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14 **IN THE UNITED STATES DISTRICT COURT**

15 **FOR THE DISTRICT OF ARIZONA**

16 Rodion Vladimirovich Nazarov,

17 Petitioner,

18 v.

19 David Rivas,

20 Respondent.

No. 2:25-cv-04337-KML--ASB

**RESPONSE TO PETITION FOR WRIT
OF HABEAS CORPUS**

21 Respondent David Rivas, Warden, San Luis Regional Detention Center, responds to
22 the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. 1). Petitioner
23 argues that his continued detention violates 8 U.S.C. § 1231(a)(6) because there is no
24 reasonable probability of his removal to Russia or any other country in the reasonably
25 foreseeable future. The Court has ordered Respondent to show cause why the Petition should
26 not be granted. *See* Doc. 3.

27 **I. Factual background.**

28 Petitioner is a citizen of Russia. Petitioner entered the United States in 1992 as a
derivative asylee. Ex. A, Declaration of Jorge E. Hernandez, at ¶ 4. From December 1997
to June 1998, Petitioner was convicted several times for attempted possession of heroin. Ex.
A at ¶ 5. In June 1998, Petitioner was served with a Notice to Appear charging him as
removable under Section 237(a)(2)(B)(i) of the Immigration and Nationality Act ("INA"),

1 for conviction of a controlled substance. Ex. A at ¶ 6. In September 1998, Petitioner was
2 charged additionally as being removable as having been convicted of an aggravated felony
3 under Section 237(a)(2)(A)(iii) of the INA. Ex. A at ¶ 8. In September 1998, Petitioner was
4 found removable and denied asylum and related relief by the Immigration Court. Ex. A at ¶
5 8. Ultimately, after several appeals to the Board of Immigration Appeals, Petitioner's
6 asylum application was denied, and he was ordered removed but granted withholding of
7 removal to Russia. Ex. A at ¶¶ 9, 10, 12. Petitioner was released from the custody of
8 Immigration and Customs Enforcement ("ICE") in June 2005. Ex. A at ¶ 13.

9 On March 1, 2025, Petitioner was arrested and remanded to ICE custody to effectuate
10 removal to a third country. Ex. A at ¶ 15. ERO has not yet identified a third country willing
11 to accept Petitioner but is working with the Department of State to identify a third country.
12 Ex. A at ¶ 17.

13 **II. Petitioner's detention is authorized by 8 U.S.C. § 1231(a)(6).**

14 Ordinarily, once an alien has been deemed inadmissible and ordered removed, the
15 Government "shall remove the alien from the United States within a period of 90 days." 8
16 U.S.C. § 1231(a)(1)(A). This is commonly referred to as the "removal period." However,
17 another provision, 8 U.S.C. § 1231(a)(6), permits detention of an alien after the removal
18 period. Although the post-removal-period detention statute contains no time limit on
19 detention, in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court explained that the
20 Fifth Amendment's Due Process Clause "limits an alien's post-removal-period detention to
21 a period reasonably necessary to bring about the alien's removal from the United States. It
22 does not permit indefinite detention." 533 U.S. at 689. The purpose of § 1231(a)(6) detention
23 is to effectuate removal. *See Demore v. Kim*, 538 U.S. 510, 527 (2003) (analyzing *Zadvydas*
24 and explaining the removal period was based on the "reasonably necessary" time in order
25 "to secure the alien's removal").

26 To avoid reading the statute as violating the Fifth Amendment Due Process Clause
27 and to create uniform standards for evaluating challenges to post-removal-period detention,
28 the Supreme Court held that any detention of six months or less was a "presumptively
reasonable period of detention," and that "an alien may be held in confinement until it has

1 been determined that there is no significant likelihood of removal in the reasonably
2 foreseeable future.” *Zadvydas*, 533 U.S. at 701. *Zadvydas* places the burden on the alien to
3 show, after a detention period of six months, that there is “good reason to believe that there
4 is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* If the alien
5 makes that showing, the Government must then introduce evidence to refute that assertion
6 to keep the alien in custody. *See id.*; *see also Xi v. I.N.S.*, 298 F.3d 832, 839-40 (9th Cir.
7 2002). The court must “ask whether the detention in question exceeds a period reasonably
8 necessary to secure removal. It should measure reasonableness primarily in terms of the
9 statute’s basic purpose, namely, assuring the alien’s presence at the moment of removal.
10 *Zadvydas*, 533 U.S. at 699.

11 Here, Petitioner is detained under 8 U.S.C. § 1231(a)(6) to ensure his presence at the
12 time of removal. *Zadvydas* does not require that Petitioner be released from immigration
13 detention after six months. Rather, Petitioner must show that there is no significant
14 likelihood of removal in the reasonably foreseeable future. Here, ICE is working with the
15 Department of State to locate a third country willing to accept Petitioner. So long as
16 “[p]rogress, however slow, is being made” towards an alien’s removal, his continued
17 detention is in accord with due process under *Zadvydas*. *Khan v. Fasano*, 194 F. Supp. 2d
18 1134, 1137 (S.D. Cal. 2001).

19 **III. Conclusion.**

20 Petitioner has not met his burden to show that there is no significant likelihood of
21 removal in the reasonably foreseeable future. ICE is working with the Department of State
22 to locate a country willing to accept Petitioner.

23 Respectfully submitted this 1st day of December, 2025.

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27 s/ Katherine R. Branch
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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2025, I electronically transmitted the attached document to the Clerk's office using the CM/ECF System, and sent a copy of the same via United States mail to:

Rodion Vladimirovich Nazarov



San Luis Regional Detention Center
P.O. Box 7710
San Luis, Arizona 85349

s/ Katherine R. Branch
U.S. Attorney's Office