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6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

Mohammad Ghiath Alimam,

Petitioner,

10 vs.

11 Kristopher Kline,¹ Warden, Central Arizona
12 Florence Correctional Complex, et al.,

13 Respondents.

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

**REPLY IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

14 **REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

15 NOW COMES Petitioner Mohammad Ghiath Alimam, by and through his attorney,
16 Sara J. Bartos of IMMIGRATION ATTORNEYS, LLP, and hereby submits the following Reply in
17 support of his Petition for Writ of Habeas Corpus pursuant to this Honorable Court's Order
18 dated July 21, 2025 (Docket No. 4).

19 1. Petitioner Mohammad Ghiath Alimam was taken into the custody of
20 Immigration and Customs Enforcement ("ICE") on July 11, 2025 which prompted the filing

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22 ¹ Warden Luis Rosa Jr. is automatically substituted for his predecessor, Kristopher Kline,
pursuant to Fed. R. Civ. P. 25(d).

1 of a Petition for Writ of Habeas Corpus (“habeas petition”) the same day. *See* Docket No. 1.

2 2. Before filing his petition, Mr. Alimam and his spouse, Rania Katan, had
3 attended an interview at the USCIS Phoenix Field Office in connection with Ms. Katan’s
4 long-pending Form I-730, Petition for Alien Relative (“I-730 petition”), filed on his behalf.
5 His application for temporary protected status (“TPS”) is also pending at this time.

6 3. In response to Mr. Alimam’s three-count habeas petition, on July 21, 2025, the
7 Court dismissed counts one and two, ordered Respondents to file an answer to count three
8 within 20 days of the date of service, and advised Mr. Alimam that he “may file a reply
9 within 10 days of service of the answer.” *Id.*

10 4. Respondents filed a response on August 18, 2025. In reply to the response,
11 and in furtherance of count three of his habeas petition, Mr. Alimam hereby states the
12 following:

13 5. Mr. Alimam entered the U.S. on October 2, 2015 by approaching U.S.
14 Customs and Border Patrol Officers in Nogales, Arizona on foot and requesting to apply for
15 asylum.

16 6. At that time, he was taken into ICE custody and placed in removal proceedings
17 in Florence, Arizona. He remained in ICE custody for over a year, during which time he
18 timely filed an application for asylum on December 29, 2015 based on his fear of returning
19 to his home country of Syria.

20 7. Mr. Alimam’s individual hearing was held in the Florence Immigration Court
21 on April 12, 2016. While the Immigration Judge denied his asylum application and ordered
22 Mr. Alimam removed in a decision dated June 2, 2016, following the entry of the removal

1 order, he was released from ICE custody on or around October 7, 2016 pursuant to an order
2 of supervision and ordered to attend ICE check-in appointments. Since then, for almost 10
3 years, Mr. Alimam has regularly attended these appointments, the last one being in
4 November 2024, with the next one which scheduled to take place in November 2025. *See*
5 Exhibit 1. He never missed an appointment. *See id.*

6 8. Notably, since Mr. Alimam's release from ICE custody, there have been no
7 material changes to his circumstances that would warrant him to be detained at this time.
8 Nevertheless, following his I-730 interview, ICE took him into custody without providing
9 any basis for doing so.

10 9. The aforementioned facts are substantively undisputed. *See* Docket No. 1 and
11 Exhibit 1 to Docket No. 7.

12 10. As an initial matter, Mr. Alimam is not subject to mandatory detention as the
13 90-day period following the entry of his removal order has long since passed. Additionally,
14 as the Court noted, his "release from custody for nearly ten years suggests [his] detention at
15 this juncture may be unreasonable," citing *Zadvydas v. Davis*, 533 U.S. 678 (2001). Docket
16 No. 4. As the Supreme Court explains:

17 *We do have reason to believe, however, that Congress previously doubted the*
18 *constitutionality of detention for more than six months. Consequently, for*
19 *the sake of uniform administration in the federal courts, we recognize that*
20 *period. After this 6-month period, once the alien provides good reason to*
21 *believe that there is no significant likelihood of removal in the reasonably*
22 *foreseeable future, the Government must respond with evidence sufficient to*
rebut that showing. And for detention to remain reasonable, as the period of
prior post-removal confinement grows, what counts as the "reasonably
foreseeable future" conversely would have to shrink. This 6-month
presumption, of course, does not mean that every alien not removed must be
released after six months. To the contrary, an alien may be held in confinement

1 *until it has been determined that there is no significant likelihood of removal in*
2 *the reasonably foreseeable future.*

3 *Id.* at 701.

4 11. In Mr. Alimam's case, his initial detention lasted far longer than six months,
5 and given that there has been no material change in his circumstances since his release in
6 2016, the current detention is arguably a continuation of the former. Moreover, by
7 Respondents' own admission, the U.S. government is currently not removing citizens to
8 Syria "until further notice." Docket No. 7. While this time period lacks any specificity
9 whatsoever, Mr. Alimam contends that Syria's Temporary Protected Status has been
10 extended from September 30, 2025 until at least March 31, 2026, and will likely be further
11 extended thereafter.² As such, he has met his burden of proving that "there is good reason to
12 believe that there is no significant likelihood of removal in the reasonably foreseeable
13 future." *Zadvydas*, 533 U.S. at 701. As such, to continue Mr. Alimam's detention at this
14 time would require ICE to provide evidence sufficient to rebut this showing. *See id.*

15 12. Put simply, Respondents are unable to provide any such evidence. In fact,
16 their filed response expressly concedes their inability to do so. *See* Docket No. 7 ("The
17 Government cannot currently remove Petitioner to Syria as of the date of this filing, making
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20 ² At least 60 days before the expiration of TPS, the Attorney General must decide whether to
21 extend or terminate a designation based on the conditions in the foreign country. If
22 the Attorney General does not make a determination during this time, the period of
 designation of the foreign country is extended for an additional period of six months or, in
 the discretion of the Attorney General, a period of 12 or 18 months. *See* 8 U.S.C. §
 1254a(b)(3)(C).

1 it difficult to rebut his assertion that there is no significant likelihood of removal to Syria in
2 the reasonably foreseeable future.”).

3 13. Nevertheless, Respondents urge the Court to deny Mr. Alimam his liberty
4 because, while the government is not removing individuals to Syria, “this is a rapidly
5 evolving area and subject to change.” *Id.* In other words, Respondents assert that because
6 the government might remove Syrian citizens to their home country at some indeterminate
7 time in the future, this should be reason enough for the Court to find that Mr. Alimam’s
8 continued detention is somehow lawful.³

9 14. To deprive Mr. Alimam of his freedom based on mere speculation does not
10 comport with due process or notions of fundamental fairness, especially in view of the fact
11 that he was released from ICE custody almost 10 years ago following the entry of a removal
12 order against him and that there have been no material changes to his circumstances since
13 that time. *Cf. Domingo v. Kaiser*, Case No. 25-cv-05893, 2025 U.S. Dist. LEXIS 133824, at
14 *2, *3, and *12 (N.D. Cal. July 14, 2025) (ordering Plaintiff-Petitioner’s immediate release
15 from ICE custody, noting that while Plaintiff-Petitioner has been advised by ICE that the
16 reason for his detention was his conviction in 2019, “since that conviction, ICE has required
17 no supervision, check-ins, or additional monitoring of Petitioner-Plaintiff and no material
18 change in circumstances appears to have occurred between the conviction and the present.”);
19 *Guillermo M.R. v. Kaiser*, Case No. 25-cv-05436-RFL, 2025 U.S. Dist. LEXIS 138205, at

20
21 ³ Indeed, that TPS has been extended for Syrian citizens reflects the government’s
22 recognition of the perilous situation they would be in if returned to their home country at this
time or any time in the foreseeable future.

1 *1, *2, *33 (N.D. Cal. July 17, 2025) (enjoining Respondents from re-detaining petitioner
2 after he had been previously released by an immigration judge, rejecting ICE's contention
3 that "it may unilaterally determine that Petitioner should be re-detained, regardless of
4 whether there has been any material change in circumstances since the IJ's release decision"
5 and noting that "[t]aken to its logical extreme, this position would permit ICE to regularly re-
6 detain individuals ... even if the re-detention occurred within days of their release and
7 without any material change in circumstances."); *Benitez v. Francis*, Case No. 25 Civ. 5937
8 (DEH), 2025 U.S. Dist. LEXIS 157214, at *31-*34, *44 (S.D.N.Y. Aug. 8, 2025) (granting
9 Plaintiff-Petitioner's petition for writ of habeas corpus, noting, among other things, that there
10 was no evidence suggesting that any determination was made as to whether there was any
11 material change in circumstances that would trigger detention, and finding that the facts
12 "clearly demonstrate that [Plaintiff-Petitioner] was entitled to more process than he
13 received....") (internal quotation marks and citations omitted); *Nadia Cristina DA Rocha*
14 *Rosado v. Figueroa*, Case No. CV-25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS
15 156344, at *34-*35 (D. Ariz. Aug. 11, 2025) (finding that "ICE has the authority to re-arrest
16 a noncitizen and revoke [her] release ... only when there has been a change in circumstances
17 since the individual's initial release.").

18 15. Indeed, "[t]he government's discretion to incarcerate non-citizens is always
19 constrained by the requirements of due process." *Ortega v. Bonnar*, 415 F. Supp. 3d 963,
20 969 (N.D. Cal. 2019) (citing *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017))
21 (finding the Plaintiff-Petitioner has a liberty interest in remaining out of custody).
22

16. The case of *Rosado v. Figueroa* is instructive in this regard.⁴ There, Plaintiff-Petitioner Rosado was detained upon entry to the United States, released on recognizance from her initial detention on inspection, and subsequently re-detained six years later without notice, a showing of changed circumstances, or a meaningful opportunity to object. *See* 2025 U.S. Dist. LEXIS, at *36. The Court explained:

The Government's authority to arrest a noncitizen and revoke their release is ... proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. To protect that interest, due process requires notice and a hearing, prior to any re-arrest, at which hearing the individual is afforded the opportunity to advance their arguments as to why their release should not be revoked. This most basic American principle – that individuals placed at liberty are entitled to process before the government reimprisons them – has particular meaning here, where Rosado's detention was already found, in 2018, to be unnecessary.

Id. at 35.

17. In this case, similar to the Plaintiff-Petitioner in *Rosado*, Mr. Alimam had been previously detained but was subsequently released by ICE pursuant to an order of supervision *following the entry of a removal order by an immigration judge*. As such, ICE's actions made clear that Mr. Alimam's detention was found to be unnecessary at that time. That he was detained almost 10 years later with no justification or explanation as to what material changes to his circumstances, if any, would have triggered further detention was a clear violation of his due process rights, warranting his immediate release from ICE custody. *See id.* at *42 (“[I]t is simply not plausible that the government has any legitimate

⁴ Note that while the Plaintiff-Petitioner in *Rosado* had not yet had her case adjudicated in immigration court as Mr. Alimam had, the principles articulated in *Rosado* with respect to due process rights in liberty interests are equally applicable to the case here.

1 or compelling basis for detaining Rosado, who entered the United States for inspection
2 through a port of entry and was released at that time and continued to be released after
3 appearing before an immigration court in 2018, and has since ... lived at liberty at the same
4 address in Massachusetts, without any criminal or civil infractions.”).⁵

5 18. Moreover, while Respondents correctly explain that the Court “should measure
6 [the] reasonableness [of Mr. Alimam’s continued detention] in terms of the statute’s basic
7 purpose, namely, assuring the alien’s presence at the moment of removal,” no claim has been
8 made that he poses a flight risk or would otherwise not make himself present for removal. In
9 fact, since his release in October 2016, Mr. Alimam has shown himself to be law-abiding,
10 regularly appearing at his ICE check-in appointments, court hearings, USCIS appointments,
11 and interviews. *See* Exhibit 1. Additionally, as his close family resides here in the United
12 States, Mr. Alimam has no incentive to flee. *See* Docket No. 1-1 (Exhibits B-G).

13 19. Should the Court conclude otherwise, Mr. Alimam contends that his continued
14 detention is not the least restrictive mechanism for accomplishing any legitimate purpose the
15 government could have for imprisoning him. In fact, in this case, alternatives to detention,
16 including an electronic monitoring device (e.g., an ankle bracelet), are plainly more
17 appropriate and would equally serve to ensure Mr. Alimam’s continued compliance with the
18 law.

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21 ⁵ Indeed, the *Rosado* court noted that “[t]he government’s only apparent interest in taking
22 Rosado into custody which actually places an additional fiscal and administrative burden on
the government, is to fulfill a quota of arrests, i.e., 3000 immigration arrests per day, set by
the current administration.” *Id.* at *41-*42.

1 20. Finally, it is important to take note of the sister case of *Katan v. Noem et al.*
2 (2:25-cv-00705-KML) in which Mr. Alimam's spouse has asserted that the more-than-six-
3 year delay in the adjudication of her I-730 petition is unreasonable under the Administrative
4 Procedures Act. That action is still pending with this Court despite that fact that Mr. Alimam
5 and his spouse attended an interview in connection with the petition more than a month ago.
6 It is also notable that while the examining officer indicated during the interview that he
7 intended to issue a request for additional evidence before making a decision on the petition,
8 no such request has been forthcoming, despite numerous follow-up inquiries as well as the
9 submission of additional evidence to the USCIS by Mr. Alimam's spouse which she
10 anticipates may ultimately be requested by the officer.

11 21. The adjudication of the petition is particularly important to the present matter
12 given that as soon as it is approved, as it should have been years ago, Mr. Alimam becomes
13 an asylee, and his prior order of removal is effectively unenforceable. Such a result would
14 resolve both the sister case as well as the present matter. However, the petition remains
15 pending at this time.

16 22. In view of the foregoing, Mr. Alimam respectfully requests that the Court
17 declare that his continued detention violates the Due Process Clause of the Fifth Amendment
18 to the United States Constitution, grant his petition for writ of habeas corpus, order
19 Respondents to release him from custody, prohibit Respondents from re-detaining him
20 absent a material change in his circumstances, and grant such further relief that the Court
21 deems just and proper. Should the Court be inclined not to grant Mr. Alimam's petition, he
22

1 hereby respectfully requests a hearing in order to present further argument and evidence in
2 support of his challenge to the illegality of his ongoing detention.

3 RESPECTFULLY SUBMITTED this 21st day of August, 2025.

4 /s/ Sara J. Bartos

Sara J. Bartos

5 IL State Bar No. 6273738

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6 Attorney for Petitioner

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CERTIFICATE OF SERVICE

On August 21, 2025, I electronically filed the foregoing with the United States District Court for the District of Arizona using the ECF System. I certify that the participants in the case are registered ECF users and that service will be accomplished by the ECF system.

/s/ Sara J. Bartos

Sara J. Bartos

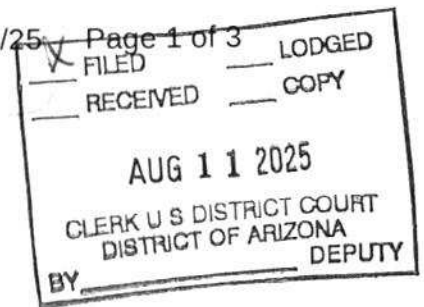
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United States District Court

for the

District of Arizona

CV25-02884-PHX-JAT--JZB

Juan Ojeda Chang

Petitioner

Case #



V.

U.S. ICE, Board of Immigration Appeals, U.S.C.I.S.,
Attorney General Pam Bondi, Eloy Detention Center
Warden Figueroa, U.S. Court of Appeals for the 9th Circuit
Office of Immigration Litigation, Office of the Chief Counsel
Respondent

**PETITION FOR A WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. 2241**

Comes now, Juan Ojeda Chang, Pro Se Petitioner, and under the applicable law, files to this Honorable Court, a petition for a Writ of Habeas Corpus under 28 U.S.C. 2241, and further states the following supporting facts.

Petitioner entered into the United States in 1980 from Cuba and was accepted into the country with the rights to apply for his legal status and become a Lawful Permanent Resident. Petitioner was later given a final order of deportation in 1988 and was placed under order of supervision in which he has been fully complying with. On February 2025, while at his residence in Maryland, ICE officials came into his home without a warrant and resumed to put him under arrest. He was not allowed to have a translator explain to him what was going on. He was also not given his Miranda Rights or allowed to make a phone call or contact any attorney.

The petitioner was denied due process of law, by the INS for not presenting him in front of a magistrate or judge within 48 hours to inform him of any charges he is being detained for. As well for not allowing the petitioner the right to make bail for whatever violation or charges he is being accused of. The petitioner claims that he has not even being given or made aware of any court date(s) or of any notice of when or if he will even be any type of hearing to inform him why he is in custody and for how long. Or he will be able to be represented by a court appointed attorney to guide him to understand his rights to all proceedings.

Petitioner brings forth the following grounds as challenge of his petition:

Ground One: Violation of U.S.C. 1231(a)(6)

Petitioner has been detained by ICE beyond the removal period authorized by statute. ICE is not likely to remove him in the near future. The petitioners birth country is Cuba.

Ground Two: Violation of due process clause of the First Amendment of the Constitution.

ICE is depriving him of his right to liberty. He have been detained by ICE for a prolonged period.

Ground Three: Violation of the Fourteenth Amendment of the Constitution.

Unlawful imprisonment: No freeman shall be imprisoned without due process of law and that the cause of commitment be just or legal. The writ as efficacious in all manners of illegal confinement.

Ground Four: Violation of the Sixth Amendment of the Constitution.

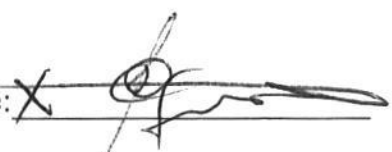
All persons deserve the right to be informed of the nature and cause of any accusation that is being brought against them. As well as the right to face those accusers in a court of law.

Request for Relief

Therefore, the petitioner requests this Honorable Court to order his immediate release from ICE custody, and or be placed back into Order of Supervision until the time comes for him to be able to be deported to his home country (Cuba), and or be given the opportunity to secure a BOND and place a bail.

CERTIFICATE OF SERVICE

I, Juan Ojeda Chang, hereby certify that on the date indicated below copies of the attached were delivered to the parties listed below in separate envelopes and placing those envelopes into facility mail.

Signature: 

Date: 8/5/25

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