

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-01018-KAS

EMMANUIL MANOUKIAN,

Petitioner,

v.

WARDEN, Aurora Detention Center; and
FIELD OFFICE DIRECTOR, Immigration and Customs Enforcement, Denver Field
Office,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Pursuant to the Court's April 2, 2025 Order, ECF No. 4, Respondents respond to Petitioner Emmanuil Manoukian's Petition for Writ of Habeas Corpus, ECF No. 1 (filed March 29, 2025). Petitioner asserts that his current detention by Immigration and Customs Enforcement ("ICE") violates 8 U.S.C. § 1231(a)(6), the Due Process Clause of the Fifth Amendment, and 8 C.F.R. §§ 241.4 and 241.13 because there is no significant likelihood of his removal in the reasonably foreseeable future. ECF No. 1 at 9, 10–12. As explained below, Petitioner has failed to meet his burden, as a request for a travel document for Petitioner is currently pending with the Embassy of Armenia, a country to which he may have a claim to citizenship through his parents. Further, Petitioner has received the due process he is owed through periodic post order custody reviews under 8 C.F.R. § 241.4. Accordingly, the Petition should be denied.

FACTUAL BACKGROUND

I. Petitioner's background and criminal history

Petitioner was born in Georgia on December 4, 1984. Ex. A ¶ 4, Decl. of Raymundo Lascano III (June 2, 2025). At the time, Georgia was part of the now-former U.S.S.R. *Id.* Petitioner came to the United States, and he adjusted his status to that of lawful permanent resident in 2004. *Id.* ¶ 6.

Petitioner has a lengthy criminal history in the United States. In 2012, he was convicted of Accessory After the Fact in violation of § 32 of the California Penal Code ("P.C.") and sentenced to 364 days in jail, followed by 3 years of probation. *Id.* ¶ 7(i). In 2013, he was convicted of Possession of an Assault Weapon in violation of P.C. § 330605(a), Firearms Access Violation in violation of P.C. § 29800(a)(1), Receiving Stolen Property in violation of P.C. § 496, Possession of Controlled Substance in violation of § 11350(a) of the California Health and Safety Code ("H.S."), and Ammunition Violation in violation of P.C. § 30305(a)(1). *Id.* ¶ 7(ii). He was sentenced to 56 days in jail, followed by 3 years of probation. *Id.* In 2014, Petitioner was convicted of Possession of Controlled Substance in violation of H.S. § 11350(a) and sentenced to one year of probation. *Id.* ¶ 7(iii). In 2016, he was convicted of Possession of Controlled Substance for Sale in violation of H.S. § 11351(a) and sentenced to 365 days in jail and 2 years of mandatory supervision. *Id.* ¶ 7(iv). In 2018, Petitioner was convicted of Driving Under the Influence in violation of § 484C.110 of the Nevada Revised Statutes and sentenced to 48 hours of community service and a fine. *Id.* ¶ 7(v). In 2019, he was convicted of Identity Theft in violation of P.C. § 530.5(a) and sentenced to 36 months of

probation. *Id.* ¶ 7(vi). And in 2022, he was convicted of Ammunition Violation in violation of P.C. § 30305(a)(1) and sentenced to one day in jail followed by two years of probation. *Id.* ¶ 7(vii).

II. Petitioner's current removal proceedings

On November 12, 2015, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") to Petitioner, initiating immigration court proceedings under 8 U.S.C. § 1229a before the Executive Office for Immigration Review ("EOIR"). *Id.* ¶ 8.

The NTA charged Petitioner with being deportable from the United States pursuant to 8 U.S.C. § 1227(a)(2)(C), which applies to a noncitizen who is convicted under any law of a firearms offense any time after admission. *Id.* The Immigration Judge ("IJ") conducted a bond hearing on February 25, 2016, and granted Petitioner a \$20,000.00 bond. *Id.*

¶ 9. After Petitioner failed to appear for his September 29, 2016, immigration court hearing because he was in state custody on a criminal matter at the time, the IJ administratively closed the removal proceedings due to Petitioner's custody status. *Id.*

¶ 10.

On March 3, 2017, the IJ re-calendared removal proceedings for Petitioner after ICE notified EOIR that Petitioner had returned to ICE custody. *Id.* ¶ 11. Petitioner appeared at a March 29, 2017, hearing before the IJ, notifying the IJ that he was withdrawing all applications for relief or protection and requesting a removal order. *Id.*

¶ 12. The IJ ordered Petitioner removed from the United States to Georgia. *Id.* Both parties waived appeal. *Id.*

ICE then began the process of requesting a travel document ("TD") for Petitioner

from the Embassy of Georgia. *Id.* ¶ 13. The Embassy of Georgia did not issue a TD for Petitioner, and on November 29, 2017, ICE released Petitioner on an order of supervision. *Id.* ¶¶ 14, 15.

Petitioner then absconded from supervision. *Id.* ¶ 16. On September 4, 2024, ICE officers encountered Petitioner and took him into custody, as he was subject to a final order of removal. *Id.* ¶ 17. ICE began anew the process of requesting a TD for Petitioner from the Embassy of Georgia. *Id.* ¶ 18.

On or around December 10, 2024, the Embassy of Georgia denied the TD request. *Id.* ¶ 19. ICE began soliciting third-country acceptance of Petitioner. *Id.* ¶ 20.

On March 21, 2025, ICE conducted a Post Order Custody Review of Petitioner's case pursuant to 8 C.F.R. § 241.4. *Id.* ¶ 21. ICE continued to detain Petitioner, as it had raised a challenge to the Embassy of Georgia's denial of the TD request and was also investigating the likelihood of obtaining a TD from Russia. *Id.* ICE did not obtain a TD from Russia, and, at this point, third-country solicitations have been either denied or met with no response. *Id.* ¶¶ 22, 23.

ICE recently discovered, however, that Petitioner might have a claim to Armenian citizenship via one of his parents, and ICE has been investigating the viability of that claim. *Id.* ¶ 24. On May 30, 2025, Petitioner advised ICE officers that both of his parents are Armenian and Russian. *Id.* ¶ 25. Petitioner completed a request for a TD, which ICE sent to the Embassy of Armenia via courier. *Id.* That TD request is currently pending with the Embassy of Armenia. *Id.* ¶ 26.

III. Petitioner's habeas application

Petitioner filed this action in the District of Colorado on March 29, 2025. See *generally* ECF No. 1. In his Petition, he claims that his continued detention by ICE violates 8 U.S.C. § 1231(a)(6), the Due Process Clause of the Fifth Amendment, and 8 C.F.R. §§ 241.4 and 241.13 because there is no significant likelihood of his removal in the reasonably foreseeable future. *Id.* at 9, 10–12. He states that he is considered a “stateless person” because the country in which he was born—Georgia, back when it was part of the U.S.S.R.—does not currently recognize him a citizen. *Id.* 1–2. He asserts that, although ICE is attempting to find a “third country” that will accept his deportation and transfer, it has so far failed to do so, and he must therefore be released from custody on an order of supervision until a removal date is secured. *Id.* at 2. On April 2, 2025, the Court ordered Respondents to “show cause [by June 2, 2025] why the Petition . . . should not be granted.” ECF No. 4 at 1.

ARGUMENT

The Petition should be denied. Petitioner has failed to establish that there is no significant likelihood of his removal in the reasonably foreseeable future, and his detention while he awaits removal therefore does not violate 8 U.S.C. § 1231(a)(6), the Due Process Clause, or relevant regulations.

I. Petitioner's detention is authorized by 8 U.S.C. § 1231(a).

Petitioner's detention is authorized by 8 U.S.C. § 1231, which covers the “[d]etention, release, and removal of aliens ordered removed.” 8 U.S.C. § 1231(a).

Under § 1231(a), DHS “shall detain” a noncitizen¹ “[d]uring the removal period.” *Id.*

§ 1231(a)(2). The removal period is the 90-day period during which DHS “shall remove the alien from the United States.” *Id.* § 1231(a)(1)(A). This 90-day period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final[;]
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order[; or]
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

Id. § 1231(a)(1)(B). In certain circumstances, such as where the noncitizen acts to delay his removal, the 90-day removal period may be extended, *see id.* § 1231(a)(1)(C) (“The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.”)

Then, upon expiration of the 90-day period, during which detention is mandatory, the government may continue to detain a noncitizen in limited circumstances. *See id.* § 1231(a)(6) (providing that an “alien . . . removable under section . . . 1227(a)(2) . . . may be detained beyond the removal period”); *see also* 8 U.S.C. § 1227(a)(2)(C) (providing that any noncitizen “who at any time after admission is convicted under any law” of certain firearm offenses is deportable); Ex. A ¶ 8 (noting that Petitioner was charged with being deportable pursuant to 8 U.S.C. § 1227(a)(2)(C)). The Supreme

¹ Respondents use the terms “alien” and “noncitizen” interchangeably in this brief.

Court has recognized that § 1231(a) authorizes continued detention after the initial 90 days:

In addition to setting out a 90-day removal period, § 1231 expressly authorizes DHS to release under supervision or continue the detention of aliens if removal cannot be effectuated within the 90 days. . . . DHS routinely holds aliens under these provisions when geopolitical or practical problems prevent it from removing an alien within the 90-day period. . . . [§ 1231] provides for post-removal detention and supervised release in the event an alien cannot be removed within the 90-day removal period.

Johnson v. Guzman Chavez, 594 U.S. 523, 546–47 (2021) (citations omitted). If detained, the noncitizen receives periodic custody reviews. See 8 C.F.R. § 241.4.

Petitioner's detention status is authorized by 8 U.S.C. § 1231. Here, while the IJ issued the order of removal on March 29, 2017, Petitioner was subsequently released on an order of supervision, at which point he absconded from supervision and thus acted to prevent his removal. See Ex. A ¶¶ 12, 15–16. Petitioner was then picked up and detained by ICE on September 4, 2024. *Id.* ¶ 17. The parties agree that Petitioner's current removal period began on September 4, 2024. See ECF No. 1 at 5–6; Ex. A. ¶ 17. And because his removal could not be effectuated within the 90 days after that date, his continued detention is authorized by Section 1231.

II. Petitioner's detention is constitutional because he has not shown that his removal is not reasonably foreseeable.

A noncitizen detained under 8 U.S.C. § 1231(a)(6) does not have a statutory right to release or a bond hearing. See *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578–83 (2022). But despite the lack of a statutory right to release or a bond hearing, the Supreme Court has held that a noncitizen detained under this provision may still claim that the detention is so extended that it violates due process. See *Zadvydas v. Davis*,

533 U.S. 678, 682, 690 (2001).

In *Zadvydas*, the Supreme Court held that the detention of a noncitizen for up to six months under 8 U.S.C. § 1231 is “presumptively reasonable.” *Id.* at 700–01. The Court determined that detention beyond six months does not, by itself, mean that the noncitizen must be released. *Id.* at 701. Rather, the Court held that after six months, “once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the [g]overnment must respond with evidence sufficient to rebut that showing.” *Id.*; see also *Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004) (“The onus is on the alien to ‘provide good reason to believe that there is no such likelihood’ before ‘the Government must respond with evidence sufficient to rebut that showing.’”) (cleaned up) (quoting *Zadvydas*, 533 U.S. at 701).

In this case, Petitioner’s detention has exceeded six months. His ninety-day mandatory removal period concluded on December 3, 2024 (90 days after September 4, 2024). To date, Petitioner has been detained beyond the end of the removal period for 181 days.

However, Petitioner fails to establish a due process violation under *Zadvydas*, as he has not met his initial burden to “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” See *Zadvydas*, 533 U.S. at 701. In his Petition, Petitioner claims that the government cannot meet its burden to show that there is a significant likelihood of removal in the reasonably foreseeable future because Georgia has refused to issue him a TD, and “ICE has not

shown any meaningful progress determining if Russia will issue [Petitioner] a travel document.” ECF No. 1 at 9. But ICE’s ongoing efforts to remove Petitioner belie that argument. ICE has been working diligently to identify a country to which Petitioner may be removed, and while its efforts to obtain a TD from Georgia or Russia have not come to fruition, it has recently discovered that Petitioner might have a claim to Armenian citizenship via one or both of his parents. Ex. A ¶¶ 19–25. Indeed, just recently—on May 30, 2025—Petitioner advised ICE officers that both of his parents are Armenian, and he then completed a TD request that has now been sent to the Embassy of Armenia. *Id.* ¶ 25. That request remains pending. *Id.* ¶ 26.

Given Petitioner’s potential claim to Armenian citizenship, and the TD request currently pending with the Embassy of Armenia, Petitioner has not met his burden under *Zadvydas* to show that there is no significant likelihood of his removal in the reasonably foreseeable future. *Cf. Nkwanga v. Maurer*, No. 06-cv-00262-MSK-MEH, 2006 WL 2475261, at *1 (D. Colo. Aug. 24, 2006) (finding that the petitioner failed to demonstrate that he was entitled to relief under *Zadvydas* where he failed to provide evidence indicating that his continued detention in the foreseeable future was likely).

Moreover, even if Petitioner had met his burden, the Court should find that Respondents’ evidence is sufficient to rebut that showing. Specifically, the attached Declaration of ICE Deportation Officer Raymundo Lascano III shows that Petitioner’s removal in the reasonably foreseeable future is significantly likely, as Petitioner has recently stated that both of his parents are Armenian and a TD request was just submitted to, and is currently pending with, the Embassy of Armenia. Ex. A ¶¶ 24–26.

Thus, his removal is reasonably foreseeable, and his current detention is constitutional.

III. Petitioner has been provided with adequate due process during his detention.

As set forth above, there is no basis for a claim that Petitioner's continuing detention is either contrary to law, indefinite, or otherwise unconstitutional, as he is being detained under 8 U.S.C. § 1231 within the parameters of *Zadvydas*. Further, Petitioner has been provided all the due process to which he is entitled. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." (quotation omitted)).

Consistent with the Supreme Court's ruling in *Zadvydas*, the government has promulgated regulations providing for custody reviews of noncitizens who have been in detention for more than six months after issuance of a final removal order. If the noncitizen is not released or removed, he will receive a post order custody review. 8 C.F.R. § 241.4(k)(2)(ii). In conducting its post order custody reviews, ICE considers all the facts of the case, including the noncitizen's efforts to comply with the order of removal; the history of the government's efforts to remove the noncitizen, including ongoing efforts to remove the noncitizen; the reasonably foreseeable results of those efforts; and the prospects of removal to the country or countries in question. *Id.* § 241.13(f) ("Where [ICE] is continuing its efforts to remove the alien, there is no presumptive period of time within which the alien's removal must be accomplished, but the prospects for the timeliness of removal must be reasonable under the circumstances."). During those reviews, ICE officials must consider both favorable and

unfavorable factors, including the likelihood that the alien is a significant flight risk or may abscond to avoid removal. *See id.* § 241.4(f). For these reviews, the alien has the right to an attorney or other representative and to submit evidence. *See id.*

§ 241.4(h)(2), (i). If the agency determines that there is a significant likelihood of removal in the reasonably foreseeable future, it will inform the noncitizen of its decision to continue detention under the established standards in 8 C.F.R. § 241.4. *See id.* § 241.13(g)(2).

Courts have found that an alien is afforded due process when he receives a custody review of his continuing detention pending removal pursuant to 8 C.F.R. § 241.4(i). *See Wong v. Gonzalez*, No. Civ.A 05-5430(DRD), 2006 WL 995460, at *4–5 (D.N.J. Apr. 12, 2006) (concluding that petitioner “was afforded due process because he received a custody review of his continuing detention pending removal pursuant to 8 C.F.R. § 241.4(i)”).

Here, Petitioner received a Post Order Custody Review pursuant to 8 C.F.R. §241.4 as recently as March 21, 2025. Ex. A ¶ 21. ICE determined that it would continue to detain Petitioner, given its ongoing efforts to obtain a TD. *Id.* Further, Deportation Officer Lascano attested that

ICE has determined that Petitioner is a priority for removal because: (1) he is subject to a final order of removal; (2) he has no lawful status in the United States; (3) he has extensive and serious criminal history in the United States; (4) there is no stay of removal in place; (5) Petitioner has a history of violating the conditions of supervision; and there is a significant likelihood of removal in the reasonably foreseeable future given the pending request for a TD from Armenia.

Id. ¶ 26. Petitioner has thus received the due process he is owed.

IV. In the event that the Court orders Petitioner's release, his release should be subject to conditions determined by ICE.

As discussed above, Petitioner's continued detention by ICE is lawful. However, should the Court order Petitioner released on an order of supervision, this release should be subject to conditions set by ICE. 8 U.S.C. § 1231(a)(3) provides the Attorney General with the authority to issue regulations on terms of supervision for an alien released pending removal. ICE has issued those regulations governing the release of aliens pending removal. See 8 C.F.R. § 241.13(h). Thus, an "alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances." *Zadvydas*, 533 U.S. at 700. If Petitioner is released, his release should be governed by conditions of supervised release set by ICE.

CONCLUSION

Given that a request has been recently submitted to Armenia for a travel document for Petitioner based on his recent statement that both of his parents are Armenian, the Court should deny the Petition, ECF No. 1, without prejudice. If the Court orders release, however, this release should be subject to conditions set by ICE, especially given Petitioner's extensive criminal history.

Dated: June 2, 2025

Respectfully submitted,

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s/ Alicia Alvero Koski

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

s/ Alicia Alvero Koski
Alicia Alvero Koski
Assistant United States Attorney
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