

District Judge Jamal N. Whitehead
Chief Magistrate Judge Theresa L. Fricke

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

SERGEY P. KAZAKOV,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-00352-JNW-TLF

GOVERNMENT'S RETURN
MEMORANDUM AND MOTION TO
DISMISS

Noted for Consideration:
May 28, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Sergey Kazakov's Petition for Writ of Habeas Corpus. Dkt. No. 1 ("Pet."). Kazakov challenges his post-order immigration detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. Dismissal is appropriate here because Kazakov, a noncitizen subject to an administratively final order of removal, is lawfully detained pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. He has not met his burden here by providing a good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In contrast, U.S. Immigration and Customs Enforcement ("ICE") is actively seeking his removal to Russia and

1 anticipates that his removal will occur in the reasonably foreseeable future.

2 Accordingly, Federal Respondents (the “Government”) respectfully request that the Court
3 deny the Petition and grant the Government’s Motion to Dismiss. This motion is supported by the
4 pleadings and documents on file in this case, the Declaration of ICE Deportation Officer Delano
5 Dumo (“Dumo Decl.”), and the Declaration of Alixandria K. Morris (“Morris Decl.”) with exhibits
6 attached thereto. The Government does not believe that an evidentiary hearing is necessary.

7 II. FACTUAL AND PROCEDURAL BACKGROUND

8 A. Detention Authorities and Removal Procedures

9 The INA governs the detention and release of noncitizens during and following their
10 removal proceedings. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2280 (2021). The general
11 detention periods are generally referred to as “pre-order” (meaning before the entry of a final order
12 of removal) and, relevant here, “post-order” (meaning after the entry of a final order of removal).
13 *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order
14 detention).

15 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
16 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
17 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
18 removal and to protect the community from dangerous noncitizens while removal is being affected,
19 Congress mandated detention:

20 During the removal period, the [Secretary of Homeland Security]¹ shall detain the
21 [noncitizen]. Under no circumstance during the removal period shall the [Secretary]
22 release [a noncitizen] who has been found inadmissible under section 212(a)(2) or
212(a)(3)(B) of this title or deportable under section 237(a)(2) or 237(a)(4)(B) of
this title.

23 ¹ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens,
24 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 (“DHS”). *See also* 6 U.S.C. § 251.

1 8 U.S.C. § 1231(a)(2).

2 Section 1231(a)(6) authorizes DHS to continue detention of noncitizens after the expiration
3 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
4 and does not place any temporal limit on the length of detention under that provision:

5 [A noncitizen] ordered removed who is inadmissible under section 212, removable
6 under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) of this title or who has been
7 determined by the [the Secretary of Homeland Security] to be a risk to the
8 community or unlikely to comply with the order of removal, *may* be detained
9 *beyond the removal period* and, if released, shall be subject to the terms of
10 supervision in paragraph (3).

9 8 U.S.C. § 1231(a)(6) (emphasis added).

10 During the removal period, ICE is charged with attempting to effectuate removal of the
11 noncitizen from the United States.² 8 U.S.C. § 1231(a)(1). Although there is no statutory time
12 limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen
13 may be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
14 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
15 months as a presumptively reasonable time necessary to bring about a noncitizen’s removal. *Id.*,
16 at 701.

17 In this case, Kazakov is the subject of an administrative order of removal that became final
18 on March 14, 2024. *Dumo Decl.*, ¶ 10; 8 U.S.C. § 1231(a)(1)(B)(i). Accordingly, the removal
19 period expired on June 12, 2024. 8 U.S.C. § 1231(a)(1)(A). The “presumptively reasonable” six-
20 month period expired on September 14, 2024. *Zadvydas*, 533 U.S. at 701. Kazakov filed the
21 Petition thereafter. Dkt. No. 1, Pet. (filed on February 25, 2025).

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23 ² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to
24 execute removal orders.

B. Petitioner Sergey P. Kazakov

Kazakov is a native and citizen of Russia and entered the United States on or about November 8, 2002. Dumo Decl., ¶ 4; Morris Decl., Ex. B, Form I-213. Between 2016 and 2022, Kazakov was convicted of various crimes in Washington State, including attempting to elude police; violating a protection order that involved credible threats of violence, repeated harassment, or bodily injury to the victim; and harassment – threat to kill. Dumo Decl., ¶¶ 5-7. Upon his release from a 22-month sentence, Kazakov was released to ICE custody on October 24, 2023. *Id.*, ¶ 8; Morris Decl., Ex. C, Warrant for Arrest. ICE issued a Notice to Appear, charging him as removable pursuant to 8 U.S.C. §§ 1227(a)(2)(A)(iii) (aggravated felony conviction), 1227(a)(2)(A)(ii) (conviction of two crimes involving moral turpitude), and 1227(a)(2)(E)(ii) (violation of a protection order). Dumo Decl., ¶ 8; Morris Decl., Ex. D, Notice to Appear; *see also* Morris Decl., Ex. E, Notice of Custody Determination. On March 14, 2024, an Immigration Judge (“IJ”) ordered Kazakov to be removed to Russia. Morris Decl., Ex. A; Dumo Decl. ¶ 10.

ICE is actively seeking travel documents for Kazakov’s removal to Russia. Dumo Decl., ¶¶ 11-18. The government of Russia continues to process travel documents for their citizens. *Id.*, ¶ 18. ICE believes that there is a significant likelihood of removal in the reasonably foreseeable future. *Id.*

III. ARGUMENT AND AUTHORITY

A. Kazakov is not statutorily entitled to release.

Under 8 U.S.C. § 1231(a)(6), Kazakov is not statutorily entitled to the relief he seeks from this Court. Pet., at 5 (asking for an order requiring his release). The Supreme Court and the Ninth Circuit have interpreted the text of 8 U.S.C. § 1231(a)(6) and held that a noncitizen detained under this statutory authority has no right to a bond hearing or release. *See Johnson v. Arteaga-Martinez*, 142 S. Ct. 1827, 1832-34 (2022) (holding that 8 U.S.C. § 1231(a)(6) does not “address or ‘even

1 hint’” at a requirement that a noncitizen detained under 8 U.S.C. § 1231(a)(6) be afforded a bond
2 hearing or release from detention after a certain period of time); *Rodriguez Diaz v. Garland*, 53
3 F.4th 1189, 1198 (9th Cir. 2022) (“[N]either § 1225(b) nor § 1231(a) on their face provides for
4 bond hearings.”).

5 Accordingly, Kazakov cannot claim a statutory entitlement to release. Instead, he must
6 establish that his detention has become indefinite as described by the Supreme Court in *Zadvydas*.

7 **B. Kazakov fails to demonstrate that his detention violates the *Zadvydas* standard.**

8 Kazakov’s detention has not become “indefinite” or unconstitutional. Pet., ¶ 9, § A-E. In
9 *Zadvydas*, the Supreme Court found that post-order detention could be potentially indefinite as
10 authorized under the open-ended terms of Section 1231(a)(6). Finding the possibility of indefinite
11 detention troublesome, the Supreme Court clarified that there is a point at which Congress’s
12 interest in detaining a noncitizen to facilitate his removal may eventually give way to the
13 noncitizen’s liberty interest. This shift occurs when detention becomes potentially indefinite.
14 *Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an [noncitizen] would
15 raise a serious constitutional problem.”).

16 The Supreme Court determined that it is “presumptively reasonable” for DHS to detain a
17 noncitizen for six months following entry of a final removal order while it worked to remove the
18 noncitizen from the United States. *Zadvydas*, 533 U.S. at 701. The *Zadvydas* Court recognized that
19 as the length of detention grows, a sliding scale of burdens is applied to assess the continuing
20 lawfulness of a noncitizen’s post-order detention. *Id.* (stating that “for detention to remain
21 reasonable, as the period of postremoval confinement grows, what counts as the ‘reasonably
22 foreseeable future’ conversely would have to shrink”). Thus, the Supreme Court implicitly
23 recognized that six months is the *earliest* point at which a noncitizen’s detention could raise
24 constitutional issues. *Id.*

1 “This 6-month presumption, of course, does not mean that every [noncitizen] not removed
2 must be released after six months.” *Id.* “After this 6-month period, once the [noncitizen] provides
3 good reason to believe that there is no significant likelihood of removal in the reasonably
4 foreseeable future, the Government must respond with evidence sufficient to rebut that showing.”
5 *Id.*

6 There is no dispute that the “presumptive period” for Kazakov’s detention has ended. He
7 filed this Petition approximately eleven months after his removal order became administratively
8 final. Yet he fails to demonstrate that there is good reason to believe that there is no significant
9 likelihood of removal in the reasonably foreseeable future. Although he is correct that Russia has
10 not yet issued him a travel document, ICE is actively working to obtain a travel document to
11 remove him to Russia. *Dumo Decl.*, ¶¶ 12-18. Russia has clearly engaged in a back-and-forth
12 requests for documents, which demonstrate a good faith discussion and intention to issue travel
13 documents in this case. *Id.* Further, Russia is accepting individuals for removal from the United
14 States and ICE believes there is a significant likelihood of Kazakov’s removal to Russia in the
15 reasonably foreseeable future. *Id.*, ¶ 18.

16 Petitioner’s assertion of statelessness based on former U.S.S.R. citizenship is without
17 merit. *Pet.*, ¶ 9, § D. The U.S.S.R. formally dissolved in 1991, with the Russian Federation
18 officially replacing the Soviet Union in the United Nations on or before January 31, 1992—
19 approximately ten years prior to Petitioner entering the United States in 2002. *See* U.N. Doc.
20 S/P.V.3046 (Jan. 31, 1992), available at [https://www.securitycouncilreport.org/atf/cf/%7B65BF-](https://www.securitycouncilreport.org/atf/cf/%7B65BF-CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20SPV%203046.pdf)
21 [CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20SPV%203046.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF-CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20SPV%203046.pdf); *see also* *Dumo Decl.*
22 ¶ 4. Even if Petitioner considered himself a citizen of the U.S.S.R. and not Russia, the IJ ordered
23 Kazakov removed to Russia and, in any event, DHS is permitted to pursue removal to Russia. 8
24 U.S.C. §§ 1231(b)(2)(C)-(D); *see also* *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1008 (W.D. Wash.

1 2019) (“Given the express grant of authority to DHS under § 1231(b)(2) and § 1240.12(d), the
2 Court concludes that DHS may designate a removal country outside of removal proceedings as
3 permitted by § 1231(b).”).

4 Further, Section 1231(a)(6) satisfies both the substantive and procedural components of
5 the Due Process Clause. The Supreme Court has explained that detention is “a constitutionally
6 valid aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). Post-order
7 detention helps ensure the removal of noncitizens who have already been “ordered removed” from
8 the United States. 8 U.S.C. § 1231(a)(6). Section 1231(a)(6), as implemented by the existing
9 regulations, does not violate the Due Process Clause “[w]hen detention crosses the six-month
10 threshold.” *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091 (9th Cir. 2011), *abrogated on*
11 *other grounds as recognized by Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

12 Since Kazakov’s removal order became administratively final, ICE has been actively
13 working to obtain a valid travel document to effectuate his removal and expects his removal to
14 Russia within the reasonably foreseeable future. *Dumo Decl.*, ¶ 11-18. His continued detention
15 furthers Congress’s goal of ensuring his presence for removal and does not violate due process.

16 Accordingly, Kazakov has failed to meet his burden, and the Petition should be denied.

17 IV. CONCLUSION

18 For the foregoing reasons, the Government respectfully requests that the Court deny the
19 Petition and dismiss this matter in its entirety.

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1 DATED this 30th day of April, 2025.

2 Respectfully submitted,

3 TEAL LUTHY MILLER
4 Acting United States Attorney

5 s/ Alixandria K. Morris
ALIXANDRIA K. MORRIS, TX #24095373

6 s/ Michelle R. Lambert
7 MICHELLE R. LAMBERT, NYS #4666657
8 Assistant United States Attorneys
9 United States Attorney's Office
10 Western District of Washington
11 700 Stewart Street, Suite 5220
12 Seattle, Washington 98101
13 Phone: (206) 553-7970
14 Fax: (206) 553-4073
15 Email: alixandria.morris@usdoj.gov
16 Email: michelle.lambert@usdoj.gov

17 *Attorneys for Respondents*

18 I certify that this memorandum contains 1,947
19 words, in compliance with the Local Civil Rules.

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 on this date, I electronically filed the foregoing and the Declaration of Delano Dumo 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):

- 0 -

I further certify on this date, I arranged for service of the foregoing and the Declaration of Delano Dumo on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as follows:

Sergey P. Kazakov, *Pro Se Petitioner*
A# XXX 
NW ICE Processing Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 30th day of April, 2025.

s/ Hung Nguyen
HUNG NGUYEN, Paralegal Specialist
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4073
Email: hung.nguyen@usdoj.gov