

DISTRICT JUDGE TANA LIN  
MAGISTRATE JUDGE GRADY J. LEUPOLD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AVEL IVANOVICH REVENKO,

Petitioner,

v.

PAMELA BONDI, *et.al.*,

Respondents.

No. CV25-549 TL-GJL

AVEL REVENKO'S RESPONSE TO  
MOTION TO DISMISS AND RETURN  
MEMORANDUM

Avel Revenko, through counsel, respectfully responds to federal respondents' motion to dismiss his petition for release on conditions.

**I. DISCUSSION**

In large part, the parties agree on the applicable law. There is no dispute, for example, that in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court rejected the government's claimed authority to imprison forever people who had been ordered deported and instead concluded that the legality of prolonged detention is subject to a sliding scale. The government has six months to effectuate removal without Court oversight. *Id.* at 701. After six months, the petitioner must be released on appropriate conditions when there is not "good reason to believe" that removal will occur in the "reasonably foreseeable future." *Id.* As the petitioner's detention grows longer, what counts as the "reasonably foreseeable future" correspondingly shrinks. *Id.* See also *D'Alessandro v. Mukasey*, 628 F. Supp. 2d 368, 406 (W.D.N.Y. 2009).

1 The undisputed facts show that ICE violated *Zadvydas*'s mandate. At least four  
2 months ago, ICE knew that it could not deport Mr. Revenko to either Moldova or  
3 Russia. *See* Ex. 1 (emails to immigration counsel confirming that, as of February 8,  
4 2025, neither Moldova nor Russia would accept Mr. Revenko). But even though ICE  
5 did not have "good reason to believe" that Mr. Revenko would be removed in the  
6 reasonably foreseeable future, ICE elected not to release Mr. Revenko from detention  
7 as the law requires.

8 Now, in its motion to dismiss, ICE argues that Mr. Revenko should remain  
9 imprisoned because the situation has changed. *See* Dkt. 9 at 1 (Claiming "As of May 6,  
10 2025, the Moldovan Consulate has indicated that it would issue a TD for petitioner. As  
11 such, DHS has every reason to believe that the government of Moldova will ultimately  
12 issue a TD for petitioner."). But the two sentences that ICE provides in support provide  
13 little bases to conclude that Mr. Revenko will be removed in the reasonably foreseeable  
14 future. Indeed, the officer's declaration conspicuously conceals all the information that  
15 would be important to the Court's analysis of the *Zadvydas* standard, including how and  
16 to whom the Moldovan Consulate made that "indication," what conditions would need  
17 to be satisfied (or information would have to be provided) for the consulate to issue a  
18 travel document, and, critically, how long the consulate has said it will take to do so.  
19 And when considering whether to give the officer's vague assurances the benefit of the  
20 doubt, the Court may consider that ICE did not release Mr. Revenko when Moldova  
21 and Russia refused to accept him.

22 The only thing that is known is that ICE has no current ability to deport  
23 Mr. Revenko. That may one day change, but the Court can infer that if the Moldovan  
24 consulate had agreed to issue the document or had even given a timeline, ICE would  
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1 have said so in the active voice, rather than speculating that a document “will ultimately  
2 issue.”<sup>1</sup>

3 **II. CONCLUSION**

4 The mere possibility – even the likelihood – that ICE “ultimately” will obtain a  
5 travel document does not provide “good reason to believe” that Mr. Revenko will be  
6 removed in the reasonably foreseeable future. *See Singh v. Whitaker*, 362 F. Supp. 3d  
7 93, 101–02 (W.D.N.Y. 2019) (“[I]f DHS has no idea of when it might reasonably  
8 expect Singh to be repatriated, this Court certainly cannot conclude that his removal is  
9 likely to occur—or even that it might occur—in the reasonably foreseeable future.”)  
10 (internal citations omitted). Considering that Mr. Revenko’s detention has extended  
11 more than a year after his removal order and shows no concrete indication of ending,  
12 the Court should conclude that “the reasonably foreseeable future” has shrunk to the  
13 present time and order his release on appropriate conditions.

14 DATED this 2nd day of June 2025.

15  
16 Respectfully submitted,

17 s/ *Gregory Murphy*  
18 Assistant Federal Public Defender  
19 Attorney for Avel Revenko

20 I certify this response contains 637 words in compliance with the Local Civil Rules.  
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26 <sup>1</sup>ICE opines that travel documents “sometimes” take “in excess of 1 to 2 months or more” to issue.