IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PRO SE
Name: Ayyub Haytham Jamil Hanna
Petitioner,

v.

Case No. 25-3203-JWL

C. CARTER, WARDEN, FCI - LEAVENWORTH

ET. ALL RESPONDENTS ,

RESPONSE TO RESPONDENTS REPLY/ ORDER TO SHOW CAUSE

TRAVERSE REPLY IN SUPPORT OF CASE NO. 25-3203 -JWL
PETITION OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

PRO SE

Name: Ayyub Haytham Jamil Hanna

Alien Registration No: [redacted]

Pro se Petitioner-Detained
Detention Center: FCI - Leavenworth

Address: P.O. Box 1000
Leavenworth, KS 66048

CASE#: 25-3203-JWL

-Petitioner, Ayyub Haytham Jamil Hanna (PRO SE) presents this traverse to Respondents Reply/Order Show of Cause-

The Petitioner wants to start this response by stating that he has been in detention since January 31, 2025 and that as of the date of this response, Petitioner has been in detention for over 180 days. Respondents have not come to a conclusion in regards to the Petitioner's continued detention after 270 days in detention on or about October 31, 2025. Respondent's say Custody Reviews happen after every 90 days after the initial 180 Day Post Order Custody Review was completed on July 25, 2025. The Petitioner has not been served with any documentation that provides any update in regards to his second POCR, nor have the Respondents provided an answer in regards to his administrative release. The Petitioner's Detention has not been "Continued" but the Petitioner still remains in custody.

-When continuing a detention, there are some factors to be considered. These factors are:

1. Detained individual's flight risk
2. Any danger the individual may pose to the community
3. Any threat to National Security
4. Whether there is Significantly Likelihood of Removal in the Reasonably Foreseeable Future

(QUOTE from "Declaration of Deportation Officer Marissa Saenz" in Respondents Response Order to Show Cause, PAGE 4 of 4)

"To my knowledge, a decision on continuing detention has not yet been made."

"ICE will continue its efforts to effectuate Petitioner's removal and will update the court on any further development."

In the Petitioner's case, the Respondents have not come to a decision to continue Petitioner's detention on July 25, 2025, and as of the date of this response it has been an additional 90 days and still no decision has been made to this day.

Today, the Petitioner believes that there is NO significantly likelihood of removal in the reasonable foreseeable future.

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1. RESPONDENTS STATE "Petitioner has not shown that removal is unlikely"

The Petitioner shows that his removal is UNLIKELY in the REASONABLY FORSEEABLE FUTURE with the following facts:

-Under ZADVYDAS courts have found that there is no significant likelihood of removal and granted relief where:

1. No country will accept the petitioner
2. The Petitioner's country of Origin refuses to issue travel documents
3. There is no response from a country designated for removal or a significant delay in receiving a response
4. ICE fails to take action to secure travel documents for a prolonged period

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1). NO COUNTRY WILL ACCEPT THE PETITIONER

The Petitioner has a higher probability of getting denied by an "Alternative Country" due to the fact that the Petitioner has been convicted of a "Aggravated Felony." Most of the countries outside of the U.S have a similar procedures in reviewing a person's status when they are requesting asylum in their country. One main reason that would negatively affect the Petitioner or get denial from a "Third country" or "Alternative Country" is being convicted of a serious crime. The term "Aggravated Felony" is used in the U.S. but other countries have laws that classify having a serious crime as an equivalent offense to their own Laws.

Respondents stated (On PAGE 2, last sentence continued on PAGE 3, first paragraph, in the Respondents Response Order to Show Cause) that "Since being taken into ICE custody, DHS has attempted to remove Petitioner to alternative countries, including Belize, Guatemala, and Mexico, with no success"

BELIZE: Under the domestic "Refugees" section of the Belize Immigration the policy states: "If you have committed a serious crime, it could prevent you from being eligible for refugee/asylum status." Thus, if a person has been convicted of what Belize considers a serious crime (analogous to an aggravated felony), Belize may deny you asylum/refugee status on that ground. Belize's law does not articulate detailed exclusions for each crime, but the stated policy gives the Government discretion to refuse someone with a "serious crime" history. Belize's Migration Regime makes "prohibits immigrants" inadmissible and authorizes their removal (immigration Act, cap. 156, ss. 5, 26 30): if an immigration officer decides a person fails in a prohibited category, that person can be ordered to leave and has no automatic right to enter or stay. On top of that, Belize's refugees Act (cap. 165) says flat-out that a person is not a refugee if "he has committed a serious non-political crime outside Belize prior too his admission to Belize as a refugee" it's standard exclusion clause. If the United States deports someone with an aggravated-felony-level offense and tried to treat Belize as the receiving third country, Belizean officials could classify the person as inadmissible under the Immigration Act, and even if the person asked for asylum, deny refugee status under Cap. 165 because of the serious crime.

GUATEMALA: The Codigo de Migracion de Guatemala (Decreto 44-2016) sets out in Article 47, that the "Estado de Refugiado" may not be granted to a person who: (A) Has committed a crime against peace or war crimes against humanity; (B) Has committed a particularly serious crime outside the country of refuge before admission; or (C) Is guilty of acts contrary to the purposes and principles of the United Nations. Therefore, a person with a serious crime/aggravated felony conviction outside Guatemala would fall under Subsection (b) and be denied asylum in Guatemala. Guatemala's 2016 Codigo de Migracion and it's 2019 refugee-procedure regulation makes criminal/police records part of the admission and residence requirements they literally list "lack of valid and current criminal and police records in the countries where the person lived" as a basis to withhold status. The same framework says refugee status can't be granted to people who fall under the classic exclusion grounds, crimes against peace or acts contrary to U.N. purposes via migration code Art. 47(b)(c) and regulation No. 2-2019 Arts. 5, 23. that gives Guatemala legal discretion to refuse admission or protection to someone deported from the U.S. with a serious criminal record, i.e. the kind of conduct the U.S. calls aggravated felony.

MEXICO: Under the Ley Sobre Refugiados, Proteccion Complimentaria y Asilo Politico

(2011, as amended) Mexico provides refugee/asylum status as complimentary protection. The law (and accompanying commentary) indicates that exclusion grounds include persons who have committed serious non-political crimes outside the country of refuge or acts contrary to United Nations purposes. For example, one commentary notes: The law includes scenarios: "2. Committed a serious crime outside of Mexico, before entering the country" as an exclusion. Thus, someone with an aggravated felony would likely be excluded from status in Mexico. Mexico's Ley de Migracion lets immigration officers refuse a visa, entry, or continued stay to a foreigner "when national security or public safety is compromised as a result of his or her background in Mexico or abroad" (Art. 43). That's very broad and gives INM room to turn away someone with a serious U.S. criminal record, the closest analogue to a U.S. "aggravated felony". If the person shows up, Art. 88 90 lets Mexico document the rejection and send them back. On the protection side, Mexico's Ley Sobre Refugiados, Proteccion Compliemtaria y Asilo Politico incorporates the 1951 convention exclusion clauses, so people for whom there are well-founded reasons to think they committed a serious non-political crime or acts contrary to U.N. purposes cannot get refugee complimentary protection there. If the U.S. tried to name Mexico as a "third country" for someone deported with an aggravated-felony-type record, Mexico has clear legal hooks to say "No."

Belize, Guatemala and Mexico each have domestic laws or policies that exclude individuals from refugee/asylum status (and from protective statuses akin to CAT Deferral) on the basis of serious crimes or crimes outside the country of refuge. Someone with an aggravated felony (a serious crime under U.S. Immigration law) would fall under those exclusion grounds (or analogous grounds) in each of the three countries and would be denied entry. These Alternative countries that have been requested on the Petitioner's behalf have not approved the Petitioner and have not accepted to receive the Petitioner in their country because of their extensive immigration laws and procedures. Again, the major reason for delay is the Petitioner's criminal history. ICE also does not have the authority to obligate an alternative country to accept the Petitioner. The decision is entirely up to the requested country. Additionally, the Petitioner wants to point out that the Respondents chose to request these "Alternative Countries", even though their laws and policies would not have allowed his admission to begin with. These laws are the reason why the petitioner has not been accepted. The Petitioner is not challenging his deportation, he is challenging the "Prolonged" detention since his removal is not within the 6 month "reasonable" timeframe under ZADVYDAS.

2). THE PETITIONER'S COUNTRY OF ORIGIN REFUSES TO ISSUE A TRAVEL DOCUMENT

. In the Petitioner's case, Petitioner cannot be deported back to IRAQ (country of origin) because the Petitioner was granted "Deferral of Removal" under "Convention Against Torture" (CAT) by an Immigration Judge on December 3, 2020. Respondents can ask the Immigration Court to remove the Petitioner's protection by filing a motion but they would need clear and convincing evidence to make an appropriate showing that the circumstances have changed in IRAQ (country of Origin). As of today, the circumstances have not changed. The reason for the granted "Deferral of Removal" under "Convention Against Torture" are still ongoing in IRAQ. Therefore, the Petitioner has to remain with his granted protection and travel documents to the country of origin (IRAQ) will not be issued.

Respondents stated on (PAGE 2, paragraph 1, last sentence, in the Respondents Response Order to Show Cause) "No appeal was taken from the IJ's decision by either party."

*Petitioner points out that his removal is not going to be conducted only to Iraq. The

Petitioner understands that his Final Order of Removal was to Iraq but after his granted protection, other alternative countries have to be requested. Again, Petitioner is not challenging his deportation, only his prolonged detention.

3). THERE IS NO RESPONSE FROM A COUNTRY DESIGNATED FOR REMOVAL OR A SIGNIFICANT DELAY IN RECEIVING A RESPONSE

-Respondents have failed to follow statutory requirements.

Under 8 U.S.C SS1231(c)(2)(ii), if the designated country or countries fail to respond withing 30 days of inquiry, the Attorney General may disregard the designation and attempt removal to another country. Respondents had months to pursue alternative options but have failed to act. Respondents claim that they have requested alternative countries but have FAILED to receive a secured travel document within the "REASONABLE" 6 months the Supreme Court considers enough to effectuate removal. Respondents also failed to mention which additional countries were requested besides the 3 (Three) that they already attempted but failed to secure.

*Respondents stated (On PAGE 5, paragraph 2, in the Respondents Response Order to Show Cause) "Petitioner's detention has not become unreasonable as ICE has worked diligently to secure Petitioner's removal from the United States. Although eight months have passed, during those months, ICE has contacted and requested Petitioner's removal to at least three countries within the limited time that Petitioner been in ICE custody, and it continues to work diligently to identify additional third countries to which Petitioner might be removed."

*Respondents stated (On PAGE 2 last sentence continued on PAGE 3, first paragraph, in the Respondents Response Order to Show Cause) that "Since being taken into ICE custody, DHS has attempted to remove Petitioner to alternative countries, including Belize, Guatemala, and Mexico, with no success."

Here, Respondents show that they have failed at their attempts to receive a response from any of the already requested alternative countries. They also failed to mention if any other countries were requested after already given the previous "three" countries (Belize, Guatemala, Mexico) enough time to provide an answer for possible travel documents. There is also no statement that provides a limit to how many countries will be requested on Petitioner's behalf.

Respondents stated (On PAGE 5, first sentence, in the Respondents Response Order to Show Cause) that "a 'mere delay' in obtaining travel documents 'does not trigger the inference that an individual will not be removed in the reasonably foreseeable future" citation modified. They do not mention the reason for the delay and they do not establish an alternative country that caused this "mere delay" in obtaining a secured travel document. Therefore Respondents cannot seriously claim that the removal is in the reasonable foreseeable future. Speculation and conjecture are not sufficient to carry this burden.

;Balza, 2020 WL 6143643, at *5 (ordering release of petitioner and noting that "[a]fter more than a year of detention, Petitioner's removal need not necessarily be imminent, but it cannot be speculative") (internal quotation marks omitted). "[A] theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future." Balza v. Barr, No. 6:20-CV-00866, 2020 WL 6143643, at *5(W.D. La. Sept. 17,

2020) (internal quotation marks and citation omitted). [I]f [ICE] has no idea of when it might reasonably expect Petitioner to be repatriated, a Court certainly cannot conclude that a removal is likely to occur-or even that it might occur-in the reasonably foreseeable future." Id at *5 (internal quotation marks and citation omitted).

EXAMPLE: Federal courts have granted release where similar practical barriers prevented removal: *Bah v Cangemi*, 489 F. Supp 2d 905, 91423(D.Minn.2007) (Holding that speculative assurances of future removal cannot justify detention)

4). ICE FAILS TO TAKE ACTION TO SECURE TRAVEL DOCUMENTS FOR A PROLONGED PERIOD

-Respondents have been unable to secure travel documents for the Petitioner within the "reasonable" 6 months the Supreme Court considers enough to effectuate removal as previously mentioned. Respondents stated on (PAGE 5, paragraph 2, in the Respondents Response Order to Show Cause) "Petitioner's detention has not become unreasonable as ICE has worked diligently to secure Petitioner's removal from the United States. Although eight months have passed, during those months, ICE has contacted and requested Petitioner's removal to at least three countries within the limited time that Petitioner been in ICE custody, and it continues to work diligently to identify additional third countries to which Petitioner might be removed." Again as previously mentioned the Immigration Judge Ordered the Petitioner removed on December 3, 2020 as of the date of this response, it has been over 9 months since ICE placed Petitioner in Detention on January 31, 2025 after the Final Order of Removal in 2020 and ICE has not yet secured travel documents, proving that the removal is no longer within the reasonable time mentioned in ZADVYDAS. For the 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. Failing to obtain travel documents shows that officials were unable to effect Petitioner's removal.

In addition, the Petitioner's removal consists of ICE having the obligation to identify an "Alternative Country" where the Petitioner will have the same terms and conditions as stated on his granted "Deferral of Removal" under "Convention Against Torture" status. ICE must find a country that will guarantee that the petitioner will not be tortured, deprived of his freedom, and will not face any type of danger. The designated country for removal must also guarantee that the Petitioner will not be removed and deported back to IRAQ while his "CAT" STATUS remains and his deportation to this country is suspended indefinitely. As of today, ICE has not found a country with these conditions within the 6 months the courts considers reasonable to effectuate removal, therefore proving that travel documents have not been secured for a prolonged period.

In (Zadvydas v Davis 533 U.S. 678 at 699), the Supreme Court limited detention beyond the initial 90-day removal period to a period "Reasonably necessary to bring about the alien removal from the United States." The court held that detention for six months is "Presumptively Reasonable" but beyond six months, if removal is no longer "Reasonably Foreseeable," continued detention is not warranted. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C & 1231(a)(6) as interpreted by the Supreme Court in Zadvydas. The 6 (Six) months presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Iraq, his country of birth or any other country is not significantly likely to occur in the "Reasonably Foreseeable Future." The Supreme Court held in Zadvydas and Martinez that ICE's continued detention of someone like Petitioner under such circumstances is "Unlawful."

Petitioner has complied with all removal-related requests, yet no removal has occurred and the Government has not presented concrete evidence of an imminent removal destination. That lack of progress itself supports that removal is not reasonably foreseeable.

Respondents also state "no success" in finding alternate countries, this undermines their position: if they cannot secure a third-country destination despite attempts, then that strongly suggests that removal is not foreseeable.

Respondents also state on (PAGE 5, Paragraph 2, in Respondents Response Order to Show Cause) "ICE continues to work diligently to identify additional third countries to which Petitioner might be removed." is too vague to constitute meaningful evidence of a realistic removal in the foreseeable future. The Government must show a significant likelihood of removal (Zadvydas) not merely that efforts are underway. Speculations are not enough to satisfy that burden, without concrete results, particularly after 6 months, are insufficient to meet the Governments burden under Zadvydas. Should ICE wish to remove Petitioner to any country other than IRAQ, they would first need to provide him with notice and the opportunity to apply for protection to that country as well, until they do this, they cannot remove Petitioner from the United States. If ICE claims they are working diligently, why hasn't the Petitioner been notified of any other alternative countries they have tried to remove Petitioner to besides the "three" they have already tried and failed to secure. This clearly shows that ICE is not working diligently and not notifying Petitioner of the countries being requested or if they are even being requested. Petitioner has not received any type of verbal or written acknowledgement of other countries being identified by ICE to remove Petitioner to a third country. Therefore Respondent's undermine their position of saying they are working diligently by not notifying Petitioner of any other countries being requested, furthermore showing that there are no other countries being requested.

See Gomez Barco v. Witte, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents, noting that the ICE officer's clearly has no factual basis for his 'belief' that there is no foreseeable impediment to Petitioner's removal or that her removal is imminent,"

When evaluating whether a Petitioner's detention has been unreasonably prolonged, "Two factors of particular importance are (1) The length of the detention and (2) The reason for the delay." Vasquez-Ramos v. Barr, No. 20-CV6206-FPG/ 2020 U.S. Dist. Lexis 266756, 2020 WL 13554810, at *4(W.D.N.Y June 26, 2020) In the Petitioner's case, the length of detention has now been over 9 months since January 31, 2025 after the Final Order of the Immigration Judge on December 3, 2020. The reason for delay is ICE using the excuse of "ICE continues to work diligently to identify additional third countries to which Petitioner might be removed" but failing to secure the Petitioner's travel documents every single attempt.

Petitioner has now provided good reason to support his argument that his deportation is NOT likely in the foreseeable future (ZADVYDAS), therefore Petitioner has now rebutted the Respondent's statement of not showing good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

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2). RESPONDENTS BELEIVE THAT PETITIONER IS SIGNIFICANTLY LIKELY TO BE REMOVED IN THE REASONABLY FORESEEABLE FUTURE

Again, ICE has not satisfied its burden of showing that the petitioner is significantly likely to be removed in the reasonably foreseeable future. The Petitioner has already been detained since January 31, 2025 (9 months). The Petitioner's period of detention exceeds the "6 month" reasonable period of detention authorized by ZADVYDAS. Although ICE states that they have made requests and tried to identify alternative countries including Belize, Guatemala, Mexico, the fact is that no country has accepted the Petitioner (as stated by Respondents) and no travel documents have been issued and secured to date since the Final Order of the Immigration Judge in 2020, nor have any been issued while in ICE Detention. Respondents have also shown no evidence of their "Continued Efforts" to identify other alternative countries beside the ones already requested, proving that Petitioner has not been accepted by a alternative country and does not have a secured travel document. Therefore, there is no evidence of when, if ever, a travel document will be issued or if an alternative country will accept the Petitioner. ICE has not satisfied its burden and the Petitioner must be released. See Shefqet v. Ashcroft, No. 02 C 7737, 2003 WL 1964290, *5(W.D. Ill. Apr. 28, 2003) INS failed to carry burden of proof where no travel documents have been issued..." Citation modified

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3). RESPONDENTS STATE THAT "Petitioner's detention has not become unreasonable".

Respondents stated on (PAGE 3, paragraph 2, in Respondents Response Order to Show Cause) that "to obtain Habeas Corpus relief, a Petitioner must demonstrate that he is in custody in violation of the Constitution or laws or treaties of the United States" 28 U.S.C § 2241 (c)(3).

Respondents also stated on (PAGE 2, Paragraph 2, Respondents Response Order to Show Cause) "That on July 25, 2025, Petitioner was interviewed regarding his custody status and a decision continuing his detention has not been made."

A legal immigration process has to "Respect" the Constitution of the United States and the "Indefinite Detention" of the petitioner violates the 5th Amendments of the Constitution of the United States of America. Deportation Officer Marissa Saenz stated in (Declaration of Deportation Officer Marissa Saenz, in Respondents Response Order to Show Cause, PAGE 4 OF 4) "To my knowledge, a decision on continuing detention has not yet been made." ICE has not given any answer in regards to Petitioner's release or what their reason is for keeping Petitioner in detention and the "Prolonged Detention" is "Unlawful" and "Unconstitutional".

Here are the facts, (1) ICE has no designated country, (2) No travel documents have been issued, (3) Respondents have not provided any evidence to support their claims of Petitioner's deportation happening in the foreseeable future and speculation and conjecture is not sufficient enough to carry this burden under ZADVYDAS., (4) 180 days reasonable amount of time the Supreme Court deems reasonable to effectuate Petitioner's removal under ZADVYDAS has lapsed, (5) An additional 90 days have passed after the initial 180 day reasonable amount of time (6 months) to effectuate removal and still no progress has been made and no travel documents have been issued, (6) Not only has ICE failed to remove Petitioner in the reasonable amount of time stated under ZADVYDAS (6 months), but they have also failed in following their own procedures by failing

to come to a decision on Petitioner's continued detention at his 180 day (POCR) and another custody review after an additional 90 days after the initial 180 days. A custody review happens after every 90 days, yet ICE has failed to follow their own procedures in coming to a decision on Petitioner's continued detention twice. An extra 90 days is sufficient enough time to come to a decision, yet ICE has not done so. Again Petitioner has now been in detention for over 9 months and Petitioner has given sufficient enough evidence to support that his deportation is not in the reasonable foreseeable future under ZADVYDAS, Petitioner's detention has become UNREASONABLE and therefore Petitioner asks the court to GRANT his Writ of Habeas Corpus.

Supporting cases to show that the court granted release where Petitioners showed good reason that there deportation is not in the foreseeable future and that their detention has become prolonged and unreasonable.

Vargas v. Noem, No. 25-3155-JWL, 2025 WL 2770679, at *2-3 (D. Kan. Sept. 29,2025)

Anduaga-Colin v. Bondi, et al., No. 25-3151-JWL, 2025 WL 2926546, at *2-3 (D. Kan. Oct. 15, 2025)

Ibarra Moreno v. Bondi, No. 25-3168-JWL, 2025 WL 2926547, at *2-3 (D. Kan. Oct. 15, 2025)

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4). DETENTION FURTHER CONGRESS'S GOAL OF ENSURING PETITIONER'S PRESENCE FOR REMOVAL

-The Petitioner wants to remind this court that the Petitioner can be released under an Order of Supervision with conditions (Scheduled Reporting, Monitoring) to mitigate "Flight Risk", balancing government interests without violating Constitutional rights. The Petitioner, if released in the U.S, would also have to report to State Parole because Petitioner has 1 year of supervised release as stated in his Parole Stipulations, adding a secondary monitoring and reporting to the OSUP that would be on the conditions of release from Immigration. With this being stated, the Petitioner wants to add that he has not given any reason for Respondents to speculate that the Petitioner would be a "Flight Risk" and wanting to "Ensure his presence at removal." While Respondents do have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify an indefinite detention of the petitioner. Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the purpose of ensuring his presence at removal.

-CONCLUSION-

For the above mentioned reasons, Petitioner believes he has provided "Good Reason" to show that his removal is not in the "Reasonably Foreseeable Future". Accordingly, Petitioner respectfully requests that this Court GRANT his Writ of Habeas Corpus ordering Respondents to facilitate the immediate release of the Petitioner from their custody under appropriate supervision.

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Respectfully Submitted,

Ayyub Haytham Jamil Hanna
Inmate ID# [redacted]
A# [redacted]
FCI-Leavenworth
P.O. Box 1000
Leavenworth, KS 66048

Signature: Ayyub Hanna

Date: November 10, 2025

CERTIFICATE OF SERVICE FOR TRAVERSE REPLY FOR
CASE NO. 25-3203 -JWL

I Ayyub Haytham Jamil Hanna certify that on the date of November 10, 2025 the foregoing was placed in the mail service provided by Leavenworth FCI.

RESPECTFULLY SUBMITTED,

Signature: Ayyub Hanna

Name: Ayyub Haytham Jamil Hanna

A- Number: [redacted]

Detention Center: FCI - Leavenworth

Address: P.O. Box 1000
Leavenworth, KS 66048