

The Honorable Ricardo S. Martinez
The Honorable Michelle L. Peterson

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

VIKTOR BORISOVICH TAIROV,

Petitioner,

v.

PAMELA BONDI, Attorney General of the
United States, *et. al.*

Respondents.

Case No. 2:25-cv-01558-RSM-MLP

FEDERAL RESPONDENTS'¹ HABEAS
RETURN

Noted for Consideration:

November 5, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Viktor Borisovich Tairov's Petition for Writ of Habeas Corpus. Dkt. 1. Petitioner challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. Contrary to his allegations, Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner's detention also is not indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). With increased

¹ The Warden of the Northwest ICE Processing Center is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 cooperation from the government of Russia, U.S. Immigration and Customs Enforcement
2 (“ICE”) is working to effectuate Petitioner’s removal there. ICE anticipates he will receive travel
3 documents, and he will be removed to Russia. Petitioner’s detention is not unconstitutionally
4 indefinite. *See Zadvydas*, 533 U.S. at 701. Accordingly, Federal Respondents respectfully
5 request the Court deny the Petition and grant this motion to dismiss.

6 II. LEGAL BACKGROUND

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

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

18 During the removal period, the [Secretary of Homeland Security]² shall detain the
19 [noncitizen]. Under no circumstance during the removal period shall the
20 [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.

21 8 U.S.C. § 1231(a)(2).

22
23 ² Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens,
24 the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this
authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also*
6 U.S.C. § 251.

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

5 [A noncitizen] ordered removed who is inadmissible under section 1182,
6 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
7 who has been determined by the [the Secretary of Homeland Security] to be a risk
8 to the community or unlikely to comply with the order of removal, *may* be
9 detained *beyond the removal period* and, if released, shall be subject to the terms
10 of supervision in paragraph (3).

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

9 During the removal period, ICE³ is charged with attempting to effect removal of a
10 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time
11 limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen
12 may be detained only “for a period reasonably necessary to bring about that [noncitizen’s]
13 removal from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further
14 identified six months as a presumptively reasonable time to bring about a noncitizen’s removal.
15 *Id.* at 701.

16 Here, Petitioner is the subject of an administrative order of removal that became final on
17 October 28, 2003. Rodriguez Decl., ¶ 8. In 2011 and 2013, he was detained for approximately
18 seven months before being released on bond with an Order of Supervision. Rodriguez Decl.,
19 ¶¶ 11, 13, 14. Petitioner was taken into custody on June 4, 2025. Rodriguez Decl., ¶ 19.

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24 ³ 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 **III. FACTUAL BACKGROUND**

2 **A. Petitioner is subject to a final order of removal**

3 Petitioner is a citizen and national of Russia. Rodriguez Decl., ¶ 4. Petitioner entered the
4 United States on a non-immigrant visitor visa at or near New York City on or about December
5 18, 1998, with authorization to remain in the United States until December 17, 1999. Rodriguez
6 Decl., ¶ 5. Petitioner, as part of a family unit, filed an affirmative asylum application with the
7 Immigration and Naturalization Service (“INS”) on November 12, 1999, which INS denied on
8 May 31, 2000. Rodriguez Decl., ¶ 6. On the same day, INS issued a Notice to Appear charging
9 Petitioner as removable under INA § 237(a)(1)(B) for visa overstay. Rodriguez Decl., ¶ 7; Strong
10 Decl, Ex. A (Notice to Appear). An immigration judge (“IJ”) ordered Petitioner removed to
11 Russia on February 22, 2002, following the denial of his application for relief. Rodriguez Decl.,
12 ¶ 8; Strong Decl., Ex. B (Order of IJ). The Board of Immigration Appeals (“BIA”) affirmed the
13 decision of the immigration judge on October 28, 2003. Rodriguez Decl., ¶ 8; Strong Decl., Ex.
14 C (Automated Case Information from Executive Office of Immigration Review).

15 **B. ERO’s previous efforts to remove Petitioner**

16 U.S. Immigration and Customs Enforcement, Office of Enforcement and Removal
17 Operations (“ERO”) in Orlando made several unsuccessful attempts to locate the Petitioner for
18 the purpose of removing him. Rodriguez Decl., ¶ 9. On April 20, 2011, ERO detained Petitioner
19 and made a request for travel documents to the Russian Embassy. Rodriguez Decl., ¶ 11. After
20 the Russian Embassy denied the request for a travel document, ERO released Petitioner under an
21 Order of Supervision on November 25, 2011. Rodriguez Decl., ¶ 12; Strong Decl., Ex. D (Order
22 of Supervision). ERO detained Petitioner again in 2013 but released him under an Order of
23 Supervision after seven days. Rodriguez Decl., ¶ 14; Strong Decl., Ex. E (Order of Supervision).

1 ERO continued to make efforts with the Russian Embassy to obtain a travel document for
2 Petitioner. Rodriguez Decl., ¶ 16. In January 2017, ERO received an email response from the
3 Russian Embassy requesting an address for Petitioner when he resided in the Russian Federation
4 during 1992 for purposes of verifying citizenship and further directing that Petitioner must
5 personally apply for a reentry certificate or Russian passport. Rodriguez Decl., ¶ 16. ERO is not
6 aware that Petitioner personally applied for a reentry certificate or passport after the Embassy's
7 instruction. Rodriguez Decl., ¶ 16.

8 In October 2020, after Petitioner was arrested in San Juan County, Washington for
9 Assault 4 - domestic violence, ERO placed Petitioner on GPS monitoring. Rodriguez Decl., ¶ 17.
10 In September 2021, ERO determined Petitioner had been compliant with the GPS monitoring
11 and was de-escalated for future reporting. Rodriguez Decl., ¶ 18. ERO further determined
12 however that Petitioner had not been cooperative in obtaining a travel document. Rodriguez
13 Decl., ¶ 18.

14 **C. Petitioner is detained and ERO's efforts to obtain a travel document for
15 Petitioner continue**

16 On June 4, 2025, Petitioner was taken into custody at his check in with ERO. Rodriguez
17 Decl., ¶ 19. Petitioner was served a custody redetermination and booked into the NWIPC.
18 Rodriguez Decl., ¶ 19; Strong Decl., Ex. F (Custody Redetermination). On September 1, 2025,
19 ERO completed the 90-day Post Order Custody Review, recommending continued detention.
20 Rodriguez Decl., ¶ 21.

21 On June 19, 2025, ERO contacted headquarters for more guidance regarding how to
22 obtain a travel document for Petitioner. Rodriguez Decl., ¶ 20. After receiving that advice, ERO
23 ordered the A-Files for Petitioner's parents to provide more information on prior residency for a
24 new travel document request on September 2, 2025. Rodriguez Decl., ¶ 22. Three days later,

1 Petitioner was given a travel document application and completed it the same day. Rodriguez
2 Decl., ¶ 23. ERO had obtained copies of Petitioner’s passport and birth certificate, and a prior
3 Russian address used by the Petitioner in an immigration application. Rodriguez Decl., ¶ 23. As
4 of October 6, 2025, an updated travel document request, including prior residency information,
5 has been submitted to headquarters for review; after the review is completed, the travel
6 document request will be sent to the Russian Embassy for processing. Rodriguez Decl., ¶ 23.
7 ERO’s local office has experienced Russia issuing travel documents in other cases recently and
8 expects a travel document to be issued here. Rodriguez Decl., ¶ 24. Once a travel document is
9 issued, ERO expects to remove Petitioner in the normal course. Rodriguez Decl., ¶ 24.

10 **IV. ARGUMENT**

11 **A. Petitioner’s detention is not indefinite or unconstitutionally prolonged**

12 Petitioner has not demonstrated that his detention has become “indefinite” or
13 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended
14 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an
15 implicit limitation of post-removal detention “to a period reasonably necessary to bring about
16 that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified
17 that Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer
18 reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

19 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
20 burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.*
21 (stating that “for detention to remain reasonable, as the period of post-removal confinement
22 grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”).
23 However, the Supreme Court determined that it is “presumptively reasonable” for the
24 Government to detain a noncitizen for six months following entry of a final removal order, while

1 it worked to remove the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court
2 implicitly recognized that six months is the *earliest* point at which a noncitizen’s detention could
3 raise constitutional issues. *Id.* After the six-month period elapses, the non-citizen must “provide[]
4 good reason to believe there is no significant likelihood of removal in the reasonably foreseeable
5 future,” before the Government is required to “respond with evidence sufficient to rebut that
6 showing.” *Id.*; *see also* 8 C.F.R. §§ 241.13(d)(1), (2) (providing that a non-citizen requesting
7 release from custody may submit a written request specifying “the basis for the alien’s belief that
8 there is no significant likelihood that the alien will be removed in the reasonably foreseeable
9 future”). Removal becomes indefinite when, for example, the country designated in the removal
10 order refuses to accept the alien or if removal is barred by the laws of that country. *See, e.g.,*
11 *Diouf v. Mukasey (Diouf I)*, 542 F.3d 1222, 1233 (9th Cir. 2008).

12 Here, ICE has detained Petitioner for approximately ten-and-a-half months in total since
13 his order of removal became administratively final. Rodriguez Decl., ¶¶ 11, 13, 14. And the
14 current detention period is four months to date. Rodriguez Decl., ¶ 19. Since Petitioner has been
15 detained, after awaiting his cooperation, ICE has received all completed travel document forms
16 and sent those forms to headquarters for review before submitting to the Russian Embassy.
17 Rodriguez Decl. ¶¶ 20, 22-24. Once complete, ICE anticipates receiving travel documents to
18 effect his removal. Rodriguez Decl., ¶ 25. The fact that Petitioner does not yet have a specific
19 date of anticipated removal does not make his detention indefinite. *Diouf I*, 542 F. 3d at 1233.
20 Detention becomes indefinite in situations where the country of removal refuses to accept the
21 noncitizen or if removal is legally barred. *Id.* While that previously was the case in 2011 and
22 2013, the situation here has changed. Rodriguez Decl., ¶ 25. Consequently, Petitioner has failed
23 to demonstrate a good reason to believe that there is no significant likelihood of his removal in
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1 the reasonably foreseeable future, and his detention comports with due process requirements.
2 *Zadvydas*, 533 U.S. at 701.

3 **B. Petitioner’s Administrative Procedure Act argument is unavailing**

4 Unrelated to his claim of indefinite detention, Petitioner challenges his detention because
5 he believes his re-detention violates the Administrative Procedures Act. Petitioner claims that
6 ICE did not comply with 8 C.F.R. § 241.13(i)(2), arguing that ICE must make an individual
7 determination based on changed circumstances. The regulation provides that ICE “may revoke
8 an alien’s release ... and return the alien to custody if, on account of changed circumstances,
9 [ICE] determines that there is a significant likelihood that the alien may be removed in the
10 reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). As discussed above, ICE has that belief
11 even though it has not yet obtained a travel document for Petitioner. ICE must also proffer an
12 informal interview where Petitioner can provide evidence that his removal is not reasonably
13 foreseeable. *Id.* Petitioner acknowledges he met with an ICE officer at the time he was taken into
14 custody but makes no meaningful allegation that he had evidence that his removal was not
15 reasonably foreseeable. Dkt. 1.

16 **V. CONCLUSION**

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

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1 DATED this 8th day of October, 2025.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 2,182 words,*
17 *in compliance with the Local Civil Rules.*