

1 8 U.S.C. § 1227(a)(1)(B). A final order of removal was entered against Mr. Tairov by
2 an immigration judge on February 22, 2002, and his appeal from this order was denied
3 on October 28, 2003. Dkts. 9 at 2, 10-1, 10-2.

4 Mr. Tairov was not taken into immigration custody after this order of deportation
5 until April 20, 2011. During the seven-month period he was detained in 2011,
6 immigration authorities attempted to get travel documents from Russia, presumably
7 with the exact same information and identification documents it has now—copies of
8 Mr. Tairov’s Russian passport (which expired in January 2002) and his birth certificate.
9 ICE released Mr. Tairov after Russia denied their request for travel documents.¹ He
10 then applied for travel documents again, on his own. Neither Mr. Tairov nor ICE
11 received a response to this application. Since his release in 2011, Mr. Tairov has never
12 missed a check-in or been otherwise out of compliance with his release conditions.

13 ICE detained Mr. Tairov again for a period of seven days in 2013 before
14 releasing him on an Order of Supervision. In January of 2017, immigration authorities
15 apparently received a response from the Russian Embassy to its attempts to get travel
16 documents for Mr. Tairov. This response specified that it needed an address for where
17 Mr. Tairov lived in Russia “during 1992” and that Mr. Tairov “must personally apply
18 for a reentry certificate or Russian passport.” Dkt. 8 at 5. ICE did not transmit to
19 Mr. Tairov the address request nor the request that Mr. Tairov apply in person for his
20 travel documents.

21 In October of 2020, after Mr. Tairov was arrested for a misdemeanor charge that
22 was later dismissed with prejudice, immigration authorities placed Mr. Tairov on GPS
23 monitoring. On September 21, 2021, the ankle monitor was removed while Mr. Tairov
24 remained at liberty. The declaration submitted by the government also states that
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26 ¹ Mr. Tairov has not been provided with copies of the previous requests for travel documents referenced in Deportation Officer Enrique Rodriguez’s Declaration.

1 Mr. Tairov “had not been cooperative in obtaining a travel document.” Dkt. 9 at 3. No
2 further information is provided to the Court or counsel about this determination.
3 However, in December of 2024, while still at liberty and a mere six months before he
4 was rearrested and detained by ICE, Mr. Tairov—again—submitted a request to the
5 Russian embassy for his travel documents. Ex. 1 (Receipts for Mail to Russian
6 Embassy). He received no response.

7 Finally, after being told to report for a check-in with ICE on June 4, 2025,
8 Mr. Tairov was arrested. ICE did not then have a travel document for him. They still do
9 not. ICE did not even provide an application for a travel document until September 2,
10 2025. He completed it on the same day. A month later, on October 6, 2025, ERO asked
11 its headquarters for approval to request travel documents for Mr. Tairov from Russia. It
12 appears that the only addition to the travel document request is the inclusion of an
13 address in Russia found in the A-files of Mr. Tairov’s now-deceased father.²

14 As of October 20, 2025, ICE still had not submitted any request for Mr. Tairov’s
15 travel documents to the Russian Embassy. Permission to make that request remained
16 pending within the domestic immigration apparatus. Neither Mr. Tairov nor
17 undersigned counsel has received any update.

18 **II. LEGAL STANDARD**

19 Under the INA, the government is given 90 days within which to remove an
20 individual who has been ordered deported (the “removal period”). 8 U.S.C.
21 § 1231(a)(1)(A). The government is given this period so that it has a “reasonable
22 amount of time within which to make the travel, consular, and various other
23 administrative arrangements” it needs to deport an individual from the United States.
24 *Diouf v. Mukasey*, 542 F.2d 1222, 1231 (9th Cir. 2008) (internal citations omitted).

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26 ² The government has not provided a copy of the current travel request (or any previous
requests) to counsel or the Court.

1 During this period, an individual may be detained, but the United States Supreme Court
2 rejected the government’s claimed authority to imprison forever people who had been
3 ordered deported. Instead, it concluded that the legality of prolonged detention is
4 subject to a sliding scale. *Zadvydas v. Davis*, 533 U.S. 678 (2001). The government has
5 six months to effectuate removal without Court oversight. *Id.* at 701. After that time, a
6 federal court should order the petitioner released on appropriate conditions unless there
7 is “good reason to believe” that removal will occur in the “reasonably foreseeable
8 future.” *Id.* As the petitioner’s detention grows longer, what counts as the “reasonably
9 foreseeable future” correspondingly shrinks. *Id.* See also *D’Alessandro v. Mukasey*, 628
10 F. Supp. 2d 368, 406 (W.D.N.Y. 2009).

11 *Zadvydas* also rejected the government’s insistence that courts should accept
12 unquestioningly the government’s belief about whether removal was “significantly
13 likely in the reasonably foreseeable future.” See also *id.* (“The Government seems to
14 argue that . . . a federal habeas court would have to accept the Government’s view about
15 whether the implicit statutory limitation is satisfied in a particular case, conducting little
16 or no independent review of the matter. In our view, that is not so.”). The Court
17 directed district courts not to “abdicat[e] their legal responsibility to review the
18 lawfulness of an alien’s continued detention.” *Id.*

19 In determining whether a removal is “reasonably foreseeable” and thus
20 continued detention is warranted, district courts should consider whether the
21 government has credibly explained a delay in removal. See *Lema v. U.S. I.N.S.*, 214 F.
22 Supp. 2d 1116, 1118 (W.D. Wash. 2002).

23 **III. DISCUSSION**

24 The Court should deny the government’s motion to dismiss and order ICE to
25 immediately release Mr. Tairov because there is no substantial likelihood that he will be
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1 removed in the reasonably foreseeable future and his continued detention is
2 unconstitutional.

3 **A. Mr. Tairov’s detention is unconstitutional because there is no**
4 **substantial likelihood of removal in the reasonably foreseeable future.**

5 As the government concedes, Mr. Tairov has spent approximately 11 months in
6 immigration custody total and has spent nearly five months in custody since his June 5,
7 2025, arrest.³ Mr. Tairov and ICE have previously attempted to secure travel documents
8 for Mr. Tairov at least four times: first in 2011, ICE made a travel document request
9 and the Russian Embassy denied it; second, after his release from immigration
10 detention in 2011, Mr. Tairov applied for a travel document and received no response;
11 third, in October of 2016, another travel document request was made by ICE that was
12 denied because no residence in Russia was provided and “*Petitioner must personally*
13 *apply for a reentry certificate or Russian passport.*” Dkt. 9 at 3 (emphasis added); and
14 finally, Mr. Tairov again requested a travel document in December of 2024, while on
15 release in the community, to no avail. In the almost five months Mr. Tairov has been
16 detained, counsel is not aware of any information that would materially change the
17 conditions required by the Russian Embassy to produce travel documents for
18 Mr. Tairov. *See* Ex. 2 (Documents from Russian Embassy Website Establishing Criteria
19 for Certificate of Return) (requiring “personal request of citizens,” a “valid internal
20 passport” or “written statements . . . from at least two citizens of the Russian Federation
21 confirming the identity of the applicant,” the application for the certificate of return “in
22 Russian,” and two photographs). It appears that, consistent with Russia’s position to
23 ICE in 2017, Mr. Tairov still must make the application for travel documents in person.

24 ³ The government does not argue that Mr. Tairov’s case is not yet ripe for relief, nor
25 could it. His order of removal was final no later than October 28, 2003, thus the
26 *Zadvydas* grace period that lasted “six months after a final order of removal—that is,
three months after the statutory removal period has ended” has long since lapsed. *Kim*
Ho Ma v. Ashcroft, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001).

1 The lack of a valid Russian passport also remains a hurdle to his removal. *Id.* Nor has
2 the government claimed that it has reached an understanding with Russia or has any
3 new procedural strategy or method for effectuating Mr. Tairov’s removal to Russia.
4 *Compare Nguyen v. Scott*, No. CV25-01398, 2025 WL 2419288, at *6 (W.D. Wash.
5 Aug. 21, 2025) (discussing the 2020 Memorandum of Understanding entered with
6 Vietnam to return pre-1995 Vietnamese immigrants). While not updated for 2025, the
7 most recent information available from ICE still shows that the United States
8 government designates Russia as a “recalcitrant” country. Ex. 3 (2024 Immigration
9 Updates).

10 Mr. Tairov’s removal is not significantly likely to occur in the reasonably
11 foreseeable future. The only evidence the government provides to substantiate
12 “increased cooperation from the government of Russia” is in the form of DO
13 Rodriguez’s Declaration in which he states, “ERO Tacoma has experienced Russia
14 issuing travel documents in other cases recently.” Dkt. 9 at 8. However, despite defense
15 counsel’s request, the government has not clarified whether these other cases have been
16 circumstances similar to Mr. Tairov’s or were individuals who were ordered removed to
17 Russia and retained valid, unexpired Russian passports and travel documents. Where, as
18 here, a petitioner shows that that there is not good reason to believe that removal is
19 “significantly likely” to occur in the reasonably foreseeable future, respondents must
20 respond with rebuttal evidence. Declarations that are “both vague and conclusory” are
21 inadequate to meet that burden. *Nguyen v. Scott*, No. CV25-01398, 2025 WL 2419288,
22 at *13 (W.D. Wash. Aug. 21, 2025). *See also Hoac v. Becerra*, No. CV25-01740-DC-
23 JDP, 2025 WL 1993771, at *5 (E.D. Cal. July 16, 2025) (“Respondents’ contention that
24 Petitioner’s removal is reasonably foreseeable because removals to Vietnam are in fact
25 occurring is unpersuasive.”); *Nguyen v. Hyde*, No. CV25-11470-MJJ, 2025 WL

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1 1725791, *4 (D. Mass. June 20, 2025) (generalized evidence of removals to Vietnam
2 insufficient).

3 The government's argument that there is a change in Russia's position on issuing
4 travel documents is also inconsistent with evidence from other cases. In *Ishmuratov v.*
5 *Rivas*, the petitioner was in a remarkably similar situation to Mr. Tairov. *Ishmuratov v.*
6 *Rivas*, No. CV25-01366-PHX-JAT (D. Ariz. Sep. 21, 2025). Brought as a juvenile to
7 the United States on a visitor visa, Mr. Ishmuratov's family applied for and was denied
8 asylum. *Id.*, Dkt. 40 at 1–2. He was ordered removed, released when it became apparent
9 that Russia would not issue travel documents, and was then re-detained years later, in
10 March of 2025. *Id.*, Dkt. 40 at 2–7. Although the government has not produced copies
11 of the requests made by ICE in Mr. Tairov's case, it appears that ICE submitted almost
12 the exact same documents to the Russian Embassy for both Mr. Tairov and
13 Mr. Ishmuratov. *Id.*, Dkt. 40 at 6. Russia denied the request for travel documents,
14 Mr. Ishmuratov's habeas petition was subsequently granted, and he was ordered
15 released. *Id.*, Dkt. 48 (ordering Mr. Ishmuratov's release and noting the government's
16 concession that Russia denied ICE's travel document request). While the government
17 has not produced any specific evidence of a change in policy by Russia for people in
18 Mr. Tairov's circumstances, the record in *Ishmuratov v. Rivas* provides evidence of the
19 opposite—Russia's recalcitrance and refusal to issue travel documents for individuals
20 like Mr. Tairov is unchanged.

21 The responsibility of “review[ing] the lawfulness of [Mr. Tairov's] continued
22 detention” falls to the Court. In exercising that responsibility here, the Court should
23 consider that ICE's insistence that its request for travel documents (which has not yet
24 been submitted) will be granted by the Russian Embassy as meaningless. ICE's own
25 publications make clear that Russia does not process these applications. The multiple
26 failed attempts by both ICE and Mr. Tairov himself to get a travel document over the

1 past thirteen years, the requirements set out by the Russian embassy that ICE has not
2 met and cannot meet, and the fact that ICE had not yet made *any* request to the Russian
3 Embassy by October 20, 2025, further supports a finding that Mr. Tairov’s removal is
4 not reasonably foreseeable. *See Singh v. Whitaker*, 362 F. Supp. 3d 93, 101–02
5 (W.D.N.Y. 2019) (“[I]f DHS has no idea of when it might reasonably expect Singh to
6 be repatriated, this Court certainly cannot conclude that his removal is likely to occur—
7 or even that it might occur—in the reasonably foreseeable future.”) (internal citations
8 omitted).

9 **B. Mr. Tairov’s re-detention violates the Administrative Procedures**
10 **Act.**

11 Mr. Tairov’s re-detention violated ICE’s own policies and regulations, which
12 specify that re-detention is permitted “if, on account of changed circumstances, the
13 Service determines there is a significant likelihood” that removal is reasonably
14 foreseeable. 8 C.F.R. § 241.13(i)(2). Mr. Tairov was re-detained by ICE without any
15 changed circumstances. ICE had not secured a travel document when it re-detained
16 him, it had not applied for one from the Russian Embassy when it re-detained him and,
17 as the government concedes, it had not even received approval from its own
18 headquarters to resubmit a request for a travel document.

19 The government argues that Mr. Tairov’s claim under the Administrative
20 Procedures Act fails because he has no evidence that his removal was not reasonably
21 foreseeable. Dkt. 8 at 8. This is not true. Mr. Tairov has provided evidence that he had
22 applied for travel documents, yet again, in December of 2024 and had not received any
23 response from the Russian Embassy. *See Ex. 1.*

1 Mr. Tairov must be released because ICE’s failure to follow its own regulations
2 about notice and an opportunity to be heard violated Mr. Tairov’s procedural due
3 process rights and his punitive detention violates his substantive due process rights.⁴

4 **III. CONCLUSION**

5 Mr. Tairov does not need to prove he will not be removed eventually, only that
6 there is not “good reason” to believe his removal is “substantially likely” in the
7 “reasonably foreseeable future.” *See D’Alessandro v. Mukasey*, 628 F. Supp. 2d 368,
8 404 (W.D.N.Y. 2009) (“[T]he burden upon the detainee is not to ‘demonstrate’ no
9 reasonably foreseeable, significant likelihood of removal or ‘show that his detention is
10 indefinite . . .’ Rather, the detainee need only provide ‘good reason to believe’ that
11 removal is not significantly likely in the reasonably foreseeable future.”). Mr. Tairov
12 has told ICE that, if released, he will continue to actively seek to procure travel
13 documents, as he had in the past and as is required by the Russian Embassy.

14 Given the undisputed evidence of Respondents’ inability to obtain a travel
15 document and the undisputed evidence that Russia does not cooperate with ICE by
16 issuing travel documents in a timely manner, Mr. Tairov more than meets his burden.

19 ⁴ *See, e.g., Ho v. Noem*, CV25-2453-BAS-BLM, Dkt. 11 (S.D. Cal. Oct. 20, 2025);
20 *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. CV25-2405-RBM
21 (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. CV25-2053-RSH, 2025 WL
22 2646165 (S.D. Cal. Sep. 15, 2025); *Phan v. Noem*, 2025 WL 2898977, No. CV25 -
23 2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v. Noeuram*, 2025 WL
24 2800037, No. CV25-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025
25 WL 2770623, No. CV25-2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No.
26 CV25-02597-JES, Dkt. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No.
CV25-02575-JO-SBC, Dkt. 12 (S.D. Cal. Oct. 9, 2025) (all either granting temporary
restraining orders releasing noncitizens, or granting habeas petitions outright, due to
ICE regulatory violations during recent re-detentions of released noncitizens previously
ordered removed).

1 Mr. Tairov asks that the Court grant his petition, order his release on conditions,
2 and order the government not to remove Mr. Tairov to any other country other than
3 Russia without notice and an opportunity to be heard.

4 DATED this 29th day of October 2025.

5 Respectfully submitted,

6 *s/ Sara Brin*

7 Assistant Federal Public Defender

8 Attorney for Viktor Tairov

9 I certify this response contains 2,762 words in compliance with the Local Civil Rules.
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