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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. 2:25-cv-2096-PHX-SMB (MTM)

**Response to the Government's Status
Report and Request for an Extension of
Time to Respond to Petitioner's
Amended Motion for Discovery**

The government avers that it has received travel documents for Mr. Salih, and will “likely” remove him within the next 30 days. (Dkt. #21 at 2) It says this despite having failed to meaningfully respond to the allegations in his original petition for a writ of habeas corpus—or for that matter, to address (even informally) the allegations and legal claims presented in the amended petition that are based on the developments on which the government bases its request for an extension of time to respond to the amended discovery motion. And it says this without explaining that it has obtained travel documents from the Syrian government—something Mr. Salih alleged was impossible for it to do because Syria has no diplomatic presence in either the United States or Canada. (Dkt. #1 at 6; Dkt. #22 at 6–7 ¶¶ 16–17)

In his amended petition, Mr. Salih alleges that Syria does not recognize him as a citizen because of his Kurdish heritage, and so cannot be removed to that country. (Dkt. #22 at 3–5) His detention thus violates the Due Process Clause of the Fifth Amendment because there is no likelihood of his removal to Syria in the foreseeable future. (Dkt. #22 at 8–9) *See generally*

Zadvydas v. Davis, 533 U.S. 698 (2001). He further alleges that his present detention in immigration custody violates both the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment. His detention violates the Administrative Procedure Act because nothing changed between August 2024 (when he was released from immigration custody) and January 2025 (when he was re-detained) with respect to the likelihood that Mr. Salih would be removed to Syria within the reasonably foreseeable future. (Dkt. #22 at 10–12) And his detention violates the Due Process Clause because, if the government has now obtained travel documents for some country other than Syria, he was not provided adequate notice of its intent to remove him to that third country and an opportunity to seek relief from removal to that country based on a fear of persecution or torture there. (Dkt. #22 at 9–10)

Along with his original petition, Mr. Salih filed a motion for discovery to assist him in confirming the allegations in the petition and proving his *Zadvydas* claim. (Dkt. #4) When the government filed its answer to the original petition and discovery motion (Dkt. #16), it attached the declaration of Marcus Vera, a deportation officer who asserted that it was likely that Mr. Salih would be removed to Syria in the foreseeable future because “the United States has removed 41 individuals to Syria in 2025.” (Dkt. #16-1 at 5 ¶ 34) Mr. Salih supported his reply respecting the discovery motion with an amended discovery request regarding those 41 individuals. (Dkt. #18) The Court gave the government until today to respond to the amended discovery request. (Dkt. #20) Today, instead of responding, the government asks the Court for 30 more days to respond to the amended discovery request, explaining that “there will be no need for the disclosure of these documents” by then because Mr. Salih’s “removal will likely take place within the next 30 days.” (Dkt. #22 at 2)

The government’s request for an extension of time to respond to the amended discovery request is not aimed at facilitating its production of the documents—or indeed, at affording it the time it believes is necessary to solidify an explanation as to why it should not be ordered to produce the documents Mr. Salih has requested pertaining to the unspecified “41 individuals” that the government says it has repatriated to Syria in 2025. The only reason the government

offers for the extension is that the delay will moot Mr. Salih's habeas petition. But if the government is correct that the travel documents it has in its possession will moot Mr. Salih's habeas petition, it should produce them *today* rather than *never*. And because the government has not offered any other explanation as to why it needs 30 more days to explain why this Court should not order it to produce the additional documents requested in Mr. Salih's amended discovery motion, the Court should order the government to provide any such explanation by the close of business tomorrow, July 22, 2025.

Respectfully submitted:

July 21, 2025.

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