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9 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 Shahab Kazemzadeh,

11 Petitioner,

12 v.

13 The United States of America, et al.,

14 Respondents.

Case No. 2:25-cv-1941-JAD-NJK

**Response to Petition for Writ of Habeas
Corpus**

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16
17 **I. Introduction**

18 Respondents, the United States of America, Kristi Noem, Pamela J. Bondi, Kerri
19 Ann Quihuis, Michael Bernacke, and Patrick J. Lechleitner, through counsel, Sigal Chattah,
20 Acting United States Attorney for the District of Nevada, and Summer A. Johnson, Assistant
21 United States Attorney, hereby file this response to the Petition for Writ of Habeas Corpus
22 filed by Shahab Kazemzadeh (“Petitioner”). As explained herein, Petitioner’s continued
23 detention is lawful under statutory authority and Supreme Court precedent, which allow for
24 such detention after a final order of removal. Respondents move to dismiss the petition, or
25 alternatively, request that the Court stay this matter pending further proceedings in
26 furtherance of Petitioner’s removal.

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1 **II. Factual Background**

2 Petitioner is a native and citizen of Iran. ECF No. 1 at ¶9. He is currently detained at
3 the Nevada Southern Detention Center. *Id.* ¶8. At an unknown time and unknown place,
4 Petitioner entered the United States as a refugee. *Id.* ¶23; *see also* Exhibit A, Record of
5 Deportable/Inadmissible Alien. On March 4, 2020, an Immigration Judge ordered that
6 Petitioner be removed to Iran. *Id.* ¶24; *see also* Exhibit B, Order of Immigration Judge, at 2.
7 Petitioner waived his right to appeal the March 4, 2020 order of removal. *Id.* ¶25 and Exhibit
8 B, at 2. Following the Order of Removal, Petitioner was released from ICE custody as ICE
9 was unable to secure a travel document for Petitioner. *Id.* ¶24; Exhibit A at 2.

10 Following his release from detention, Petitioner was charged with 6 counts of Sexual
11 Assault. On August 7, 2002, he was convicted on all counts. *See* Exhibit C, at 3-5. Petitioner
12 was sentenced to six concurrent “indeterminate term[s] not less than ten years and which
13 may be life in the Utah State Prison.” *Id.* at 18.

14 Following Petitioner’s release from custody, on June 23, 2025, Petitioner was re-
15 detained. During this recent detention, DHS has sought to obtain travel documents to
16 effectuate Petitioner’s removal to Iran. *Id.* ¶¶ 26, 30. On July 25, 2025, Petitioner was
17 provided with a Notice to Alien of File Custody Review, which advised Petitioner that he
18 would receive a custody status review on or about September 21, 2025. *See* Exhibit D, Notice
19 to Alien of File Custody Review. The Notice advised Petitioner that he could submit
20 documentation in support of his release. *Id.*

21 In September 2025, Petitioner was provided a 90-day detention review pursuant to 8
22 C.F.R. § 241.4 after which he remained detained. *Id.* ¶28; *see* Exhibit E, Decision to Continue
23 Detention. The Decision noted that “[if] you have not been released or removed from the
24 United States at the expiration of the three-month period after this 90-day review, jurisdiction
25 of the custody decision in your case will be transferred...The ERO Removal Division will
26 thereafter conduct a custody review...” *Id.* at 1-2. The Decision further notes that “ICE/ERO
27 expects to effectuate your removal from the United States in the foreseeable future.” *Id.* DHS
28 continues to seek travel documents from the Iranian government. *Id.* ¶¶ 26, 30.

1 Petitioner filed this action on October 9, 2025, including a Petition for Writ of Habeas
2 Corpus. *See* ECF Nos. 1, 1-1. Respondents were ordered to respond by October 28, 2025.
3 ECF No. 3.

4 **III. Argument**

5 **A. ICE is Authorized to Detain and Deport Petitioner**

6 ICE can lawfully detain Petitioner because he is subject to a final order of removal
7 and can be detained under 8 U.S.C. § 1231(a)(6). Second, following Supreme Court
8 precedent, any claim that his detention violates the Due Process Clause is not cognizable or
9 well-founded at this early point in his detention.

10 **1. ICE Lawfully Detained Petitioner Pursuant to 8 U.S.C. § 1231(a).**

11 ICE's detention authority stems from 8 U.S.C. § 1231 which provides for the
12 detention and removal of aliens with final orders of removal. Section 1231(a)(1)(A) directs
13 immigration authorities to remove an individual with a final order of removal within a period
14 of 90 days, which is known as the "removal period." During the removal period, ICE must
15 detain the alien. 8 U.S.C. § 1231(a)(2) ("shall detain"). If the removal period expires, ICE
16 can either release an individual pursuant to an Order of Supervision as directed by §
17 1231(a)(3) or may continue detention under § 1231(a)(6). ICE may continue detention
18 beyond the removal period for three categories of individuals: (i) those who are inadmissible
19 to the United States pursuant to 8 U.S.C. § 1182; (ii) those who are subject to certain grounds
20 of removability from the United States pursuant to 8 U.S.C. § 1227; or (iii) those whom
21 immigration authorities have determined to be a risk to the community or "unlikely to
22 comply with the order of removal." 8 U.S.C. § 1231(a)(6)(A).

23 Petitioner is outside the initial 90-day mandatory removal period which commenced
24 following his order of removal on March 4, 2020. However, he is still eligible for ICE
25 detention beyond the initial ninety days as he is subject to removal under 8 U.S.C. §
26 1227(a)(2)(A)(i) - an alien convicted of a crime of moral turpitude. Section 1231(a)(6)
27 specifically authorizes the detention of detainees beyond the initial removal period if they
28 are ordered removed pursuant to section 237(a)(2) of the INA (8 U.S.C. § 1227(a)(2)).

1 Because Petitioner has been ordered remove pursuant to section 237(a)(2) of the INA, ICE
2 has statutory authority to detain Petitioner to effectuate his removal order from the United
3 States and he is not entitled to a bond hearing or release as § 1231(a)(6) does not require such
4 process. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 574, 581 (2022) (holding § 1231(a)(6)'s
5 plain text "says nothing about bond hearings before immigration judges or burdens of
6 proof"). Petitioner's detention is therefore lawful under § 1231(a)(6) and this Court should
7 dismiss his Petition.

8
9 **2. Petitioner's Habeas Petition is Premature as He has only Been detained for
Four months.**

10 Petitioner's due process claim is premature because, as of the time of filing, his
11 detention has lasted only for months. Under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the
12 Supreme Court established that detention for up to six months after a final order of removal
13 is "presumptively reasonable." Given that Petitioner has been detained for less than six
14 months, his claim that this detention violates the Fifth Amendment is both premature and
15 legally insufficient.

16 As the Court explained in *Zadvydas*, detention beyond the 90-day removal period is
17 only justified when it is "reasonably necessary" to effectuate removal. *Id.* In this case,
18 Petitioner's detention falls short of the six-month threshold, which the Court has found to be
19 presumptively reasonable. After six months, the burden shifts to the petitioner to show "good
20 reason to believe that there is no significant likelihood of removal in the reasonably
21 foreseeable future" before the burden reverts to the government to rebut that showing *Id.* at
22 701. The Supreme Court has recognized that "detention during deportation proceedings [is]
23 a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523
24 (2003). When evaluating "reasonableness" of detention, the touchstone is whether an alien's
25 detention continues to serve "the statute's basic purpose, namely, assuring the alien's
26 presence at the moment of removal." *Zadvydas*, 533 U.S. at 699. To set forth a Constitutional
27 violation for § 1231 detention, an individual must satisfy the *Zadvydas* test. *See Castaneda v.*
28 *Perry*, 95 F.4th 750, 760 (4th Cir. 2024) (explaining that "*Zadvydas*, largely, if not entirely

1 forecloses due process challenges to § 1231 detention apart from the framework it
2 established.”).

3 Courts routinely deny habeas petitions that are filed with less than six months of
4 detention. *See, e.g., Kamara v. Warden*, No. 1:21-CV-4, 2021 U.S. Dist. LEXIS 94222, at *27-
5 28 (M.D. Pa. Apr. 12, 2021)(Habeas petition denied as Petitioner’s “current post-removal
6 detention falls well within the 6-month presumptively reasonable time frame defined by the
7 Supreme Court in *Zadvydas*.”); *Lule-Arredondo v. Holder*, No. C14-987-RSL-JPD, 2014 U.S.
8 Dist. LEXIS 176932 (W.D. Wash. Nov. 17, 2014) (“Should petitioner’s detention continue
9 past the six-month presumptively reasonable period, he may file a new habeas petition and
10 obtain review.”); *Farah v. U.S. Att’y Gen.*, 12 F.4th 1312, 1332-33 (11th Cir. 2021) (“If after
11 six months he is still in custody and has not been removed from the United States, then he
12 can challenge his detention under section 1231(a). But until then, his detention is
13 presumptively reasonable under *Zadvydas*.”), *overruled on other grounds by Santos-Zacaria v.*
14 *Garland*, 598 U.S. 411, 419-23 & n.2 (2023).

15 Here, Petitioner’s due process challenge fails on two fronts. First, he has only been
16 detained for four months (as of this filing), making his detention presumptively reasonable.
17 Second, there is no non-speculative indication in the record that his removal is not reasonably
18 foreseeable. Although historically the repatriation of Iranian nationals has presented
19 logistical challenges, those circumstances have changed. During Petitioner’s detention, the
20 United States entered into an agreement with the Government of Iran to accept
21 approximately 400 Iranian detainees currently subject to final orders of removal. This recent
22 diplomatic development demonstrates that removals to Iran are now not only feasible but
23 actively underway.

24 Accordingly, because (1) Petitioner’s confinement of less than six months remains
25 *presumptively reasonable*, and (2) the record establishes that his removal is *reasonably foreseeable*,
26 his due process challenge lacks merit and the Petition should be denied.

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1 **B. Petitioner’s Request for Injunctive Relief Fails Because He Cannot Establish a**
2 **Likelihood of Success on the Merits**

3 In his Petition, Petitioner alternatively argues for the Court to issue injunctive relief
4 by “issu[ing] an emergency injunction ordering his immediate release from ICE custody or,
5 in the alternative, a constitutionally adequate bond hearing.” ECF No. 1-1, at 17. Petitioner
6 is entitled to neither.

7 In general, the showing required for a temporary restraining order is the same as that
8 required for a preliminary injunction. *See Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240
9 F.3d 832, 839, n. 7 (9th Cir. 2001). To prevail on a motion for a preliminary injunction, a
10 plaintiff must “establish that he is likely to succeed on the merits, that he is likely to suffer
11 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
12 favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*,
13 555 U.S. 7, 20 (2008); *see also Nken v. Holder*, 556 U.S. 418, 426 (2009).

14 Plaintiffs must demonstrate a “substantial case for relief on the merits.” *Leiva-Perez v.*
15 *Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011). When “a plaintiff has failed to show the
16 likelihood of success on the merits, we need not consider the remaining three [Winter
17 factors].” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015).

18 The final two factors required for preliminary injunctive relief — balancing of the harm
19 to the opposing party and the public interest — merge when the Government is the opposing
20 party. *See Nken*, 556 U.S. at 435. The Supreme Court has specifically acknowledged that
21 “[f]ew interests can be more compelling than a nation’s need to ensure its own security.”
22 *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v. Brignoni-Ponce*, 422
23 U.S. 873, 878-79 (1975); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1220-21 (D.C.
24 Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant seeking injunctive
25 relief “must show either (1) a probability of success on the merits and the possibility of
26 irreparable harm, or (2) that serious legal questions are raised and the balance of hardships
27 tips sharply in the [moving party’s] favor.”) (quoting *Andrieu v. Ashcroft*, 253 F.3d 477, 483
28 (9th Cir. 2001)).

1 **1. Petitioner Cannot Establish a Likelihood of Success on the Merits that his**
2 **Detention Violates his Due Process**

3 As discussed in Section III.A.2, in *Zadvydas*, the Supreme Court construed § 1231 “to
4 contain an implicit ‘reasonable time’ limitation, the application of which is subject to federal-
5 court review.” 533 U.S. at 682. When a removable alien is detained beyond this reasonable
6 time and “removal is not reasonably foreseeable, the court should hold continued detention
7 unreasonable.” *Id.* at 699. The Court adopted a six-month period of presumptive
8 reasonableness and confirmed that “an alien may be held in confinement until it has been
9 determined that there is no significant likelihood of removal in the reasonably foreseeable
10 future.” *Id.* at 710.

11 Petitioner has been detained since June 23, 2025. Petitioner’s current period of
12 detention—approximately four months at the time of this filing—remains well within the
13 range deemed presumptively reasonable under governing precedent. Additionally, nothing
14 in the record suggests, beyond speculation, that his removal is not reasonably foreseeable.
15 Although repatriation to Iran has historically presented logistical challenges, the United
16 States has recently entered into an agreement with the Iranian government to facilitate the
17 return of approximately 400 Iranian nationals. Given that Petitioner’s detention is of a
18 presumptively reasonable duration and that his removal to Iran is reasonably foreseeable,
19 Petitioner’s request for injunctive relief must fail as he cannot show a likelihood of success
20 on the merits.

21 **2. Petitioner Has Failed to Show an Irreparable Harm.**

22 To prevail on their request for injunctive relief, Petitioners must demonstrate
23 “immediate threatened injury.” *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674
24 (9th Cir. 1988) (citing *Los Angeles Mem’l Coliseum Comm’n v. Nat’l Football League*, 634 F.2d
25 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of irreparable harm is
26 insufficient. *See Winter*, 555 U.S. at 22. “Issuing a preliminary injunction based only on a
27 possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization
28 of injunctive relief as an extraordinary remedy that may only be awarded upon a clear
showing that the plaintiff is entitled to such relief.” *Id.* Here, because Petitioner’s alleged

1 harm “is essentially inherent in detention, the Court cannot weigh this strongly in favor of”
2 Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *10 (N.D.
3 Cal. Dec. 24, 2018).

4 **3. Factors Three and Four also Weigh against Petitioner.**

5 When “the government is a party, [courts] consider the balance of the equities and
6 the public interest together.” *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018). And “[i]n
7 exercising their sound discretion, courts of equity should pay particular regard for the public
8 consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-*
9 *Barcelo*, 456 U.S. 305, 312 (1982). Here, an adverse decision would negatively impact the
10 public interest by jeopardizing “the orderly and efficient administration of this country’s
11 immigration laws” by requiring “the Court to severely restrict the discretion of the Attorney
12 General.” *See Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); *see also Coal. for*
13 *Econ. Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) (“[I]t is clear that a state suffers
14 irreparable injury whenever an enactment of its people or their representatives is
15 enjoined.”). The public has an interest in the government’s enforcement of its laws. *See, e.g.,*
16 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (“[T]he district court should
17 give due weight to the serious consideration of the public interest in this case that has
18 already been undertaken by the responsible state officials in Washington, who unanimously
19 passed the rules that are the subject of this appeal.”). As with the irreparable harm analysis,
20 the “determination of where the public interest lies also is dependent on the determination
21 of the likelihood of success on the merits of the [constitutional] challenge.” *Phelps-Roper v.*
22 *Nixon*, 545 F.3d 685, 690 (8th Cir. 2008), overruled on other grounds by *Phelps-Roper v. City*
23 *of Manchester, Mo.*, 697 F.3d 685, 690 (8th Cir. 2012). While it is “always in the public
24 interest to protect constitutional rights,” *id.*, when, as here, Petitioner has not shown a
25 likelihood of success on the merits of that claim, that presumptive public interest evaporates.
26 *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). Accordingly, Petitioner has not
27 established that he merits an injunction, and the Court should deny this request.
28

IV. Conclusion

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's Petition for Writ for Habeas Corpus and dismiss the Petition, as Petitioner's detention is lawful under 8 U.S.C. § 1231 and Supreme Court precedent. *See Rawahna v. AG of the United States*, No. 1:18-cv-175, 2018 U.S. Dist. LEXIS 101634, at *12 (S.D. Ohio June 18, 2018)(“Therefore, the instant petition should be dismissed without prejudice to petitioner's ability to apply for future relief if circumstances change.”) In the alternative, Respondents request that the Court stay this matter pending further proceedings in furtherance of Petitioner's removal to Iran. Moreover, given the lack of time that has elapsed since Petitioner has been detained, Petitioner's request for injunctive relief should be denied as he cannot establish a likelihood of success on the merits.

Respectfully submitted this 28th day of October, 2025.

SIGAL CHATTAH
Acting United States Attorney

/s/ Summer A. Johnson
SUMMER A. JOHNSON
Assistant United States Attorney

1 Certificate of Service

2 I, Summer A. Johnson, hereby certify that a copy of the foregoing **Respondents'**
3 **Response to Petition for Writ of Habeas Corpus** was served via the CM/ECF Electronic
4 File and Serve system, and to the following individuals by the stated service methods:

5
6 Via U.S. First Class Mail:
7 Shahab Kazemzadeh
8 Alien No. 
9 Nevada Southern Detention Center
2190 East Mesquite Avenue
Pahrump NV 89060

10 Dated this 28th day of October 2025.

11
12 /s/ Summer A. Johnson
13 SUMMER A. JOHNSON
14 Assistant United States Attorney
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