

District Judge Thomas S. Zilly

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

OLEG BABAK,

Petitioner,

v.

IMMIGRATION AND CUSTOMS
ENFORCEMENT FIELD OFFICE
DIRECTOR,

Respondents.

Case No. 2:26-cv-00055-TSZ

RESPONDENT'S RETURN

Noted for Consideration:
February 2, 2026

Petitioner is a citizen and native of Ukraine who is in U.S. Immigration and Customs Enforcement ("ICE") custody. He is subject to an administratively final order of removal, and he is detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231.

I. DETENTION AUTHORITIES

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order of removal) and, relevant here, "post-order" (meaning after the entry of a final order of removal).

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UNITED STATES ATTORNEY
1201 PACIFIC AVE., STE. 700
TACOMA, WA 98402
(253) 428-3800

1 Compare 8 U.S.C. § 1226 (authorizing pre-order detention) with § 1231(a) (authorizing post-order
2 detention).

3 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
4 period.” 8 U.S.C. § 1231(a)(1). During the removal period, ICE¹ is charged with attempting to
5 effect removal of a noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Congress has
6 directed that the Secretary of Homeland Security “shall remove the [noncitizen] from the United
7 States.” *Id.* To ensure a noncitizen’s presence for removal and to protect the community from
8 noncitizens who may present a danger, Congress has mandated detention while removal is being
9 effectuated. 8 U.S.C. § 1231(a)(2). Section 1231(a)(6) authorizes ICE to continue detention of
10 noncitizens after the expiration of the removal period. Although there is no statutory time limit on
11 detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be
12 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
13 identified six months as a presumptively reasonable time to bring about a noncitizen’s removal.
14 *Id.*, at 701.

15 Once it is determined that there is no significant likelihood of removal in the reasonably
16 foreseeable future, U.S. Department of Homeland Security (“DHS”) may release noncitizens on
17 an order of supervised release (“OSUP”). 8 C.F.R. § 241.13(h). The right to remain under an
18 OSUP is not unlimited. Revocation of an OSUP is governed by 8 C.F.R. §§ 241.13(i), 241.4(l),
19 and may occur either: (1) if the noncitizen “violates any of the conditions of release,” *id.*, §§
20 241.13(i)(1), 241.4(l)(1); or (2) if it is determined “that there is a significant likelihood that the
21 alien may be removed in the reasonably foreseeable future.” *Id.*, § 241.13(i)(2).

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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 Sections 241.13(i)(3) and 241.4(l)(1) provides that upon revocation, the alien “will be
2 notified of the reasons for revocation of his or her release” and will receive an “initial informal
3 interview promptly” after being detained, to “afford the alien an opportunity to respond to the
4 reasons for revocation stated in the notification.” *Id.*, §§ 241.13(i)(3), 241.4(l)(1). “The
5 revocation custody review will include an evaluation of any contested facts relevant to the
6 revocation and a determination whether the facts as determined warrant revocation and further
7 denial of release.” *Id.* Then, if the alien’s request for release is denied, he or she “may submit a
8 request for review of his or her detention . . . six months after [DHS’s] last denial of release[.]”
9 *Id.*, § 241.13(j).

10 II. FACTUAL BACKGROUND

11 Petitioner is a native and citizen of Ukraine. Baz Decl., ¶ 3. He entered the United States
12 in 1989 and became a lawful permanent resident in 1992. Baz Decl., ¶¶ 4, 5. *Id.* Between 1995
13 and 1999, Petitioner was convicted of various crimes. Baz Decl., ¶¶ 6-8. In March 1999,
14 Immigration and Naturalization Services (“INS”) took custody of Petitioner when he was released
15 from a jail sentence. Baz Decl., ¶ 9. INA served Petitioner with a notice to appear charging him
16 as removable under 8 U.S.C. § 1227(a)(2)(A)(ii). Baz Decl., ¶ 9; Lambert Decl., Ex. A, Notice to
17 Appear. On April 27, 1999, an immigration judge ordered Petitioner removed to Ukraine. Baz
18 Decl., ¶ 10; Lambert Decl., Ex. B, Order. The immigration judge also ordered that Petitioner was
19 ineligible for release from custody pursuant to 8 U.S.C. § 1226(c)(1)(b). Baz Decl., ¶ 10.

20 In July 1999, the Ukrainian Embassy informed INS that no travel document would be
21 issued for Petitioner because there was no evidence at the Embassy that Petitioner is a citizen of
22 Ukraine. Baz Decl., ¶ 11.

23 In October 1999, Petitioner filed a habeas petition in this District. Baz Decl., ¶ 12. The
24 district court granted the habeas petition and ordered Petitioner released. Baz Decl., ¶ 13.

On July 11, 2000, INS released Petitioner on OSUP. Baz Decl., ¶ 15; Lambert Decl., Ex. C, Release Letter; Ex. D, OSUP. Later during Petitioner's release, ICE placed him on OSUPs again in 2010 and 2011. Baz Decl., ¶¶ 19, 24; Lambert Decl., Ex. E, 2010 OSUP; Ex. F, 2011 OSUP. Each OSUP required Petitioner to either not commit crimes or obey the law. Baz Decl., ¶¶ 15, 19, 24. Petitioner did not follow this requirement. He was convicted of at least four crimes, with the latest conviction occurring in 2022. Baz Decl., ¶¶ 16, 18, 23, 25.

In June 2025, ICE instructed Petitioner to bring a passport or birth certificate to his next in person report date. Baz Decl., ¶ 26. When he reported, ICE instructed Petitioner to obtain travel documents. Baz Decl., ¶ 27.

ICE took Petitioner into custody on December 16, 2025. Baz Decl., ¶ 28; Lambert Decl., Ex. G, Warrant for Arrest; Ex. H, Form I-213. The Acting Field Office Director revoked Petitioner's OSUP pursuant to 8 C.F.R. § 241.4. Baz Decl., ¶ 28; Lambert Decl., Ex. I, Notice of Revocation of Release. Petitioner is in ICE custody and is subject to a final order of removal. Baz Decl., ¶ 30.

The instant habeas petition was filed on January 14, 2026. Dkt. No. 5, Pet. Petitioner seeks release from immigration custody or a bond hearing. Pet., at 2. While the request for relief indicates that Petitioner's removal proceedings may be ongoing, Petitioner has been subject to a final order of removal since 1999.

III. CONCLUSION

ICE detains Petitioner at the Northwest ICE Processing Center pursuant to 8 U.S.C. § 1231(a)(6). Respondent does not believe that an evidentiary hearing is necessary.

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UNITED STATES ATTORNEY
1201 PACIFIC AVE., STE. 700
TACOMA, WA 98402
(253) 428-3800

1 DATED this 28th day of January, 2026.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
4 United States Attorney

5 s/ Michelle R. Lambert

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

15 *Attorneys for Respondent*

16 *I certify that this memorandum contains 1,029*
17 *words, in compliance with the Local Civil Rules.*

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