

District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IGOR PANFILOV,

Petitioner,

v.

PAMELA BONDI, *et al.*,¹

Respondents.

Case No. 2:25-cv-02027-TMC

FEDERAL RESPONDENTS'²
RETURN MEMORANDUM

Noted for consideration on:
November 12, 2025

I. INTRODUCTION

U.S. Immigration and Customs Enforcement (“ICE”) lawfully detains Petitioner Igor Panfilov to facilitate his removal to Kyrgyzstan. Panfilov is subject to a final removal order. This Court should deny his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and Request for Injunctive Relief. Dkt. No. 1 (“Pet.”). Panfilov seeks his release from immigration detention because he purports that his “[r]emoval to his former country of residence . . . is not reasonably

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Acting Field Office Director Laura Hermosillo for Camilla Wamsley.

² Respondent Bruce Scott is not a federal employee and is not represented by undersigned counsel.

1 foreseeable.” Pet., at 3. He further seeks an “order preventing his removal to a third country
2 without notice and meaningful opportunity to respond . . . and an order barring his removal to any
3 third country pursuant to Respondents’ punitive removal policy.” *Id.*

4 This Court should deny the Petition. First, Panfilov is detained pursuant to Section 241 of
5 the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1231(a)(6). ICE is actively seeking a
6 Kyrgyzstan travel document to execute his removal. Thus, his detention has not become
7 unconstitutionally “indefinite.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Second, Panfilov
8 provides no support that ICE is seeking to remove him to any country other than Kyrgyzstan.
9 Thus, his third country claims are improperly brought before this Court without a case or
10 controversy to be decided.

11 Accordingly, Federal Respondents respectfully request that the Court deny the Petition.
12 Federal Respondents do not believe that an evidentiary hearing is necessary.

13 II. FACTUAL AND PROCEDURAL BACKGROUND

14 A. Detention Authorities and Removal Procedures

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

21 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
22 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
23 “shall remove the alien from the United States.” *Id.* To ensure a noncitizen’s presence for removal
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1 and to protect the community from dangerous noncitizens while removal is being effectuated,

2 Congress mandated detention:

3 During the removal period, the [Secretary of Homeland Security]³ shall detain the
4 alien. Under no circumstance during the removal period shall the [Secretary]
5 release an alien who has been found inadmissible under section 1182(a)(2) or
6 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B)
7 of this title.

8 8 U.S.C. § 1231(a)(2).

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

12 An alien ordered removed who is inadmissible under section 1182, removable
13 under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been
14 determined by the [the Secretary of Homeland Security] to be a risk to the
15 community or unlikely to comply with the order of removal, *may* be detained
16 *beyond the removal period* and, if released, shall be subject to the terms of
17 supervision in paragraph (3).

18 8 U.S.C. § 1231(a)(6) (emphasis added).

19 During the removal period, ICE⁴ is charged with attempting to effect removal of a
20 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time
21 limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen
22 may be detained only “for a period reasonably necessary to bring about that alien’s removal from
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21 ³ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining
22 noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192
23 (2002), transferred this authority to the Secretary of the Department of Homeland Security (“DHS”). *See*
24 *also* 6 U.S.C. § 251.

⁴ 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 the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
2 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.*, at 701.

3 Once it is determined that there is no significant likelihood of removal in the reasonably
4 foreseeable future, noncitizens may be released on an Order of Supervision (“OSUP”). 8 C.F.R.
5 § 241.13(h). ICE may revoke a noncitizen’s OSUP and return the noncitizen to custody when, on
6 account of changed circumstances, there becomes a significant likelihood of the noncitizen’s
7 removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

8 In this case, Panfilov is the subject of an administrative order of removal that became final
9 on July 29, 2008. ICE released him from detention 105 days after the removal order’s issuance
10 and the expiration of the removal period. He was detained again in 2024 for an additional 17 days.
11 ICE redetained Panfilov on June 12, 2025. Thus, the “presumptively reasonable” 6-month period
12 of detention expired in August of this year. *Zadvydas*, 533 U.S. at 701.

13 **B. Petitioner Igor Panfilov**

14 Panfilov is a citizen of Kyrgyzstan who entered the United States as a refugee in 1994.
15 Strzelczyk Decl., ¶ 4; Lambert Decl., Ex. A, Form I-213. He adjusted status to Lawful Permanent
16 Resident two years later. Strzelczyk Decl., ¶ 4. In 2007, Panfilov was convicted of three counts
17 of Possession of Stolen Property in the First Degree resulting in an 18-month sentence; Alien in
18 Possession of a Firearm without an Alien Firearm License resulting in a 12-month sentence; and
19 Possession of a Machine Gun or Short-Barreled Shotgun or Rifle resulting in a 22-month sentence.
20 *Id.*, ¶¶ 4-5; Lambert Decl., Ex. B, Felony Judgment and Sentence.

21 Panfilov was transferred to ICE custody from the Washington State Department of
22 Corrections in May 2008. Lambert Decl., Ex. A. DHS issued a notice to appear alleging that
23 Panfilov is removable under 8 U.S.C. § 1227(a)(2)(A)(iii). Strzelczyk Decl., ¶ 6; Lambert Decl.,
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1 Ex. C, Notice to Appear. On July 29, 2008, an immigration judge denied Panfilov's applications
2 for relief from removal and ordered that he be removed to Russia or, in the alternative, Kyrgyz
3 Republic. Strzelczyk Decl., ¶ 7; Lambert Decl., Ex. D, Order of the Immigration Judge.

4 Thereafter, ICE attempted to obtain travel documents from the Russian and Kyrgyz
5 Embassies. Strzelczyk Decl., ¶ 8. The Russian Embassy declined to issue a travel document. *Id.*,
6 ¶ 9. On November 10, 2008, ICE released Panfilov on an OSUP. Strzelczyk Decl., ¶ 10; Lambert
7 Decl., Ex. E, OSUP.

8 Panfilov was briefly detained in 2024 after being refused entry to Canada. Strzelczyk
9 Decl., ¶ 11. DHS released him on an OSUP on or about September 3, 2024. *Id.*; Lambert Decl.,
10 Ex. F, OSUP.

11 ICE revoked Panfilov's OSUP and took him into custody on June 12, 2025. Strzelczyk
12 Decl., ¶ 12; Lambert Decl., Ex. G, Warrant; Ex. H, Notice of Custody Determination; Ex. I, Form
13 I-213; Ex. J, Alien Informal Interview. ICE has submitted a travel document request to the
14 Kyrgyzstan consulate. Strzelczyk Decl., ¶ 13.

15 Panfilov is currently in ICE custody at the Northwest ICE Processing Center in Tacoma,
16 Washington.

17 III. ARGUMENT

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

3 The *Zadvydas* Court recognized that as the length of post-order detention grows, a sliding
4 scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order
5 detention. *Id.*, at 701 (stating that “for detention to remain reasonable, as the period of post-
6 removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would
7 have to shrink”). However, the Supreme Court determined that it is “presumptively reasonable”
8 for the Government to detain a noncitizen for six months following entry of a final removal order,
9 while it worked to remove the noncitizen from the United States. *Id.*, at 701. Thus, the Supreme
10 Court implicitly recognized that six months is the *earliest* point at which a noncitizens’ detention
11 could raise constitutional issues. *Id.* Moreover, as the Supreme Court has noted, the six-month
12 presumption “does not mean that every alien not removed must be released after six months. To
13 the contrary, an alien may be held in confinement until it has been determined that there is no
14 significant likelihood of removal in the reasonably foreseeable future.” *Id.*

15 Here, ICE has detained Panfilov for approximately nine months in total since his order of
16 removal became administratively final. His current detention has lasted approximately five
17 months. ICE is seeking a travel document to execute Panfilov’s removal to Kyrgyzstan and, as
18 part of the travel document request, has submitted his birth certificate demonstrating that he was
19 born in the Soviet Union in what is now Kyrgyzstan. Strzelczyk Decl., ¶ 14. The fact that Panfilov
20 does not yet have a specific date of anticipated removal does not make his detention indefinite.
21 *Diouf v. Mukasey* (“*Diouf I*”), 542 F. 3d 1222, 1233 (9th Cir. 2008).

22 Accordingly, Panfilov’s detention has not become “indefinite,” and this Court should not
23 order that he be released. Furthermore, because ICE is seeking to remove Panfilov to a country
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1 designated on his removal order, this Court should not assert its jurisdiction over Panfilov's
2 premature request for injunctive relief preventing third country removal.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
5 the Petition.

6 DATED this 5th day of November, 2025.

7 Respectfully submitted,

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20 *I certify that this memorandum contains 1,633 words,*
21 *in compliance with the Local Civil Rules.*