

The Honorable John H. Chun

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIGAL TZAFIR,

Petitioner,

v.

PAMELA BONDI, United States Attorney
General, *et al.*,

Respondents.

Case No. 2:25-cv-02070-JHC

FEDERAL RESPONDENTS'¹ RETURN
MEMORANDUM

Pursuant to this Court's Order (Dkt. 2), Federal Respondents submit the following factual background as contained in the records of Petitioner Sigal Tzafir's immigration case and as set forth in the Declaration of Cristhian De Castro ("De Castro Decl."), as well as the relevant detention authority.

I. DETENTION AUTHORITIES

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order of removal) and, relevant here, "post-order" (meaning after the entry of a final order of removal).

¹ Respondent Bruce Scott is not a Federal Respondent.

1 Compare 8 U.S.C. § 1226 (authorizing pre-order detention) with § 1231(a) (authorizing post-order
2 detention). When a final order of removal has been entered, a noncitizen enters a 90-day “removal
3 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
4 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
5 removal and to protect the community from noncitizens who may present a danger, Congress has
6 mandated detention while removal is being effectuated. 8 U.S.C. § 1231(a)(2).

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

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

16 8 U.S.C. § 1231(a)(6) (emphasis added).

17 During the removal period, DHS is charged with attempting to effect removal of a
18 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
19 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be
20 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from
21 the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that Section 1231(a)(6) does
22 not permit indefinite detention. *Id.* Thus, “once removal is no longer reasonably foreseeable,
23 continued detention is no longer authorized by statute.” *Id.*, at 699.

24 The *Zadvydas* Court recognized that as the length of post-order detention grows, a sliding
scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order
detention. *Id.*, at 701 (stating that “for detention to remain reasonable, as the period of post-removal

1 confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to
2 shrink”). However, the Supreme Court determined that it is “presumptively reasonable” for the
3 Government to detain a noncitizen for six months following entry of a final removal order, while
4 it worked to remove the noncitizen from the United States. *Id.*, at 701. Thus, the Supreme Court
5 implicitly recognized that six months is the *earliest* point at which a noncitizens’ detention could
6 raise constitutional issues. *Id.*

7 **B. OSUP and Revocation**

8 Once it is determined that there is no significant likelihood of removal in the reasonably
9 foreseeable future, DHS may release noncitizens on an Order of Supervision (“OSUP”). 8 C.F.R.
10 § 241.13(h). The right to remain under an OSUP is not unlimited. Revocation of an OSUP is
11 governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur either: (1) if the noncitizen “violates
12 any of the conditions of release,” *id.* §§ 241.13(i)(1), 241.4(l)(1); or (2) if it is determined “that
13 there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.”
14 *Id.*, § 241.13(i)(2). Whether there is a significant likelihood that the noncitizen may be removed in
15 the reasonably foreseeable future is determined by assessing a series of factors, including “the
16 history of the alien’s efforts to comply with the order of removal, the history of the Service’s efforts
17 to remove aliens to the country in question or to third countries ... and the views of the Department
18 of State regarding the prospects for removal of aliens to the country or countries in question.” *Id.*
19 § 241.13(f). Alternatively, certain designated officials may also revoke an OSUP as an act of
20 discretion when revocation is in the public interest. *Id.* § 241.4(l)(2).

21 Section 241.13(i)(3) provides that upon revocation, the noncitizen “will be notified of the
22 reasons for revocation of his or her release” and will receive an “initial informal interview
23 promptly” after being detained, to “afford the alien an opportunity to respond to the reasons for
24 revocation stated in the notification.” *Id.* § 241.13(i)(3). During such an interview, the noncitizen

1 “may submit any evidence or information that he or she believes shows there is no significant
2 likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not
3 violated the order of supervision.” *Id.* Then, if the noncitizen’s request for release is denied, he or
4 she “may submit a request for review of his or her ... six months after [DHS’s] last denial of
5 release[.]” *Id.* § 241.13(j).

6 II. PETITIONER SIGAL TZAFIR

7 Petitioner is a native of Israel, who was admitted to the United States on or about December
8 22, 1999, on a visitor visa with an Israeli passport. De Castro Decl., ¶¶ 3-4. Petitioner remained in
9 the United States without authorization longer than permitted. *Id.*, ¶ 4. As part of a family unit,
10 Petitioner filed an asylum application in August 2000. *Id.*, ¶ 5.

11 In 2004, the Immigration and Nationality Service (now DHS) issued a Notice to Appear
12 charging Petitioner as removable for overstaying her visa and placed her in removal proceedings.
13 De Castro Decl., ¶ 6. An immigration judge ordered Petitioner removed to Israel in April 2004.
14 De Castro Decl., ¶ 7. Petitioner timely appealed the removal order to the Board of Immigration
15 Appeals (“BIA”), which affirmed in August 2005. De Castro Decl., ¶ 8. Petitioner filed a petition
16 for review with the Ninth Circuit, which granted the petition on a limited issue concerning the IJ’s
17 denial of voluntary departure and remanded the case. De Castro Decl., ¶ 10; *see also Tzafir v.*
18 *Mukasey*, 300 F. App’x 583 (9th Cir. 2008). The BIA affirmed the IJ’s denial of voluntary
19 departure and dismissed the appeal in March 2009. De Castro Decl., ¶ 11. Petitioner’s removal
20 order became administratively final at that time. *Id.* During these removal proceedings, Petitioner
21 was not in ICE custody. *Id.*, ¶ 12.

22 In March 2009, DHS worked with Petitioner’s family unit and the Israeli Consulate in San
23 Francisco to request travel documents. De Castro Decl., ¶ 13. Petitioner’s expired Israeli passport
24 was provided to the consulate in a package mailed in April 2009. *Id.* On May 1, 2009, the Israeli

1 consulate indicated a travel document would be issued, but four days later, the consulate informed
2 DHS that Petitioner no longer had citizenship in Israel. *Id.*, ¶¶ 14-15. On May 13, 2009, DHS
3 released Petitioner on an Order of Supervision (“OSUP”) as a member of the family unit with
4 reporting requirements and other conditions, to include cooperating in acquiring a travel document
5 from appropriate Embassies and Consulates. *Id.*, ¶ 16.

6 On August 14, 2025, Petitioner was taken into ICE custody having been provided a Notice
7 of Revocation of Release which stated that it had revoked her OSUP based on DHS’s
8 determination that she could be removed pursuant to the final removal order and the Israeli
9 government reviewing her case again for issuance of a travel document. De Castro Decl., ¶ 17; *see*
10 *also* Dkt. 1-1. While detained, Petitioner has cooperated with DHS in completing a travel
11 document application for Israel, and on November 17, 2025, a travel document request was sent
12 to the Israeli Embassy. *Id.*, ¶¶ 18-19. She has been detained less than 180 days in total since being
13 ordered removed. *Id.*, ¶ 23.

14 Additionally, Petitioner’s mother is a native of Uzbekistan and citizen of both Kazakhstan
15 and Russia through blood ties. *Id.*, ¶ 20. Petitioner’s father is a native of Georgia and citizen of
16 both Ukraine and Russia through blood ties. *Id.* Petitioner can apply for travel documents to the
17 aforementioned countries, including those other than Israel, based on her parents’ citizenship. *Id.*,
18 ¶ 21. Petitioner, however, has not been cooperative in completing any related travel document
19 applications other than Israel. *Id.* Nevertheless, DHS is reasonably certain that a travel document
20 will be issued by at least one of the countries Petitioner has demonstrated citizenship or blood ties
21 to. *Id.*, ¶ 22.

22 III. CONCLUSION

23 In further response to Dkt. 2, Federal Respondents do not believe that an evidentiary
24 hearing is necessary.

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DATED this 1st day of December, 2025.

Respectfully submitted,

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I certify that this memorandum contains 1,459 words in compliance with the Local Civil Rules.