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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Dimitrii Shalai,

17 Petitioner,

18 v.

19 David Rivas, Warden, San Luis Regional
20 Detention Center,

21 Respondent.

No. CV-25-04002-PHX-SHD (JZB)

**RESPONSE TO ORDER TO SHOW
CAUSE AND AMENDED PETITION
FOR WRIT OF HABEAS CORPUS**

22 **I. INTRODUCTION**

23 Respondents, by and through counsel, hereby respond to Petitioner's Amended Writ
24 of Habeas Corpus (Doc. 10). Petitioner Dimitrii Shalai is a Russian national. An
25 immigration judge (IJ) ordered that he be removed to Russia. He requested to be returned
26 to Russia by U.S. Immigration and Customs Enforcement ("ICE") after the IJ's removal
27 order became final on March 11, 2025, when he waived appeal. In this habeas petition,
28 Petitioner seeks a Court order directing ICE to immediately release him from immigration
detention. Respondents respectfully request that this Court deny this request because
Petitioner has not been unconstitutionally detained where he cannot establish that his
removal is not likely to occur in the reasonably foreseeable future.

1 **II. FACTUAL BACKGROUND**

2 Petitioner entered the United States on or about September 9, 2024, and when he
3 was encountered by immigration officials, he admitted he did not have valid documentation
4 or authorization to enter the United States. Ex. A., Declaration of Jose J. Ruiz, Deportation
5 Officer, Enforcement and Removal Operations (“ERO”), at ¶ 4. Petitioner was processed
6 for expedited removal and, on October 4, 2024, claimed fear of returning to Russia. *Id.* at
7 ¶¶ 5–6. United States Citizenship and Immigration Services (“USCIS”) held a credible fear
8 interview on October 21, 2024, and determined Petitioner had no credible fear of return to
9 Russia. *Id.* at ¶ 7. An immigration judge did not uphold the credible fear finding and
10 remanded the case back to ICE for issuance of a Notice to Appear (“NTA”). *Id.* at ¶ 8. On
11 November 14, 2024, ICE initiated removal proceedings against Petitioner under
12 Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i), as an alien present in the
13 United States without admission, inspection or parole. *Id.* at ¶ 9. The Petitioner failed to
14 file any applications for relief from removal and was ordered removed to Russia by an
15 immigration judge on March 11, 2025. *Id.* at ¶ 10. Petitioner waived his right to appeal, so
16 his removal order became administratively final the same day. *Id.* Petitioner was released
17 from immigration custody on October 23, 2000. Since Petitioner’s re-detention ICE has
18 expeditiously sought Petitioner’s removal and taken several steps toward acquiring travel
19 documents for Petitioner. *Id.* at ¶¶ 12-14.

20 **III. THE HABEAS PETITION SHOULD BE DENIED**

21 **A. Petitioner’s detention is statutorily authorized and constitutional.**

22 Petitioner argues that his detention is unlawful under *Zadvydas v. Davis*, 533 U.S.
23 678 (2001) because his removal is not “reasonably foreseeable.” However, Petitioner
24 cannot establish, as *Zadvydas* requires to be entitled to release, that his removal is not likely
25 to occur in the foreseeable future. *Id.*

26 An alien who is ordered removed must be detained for 90 days once their removal
27 order becomes administratively final. 8 U.S.C. § 1231(a)(1)(B)(i), (a)(2)(A). If the alien
28 has not left the United States voluntarily or been removed during this 90-day period, the

1 alien will generally be granted supervised release. 8 U.S.C. § 1231(a)(3). The INA does
2 not authorize indefinite detention. *Zadvydas v. Davis*, 533 U.S. at 689 . An alien may be
3 detained for up to six months pursuant to a final order of removal, after which, the alien
4 may be released if they can “provide[] good reason to believe that there is no significant
5 likelihood of removal in the reasonably foreseeable future” and the Government fails to
6 show otherwise. *Id.* at 701. This six-month period includes the initial 90-day mandatory
7 detention period and three months thereafter. *Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
8 Cir. 2001).

9 Petitioner was ordered removed under INA § 212(a)(6)(A)(i). *See* Exhibit A at ¶ 9.
10 Even though Petitioner has been detained for longer than six months, Petitioner may only
11 be granted release from detention if he can show “good reason to believe that there is no
12 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S.
13 at 701. Courts have held that Petitioners have met this bar when no country would agree to
14 accept the alien or when the alien’s home country had no repatriation treaty with the United
15 States, *id.* at 686, when the government “concede[d] that it [was] no longer even involved
16 in repatriation negotiations” with the alien’s home country, *Clark v. Suarez Martinez*, 543
17 U.S. 371, 386 (2005), and when the alien had been detained for five years and had “won
18 relief at every administrative level.” *Nadarajah v. Gonzales*, 443 F.3d 1069, 1081 (9th Cir.
19 2006). The Supreme Court clarified that its holding in *Zadvydas* was concerned with
20 detention that is “indefinite and potentially permanent,” and for aliens whose removal is
21 “no longer practically attainable.” *See Demore*, 538 U.S. 510, 527–28 (2003) (internal
22 quotations omitted). The mere fact that an alien’s detention “lacks a certain end date” does
23 not render their detention unlawfully indefinite. *Prieto-Romero v. Clark*, 534 F.3d 1053,
24 1063 (9th Cir. 2008).

25 Petitioner’s removal is practically attainable, and his detention is not “potentially
26 permanent.” *Demore*, 538 U.S. at 528. Petitioner argues that he “does not believe Russian
27 Federation will allow my re-entry” because of his previous support of an opposition
28 candidate. Amended Petition for Writ of Habeas Corpus, Doc. 10 at 5. But Respondents do

1 not agree that this is so, and in fact, Respondents have shown that in both Fiscal Year 25
2 and 26, removals to Russia have continued to occur. *See* Exhibit A at ¶¶ 13-14. Petitioner
3 provides no information specific to his situation that suggests that he is less removable than
4 any other Russian citizen who has been ordered removed.

5 As discussed above, Petitioner is not entitled to relief under *Zadvydas* simply
6 because the process for requesting travel documents has not been completed—a petitioner
7 is only entitled to relief if there is some meaningful impediment to their removal. Here,
8 there is no impediment to Petitioner’s removal. The government is currently processing an
9 application for travel documents on Petitioner’s behalf, *see* Exhibit A at ¶ 14, and Petitioner
10 has provided no compelling reason to support his assertion that this application cannot be
11 granted. Thus, Petitioner has failed to show that his detention is unconstitutionally
12 indefinite under *Zadvydas*, so his habeas petition should be denied. *See Zadvydas*, 533 U.S.
13 at 700–01.

14 For the foregoing reasons, Respondents respectfully request that this Court deny the
15 Amended Petition for Habeas Corpus (Doc. 10).

16 RESPECTFULLY SUBMITTED December 12, 2025.

17 TIMOTHY COURCHINE
18 United States Attorney
19 District of Arizona

20 *s/ Theo Nickerson* _____
21 THEO NICKERSON
22 Assistant United States Attorney
23 *Attorneys for the United States*
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CERTIFICATE OF SERVICE

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I hereby certify that on this 12th day of December, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/M. Beickert
United States Attorney's Office