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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 Nader Eshaghian,

10 Petitioner,

11 vs.

12 Chris Howard, Acting Warden, et al.,

13 Respondents.
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No. 2:25-cv-4141-PHX-DWL (ASB)

**Second Motion for Leave to Conduct
Discovery**

15 On November 5, 2025, Mr. Eshaghian filed a petition for a writ of habeas corpus under 28
16 U.S.C. § 2241. (Dkt. #1) The primary claim in his petition is that his detention is unlawful under
17 *Zadvydas v. Davis*, 533 U.S. 678 (2001), because there is no possibility that Mr. Eshaghian will be
18 removed from the United States in the reasonably foreseeable future. Indeed, Mr. Eshaghian
19 alleged that the former Immigration and Naturalization Service, which became the Bureau of
20 Immigration and Customs Enforcement in 2003, has known since at least 2000 that Mr.
21 Eshaghian cannot be removed to Iran, because he does not have the documents that would satisfy
22 the requirements of the Iranian Interests Section of the Pakistani Embassy for issuing travel
23 documents to Iranian nationals. (Dkt. #1 at 5 ¶ 19e)

24 Along with his habeas petition, Mr. Eshaghian also filed a motion for limited discovery.
25 He explained that he had good cause for allowing discovery because certain documents in
26 respondents' possession would allow him to prove his claim. *See Bracy v. Gramley*, 520 U.S. 899,
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1 909 (1997); *Harris v. Nelson*, 394 U.S. 286 (1969). He asked the Court to order respondents to
2 produce five categories of documents:

- 3 1. Mr. Eshaghian’s entire A-file;
- 4 2. A transcript (or, failing that, a recording) of any and all hearings in Mr.
5 Eshaghian’s case before the immigration courts that led to his being ordered
6 removed from the United States;
- 7 3. Any and all requests from ICE to any diplomatic representative of the Islamic
8 Republic of Iran, including the Office for the Protection of the Interests of the
9 Islamic Republic of Iran housed by the Pakistani Embassy, pertaining to travel
10 documents that would “facilitate” Mr. Eshaghian’s removal to Iran, and any
11 responsive or related correspondence to or from those diplomatic representaties
12 pertaining to these requests for travel documents;
- 13 4. Any and all documents relating to the periodic custody reviews described in 8
14 C.F.R. § 241.4 for all periods of time that Mr. Eshaghian has been in ICE custody;
and
- 15 5. Any and all documents relating to any determination under 8 C.F.R. § 241.13 and
16 8 C.F.R. § 241.14 regarding whether there is a significant likelihood of removing
17 Mr. Eshaghian in the reasonably foreseeable future.

18 (Dkt. #4 at 2–3)

19 The Court screened the petition and reviewed Mr. Eshaghian’s discovery motion and his
20 motion for appointment of counsel. On November 7, 2025, the Court appointed counsel to assist
21 Mr. Eshaghian, granted his motion for discovery in full, and set deadlines for briefing Mr.
22 Eshaghian’s petition and his related motion for a preliminary injunction. (Dkt. #7) The Court
23 ordered respondents to furnish the discovery by December 5, 2025. (Dkt. #7 at 3)

24 The government asked this Court to reconsider its order granting Mr. Eshaghian’s
25 discovery request. (Dkt. #9) It lodged two primary objections—that the Court had ordered
26 discovery before giving the government an opportunity to object, and that the discovery ordered
27 was overbroad. The Court called for a response to the motion for reconsideration. (Dkt. #10) Mr.
28 Eshaghian filed a response (Dkt. #12), and respondents filed a reply (Dkt. #13).

On November 17, 2025, the Court vacated the aspect of the November 7 order that
granted Mr. Eshaghian’s discovery motion in full, restored it to “pending” status, and directed

1 the parties to meet and confer about the discovery request. (Dkt. #14 at 7-8) The parties met and
2 conferred about the discovery request the next day. (Dkt. #17 at 1) On November 19, the parties
3 announced that they had reached an agreement about the discovery request. They agreed to
4 modify the original discovery request as follows:

- 5 1. Mr. Eshaghian agreed that respondents need only produce from his A-file “any
6 and all documents, not otherwise specifically requested, in [his] A-file that pertain
7 to Respondents’ ability to remove Mr. Eshaghian in the reasonably foreseeable
8 future, specifically including documents that relate to prior or current removal
9 efforts.”
- 10 2. Mr. Eshaghian agreed to withdraw his request for transcripts of recordings of
11 hearings in his immigration proceedings.
- 12 3. Mr. Eshaghian had initially requested documentation of “any and all requests
13 from ICE to any diplomatic representative of the Islamic Republic of Iran,
14 including the Office for the Protection of the Interests of the Islamic Republic of
15 Iran housed by the Pakistani Embassy, pertaining to travel documents that would
16 ‘facilitate’ Mr. Eshgahian’s removal to Iran, and any responsive or related
17 correspondence to or from those diplomatic representaties pertaining to these
18 requests for travel documents.” (Dkt. #4 at 2) Respondents agreed to “determine
19 whether they have any communications that are responsive to this request,” and if
20 they did have such communications, to “review them for privilege expeditiously”
21 and to “confer with counsel for [Mr. Eshaghian] if [they] intend[] to assert any
22 privilege.”
- 23 4. Respondents agreed to produce “any finalized periodic custody reviews.”
- 24 5. Respondents agreed to produce “any final, formal determinations that are
25 responsive to” Mr. Eshaghian’s request for documents regarding “any
26 determination under 8 C.F.R. § 241.13 and 8 C.F.R. § 241.14 regarding whether
27 there is a significant likelihood of removing Mr. Eshaghian in the reasonably
28 foreseeable future.”

(Dkt. #17 at 2-3)

22 The Court indicated that it was “pleased to hear that the parties were able to work
23 productively together to resolve the discovery-related disputes.” (Dkt. #18) It then denied Mr.
24 Eshaghian’s motion for limited discovery as moot.

25 On December 5, 2025, as originally ordered and under the auspices of the agreement that
26 resulted from the November 18 meet-and-confer, respondents produced 34 pages of documents.

27 These documents are:
28

- A formal decision to continue detention, made under 8 C.F.R. § 241.4, dated September 23, 2025. (Bates 1–5)
- A notice of custody review to take place on or about October 4, 2025, dated August 6, 2025. (Bates 6–8)
- A notice of pending interview regarding custody status, dated October 26, 2000. (Bates 9–10)
- A notice of custody review to take place on or about November 24, 2005, dated September 13, 2005. (Bates 11–12)
- A notice of revocation of release under 8 C.F.R. §§ 241.4 and 241.13 dated September 24, 2025. (Bates 13–14)
- An order of supervision dated January 12, 2006. (Bates 15–19)
- A release notification dated January 12, 2006, with the order of supervision attached. (Bates 20–26)
- A notice of revocation of release under 8 C.F.R. §§ 241.4 and 241.13 dated September 24, 2025. (Bates 27–28)
- A formal decision to continue detention dated December 28, 2005. (Bates 29–30)
- An order of supervision dated November 29, 2000. (Bates 31–32)
- A formal decision to continue detention following 90-day review dated June 20, 2000. (Bates 33–34)

When they produced these 34 pages of documents, respondents did not affirmatively explain that these were all the documents they possessed that were relevant to the four categories of documents that the parties had agreed respondents would produce during the November 18 meet-and-confer. Respondents' counsel did explain to Mr. Eshaghian's counsel through email that "all the agency sent me for Eshaghian was the custody review and SLRRFF determination stuff." None of the 34 pages of documents expressly pertains to the determinations required by *Zadvydas* and 8 C.F.R. § 241.13 regarding respondents' assessment of whether there has been any significant likelihood of removal in the reasonably foreseeable future (what counsel abbreviated as "SLRRFF"). And respondents' counsel did promise to follow up if "the agency" provided him with any other documents in respondents' possession that fall within the four categories of documents that they agreed to produce.

1 But as things stand today, there is no court order in place that compels respondents to
2 produce any documents at all. Accordingly, in light of what was produced on December 5, and
3 with respect to the Court and to respondents' counsel, Mr. Eshaghian must again ask the Court
4 to formally order that respondents produce all of the documents that they agreed to produce
5 during the November 18 meet-and-confer. The legal basis for Mr. Eshaghian's request remains
6 unchanged:

7 Where "specific allegations before the court show reason to believe that the
8 petitioner may, if the facts are fully developed, be able to demonstrate that he is
9 entitled to relief, it is the duty of the court to provide the necessary facilities for an
10 adequate inquiry." *Bracy v. Gramley*, 520 U.S. 899, 909 (1997) (quoting *Harris v.*
11 *Nelson*, 394 U.S. 286, 300 (1969)). The facts as they stand now are not fully
12 developed, because the government presumably possesses information that bears
13 on whether Mr. Eshaghian's due process claims are likely to succeed. This
14 information is likely contained in Mr. Eshaghian's A-file, or in other files or
15 databases maintained by the Departments of Justice and Homeland Security, to
16 which neither he nor his counsel have access.

(Dkt. #4 at 2)

17 Following the Court's November 17 order, the parties met and conferred in good faith.
18 Mr. Eshaghian has no reason to question respondents' counsel's good faith during that meeting.
19 The Court seems to have accepted their agreed-upon limitation of the discovery request based on
20 the parties' good-faith cooperation. It offered a thoughtful compromise that balanced
21 respondents' legitimate concerns against Mr. Eshaghian's right to have this Court furnish him
22 with the tools he needs to prove (or, frankly, to disprove) his claims for relief. Mr. Eshaghian's
23 counsel and respondents' counsel worked within the framework that this Court laid out. On this
24 understanding, it seems, the Court denied Mr. Eshaghian's motion for discovery.

25 Ultimately, the governing legal standard makes *this Court* responsible for ensuring that
26 Mr. Eshaghian has the information he needs to prove his claims. The governing legal standard
27 does not allow *respondents* (themselves, independent of their counsel) to unilaterally decide
28 whether and how to accommodate Mr. Eshaghian's right to obtain, to the extent the Court may
order, information in respondents' possession that may help him prove his claims for relief.
Recall that respondents' counsel told Mr. Eshaghian's counsel, essentially, "This is all that ICE

1 would give me.” Respondents’ counsel’s email does indicate that he will continue to follow up
2 with ICE (or whatever other agency may be involved) to provide additional documentation that
3 may fall within the four categories of documents that respondents agreed to provide during the
4 November 18 meet-and-confer. But it falls to this Court to ensure that Mr. Eshaghian has the
5 tools he needs to prove his claims for relief. It thus also falls to this Court that respondents
6 (meaning “the agency,” not their counsel) do not unilaterally decide whether and how to comply
7 with this Court’s processes. Mr. Eshaghian accordingly asks this Court to affirmatively order
8 respondents to provide all of the documents that were agreed during the November 18 meet-and-
9 confer.

10 Because Mr. Eshaghian does not yet have the full complement of documents that
11 respondents agreed to provide, he respectfully asks that the Court: (1) order respondents to
12 provide those documents no later than the close of business on Wednesday, December 17, 2025;
13 and (2) allow Mr. Eshaghian to file a reply in support of both the preliminary injunction request
14 and the petition no later than December 29, 2025.

15 A proposed order is being lodged herewith.

16 Respectfully submitted:

December 6, 2025.

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