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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Seyidxan Salih,
 	
      Petitioner,
 	
vs.
 	
David R. Rivas, Warden, et al.,
 	
      Respondents.
	No.
	
	Amended Motion for Limited Discovery in Support of Petition for a Writ of Habeas Corpus and Motion for a Preliminary Injunction
	
	(Amended in Response to the Declaration of Marcus Vera)

In his petition for a writ of habeas corpus, Mr. Salih asserts that the Syrian Embassies in the United States and Canada are indefinitely closed, and that he may in fact be a stateless Kurd born in Syria to stateless Kurdish parents. Accordingly, he contends, his removal to Syria is not likely in the foreseeable future, such that his continued detention by immigration officials violates the Fifth Amendment's Due Process Clause as interpreted in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Under *Zadvydas*, an alien who has been ordered removed from the United States may be detained only "during a period reasonably necessary to bring about that alien's removal from the United States." *Id.* at 689. After six months of post-removal-period detention, there arises a presumption that the detention is unlawful; however, even after that six-month period, "an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. Mr. Salih contends that because of the closure of the Syrian Embassies in the United States and Canada, and because he may in fact be a stateless Kurd, there is no likelihood of his removal in the reasonably foreseeable future. Accordingly, his detention in respondents' custody violates the Fifth Amendment as interpreted in *Zadvydas*.

The allegations in the petition come primarily from counsel's interview with Mr. Salih and a basic sketch of the modern history of the Syrian Arab Republic. Owing to his current custody status, Mr. Salih does not have access to documents that may susbtantiate the allegations in the petition; as a result, many crucial facts in the petition are alleged on information and belief. Respondents, however, are certain to have these documents in their possession. Mr. Salih respectfully asks the Court to provide those documents to his counsel so that he may amend his petition as necessary.

Where "specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is entitled to relief, it is the duty of the court to provide the necessary facilities for an adequate inquiry." *Bracy v. Gramley*, 520 U.S. 899, 909 (1997) (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)). The facts as they stand now are not fully developed, because the government presumably possesses information that bears on whether Mr. Salih's *Zadvydas* claim is likely to succeed. This information is likely contained in Mr. Salih's A-file, or in other files or databases maintained by the Departments of Justice and Homeland Security, to which neither he nor his counsel have access. The relevant documents include, but are not limited to, the following:

1.   Mr. Salih's entire A-file;

2.   A transcript (or, failing that, a recording) of any and all hearings in Mr. Salih's case before the immigration courts that led to his being ordered removed from the United States;

3.   Any and all requests from ICE to the Embassy of the Syrian Arab Republic pertaining to travel documents that would "facilitate" Mr. Salih's return to Syria, and any responsive or related correspondence to or from the Syrian embassy pertaining to this request for travel documents;

4.   Any and all documents relating to the periodic custody review described in 8 C.F.R. § 241.4(h)(1)–(5) for all periods of time that Mr. Salih has been in ICE custody;

5.   Any and all documents relating to the periodic custody review described in 8 C.F.R. § 241.4(i)(1)–(7) for all periods of time that Mr. Salih has been in ICE custody;

6.   Any and all documents relating to any determination under 8 C.F.R. § 241.13 regarding whether there is a significant likelihood of removing Mr. Salih in the reasonably foreseeable future; and

7.   Any and all documents falling into these six categories of documents that pertain to the 41 individuals mentioned (though not by name) in paragraph 34 of the declaration of Marcus Vera (Dkt. #16-1 at 5 ¶ 34).

Mr. Salih respectfully asks the Court to order the government to furnish these documents to his counsel by the close of business on Friday, July 11, 2025. Mr. Salih has good cause for the Court to allow discovery. *Cf. Bracy*, 520 U.S. at 909 (guarantee of success on the merits of a habeas claim is not required for allowing discovery). The deportation officers responsible for assisting Mr. Salih in obtaining a passport or other travel documents have likely been privy to information about why efforts to obtain those documents have been unsuccessful. On account of the indefinite closure of the Syrian Embassies in the United States and Canada, it is doubtful that efforts to obtain those documents will be fruitful. Furthermore, reviewing the documents pertaining to the 41 other individuals mentioned by Mr. Vera in his declaration will help Mr. Salih determine whether his case is sufficiently similar to those cases, such that there is in fact a significant likelihood of his removal to Syria in the reasonably foreseeable future.

In sum, the discovery Mr. Salih is requesting may help him establish that there is no reasonable likelihood of his removal in the foreseeable future. This Court should grant the motion and order the government to provide the requested documents to Mr. Salih and his counsel.

A proposed order is being lodged herewith.

Respectfully submitted: July 9, 2025.

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