

District Judge Jamal N. Whitehead

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

PRAMESH UPRETY,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02443-JNW-MLP

FEDERAL RESPONDENTS' RETURN
MEMORANDUM

Noted for Consideration:
December 30, 2025

I. INTRODUCTION

This Court should deny Petitioner Pramesh Uprety's Petition for Writ of Habeas Corpus. Dkt. No. 2 ("Pet."). Petitioner is a noncitizen subject to an administratively final order of removal and U.S. Immigration and Customs Enforcement ("ICE") lawfully detains him pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner challenges his approximate 6-month post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. However, Petitioner has failed to demonstrate that his continued immigration detention has become indefinite or unconstitutional. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Finally, Petitioner's claims

1 concerning third country removals are not ripe because ICE is only seeking Petitioner's removal
2 to his native country of Nepal at this time.

3 II. FACTUAL AND PROCEDURAL BACKGROUND

4 A. Detention Authorities and Removal Procedures

5 The INA governs the detention and release of noncitizens during and following their
6 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
7 detention periods are generally referred to as “pre-order” (meaning before the entry of a final order
8 of removal) and, relevant here, “post-order” (meaning after the entry of a final order of removal).
9 *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order
10 detention).

11 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
12 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
13 “shall remove the alien from the United States.” *Id.* To ensure a noncitizen's presence for removal
14 and to protect the community from dangerous noncitizens while removal is being effectuated,
15 Congress mandated detention. 8 U.S.C. § 1231(a)(2). During the removal period, ICE¹ is charged
16 with attempting to effect removal of a noncitizen from the United States. 8 U.S.C. § 1231(a)(1).

17 Relevant here, Section 1231(a)(6) authorizes the U.S. Department of Homeland Security
18 (“DHS”) to continue detention of noncitizens after the expiration of the removal period. Unlike
19 Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any
20 temporal limit on the length of detention under that provision:

21 An alien ordered removed who is inadmissible under section 1182, removable
22 under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been
23 determined by 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*

24 ¹ Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security's authority to execute removal orders.

1 *removal period* and, if released, shall be subject to the terms of supervision in
2 paragraph (3).

3 8 U.S.C. § 1231(a)(6) (emphasis added). Although there is no statutory time limit on detention
4 pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only
5 “for a period reasonably necessary to bring about that [noncitizen’s] removal from the United
6 States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six months as a
7 presumptively reasonable time to bring about a noncitizen’s removal. *Id.*, at 701.

8 In this case, Petitioner is the subject of an order of removal that became final on June 2,
9 2025. Accordingly, the removal period expired on August 31, 2025. 8 U.S.C. § 1231(a)(1)(B)(ii).
10 The “presumptively reasonable” six-month period recently expired on December 2, 2025.
11 *Zadvydas*, 533 U.S. at 701. Petitioner commenced this habeas action on December 2, 2025. Dkt.
12 No. 1.

13 **B. Petitioner Pramesh Uprety**

14 Petitioner, a citizen of Nepal, entered the United States without inspection or parole at an
15 unknown time and at an unknown place. Liu Decl., ¶ 3. On January 13, 2025, Petitioner was
16 convicted of False Statement in Application or Use of a Passport, in violation of 18 U.S.C. § 1542,
17 and Social Security Fraud, in violation of 42 U.S.C. § 408(a)(2). *Id.*, ¶ 5; Lambert Decl., Ex. A,
18 Criminal Records. Petitioner was sentenced to five years of probation. Liu Decl., ¶ 5.

19 ICE arrested Petitioner on January 17, 2023, and issued him a notice to appear instituting
20 removal proceedings. *Id.*, ¶ 6; Lambert Decl., Ex. B, Form I-213; Ex. C, Notice of Custody
21 Determination; Ex. D, Notice to Appear. An immigration judge denied Petitioner’s bond request
22 after finding that Petitioner was subject to mandatory detention pursuant to 8 U.S.C. § 1226(c).
23 Liu Decl., ¶ 7; Lambert Decl., Ex. E, Order of the Immigration Judge.

1 On June 24, 2023, an immigration judge ordered Petitioner removed to Nepal and denied
2 Petitioner's applications for relief from removal. Liu Decl., ¶ 9; Lambert Decl., Ex. F, Order of
3 the Immigration Judge. The Board of Immigration Appeals ("BIA") dismissed Petitioner's appeal
4 in November 2023. Liu Decl., ¶ 11; Lambert Decl., Ex. G, BIA Decision. Thereafter, Petitioner
5 filed a petition for review ("PFR") with the Ninth Circuit Court of Appeals and a temporary stay
6 of removal was issued. *Uprety v. Bondi*, No. 23-4255, Dkt. No. 3 (9th Cir. Dec. 19, 2023). On
7 April 10, 2025, the Ninth Circuit dismissed in part and denied in part Petitioner's PFR. *Id.*, Dkt.
8 No. 48.1, Memorandum. However, the Ninth Circuit ordered that the temporary stay of removal
9 remain in place until the mandate issued. *Id.*, at 5 n.3. The mandate issued on June 2, 2025, and
10 the stay of removal lifted. *Id.*, Dkt. No. 49.

11 While the PFR was pending, ICE began preparing a travel document request in case the
12 stay of removal was lifted, and Petitioner could be removed to Nepal. Liu Decl., ¶ 15. ICE initially
13 shipped the request to the government of Nepal on June 10, 2025. *Id.*, ¶ 16. However, this request
14 was returned due to insufficient information necessary to issue a passport. *Id.*, ¶ 17. On December
15 11, 2025, the local ICE Enforcement and Removal Operations ("ERO") learned that ICE needs to
16 resubmit the entire travel document request and is actively doing so. *Id.*, ¶ 19. ICE is only seeking
17 to remove Petitioner to Nepal at this time. *Id.*, ¶ 21.

18 III. LEGAL STANDARD

19 "The district courts of the United States ... are courts of limited jurisdiction. They possess
20 only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopach Servs.,*
21 *Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been
22 tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland*
23 *Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n. 20 (2020). Title 28 U.S.C. § 2241 provides district
24 courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the

burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. **An alien's interest in liberty does not raise a serious constitutional question until his detention has become indefinite or permanent.**

Petitioner cannot demonstrate that his detention has become “indefinite” or unconstitutional. In *Zadvydas*, the Supreme Court found that post-order detention could potentially become indefinite as authorized under the open-ended terms of Section 1231(a)(6). Finding the possibility of indefinite detention troublesome, the Supreme Court clarified that there is a point at which Congress’s interest in detaining an alien to facilitate his removal may eventually give way to the alien’s liberty interest. *Zadvydas*, 533 at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem.”). Detention becomes indefinite if, for example, the country designated in the removal order refuses to accept the alien, or if removal is barred by the laws of this country. *Diouf v. Mukasey* (“*Diouf I*”), 542 F.3d 1222, 1233 (9th Cir. 2008).

The Supreme Court in *Zadvydas* recognized that as detention becomes prolonged, an alien’s liberty interest grows and may eventually outweigh Congress’s interest in detaining an alien to facilitate his removal. The six-month period established in *Zadvydas* reflects the earliest moment at which these conflicting interests might raise serious constitutional issues. *See Zadvydas*, 533 U.S. at 701. As the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of an alien’s post-order detention. *Id.* (stating that “for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). But as the Supreme Court

1 has noted, the six-month presumption “does not mean that every alien not removed must be
2 released after six months. To the contrary, an alien may be held in confinement until it has been
3 determined that there is no significant likelihood of removal in the reasonably foreseeable future.”
4 *Id.*

5 Here, Petitioner’s current detention is neither indefinite nor permanent. The fact that
6 Petitioner does not yet have a specific date of anticipated removal does not make his detention
7 indefinite. *Diouf I*, 542 F. 3d at 1233. ICE is in the process of resubmitting a travel document
8 request to Nepal. Liu Decl., ¶ 19. Accordingly, Petitioner’s detention has not become “indefinite,”
9 and this Court should not order that he be released.

10 **B. Petitioner’s third country claims are without merit and not ripe for review.**

11 Petitioner presents *no evidence* of any intention by ICE to remove Petitioner to a third
12 country. *See* Pet., at 17-19. Petitioner purports to bring claims challenging the constitutionality
13 of his possible removal to a third country as a likely violation of the Fifth Amendment, 8 U.S.C. §
14 1231, the Eighth Amendment, the Convention Against Torture, the INA, the Administrative
15 Procedure Act, and relevant implementing regulations. *Id.* Such claims are based on the
16 hypothetical scenario of his removal to a third country other than Nepal, which are entirely
17 speculative and not ripe for review. As described in the Liu Declaration, ICE is only working on
18 Petitioner’s removal to Nepal. Liu Decl., ¶¶ 15-21.

19 In any event, at least one court in this district has found that such claims are not the proper
20 subject of an immigration habeas petition, considering that Petitioner presents no evidence that
21 Federal Respondents seek to remove him to a third country. *See Tran v. Bondi*, No. 25-cv-1897-
22 JLR, 2025 WL 3140462, at *4 (W.D. Wash. Nov. 10, 2025) (citing *Zadvydas*, 533 U.S. at 688).

1 Accordingly, Petitioner's third country removal claims are speculative and not part of a
2 live controversy because there is no concrete indication that removal to a third country will occur.
3 Thus, these claims should be denied as premature.

4 **V. CONCLUSION**

5 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
6 the Petition.

7 DATED this 23rd day of December, 2025.

8 Respectfully submitted,

9 CHARLES NEIL FLOYD
United States Attorney

10 s/ Michelle R. Lambert
11 MICHELLE R. LAMBERT, NYS #4666657
12 Assistant United States Attorney
13 United States Attorney's Office
14 Western District of Washington
15 1201 Pacific Ave., Ste. 700
Tacoma, WA 98402
Phone: (253) 428-3824
Fax: (253) 428-3826
Email: michelle.lambert@usdoj.gov

16 *Attorneys for Federal Respondents*

17 *I certify that this memorandum contains 1,755*
18 *words, in compliance with the Local Civil*
19 *Rules.*