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10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF ARIZONA**

12 Farshid Djahandideh,

No. CV-25-03337-PHX-SPL (CDB)

13 **Petitioner,**

**RESPONSE TO MOTION FOR
 LIMITED DISCOVERY**

14 v.

15 Luis Rosa, Jr., *et al.*

16 **Respondents.**

17
 18 Respondents, by and through counsel, respond to Petitioner’s Motion for Limited
 19 Discovery (Doc. 18). Discovery in any civil case is only appropriate as “proportional to
 20 the needs of the case,” and because no facts are controverted between the parties, there is
 21 no need to conduct discovery. This Court should therefore deny the Motion.

22 “A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled
 23 to discovery as a matter of ordinary course.” *Bracy v. Gramley*, 520 U.S. 899, 904 (1997).
 24 A court may grant discovery to a habeas petitioner only upon a showing of “good cause,”
 25 and then only to the extent authorized by the Federal Rules of Civil Procedure. Rules
 26 Governing Section 2254 Proceedings (“Habeas Rule”) 6(a). A court that authorizes
 27 discovery under this rule may also “limit the extent of discovery.” *Id.* The Federal Rules
 28 of Civil Procedure authorize discovery only of documents that are both relevant and not

1 privileged, and only to the extent that discovery is necessary and practical:

2 Unless otherwise limited by court order, the scope of discovery is as follows:
3 Parties may obtain discovery regarding any nonprivileged matter that is
4 relevant to any party's claim or defense and proportional to the needs of the
5 case, considering the importance of the issues at stake in the action, the amount
6 in controversy, the parties' relative access to relevant information, the parties'
resources, the importance of the discovery in resolving the issues, and whether
the burden or expense of the proposed discovery outweighs its likely benefit.

7 FRCP 26(b)(1).

8 Petitioner must show that the discovery he seeks is relevant. *See* Federal Habeas
9 Rule 6(b); *Calderon v. United States Dist. Court*, 98 F.3d 1102, 1106 (9th Cir. 1996)
10 (“[C]ourts should not allow prisoners to use federal discovery for fishing expeditions to
11 investigate mere speculation”); *Williams v. Beard*, 637 F.3d 195, 209 (3d. Cir. 2011);
12 *Williams v. Bagley*, 380 F.3d 932, 974 (6th Cir. 2004); *Odiase v. Oddo*, Civil Action No.
13 3:25-206, 2025 WL 2977866, at *3 (W.D. Penn. October 22, 2025). A petitioner bringing
14 a habeas claim under *Zadvydas v. Davis*, 533 U.S. 678 (2001), must they must show that
15 the requested discovery is “likely to generate evidence beyond that which is already in the
16 record,” which includes sworn declarations like those commonly provided in responses to
17 such claims. *Atikurraheman v. Garland*, No. C24-262-JHC-SKV, 2024 WL 2819242, at *
18 5 (W.D. Wash. May 10, 2024), *report and recommendation adopted*, 2024 WL 2818574;
19 *see also Sheppard v. United States*, 640 F. Supp. 29, 36 (D.D.C. 2009) (“Discovery is also
20 unnecessary where a plaintiff merely seeks to ‘confirm’ undisputed evidence in the record,
21 or speculates that other, as-yet unidentified facts might exist.” (citing *Strang v. U.S. Arms*
22 *Control & Disarmament Agency*, 864 F.2d 859, 861 (D.C. Cir. 1989))).

23 This Motion appears at an unusual point in the litigation—generally, motions for
24 discovery in habeas cases appear alongside the petition, before the respondents have put
25 their version of events before the court. However, because Petitioner through counsel, filed
26 an Amended Petition for Writ of Habeas Corpus (Doc. 15) after Respondents responded
27 (Doc. 13) to the original petition, Petitioner and the Court are already aware of the evidence
28 that Respondents have offered concerning the status of ICE's efforts to remove Petitioner,

1 and nothing in the Amended Petition disputes or contradicts that evidence. In fact, the
2 parties are in agreement as to the facts of this case, so no discovery is necessary. Rather,
3 the issue before the Court is a legal one—given the undisputed evidence before the Court,
4 has Petitioner met his burden to show “good reason to believe” that there is no likelihood
5 of removal in the reasonably foreseeable future, and if so, is the evidence offered by
6 Respondents’ sufficient to refute that allegation. *Zadvydas*, 533 U.S. at 701.

7 The operative facts in the Amended Petition (Doc. 15) are as follows: Petitioner is
8 a citizen of Iran who was ordered removed by an immigration judge on January 16, 2007.
9 Amended Petition at ¶ 4; Response to Petition (Doc. 13), Exhibit A (“Declaration”) at ¶ 3,
10 20. The immigration court ordered that Petitioner be removed to Iran, or alternatively to
11 the Netherlands or Germany. Amended Petition at ¶ 16; Declaration at ¶ 20. Shortly after
12 Petitioner was ordered removed, Immigrations and Customs Enforcement (“ICE”)
13 submitted requests for travel documents to all three countries. Amended Petition at ¶ 16(a)–
14 (b); Declaration at ¶¶ 21–23. Petitioner was granted supervised release on May 25, 2007.
15 Amended Petition at ¶ 16(c); Declaration at ¶ 24. Petitioner next entered immigration
16 custody in February 2009,¹ following a state-law conviction for possession of marijuana.
17 Amended Petition at ¶ 17; Declaration at ¶¶ 30–32. At that time, ICE requested travel
18 documents from Germany and Iran again. Amended Petition at ¶ 17(a)–(b); Declaration at
19 ¶¶ 34–26 (p. 6).² Germany denied the request for travel documents, and ICE granted
20 Petitioner supervised release on May 22, 2009. Amended Petition at ¶ 17(c); Declaration
21 at ¶ 27 (p. 6). ICE detained Petitioner thrice more between 2010 and 2011, and each time,

22
23 ¹ The precise date on which Petitioner came into immigration custody may be controverted;
24 the Amended Petition states that Petitioner entered custody on February 3, 2009, but the
25 Declaration states that he entered custody on February 23, 2009. Amended Petition at ¶ 17;
26 Declaration at ¶¶ 32. However, this fact is not material, and in any case, it would not be
27 resolved by the discovery requested.

28 ² The Declaration contains a numbering error, such that Paragraph 34 is followed by a
paragraph numbered 25, and the subsequent paragraphs continue from 25. In this Response,
Respondents will refer to the numbers as they are written, and when referring to a paragraph
whose number occurs twice, Respondents will provide the page number on which the
paragraph sits.

1 Petitioner was granted supervised release shortly thereafter. Amended Petition at ¶¶ 18–
2 20; Declaration at ¶¶ 37, 41, 48. ICE encountered Petitioner while he was in a local jail on
3 August 20, 2013, and it determined at that time that he was “not amenable to removal.”
4 Amended Petition at ¶ 21; Declaration at ¶ 50. Prior to his current detention, Petitioner
5 twice more entered ICE custody following a prison term, and he was granted supervised
6 release both times. Amended Petition at ¶¶ 22–23; Declaration at ¶¶ 53–54, 61.³
7 Petitioner’s current detention, which he challenges in this action, began on April 2, 2025.
8 Amended Petition at ¶ 25; Declaration at ¶ 64. Petitioner was interviewed by an Iranian
9 consular official on November 17, 2025. Amended Petition at ¶ 26; Declaration at ¶ 68.
10 Iran has yet to issue travel documents for Petitioner. *See* Amended Petition at ¶ 26;
11 Declaration at ¶ 69.

12 As the preceding paragraph makes plain, Respondents have already provided a
13 version of facts, made under penalty of perjury, that accords entirely with Petitioner’s own.
14 Petitioner argues that he “has reason to believe that [the Declaration’s] assertions are
15 incomplete or lack important context,” Motion at 2, but it is entirely unclear what context
16 could possibly be missing. Petitioner implies that he wants to prove that ICE’s prior
17 removal efforts were unsuccessful, *see* Motion at 3, but Petitioner has absolutely no need
18 to prove this. Respondents do not dispute that the requests for travel documents made in
19 2007 and 2009 were unsuccessful. If the Court deems it necessary, Respondents are willing
20 to stipulate that the travel document requests made to Iran, the Netherlands, and Germany
21 in 2007 and to Iran in 2009 were unsuccessful.⁴

22
23 ³ The Declaration does not establish that Petitioner was granted supervised release in 2024,
24 but the unknown “encounter” referenced in Paragraph 61 occurs very near to the date when
25 Petitioner would have completed his prison term. Respondents are willing to stipulate that
26 Petitioner was granted supervised release, should the court deem it relevant.

27 ⁴ It is unclear how failed attempts to remove Petitioner to the Netherlands and Germany
28 more than 15 years ago would have any bearing on ICE’s ability to remove him to Iran
now, and discovery should be denied to the extent it is “not specific to Petitioner’s pending
TDR [travel document request] and [is] therefore unlikely to offer any insights into the
reasonable foreseeability of his removal at this time.” *Atikurraheman*, 2024 WL 2819242,
at *5.

1 Because none of the operative facts are controverted, discovery is not warranted and
2 should not be permitted. In habeas cases, discovery is only justified when “specific
3 allegations before the court show reason to believe that the petitioner may, *if the facts are*
4 *fully developed*, be able to demonstrate that he is entitled to relief[.]” *Bracy*, 520 U.S. at
5 909 (emphasis added). In such cases, “it is the duty of the court to provide the necessary
6 facilities for an adequate inquiry.” *Id.*⁵ However, in this case, the facts are already fully
7 developed. Petitioner alleges no facts in his Amended Petition that Respondents had not
8 already admitted or averred in their response to the original habeas petition. Petitioner
9 posits that he may “further amend his petition as necessary” after discovery, but Petitioner
10 is not entitled to conduct discovery in order to “explore [his] case in search of its existence.”
11 *Rich v. Calderon*, 187 F.3d 1064, 1067 (9th Cir. 1999) (internal quotation marks and
12 citations omitted). Respondents have already provided the Court with all the information
13 that they have regarding ICE’s efforts to remove Petitioner and the status of those efforts
14 at this time. Petitioner alleges no facts beyond these. This request for discovery is thus
15 unnecessary, and the Court should deny it.

16 Further, discovery in habeas cases may be conducted only “under the Federal Rules
17 of Civil Procedure.” *See* Habeas Rule 6(a). Under the Federal Rules of Civil Procedure,
18 discovery may only be conducted “proportional . . . to the needs of the case, considering . . .
19 the importance of the discovery in resolving the issues, and whether the burden or expense
20 of the proposed discovery outweighs its likely benefit.” FRCP 26(b)(1). Indeed, courts will

21 ⁵ Even in non-habeas civil cases, where discovery is granted more liberally than it is in
22 habeas cases, a court may issue a protective order barring discovery “to protect a party or
23 person from annoyance . . . or undue burden or expense.” FRCP 26(c)(1). Courts may grant
24 protective orders barring discovery if there is a pending motion that is “potentially
25 dispositive of the entire case, or at least dispositive on the issue at which discovery is aimed
26 and . . . the pending, potentially dispositive motion can be decided absent additional
27 discovery.” *Williams v. Experian Info. Sols.*, 2024 U.S. Dist. LEXIS 31078 at *5 (D. Ariz
28 Feb. 23, 2024). The Court may take a “preliminary peek” at the merits of the underlying
motion to determine whether to prohibit discovery. *Id.* at *6. Because Petitioner’s Motion
for a Preliminary Injunction and his Petition are both dispositive of the entire action, the
Court should apply this “preliminary peek” test to determine whether discovery is
warranted here.

1 deny motions to compel disclosure when the underlying issues of fact are not controverted
2 between the parties. *See Washingtonpost.Newsweek Interactive Co. v. Gator Corp.*, No.
3 02CV909, 2002 WL 31319973, at *1 (E.D. Va. Sept. 17, 2002). Here, discovery is entirely
4 unnecessary because there are no issues of fact to resolve. The only remaining question
5 before the Court is a legal one: whether the facts as presented constitute a “significant
6 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.
7 Because Petitioner’s habeas claim can be “properly resolved as a matter of law on the basis
8 of stipulated facts,” this Court should deny his request for discovery and should simply
9 rule on the Petition. *Hancock Indus. v. Schaeffer*, 811 F.2d 225, 230 (3d. Cir. 1987).

10 If the Court is inclined to permit discovery nonetheless, Respondents respectfully
11 request that the Court require Petitioner to state with at least some level of specificity what
12 facts he hopes to establish through discovery that did not appear in his Amended Petition
13 or the Declaration. If Petitioner does this, it is possible that the parties could come to an
14 agreement that would permit this action to conclude faster (for example, the parties could
15 agree to narrow the scope of discovery, or Respondents could agree to stipulate to the facts
16 that Petitioner wants to prove).⁶

17 Conducting discovery in a matter where the parties agree on all the facts is a waste
18 of the Court’s time, imposes a major burden on Respondents and their counsel, and
19 provides not a single benefit to Petitioner’s litigation position. This Court should therefore
20 decline to waste the time of all involved and should grant or deny the Petition and deny
21 this Motion as moot.

22 For the foregoing reasons, Respondents respectfully request that this Court deny the
23 Motion for Limited Discovery (Doc. 18).

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26
27 ⁶ Respondents note that they intend to object to some of the requested discovery. Because
28 discovery objections generally do not come before the Court except on a Motion to
Compel, *see* FRCP 34, Respondents will not brief the objections at this time and reserve
their right to object to any discovery ordered by the Court.

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RESPECTFULLY SUBMITTED December 18, 2025.

TIMOTHY COURCHaine
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District of Arizona

s/ Brooks Chupp
BROOKS CHUPP
Assistant United States Attorney
Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/ Mary Finlon
United States Attorney's Office