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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF ARIZONA

11 Hamze SWEID,

12 Petitioner-Plaintiff,

13 v.

14 John Cantu, et al.,

15 Respondents-Defendants.

Case No. 2:25-CV-03590-PHX-
SPL (CDB)



17 **PETITIONER'S RESPONSE
18 TO RESPONDENTS'
19 ANSWER TO PETITION FOR
20 WRIT OF HABEAS CORPUS
21 UNDER 28 U.S.C. § 2241**

22 Petitioner Hamze Sweid ("Petitioner"), through undersigned counsel, respectfully
23 responds to Respondents' Answer to Petition for Writ of Habeas Corpus.

24 **Introduction**

25 Petitioner, Hamze Sweid, submits this Reply to Respondent's Answer (Doc. 6) in further
26 support of his Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. Respondent's Answer
27 fails to refute the central factual claim that U.S. Immigration and Customs Enforcement (ICE)
28 misplaced Petitioner's Lebanese passport, and it relies on a misreading of the six-month detention
presumption from *Zadvydas v. Davis*, 533 U.S. 678 (2001). As shown below, Respondent offers
no evidence to contradict Petitioner's sworn evidence regarding the passport, and Respondent's

1 legal arguments do not overcome the fact that Petitioner's removal is not currently reasonably
2 foreseeable.

3 Petitioner therefore respectfully maintains that his continued detention is unlawful and
4 that he should be released under appropriate supervision. While ICE forwarded the TD packet to
5 the Consulate General of Lebanon in Los Angeles, CA on July 28, 2025, there is no assertion in
6 the affidavit or response submitted to this Court that any action has taken place since July 28,
7 2025. This means that 78 days have passed since ICE has taken any action to remove petitioner.
8 The declaration of Robert Jones, submitted by Respondent, makes it clear that the embassy in
9 Washington D.C. responded within 9 days to the first request. ICE has now gone 78 days without
10 hearing from the Lebanese consulate in Los Angeles.

11
12 **Respondent Fails to Rebut Evidence that ICE Misplaced Petitioner's Passport**

13 Respondent has not meaningfully disputed Petitioner's evidence that ICE received
14 Petitioner's passport and subsequently lost or misplaced it. Petitioner presented a sworn, notarized
15 declaration from his brother, Sulieman Sweid, attesting that on May 22, 2025, he personally
16 handed Petitioner's valid Lebanese passport to "ICE Officer Angie Davis," and that Officer Davis
17 accepted the passport. This declaration is direct evidence from a percipient witness. Rather than
18 rebut this evidence, Respondent's Answer offers only a bare assertion by counsel that "ICE did
19 not lose the Petitioner's passport", unsupported by any affidavit from Officer Davis or anyone
20 else with personal knowledge. Respondent had every opportunity to obtain a declaration or
21 affidavit from Officer Angie Davis -- the very officer who received the passport -- to confirm or
22 deny what happened to it. Officer Davis is within Respondent's control and is a critical fact
23 witness to the handover of the passport. The absence of any statement from her is telling.
24 Respondent's failure to present any evidence from the one person who could definitively refute
25 or corroborate Sulieman Sweid's account speaks volumes. It leaves Petitioner's sworn declaration
26 entirely unchallenged by direct evidence.

27 Not only does Respondent decline to offer a declaration from Officer Davis, but Respondent's
28 Answer carefully avoids stating what happened to the passport or whether ICE is currently in

1 possession of it. Respondent does not affirmatively claim that ICE has the passport; it simply
2 denies that ICE “lost” it. This phrasing creates a logical inconsistency that the Court should not
3 overlook. If ICE truly still has Petitioner’s passport, there would be no need for ICE to seek
4 alternative travel documents from the Lebanese consulate. Yet Respondent admits that “efforts
5 are actively underway to secure travel documents from the Consulate General of Lebanon”. These
6 two positions cannot be reconciled. In effect:

- 7 • **If ICE has the passport:** There is no reason to request any travel document from
8 Lebanon’s consulate, since a valid passport is sufficient to carry out Petitioner’s removal.
- 9 • **If ICE does not have the passport:** Then the passport is missing – which is precisely
10 Petitioner’s allegation that ICE lost or misplaced it.

11 Respondent offers no explanation for this contradiction. The most plausible inference is that
12 ICE no longer has the passport (despite having accepted it in May), and thus must ask the
13 Lebanese authorities to issue new travel papers. Respondent’s denial that the passport was “lost”
14 is unsupported by evidence and undermined by Respondent’s own description of ICE’s actions.

15 An unsworn statement by counsel in a brief cannot erase the fact that Petitioner has produced
16 sworn testimony establishing ICE’s possession of the passport on May 22, 2025, and ICE’s
17 subsequent conduct implies that the document is no longer in ICE’s possession.

18 Moreover, Respondent fails to meaningfully rebut Petitioner’s claim that ICE is responsible for
19 the missing passport. Instead of presenting contrary evidence, Respondent professes to be “at a
20 loss” as to how Sulieman Sweid’s declaration proves ICE’s loss of the passport, and asserts that
21 Petitioner “provides no support” for the allegation that the passport is missing. This argument
22 ignores the obvious: Petitioner did provide support – a first-hand, notarized witness declaration.

23 A sworn declaration is competent evidence, not a “conclusory assertion.” By dismissing
24 Petitioner’s evidence as insufficient, Respondent attempts to flip the burden of proof while
25 offering no evidence of its own. Notably, the only declaration Respondent submitted (the
26 Declaration of Officer Robert Jones) nowhere states that ICE has the passport or accounts for its
27 whereabouts; indeed, Respondent pointedly omits any mention of Officer Davis or the disposition
28 of the passport in its evidentiary submissions. In contrast, Petitioner’s evidence stands unrebutted.

1 If the events were truly different from Petitioner's account, one would expect Respondent
2 to produce an affidavit from Officer Davis or another ICE official to affirmatively state that ICE
3 retains the passport or to explain what became of it. Respondent's silence on these points is
4 significant. At this stage, the record contains uncontroverted sworn testimony that Petitioner
5 cooperated by turning over his passport to ICE, and no evidence from Respondent to refute that
6 ICE accepted the passport and failed to safeguard it thereafter.

7 In sum, the Court should conclude, based on the evidence, that ICE did receive Petitioner's
8 passport on May 22, 2025 and that the agency no longer has custody of that passport. Whether
9 one labels it "lost" or "missing," the salient point is that through no fault of Petitioner, the primary
10 document needed to remove him is now apparently unavailable. Respondent's denials do nothing
11 to contradict Petitioner's factual showing. Accordingly, the allegation that ICE misplaced
12 Petitioner's passport should be deemed established for purposes of this habeas proceeding, or at
13 least not genuinely disputed.

14
15 **Continued Detention Is Unreasonable Despite Being Under Six Months, Because Removal**
16 **Is Not Reasonably Foreseeable Due to the fact that ICE has heard nothing from the**
17 **Lebanese government for 78 days.**

18 Respondent next argues that Petitioner's detention remains presumptively reasonable
19 because it has not yet exceeded six months. This argument misapprehends the law. While
20 *Zadvydas v. Davis* identified six months as a "presumptively reasonable" period of post-removal-
21 order detention, that is only a general guideline, not an ironclad rule barring relief before six
22 months have passed. The Supreme Court in *Zadvydas* made clear that the six-month timeframe
23 was a guide for courts, not a strict prerequisite: The Court described the six-month mark as a
24 'guide,' not a rigid threshold and did not say that the presumption is irrebuttable. In other words,
25 the six-month presumption of reasonableness can be overcome by specific facts indicating that
26 removal is not reasonably foreseeable in a particular case. If a detained alien can prove that there
27 is no significant likelihood of removal in the reasonably foreseeable future, he need not wait a
28 full six months to seek release. A New Jersey Federal Judge recently wrote the following in a

1 habeas opinion; “In short, the thrust of *Zadvydas* was to “interpret the statute to avoid a serious
2 constitutional threat,” the possibility of “indefinite, perhaps permanent detention.” *Zadvydas*, 533
3 U.S. at 699. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer
4 authorized by [the] statute.” *Id.* The six-month presumption of reasonableness is merely a tool to
5 “guide lower court[s]” in making those “determinations.” See *id.* at 700–01. To hold otherwise
6 would condone detention in cases where removal is not reasonably foreseeable or even 13
7 functionally impossible, so long as it did not exceed six months.” See *Munoz-Saucedo v. Pittman*,
8 No. 1:25-cv-02258, Document 24 (D.N.J. 2025).

9 Here, the facts demonstrate that Petitioner’s removal is not reasonably foreseeable at this
10 time, rebutting any presumption of reasonableness before the six-month mark. According to
11 Respondent’s own evidence, ICE has been attempting to secure travel documents for Petitioner
12 for months without success. ICE submitted a formal request for a travel document to the Lebanese
13 authorities most recently on July 28, 78 days ago. In other words, after several months of “active
14 efforts,” no travel document has been issued. Respondent’s Answer concedes these facts. It does
15 not claim that a travel permit or passport has been obtained, nor give any estimated timeline; it
16 merely states that efforts are ongoing and ICE *hopes* removal will be accomplished in the
17 reasonably foreseeable future. But hope and effort are not evidence of likelihood. The question
18 under *Zadvydas* is whether removal is likely to occur in the reasonably foreseeable future, not
19 merely whether the government is trying its best. Here, all indications are that removal remains
20 uncertain and elusive.

21 Respondent cites the six-month presumptive rule as if it were a bar to any challenge before
22 November 2025. That is wrong as argued above. Here, Petitioner has carried a heavy burden by
23 putting forth specific evidence (the missing travel document and missing passport) showing that
24 his removal is not likely in the near future. Respondent, by contrast, has not met its corresponding
25 burden to show that removal is significantly likely in the reasonably foreseeable future. To the
26 contrary, Respondent’s own evidence confirms ongoing uncertainty – ICE is essentially waiting
27 on a foreign government with no clear timeline. The Ninth Circuit’s decision in *Prieto-Romero*
28 *v. Clark*, 534 F.3d 1053 (9th Cir. 2008), which Respondent cites, is not to the contrary. In *Prieto-*

1 *Romero*, the alien's removal was deemed reasonably foreseeable despite prolonged detention
2 because there were no institutional barriers to removal once judicial proceedings ended – the
3 detainee had travel documents and his home country was willing to receive him. Here, in contrast,
4 the sole obstacle to removal is the *absence* of travel documents, and that obstacle exists only
5 because ICE does not have Petitioner's passport in its possession. Until that obstacle is removed,
6 there is no substantive likelihood that Petitioner can be removed to Lebanon.

7 Petitioner's case rests on a solid factual record: a sworn and notarized declaration detailing
8 ICE's receipt of his passport and the lack of any further information on its whereabouts. That is
9 far from a bare conclusion – it is evidence, offered under oath. By contrast, it is Respondent who
10 relies on conclusory and vague statements. The assertion that ICE did not lose the passport is
11 nothing more than a conclusory claim by counsel, unbacked by any declarant or documentation.
12 Likewise, the claim that removal is likely in the near future is speculative and unsupported by
13 concrete progress (since no travel document has issued). In a habeas proceeding, the Court is
14 entitled to demand actual evidence when one is available – here, the absence of an affidavit from
15 Officer Davis or any clear statement of the passport's status speaks louder than Respondent's
16 assurances. Under these circumstances, Petitioner's detention has become unreasonable before
17 the six-month "presumption" runs, because the facts demonstrate that further detention will not
18 accomplish the intended purpose of removal in the reasonably foreseeable future.

19
20 **Conclusion**

21 For the foregoing reasons, Petitioner respectfully submits that his continued detention
22 violates 8 U.S.C. § 1231 and the Due Process Clause as interpreted by *Zadvydas v. Davis*.
23 Respondent's Answer fails to rebut Petitioner's evidentiary showing that ICE's actions have made
24 his removal unforeseeable, and Respondent's legal arguments do not justify prolonging detention
25 under the current circumstances. Petitioner therefore respectfully requests that this Court **grant**
26 **the Petition for Writ of Habeas Corpus**, order his immediate release under reasonable
27 conditions of supervision, and award any further relief that the Court deems just and proper.

1 Therefore, Petitioner respectfully requests that the Court grant his Petition for Writ of
2 Habeas Corpus.

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4 Dated: October 14, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Hamze Sweid

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