyab's request for discovery. Response, at 3-4. Parties in habeas proceedings are not entitled to discovery as a matter of course. *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). Kamyab has not demonstrated that good cause exists for this Court to exercise its discretion to order discovery. *See* Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts. Absent a showing of good cause, a court should deny a motion for leave to conduct discovery. *Rich v. Calderon*, 187 F.3d 1064, 1067-68 (9th Cir. 1999).

Discovery is unnecessary here. This is a straightforward post-removal order habeas action. Kamyab fails to demonstrate that this Court would require any further evidence to determine whether there is a significant likelihood of his removal in the reasonably foreseeable future. The Response includes a declaration from Kamyab's sister stating that a person at the Interest Section of the Islamic Republic of Iran at the Pakistani Embassy informed her that no travel document application was pending for Kamyab in March of 2025. Resp., Ex. 2. While a travel document application was submitted in October of 2024, Kamyab's sister purported contact occurred before the April 2024 resubmission of the travel document packet, as well as ICE's more recent meeting with Iranian officials to discuss this case. Booth Decl., ¶ 5. Additionally, there is no way to determine whether the person that Kamyab's sister communicated with has access to Kamyab's information or was being accurate, as that person's statement is hearsay and was not

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under oath. Finally, ICE has requested acceptance of Kamyab to various third countries as alternatives to Iran. Booth Decl., ¶ 9; 8 U.S.C. § 1231(b)(2); *see also Aden v. Nielsen*, 409 F. Supp. 3d 998, 1008 (W.D. Wash. 2019) ("Given the express grant of authority to DHS under § 1231(b)(2) and § 1240.12(d), the Court concludes that DHS may designate a removal country outside of removal proceedings as permitted by § 1231(b)."). Thus, Kamyab's detention has not become indefinite or unconstitutional.

While Kamyab has determined that Iran will not accept him (Pet., ¶ 9(D), the purported support for this assertion misses the mark. Iran is accepting individuals for removal from the United States. Iran has not denied Kamyab's travel document application. In fact, Iran has acknowledged the acceptance of his application. Booth Decl., ¶ 5. While this process may be slow, there is no evidence that his detention has become impermissibly indefinite requiring his release. Discovery is allowed in habeas cases only in rare circumstances. This instance does not fit such a circumstance.

III. CONCLUSION

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

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DATED this 8th day of May, 2025.

Respectfully submitted,

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Attorneys for Federal Respondents

I certify that this memorandum contains 957 words, in compliance with the Local Civil Rules.

III. CONCLUSION

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

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