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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Zareh TANAHAN,

Petitioner,

v.

UNITED STATES OF AMERICA; Kristi NOEM, Secretary of the Department of Homeland Security; Pamela J. BONDI, Attorney General; Kerri Ann QUIHUIS, ICE Field Office Director, Detention and Removal, Las Vegas, Nevada (ICE Local); Michael BERNACKE, Field Office Director, Salt Lake City Field Office, U.S. Immigration and Customs Enforcement; Patrick J. LECHLEITNER, Acting Direction, Immigration & Customs Enforcement; JOHN MATTOS, Warden, Nevada Southern Detention Center,

Respondents.

Case No. 2:25-cv-02075-RFB-BNW

Federal Respondents' Response to Petition for Writ of Habeas Corpus (ECF No. 6)

The Federal Respondents submit this Response to Petitioner Zareh Tanahan's ("Petitioner" or "Tanahan") Petition for Writ of Habeas Corpus (ECF No. 6). As further explained in the following Memorandum of Points and Authorities, the Petition must be dismissed or denied as premature because the current period of detention is presumptively reasonable under *Zadvydas*.

Memorandum of Points and Authorities

A. Factual Background

Tanahan is a citizen of Iran. Exhibit A, at 1. On or about July 17, 1986, Tanahan was admitted to the United States at New York, New York, as a lawful permanent resident. *Id.*

Since his admission to the United States, Tanahan has committed a panoply of crimes, including at least one drug conviction and multiple crimes involving moral turpitude not arising out of a single scheme of criminal misconduct. *See id.* Tanahan's criminal history dates back to February 3, 1993, and since then he continued committing crimes with substantial regularity up until August 28, 2024—when he was convicted in North Las Vegas for the felony of burglarizing a business. Exhibit D, at 3–4; *see also* Exhibit C, at 2–54. In total, the Department of Homeland Security's ("DHS") records reflect that Tanahan has been arrested for and/or convicted of a grand total of 25 criminal offenses from 1993 through 2024, and several of his offenses are serious. *Id.* They include sexual battery, forgery, reckless driving, burglary, possession of narcotics, and shoplifting, among other offenses. *Id.*

For example, the incomplete criminal records that DHS made available to undersigned counsel reflect that on February 18, 2000, Tanahan was found in possession of methamphetamine in Los Angeles. Exhibit C, at 54, 2–5. Methamphetamine is a dangerous and illicit drug that carries significant risk of severe physical and psychological harm, and its use has been closely linked with violence, impaired judgment, and serious public-safety concerns, as Tanahan's extensive criminal record perfectly exemplifies.

As additional non-limiting examples, on August 15, 2000, Tanahan, stole personal property from a RITE AID pharmacy in Los Angeles. Exhibit C, at 7. On June 6, 2003, Tanahan took personal property from another person—Domingo Gomez—by means of force, and also entered a property with the intent to commit larceny and steal personal property from Tower Records. *Id.* at 19–20. And on July 14, 2014, Tanahan pled guilty to the crime of forgery because he knowingly forged two Federal Reserve Notes. *Id.* at 32–39.

These just a few examples of Tanahan's criminal record. In the interest of efficiency, rather than summarize each of Tanahan's offenses, they reproduce below a snapshot of Tanahan's criminal record as reflected in his Form I-213 from 2025, which is attached hereto as Exhibit D. His criminal record is extensive and outright worrisome.

> **CRIMINAL HISTORY:**
>
> **On February 03, 1993, the California Municipal Court in San Diego convicted TANAHAN for THEFT PERSONAL PROPERTY/PETTY THEFT and sentenced TANAHAN to 3 year's probation and 1 day's jail.**
>
> **On September 02, 1993, the California Municipal Court in Glendale convicted TANAHAN for DRIVE WHILE LIC SUSPEND/ETC and POSS MARIJUANA 1 OZ OR LESS W/DRIVE and sentenced TANAHAN to 2 year's probation.**
>
> **On January 06, 1994, the California Municipal Court in Glendale convicted TANAHAN for PT OF CREDIT CARD: SELL W/INT DEFRAUD and DRIVE WHILE LIC SUSPEND/ETC and sentenced TANAHAN to 15 days in jail and 24 month's probation.**
>
> **On October 17, 1995, the California Municipal Court in Burbank convicted TANAHAN for DRIVE WHILE LIC SUSPEND/ETC and sentenced TANAHAN to 9 days in jail and 3 year's probation.**
>
> **On December 14, 1995, the California Municipal Court in Glendale convicted TANAHAN for DRIVE: SUSPENDED/ETC LIC: RECKLESS and sentenced TANAHAN to 2 year's probation and 90 days in jail.**
>
> **On September 08, 1997, the California Municipal Court in Van Nuys convicted TANAHAN for POSSESS NARC CONTROL SUBSTANCE and sentenced TANAHAN to 3 year's probation and 90 days in jail.**
>
> **On April 02, 1998, the California Municipal Court in Glendale convicted TANAHAN for RECKLESS DRIVING and sentenced TANAHAN to 2 year's probation and a fine.**
>
> **On May 03, 1999, the California Municipal Court in Glendale convicted TANAHAN for DRIVE WHILE LIC SUSPEND/ETC and sentenced TANAHAN to 30 days in jail and 3 year's probation.**
>
> **On March 08, 2000, the California Superior Court in Glendale convicted TANAHAN for DRIVE WHILE LIC SUSPEND/ETC and sentenced TANAHAN to 180 days in jail.**
>
> **On March 29, 2000, the California Superior Court in Glendale convicted TANAHAN for POSSESS CONTROLLED SUBSTANCE and sentenced TANAHAN to 180 days in jail and 3 year's probation.**
>
> **On October 12, 2000, the California Superior Court of Los Angeles in Santa Monica convicted TANAHAN for ROBBERY and sentenced TANAHAN to 36 month's probation and 21 days in jail.**

Exhibit D, at 3.

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> On November 13, 2001, the California Superior Court of Los Angeles in Santa Monica convicted TANAHAN for BURGLARY and sentenced TANAHAN to 36 month's probation and 270 days in jail.
>
> On April 30, 2003, the California Superior Court in Glendale convicted TANAHAN for USE/UNDER INFL CONTRLD SUBSTANCE and sentenced TANAHAN to 2 days in jail and 3 year's probation.
>
> On November 18, 2003, the California Superior Court of Los Angeles in Santa Monica convicted TANAHAN for PETTY THEFT W/PRIOR and sentenced TANAHAN to 36 month's probation and a fine.
>
> On July 05, 2005, the Las Vegas Municipal convicted TANAHAN for TRESPASS, a misdemeanor and sentenced to time served.
>
> On June 30, 2006, the California Superior Court in Hollywood convicted TANAHAN for SEXUAL BATTERY and sentenced TANAHAN to 36 month's probation and a work program.
>
> On July 24, 2008, the Las Vegas Municipal Court convicted TANAHAN for the RECKLESS DRIVING, a misdemeanor and sentenced to time served.
>
> On May 03, 2010, the Las Vegas Justice Court convicted TANAHAN for DUI, a misdemeanor and sentenced to time served.
>
> On July 21, 2014, the Las Vegas Municipal Court convicted TANAHAN for USE/POSS/MFG DRUG-PARA, a misdemeanor and sentenced to time served.
>
> On November 20, 2014, the Eighth Judicial District Court of Las Vegas convicted TANAHAN for INTENT TO UTTER FICT BILL/NOTE/CHECK, a felony and sentenced to time served.
>
> On April 12, 2016, the North Las Vegas Municipal Court convicted TANAHAN for USE/POSS DRUG-PARA, a misdemeanor and sentenced to time served.
>
> On September 10, 2019, the Las Vegas Justice Court convicted TANAHAN for POSS DRUG NOT FOR I-STATE COMMERCE, a misdemeanor and sentenced to time served.
>
> On September 18, 2019, Las Vegas Municipal Court convicted TANAHAN for BATTERY, a misdemeanor and sentenced to time served.
>
> On April 30, 2024, the City of Surprise Police Department arrested TANAHAN for the offense of DANGEROUS DRUG-POSS/USE and SHOPLIFTING-REMOVAL OF GOODS both of which are felonies, no disposition was found.
>
> On August 28, 2024, the North Las Vegas Justice Court convicted TANAHAN for BURG OF A BUSINESS, a felony and sentenced to time served.

Id. at 4.

As a result of his convictions, DHS charged Tanahan as being subject to removal under 8 U.S.C. §§ 1227(a)(2)(A)(ii) and 1227(a)(2)(B)(i). Exhibit A, at 4. Specifically, the INA dictates that Tanahan is removable for having been "convicted of two re more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the conviction ere in a single trial." 8 U.S.C. § 1227(a)(2)(A)(ii). Similarly, the INA dictates that Tanahan is removable for being "convicted of a violation of . . . any law or regulation of a State, the United States, or a foreign country relating to a controlled substance. . . other than a single offense involving possession for one's own use of 30 grams or less of marijuana." 8 U.S.C. 1227(a)(2)(B)(i).

The Federal Respondents hereby highlight for the Court that, although Tanahan is currently detained pursuant to 8 U.S.C. § 1231 by virtue of his final order of removal, an

alien who qualifies for deportability under either 8 U.S.C. § 1227(a)(2)(A)(ii) or 8 U.S.C. § 1227(a)(2)(B)(i) is subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), which mandates that DHS shall take into custody any alien who is deportable for having committed a qualifying offense. An alien subject to § 1226(c) is not eligible for bond.

On September 25, 2019, consistent with the above, DHS arrested Tanahan and issued a Notice to Appear to Tanahan. Later, on April 2, 2020, an Immigration Judge ("IJ") ordered that Tanahan be removed from the United States and granted him relief in the form of withholding of removal. Exhibit B, at 2. Notably, his asylum application and application for cancellation of removal under Section 240A(a) were denied. *Id.* And both DHS and Tanahan waived their right to appeal the IJ's decision, thus rendering the order of removal final. *Id.* at 3.

Although Tanahan was subsequently released from ICE custody, ICE officers assigned to the Salt Lake City, Utah, Las Vegas Sub-Office Fugitive Operations Team encountered Tanahan via a vehicle stop conducted at or near N Pioneer Way and W Craig Road in Las Vegas, Nevada. Exhibit D, at 2. The ICE officers conducted a field investigation, determined that Tanahan was in violation of immigration law, determined he was an individual wanted by ICE, and took him into custody. *Id.* Tanahan is thus currently detained at the Nevada Southern Detention Center in Pahrump, Nevada. ECF No. 6, ¶ 3.

Upon information and belief, the Department of Homeland Security's Enforcement and Removal Operations ("ERO") are currently processing Tanahan for third country removal. Upon information and belief, a request to remove him to a third country has been submitted, and ERO is in the process of selecting a third country to effectuate removal.

B. Tanahan's Detention is Lawful and the Petition Should be Dismissed

Tanahan's detention is well below the presumptively reasonable limit set forth by the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Petition must be dismissed.

The authority to detain noncitizens after the issuance of a final removal order is set forth in 8 U.S.C. § 1231(a). Under this provision, the DHS is afforded a ninety-day (90) period to accomplish a noncitizen's removal from the United States following the entry of a final order of removal. 8 U.S.C. § 1231(a)(1)(B). During the ninety-day removal period, detention of the alien ordered removed is mandatory. *See* 8 U.S.C. § 1231(a)(2) ("During the removal period, the Attorney General shall detain the alien."). The removal period begins on the latest of:

(i) The date the order of removal becomes administratively final.

(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231(a)(1)(B).

Further, for certain noncitizens, such as Petitioner, who have been deemed inadmissible, DHS may continue to detain an alien even after the expiration of the ninety-day removal period. 8 U.S.C. § 1231(a)(6). Specifically, when the Secretary of the DHS is unable to effect an alien's removal within the ninety-day removal period. 8 U.S.C. § 1231(a)(6).

The authority to detain aliens under section 1231 was addressed by the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). There, the Court held that 8 U.S.C. § 1231(a) authorizes immigration detention after entry of an administratively final order of removal for a period reasonably necessary" to accomplish the noncitizen's removal from the United States. *Zadvydas*, 533 U.S. at 699-700. The Supreme Court recognized six months as a presumptively reasonable period of time to allow the government to accomplish an alien's removal. *Id.* at 701. To prevent "indefinite" detention, the *Zadvydas* Court held that *after* the six-month period has elapsed, a noncitizen may seek his release by demonstrating that his removal is not likely to occur in the reasonably foreseeable future. *Id.* at 699-70. This six-month presumption, however, does not mean that every noncitizen

not removed must be released after six months. To the contrary, a noncitizen may be detained until it has been determined that there is "no significant likelihood of removal in the reasonably foreseeable future." *Id.*

Importantly, the *Zadvydas* Court placed the burden of proof on the noncitizen seeking release to demonstrate, *after the six month period*, good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Id.* Only if the noncitizen sufficiently supports such a finding, must the government "respond with evidence sufficient to rebut that showing." *Id.*

Following *Zadvydas*, DHS promulgated regulations providing for review of the custody status of aliens who have been detained for more than six months after the issuance of a final order of removal. *See* 8 C.F.R. § 241.13. Under these regulations, a detainee who has been in post-order custody for more than six months may submit a written request for release to DHS Headquarters' Post-Order Detention Unit ("HQPDU") setting forth "the basis for the alien's belief that there is no significant likelihood that the alien will be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(d)(1). The written request must include "information sufficient to establish his or her compliance with the obligation to effect his or her removal and to cooperate in the process of obtaining necessary travel documents." 8 C.F.R. § 241.13(d)(2).

In reviewing the request for release, the agency is required to consider "all the facts of the case including, but not limited to," the following:

> [T]he history of the alien's efforts to comply with the order of removal, the history of the Service's efforts to remove aliens to the country in question or to third countries, including the ongoing nature of the Service's efforts to remove this alien and the alien's assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question. Where the Service is continuing its efforts to remove the alien, there is no presumptive period of time within which the alien's removal must be accomplished, but the prospects for the timeliness of removal must be reasonable under the circumstances.

8 C.F.R. § 241.13(f).

Notably, and as is relevant to the case at bar, Courts regularly dismiss habeas corpus petitions when they are filed prematurely. For example, in *Shaikh v. Lyons*, Case No. 1:25-cv-811 (E.D. VA), the U.S. District Court for the Eastern District of Virginia dismissed a petition for habeas corpus and denied a companion motion for temporary restraining order because the petitioner had been detained for a period that was "below the presumptively reasonable limit under *Zadvydas.*" Exhibit E, at 6. Similarly, the U.S. District of Kansas, in *Liu v. Carter*, 2025 WL 1207089 (D. Kan. Apr. 25, 2025) denied a habeas corpus petition in part for being premature under *Zadvydas*. And the fact that he has been redetained is to no avail to Tanahan. *See also Dragenice v. Ridge*, 389 F.3d 92, 98 (4th Cir. 2004) (holding that a district court may deny a habeas petition as premature).

Further, as several courts have found, the current period of detention under *Zadvydas* runs from the time a petitioner is redetained by ICE. *See e.g.*, Exhibit E, at 7; *Juarez v. Wolf*, 2021 WL 2323436, at *5 (W.D. Wash. May 5, 2021) ("Petitioner has provided no relevant authority to support the proposition that his two distinct periods of custody, separated by over a year during which no removal proceedings were even pending, are properly aggregated for purposes of determining whether Petitioner's detention violates due process. This Court therefore considers only Petitioner's current period of custody."), *report and recommendation adopted,* 2021 WL 2322823 (W.D. Wash. June 7, 2021); *Liu v. Carter*, 2025 WL 1207089, at *2 (D. Kan. Apr. 25, 2025) ("Petitioner argues in his petition that because ICE has detained him and released him on multiple occasions in the past, his 90-day removal period and his six-month presumptively-reasonable period have long since expired. As respondents point out, however, and as petitioner does not dispute, courts have agreed that in such circumstance the removal-period clock restarts when an alien subject to a removal order is again detained by ICE."); *Nma v. Ridge*, 286 F. Supp. 2d 469, 476 n.9 (E.D. Pa. 2003) ("It is not clear to the court, nor does the court necessarily agree, that the length of the petitioner's detention should be aggregated to include time he was detained prior to his release on an order of

supervision."); *Barrios v. Ripa*, 2025 WL 2280485, at *8 (S.D. Fla. Aug. 8, 2025) (declining to aggregate detention periods).

Here, as in *Saikh* and *Liu,* Tanahan's Petition has been filed prematurely and must be dismissed. Tanahan's detention is well below the presumptively reasonable limit set forth by the Supreme Court in *Zadvydas.* Although Tanahan was initially detained after the IJ issued his final order of removal, ICE subsequently released him on an order of supervision. *See* ECF No. 6, ¶ 25. And after said release, Tanahan continued engaging in criminal conduct (*see* Exhibit D, at 4), which prompted ICE to rightfully redetained him on June 24, 2025, to effectuate his removal.

Although Tanahan argues that his detention is now "spanning more than five years without prospect of removal," which "violates substantive due process and serves no legitimate government purpose," (*see* ECF No. 6, ¶ 85), Tanahan's detention had only lasted about four months by the time he filed his Petition. In this case, the presumptively reasonable period does not expire until December 23, 2025—six months after Tanahan's detention commenced on June 24, 2025. Yet Tanahan filed his Petition prematurely on October 28, 2025, and it thus must be dismissed.

C. Tanahan's Removal Is Reasonably Foreseeable and He Has Failed to Carry His Burden To Shift the Burden Onto the United States

Not only has Tanahan failed to observe the Supreme Court's presumptively reasonable period of detention and the regulatory framework described above, but he has also failed to carry his burden of showing that his removal is not reasonably foreseeable. Courts have emphasized that the absence of immediate removal plans by DHS does not satisfy that burden. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008) (holding detention was permissible where removal remains "practically attainable" even if detention lacked a certain end date and was not imminent). Tanahan's argument appears to rest entirely on the premise that ICE has not removed him since April 2020 and a factually inaccurate characterization that "Petitioner has been detained since April 2020 following a final order of removal." *See e.g.*, ECF No. 6, ¶ 83. Further, he argues that Iran does not have

a repatriation agreement with Iran, making removal practically impossible. *Id.* ¶ 36. However, Tanahan's arguments are insufficient to carry his burden and shift the pertinent burden onto the United States.

Tanahan's arguments fail for several reasons. First, the Petition itself contradicts the argument that "[Tanahan] has been detained since April 2020 following a final order of removal." This one of the main arguments Tanahan relies upon to argue that his removal is not reasonably foreseeable. However, the Petition itself belies his own assertion as it sets forth a diametrically opposed representation that ICE "released him from ICE detention" after he had been ordered removed from the United States by the IJ. *Id.* ¶ 25. Petitioner's representations simply cannot be trusted as they are marred by extensive errors and misrepresentations. As explained above, ICE only recently redetained him after he started committing criminal offenses, and is in the process of effectuating Tanahan's removal.

Second, Tanahan erroneously argues that Iran does not have a repatriation agreement with Iran. Yet, it is public knowledge that the United States, as recently as September 30, 2025, deported a planeload of Iranians back to Iran from the United States after a deal between the two governments.[1] Further, as the U.S. District Court for the District of Kansas articulated on October 6, 2025, "Respondents have submitted evidence that Iran has indicated to immigration officials that it is willing to issue a travel document . . . if needed." Exhibit F, at 4. The United States thus has the capability of obtaining travel documents for Iranian nationals and removing them to Iran or third countries, as needed. Tanahan's assertions are thus misinformed and are simply misleading to this Court.

Finally, upon information and believe, Tanahan is currently being processed by ERO for a third country removal, and ERO has submitted the requisite paperwork to carry out the process of identifying a country for Tanahan's removal.

In sum, at this early stage of Tanahan's detention and ERO's removal efforts, and in light of the foregoing, it would be premature to shift onto the Federal Respondents the burden

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[1] *See* https://www.nytimes.com/2025/09/30/world/middleeast/us-iran-deportation-flight.html (last visited on November 18, 2025).

of showing that Tanahan's removal is reasonably foreseeable. He has failed to provide persuasive evidence to meet the requisite burden and, at this early stage, the Federal Respondents have taken sufficient steps to effectuate his removal.

IV. Conclusion

Based on the foregoing, the Federal Respondents respectfully submit that the Petition must be denied.

Respectfully submitted this 18th day of November 2025.

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/s/ Christian R. Ruiz
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