

DISTRICT JUDGE RICHARD A. JONES
MAGISTRATE JUDGE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

<p>7 AVEL REVENKO, 8 Petitioner, 9 v. 10 PAMELA BONDI, <i>et al.</i>, 11 Respondents.</p>	<p>) No. CV25-02149-RAJ-BAT)) MOTION TO COMPEL DISCOVERY)) Note on Motion Calendar:) December 11, 2025</p>
---	---

Petitioner Avel Revenko, through Assistant Federal Defender Gregory Murphy, hereby moves this Court to authorize limited discovery in this case. Mr. Revenko submits that there is good cause to order production of the limited documents related to the central issue in this case: whether Respondents' communications with Moldova establish a "substantial" likelihood of removal to that country "in the reasonably foreseeable future," considering that Mr. Revenko has already been held in immigration custody for more than eighteen months after his removal order became final.

The parties have conferred about Mr. Revenko's request for discovery. Respondents decline to produce this discovery unless ordered by this Court.

//
//
//
//

1 **I. FACTUAL BACKGROUND¹**

2 Mr. Revenko suffers from a diagnosed mental illness that renders him incapable
3 of advocating for himself. The immigration judge therefore appointed counsel to
4 represent Mr. Revenko in removal proceedings. *See* Dkt. 11 (Declaration of
5 Deportation Officer Andron). On November 17, 2023, the judge ordered Mr. Revenko
6 removed to Russia, or Moldova in the alternative. *Id.* That order became final on May
7 16, 2024, when the Board of Immigration Appeals dismissed Mr. Revenko’s appeal. *Id.*
8 at ¶ 11.

9 Approximately two months later, on July 23, 2024, ICE submitted a travel
10 document packet to the Moldovan Embassy in Washington, D.C. *Id.* at ¶ 14. Officer
11 Andron avers that ICE ERO contacted the Moldovan Embassy “several times.” *Id.* at
12 ¶ 16. ICE will not disclose the contents of those communications to Petitioner, and it is
13 unclear whether they have been disclosed to Officer Andron. Moldova denied ERO’s
14 request for a travel document in December 2024. *Id.* Russia also refused to accept
15 Mr. Revenko. *Id.* at ¶ 17.

16 At the time that both Moldova and Russia had denied ICE’s request for a travel
17 document, Mr. Revenko had been held in ICE custody for more than six months.
18 Because the absence of any pending application for travel documents meant that there
19 was then no “significant likelihood of removal in the reasonably foreseeable future,”
20 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), ICE no longer had any statutory authority
21 to continue to hold Mr. Revenko in custody. *Id.* at 699 (8 U.S.C. § 1231(a)(6) does not
22 permit detention “once removal is no longer reasonably foreseeable.”). Nonetheless,
23 ICE took no steps to arrange for Mr. Revenko’s conditional release. Instead, ICE
24 decided to continue to detain Mr. Revenko, claiming he “remain[ed] a threat to public

25 _____
26 ¹ Most of the facts in this section are drawn from previously submitted declarations by
deportation officers. As noted below, Mr. Revenko does not concede the accuracy of
these declarations and, in fact, believes that they are misleadingly incomplete.

1 safety and has a final order of removal.” Dkt. 11 at ¶ 18. Notably, the Supreme Court
2 has specifically rejected the government’s claimed authority to detain people in
3 immigration prisons based on a risk of future dangerousness. *Id.* at 699–700. *See also*
4 *id.* at 691 (“[W]e have upheld preventive detention based on dangerousness only when
5 limited to specially dangerous individuals and subject to strong procedural
6 protections.”). ICE’s decision to prolong Mr. Revenko’s detention based on its view of
7 his dangerousness, therefore, was a decision to violate the law.

8 On May 13, 2025, in response to Mr. Revenko’s first habeas petition,
9 Deportation Office Christopher Hubbard submitted a sworn declaration regarding the
10 likelihood of Mr. Revenko’s removal to Moldova. *See* Ex. 1. That declaration is
11 inconsistent with the declaration submitted by Deportation Officer Andron in several
12 material respects. First, Deportation Officer Hubbard represented to the Court that a
13 request for a travel document remained “pending” as of May 6, 2025. Ex. 1 at ¶ 17.
14 Officer Andron, however, concedes that Moldova already had denied Mr. Revenko’s
15 request for a travel document in December 2023. *See* Dkt. 11 at ¶ 16. Officer Andron
16 therefore describes efforts to submit a new TD packet. *Id.* at ¶ 25. Similarly, the
17 declaration that Deportation Officer Hubbard’s submitted to Judges Leupold and Lin
18 represented that, as of May 6, 2025, “the Moldovan Consulate has indicated that it
19 would issue a TD for Petitioner.” Ex. 1 at ¶ 21. But, again, Officer Andron’s declaration
20 makes clear that the Moldovan consulate did not even have a pending application for a
21 travel document in May 6, 2025, and a new, albeit incomplete packet, was not
22 submitted until July 28, 2025. Dkt. 11 at ¶ 25. Finally, Officer Hubbard opined that
23 Mr. Revenko was likely to be removed in the next two months. Ex. 1 at ¶ 21. Six
24 months later, Officer Andron neither defends that prediction nor hazards another. Dkt.
25 11.

1 Both Magistrate Judge Leupold and District Court Judge Lin relied on
2 Deportation Officer Hubbard’s sworn representations regarding the likelihood and
3 timing of Mr. Revenko’s removal. Federal Respondents have never notified the Courts
4 of any errors in Officer Hubbard or Officer Andron’s declarations.

5 Officer Andron’s declaration goes on to describe a series of communications that
6 ICE ERO purported had with Moldovan authorities over the past six months. These
7 include a phone call, an in-person visit with Moldovan counsel, the submission of
8 documents, and requests for apostilled criminal records. Officer Andron does not claim
9 to have any personal knowledge of what, specifically, the Moldovan Consulate told
10 ERO.

11 Again, Officer Andron’s declaration is inconsistent with Respondents’ other
12 representations, specifically a declaration by Deportation Officer Rodriguez dated
13 August 11, 2025. Ex. 2. Officer Andron and Officer Rodrigues provide different dates
14 for when the Moldovan consulate requested apostilled records. *Compare* Ex. 2 at ¶ 4
15 (request made July 3, 2025) with Dkt. 11 at ¶ 25 (request made “after” July 28, 2025).
16 Most importantly, contrary to Officer Andron’s declaration, Officer Rodriguez explains
17 that Moldova has not recognized Mr. Revenko as a citizen. Ex. 2 at ¶ 6.

18 Like Officer Hubbard before him, Officer Andron concludes his declaration by
19 stating that “the Moldovan Consulate has informed ERO that they will issue the
20 Petitioner a TD to Moldova once they receive all requested documentation.” Dkt. 11 at
21 ¶ 29. But it remains unclear, and Respondents refuse to disclose, how Officer Andron
22 arrives at that conclusion. Indeed, the record appears to show that Respondents have not
23 yet submitted the documentation, including apostilled records, that are required to apply
24 for citizenship for Mr. Revenko, much less to obtain a travel document.

1 **II. DISCUSSION**

2 **A. A petitioner challenging immigration detention under 28 U.S.C. §**
 3 **2241 is entitled to discovery for “good cause.”**

4 Rule 6 of the Rules Governing Section 2254 Cases (hereinafter “§ 2254 Rules”)
 5 provides that a district court can, “for good cause,” authorize a party to conduct
 6 discovery under to the Federal Rules of Civil Procedure. There is ‘good cause’ to
 7 permit discovery where “specific allegations before the court show reason to believe
 8 that a petitioner may, if the facts are fully developed, be able to demonstrate that he is
 9 . . . entitled to relief.” *Harris v. Nelson*, 394 U.S. 286, 300 (1969); *see also Bracy v.*
 10 *Gramley*, 520 U.S. 899, 908–09 (1997) (citing *Harris*). Rule 6 allows discovery
 11 “regardless of whether there is to be an evidentiary hearing.” *Jones v. Wood*, 114 F.3d
 12 1002, 1010 (9th Cir. 1997). Rather, courts should grant discovery whenever “necessary
 13 to fully develop the facts of a claim.” *Id.* (quoting *Teague v. Scott*, 60 F.3d 1167, 1172
 14 (5th Cir. 1995)). A habeas petitioner “need not demonstrate that he will ultimately
 15 prevail” in order to obtain discovery. *Pham v. Terhume*, 400 F.3d 740, 743 (9th Cir.
 16 2005).

17 Pursuant to this Rule,² courts have granted discovery requests by immigration
 18 detainees challenging their confinement under 28 U.S.C. § 2241.³ *See, e.g., Ishmuratov*
 19 *v. Rivas*, CV25-01366-JAT-ESW, Dkt. 31 (D. Ariz. June 5, 2025); *Olivas v. Whitford*,
 20 No. CV14-1434-WQH-BLM, 2014 WL 7175554, at *5 (S.D. Cal. Dec. 11, 2014)
 21 (granting limited discovery under Rule 6 for information “directly related to Petitioner’s
 22 habeas claim”); *Lunn v. Smith*, 2018 WL 2849759 22 (D. Mass Jan. 22, 2018) (finding

23 ² The § 2254 Rules state that they may be applied to habeas petitions brought under
 24 other statutes, and courts have often applied those rules to habeas cases brought
 25 under 28 U.S.C. § 241. *See* § 2254 Rule 1(b); *Lane v. Feather*, 584 F. App’x 843,
 843 (9th Cir. 2014) (unpublished).

26 ³ Because only case participants have access to habeas dockets, orders granting or
 denying requests for discovery generally are not published on Westlaw or LexisNexis.

1 good cause for discovery under Rule 6(a) for immigration detainee); *Gaitan-*
2 *Campanioni v. Thornburgh*, 777 F. Supp. 1355, 1355 (E.D. Tex. 1991) (granting
3 discovery for immigration detainees).

4 **B. “Good cause” exists for discovery directly related to the central issues**
5 **in this case: the time it will take Moldova to process Mr. Revenko’s**
6 **application for citizenship, once it is made, the likelihood it will**
7 **recognize Mr. Revenko’s Moldovan citizenship, and the time it will**
8 **take to obtain travel documents thereafter.**

9 Mr. Revenko’s petition alleged that there is not “good reason to believe” that his
10 removal will occur in the reasonably foreseeable future because “Moldova has not
11 agreed to accept him” despite efforts by ICE over 17 months to obtain travel
12 documents. The government responds that the “regular and consistent” communications
13 with Moldova prove that Moldova will accept Mr. Revenko, and that it will do so in the
14 reasonably foreseeable future. Dkt. 1 at 18. The central issue in this case. Therefore, is
15 whether communications with Moldova establish that Mr. Revenko is “substantially
16 likely” to be removed to Moldova in the “reasonably foreseeable future,” considering
17 his prolonged detention to date, or whether they establish that no good reason to believe
18 that removal is substantially likely to occur in that time period.

19 Discovery of ERO’s communications with Moldova therefore is necessary to
20 “develop the facts of this claim.” That is, those communications will allow
21 Mr. Revenko to corroborate that Moldova has not agreed to issue a travel document.
22 The same communication will support Mr. Revenko’s claim that Moldova is unlikely to
23 process his application for citizenship and then for a travel document in a timely
24 manner.

25 **C. ICE’s conflicting representations also create “good cause” to order**
26 **specific discovery.**

Zadvydas requires the Court to “independently review” the government’s
assertions about the likelihood of removal. *See Zadvydas*, 533 U.S. at 699 (“The

1 Government seems to argue that . . . a federal habeas court would have to accept the
2 Government’s view about whether the implicit statutory limitation is satisfied in a
3 particular case, conducting little or no independent review of the matter. In our view,
4 that is not so.”). The Court may not unquestioningly accept ICE’s attestation. *Id.* at 700
5 (admonishing district courts not to “abdicat[e] their legal responsibility to review the
6 lawfulness of an alien's continued detention”).

7 Here, ICE has submitted three contradictory declarations to justify Mr.
8 Revenko’s continued detention. First, Officer Hubbard told Judges Leupold and Lin
9 that there was a pending application for travel documents, and that removal was likely
10 within two months, when it appears that neither fact was true. Officer Rodriguez then
11 clarified that Moldova has not even granted Mr. Revenko citizenship and that, indeed,
12 ICE had not even filed an application for Moldovan citizenship. Now Officer Andron
13 concedes, contrary to Respondents’ prior representations, that there was no application
14 pending when Officer Hubbard made his sworn declaration and that ICE held Mr.
15 Revenko in custody for six months—when there was no likelihood of removal—simply
16 because ICE believed he was dangerous. Officer Andron’s declaration contradicts
17 Officer Rodriguez’s declaration that Moldova has not recognized Mr. Revenko’s
18 citizenship and does not to defend the two-month prediction previously submitted by
19 Officer Hubbard. The only thing that remains undisputed in Officer Andron’s
20 declaration is that, 18 months after Mr. Revenko’s removal order became final, ICE has
21 not yet submitted a complete application for citizenship or complete documentation for
22 a travel document to the Moldovan government for review.

23 Because none of the three deportation officer declarants claim to have any
24 firsthand knowledge, it may well be that all the deportation officers are accurately
25 reporting what ERO has told them. It is also likely that Respondents’ counsel has not
26 seen the original communications on which the deportation officers based their

1 representations. Regardless, the morass of contradictory representations Respondents
2 have provided to date creates substantial reason to doubt that ERO is providing the
3 deportation officers, Respondents' counsel, or the Court with complete information.
4 Without reliable information, the Court cannot "independently review" the
5 government's representations. Rather than "abdicate" that "legal responsibility," the
6 Court should order Respondents to produce records of all communications with the
7 Moldovan government about efforts to remove Mr. Revenko to that country.

8 **III. CONCLUSION**

9 For the forgoing reasons, Mr. Revenko respectfully asks the Court to order
10 discovery limited to the central questions in his petition. To the extent that disclosure of
11 communications with the government of Moldova implicate any sensitive diplomatic
12 discussions, Mr. Revenko suggests the Court review the complete communications *in*
13 *camera* before ordering a more limited disclosure to Petitioner, potentially with
14 appropriate redactions.

15 DATED this 20th day of November 2025.

16 Respectfully submitted,

17 *s/ Gregory Murphy*
18 Assistant Federal Public Defender
19 Attorney for Avel Revenko

20 I certify this motion contains 2,144 words in compliance with the Local Civil Rules.
21
22
23
24
25
26

CERTIFICATION

Pursuant to Fed. R. Civ. P. 37 and LCR 37, counsel for petitioner certifies that he conferred in good faith with AUSA Alixandria Morris regarding this request for discovery. Counsel first emailed Ms. Morris requesting information about communications the government of Moldova on November 19, 2025. AUSA Morris indicated by email that Respondents would not provide discovery and confirmed that position by telephone on November 20, 2025.

s/ Gregory Murphy
Attorney for Avel Revenko