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Attorney for Petitioner

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7 **IN THE UNITED STATES DISTRICT COURT**
8
9 **FOR THE DISTRICT OF ARIZONA**

Mohammad Ghiath Alimam,

Petitioner,

10 vs.

Case No.

11 Kristopher Kline, Warden, Central Arizona
12 Florence Correctional Complex; John Cantu,
13 Director, ICE Enforcement and Removal
14 Operations, Phoenix Field Office; Todd M.
15 Lyons, Acting Director, United States
16 Immigration and Customs Enforcement;
17 Kristi Noem, Secretary, U.S. Department of
18 Homeland Security; Pam Bondi, Attorney
19 General, U.S. Department of Justice; and
20 The U.S. Attorney for the District of
21 Arizona,.

Respondents.

**PETITION FOR WRIT OF HABEAS
CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

22 1. Petitioner Mohammad Ghaith Alimam ("Mr. Alimam" or "Petitioner") is a
native and citizen of Syria. He filed an application for Temporary Protected Status ("TPS")

1 which is currently pending with the U.S. Citizenship and Immigration Services (“USCIS”).
2 In addition, he is the named beneficiary of a pending Form I-730, Refugee/Asylee Relative
3 Petition (“I-730 petition”), filed on his behalf by his wife, Rania Katan (“Ms. Katan”), on
4 January 11, 2019. Ms. Katan’s I-730 petition had been pending for such a long time that she
5 was forced to file a complaint with this Court for a Writ of Mandamus and Further Relief on
6 March 3, 2025 (*see* Case No. 2:25-cv-00705-KML). While that case remains pending, in
7 response to Ms. Katan’s complaint, the USCIS issued an interview notice, requesting that
8 Ms. Katan and Mr. Alimam attend an interview at the USCIS Phoenix Field Office on July
9 11, 2025 in connection with the I-730 petition. However, when the couple appeared for the
10 interview, Mr. Alimam was taken into the custody of Immigration and Customs Enforcement
11 (“ICE”) based on a prior order of removal entered against him by an Immigration Judge on
12 June 2, 2016.

13 2. Mr. Alimam is eligible for asylee status as his wife, who herself was granted
14 asylum, properly filed an I-730 petition on his behalf and submitted all required evidence,
15 including proof of her status and of her lawful marriage to Mr. Alimam, to ensure petition
16 approval. Mr. Alimam is also eligible for TPS. He properly filed an application for TPS and
17 submitted all required evidence to ensure approval of his application.

18 3. The USCIS may approve beneficiaries in the United States who are in removal
19 proceedings or have a final order of removal for derivative asylum status if the beneficiaries
20 meet all other eligibility requirements for Form I-730. See 8 CFR § 208.21(c) (explaining
21 that an otherwise eligible beneficiary may be approved “regardless of the status of that
22 spouse or child in the United States”). If a Form I-730 beneficiary has a removal order,

1 petition approval provides the beneficiary with derivative asylee status, and the removal
2 order becomes unenforceable. *See* 8 CFR § 208.22

3 4. Additionally, the TPS statute provides that “[a]n alien provided temporary
4 protected status under this section *shall not be detained* by the Attorney General on the basis
5 of the alien’s immigration status in the United States.” 8 U.S.C. 1254a(d)(4) (emphasis
6 added). That protection remains available even if the TPS holder has a final removal order or
7 lacks other immigration status, because the government “shall not remove the alien from the
8 United States during the period in which such [TPS] status is in effect.” 8 U.S.C.
9 1254a(a)(1)(A). *See also* 8 U.S.C. 1254a(a)(5) (TPS statute provides no authority to “deny
10 temporary protected status to an alien based on the alien’s immigration status”); 8 U.S.C.
11 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-based
12 protection to “otherwise deportable” non-citizens).

13 5. Despite this statutory authority, Petitioner has now been detained by ICE.

14 6. Petitioner challenges his detention as a violation of the Immigration and
15 Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment to the United
16 States Constitution.

17 7. Petitioner respectfully requests that this Court grant him a Writ of Habeas
18 Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief
19 under 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration
20 detention. *See Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to
21 immigration detention are properly brought directly through habeas”) (citing *Zadvydas v.*
22 *Davis*, 533 U.S. 678, 687-88 (2001)).

JURISDICTION

8. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

10. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, Petitioner has been taken into custody and is being detained in this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. 2242).

12. Importantly, if venue is proper at the time of filing, the District Court will retain jurisdiction even if ICE transfers a petitioner to another district. *See Ex Parte Endo*, 323 U.S. 283, 304-05 (1944) (rejecting mootness after transfer because "there is no suggestion that there is no one within the jurisdiction of the District Court who is responsible for the detention of appellant and who would be an appropriate respondent."); *Anariba v.*

1 *Dir. Hudson City Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021) (“[T]he District Court retained
2 jurisdiction following Argueta’s transfer out of New Jersey because it already had acquired
3 jurisdiction over Argueta’s properly filed habeas petition that named his then-immediate
4 custodian.”).

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 13. The Court must grant the petition for writ of habeas corpus or issue an order to
7 show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief.
8 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to
9 file a return “within *three days* unless for good cause additional time, not exceeding twenty
10 days, is allowed.” *Id.* (emphasis added).

11 14. Courts have long recognized the significance of the habeas statute in protecting
12 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the
13 most important writ known to the constitutional law of England, affording as it does a *swift*
14 and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372
15 U.S. 391, 400 (1963) (emphasis added).

16 **PARTIES**

17 15. Petitioner is a resident of Gilbert, Arizona. He is in the custody, and under the
18 direct control, of Respondents and their agents.

19 16. Respondent Kristopher Kline is the Warden of the Central Arizona of the
20 Florence Correctional Complex, where on information and belief, Petitioner is currently
21 detained. He is a legal custodian of Petitioner and is named in his official capacity.

22 17. Respondent John Cantu, Director of ICE Enforcement and Removal

1 Operations, is responsible for Phoenix Field Office of ICE with administrative jurisdiction
2 over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his
3 official capacity

4 18. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal
5 custodian of Petitioner and is named in his official capacity

6 19. Respondent Kristi Noem is the Secretary of the United States Department of
7 Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official
8 capacity).

9 20. Respondent Pam Bondi is the Attorney General of the United States
10 Department of Justice. She is a legal custodian of Petitioner and is named in her official
11 capacity.

12 STATEMENT OF FACTS

13 21. Petitioner Mohammad Ghiath Alimam is a native and citizen of Syria. See
14 Exhibit A.

15 22. On October 2, 2015, Mr. Alimam approached U.S. Customs and Border Patrol
16 officers in Nogales, Arizona and asked to apply for asylum.

17 23. On December 29, 2015, Mr. Alimam timely filed Form I-589, Application for
18 Asylum, Withholding of Removal, and Protection under the Conviction Against Torture
19 ("Form I-589" or "asylum application"). His asylum application was based on his credible
20 fear that he would suffer persecution in Syria by the government and its agents based on his
21 religion, his membership in a particular social group, and his perceived political opinion.

22

1 24. On June 2, 2016, the Immigration Judge denied Mr. Alimam's asylum
2 application, finding among other things that he did not provide sufficient corroborating
3 evidence to support his claim. The Immigration Judge therefore ordered his removal.

4 25. Mr. Alimam is married to Ms. Katan, and they have four daughters together:
5 Lana, Lien, Nour, and Sali. **See Exhibits B-F.**

6 26. Ms. Katan and the couple's daughters entered the United States separately
7 from Mr. Alimam and filed for asylum application on the same grounds that he did. On June
8 6, 2018, the Immigration Judge who had previously heard Mr. Alimam's case and denied it,
9 granted asylum to Ms. Katan and the couple's daughters. **See Exhibit G.**

10 27. Upon being granted asylum, Ms. Katan promptly filed an I-730 petition on
11 behalf of her husband on or about January 11, 2019. The petition has been pending since
12 that time.

13 28. While Mr. Alimam diligently sought to have his Immigration Court
14 proceedings reopened based on his wife's pending I-730 petition, the DHS opposed the
15 motion, arguing that the motion was untimely, and no exception applied.

16 29. If Ms. Katan's I-730 petition were approved, Mr. Alimam would have
17 derivative asylee status, and his removal order becomes unenforceable. However, because
18 the I-730 petition has been pending for more than six years, Ms. Katan was forced to file a
19 complaint for Writ of Mandamus and Further Relief on March 3, 2025 (*see* Case No. 2:25-
20 cv-00705-KML). In response to the filing, the USCIS issued a notice requiring Ms. Katan
21 and Mr. Alimam to appear at an interview at the USCIS Phoenix Field Office on July 11,
22 2025. **See Exhibit H.**

30. While the couple appeared as required at the interview, instead of adjudicating and approving Ms. Katan's I-730 petition as the USCIS should have, ICE took Mr. Alimam into custody.

31. The USCIS should have approved Ms. Katan's I-730 petition. Instead, her husband now waits in ICE custody for a decision on the matter.

32. Additionally, Mr. Alimam satisfies all requirements for receiving TPS as a Syrian citizen, and he, in fact applied for TPS on or about June 28, 2025. **See Exhibit I.** Temporary Protected Status remains in effect, and there is no reason that Mr. Alimam should not be granted TPS.

LEGAL FRAMEWORK

33. Section 1157(c)(2) of Title 8 of the United States Code governs the admission of refugees and asylees, including criteria, admission status of relevant relatives, and applicability of other statutory requirements. More particularly:

A spouse or child (as defined in section 1101(b)(1)(A), (B), (C), (D), or (E) of this title) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under paragraph (1) and if not a person described in the second sentence of section 1101(a)(42) of this title, be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this chapter. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

8 U.S.C. § 1147(c)(2).

1 34. The USCIS should grant I-730 petitions for those beneficiaries in the U.S. who
2 are in removal proceedings or have a final order of removal so long as they meet all other
3 eligibility requirements. *See* 8 CFR § 208.21(c).

4 35. Importantly, once an I-730 petition has been approved for a beneficiary with a
5 removal order, that approval provides the beneficiary with derivative asylee status, and the
6 removal order becomes unenforceable. *See* 8 CFR § 208.22.

7 36. As Mr. Alimam also has an application for TPS pending, the TPS statute is
8 also relevant here. More particularly, the statute provides that “[a]n alien provided
9 temporary protected status under this section *shall not be detained* by the Attorney General
10 on the basis of the alien’s immigration status in the United States.” 8 U.S.C. 1254a(d)(4)
11 (emphasis added).

12 37. TPS protection, once granted, remains valid even if the TPS holder has a final
13 removal order or lacks other immigration status. *See* 8 U.S.C. § 1254a(a)(1)(A) (the
14 government “shall not remove the alien from the United States during the period in which
15 such [TPS] status is in effect.”). Indeed, individuals with a final order of removal are
16 statutorily eligible for TPS and may not be denied TPS if otherwise eligible on the basis of
17 that removal order; 8 U.S.C. § 1254a(a)(5) (TPS statute provides no authority to “deny
18 temporary protected status to an alien based on the alien’s immigration status”). *See also* 8
19 U.S.C. § 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-
20 based protection to “otherwise deportable” non-citizens).

21 38. Should the Court choose to address constitutional questions, it should also find
22 that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment to the

1 United States Constitution. “Freedom from imprisonment – from government custody,
2 detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due
3 Process] Clause [of the Fifth Amendment] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
4 (2001).

5 39. Petitioner’s detention violates the Fifth Amendment’s protection for liberty.
6 That is because immigration detention must always “bear[] a reasonable relation to the
7 purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003)
8 (citing *Zadvydas*, 533 U.S. at 690). Here, the government should have adjudicated and
9 approved Ms. Katan’s very-long pending I-730 petition, thus rendering her husband’s
10 removal order unenforceable, rather than taking him into ICE custody and seeking to deport
11 him.

12 40. Additionally, because Mr. Alimam is eligible for TPS and his application for
13 this relief is currently pending, he should not be “deportable” insofar as the TPS statute bars
14 his deportation. The Due Process Clause requires that any deprivation of Petitioner’s liberty
15 be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S.
16 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain
17 ‘fundamental’ liberty interests at all, no matter what process is provided, unless the
18 infringement is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at
19 528 (applying less rigorous standard for “deportable aliens”).

20 41. Finally, the Due Process Clause includes protection against *unlawful* or
21 arbitrary personal restraint or detention.” *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001)
22

1 (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an
2 individual's detention, his detention also violates the Due Process Clause.

3 **CLAIMS FOR RELIEF**

4 **Count I**

5 **Violation of the Immigration and Nationality Act – 8 U.S.C. § 1157(c)(2)**

6 42. Petitioner reasserts and realleges paragraphs 1-41 as if fully set forth herein.

7 43. Section 1157(c)(2) governs the admission of refugees and asylees, including
8 derivative beneficiaries.

9 44. This statute and its associated implementing regulations afford Mr. Alimam
10 asylee status based on his lawful marriage to Ms. Katan and her asylee status despite his
11 removal order. Rather than adjudicating and approving Ms. Katan's I-730 petition which has
12 been pending for more than six years, ICE took Mr. Alimam into custody where he is
13 currently detained.

14 45. Petitioner's detention violates Section 1157(c)(2), and as such, he is entitled to
15 immediate release from custody.

16 **Count II**

17 **Violation of the Immigration and Nationality Act – 8 U.S.C. § 1254a**

18 46. Petitioner reasserts and realleges paragraphs 1-45 as if fully set forth herein.

19 47. Section 1254a of Title 8 of the U.S. Code governs the treatment of TPS
20 holders, including their detention and removal under federal immigration law.

21 48. Section 1254a(d)(4) states "[a]n alien provided temporary protected status
22 under this section *shall not be detained* by the Attorney General on the basis of the alien's

1 immigration status in the United States.” (emphasis added).

2 49. While Mr. Alimam’s application for TPS has not yet been granted, there is no
3 reason it should not be. As such, his detention violates the spirit of Section 1254a, entitling
4 him to immediate release from custody.

5 **Count III**

6 **Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution**

7 50. Petitioner reasserts and realleges paragraphs 1-49 as if fully set forth herein.

8 51. The Due Process Clause of the Fifth Amendment forbids the government from
9 depriving any person of liberty without due process of law. U.S. Const. amend. V. *See*
10 *generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001);
11 *Demore v. Kim*, 538 U.S. 510 (2003).

12 52. Petitioners’ detention violates the Due Process Clause because it is not
13 rationally related to any immigration purpose; because it is not the least restrictive
14 mechanism for accomplishing any legitimate purpose the government could have in
15 imprisoning Petitioner; and because it lacks statutory authorization.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner Mohammad Ghiath Alimam requests that this Honorable
18 Court:

- 19 a. Assume jurisdiction over this matter;
- 20 b. Order Respondents to show cause why the writ should not be granted within three
- 21 days, and set a hearing on this Petition within three days of the return, as required
- 22 by 28 U.S.C. § 2243;

- c. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1157(c)(2);
- d. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;
- e. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- f. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
- g. Enjoin Petitioners from further detaining Petitioner so long as TPS for Syria remains in effect;
- h. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- i. Grant such further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED this 11th day of July, 2025.

/s/ Sara J. Bartos
Sara J. Bartos
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Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of
Petitioner's attorneys. I have discussed with Petitioner the events described in this
Petition. I hereby verify that the statements made in the attached Petition for Writ of
Habeas Corpus are true and correct to the best of my knowledge.

/s/ Sara J. Bartos

Date: July 11, 2025

CERTIFICATE OF SERVICE

TO: Kristopher Kline, Warden Central Arizona Florence Correctional Complex 1155 North Pinal Pkwy. Florence, AZ 85132	John Cantu, Director ICE Enforcement and Removal Operations, Phoenix Field Office 2035 N. Central Ave. Phoenix, AZ 85004
Todd Lyons, Acting Director U.S. Immigration and Customs Enforcement 500 12th St. SW Washington, DC 20536	Kristi Noem, Secretary U.S. Department of Homeland Security 2707 Martin Luther King Jr. Ave. SE Washington, DC 20528
Pam Bondi, Attorney General U.S. Department of Justice 950 Pennsylvania Ave., NW Washington, DC 20530-0001	United States Attorney United States Attorney's Office District of Arizona Two Renaissance Square 40 N. Central Ave., Suite 1800 Phoenix, AZ 85004-4449

PLEASE TAKE NOTICE that on July 11, 2025, Petitioner filed with the United States District Court for the District of Arizona, this Petition for Habeas Corpus. I, Sara J. Bartos, an attorney, do hereby state that I caused a copy of Petition for Habeas Corpus to be served upon the listed individuals at the indicated addresses via certified U.S. mail (in the event the Court does not issue the summons).

/s/ Sara J. Bartos
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