

THE HONORABLE KYMBERLY K. EVANSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

1	2	3	4	5	6	7	8	9	10	11	12
						SERGEI LAPSHIN,	)	No. CV25-02245-KKE			
						Petitioner,	)				
						v.	)	SERGEI LAPSHIN'S REPLY TO			
							)	GOVERNMENT'S RETURN			
						PAMELA BONDI, Attorney General of	)	MEMORANDUM			
						the United States, <i>et al.</i> ,	)				
						Respondents.	)				

Sergei Lapshin, through counsel, respectfully replies to the government's response in opposition to his petition for release from prolonged, unlawful detention.

I. BACKGROUND

Mr. Lapshin was ordered deported to Russia, a country that repatriates its citizens so slowly the U.S. State Department has targeted it for visa sanctions. *See* Ex. 1. Although Respondents completed an application for a travel document in April 2025, it is unclear whether or when that application was submitted to the Russian government. In any case, Respondents' declarations, Dkts. 11, 12, suggest that there has been no progress on processing that application.

Meanwhile, Mr. Lapshin waited in custody eight months since the entry of his final order of deportation. Respondents note that Russia accepted 1,273 people for removal last year but decline to note how long those people waited before the issuance of their respective travel documents. Dkt. 11 at 3. Respondents insist that a travel document will follow shortly after an interview but have not responded to counsel's

1 request for information about when, or if, Russia will interview Mr. Lapshin. *Id.*
2 Respondents state that ICE has sought two status updates, but do not state from whom
3 the information was requested (i.e., from Russia or from the domestic agency
4 responsible for communicating with Russia) or how that party responded. *Id.*

5 **II. DISCUSSION**

6 **A. The Court should order Mr. Lapshin's release on conditions.**

7 In *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001), the Supreme Court rejected the
8 government's claimed right to indefinitely detain people who had been ordered
9 deported because the government's theory posed a "serious constitutional threat" under
10 the Fifth Amendment's Due Process Clause. The Court therefore interpreted 8 U.S.C.
11 § 1231(a)(6) to permit only detention related to the statute's "basic purpose [of]
12 effectuating [a noncitizen]'s removal[.]" *Id.* at 696–99. The presumptive period during
13 which the detention is reasonably necessary to effectuate a noncitizen's removal is six
14 months. After that, the noncitizen is eligible for conditional release if there is "no
15 significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

16 After the "presumptively reasonable" period of six months, when the noncitizen
17 can "provide[] good reason to believe that there is no significant likelihood of removal
18 in the reasonably foreseeable future," then "the Government must respond with
19 evidence sufficient to rebut that showing." *Id.* This does not mean a noncitizen may not
20 be held past the six-month period of presumptive reasonability. *Id.* "To the contrary, an
21 alien may be held in confinement until it has been determined that there is no
22 significant likelihood of removal in the reasonably foreseeable future." But to continue
23 to detain a petitioner who has met his initial burden, Respondents must produce
24 evidence specific to the petitioner's case: "vague statements" that the country is
25 increasing deportations do not suffice, *Tang v. Bondi*, No. CV25-01473-RAJ, 2025 WL
26 3551381, at *3 (W.D. Wash. Dec. 11, 2025), even when combined with an expression

1 of ICE’s view that a travel document will soon issue. *Id.* See also *Zadvydas*, 533 U.S. at
2 699 (2001) (rejecting argument that the federal habeas court should “accept the
3 Government’s view” without “independent review.”).

4 Here, Mr. Lapshin has met his initial burden. He has shown that the presumptive
5 period has past and also that Russia is an “uncooperative” country, meaning that *most*
6 requests are unreasonably delayed. Dkt. 1 at 14. See also Ex. 1. Removal to Russia may
7 occur eventually, but Mr. Lapshin has showed that it is not significantly likely in the
8 reasonably foreseeable future.

9 Respondents fail to rebut this showing. They do not contest that Russia is
10 intransigent or provide any reason to believe that the pace of removals is increasing.
11 Instead, they simply repeat the same representations that other courts have found
12 insufficient. First, Respondents note that other people were deported to Russia, without
13 providing any case-specific information about when, or if, Mr. Lapshin will be
14 removed. Then Respondents note that they have twice sought updates, without
15 including Russia’s response (if any) to those requests. And while Respondents describe
16 the process they believe will occur after Russia interviews Mr. Lapshin, they can
17 provide no information about whether or when that interview will occur.

18 “If DHS has no idea of when it might reasonably expect [the Petitioner] to be
19 repatriated, this Court certainly cannot conclude that his removal is likely to occur—or
20 even that it might occur—in the reasonably foreseeable future.” *Singh v. Whitaker*, 362
21 F. Supp. 3d 93, 101–02 (W.D.N.Y. 2019). Because ICE therefore has no statutory
22 authority to continue to detain Mr. Lapshin when his removal is not “significantly
23 likely” in the “reasonably foreseeable future,” the Court must order his release on
24 appropriate conditions.

B. The Court should enter an order prohibiting removal to a third country without notice.

Respondents oppose an order preventing removal to a third country on the ground that it is premature. But Respondents' project of punitive exile continues, despite Respondents' claims to the contrary. *See Abrego Garcia v. Noem*, et al., 8:25-cv-02780-PX, Dkt. 110 (D. Md. Dec. 11, 2025). The Court should enter an order requiring, at a minimum, reasonable notice before removal to a country other than Russia.

III. CONCLUSION

Mr. Lapshin respectfully asks the Court to order his release on appropriate conditions.

DATED this 15th day of December 2025.

Respectfully submitted,

s/ Gregory Murphy
Assistant Federal Public Defender
Attorney for Sergei Lapshin

I certify this reply contains 864 words in compliance with the Local Civil Rules.