

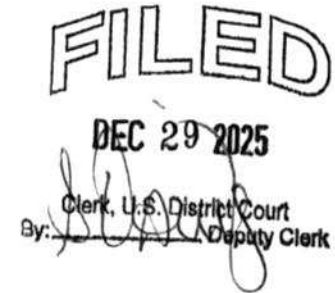
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

BORIS PHILIP KASSAP
Petitioner, Pro Se,

V.

25-3277-JWL

CRYSTAL CARTER, BRADLEY MACNAIR,
TODD LYONS, PAM BONDI,
AND ALEJANDRO MAYORKAS
Respondents,




I. PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C § 2241

1. Petitioner, Boris Philip Kassap, a legally admitted individual and long-time resident of the United States, is currently detained by Immigration and Customs Enforcement (ICE) pursuant to 8 U.S.C § 1231 (a)(6). Petitioner has been continuously detained since, September 13, 2024, post Removal Order, for a period well exceeding one hundred eighty (180) days. Because there is no significant likelihood of his removal in foreseeable future, his continued mandatory detention violates his Fifth Amendment right to Due Process under the principles established by Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus ordering his immediate release from physical custody under an appropriate Order of Supervision.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 2241 (c)(3) because Petitioner is held in custody in violation of the constitution and laws of the United States.
3. Federal district courts have jurisdiction to review habeas challenge by noncitizens to the lawfulness of their immigration detention, including post-removal-order detention under 8 U.S.C § 1231(1).
4. This Court also has jurisdiction under 28 U.S.C. § 1331 and the declaratory Judgment Act, and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Fifth Amendment.
5. Venue is proper in the District of Kansas under 28 U.S.C § 1391(e) and 2241 because Petitioner is detained in this District and immediate custodian, Crystal Carter is located here.

III. PARTIES

6. Petitioner, Boris Philip Kassap  is a native and citizen of Ex-Soviet Block-USSR who is currently detained in ICE custody at FCI Leavenworth, Kansas
7. Crystal Carter, Warden, FCI Leavenworth
8. Bradley McNair, Deportation Officer
9. Todd Lyons, Acting Director, ICE
10. Alejandro Mayorkas, Secretary, Department of Homeland Security

11. Pam Bondi, Attorney General of the United States
12. All Government Respondents are sued in their official capacity

IV. FACTUAL BACKGROUND

13. Petitioner entered ICE custody on or about May 10th, 2024.
14. An Immigration Judge ordered Petitioner removed to Russia on September 13, 2024. The Order of removal became administratively final on or about October 11th, 2024.
15. Petitioner's "removal period," as defined by 8 U.S.C. § 1231(a)(i), began on or about October 11th, 2024.
16. Petitioner has been detained by ICE for more than six months (180) days of post-order detention.
17. During this time, DHS/ICE has been unable to remove Petitioner to Russia or the selected third countries (Canada, Dominican Republic and Moldova).
18. Petitioner has cooperated fully with ICE's efforts to obtain travel documents including providing information, completing necessary forms, and signing travel document forms for Russia and the third countries: Canada, Dominican Republic and Moldova
19. ICE has provided little to no information about any concrete steps taken toward Petitioner's removal or any timeframe for removal.
20. Petitioner does not pose a danger to the community and does not present a flight risk that cannot be addressed by conditions of supervised release, such as reporting requirements, or other standard conditions.
21. Petitioner has close ties in the United States, including his 97 years old Father, Sister, Brother, Friends, Co-worker etc., and is willing to comply with any conditions of release imposed by the Court of ICE.
22. Continued detention is causing Petitioner significant physical, emotional, and psychological harm, particularly given the indefinite and uncertain nature of the confinement.

VII. LEGAL FRAMEWORK

23. Under 8 U.S.C. § 1231(a), DHS is generally required to remove an individual within 90 days of a final order of removal with limited authority to continue detention beyond that period.
24. IN *Zadvydas v. Davis*, the Supreme Court construed § 1231(a)(6) to avoid serious constitutional concerns by reading into the statute an implicit "reasonable time" limitation on post-order detention and establishing a six month presumptively reasonable period.
25. After six months, once the noncitizen provides "good reason to believe there is no significant likelihood of removal in reasonably foreseeable future," the burden shifts to the government to provide evidence to rebut that showing; if it cannot, continued detention is unlawful.
26. The Fifth Amendment Due Process Clause limits civil immigration detention to purpose of ensuring appearance at proceedings and protecting the community and detention must bear a reasonable relation to those purposes and not arbitrary or indefinite.

VIII. CLAIMS FOR RELIEF

First Claim For Relief: Statutory Claim Under 8 U.S.C § 1231(a) as interpreted by *Zadvydas v. Davis*

27. Petitioner re-alleges and incorporate by reference paragraphs 1-26.

28. Petitioner has been detained well beyond six months after entry of final order of removal.

29. Petitioner has presented good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, including (but not limited to) the inability or unwillingness of any "third-country" ICE has tried removing the Petitioner to, in order to issue a travel document, and other country-specific or personal obstacles to removal.

30. Respondents have not provided any evidence during their visits to the facility (detention center), sufficient to rebut Petitioner's showing that removal is not significantly likely in the reasonably foreseeable future.

31. Under *Zadvydas*, continued detention under these circumstances exceeds the authority granted by § 1231(1)(6) and is unlawful.

32. Accordingly, Petitioner's continued detention violates the INA and must cease.

Second Claim For Relief: The Fifth Amendment Violation

33. Petitioner re-alleges and incorporates by reference paragraphs 1-32.

34. The Fifth Amendment prohibits arbitrary and indefinite civil detention that is not reasonably related to a legitimate governmental purpose.

35. Any Legitimate purpose that might initially justify Petitioner's detention such as facilitating removal have dissipated because removal is not significantly likely in the reasonably foreseeable future.

36. Continued detention is excessive and disproportionate in relation to any legitimate governmental interest and therefore violates substantive due process.

Third Claim For Relief: The Purpose of Detention (effecting removal) No Longer Exists

37. Petitioner re-alleges and incorporates by reference paragraphs 1-36.

38. The Statutory scheme contemplation only as long as necessary to effect removal. 8 U.S.C. § 1231(a)(i)(A) gives 90-day removal period; then § 1231(a)(6) gives discretionary further detention only if removal reasonably foreseeable.

39. Once it becomes apparent that removal is no longer "reasonably foreseeable" continued detention becomes punitive in nature, which raises due-process concerns.

Zadvydas, 533 U.S. at 690.

Fourth Claim For Relief: Constitutional and Human Rights Concerns

40. Petitioner realleges and incorporates by reference paragraphs 1-39.

41. Indefinite detention without release or bond hearing raises serious due-process and liberty interest issues. See e.g., Congress Research Service note: "indefinite detention raises 'serious constitutional-concerns'."

42. The burden on the government must increase when liberty is at stake.

Fifth Claim For Relief: No Meaningful Prospect of Removal

- 43. Petitioner realleges and incorporates by reference paragraphs 1-42.
- 44. The detention Period (more than 6 months) exceeds the presumptive "reasonably necessary" period identified in Zadvydas (six months).
- 45. Government must show removal in foreseeable future; here Petitioner has not been shown any evidence of country acceptance, consulate cooperation, travel documents etc.
- 46. Under regulatory guidance, if removal is not reasonably foreseeable, detainee must be released after 180 days.
- 47. These conditions of this case detention well past six months, no indication of removal trigger the logic of Zadvydas/Clark v. Martinez: continued detention becomes unjustified.
- 48. "The Government must provide concrete evidence, no speculation." Nube v. INS, 2000 WL 1466117, at *4(S.D.N.Y. 2000).

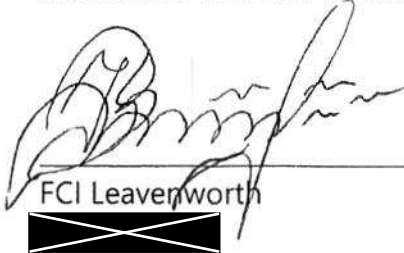
IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Issue a Writ of HABEAS CORPUS ordering Respondents to show cause;
- C. Immediately release Petitioner from ICE custody under such reasonable conditions of supervision as the Court deems appropriate;
- D. Grant such other and further relief as the Court deems just and proper

X. VERIFICATION

I Boris Philip Kassap, declare under penalty of perjury under the laws of the United States that I am Petitioner in the above-entitled action; that I have read the foregoing Petition for Writ of Habeas Corpus and know the contents, therefore; and that the same is true and correct to the best of my knowledge, information, and belief.

 12/19/2025

FCI Leavenworth


Boris Philip Kassap
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Leavenworth KS, 66048