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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Mohammad Ghiath Alimam,
13
14 Petitioner,
15
16 v.
17 Kristopher Kline, *et al.*,
18 Respondents.

No. CV-25-02437-PHX-KML (DMF)

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

18 **INTRODUCTION**

19 Respondents Kristopher Kline, et al., through undersigned counsel, respond to
20 Count Three of Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241
21 pursuant to this Court's Order filed on July 21, 2025.¹ Doc. 4. This response is supported
22 by the following Memorandum of Points and Authorities and attached Declaration.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. Factual and Procedural Background.**

25 Mohammad Ghiath Alimam is a native and citizen of Syria, born in Damascus,
26 Syria. *See* Declaration of Kenneth E. Livingston, Deportation Officer, attached as Exhibit
27

28 ¹ Upon request from Petitioner's counsel via email on July 15, 2025, Respondent
agreed to stay Petitioner's removal pending resolution of his pending habeas action.

1 at ¶ 3. On October 9, 2009, he applied for admission to the United States at the Dallas Fort Worth International Airport (DFW) at Dallas, TX, as a nonimmigrant visitor for pleasure, B2, with authorization to remain in the United States until April 8, 2010. *Id.* at ¶ 4. On October 2, 2015, he applied for admission to the United States at the DeConcini Port of Entry (POE) in Nogales, AZ, claiming asylum via the pedestrian lane. *Id.* at ¶ 6. On October 3, 2015, U.S. Customs and Border Protection (CBP) issued Alimam a Notice to Appear, Form I-862, charging him with violating Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA), as an alien who is not in possession of a valid unexpired immigration visa, reentry permit, border crossing identification card, or other valid entry document required by the Act. On that same date, CBP turned over custody of him to U.S. Immigration and Customs Enforcement (ICE) at the Florence Detention Center (FDC) in Florence, AZ. *Id.* at ¶ 7.

On April 11, 2016, an Immigration Judge (IJ) in Florence, AZ, denied him a custody redetermination bond due to being a high flight risk, and he reserved his right to appeal. *Id.* at ¶ 8. On April 12, 2016, Alimam filed an appeal with the Board of Immigration Appeals (BIA). *Id.* at ¶ 9. On June 2, 2016, an IJ in Florence, AZ, ordered him removed from the United States to Syria. *Id.* at ¶ 10. Because Alimam did not appeal the IJ's removal order, he became subject to a final order of removal on July 2, 2016 (30 days later) upon the expiration of the appeal deadline. On July 20, 2016, ICE served him a Notice of Alien of Post Custody Review and a Warning of Failure to Depart, Form I-229(a). *Id.* at ¶ 11. On August 4, 2016, the BIA dismissed his bond appeal as moot. *Id.* at ¶ 12. On August 9, 2016, he filed an Application for Temporary Protected Status, Form I-821, and an Application for Employment Authorization, Form I-765, with U.S. Citizenship and Immigration Services (USCIS). *Id.* at ¶ 13. On October 7, 2016, ICE in Florence, AZ, issued an Order of Supervision, Form I-220B, and released him from custody. *Id.* at ¶ 13. On November 22, 2016, he filed a Form I-765, with USCIS and it was approved with authorization to work until November 20, 2018. *Id.* at ¶ 16.

On January 11, 2019, his wife Rania Katan filed a Refugee/Asylee Relative Petition,

1 Form I-730, with USCIS, on his behalf.² *Id.* at ¶ 23. On October 8, 2024, USCIS approved
 2 his Form I-765, with authorization to work until December 27, 2025. *Id.* at ¶ 35. On July
 3 11, 2025, Homeland Security Investigations (HSI) encountered him at the USCIS office in
 4 Phoenix, AZ, and transported him to the ICE Phoenix Field Office in Phoenix, AZ, for
 5 further processing pursuant to his valid final removal order. *Id.* at ¶ 36. As of August 13,
 6 2025, per HQ Removal International Operations (RIO), removals to Syria will not be
 7 conducted until further notice. *Id.* at ¶ 38.

8 **II. Standard Governing Detention of Aliens Pending Removal.**

9 The detention, release, and removal of aliens subject to a final order of removal is
 10 governed by § 241 of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1231.
 11 Pursuant to INA § 241(a), the Attorney General has 90 days to remove an alien from the
 12 United States after an order of removal becomes final. During this “removal period,”
 13 detention of the alien is mandatory. *Id.* After the 90-day period, if the alien has not been
 14 removed and remains in the United States, his detention may be continued, or he may be
 15 released under the supervision of the Attorney General. INA § 241, 8 U.S.C. §§ 1231(a)(3)
 16 and (6). Under this section, ICE may detain an alien for a “reasonable time” necessary to
 17 effectuate the alien’s deportation. INA § 241(a), 8 U.S.C. § 1231(a). However, indefinite
 18 detention is not authorized. *Id.* The Immigration and Nationality Act (INA) further
 19 provides that aliens who are inadmissible under 8 U.S.C. § 1182 may be detained beyond
 20 the 90-day period pending removal. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4(a)(1), (4).

21 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court defined six months
 22 as a presumptively reasonable period of detention. *Zadvydas* places the burden on the alien
 23 to show, after a detention period of six months, that there is “good reason to believe that
 24 there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at
 25 701. If the alien makes that showing, the Government must then introduce evidence to
 26 refute that assertion to keep the alien in custody. *See id.*; *see also Xi v. I.N.S.*, 298 F.3d 832,

27
 28 ² The Form I-730 remains pending, along with wife Katan’s Complaint for Writ of
 Mandamus filed on March 3, 2025, in this District surrounding the I-730 petition
 referenced under Case No. CV-25-00705-PHX-KML.

1 839-40 (9th Cir. 2002). The Court must “ask whether the detention in question exceeds a
2 period reasonably necessary to secure removal. It should measure reasonableness primarily
3 in terms of the statute’s basic purpose, namely, assuring the alien’s presence at the moment
4 of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued
5 detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.

6 Petitioner has the burden to show that his removal is not likely in the reasonably
7 foreseeable future. *Zadvydas*, 533 U.S. at 701. Only then does the burden shift to the
8 Government to show that removal is substantially likely in the reasonably foreseeable
9 future. *Id.* In *Zadvydas*, the Supreme Court designated six months as a presumptively
10 reasonable period of time to allow the government to remove an alien detained under 8
11 U.S.C. § 1231(a)(6), but an alien is not entitled to release after six months detention. *Id.* at
12 701 (“This 6-month presumption, of course, *does not mean that every alien not removed*
13 *must be released after six months*. To the contrary, an alien may be held in confinement
14 until it has been determined that there is no significant likelihood of removal in the
15 reasonably foreseeable future.”) (emphasis added). The passage of time alone is
16 insufficient to establish that no substantial likelihood of removal exists in the reasonably
17 foreseeable future. *Lema v. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D. Wash. 2002). In
18 *Lema*, where the petitioner had been detained for more than a year, the district court held
19 that the passage of time was only the first step in the analysis, and that the petitioner must
20 then provide good reason to believe that no significant likelihood of removal exists in the
21 reasonably foreseeable future. *Id.*

22 **III. The Habeas Petition Should be Denied.**

23 Petitioner is subject to a valid final order of removal. Exhibit 1 at ¶ 10. Thus, his
24 detention is governed by 8 U.S.C. § 1231 and *Zadvydas v. Davis*, 533 U.S. 678, 688-89
25 (2001). *See* 8 U.S.C. 1231(a)(1)(B). Petitioner has been detained since July 11, 2025, or a
26 little over a month, and substantially less than six months. Ex. A at ¶ 36. Petitioner filed
27 this Petition the same day he was detained. *Id.* at ¶ 36. During his short detention, HQ RIO
28 recently issued new guidance that removals to Syria will not be conducted until further

1 notice. The Government cannot currently remove Petitioner to Syria as of the date of this
2 filing, making it difficult to rebut his assertion that there is no significant likelihood of
3 removal to Syria in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 699.
4 However, the United States notes that this is a rapidly evolving area and subject to change.
5 Removals to Syria only recently ceased and were being conducted as recently as August 8,
6 2025. Given that Petitioner has only been detained one month, and removals could resume
7 to Syria, the Court should deny the habeas petition. *Id.*

8 **IV. Conclusion.**

9 The Court should deny Petitioner's habeas petition.

10 Respectfully submitted on August 18, 2025.

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