

United States District Court
Western District of Texas
San Antonio Division

Tarek Sweidan
Petitioner,

v.

United States Department of Homeland
Security, *et al*
Respondents.

No. 5:25-CV-00879-XR

**Federal Respondent's Response to
Petitioner's Writ of Habeas Corpus**

Federal¹ Respondents timely submit this response per this Court's Order dated July 29, 2025. *See* ECF No. 3. In his *pro se* petition for writ of habeas corpus filed under 28 U.S.C. § 2241, Mr. Sweidan ("Petitioner") seeks release from civil immigration detention, claiming that his detention is unlawful. *See* ECF No. 1 at 6. Petitioner argues that ICE is continuing to detain him indefinitely contrary to the constitution and the Convention Against Torture, while seeking acceptance of his removal from a third country. *Id.* He requests that the Court order his release with reasonable conditions. *Id.*

After filing this petition, the immigration judge granted Petitioner's motion to reopen his removal order, denied his new request for voluntary departure, withdrew with prejudice the prior grant of relief under the Convention Against Torture (CAT), and ordered Petitioner removed to

¹ The Department of Justice (DOJ) represents only the United States and its agencies. To the extent there are other respondents named in these petitions (by the Court or otherwise) who are not federal employees, DOJ does not represent them or act on their behalf in these matters. The U.S. Department of Homeland Security (DHS) has authority over custody decisions for aliens detained in civil immigration custody under Title 8 of the U.S. Code. *See, e.g., Aguilar v. Johnson*, No. 3:25-CV-1904-K-BN, 2025 WL 2099201 at *1-2 (N.D. Tex. July 25, 2025) (collecting cases and citing *M.A.P.S. v. Garite*, --- F.R.D. ---, EP-25-00171-DB, 2025 WL 1479504 *6 (W.D. Tex. May 22, 2025)).

Lebanon. *See* Ex. A (August 2025 Removal Order). As such, this petition is moot as it is currently drafted and should be denied. It would be futile to allow any amendment to this petition, because as an applicant for admission, Petitioner is detained on a mandatory basis under § 1225(b) until his removal order is executed. *See* 8 U.S.C. § 1225(b); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 136 (2020). Petitioner is not entitled to any relief beyond what the statute provides him, and the statute does not provide him a bond hearing. *Id.* His detention is facially constitutional and there is no indication that continued detention is unconstitutional as applied to him.

I. Relevant Facts and Procedural History

Petitioner is a native and citizen of Lebanon. *Id.* at 2 ¶ 6. In 2023, Petitioner entered the United States without inspection at or near Eagle Pass, Texas, and was prosecuted under 8 U.S.C. § 1325 for improper entry by alien. *See United States v. Sweidan*, No. 2–23–CR–01786–AM, ECF No. 22 (October 31, 2023). He was convicted and sentenced to five months incarceration with credit for time served before being transferred to ICE custody. *Id.*

ICE placed Petitioner into removal proceedings under 8 U.S.C. § 1229a, charging him with being present in the United States without being admitted or paroled. *See* ECF No. 1-2 at 5–9 (November 2004 Removal Order); *see also* 8 U.S.C. § 1182. On November 4, 2024, Petitioner had a hearing on the merits of his relief applications for asylum, withholding of removal, and protection under the Convention Against Torture. *Id.* The immigration judge denied his applications for asylum and withholding but granted him protection under the Convention Against Torture (CAT), nonetheless ordering his removal to Lebanon. *Id.*

On July 23, 2025, Petitioner filed this habeas petition. *See* ECF No. 1. The following day, Petitioner filed an unopposed motion with the immigration court to reopen his removal proceedings for the purpose of withdrawing all applications for relief from removal and requesting

voluntary departure (or a final order to Lebanon, in the alternative). *See* Ex. B (Motion to Reopen Judge Order). On August 4, 2025, the Immigration Judge granted the motion to reopen. *Id.*

The immigration judge withdrew Petitioner's CAT claim with prejudice and denied all applications for relief from removal, including pre-conclusion voluntary departure. Ex. A (August 2025 Removal Order). The immigration judge ordered Petitioner removed to Lebanon, and Petitioner waived appeal, making the order final on the date it was issued. *Id.*

On September 19, 2025, ICE avers that ICE submitted a travel document request packet to the Lebanese consulate, which remains pending. ICE currently sees no impediments to removal. There is no indication that Lebanon will refuse to issue a travel document.

II. The Habeas Petition Is Moot as Drafted.

Although Petitioner is again subject to a final order of removal, the circumstances have materially changed since the filing of his habeas petition such that the articulated issues are no longer live. "Article III of the Constitution limits federal 'Judicial Power,' that is, federal-court jurisdiction, to 'Cases' and 'Controversies.'" *United States Parole Comm'n v. Geraghty*, 445 U.S. 388, 395 (1980). A case becomes moot "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Id.* at 396 (quoting *Powell v. McCormack*, 395 U.S. 486, 496 (1969)). The basis for Petitioner's continued detention, as briefed in his petition, is no longer in effect. Petitioner's previous removal order dated November 4, 2024, which temporarily prevented ICE from removing him to his country of origin, was vacated and superseded by an order permitting his removal to Lebanon without restrictions.

There is no longer any impediment to removing Petitioner to Lebanon in the reasonably foreseeable future now that Petitioner has formally withdrawn his CAT claim with prejudice. A motion to reopen is a mechanism that allows Petitioner to ask the immigration judge to vacate an

existing removal order. *See* 8 C.F.R. §§ 1003.2(c); 1003.23(b)(3). Once the motion is granted, the existing order of removal is vacated, and the alien reverts to pre-order detention until a new decision is issued on the merits. *Id.*

When the immigration judge ordered Petitioner's removal anew on August 4, 2025, the order contained no restrictions under CAT or any other provision of law. In other words, as of August 4, 2025, for the first time since November 2024, ICE had authority under the law to begin efforts to remove Petitioner to his country of origin. Ex. A (August 2025 Removal Order). There is no indication whatsoever that ICE will be unable to execute this removal order once the travel document is issued.

To the extent Petitioner still demands his release from custody at this stage of his removal process, he must amend his petition to allege facts indicating that his mandatory detention is unconstitutional as applied to him. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018). Otherwise, his detention claims are moot or, in the alternative, facially constitutional, as the only statutory relief to which he is entitled under habeas is release ... onto a plane bound for Lebanon. *See Thuraissigiam*, 591 U.S. at 118–19.

Given that ICE has already requested his Lebanese travel document and anticipates no impediments to executing his final order upon receipt of that document, his detention is mandatory, reasonable, and necessary under the law and the Constitution. It would be futile to allow Petitioner an opportunity to amend his petition under these circumstances. The Court should deny the petition.

III. Petitioner's Detention Is Mandated by Statute Until His Removal Order Is Executed.

Petitioner's continued detention is lawful—indeed, mandated—under 8 U.S.C. § 1225(b) until ICE executes his removal order. The “Great Writ, its only function, is to inquire into the

legality of the detention of one in custody.” *Heflin v. United States*, 358 U.S. 415, 421(1959). Petitioner is subject to a final order of removal to Lebanon as an applicant for admission, which mandates his detention until physically removed. *See* 8 U.S.C. § 1225(b).² As an applicant for admission who has waived all relief from removal, Petitioner is not entitled to any additional process beyond what Congress provided him by statute. *Thuraissigiam*, 591 U.S. at 136. This Court should deny this petition and find that any amendment would be futile.

Respectfully submitted,

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² Alternatively, ICE submits that detention is mandatory in this case even under 8 U.S.C. § 1231(a), which affords ICE a 90-day **mandatory** detention period within which to remove the alien from the United States following the entry of a final order of removal. 8 U.S.C. § 1231(a)(2). The 90-day removal period begins on the latest of three dates: the date (1) the order becomes “administratively final,” (2) a court issues a final order in a stay of removal, or (3) the alien is released from non-immigration custody. 8 U.S.C. § 1231(a)(1)(B). The removal order became “administratively final” in this case on the date it was entered, because Petitioner waived appeal of the removal order. *See* Exhibit A (August Removal Order).

Certificate of Service

I certify that on September 30, 2025, I mailed a copy of Federal Respondents' Response to Petition for Writ of Habeas Corpus to Petitioner (*pro se*) at the following address:

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South Texas ICE Processing Center
566 Veterans Dr.
Pearsall, TX 78061

/s/ Lacy L. McAndrew
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