IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

VALIPOUR GHOLAM REZA, Petitioner, v. C. CARTER, Warden, FCI-Leavenworth, TODD LYONS, Acting Director, ICE, KRISTI NOEM, Secretary, Department of Homeland Security, and PAMELA BONDI, Attorney General, Respondents.	)	Case No. 26-3068-JWL

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

Respondents hereby respond to Petitioner's habeas petition brought pursuant to 28 U.S.C. § 2241 and the Court's Order to Show Cause (Doc. 4). On March 26, 2026, Petitioner Valipour Gholam Reza filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner, a noncitizen, alleges his detention by U.S. Immigration and Customs Enforcement ("ICE") is improper because his removal is not significantly likely in the reasonably foreseeable future. The Court should review Petitioner's petition under the standard set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

The following facts are based on the declaration of Joseph L. Carroll, a Deportation Officer for ICE Enforcement and Removal Operations ("ERO") of the United States Department of Homeland Security ("DHS") (Ex. 1, Carroll Decl.) and the limited facts in the Petition. (Doc. 1).

1. Petitioner is a native and citizen of Iran. (Doc. 1, p. 10; Ex. 1, ¶ 5).

2. He entered the United States in 1976 as a member of the Iranian Navy, to train with the United States Navy. (Doc. 1, p. 10; Ex. 1, ¶ 6).

3. On March 26, 1980, Petitioner was convicted in the Milwaukee County Circuit Court, for the offense of Burglary, in violation of Wisconsin Statue 943.10. He was sentenced to three years of confinement and three years of probation. (Ex. 1, ¶ 7).

4. On April 22, 1980, Petitioner was placed into removal proceedings through the issuance of a Notice to Appear ("NTA"). The Petitioner was subject to deportation from the United States pursuant to INA § 241(a)(9), 8 U.S.C. § 1251(a)(9), for failure to comply with the conditions of status as a nonimmigrant visitor for pleasure. (Ex. 1, ¶ 8).

5. On or about October 5, 1987, Petitioner filed an application for relief. (Ex. 1, ¶ 9).

6. On February 3, 1989, the Immigration Judge granted Petitioner's request under INA § 212(h) and ordered his adjustment of status pursuant to INA § 245 as Petitioner was married to a U.S. citizen. Petitioner's status was adjusted on November 22, 1989, and filed for naturalization on March 4, 1997. (Ex. 1, ¶ 10).

7. On September 30, 1999, Petitioner was convicted in the Cook County Circuit Court in Chicago, Illinois, for the offense of Predatory Criminal Sexual Assault, in violation of 720 ILCS 5/12-14.1(A)(1). He was sentenced to twelve years of incarceration. (Doc. 1, p. 10; Ex. 1, ¶ 11).

8. On June 16, 2000, USCIS denied Petitioner's naturalization application due to his conviction. (Ex. 1, ¶ 12).

9. On August 20, 2009, Petitioner was placed into removal through the issuance of a Notice to Appear ("NTA"), charging him as removable from the United States pursuant to INA §§ 237(a)(2)(A)(iii), aggravated felony conviction relating to sexual abuse of a minor. (Ex. 1, ¶ 13).

10. Shortly thereafter, Petitioner submitted an application for relief from removal. (Ex. 1, ¶ 14).

11. On December 16, 2009, an Immigration Judge ordered Petitioner removed to Iran. Ex. 1, ¶ 15).

12. On or about January 19, 2010, Petitioner appealed to the Board of Immigration Appeals ("Board"). (Ex. 1, ¶ 16).

13. On March 24, 2010, Petitioner withdrew his appeal. (Ex. 1, ¶ 17).

14. On April 15, 2010, the Board dismissed Petitioner's appeal. (Ex. 1, ¶ 18).

15. On or about August 2, 2010, Petitioner was released from ICE custody on an Order of Supervision and returned to state custody with the Illinois Department of Corrections. (Ex. 1, ¶ 19).

16. On or about June 19, 2019, Petitioner filed a motion to reopen proceedings before the Board. On January 30, 2020, the Board issued a decision, explaining that Petitioner must file his motion to reopen with the Immigration Court. (Ex. 1, ¶ 20).

17. In March of 2020, Petitioner filed a Motion to Reopen with the Chicago Immigration Court for him to pursue an application for relief. (Ex. 1, ¶ 21).

18. On May 26, 2020, the Immigration Court granted the Petitioner's motion *sua sponte*. (Ex. 1, ¶ 22).

19. On or about June 23, 2025, Petitioner was taken into ICE custody and detained at the Phelps County Jail in Rolla, Missouri. (Doc. 1, pp. 4, 13; Ex. 1, ¶ 24).

20. On July 14, 2025, Petitioner appeared in custody with representation before the Immigration Judge for his master calendar hearing. The Immigration Judge continued the

Petitioner's case to August 14, 2025, for a merits hearing on Petitioner's application for relief. (Ex. 1, ¶ 25).

21. On or about August 14, 2025, Petitioner was ordered removed from the United States, but the Immigration Judge granted his application for relief from removal to Iran. Appellate rights were waived by both parties, making the order final. (Doc. 1, pp. 10, 18; Ex. 1, ¶ 26).

22. On August 21, 2025, Petitioner was transferred to the Greene County Jail in Springfield, Missouri. (Ex. 1, ¶ 30).

23. On or about September 4, 2025, local ERO inquired from Petitioner if he would like to be removed to Afghanistan and Petitioner declined. (Ex. 1, ¶ 31).

24. On or about September 5, 2025, local ERO served the third country removal form on the Petitioner. (Ex. 1, ¶ 32).

25. On September 8, 2025, Petitioner was transferred to the Federal Correction Institution in Leavenworth, Kansas. (Doc. 1, p. 1; Ex. 1, ¶ 33).

26. On or about January 21, 2026, local ERO contacted ERO Removal and International Operations ("ERO RIO") regarding third country removal options. (Ex. 1, ¶ 34).

27. On or about February 13, 2026, the ERO Removal Management Division ("ERO RMD") informed local ERO that third country removals are pending. (Ex. 1, ¶ 35).

28. On or about March 2, 2026, local ERO contacted the ERO RMD for an update on third country removals. That same day, ERO RMD informed local ERO that third country removals remain pending. (Ex. 1, ¶ 36).

29. On March 23, 2026, Petitioner was transferred to the Midwest Regional Reception Center in Leavenworth, Kansas. (Ex. 1, ¶ 37).

30. March 30, 2026, ERO RIO was contacted regarding third country removals for

Iranian citizens. (Ex. 1, ¶ 39).

31. April 9, 2025, ERO RIO explained that Petitioner was nominated for removal to a third country. At this time, ICE is awaiting final acceptance confirmation. (Ex. 1, ¶ 40).

32. On or about April 23, 2026, local ERO completed a Post-Order Custody Review ("POCR") and determined it would continue to detain Petitioner. That same day, local ERO sent a Decision to Continue Detention Letter to Supervisory Detention and Deportation Officer ("SDDO") Nicholas Perry for review and served the Decision to Continue Detention Letter on the Petitioner. (Ex. 1, ¶ 41).

ARGUMENT

"The federal district courts have habeas corpus jurisdiction to consider the statutory and constitutional grounds for immigration detention that are unrelated to a final order of removal." *Zhiriakov v. Barr*, No. 20-3141-JWL, 2020 WL 3960442, *6 (D. Kan. July 13, 2020) (citation omitted). To obtain habeas corpus relief, a petitioner must demonstrate that "[h]e is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

Upon the entry of a final removal order, "the Attorney General 'shall detain the alien' during the 90-day removal period established under 8 U.S.C. § 1231(a)(2)." *Zhiriakov*, 2020 WL 3960442, at *8 (citations omitted). "Generally, the government is required to remove the alien held in its custody within the 90-day removal period." *Garcia Uranga v. Barr*, No. 20-3162-JWL, 2020 WL 4334999, *4 (D. Kan. July 27, 2020) (citing 8 U.S.C. § 1231(a)(1)(A)-(B)). Nevertheless, "[i]f removal cannot be carried out within the removal period, inadmissible aliens may be detained beyond the removal period under certain circumstances." *Id.* (citing 8 U.S.C. § 1231(a)(6)).

Specifically, "the detention of an alien subject to a final order of removal for up to six months is presumptively reasonable in view of the time required to accomplish removal."

Zhiriakov, 2020 WL 3960442, at *8 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). "Beyond that period, if the alien shows that there is 'no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.'" *Garcia Uranga*, 2020 WL 4334999, at *4 (quoting *Zadvydas*, 533 U.S. at 701). "The six-month presumption" thus "does not mean that every alien must be released after that time, but rather an alien may be detained 'until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Zhiriakov*, 2020 WL 3960442, at *8 (quoting *Zadvydas*, 533 U.S. at 701).

As a general matter, if an alien cannot be removed to a country of designation or the country of nationality or citizenship, then the government may consider other options, including "[t]he country from which the alien was admitted to the United States," "[t]he country in which the alien was born," or "[t]he country in which the alien [last] resided[.]" 8 U.S.C. § 1231(b)(2)(E)(i), (iii)-(iv). Where removal to any of the countries listed in subparagraph (E) is "impracticable, inadvisable, or impossible," then the alien may be removed to any "country whose government will accept the alien into that country." *Id.* § 1231(b)(2)(E)(vii); *see Jama v. Immigr. & Customs Enf't*, 543 U.S. 335, 341 (2005).

Here, Petitioner has an order of withholding of removal. Approximately 8 months have passed since Petitioner's removal order became final in August 2025. *See supra* Statement of Facts (SOF). During that time, ERO has notified Petitioner that they are taking steps to seek a third county removal. As noted above, the additional steps to remove Petitioner to a third country are based on Petitioner's application for relief from removal to Iran. (SOF 21). Therefore, part of the delay in removal is attributable to complying with Petitioner's request.

ERO is in the process of removing Petitioner to a third country. Acceptance to the third country has not yet been granted, so in March and April of 2026 ERO followed up on the requests. *Id.* ICE is awaiting confirmation as to whether Petitioner has been accepted for third country removal. *Id.* Further information about third country removal targets is not available to undersigned counsel at this time.

CONCLUSION

For the foregoing reasons, the Court should analyze Petitioner's claim under the Supreme Court's guidance in *Zadvydas v. Davis.*

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 24, 2026, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will provide notice to all registered parties. I further certify that I will cause a copy of the foregoing and the notice of electronic filing to be placed in the United States mail, postage prepaid, addressed to the following non-CM/ECF participant:

Valipour Gholam Reza, A[redacted]
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/s/ *Michelle Jacobs*
Michelle A. Jacobs
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