

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

PEJMAN KARSHENAS NAJAFABADI

CIVIL ACTION

VERSUS

NO. 25-1016-JWD-EWD

U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT; KEVIN JORDAN;  
PAM BONDI

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UNITED STATES OF AMERICA'S RESPONSE IN OPPOSITION TO PETITION OF  
WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

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NOW INTO COURT COME U.S. Immigration and Customs Enforcement (ICE) and Pamela Bondi, Attorney General of the United States<sup>1</sup> who hereby submits this Response in Opposition to Petition of Writ of Habeas Corpus Pursuant to 28 U.S.C. 2241. (Doc. 1).

I. INTRODUCTION

*Pro se* Petitioner, Pejman Karshenas Najafabadi (“**Petitioner**”), is a noncitizen of the United States who was born in Iran. Petitioner has prior criminal convictions and is subject to a final order of removal. Petitioner is currently housed at Louisiana ICE Processing Center. He alleges he was taken into immigration custody on March 24, 2025. (Doc. 1 at p. 9).

The Petition and supporting memorandum of law allege two grounds for relief: (1) a violation of 8 U.S.C § 1231(a)(6) having been allegedly detained by ICE beyond the 90-day removal period authorized by statute “without a significant likelihood of removal in the reasonably foreseeable future;” and (2) a violation of the Due Process Clause of the Fifth Amendment on the grounds that ICE has deprived Petitioner of the right to liberty for his prolonged civil detention. (Doc. 1; 1-1). The Petitioner seeks immediate release from ICE

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<sup>1</sup> The undersigned does not represent Kevin Jordan, Warden, Louisiana ICE Processing Center, as Warden Jordan is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply with equal force to Warden Jordan, as he is detaining the Petitioner at the request of the United States.

custody on the basis that continued detention is unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

The Court should deny the requested relief as the Petitioner's detention complies with applicable regulations and the standards set forth in *Zadvydas*. Petitioner himself has delayed removal by failing to secure an original passport or birth certificate. Iran is requiring verification of citizenship before it will agree to accept the Petitioner. Moreover, Petitioner's due process rights are not violated by his lawful detention.

## **II. BACKGROUND**

### **A. Petitioner's Removal Proceedings and Detention**

Petitioner is a native and citizen of Iran. He was admitted into the United States on May 14, 1991, under P22 admission, wherein he was granted lawful permanent resident ("LPR") status because he was the unmarried son of a lawful permanent resident of the United States. (Exhibit 1 – Declaration of Assistant Field Office Director Lisa Fruge-Prudhome at ¶ 4).

On August 23, 2013, he was convicted for the offense of Conspiracy to Possess with Intent to Distribute a Quantity of Opium, in violation of 21 U.S.C. § 846, and sentenced to a term of 1 year supervised released. (*Id.* at ¶ 5). On August 22, 2014, the Petitioner was served with a form I-862, Notice to Appear, charging him as inadmissible under the Immigration and Nationality Act ("INA") § 237(a)(2)(A)(ii) – being convicted of an aggravated felony and § 237(a)(2)(A)(iii) – being convicted of crime related to illicit trafficking in a controlled substance. (*Id.* at ¶ 5).

The Petitioner's deportation proceedings culminated on October 23, 2014, when the Petitioner was ordered by an immigration judge to be removed to Iran. (*Id.* at ¶ 6). All parties waived appeal, and the October 23rd Order became a final order of removal. (*Id.*).

ICE started the process of seeking to remove him to Iran. (*Id.*). However, Iran would not accept the Petitioner without verification of his citizenship; specifically, it wanted an original passport or birth certificate. (*Id.*). The Petitioner was released from ICE custody on January 27, 2015, on an order of supervision (“OSUP”) and was instructed to apply for a new passport. (*Id.* at ¶ 7).

On April 22, 2025, his OSUP was revoked after he was arrested for Reckless Endangerment, Possession of Unlawful Drug Paraphernalia, Driving under the Influence, and Simple Drug Possession. (*Id.* at ¶ 8). He also failed to maintain reporting requirements. (*Id.*). He alleges he was taken into immigration custody on March 24, 2025. (Doc. 1 at p. 9).

On April 22, 2025, the Petitioner was served with Post-Order Custody Review (“POCR”) paperwork. (Exhibit 1 at ¶ 9). On November 04, 2025, a 180-day POCR review was completed and served on Petitioner. (*Id.* at ¶ 10). The Petitioner interviewed with the Embassy of Pakistan, Section of the Islam Republic of Iran on November 10, 2025. (*Id.* at ¶ 11). Petitioner is not currently scheduled for removal from the United States. (*Id.* at ¶ 12). But the only impediment to the Petitioner’s removal is the necessity of acquiring an original passport because Iran is requiring verification of citizenship before it will agree to accept the Petitioner.

ICE has not identified any administrative decisions relating to any request for bond.

**B. Petitioner’s § 2241 Arguments**

On November 4, 2025, Petitioner filed in this Court a Petition for Writ of Habeas Corpus Under 28 U.S.C 2241 (Doc. 1) and a Memorandum in Support (Doc. 1-1). The Petitioner asserts two grounds for relief: (1) a violation of 8 U.S.C § 1231(a)(6) having been allegedly detained by ICE beyond the 90-day removal period authorized by statute “without a significant likelihood of removal in the reasonably foreseeable future;” and (2) a violation of the Due Process Clause of the Fifth Amendment on the grounds that ICE has deprived Petitioner of the right to liberty for

his prolonged civil detention. (Doc. 1; 1-1). The Petitioner seeks immediate release from ICE custody on the basis that continued detention is unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Specifically, the Petitioner alleges to have been in ICE custody for over six (6) months and claims that ICE is likely unable to remove him from the United States in the reasonably foreseeable future because “[t]here is no repatriation agreement between Iran and the US concerning Petitioner.” (Doc. 1-1 at p. 4). The Petitioner cites *Zadvydas* and similar cases to support his position that 8 U.S.C. § 1231(a)(6) authorizes detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the due process concerns that would be presented by permitting detention for an indefinite period of time. (*Id.* at ¶ 18). The Petitioner further argues that his due process rights are also violated because his “prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal.” (*Id.* at ¶ 24). For the foregoing reasons, the Petitioner’s arguments fail.

### III. LAW AND ARGUMENT

#### A. Response to the Alleged Violation of 8 U.S.C. § 1231(a)(6).

A removable noncitizen may be detained during their removal proceedings and after they receive an order of removal that becomes final. *See* 8 U.S.C. §§ 1225, 1226, 1231. Once a noncitizen becomes subject to an administratively final removal order, the authority for his detention shifts to § 1231(a). *See Johnson v. Guzman Chavez*, 594 U.S. 523, 528–29 (2021). Section 1231 establishes a 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). The removal period begins on the latest of the following: (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, or (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).

Under 8 U.S.C. § 1231, the Attorney General is required to detain noncitizens subject to such removal orders throughout the 90-day removal period. 8 U.S.C. § 1231(a)(1)–(2). Subsequently, a noncitizen ordered removed and determined by the Attorney General to be a “risk to the community or unlikely to comply with the order of removal, may be detained beyond the [90-day] removal period.” 8 U.S.C. § 1231(a)(2), (6); 8 C.F.R. § 241.4(a)(1), (4). Because the Petitioner is a risk to the community, as discussed *infra*, his detention beyond 90 days is lawful.

***1. The Petitioner's continued detention is lawful under Zadvydas.***

In *Zadvydas*, the Supreme Court analyzed detention post-final order of removal under 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 678. The Supreme Court found that this statute “limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” *Id.* at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. The Supreme Court found it “practically necessary to recognize some presumptively reasonable period of detention” and settled on a period of six months. *Id.* at 701. However, “[t]his 6-month presumption . . . does not mean that every alien not removed must be released after six months.” *Id.* “To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* The Supreme Court, therefore, adopted a two-step approach. “After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the

reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* This six-month term is a “presumptively reasonable period of detention” after which an alien may “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

The Fifth Circuit has emphasized that *Zadvydas* “creates no specific limits on detention” under 8 U.S.C. § 1231. *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006). In a habeas proceeding, the petitioner “bears the initial burden of proof in showing that no such likelihood of removal exists.” *Id.* “[C]onclusory statements” by the Petitioner are not sufficient to meet this burden. *Id.*; *cf. also Abdimalikhuzha v. US Immigration & Customs Enforcement*, No. 25-00261, 2025 WL 1196008, at \*1 (W.D. La. Apr. 23, 2025) (same and citing *Andrade*) (“[w]hen a petitioner comes forward with nothing more than conclusory allegations, he fails to shift the burden to the government under *Zadvydas*”); *see also Shah v. Wolf*, No. 20-994-C-BH, 2020 WL 4456530, at \*2-4 (N.D. Tex. July 13, 2020) (“Speculation and conjecture are not sufficient to carry this burden; nor is a ‘lack of visible progress’ in his removal sufficient in and of itself to show no significant likelihood of removal in the reasonably foreseeable future.”), *rec. accepted*, No. 20-994-C-BH, 2020 WL 4437484 (N.D. Tex. Aug. 3, 2020).

Here, the Petitioner has been in custody for approximately 8 months, which is a reasonable amount of time. Moreover, the Petitioner offers no details for why his removal is not reasonably foreseeable except the erroneous assumption that there is no repatriation agreement between Iran and the United States concerning the Petitioner. (Doc. 1-1 at p. 4). The Petitioner supports his claim with nothing more than conclusory statements and speculation. Notably, the only impediment to the Petitioner’s removal is the necessity of acquiring an original passport or birth certificate as Iran is requiring verification of citizenship before it will agree to accept the

Petitioner. Therefore, because the delay in obtaining travel documents resulted from the Petitioner's own actions, the Petitioner has not met his initial burden. *cf.* 8 U.S.C. § 1231(a)(1)(C) (providing removal period is extended if noncitizen fails or refuses to make timely application in good faith for travel documents).

Accordingly, because the Petitioner has not stated a viable claim for release based on *Zadvydas*, his Petition should be denied.

**2. *The Petitioner Should Remain Detained Because of His Risk of Danger to the Community.***

“An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in” 8 U.S.C. § 1231(a)(3). 8 U.S.C. § 1231(a)(6). The decision regarding release is discretionary. The Supreme Court has held that 8 U.S.C. § 1231(a)(6) does not require bond hearings for aliens after six months of detention or require the Government to bear the burden of proving by clear and convincing evidence that an alien poses a flight risk or a danger to the community. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 576 (2022).

Importantly, the alien has the burden to “demonstrate[] to the satisfaction of the Attorney General or her designee that his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien's removal from the United States.” 8 C.F.R. § 241.4(d)(1). “Before making any recommendation or decision to release a detainee,” the pertinent reviewing officials “must conclude that: (1) Travel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest; (2) The detainee is

presently a non-violent person; (3) The detainee is likely to remain nonviolent if released; (4) The detainee is not likely to pose a threat to the community following release; (5) The detainee is not likely to violate the conditions of release; and (6) The detainee does not pose a significant flight risk if released.” *Id.* § 241.4(e). Further, 8 C.F.R. § 241.4(f) sets forth eight factors, which “should be weighed in considering whether to recommend further detention or release of a detainee.”

Here, the Petitioner has an extensive criminal history.<sup>2</sup> On August 23, 2013, he was convicted for the offense of Conspiracy to Possess with Intent to Distribute a Quantity of Opium, in violation of 21 U.S.C. 846 and sentenced to a term of 1 year supervised released. (Exhibit 1 at ¶ 5). On August 22, 2014, he was served with a form I-862, Notice to Appear, charging him as inadmissible under INA §237(a)(2)(A)(ii) – being convicted of an aggravated felony and §237(a)(2)(A)(iii) – being convicted of crime related to illicit trafficking in a controlled substance. (*Id.*). On April 22, 2025, his OSUP was revoked after he was arrested for Reckless Endangerment, Possession of Unlawful Drug Paraphernalia, Driving under the Influence, and Simple drug Possession. (*Id.* at ¶ 8). Additionally, he failed to maintain reporting requirements. (*Id.*). This disturbing pattern of criminal behavior by the Petitioner strongly suggests that he would be a “risk to the community” if released and should continue to be detained beyond the removal period.

**B. If the Court Orders Release, It Should Be With Conditions.**

For the reasons discussed above, the Government does not believe there is any legal or

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<sup>2</sup> In *Tran v. Mukasey*, 515 F.3d 478, 483-85 (5th Cir. 2008), the Fifth Circuit held that a risk of danger to the community based on an alien’s mental illness does not justify continued, indefinite detention. However, for the reasons discussed above, the Government does not contend that Petitioner’s current detention is indefinite. To the contrary, ICE is actively working to secure Petitioner’s removal. Petitioner’s criminal history therefore provides an additional basis for why release is not appropriate while ICE continues processing him for removal.

factual basis to grant the Petitioner's habeas petition and order his release. But if the Court disagrees, the United States requests that any release be subject to the statutory and regulatory conditions at 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.5(a) and any Order of Supervision issued thereunder. Consistent with 8 C.F.R. § 241.5(b), the Government also requests that the Court require the Petitioner to post bond in an amount "sufficient to ensure compliance with the conditions of the order, including surrender for removal." *Cf. also Zadvydas*, 533 U.S. at 695 ("[W]e nowhere deny the right of Congress to remove aliens, to subject them to supervision with conditions when released from detention, or to incarcerate them where appropriate for violations of those conditions.").

#### IV. CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court deny Pejman Karshenas Najafabadi's *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Furthermore, the Petitioner's pattern of criminal behavior involving drugs strongly suggest that he would be a risk to the community if released and should, thus, remain detained

Baton Rouge, Louisiana, this 16th day of December, 2025.

UNITED STATES OF AMERICA, by

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *UNITED STATES OF AMERICA'S RESPONSE IN OPPOSITION TO PETITION OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. 2241* has this day been served contemporaneously with its filing with the court using the CM/ECF system by placing same in the United States mail, postage prepaid and properly addressed to:

Louisiana ICE Processing Center  
Attn: Pejman Karshenas Najafabadi  
Alien #: A   
17544 Tunica Trace  
Angola, LA 70712

Baton Rouge, Louisiana, this 16th day of December, 2025.

/s/ Candace B. Ford  
Candace B. Ford, LBN 37686  
Assistant United States Attorney