

The Honorable Lauren King  
The Honorable S. Kate Vaughan

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FAHEEM TARIQ,

Petitioner,

v.

BRUCE SCOTT,

Respondent.

Case No. 2:25-cv-02387-LK-SKV

UNITED STATES' RETURN  
MEMORANDUM<sup>1</sup>

**I. INTRODUCTION**

This Court should deny Petitioner Faheem Tariq's request for a court-ordered bond hearing relating to his mandatory immigration detention. Petitioner misstates the standard that governs his detention. Moreover, because Petitioner's detention is still within the presumptively reasonable time set forth in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the United States respectfully requests that this Court deny the Petition for Writ of Habeas Corpus. Dkt. 1. This return is supported by the Declaration of Deportation Officer Cheng Liu ("Liu Decl.") and Petitioner's immigration records.

<sup>1</sup>The Northwest ICE Processing Center is owned and operated by a private contractor, the Geo Group. Undersigned counsel does not represent the named Respondent. The Petition does not name a federal entity. To protect the Government's interests, the United States submits this return as an interested non-party.

**II. FACTUAL BACKGROUND**

**A. Petitioner is charged as inadmissible**

Petitioner is a native and citizen of Pakistan who entered the United States in 2003. Liu Decl., ¶¶ 3-4. In June 2006, Petitioner adjusted status to a lawful permanent resident. Liu Decl., ¶ 5.

On May 4, 2020, Petitioner was convicted of Manufacturing/Distributing a Controlled Substance or Intent to Manufacture/Distribute a Controlled Substance in the Superior Court for Atlantic County, New Jersey. Liu Decl., ¶ 6. Petitioner received a sentence of five-years' probation. Liu Decl., ¶ 6; [REDACTED].

On February 6, 2023, Petitioner arrived at Newark International Airport as an applicant for admission as a returning lawful permanent resident. Liu Decl., ¶ 7. On the same day, U.S. Customs and Border Protection in Newark determined Petitioner was inadmissible based on his controlled substance conviction and issued Petitioner a Notice to Appear charging him as removable under INA § 212(a)(2)(A)(i)(I) and § 212(a)(2)(A)(i)(II). Liu Decl., ¶ 8; Strong Decl., [REDACTED]. Because of bed space limitations, Petitioner was released from custody pending his scheduled hearing before the Newark immigration court. Liu Decl., ¶ 9.

**B. Petitioner's removal proceedings**

On March 12, 2024, Immigration and Customs Enforcement ("ICE") officers in New Jersey encountered and arrested Petitioner without incident at his residence. Liu Decl., ¶ 10. On the same day, Petitioner was transported to the Moshannon Valley Processing Center. Liu Decl., ¶ 10. Petitioner has remained detained throughout his removal proceedings. Liu Decl., ¶ 11.

On June 3, 2024, Petitioner appeared for his initial master calendar hearing with counsel. Liu Decl., ¶ 12. The immigration judge set Petitioner's individual merits case for July 8, 2024. Liu

Decl., ¶ 12. At that July 8 hearing, the immigration judge reset the merits hearing to October 16, 2024, due to late-filed briefing on relief eligibility by Petitioner. Liu Decl., ¶ 13.

On October 16, 2024, Petitioner appeared for his reset individual merits hearing. Liu Decl., ¶ 14. The immigration judge granted a Motion to Pretermit, finding Petitioner had not met his burden to show he had not been convicted of an Aggravated Felony under INA § 101(a)(43) and was eligible for the relief sought. Liu Decl., ¶ 14; Strong Decl., [REDACTED]

[REDACTED]. The immigration judge ordered Petitioner removed to Pakistan. Liu Decl., ¶ 14; [REDACTED].

On October 28, 2024, Petitioner appealed the immigration judge's order to the Board of Immigration Appeals ("BIA"). Liu Decl., ¶ 15. On April 25, 2025, the BIA dismissed the appeal, affirming the immigration judge's conclusion that Petitioner had not met his burden. Liu Decl., ¶ 16; Strong Decl., [REDACTED]. ICE was notified Petitioner filed a Petition for Review and a Motion for Stay in the Third Circuit Court of Appeals. Liu Decl., ¶ 17; *see also Tariq v. Attorney General*, Case No. 25-2068 (3d Cir.), Dkts. 7-8. ICE was advised a temporary stay had been granted and was directed not to remove Petitioner. Liu Decl., ¶ 17; *Tariq*, Case No. 25-2068, Dkt. 9. On or about September 16, 2025, ICE was notified the temporary stay had been vacated and Petitioner could be removed from the United States. Liu Decl., ¶ 18; *Tariq*, Case No. 25-2068, Dkt. 13 (denying the motion for stay "because he has not shown a likelihood of success on the merits of his petition for review, and he does not make a sufficient showing that removal is likely to result in irreparable harm").

The United States has filed a motion to summarily dismiss Petitioner's appeal. *Tariq*, Case No. 25-2068, Dkt. 10.

### C. ICE's efforts to remove Petitioner

On September 17, 2025, ICE spoke with Petitioner and provided a travel document application for Pakistan. Liu Decl., ¶ 19. Petitioner requested opportunity to contact counsel

1 regarding the application which ICE agreed to provide. Liu Decl., ¶ 19. ICE also provided a  
2 warning if Petitioner failed to comply in completing the application. Liu Decl., ¶ 19. Petitioner did  
3 subsequently complete and return the application. Liu Decl., ¶ 19.

4 On November 15, 2025, ICE submitted the completed travel document request (“TDR”)  
5 packet to headquarters for review and approval. Liu Decl., ¶ 20. On the next day, ICE headquarters  
6 approved the TDR packet for submission to the Pakistani consulate. Liu Decl., ¶ 21. On December  
7 6, 2025, the TDR packet was submitted to the Pakistani consulate. Liu Decl., ¶ 22.

8 Petitioner filed to renew his stay motion with the Third Circuit. Liu Decl., ¶ 23; *Tariq*, Case  
9 No. 25-2068, Dkt. 19. ICE is not aware that a stay of removal has been granted by the Third Circuit  
10 at this time. Liu Decl., ¶ 24. Petitioner remains detained under 8 U.S.C. § 1231 as a noncitizen  
11 with a final removal order. Liu Decl., ¶ 24.

### 12 III. ARGUMENT

13 Petitioner seeks a bond hearing, claiming that his due process rights should be evaluated  
14 under a multi-factor test employed by other courts in this district (the “*Martinez* test”). *See*  
15 *Martinez v. Clark*, Case No. 18-1669-RAJ-MAT, 2019 WL 5968089 (W.D. Wash. May 23, 2019),  
16 *report and recommendation adopted by* 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019). The  
17 *Martinez* test, however, applies when the noncitizen is detained under 8 U.S.C. § 1226(c), *id.* at  
18 \*9, which covers noncitizens that “fall[] within one of the categories of criminals described in [the  
19 statute] for whom detention is mandatory until removal proceedings have concluded.” *Id.* at \*3.

20 Petitioner, however, is detained under 8 U.S.C. § 1231. Liu Decl., ¶ 24. Unlike the  
21 noncitizen in *Martinez* whose appeal was still pending at the BIA, *see* 2019 WL 5968089, at \*2,  
22 Petitioner’s appeal to the BIA has been decided. Liu Decl., ¶ 16; . Therefore, he is subject to  
23 a final order of removal. 8 U.S.C. § 1101(47)(B)(i); *accord Ocampo v. Holder*, 629 F.3d 923, 926  
24 (9th Cir. 2010).

1 When a final order of removal has been entered, a noncitizen enters a 90-day “removal  
 2 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security  
 3 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for  
 4 removal and to protect the community from noncitizens who may present a danger, Congress has  
 5 mandated detention while removal is being effectuated:

6 During the removal period, the [Secretary of Homeland Security]<sup>2</sup> shall  
 7 detain the [noncitizen]. Under no circumstance during the removal period  
 8 shall the [Secretary] release [a noncitizen] who has been found inadmissible  
 9 under section 1182(a)(2) or 1182(a)(3)(B) of the title or deportable under  
 10 section 1227(a)(2) or 1227(a)(4)(B) of the title.

11 8 U.S.C. § 1231(a)(2).

12 Because the Third Circuit granted a temporary stay of removal however, Petitioner’s 90-  
 13 day removal period did not begin until the stay was lifted on September 16, 2025. 8 U.S.C. §  
 14 1231(a)(1)(B)(ii); Liu Decl., ¶ 18. Therefore, the 90-day removal period ended December 15,  
 15 2025, meaning this petition was premature when it was filed on November 24. Dkt. 1; *see also*  
 16 *Khotesouvan v. Morones*, 386 F.3d 1299, 1301 (9th Cir. 2004) (affirming dismissal of habeas  
 17 petition brought during 90-day removal period).

18 Even if the Court were to excuse that oversight, Section 1231(a)(6) authorizes ICE to  
 19 continue detention of noncitizens after the expiration of the removal period. Section 1231(a)(6)  
 20 does not mandate detention and does not place any temporal limit on the length of detention under  
 21 that provision:

22 [A noncitizen] ordered removed who is inadmissible under section 1182,  
 23 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of the title  
 24 or who has been determined by the [the Secretary of Homeland Security] 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 paragraph (3).

<sup>2</sup> Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security, of which ICE is a component. See also 6 U.S.C. § 251.

1 Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme  
2 Court has held that a noncitizen may be detained only “for a period reasonably necessary to bring  
3 about that [noncitizen’s] removal from the United States.” *Zadvydas*, 533 U.S. at 689. The  
4 Supreme Court has further identified six months as a presumptively reasonable time to bring about  
5 a noncitizen’s removal. *Id.* at 701. Here, the presumptive six-month period under *Zadvydas* does  
6 not expire until March 2026 at the earliest.

7 The burden is on Petitioner *after the six-month presumptively reasonable detention period*  
8 to provide “good reason to believe that there is no significant likelihood of removal in the  
9 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. ICE must take steps, along with the  
10 noncitizen’s efforts, to effectuate removal, including working with the appropriate foreign  
11 countries and interviewing the noncitizen and his family members. This is the implicit basis for  
12 the presumptively reasonable detention period. Here, Petitioner cannot meet his burden.  
13 Petitioner’s post-removal detention started a little over three months ago. ICE is actively seeking  
14 a travel document to execute Petitioner’s removal order. *See* Liu Decl., ¶¶ 19-22.

15 Because his detention has not yet become prolonged as set forth in *Zadvydas*, Petitioner is  
16 not entitled to a bond hearing.

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1 **IV. CONCLUSION**

2 Based on the foregoing, the petition for writ of habeas corpus should be denied. In further  
3 response to Dkt. 3, the United States does not believe that an evidentiary hearing is necessary.  
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5 DATED this 2nd day of January, 2026.

6 Respectfully submitted,

7 CHARLES NEIL FLOYD  
8 United States Attorney

9 s/ James C. Strong

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19 *Attorneys for the United States*

20 *I certify that this memorandum contains 1,684*  
21 *words in compliance with the Local Civil Rules.*  
22  
23  
24

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify that on this date, I electronically filed the foregoing United States' Return Memorandum, and the supporting Declarations of Cheng Liu and James C. Strong (with Exhibits A-D) with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

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I further certify that on this date, I arranged for service of the aforementioned documents on the following non-CM/ECF participant via Certified Mail with return receipt, postage prepaid, addressed as follows:

Faheem Tariq, *Pro Se* Petitioner  
  
NW ICE Processing Center  
1623 E. J Street, Suite 5  
Tacoma, WA 98421-1615

DATED this 2nd day of January, 2026.

s/ Stephanie Huerta-Ramirez  
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