

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Davydov v. U.S. Department of Homeland Security

Davydov · No. 25-cv-845-RSH-AHG · Decided July 21, 2025

OPINION

Davydov v. U.S. Department of Homeland Security

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 ALEKSANDR DAVYDOV, Case No.: 25-cv-845-RSH-AHG A# 246-571-660, 12

ORDER DENYING PETITION

Petitioner,

13 FOR WRIT OF HABEAS CORPUS

v. 14 JEREMY CASEY, Warden, Imperial 15 Regional Detention Facility; and U.S.

16 DEPARTMENT OF HOMELAND

SECURITY,

17 Respondents. 18

19 20 Petitioner Aleksandr Davydov seeks habeas relief from this Court pursuant to 28 U.S.C.
§ 2241. As set forth below, the Court denies the petition.

22 I. BACKGROUND

23 A. This Action 24 On April 7, 2025, petitioner Aleksandr Davydov initiated this action by
filing a 25 petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. The
petition 26 named as respondent the U.S. Department of Homeland Security (“DHS”). Petitioner,
a 27 native and citizen of Russia, alleged that he was wrongfully detained by the DHS pending 28
removal proceedings, and sought release from immigration custody. ECF No. 1 at 7. 1 Along with
the petition, Petitioner also filed a motion for leave to proceed in forma 2 pauperis (“IFP”). ECF
No. 2. On April 14, 2025, the Court granted Petitioner’s IFP Motion, 3 ECF No. 3, and the
following day the Court issued a schedule for briefing the merits of the 4 petition, ECF No. 4. 5
After DHS filed its response to the petition, but before the due date for Petitioner’s 6 reply brief,
Petitioner began filing a series of additional documents. See ECF Nos. 7, 8, 10, 7 11. Among these
documents was a request to amend his petition, including by naming as 8 respondent the warden
of the facility in which Petitioner is detained. See ECF No. 7 at 3.1 9 DHS opposed the request to
amend, other than the addition of Jeremy Casey, on the 10 grounds that amendment would be
futile. ECF No. 9 at 6. 11 On June 25, 2025, the Court granted Petitioner’s leave to amend, and

construed his 12 filing at ECF No. 8 as his Amended Petition. ECF No. 12 at 3. The Court set a further 13 briefing schedule, providing that DHS “may file an opposition to the Amended Petition no 14 later than July 9, 2025,” and that “Petitioner may file an optional reply no later than July 15 23, 2025.” Id. DHS thereafter timely filed an opposition. ECF No. 14. 16 Subsequent to the Court’s order granting leave to amend, Petitioner has made six 17 additional filings requesting various forms of relief. ECF Nos. 13, 15, 17-20.2 None of 18 these filings is styled as a reply brief or as a traverse to Respondent’s opposition. Several 19 of the filings requesting an immediate decision from the Court on the merits of the petition. 20 ECF No. 13 at 1; ECF No. 15 at 1; ECF No. 19 at 1. Although Petitioner’s time to file an 21 optional reply has not yet elapsed, under the circumstances, the Court will proceed to 22 address the merits of the operative petition rather than awaiting further briefing. 23 /// 24 25 26 1 Page numbers cited herein refer to the ECF-generated numbers at the top right of 27 each page. 2 ECF Nos. 13 and 15 appear to be copies of identical documents filed by Petitioner 28 1 B. Immigration Proceedings 2 On August 8, 2024, Petitioner applied for admission to the United States from 3 Mexico at the Calexico West Port of Entry in Calexico, California, pursuant to a valid 4 appointment made on the CBP One application. ECF No. 6-1 ¶ 15. Petitioner was 5 determined to be inadmissible under 8 U.S.C. § 212(a)(7)(a)(i)(I), which applies to arriving 6 aliens not in possession of a valid entry document. Id. U.S. Customs and Border 7 Protection (“CBP”) placed Petitioner in expedited removal proceedings pursuant to 8 8 U.S.C. § 1225(b)(1). Id. ¶ 17. CBP then transferred Petitioner to the custody of U.S. 9 Immigration and Customs Enforcement (“ICE”). Id. ¶ 18. 10 Petitioner claimed a fear of persecution or torture if removed to Russia, and 11 accordingly he was referred for a credible fear interview by an asylum officer pursuant to 12 8 U.S.C. § 1225(b)(1)(B)(i). Id. ¶ 20. On August 25, 2024, an asylum officer determined 13 that Petitioner had a credible fear of torture if removed to Russia. Id. ¶ 21. Petitioner was 14 thereafter placed in removal proceedings pursuant to 8 U.S.C. § 1229a via service of a 15 Notice to Appear. Id. ¶ 22. See also 8 C.F.R. § 208.30(e)(5)(i) (providing for the issuance 16 of a Notice to Appear following an asylum officer’s determination that an alien has a 17 credible fear). 18 On September 10, 2024, ICE considered Petitioner for parole pursuant to ICE

19 Directive 11002.1, Parole of Arriving Aliens Found to Have a Credible Fear of
20 Persecution or Torture (Dec. 8, 2009). See ECF No. 6-1 ¶ 24. ICE determined on that date 21 that Petitioner should not be paroled from detention because he had not established that he 22 is not (1) a danger to the community or a security risk or (2) a risk of flight. Id. 23 On November 1, 2024, Petitioner filed applications for relief from removal. Id. ¶ 26. 24 On December 2, 2024, Petitioner admitted each of the factual allegations contained 25 in the Notice to Appear. Id. ¶ 28. Based on those admissions, the Immigration Judge 26 sustained the charge of inadmissibility under 8 U.S.C. § 1182(a)(7)(a)(i)(I), and designated 27 Russia as the country of removal. Id. 28 ///
1 On February 14, 2025, Petitioner requested that the Immigration Judge redetermine 2 his custody. Id. ¶ 30. Petitioner withdrew this request on February 26, 2025. Id. 3 On April 11, 2025,

Petitioner again requested that the Immigration Judge 4 redetermine his custody. Id. ¶ 32. On April 17, 2025, the Immigration Judge denied the 5 motion on the basis that Petitioner was subject to mandatory detention pursuant to 8 U.S.C. 6 § 1225(b)(1). Id. See also 8 U.S.C. § 1225(b)(1)(B)(ii) (“If the officer determines at the 7 time of the interview that an alien has a credible fear of persecution (within the meaning of 8 clause (v)), the alien shall be detained for further consideration of the application for 9 asylum.”). The Immigration Judge also denied the motion on the basis that Petitioner was 10 an arriving alien and therefore ineligible for custody redetermination before the 11 Immigration Judge. ECF No. 6-1 ¶ 32. 12 On May 7, 2025, Petitioner stated at his removal proceedings that he wished to 13 abandon his pending relief applications. Id. ¶ 35. The same day, the Immigration Judge 14 denied all forms of relief from removal and ordered Petitioner removed to Russia. Id. ¶ 36. 15 Petitioner subsequently filed an appeal with the Board of Immigration Appeals (“BIA”). 16 ECF No. 14-1 at 2. However, he thereafter wrote a letter to the BIA, stating: “I respectfully 17 request that the Board of Immigration Appeals dismiss my appeal of the judge’s decision 18 of May 7, 2025, and declare this appeal to be invalid.” ECF No. 11 at 2. 19 On July 2, 2025, the BIA issued a decision as follows: 20 This Board has been advised that the ... appeal of the Immigration 21 Judge’s May 7, 2025, order has been withdrawn. See 8 C.F.R. § 1003.4. Since there is nothing now pending before the Board, the record will be 22 returned to the Immigration Court without further action. 23 24 ECF No. 14-1 at 2. Petitioner’s removal order is therefore final. See 8 C.F.R. § 1241.1(a) 25 (“An order of removal made by the immigration judge at the conclusion of proceedings 26 under section 240 of the Act shall become final ... [u]pon dismissal of an appeal by the 27 Board of Immigration Appeals.”). 28 ///

1 II. LEGAL STANDARD

2 Title 28 of the U.S. Code, Section 2241, provides that “[w]rits of habeas corpus may
3 be granted by the Supreme Court, any justice thereof, the district courts and any circuit 4 judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). A prisoner bears the 5 burden of demonstrating that “[h]e is in custody in violation of the Constitution or laws or 6 treaties of the United States.” 28 U.S.C. § 2241(c)(3). See also *Espinoza v. Sabol*, 558 F.3d 7 83, 89 (1st Cir. 2009) (“[T]he burden of proof under § 2241 is on the prisoner ...”). 8 The Supreme Court has explained that “the essence of habeas corpus is an attack by 9 a person in custody upon the legality of that custody, and ... the traditional function of the 10 writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 11 (1973). “[H]abeas relief applies to petitioners seeking relief from executive detention but 12 not to petitioners seeking to remain in the United States.” *Rauda v. Jennings*, 55 F.4th 773, 13 779 (9th Cir. 2022) (citing *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 14 103, 116–20 (2020)). In determining whether a claim sounds in habeas, “the relevant 15 question is whether, based on the allegations in the petition, release is legally required 16 irrespective of the relief requested.” *Pinson v. Carvajal*, 69 F.4th 1059, 1072 (9th Cir. 17 2023). 18 Additionally, federal law limits “[j]udicial review of all

questions of law and fact, 19 including interpretation and application of constitutional and statutory provisions, arising 20 from any action taken or proceeding brought to remove an alien from the United States 21 under this subchapter” to “judicial review of a final order under this section,” except as 22 otherwise provided. 8 U.S.C. § 1252(b)(9). Federal law further provides that 23 notwithstanding any habeas provision, “a petition for review filed with an appropriate court 24 of appeals in accordance with this section shall be the sole and exclusive means for judicial 25 review of an order of removal entered or issued under any provision of this chapter,” except 26 as otherwise provided. 8 U.S.C. § 1252(a)(5); see also *J.E.F.M. v. Lynch*, 837 F.3d 1026, 27 1031 (9th Cir. 2016) (“Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any 28 issue—whether legal or factual—arising from any removal-related activity can be 1 reviewed only through the [Petition for Review] process.”). 2 A § 2241 habeas petition is subject to the Rules Governing Section 2254 Cases in 3 the U.S. District Courts. See 28 U.S.C. foll. § 2254 (“Habeas Rules”), Rule 1(b) (court may 4 apply rules to habeas petitions other than petitions filed under § 2254). Under Habeas Rule 5 2(c), a petition “must ... specify all the grounds for relief available to the petitioner” as 6 well as “state the facts supporting each ground.”

7 III. ANALYSIS

8 The Amended Petition alleges (1) that Petitioner is unlawfully detained, because he 9 previously applied for and received humanitarian parole, pursuant to 8 U.S.C. § 10 1182(d)(5)(A); and (2) that his prolonged detention without an individualized bond hearing 11 violates *Zadvydas v. Davis*, 533 U.S. 678 (2001). ECF No. 8 at 2. 12 As to his alleged grant of parole, Petitioner asserts that he applied for and received 13 that parole “[w]hile in Mexico” and before coming to the United States. *Id.* The Amended 14 Petition does not provide further detail on when or how he applied for or obtained this 15 parole. Indeed, another portion of the Amended Petition alleges that he obtained this parole 16 after he presented himself for admission in Calexico, California. *Id.* at 5 (“Petitioner 17 lawfully presented at the U.S. port of entry in Calexico, California in August 2024 and 18 requested asylum pursuant to INA § 208. Petitioner was inspected, processed, and granted 19 humanitarian parole ...”). In contrast, Petitioner’s initial Petition did not assert that he had 20 been granted humanitarian parole, either while in Mexico or after applying for admission 21 to the United States. That Petition, signed under penalty of perjury, asserted that the DHS 22 “refused to grant parole without proper justification.” ECF No. 1 at 3 (emphasis added). 23 Respondent filed a declaration reflecting that on September 10, 2024, ICE 24 affirmatively considered Davydov for parole, but determined that he should not be paroled. 25 ECF No. 6-1 ¶ 24. Petitioner has not meaningfully rebutted this evidence, and the Court 26 does not accept the varying assertions in the Amended Petition that he was indeed granted 27 parole while in Mexico and/or at the time of applying for admission to the United States 28 on this occasion. 1 It bears noting that there was one prior occasion in which Petitioner was paroled 2 from immigration detention. Respondent states in a sworn declaration that Petitioner 3 previously applied for admission to the United States on December 23, 2022, and that after 4 being placed in immigration custody he was later paroled

on January 17, 2023. ECF No. 5 6-1 ¶¶ 6, 9. Respondent further states that on March 25, 2023, while in removal 6 proceedings, Petitioner left the United States without having been granted voluntary 7 departure by the immigration court. Id. ¶ 11. Consistent with Respondent's declaration, 8 Petitioner has submitted records to the Court that include an "Interim Notice Authorizing 9 Parole," dated January 18, 2023. ECF No. 7-1 at 12. The Notice states: "Your parole 10 authorization is valid for one year beginning from the date on this notice and will 11 automatically terminate upon your departure or removal from the United States or at the 12 end of the one-year period unless ICE provides you with an extension at its discretion." Id. 13 Petitioner's claim of parole in his Amended Petition does not appear to be asserting 14 that this earlier grant of parole was somehow legally operative for his return to and 15 subsequent application for admission to the United States in August 2024; instead, he 16 submit this prior parole document to establish that "I do not pose a threat to the public or 17 to U.S. national security." ECF No. 7 at 1. Even if he were relying on the earlier grant of 18 parole to entitle him to parole in his current immigration case, such grant by its terms had 19 automatically expired upon his departure from the United States on March 23, 2023, and 20 even absent his departure would have expired by its terms in one year from the date of 21 issuance, which would be January 18, 2024. See ECF No. 7-1 at 12; see also 8 C.F.R. § 22 212.5(e)(1)(i) (providing for automatic termination of parole "upon the departure from the 23 United States of the alien, or ... if not departed, at the expiration of the time for which 24 parole was authorized"). Thus, such parole had long since expired when Petitioner later 25 applied for admission on August 8, 2024. 26 Petitioner is now subject to a final order of removal, following the BIA's dismissal 27 of Petitioner's appeal on July 2, 2025. ECF No. 14-1 at 2. His detention is governed by 8 28 U.S.C. § 1231, a section entitled "Detention and removal of aliens ordered removed." The 1 statute provides that for a period of 90 days after a removal order becomes administratively 2 final, "the Attorney General shall detain the alien." 8 U.S.C. § 1231(a)(2)(A);³ see J.L. v. 3 Decker, No. 1:22-cv-2853-MKV, 2024 U.S. Dist. LEXIS 10894, at *2 (S.D.N.Y. Jan. 22, 4 2024) ("The BIA's dismissal made Petitioner's removal order administratively final, 5 shifting the statutory provision governing Petitioner's detention . . . to 8 U.S.C. § 1231). 6 This statute is the basis for Petitioner's present lawful detention. 7 In Zadvydas, relied upon by Petitioner, the Supreme Court held that detention during 8 the first six months after entry of a final removal order is presumptively reasonable. 533 9 U.S. at 701. The Court explained that "[a]fter this 6-month period, once the alien provides 10 good reason to believe that there is no significant likelihood of removal in the reasonably 11 foreseeable future, the Government must respond with evidence sufficient to rebut that 12 showing." Id. Under Zadvydas, based on the final order of removal that became 13 administratively final on July 2, 2025, Petitioner's detention at this time is lawful. 14 To the extent that the Amended Petition reaches beyond his challenge to the legality 15 of his detention, and instead challenges the merits of his removal order or contends that he 16 is entitled to relief from removal, those claims are without merit. See Thuraissigiam, 591 17 U.S. at 120; 8 U.S.C. §

1252(b)(9). Petitioner initially appealed his removal order to the 18 BIA, and in the event of an adverse ruling, could have then filed a petition for review with 19 the U.S. Court of Appeals for the Ninth Circuit. Instead, Petitioner asked the BIA to dismiss 20 his appeal, which it did. Any remaining grounds for relief asserted in the Amended Petition 21 are conclusory and fail to state a claim, and based on Petitioner's filings in this action the 22 Court concludes that further amendments to the pleadings would be futile. 23 The Court therefore denies the Amended Petition, without prejudice to Petitioner 24 filing a new petition in the event his immigration detention, following his removal order 25 26 27 3 8 U.S.C. § 1231(a)(3) provides that "[i]f the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under 28 1 || which became administratively final on July 2, 2025, becomes unduly prolonged. 2 In light of this disposition, Petitioner's motions for a stay of removal and to expedite 3 || consideration of his case [ECF Nos. 18, 19], and Respondent's objections to Petitioner's 4 || multiple filings [ECF No. 21], are denied as moot.

5 CONCLUSION

6 For the foregoing reasons, the Amended Petition is DENIED. The Clerk of Court is 7 || directed to close the case. 8 IT IS SO ORDERED. 9 || Dated: July 21, 2025 Fekut C / ' 10 1 Hon. Robert S. Huie United States District Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28