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

12 Hamze Sweid,

13 Petitioner,

14 v.

15 John Cantu, et al.

16 Respondents.
17

No. CV-25-03590-PHX-SPL (CDB)


**RESPONDENT'S ANSWER TO
PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 § U.S.C. 2241**

18
19 Respondents Fred Figueroa, Warden, Eloy Detention Center, John Cantu, Arizona
20 Field Office Director, U.S. Immigration and Customs Enforcement (ICE), Todd M. Lyons,
21 Director, Kristi Noem, Secretary of the Department of Homeland Security, and Pamela J.
22 Bondi, Attorney General of the United States, (Respondents), through undersigned
23 counsel, responds to the merits of the Petition for Writ of Habeas Corpus, as directed under
24 this Court's Order to Show Cause filed on September 30, 2025. Doc. 5. Petitioner Hamze
25 Sweid, a native and citizen of Lebanon, is subject to a final order of removal dated May
26 20, 2025. His length of detention from the date of his removal order has not exceeded six
27 months. Additionally, ICE did not lose the Petitioner's passport. Rather, efforts are actively
28 underway to secure travel documents from the Consulate General of Lebanon and

1 effectuate Petitioner's removal. As such, the petition should be denied because Petitioner's
2 detention is lawful under 8 U.S.C. § 1231, and recent efforts show a significant likelihood
3 that his removal is within the reasonably foreseeable future. This response is supported by
4 the following Memorandum of Points and Authorities and attached declaration.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I. Factual and Procedural Background.**

7 Petitioner Hamze Sweird (Petitioner) is a native and citizen of Lebanon, born on
8  in Lebanon. See Declaration of Robert Jones, Deportation Officer,
9 attached as Exhibit A, at ¶ 3. On October 6, 1998, he applied for admission to the United
10 States at the New York City Port of Entry (POE), in New York, NY, as a non-immigrant
11 visitor for pleasure, B-2, with authorization to remain in the United States for a temporary
12 period not to exceed, April 5, 1999. *Id.* at ¶ 4. On that same date, legacy Immigration and
13 Naturalization Services (INS) admitted him into the United States as a B-2. *Id.*

14 Petitioner was found guilty of possessing or using marijuana on June 3, 2010, before
15 the Maricopa Superior Court, and he was sentenced to 12 months' probation, among some
16 other criminal activity beforehand, and subsequently convicted again of the same offense
17 on February 23, 2012. *Id.* at ¶¶ 9-14. On December 5, 2012, the ICE Secure Communities
18 Arrest Unit from the Phoenix Field Office, in Phoenix, Arizona, arrested him, pursuant to
19 a Secure Communities Program referral, and transported him to the Phoenix Field Office,
20 in Phoenix, AZ, for processing. *Id.* at ¶ 15.

21 On December 7, 2012, ICE issued a Notice to Appear (NTA), Form I-862, charging
22 Petitioner with violating Section 237(a)(2)(B)(i) of the Immigration and Nationality Act
23 (INA), which states that at any time after admission, being convicted of a violation of (or
24 a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a
25 foreign country relating to a controlled substance other than a single offense involving
26 possession for one's own use of 30 grams or less of marijuana, and Section 237(a)(1)(B)
27 of the INA, as amended, in that after admission as a nonimmigrant under Section
28 101(a)(15) of the Act, the individual has remained in the United States for a time longer

1 than permitted, in violation of the Act or any other law of the United States. *Id.* at ¶ 17. On
2 December 20, 2012, he was issued an Order of Recognizance and released. *Id.* at ¶ 19.

3 On July 24, 2014, the Gilbert Municipal Court, in Gilbert, Arizona, found him guilty
4 of possession or use of drug paraphernalia and driving with a suspended license and he was
5 sentenced to 36 months' probation for possession or use of drug paraphernalia and imposed
6 a fine for both charges. *Id.* at ¶ 23. On July 11, 2019, he was guilty of driving under the
7 influence and sentenced to one day of incarceration, five years' probation and a fine. *Id.* at
8 ¶ 29. On April 4, 2025, the ICE Criminal Alien Program (CAP) unit assigned to the
9 Maricopa County Jail (MCJ), in Phoenix, Arizona, encountered him, pursuant to his arrest,
10 and lodged an Immigration Detainer-Notice of Action, Form I-247, with MCJ. *Id.* at ¶ 32.
11 MCJ turned over custody to ICE on April 5, 2025. *Id.* at ¶ 33.

12 On May 20, 2025, an Immigration Judge (IJ) in Florence, AZ, issued a final order
13 of removal and ordered Petitioner removed from the United States to Mexico, or in the
14 alternative, Lebanon. *Id.* at ¶ 35. He waived his right to an appeal. *Id.* On May 30, 2025,
15 ICE submitted a Request for Acceptance, Form I-241, to the Consulate General of Mexico,
16 and the Consulate General of Mexico forwarded the request to the Embassy of Mexico, in
17 Washington, DC, that day. *Id.* at ¶ 36. Petitioner was temporarily in the custody of the
18 Maricopa County Sheriff's Office (MCSO) from June 12, 2025, through June 19, 2025,
19 totaling eight days. *Id.* at ¶¶ 37-39. On June 18, 2025, the Superior Court of Arizona found
20 Petitioner guilty of possession or use of drug paraphernalia and sentenced him to one year
21 probation. *Id.* at ¶ 38. On June 19, 2025, he was returned to ICE custody. *Id.* at ¶ 39.

22 As to effectuating removal, and obtaining travel documents, ICE submitted a travel
23 document packet to the Lebanon Embassy on July 19, 2025. *Id.* at ¶ 41. On July 28, 2025,
24 the Lebanon Embassy in Washington, D.C., requested ICE to submit the travel document
25 packet to the Consulate General of Lebanon, in Los Angeles, CA. *Id.* at ¶ 42. ICE
26 forwarded the packet to the Consulate General of Lebanon that day. *Id.* To date, ICE is
27 awaiting the travel document packet from the Consulate General of Lebanon. *Id.* at ¶ 43.

28 On September 30, 2025, this Court consolidated Petitioner's Request for a TRO

1 with the merits of the action under Fed. R. Civ. P. 65(a)(2) and issued an Order to Show
2 Cause directing the Respondents to show cause why the Petition should not be granted.
3 Doc. 5. Therefore, Respondents will respond the merits of the Petition. In his Petition,
4 Petitioner first claims that more than ninety days have passed since ICE regained custody,
5 violating his due process rights under the Fifth Amendment and 8 U.S.C. § 1231. Doc. 1
6 at 3. He also asserts that there is no significant likelihood that his removal is within the
7 reasonably foreseeable future claiming ICE lost his passport, attaching a declaration from
8 Petitioner's brother stating that he personally handed an ICE officer the Petitioner's
9 Lebanese passport on May 22, 2025. *Id.* at 3. Petitioner's request for a TRO raises the same
10 claims. Doc. 2. He seeks "immediate release under reasonable supervision." Doc. 1 at 3.

11 **II. Standard of Review.**

12 Under Federal Rule of Civil Procedure 12(b)(1), a court may grant a motion to
13 dismiss for lack of subject matter jurisdiction. *Tosco Corp. v. Cmtys. for a Better Env't*,
14 236 F.3d 495, 499 (9th Cir. 2001). When subject matter jurisdiction is challenged under
15 Rule 12(b)(1), the plaintiff has the burden of proving jurisdiction to survive the motion. *Id.*
16 (citing *Stock West, Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989)).

17 A court may grant a motion to dismiss pursuant to Federal Rule of Civil Procedure
18 12(b)(6) for failure to state a claim upon which relief may be granted. To survive a motion
19 to dismiss for failure to state a claim, the plaintiff must plead facts sufficient to "raise a
20 right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555
21 (2007). On a motion to dismiss, courts "are not bound to accept as true a legal conclusion
22 couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286, (1986). "Threadbare
23 recitals of the elements of a cause of action, supported by mere conclusory statements, do
24 not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

25 **III. Standard Governing Detention of Aliens Pending Removal.**

26 The detention, release, and removal of aliens, such as the Petitioner, subject to a
27 final order of removal is governed by § 241 of the INA, 8 U.S.C. § 1231. Pursuant to INA
28 § 241(a), the Attorney General has 90 days to remove an alien from the United States after

1 an order of removal becomes final. During this “removal period,” detention of the alien is
2 mandatory. *Id.* After the 90-day period, if the alien has not been removed and remains in
3 the United States, his detention may be continued, or he may be released under the
4 supervision of the Attorney General. INA § 241, 8 U.S.C. §§ 1231(a)(3) and (6). Under
5 this section, ICE may detain an alien for a “reasonable time” necessary to effectuate the
6 alien’s deportation. INA § 241(a), 8 U.S.C. § 1231(a). However, indefinite detention is not
7 authorized. *Id.*

8 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court defined six months
9 as a presumptively reasonable period of detention. *Zadvydas* places the burden on the alien
10 to show, after a detention period of six months, that there is “good reason to believe that
11 there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at
12 701. If the alien makes that showing, the Government must then introduce evidence to
13 refute that assertion to keep the alien in custody. *See id.*; *see also Xi v. I.N.S.*, 298 F.3d 832,
14 839-40 (9th Cir. 2002). The Court must “ask whether the detention in question exceeds a
15 period reasonably necessary to secure removal. It should measure reasonableness primarily
16 in terms of the statute’s basic purpose, namely, assuring the alien’s presence at the moment
17 of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued
18 detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.
19 Here, Petitioner became subject to a final order of removal on February 13, 2024, and thus
20 his detention is governed by 8 U.S.C. § 1231 and *Zadvydas*. *See* 8 U.S.C. 1231(a)(1)(B);
21 *Zadvydas*, 533 U.S. at 688-89.

22 Only then does the burden shift to the Government to show that removal is
23 substantially likely in the reasonably foreseeable future. *Id.* In *Zadvydas*, the Supreme
24 Court designated six months as a presumptively reasonable period of time to allow the
25 government to remove an alien detained under 8 U.S.C. § 1231(a)(6), but an alien is not
26 entitled to release after six months detention. *Id.* at 701 (“This 6-month presumption, of
27 course, *does not mean that every alien not removed must be released after six months.* To
28 the contrary, an alien may be held in confinement until it has been determined that there is

1 no significant likelihood of removal in the reasonably foreseeable future.”) (emphasis
2 added). The passage of time alone is insufficient to establish that no substantial likelihood
3 of removal exists in the reasonably foreseeable future. *Lema v. I.N.S.*, 214 F. Supp. 2d
4 1116, 1118 (W.D. Wash. 2002). In *Lema*, where the petitioner had been detained for more
5 than a year, the district court held that the passage of time was only the first step in the
6 analysis, and that the petitioner must then provide good reason to believe that no significant
7 likelihood of removal exists in the reasonably foreseeable future. *Id.*

8 **IV. The Habeas Petition Should Be Denied.**

9 **A. Petitioner’s Detention Does Not Violate His Due Process Rights.**

10 In his Petition, Petitioner contends that his detention is unlawful because his
11 detention exceeds the 90-day statutory period under 8 U.S.C. § 1231(a)(1)(A) and violates
12 his due process rights under the Fifth Amendment. Doc. 1 at 2. Pursuant to INA § 241(a),
13 the Attorney General has 90 days to remove an alien from the United States after an order
14 of removal becomes final. Petitioner’s order of removal became final on May 20, 2025.
15 Ex. A at ¶ 35. Therefore, the 90-day deadline expired on August 18, 2025.¹

16 The analysis does not end there though, as INA § 241, 8 U.S.C. §§ 1231(a)(3) allows
17 for additional detention past the 90-day mark. The Supreme Court in *Zadvydas* defined six
18 months as a presumptively reasonable period of detention. It is undisputed that Petitioner
19 has been detained less than six months from the date of his final order of removal.
20 Therefore, Petitioner’s detention is authorized under 8 U.S.C. § 1231(a)(6). Even if the
21 Court counted his time in ICE custody before the order of removal became final on May
22 20, 2025, beginning on April 5, 2025, when MCJ relinquished him to ICE custody,
23 exceeding the six-month detention period does not mandate automatic release. *See*
24 *Zadvydas*, 533 U.S. at 701. (“This 6-month presumption, of course, *does not mean that*
25 *every alien not removed must be released after six months.* To the contrary, an alien may
26 be held in confinement until it has been determined that there is no significant likelihood

27
28 ¹ Petitioner was temporarily in the custody of the Maricopa County Sheriff’s Office
(MCSO) from June 12, 2025, through June 19, 2025, totaling eight days. Ex. A at ¶¶ 37-
39.

1 of removal in the reasonably foreseeable future.”). The passage of time alone is insufficient
2 to establish that no substantial likelihood of removal exists in the reasonably foreseeable
3 future. *Lema v. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D. Wash. 2002).

4 The length of Petitioner’s detention does not violate his due process rights, and his
5 request for supervised release is premature. Based on the foregoing, Petitioner’s continued
6 detention is not indefinite and remains both authorized and constitutional.

7 **B. Petitioner Has Not Met His Burden to Establish There Is No Substantial**
8 **Likelihood of Removal in the Reasonably Foreseeable Future.**

9 Petitioner claims that “ICE has admitted that Petitioner’s passport is missing.” Doc.
10 1 at 2. Petitioner attached Exhibit A to his Petition with a notarized declaration from his
11 brother Sulieman Sweid, declaring that he personally handed “ICE Officer Angie Davis”
12 the Petitioner’s Lebanese passport on May 22, 2025. Sweid Declaration at ¶ 8. He confirms
13 that the officer “accepted” the passport. *Id.* at ¶ 9. Respondent is at a loss how Mr. Sweid’s
14 declaration “confirms Petitioner’s cooperation and ICE’s possession—and subsequent
15 loss—of the passport.” Doc. 1 at 3. Petitioner provides no support for his allegation that
16 ICE lost his passport or that his passport is “missing.” *Id.* at 2.

17 Petitioner has the burden to show that his removal is not likely in the reasonably
18 foreseeable future. *Zadvydas*, 533 U.S. at 701. Only then does the burden shift to the
19 Government to show that removal is substantially likely in the reasonably foreseeable
20 future. *Id.* Petitioner has not met his burden to show that his removal is unlikely in the
21 reasonably foreseeable future and, even if he could, the Government can overcome that
22 with evidence showing that removal is likely.

23 Petitioner has not met his burden. He provides conclusory assertions that ICE lost
24 his Lebanese passport without any support. But, even if Petitioner had met his burden
25 showing that his removal is not likely in the reasonably foreseeable future, and the burden
26 shifts to the Respondents, the Government meets that burden and rebuts any presumption
27 with evidence showing recent developments moving towards removal. On May 30, 2025,
28 ICE submitted a Request for Acceptance, Form I-241, to the Consulate General of Mexico,

1 and the Consulate General of Mexico forwarded the request to the Embassy of Mexico, in
2 Washington, DC, that day. Ex. A at ¶ 36. ICE also submitted a travel document packet to
3 the Lebanon Embassy on July 19, 2025. *Id.* at ¶ 41. On July 28, 2025, the Lebanon Embassy
4 in Washington, D.C., requested ICE to submit the travel document packet to the Consulate
5 General of Lebanon, in Los Angeles, CA. *Id.* at ¶ 42. ICE forwarded the packet to the
6 Consulate General of Lebanon that day. *Id.* To date, ICE is awaiting the travel document
7 packet from the Consulate General of Lebanon. *Id.* at ¶ 43. These efforts suggest ongoing
8 and active efforts to secure travel documents and ultimately effectuate removal.

9 Furthermore, uncertainty as to Petitioner's exact removal date does not warrant his
10 release. *See Prieto-Romero v. Clark*, 534 F.3d 1053 (9th Cir. 2008) (alien detained for more
11 than three years did not mean that removal was no longer "reasonably foreseeable").
12 Additionally, the Government has met its burden establishing that it is likely Petitioner will
13 be removed in the reasonably foreseeable future.

14 **V. CONCLUSION.**

15 For the foregoing reasons, Respondents respectfully request this Court deny
16 Petitioner's Writ of Habeas Corpus and dismiss this case.

17 Respectfully submitted on October 10, 2025.

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