



U.S. Department of Justice

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Western District of New York*

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December 22, 2025

The Honorable Meredith A. Vacca
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

**Re: Zhishpon v. Kurzdorfer
25-CV-06678-MAV**

Dear Judge Vacca:

On December 5, 2025, this Court ordered that Petitioner be granted a bond hearing by December 15, 2025. ECF No. 10.

On December 11, 2025, Petitioner admitted his removability in immigration court but moved for voluntary departure in lieu of removal. ECF No. 11 at pg. 3. As part of Petitioner's request for relief, he withdrew his prior request for asylum. *Id.* Thus, at a bond hearing for Petitioner, the immigration judge determined that it lacked jurisdiction to adjudicate bond in accordance with this Court's Order because Petitioner accepted voluntary departure and "agreed to remain in custody . . .". *Id.* at pg. 6. Indeed, the immigration court noted that Petitioner agreed to remain in custody "to get the benefit of the discretionary relief [] sought." *Id.*

Accordingly, the government communicated with Petitioner's counsel in this case given this new development—and Petitioner's agreement to remain in custody in order to receive a discretionary grant of voluntary departure—and Petitioner's counsel advised that they would be withdrawing the petition forthwith. Copies of the email exchange detailing these facts are submitted herewith.

Now, in an attempt to secure both discretionary relief in the form of voluntary departure AND relief from this Court, Petitioner argues for his release pending his departure from the United States. He has essentially represented to one court that he would agree to remain in custody in order to voluntarily depart, and is reneging on this agreement before this Court, and seeking his immediate release. He should not be allowed to do so and his request for such relief should be denied outright.

Respectfully submitted,

MICHAEL DIGIACOMO
Acting United States Attorney
Western District of New York

BY: /s/ ADAM A. KHALIL
Assistant United States Attorney

Encl. – Email traffic regarding withdrawal of the petition following grant of
voluntary departure (3 pages)

Khalil, Adam (USANYW)

From: Jonathan Langer <info@jonathanlangerlaw.com>
Sent: Monday, December 15, 2025 4:20 PM
To: Khalil, Adam (USANYW)
Subject: Re: [EXTERNAL] Activity in Case 6:25-cv-06678-MAV Pasato Zhishpon v. Kurzdorfer et al Text Order

Confirmed that we're withdrawing and will file a voluntary dismissal tomorrow.

Jonathan Langer
Law Office of Jonathan Langer, PLLC
260 Madison Ave, 17th Floor
New York, NY 10016
phone: 646.801.9332
jonathan@jonathanlangerlaw.com

On Dec 15, 2025, at 3:00 PM, Khalil, Adam (USANYW) <Adam.Khalil@usdoj.gov> wrote:

Very good, thank you!

Adam A. Khalil

Assistant United States Attorney
United States Attorney's Office | Western District of New York
100 State Street, Suite 500, Rochester, New York 14614
P: (585) 399-3979 | F: (585) 399-3936 | E: adam.khalil@usdoj.gov

From: Jonathan Langer <info@jonathanlangerlaw.com>
Sent: Monday, December 15, 2025 2:59 PM
To: Khalil, Adam (USANYW) <Adam.Khalil@usdoj.gov>
Subject: [EXTERNAL] Re: Activity in Case 6:25-cv-06678-MAV Pasato Zhishpon v. Kurzdorfer et al Text Order

Hi Adam,

I'm local counsel for his attorney, so let me check and will get back to you ASAP.

Thanks

Jonathan Langer
Law Office of Jonathan Langer, PLLC
260 Madison Ave, 17th Floor
New York, NY 10016

phone: 646.801.9332
jonathan@jonathanlangerlaw.com

On Dec 15, 2025, at 2:54 PM, Khalil, Adam (USANYW)
<Adam.Khalil@usdoj.gov> wrote:

Hi Jonathan,

ICE has advised that no bond hearing was held because your client accepted voluntary departure, under which he agreed to remain in ICE custody until departure. Will you agree to withdraw the habeas petition?

-Adam

Adam A. Khalil

Assistant United States Attorney
United States Attorney's Office | Western District of New York
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P: (585) 399-3979 | F: (585) 399-3936 | E: adam.khalil@usdoj.gov

From: webmaster@nywd.uscourts.gov <webmaster@nywd.uscourts.gov>
Sent: Friday, December 5, 2025 3:24 PM
To: Courtmail@nywd.uscourts.gov
Subject: Activity in Case 6:25-cv-06678-MAV Pasato Zhishpon v. Kurzdorfer et al Text Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
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U.S. DISTRICT COURT

U.S. District Court, Western District of New York

Notice of Electronic Filing

The following transaction was entered on 12/5/2025 at 3:24 PM EST and filed on 12/5/2025

Case Name: Pasato Zhishpon v. Kurzdorfer et al
Case Number: [6:25-cv-06678-MAV](#)
Filer:

Document Number: 10(No document attached)

Docket Text:

TEXT ORDER granting [1] Petitioner's request for a bond hearing before an immigration judge.

On November 19, 2025, Petitioner filed a petition for writ of habeas corpus, contending, *inter alia*, that his detention is unlawful under 8 U.S.C. § 1226(a) because he has not been, and will not be, provided with a bond hearing as required by law. See ECF No. 1 at 11-12. Respondents submitted an abbreviated response contending that Petitioner is lawfully detained without a bond hearing pursuant to 8 U.S.C. § 1225 but acknowledged that the Court's prior rulings would dictate granting Petitioner's request for a bond hearing. See ECF No. at 1-3 (citing *Da Cunha v. Freden*, 25-CV-06532-MAV, ECF No. 25 (W.D.N.Y. Oct. 20, 2025)).

The Court agrees that *Da Cunha* is controlling. See 6:25-cv-06532, ECF No. 31. For the reasons stated therein and in a forthcoming written decision, the Court concludes that Petitioner is being detained under 8 U.S.C. § 1226(a). Therefore, Petitioner is entitled to a bond hearing. See 8 U.S.C. § 1226(a) (stating that non-citizens detained under 8 U.S.C. § 1226(a) may be released "on... bond" or "conditional parole"); 8 C.F.R. § 1236.1(d)(1); 8 C.F.R. 1003.19(a) ("Custody and bond determinations made by the service pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236."). If such bond hearing is not conducted within ten (10) days of the date of this text order, Petitioner shall be released from custody. Respondents shall file a status report no later than December 16, 2025, confirming that Petitioner has either been granted a bond hearing within ten (10) days or released from custody, in compliance with this order. **SO ORDERED.** Signed by Hon. Meredith A. Vacca on 12/5/2025. (MVP)

6:25-cv-06678-MAV Notice has been electronically mailed to:

United States Attorney's Office (e-service) (Terminated) USANYW-Immigration-Habeas@usdoj.gov

Jonathan A

Langer jonathan@jonathanlangerlaw.com, jonathan.a.langer@gmail.com

Adam A. Khalil adam.khalil@usdoj.gov, Ayanna Davey-
Nugent@usdoj.gov, CaseView.ECF@usdoj.gov, Jacqueline.Markidis@usdoj.gov,
Kathryn.Slocum@usdoj.gov, elizabeth.todd@usdoj.gov

6:25-cv-06678-MAV Notice has been delivered by other means to:

Celina B. Curillo
The Law Office of Celina B. Curillo
64 North Street
2nd Floor
Danbury, CT 06810