

DETAINED

The Honorable John H. Chun

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

BINYAMIN TZAFIR,
Petitioner,

v.

PAMELA BONDI, *et al.*;
Respondents.

CASE NO.: 2:25-cv-02126-JHC

PETITIONER'S RESPONSE TO RETURN
(TRAVERSE)

NOTED FOR CONSIDERATION:
January 5, 2026

PETITIONER'S RESPONSE TO RETURN

The government's Return, and its justification for detention, depend entirely on an assertion that the petitioner, Mr. Binyamin Tzafir, is now subject to a reasonable likelihood of removal in the reasonably foreseeable future. Dkt. 15, at 5; 8 C.F.R. § 241.13(i)(2). This assertion is incorrect, and it overlooks additional claims in the Petition.

1 **A. The revocation of supervision was unjustified.**

2 On the first claim for relief, Dkt. 1, at 8, the government concedes that Mr. Tzafir has
3 not violated the terms of supervision, which might have justified his detention under 8 C.F.R.
4 241.4(D)(2). In fact, the government denies that Mr. Tzafir is detained under 8 C.F.R.
5 241.4(D)(2), even though the revocation itself cites to both regulations. Dkt. 15, at 7, Dkt. 16-2,
6 at 2. Also, the government makes no argument that Mr. Tzafir was adequately notified of the
7 reasons for the revocation. He was told only that there were “changed circumstances” in his
8 case, but even now the government has not said what those changed circumstances were. The
9 notice of revocation was unjustified, and the government has not argued to the contrary.

10
11 **B. The detention is unreasonable under 8 U.S.C. 1231(a) and *Zadvydas*.**

12 It is on the second claim for relief, Dkt. 1, at 8-9, that the government makes the meat
13 of its argument—that there now exists a substantial likelihood of removal in the reasonably
14 foreseeable future. Dkt. 15, at 6-7; *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). But this
15 claim is riddled with factual and legal errors and is ultimately unsupported.

16 As to the factual errors, first, the Return and supporting declaration from Deportation
17 Officer (DO) Joseph Carnavale state that Mr. Tzafir is a native of Georgia. Dkt. 15, at 4; Dkt.
18 17, at 1. He is not. He was born in the Georgian Soviet Socialist Republic, a country that no
19 longer exists.

1 Second, DO Carnavale states that Mr. Tzafir is a citizen of Israel. Dkt. 17, at 1. He is
2 not. Dkt. 18-1. One piece of evidence of this is DO Carnavale’s declaration itself, where he
3 states that in 2009 Mr. Tzafir “no longer had citizenship in Israel.” Dkt. 17, at 3. This is all the
4 more concerning because, in the habeas case of Mr. Tzafir’s daughter, Sigal Tzafir, in a
5 declaration from a different deportation officer, the government submitted the same falsehood.
6 *Sigal Tzafir v. Bondi*, 2:25-cv-02070, Dkt. 15, at 2. Sigal Tzafir’s case proceeded through
7 court on a different timeline, and counsel pointed out the error in her brief submitted
8 December 22, 2025. *Id.*, Dkt. 16, at 2. Having submitted false evidence in the daughter’s case,
9 and having had the error pointed out to it, barely a week later the government again submitted
10 false evidence in the father’s case.¹ Counsel understands that to err is human, and that she
11 herself is fallible, but for the government to submit false evidence once, let alone twice, is
12 unacceptable. RPC 3.3 (Candor Toward the Tribunal); 28 C.F.R. § 77.1 (“The Department of
13 Justice is committed to ensuring that its attorneys perform their duties in accordance with the
14 highest ethical standards.”). At the very least, this Court should not rely on these false
15 statements for any reason.

16 Third, the revocation order states that, as of August 14, 2025, “changed circumstances”
17 existed, which justified the detention. Dkt. 16-2, at 2. But nothing had changed. The
18 government has yet to identify any changed circumstance that justifies the abrupt revocation
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20 _____
21 ¹ And the mother’s. *Marina Tzafir v. Bondi*, 2:25-cv-02067-JHC-SKV, Dkt. 16, at 1.

1 of supervision. Because the revocation cites grounds that are factually false, the detention is
2 not justified under 8 C.F.R. 241.13(i)(3).

3 Fourth, and moving to the legal errors, the removal period ended years ago. In the
4 absence of prior confinement, which did not occur here, the removal period runs from when
5 the removal order becomes administratively final or when a court enters a final order. 8
6 U.S.C. § 1231(a)(1)(B). Than was in 2009. Once the removal period runs, it does not reset.
7 *Van Tran v. Bondi*, 2025 U.S. Dist. LEXIS 265787, *11 (W.D. Wash. Dec. 24, 2025). Also,
8 under *Zadvydas*, the 180-day removal period is only presumptively reasonable, and “if
9 removal is not reasonably foreseeable, the court should hold continued detention unreasonable
10 and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700. Therefore, the detention
11 of Mr. Tzafir is not reasonable, for any length of time.

12 Fifth and finally is the central legal error in the government’s argument: There is no
13 substantial likelihood of removal in the reasonably foreseeable future. Israel made clear 16
14 years ago that it has no intention of accepting Mr. Tzafir, and nothing has changed.² ICE
15 persuaded Mr. Tzafir to sign a travel-document request for Georgia during the government
16 shutdown (which ended November 12), but now, at least seven weeks later, it has still not
17 submitted the request to Georgia. Dkt. 17, at 3. DO Carnevale also asserts that Mr. Tzafir can
18 apply for travel documents to Russia and Ukraine, “based on his parents’ citizenship,” but Mr.

19 _____
20 ² ICE has presented Mr. Tzafir with a travel-document request to Israel, but the request
21 required him to sign under oath that he is an Israeli citizen. He is not, and upon information
and belief he refused to sign the request to avoid lying under oath. Dkt. 18-1, at 2.

1 Tzafir’s parents are deceased and the family does not know their citizenship status. Dkt. 18-1,
2 at 2. Despite failed attempts to obtain travel documents in 2009, DO Carnavale writes “ERO
3 Tacoma is reasonably certain that a travel document will be issued by at least one of the
4 countries Petitioner has demonstrated citizenship or blood ties to once Petitioner becomes
5 compliant in filling out the appropriate applications.” Dkt. 16, at 5. Even assuming, *arguendo*,
6 that DO Carnavale holds this subjective belief, it is not the legal standard. The legal standard
7 rests not on one person’s subjective hope but on evidence of a substantial likelihood of
8 removal.

9 In addition, there is no substantial likelihood of removal to a third country. The
10 government makes unsubstantiated claims that Mr. Tzafir can be removed to Georgia, based
11 on his prior citizenship there, or to Russia or Ukraine, based on his parents’ possible
12 citizenship in there. Dkt. 15, at 5; Dkt. 17, at 4. The assortment of countries reveals an
13 improvised *post hoc* rationalization for the detention, rather than conformity with a highly
14 regulated removal procedure under constitutional constraints.

15 Without more support, the declaration expresses only hope, not a reasonable belief
16 based on evidence. “There is no question that hope plays a critical role in human
17 experience[.]” *Porras v. O’Neill*, 25-6801, 2025 U.S. Dist. LEXIS 263464, *5 (E.D. Pa. Dec.
18 22, 2025). But hope is not sufficient to support a finding of a significant likelihood of removal
19 in the reasonably foreseeable future, nor is it sufficient to show cause why the writ of habeas
20

1 corpus should not be issued. Without this finding, both the revocation of supervision and the
2 detention itself are illegal.

3
4 **C. The detention violates Mr. Tzafir's Due Process rights.**

5 As to the third claim for relief, even if the government had complied with the
6 procedures in 8 C.F.R. § 241.13, those procedures would not provide sufficient protections to
7 comply with Due Process:

8 Those meager procedures do not, however, provide the process due under the
9 Fifth Amendment, which prohibits the federal government from depriving any
10 person of "life, liberty, or property, without due process of law[.]"... [T]he
government action at issue here is at the core of the liberty protected by the Due
Process Clause....

11 *Khim v. Bondi*, 2025 U.S. Dist. LEXIS 261018, *10-11 (W.D. Wash. December 17, 2025);
12 Dkt. 1, at 8. Because the government has not complied even with the "meager procedures" of
13 the regulation, *a fortiori* it is also in violation of the greater requirements of Due Process.

14 *Mathews v. Eldridge*, 424 U.S. 319 (1976), sets out the applicable test for assessing
15 whether the government has violated Due Process:

16 First, the private interest that will be affected by the official action; second, the
17 risk of an erroneous deprivation of such interest through the procedures used, and
18 the probable value, if any, of additional or substitute procedural safeguards; and
19 finally, the Government's interest, including the function involved and the fiscal
20 and administrative burdens that the additional or substitute procedural
21 requirement would entail.

1 *Mathews*, 424 U.S. at 335. This Court has already found that the government violated the Due
2 Process rights of Mr. Tzafir’s daughter on similar facts. *Sigal Tzafir v. Bondi*, 2:25-cv-02070,
3 Dkt. 17. The government has also violated the Due Process rights of Mr. Tzafir himself.

4 First, as to the private interest, Mr. Tzafir, who is 57 years old and too disabled to work,
5 has suffered more than two months in detention, and freedom from detention is “the most
6 elemental” of private interests. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); see *Zadvydas*,
7 533 U.S. at 690. His liberty interest is strengthened by the fact that the government permitted
8 him to remain in the community for more than 16 years, gaining a foothold and developing
9 ties to the United States. See, *Sequen v. Kaiser*, 2025 U.S. Dist. LEXIS 181837, *12 (N.D.
10 Cal. Sept. 16, 2025). The first *Mathews* factor favors Mr. Tzafir.

11 Second, there is a high risk of erroneous deprivation of his liberty interest, first because
12 the revocation order itself contains a falsehood, asserting that “changed circumstances”
13 existed when they did not. Dkt. 16-2, at 2. In addition, the government is threatening Mr.
14 Tzafir with a Warning for Failure to Depart for refusing to sign the travel-document request to
15 Israel, even though signing would require him to falsely state under oath that he is an Israeli
16 citizen. Dkt. 17, at 4; Dkt. 18-1, at 2. And it is further threatening him with similar warnings if
17 he does not fill out requests for Russia and Ukraine, even though these are not the countries
18 designated in the removal order and Mr. Tzafir is not a citizen of either country. Dkt. 17, at 4.
19 The government offers no reason to believe Israel will now honor the request, and it makes
20 vague, unsupported assertions that Mr. Tzafir can be removed to an assortment of third

1 countries. In addition, the government determined 16 years ago that Mr. Tzafir was not a
2 flight risk or threat to public safety, and Mr. Tzafir has proven them right, complying with all
3 aspects of the supervision for many years. The risk of erroneous deprivation of his liberty,
4 having already occurred, remains high.

5 Third, the government has little interest in keeping Mr. Tzafir detained. With no
6 possibility of removal, his detention is only an expense to the government and an ongoing
7 tearing of the fabric of the community to which he belongs. If the government determines that
8 it can in fact remove him, it would face only a minimal burden in holding a hearing to
9 determine the propriety of detention, and Mr. Tzafir, like his daughter, has shown that he is
10 diligent in appearing when required by the government. Therefore, all three *Mathews* factors
11 show that by detaining Mr. Tzafir, the government has violated—and continues to violate—
12 his Due Process rights.

13 There is no reason to think that Mr. Tzafir can be removed in the reasonably foreseeable
14 future to any country, and the government has offered false and inadequate evidence to support
15 the revocation of supervision and the current detention. Every day Mr. Tzafir remains in
16 detention is a further violation of his constitutional rights. He asks this Court to grant the relief
17 in his petition, Dkt. 1, at 9-10, including his immediate release on the previous conditions.

1 I certify that this memorandum contains 1,933 words, in compliance with the Local Civil
2 Rules.

3 Dated this 5th day of January, 2026.

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