

District Judge Tana Lin
Magistrate Judge Grady J. Leupold

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

AVEL IVANOVICH REVENKO,

Petitioner,

v.

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; DREW BOSTOCK, Seattle Field
Office Director, United States Citizenship and
Immigration Services; WARDEN of
Immigration Detention Facility; and the United
States Immigration and Customs Enforcement,

Respondents.

Case No. 2:25-cv-00549-TL-GJL

FEDERAL RESPONDENTS' RETURN
MEMORANDUM AND MOTION TO
DISMISS

Noted for Consideration:
June 9, 2025

This Court should dismiss Petitioner Avel Ivanovich Revenko's (Revenko) Petition for Writ of Habeas Corpus. Dkt. No. 1 (Pet.). Revenko challenges his post-order immigration detention at the Northwest ICE Processing Center (NWIPC) as unconstitutional and unlawful while he awaits removal from the United States. Dismissal is appropriate here because Revenko, 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(a). Revenko is a citizen of Moldova, which as of May 6, 2025, stated it would issue a travel document for

1 Revenko. Thus, Revenko has failed to demonstrate that his continued detention by U.S.
2 Immigration and Customs Enforcement (ICE) has become indefinite or demonstrated a good
3 reason to believe that there is no significant likelihood of his removal in the reasonably
4 foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

5 Accordingly, Federal Respondents respectfully request that the Court deny the Petition
6 and grant this Motion to Dismiss. This motion is supported by the pleadings and documents on
7 file in this case, the Declaration of Deportation Office Christopher Hubbard (“Hubbard Decl.”),
8 and the Declaration of Nickolas Bohl (“Bohl Decl.”) with exhibits attached thereto. Federal
9 Respondents do not believe that an evidentiary hearing is necessary.

10 I. FACTUAL AND PROCEDURAL BACKGROUND

11 A. Detention Authorities and Removal Procedures

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

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

During the removal period, the [Secretary of Homeland Security]¹ shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] 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.

8 U.S.C. § 1231(a)(2).

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

[A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [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).

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

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

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), transferred this authority to the DHS Secretary. *See also* 6 U.S.C. § 251.

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, Revenko is the subject of an administrative order of removal that became
2 final on May 16, 2024. Revenko is detained pursuant to 8 U.S.C. § 1231(a)(6). Revenko
3 commenced this habeas action on March 27, 2025. Dkt. 1.

4 **B. Petitioner Avel Ivanovich Revenko**

5 Revenko is a national and citizen of Moldova. He has a long, complicated immigration
6 history. Revenko entered the United States as a refugee in April 1995. Hubbard Decl., ¶ 4; Bohl
7 Decl., Ex. A (Form I-213). He adjusted status to lawful permanent resident in January 1997,
8 retroactive to April 1995. Hubbard Decl., ¶ 3.

9 Starting in 2007, Revenko was arrested and convicted of a number of criminal offenses.
10 See Bohl Decl., Ex. B (criminal history report). In September 2007, he was arrested for driving
11 under the influence; he was convicted of that offense in August 2008. Hubbard Decl., ¶ 5. He
12 was arrested in May 2010, also for driving under the influence, but that charge was dismissed.
13 *Id.* Revenko was arrested a third time for driving under the influence in April 2018 and
14 convicted in July 2018. *Id.* On April 29, 2019, a state court placed a domestic violence no
15 contact order on Petitioner. *Id.* at ¶ 6. Two days later, on May 1, 2019, Revenko was charged
16 with residential burglary (domestic violence) and violating the no contact order. *Id.* Revenko
17 pled guilty to the no contact order violation, a jury found him guilty of the burglary crime, and
18 the state court sentenced Revenko to 12 months in jail and extended the contact order for the
19 victim until October 2030. *Id.*

20 As a result of the multiple criminal convictions, ICE apprehended and detained Revenko
21 in April 2023, and DHS issued a Notice to Appear (NTA) that charged him as removable
22 pursuant to INA § 237(a)(2)(E)(ii), for being a noncitizen who, any time after entry, has been
23 enjoined under a protection order and has been determined to have engaged in conduct in
24 violation of that order that involves protection against credible threats of violence, repeated

1 harassment, or bodily injury to the person for whom the protection order was issued; and, INA §
2 237(a)(2)(A)(iii), to wit INA § 101(a)(43)(G) for being a noncitizen who, any time after
3 admission, was convicted of an aggravated felony relating to a theft offense or burglary offense
4 for which at least a one year term of imprisonment was imposed. Hubbard Decl., ¶ 7; Bohl
5 Decl., Ex. C (Notice to Appear). DHS subsequently filed the NTA with the immigration court in
6 Tacoma, Washington, which initiated Revenko's removal proceedings. *Id.* Revenko was
7 appointed counsel due to mental competency issues, and on November 17 2023, the Immigration
8 Judge (IJ) found Revenko removable and ordered him removed to Russia or Moldova, in the
9 alternative. *Id.* at ¶ 9; Bohl Decl., Ex. D (IJ Order). Revenko appealed the IJ's order to the
10 Board of Immigration Appeals (BIA); the BIA dismissed the appeal and Revenko's removal
11 became administratively final on May 16, 2024. Hubbard Decl., ¶ 10; Bohl Decl., Ex. E (BIA
12 dismissal).

13 Revenko was held in custody throughout this time. In October 2023, the IJ initially held
14 a bond hearing, which was denied due to Revenko being a danger to the community and a flight
15 risk. Hubbard Decl., ¶ 8. Enforcement and Removal Operations (ERO) met with Revenko
16 several times, including to evaluate his custody status. *Id.* at ¶ 12. The only place that Revenko
17 identified he would go, if released, was to live with his ex-wife, who was the individual who
18 sought the domestic violence no contest order, which is currently in effect. *Id.* On September
19 18, 2024, ERO issued its post custody decision determining that Revenko should remain in
20 custody because he is a flight risk and a danger to the community. *Id.* at ¶ 14. On March 6,
21 2025, ERO continued Revenko's detention for these same reasons. *Id.* at ¶ 17.

22 Throughout this time, ERO has worked towards removing Revenko. Initially Revenko
23 refused to meet with ERO, but by July 2024, ERO met with Revenko and his qualified
24 representative to start gathering the necessary information. Hubbard Decl., ¶¶ 11, 12. The travel

document packet was first submitted to the Moldovan Embassy in July 2024, and subsequently ERO followed up with Moldovan Embassy several times, but Moldovan officials told ERO in December 2024 that it would not issue travel documents for Revenko. *Id.* at ¶¶ 13, 14. As of May 6, 2025, Moldovan officials indicated that Moldova would issue a travel document for Revenko. *Id.* at ¶ 21. ERO believes this will take one or two months to complete and that, based on this representation, there is a significant likelihood that Revenko will be removed in the reasonably foreseeable future. *Id.* at ¶ 22.

In his petition, Revenko alleges that his continued detention violates his due process rights. Pet., ¶ 9A. He seeks release from detention. *Id.* at p. 6 (Prayer for Relief). As described below, Revenko's detention is constitutional pending his removal. Accordingly, Federal Respondents respectfully request that the Court dismiss the Petition to allow ICE to effectuate his removal.

III. ARGUMENT

A. A noncitizen's interest in liberty does not raise a serious constitutional question until his detention has become indefinite or permanent.

Revenko cannot demonstrate that his detention has become "indefinite" or unconstitutional. In *Zadvydas*, the Supreme Court found that post-order detention could potentially become indefinite as authorized under the open-ended terms of Section 1231(a)(6). Finding the possibility of indefinite detention troublesome, the Supreme Court clarified that there is a point at which Congress's interest in detaining a noncitizen to facilitate his removal may eventually give way to the noncitizen's liberty interest. *Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of [a noncitizen] would raise a serious constitutional problem."). Detention becomes indefinite if, for example, the country designated in the removal order refuses

1 to accept the noncitizen, or if removal is barred by the laws of this country. *Diouf v. Mukasey*
2 (“*Diouf I*”), 542 F.3d 1222, 1233 (9th Cir. 2008).

3 The Supreme Court in *Zadvydas* recognized that as detention becomes prolonged, a
4 noncitizen’s liberty interest grows and may eventually outweigh Congress’s interest in detaining
5 a noncitizen to facilitate his removal. The six-month period established in *Zadvydas* reflects the
6 earliest moment at which these conflicting interests might raise serious constitutional issues. *See*
7 *Zadvydas*, 533 U.S. at 701. As the length of detention grows, a sliding scale of burdens is
8 applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating
9 that “for detention to remain reasonable, as the period of post-removal confinement grows, what
10 counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). But as the
11 Supreme Court has noted, the six-month presumption “does not mean that every [noncitizen] not
12 removed must be released after six months. To the contrary, [a noncitizen] may be held in
13 confinement until it has been determined that there is no significant likelihood of removal in the
14 reasonably foreseeable future.” *Id.*

15 Here, Revenko’s detention is neither indefinite nor permanent. While it did take
16 considerable efforts, Moldova has now indicated that it will issue Revenko a travel document,
17 thus ICE ERO should be able to remove him within one or two months. Hubbard Decl., ¶ 22.
18 Revenko’s petition is premised on an argument that Moldova would not issue a travel document.
19 *See Pet.*, pp. 3-4. Because that is no longer the case, Revenko cannot show that his detention
20 would be indefinite.

21 Further, Revenko’s detention is not indefinite even without a specific date of anticipated
22 removal. *See Diouf I*, 542 F. 3d at 1233. As described above, DHS has made considerable
23 efforts throughout the entire tenure of Revenko’s detention to obtain a travel document for his
24 removal, and that goal now appears to be close at hand. With this in mind, Revenko’s

1 approximately 12-month post-order detention should not qualify as “indefinite” here. As such,
2 Revenko’s detention has not become “indefinite” and the Court should not order his release.

3 **B. Revenko has not overcome the presumption that his post-order detention is**
4 **reasonable.**

5 Revenko has not met his required burden here to show that his post-order detention is
6 unreasonable. If a noncitizen remains in post-order detention after six months, the noncitizen has
7 the burden to demonstrate a good reason to believe that there is no significant likelihood of
8 removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. The Government
9 “must respond with evidence sufficient to rebut that showing.” *Id.* If the Government fails to
10 rebut the noncitizen’s showing, the noncitizen is entitled to habeas relief. *Id.*

11 As discussed above, Revenko’s petition is based on facts, that may have had some basis
12 when he filed his petition in March, but no longer remain accurate—namely that Moldova will
13 now issue the travel document. Further, the facts provided in DO Hubbard’s declaration
14 demonstrate that ICE has been making efforts throughout Revenko’s post-order detention to
15 effective his removal.

16 Section 1231(a)(6) satisfies both the substantive and procedural components of the Due
17 Process Clause. The Supreme Court has explained that detention is “a constitutionally valid
18 aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). Post-order
19 detention helps ensure the removal of noncitizens who have already been “ordered removed”
20 from the United States. 8 U.S.C. § 1231(a)(6). Furthermore, Section 1231(a)(6), as
21 implemented by the existing regulations, does not violate the Due Process Clause “[w]hen
22 detention crosses the six-month threshold.” *Diouf v. Napolitano (“Diouf II”)*, 634 F.3d 1091
23 (9th Cir. 2011).
24

1 Because ICE is pursuing Revenko's removal, which may be completed in the next several
2 months, and his detention furthers Congress's goal of ensuring his presence for removal,
3 Revenko has failed to meet his burden, and his petition should be denied.

4 **IV. CONCLUSION**

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

7 DATED this 12th day of May, 2025.

8 Respectfully submitted,

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17 I certify that this memorandum contains 2,314
18 words, in compliance with the Local Civil Rules.