

District Judge Kymberly K. Evanson

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

SERGEI LAPSHIN,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02245-KKE

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
December 15, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Sergei Lapshin's Petition for Writ of Habeas Corpus. Dkt. No. 1 ("Pet."). Lapshin 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. The Petition should be denied because Lapshin, 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). Petitioner's detention following his removal order becoming administratively final is seven months. While

1 there is no dispute that the “presumptive period” for Lapshin’s detention has ended (by
2 approximately one month), Petitioner has failed to demonstrate that is good reason to believe that
3 there is no significant likelihood of removal in the reasonably foreseeable future. Indeed,
4 Petitioner’s travel document packet has been completed (despite a delay in Petitioner’s
5 cooperation with the completion of his travel document packet), the packet has been submitted to
6 Russia, Russia continues to cooperate with the United States and has effectuated more than 1,200
7 removals in the past fiscal year, and U.S. Immigration and Customs Enforcement (“ICE”) has
8 every reason to believe Russia will issue a travel document in Petitioner’s case. Since ICE is
9 actively seeking his removal to Russia and based on Russia’s cooperation in this process, ICE
10 anticipates that Petitioner’s removal will occur in the reasonably foreseeable future.

11 While the majority of his Petition discusses removal to a third country, Petitioner presents
12 *no evidence* of any intention to remove him to a third country. On the contrary, ICE has already
13 completed travel document requests to Russia. Consequently, ICE anticipates they will receive
14 the travel documents shortly, and he will be removed to Russia in the reasonably foreseeable
15 future.

16 Accordingly, Federal Respondents (the “Government”) respectfully request that the Court
17 deny the Petition. This Return is supported by the pleadings and documents on file in this case,
18 and the Declaration of ICE Deportation Officer Cristhian De Castro (“De Castro Decl.”) and
19 Declaration of Alixandria K. Morris (“Morris Decl.”), with enclosed exhibits. The Government
20 does not believe that an evidentiary hearing is necessary.

21 II. FACTUAL AND PROCEDURAL BACKGROUND

22 A. Detention Authorities and Removal Procedures

23 The INA governs the detention and release of noncitizens during and following their
24 removal proceedings. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2280 (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). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).

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

During the removal period, the [Secretary of Homeland Security]¹ shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] 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.

8 U.S.C. § 1231(a)(2).

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

[A noncitizen] ordered removed who is inadmissible under section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) of this title 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).

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

¹ 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 (“DHS”). *See also* 6 U.S.C. § 251.

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

8 **B. Petitioner Sergei Lapshin**

9 Lapshin is a native and citizen of Russia and sought entry to the United States on or about
10 April 1, 2024. De Castro Decl., ¶ 3. Petitioner did not have any valid entry document for the
11 United States and was detained at that time. *Id.* Petitioner claimed fear of return to Russia and
12 was referred for a credible fear interview. *Id.* On April 24, 2024, Petitioner completed the credible
13 fear interview and positive credible fear was found. *Id.* ¶ 4. Petitioner was issued a Notice to
14 Appear charging petitioner as inadmissible under INA § 212(a)(7)(A)(i)(I). *Id.*; Morris Decl., Exs.
15 1, 2 (Notice to Appear; I-213).

16 On May 21, 2024, Petitioner remained in ICE custody but was transferred to a facility in
17 Aurora, Colorado. De Castro Decl. ¶ 5. On June 6, 2024, Petitioner filed an application for
18 asylum, withholding of removal, and protection under the Convention against torture. *Id.* ¶ 6. On
19 August 19, 2024, a merits hearing was held on his asylum application. *Id.* ¶ 7. The hearing was
20 partially completed and continued to a later date for additional testimony and evidence to be
21 submitted. *Id.* ¶ 7. Petitioner’s merits hearing was completed on October 8, 2024. *Id.* ¶ 8.

22
23
24 ² 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 On November 5, 2024, the immigration judge issued a written decision denying
2 Petitioner's asylum application and ordering him removed for several reasons. *Id.* ¶ 9; Morris
3 Decl., Ex. 4 (immigration judge written decision). The immigration judge found that Petitioner
4 was barred from asylum and withholding of removal pursuant to the national security bar due to

5 [REDACTED]
6 [REDACTED] De Castro
7 Decl. ¶ 9; Morris Decl., Ex. 4. Additionally, in considering the totality of the circumstances, the
8 immigration judge did not find Petitioner to be a credible witness, nor was his testimony
9 sufficiently specific or persuasive to alone carry his burden of proof. De Castro Decl. ¶ 10; Morris
10 Decl., Ex. 4.

11 Amongst other factors, the immigration judge weighed various inconsistencies and
12 omissions alongside Petitioner's unpersuasive testimony regarding the significance of the
13 Petitioner's tattoos of [REDACTED]
14 De Castro Decl. ¶ 10; Morris Decl., Ex. 4.

15 On November 18, 2024, Petitioner filed an appeal of the immigration judge's decision
16 with the Board of Immigration Appeals ("BIA"). De Castro Decl. ¶ 11. On April 4, 2025, the BIA
17 dismissed Petitioner's appeal. *Id.* ¶ 12; Morris Decl., Ex. 5 (BIA dismissal). At this point,
18 Petitioner's removal order became administratively final. De Castro Decl. ¶ 12.

19 Three days later, on April 7, 2025, a travel document application was given to Petitioner.
20 *Id.* ¶ 13. On April 21, 2025, the travel document application was still not completed, and Petitioner
21 indicated that he needed more time to complete it. *Id.* On April 23, 2025, Petitioner completed
22 and provided the travel document application to ICE. Two days later, on April 25, 2025, the travel
23 document request was completed.

On July 15, 2025, Petitioner was transferred to the Northwest ICE Processing Center (“NWIPC”). *Id.* ¶ 17. On November 22, 2025, ICE against sought a status update on the travel document request.

ICE is actively seeking travel documents for Lapshin’s removal to Russia. *Id.* ¶¶ 13-17. The government of Russia continues to process travel documents for their citizens. *Id.* ¶ 19. As of September 13, 2025, ICE has removed 1,273 Russian citizens to Russia in fiscal year 2025. *Id.* ICE believes that there is a significant likelihood of removal in the reasonably foreseeable future. *Id.*

III. ARGUMENT AND AUTHORITY

A. Lapshin is not statutorily entitled to release.

Under 8 U.S.C. § 1231(a)(6), Lapshin is not statutorily entitled to the relief he seeks from this Court. Pet., pgs. 13-14. 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 hint’” at a requirement that a noncitizen detained under 8 U.S.C. § 1231(a)(6) be afforded a bond hearing or release from detention after a certain period of time); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1198 (9th Cir. 2022) (“[N]either § 1225(b) nor § 1231(a) on their face provides for bond hearings.”).

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

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

Lapshin’s detention has not become “indefinite” or unconstitutional. Pet., pgs. 13-14. In *Zadvydas*, the Supreme Court found that post-order detention could be potentially indefinite as authorized under the open-ended terms of Section 1231(a)(6). Finding the possibility of indefinite

1 detention troublesome, the Supreme Court clarified that there is a point at which Congress's
2 interest in detaining a noncitizen to facilitate his removal may eventually give way to the
3 noncitizen's liberty interest. This shift occurs when detention becomes potentially indefinite.
4 *Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an [noncitizen] would
5 raise a serious constitutional problem.").

6 The Supreme Court determined that it is "presumptively reasonable" for DHS to detain a
7 noncitizen for six months following entry of a final removal order while it worked to remove the
8 noncitizen from the United States. *Zadvydas*, 533 U.S. at 701. The *Zadvydas* Court recognized
9 that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing
10 lawfulness of a noncitizen's post-order detention. *Id.* (stating that "for detention to remain
11 reasonable, as the period of postremoval confinement grows, what counts as the 'reasonably
12 foreseeable future' conversely would have to shrink"). Thus, the Supreme Court implicitly
13 recognized that six months is the *earliest* point at which a noncitizen's detention could raise
14 constitutional issues. *Id.*

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

20 There is no dispute that the "presumptive period" for Lapshin's detention has ended.
21 Although he is correct that Russia has not yet issued him a travel document, ICE is actively
22 working to obtain a travel document to remove him to Russia. De Castro Decl., ¶¶ 13-17. Russia
23 has clearly engaged in back-and-forth requests for documents, which demonstrate a good faith
24 basis to believe it will issue a travel document in this case. *Id.* ¶ 19. ICE has demonstrated active

1 and persistent efforts to obtain the necessary documents Russia requires to issue this travel
2 document. *Id.* ¶¶ 13-17. And ICE's efforts to obtain a travel document were slowed down by
3 Petitioner's own delay in completing the travel documents. *Id.* ¶ 13. ICE believes there is a
4 significant likelihood of Lapshin's removal to Russia in the reasonably foreseeable future. *Id.*
5 ¶ 19.

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

14 Since Petitioner's removal order became administratively final, ICE has been actively
15 working to obtain a valid travel document to effectuate his removal and expects his removal to
16 Russia within the reasonably foreseeable future. De Castro Decl. ¶ 19. His continued detention
17 furthers Congress's goal of ensuring his presence for removal and does not violate due process.

18 Petitioner's argument that he could be removed to a third country is without merit,
19 speculative, and not ripe for review. There is no case or controversy because there is no concrete
20 indication that such removal to a third country will occur. The record contains no evidence
21 supporting this claim. ICE is currently seeking a travel document to Russia, the travel document
22 paperwork to Russia has been completed and submitted to Russia, and ICE has been in contact
23 with Russia on at least two occasions regarding the status of Russia issuing travel documents for
24 Petitioner. *Id.* ¶¶ 13-17. Accordingly, this claim should be dismissed as premature.

1 IV. CONCLUSION

2 Lapshin has failed to meet his burden of demonstrating his detention has become
3 unconstitutionally indefinite or that there is no significant likelihood of his removal in the
4 reasonably foreseeable future. For the foregoing reasons, the Government respectfully requests
5 that the Court deny the Petition and dismiss this matter in its entirety.

6 Dated this 8th day of December, 2025.

7 Respectfully submitted,

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16 I certify that this memorandum contains 2,390
17 words, in compliance with the Local Civil Rules.