

THE HONORABLE TIFFANY M. CARTWRIGHT

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IGOR PANFILOV,

 Petitioner,

 v.

PAMELA BONDI, *et al.*,

 Respondents.

) No. CV25-2027-TMC
)
) IGOR PANFILOV'S REPLY TO
) RETURN MEMORANDUM

I. INTRODUCTION

The government acknowledges that Igor Panfilov has been detained past *Zadvydas's* six-month grace period. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (holding that a six-month period of detention is presumptively reasonable). And the government has provided no substantive evidence sufficient to rebut the showing made here that there is no reasonable likelihood of removal in the reasonably foreseeable future. Mr. Panfilov should not be made to suffer indefinite detention at the overcrowded and short-staffed ICE facility while waiting for a travel document, which may never come. Because the government has failed to defeat Mr. Panfilov's claim that his detention violates *Zadvydas* and 8 C.F.R. § 241.13, this Court should grant the petition and order his immediate release from immigration detention on an order of supervision.

1 **II. ARGUMENT**

2 **A. Mr. Panfilov's re-detention is illegal.**

3 Mr. Panfilov fled to the United States as a teen with his family as a refugee.

4 According to the documents provided by the government, Mr. Panfilov is “a native of
5 Kyrgyzstan, and [a] Citizen of The Russian Federation[.]” Dkt. 15-2 at 3; Dkt. 15-4 at
6 3. After serving his sentences for his 2007 Washington State convictions for possession
7 of stolen property and firearm offenses, Mr. Panfilov was taken into ICE custody on
8 May 7, 2008, for removal proceedings. Dkt. 15-3 at 3. An immigration judge ordered
9 his removal to Russia, and alternatively to the Kyrgyz Republic, on July 29, 2008.¹
10 Dkt. 15-4 at 12. On September 10, 2008, ICE requested travel documents for
11 Mr. Panfilov from both the Russian and Kyrgyz embassies. According to
12 DO Strzelczyk, the Russian government rejected the request. Dkt. 16 (Strzelczyk
13 Decl.), ¶ 9. Although DO Strzelczyk is silent about Kyrgyzstan's response, presumably
14 that request was also declined because Mr. Panfilov was released on an order of
15 supervision on November 10, 2008. *Id.*, ¶ 10.

16 Since then, Mr. Panfilov has successfully lived in the community checking in
17 with ICE regularly.² On June 12, 2025, ICE re-detained him when he presented himself
18 at his regular check-in and he has been there since. According to DO Strzelczyk, “ICE
19 revoked Petitioner's Order of Supervision (“OSUP”) that same day due to ERO
20 believing there to be a significant likelihood of removal in the reasonably foreseeable
21 future.” *Id.*, ¶ 13.

22
23 ¹ Deportation Officer (DO) Strzelczyk attests that Mr. Panfilov is a citizen of
24 Kyrgyzstan and that he was ordered removed to the Kyrgyz Republic. Dkt. 16, ¶¶ 4, 7.
25 The removal order, however, reflects that he was ordered removed to Russia and
alternatively to the Kyrgyz Republic. *See* Dkt. 15-4 at 12.

26 ² ICE briefly detained Mr. Panfilov on August 17, 2024, until September 3, 2024, after
he was refused entry into Canada. *Id.*, ¶ 11.

1 **1. The *Zadvydas* six-month grace period has long ended.**

2 The government does not dispute that Mr. Panfilov has been detained past his
3 *Zadvydas* six-month grace period—for about 11 months total—with nine of those
4 months after his final removal order was issued in 2008. Dkt. 14 at 4 (government
5 acknowledging the “presumptively reasonable” six-month period has ended). *See, e.g.,*
6 *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462, *3 (W.D. Wash. Nov. 10,
7 2025) (finding that the *Zadvydas* grace period ended six months following the entry of
8 the order of removal and three months following the 90-day removal period, both of
9 which occurred in 2007).

10 The Immigration and Nationality Act (INA) allows detention of noncitizens in
11 the United States during immigration proceedings. 8 U.S.C. §§ 1225(b), 1226(a),
12 1226(c), 1231(a). A noncitizen who is ordered removed must be removed by DHS
13 within 90 days, *id.* § 1231, and the individual may be detained during that period to
14 allow for their removal, *id.* § 1231(a)(2). Although ICE may detain people beyond the
15 initial 90-day period subject to certain limitations, the Supreme Court has made clear
16 that the INA does not authorize indefinite detention. *See Zadvydas*, 533 U.S. at 689
17 (interpreting § 1231(a)(6) to authorize the detention of noncitizens only if “reasonably
18 necessary” to remove them from the country). Once a noncitizen has been detained for
19 the presumptive six-month period after a removal order is issued and “once the alien
20 provides good reason to believe that there is no significant likelihood of removal in the
21 reasonably foreseeable future, the Government must respond with evidence sufficient to
22 rebut that showing.” *Id.* at 701; *see also id.* at 699 (“[O]nce removal is no longer
23 reasonably foreseeable, continued detention is no longer authorized by statute”). That
24 burden is not met here.

25 Mr. Panfilov’s re-detention is also unlawful under 8 C.F.R. § 241.13(i). That
26 provision states that the government may revoke a noncitizen’s release and return them

1 to ICE custody for failing to comply with conditions of release or under a change in
2 circumstances, ICE “determines that there is a significant likelihood that the
3 [noncitizen] may be removed in the foreseeable future.” 8 C.F.R. § 241.13(i)(1)–(2).
4 Re-detention also requires notice and an opportunity for the noncitizen to be heard. *See*
5 *id.* § 241.13(i)(1). And “[b]efore re-detaining a noncitizen, the government must
6 consider the history of the noncitizen’s compliance with the order of removal, the
7 history of the government’s efforts to remove noncitizens to the country in question,
8 and the likelihood of the government’s future success of effectuating removals of
9 noncitizens to the country in question.” *Tran v. Bondi*, 2025 WL 3140462, at *2 (citing
10 to 8 C.F.R. § 241.13(f)).

11 Here, Mr. Panfilov’s re-detention violates *Zadvydas* and the regulatory
12 requirements. *See, e.g., id.* at *3 (finding that government’s decision to re-detain Tran
13 violated *Zadvydas* and the regulatory requirements of 8 C.F.R. § 241.13(i)).

14 **2. The government has failed to meet its burden to show that**
15 **Mr. Panfilov will be removed in the reasonably foreseeable**
16 **future.**

17 DO Strzelczyk’s declaration offers only that “[a] travel document has been
18 prepared by the Tacoma Field Office and submitted to the Kyrgyzstan consulate. ERO
19 has possession of Petitioner’s birth certificate, which shows he was born in the USSR in
20 what is now Kyrgyzstan, and which will be included with the request.” Dkt. 16, ¶ 14.
21 But that information was known to the government when ICE submitted travel
22 document requests to the “Russian and Kyrgyz Embassies” in 2008. *Id.*, ¶ 8. And as
23 DO Strzelczyk confirms, the Russian Embassy declined to issue a travel document, and
24 presumably so too did the Kyrgyzstan’s consulate given that Mr. Panfilov was released
25 on supervision two months after the requests were made. *Id.*, ¶ 10.

26 The officer does not say when he submitted the travel document request nor does
the government offer any evidence that obtaining a travel document from Kyrgyzstan

1 will be more likely than it was in 2008 or that there is a reasonable likelihood that
2 Mr. Panfilov, a Russian Federation citizen, will be accepted by Kyrgyzstan. As this
3 Court pointed out in *Nguyen v. Scott*, “[c]ourts in this circuit have regularly refused to
4 find Respondents’ burden met where Respondents have offered little more than
5 generalizations regarding the likelihood that removal will occur.” No. 2:25-cv-01398,
6 2025 WL 2419288, at *16 (W.D. Wash. Aug. 21, 2025). The government has not only
7 failed to provide any substantive evidence that removal is likely, it has failed to provide
8 even basic information about its request, including when the travel document request
9 was made, when it sent along his birth certificate and what other documents it may
10 need, whether Kyrgyzstan has acknowledged receipt of that request, or the anticipated
11 wait time for getting an answer from the Kyrgyzstan government. *See, e.g., Nguyen v.*
12 *Hyde*, No. 25-CV011470-MJJ, 2025 WL 1725791, at *4 (D. Mass. June 20, 2025)
13 (court finding government failed to meet its burden because it lacked “clear information
14 as to whether or when Mr. Nguyen’s request was submitted to Vietnam, whether
15 Vietnam has even acknowledged receipt of its request, or the anticipated wait time for a
16 response from Vietnam.”). On this record, the government has failed to meet its burden.
17 “ICE is not permitted to hold [Mr. Panfilov] indefinitely while it waits for travel
18 documents from [Kyrgyzstan].” *Tran v. Bondi*, 2025 WL 3140462, at *3.

19 **3. The government’s re-detention also does not comply with the**
20 **regulatory requirements of 8 C.F.R. §§ 241.13(i) or (f).**

21 DO Strzelczyk confirms that Mr. Panfilov was re-detained by ICE “due to ERO
22 believing there to be a significant likelihood of removal in the reasonably foreseeable
23 future” and not because he violated the conditions of his release. Dkt. 16, ¶ 13. But the
24 government has failed to present evidence to support its claim there is a significant
25 likelihood of removal. *See Zadvydas*, 553 U.S. at 701 (burden on government after
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1 presumptive grace period to provide sufficient evidence of a significant likelihood of
2 removal in the reasonably foreseeable future).

3 The government also violated 8 C.F.R. § 241.13(i)(3) by failing to give
4 Mr. Panfilov notice of the revocation of his release before re-detaining him. *See Tran v.*
5 *Bondi*, 2025 WL 3140462, at *3 (finding Tran’s re-detention unlawful, in part, where
6 government “failed to provide [him] with notice of the revocation of his release prior to
7 re-detaining him.”). *See also* Dkt. 15-8 (Notice of Custody Determination provided on
8 same day that Mr. Panfilov was taken into custody by ICE at his check-in on June 12,
9 2025); Dkt. 16, ¶ 13 (DO Strzelczyk confirming same). Nor has the government
10 proffered any evidence that it considered the criteria for determining whether there is a
11 significant likelihood of removing Mr. Panfilov in the reasonably foreseeable future as
12 required by the regulations. *See* C.F.R. § 241.13(f) (factors for consideration include
13 “the history of the Service’s efforts to remove aliens to the country in question . . . and
14 the views of the Department of State regarding the prospects for removal of aliens to
15 the country or countries in question”).

16 Mr. Panfilov’s re-detention is thus also unlawful based on the government’s
17 failure to follow the applicable regulations. *See Tran v. Bondi*, 2025 WL 3140462, at *3
18 (court finding that the government’s re-detention was unlawful under *Zadvydas* and
19 because it failed to follow the requirements set out in §§ 241.13(i) and (f) by failing to
20 provide Tran with notice of the revocation of his release before re-detaining him and
21 failing to “establish that they considered the criteria set forth in § 241.13(f) and that
22 Mr. Tran’s re-detention was not arbitrary.”).

23 III. CONCLUSION

24 Because the government has failed to meet its burden under *Zadvydas* to show
25 that a significant likelihood of removal in the reasonably foreseeable future and because
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1 his re-detention violated 8 C.F.R. § 241.13(i) and (f), Court should grant the petition
2 and order his immediate release from immigration detention on an order of supervision.

3 DATED this 12th day of November 2025.

4 Respectfully submitted,

5 *s/ Vicki W.W. Lai*
6 Assistant Federal Public Defender
7 Attorney for Igor Panfilov

8 I certify this reply contains 1,687 words in compliance with the Local Civil Rules.
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