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

Jalal Al Chair,

Petitioner-Plaintiff,

v.

John Cantu, Field Office Director of
Phoenix Office of Detention and
Removal, U.S. Immigrations and
Customs Enforcement; U.S. Department
of Homeland Security;

Pamela Bondi, in her Official Capacity,
Attorney General of the United States;

Kristi Noem, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security;

Todd Lyons, Acting Director,
Immigration and Customs Enforcement,
U.S. Department of Homeland Security;
and

Fred Figueroa, in his Official Capacity,
Warden, at Eloy Detention Center, Eloy,
Arizona

Respondents-Defendants.

Case No. 25-cv-03704-KML (JFM)

**PETITIONER'S REPLY TO
PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

On October 8, 2025, this Court ordered Respondents to show cause why the Petition for Writ of Habeas Corpus should not be granted and to support their response with documentary evidence. The Court further directed Respondents to address (1) Petitioner’s request for a pre-deprivation hearing prior to any future re-detention, and (2) whether Petitioner is a member of *D.V.D. v. Dep’t of Homeland Sec.*, No. 25-cv-10676 (D. Mass. 2025). Respondents have failed to comply with each of these directives.

Instead, Respondents assert—without a single supporting document—that Petitioner was issued a “temporary visa” and a purchased flight to Syria, and that he “refused to board.” Dkt. 7 at 2; Dkt. 7-1 at ¶ 9. On that basis, they contend there is “no factual or legal basis for a writ of habeas corpus to issue.” Dkt. 7 at 2. They also claim Petitioner has not yet been detained for six months. Each assertion is unsupported and incorrect.

ARGUMENT

A. There is No Evidence That Petitioner Refused to Board a Flight.

Petitioner has never been presented with a visa, a ticket, a flight itinerary, or an opportunity to board a plane. (Exhibit A, ¶¶ 2-8.) He has never refused to board any flight. *Id.* Because the Court expressly required documentary evidence to support the government’s claimed removal arrangements, it is reasonable to expect at least a ticket, itinerary, airport transport log, or contemporaneous incident report documenting the alleged refusal. Yet no such evidence has been provided.

Instead, Respondents rely solely on an uncorroborated statement from a deportation officer at the Eloy Detention Center—an officer who did not even begin a position of “manag[ing] cases on the Detained Docket Unit” until nearly five months after the alleged

1 refusal. Dkt. 7-1, ¶¶ 2, 9. Such post-hoc assertions carry no evidentiary weight. The Ninth Circuit
2 has made clear that a § 1231(a)(1)(C) extension requires “positive evidence” and a “documented
3 instance of obstruction.” *Diouf v. Mukasey*, 542 F.3d 1222, 1231 nn.4 (9th Cir. 2008) (“[I]t is
4 the burden of the government to document the conduct that extends the removal period”).
5 Unsupported agency representations do not suffice. *See Nadarajah v. Gonzales*, 443 F.3d 1069,
6 1082–83 (9th Cir. 2006) (rejecting detention justifications resting on “facially implausible or
7 unsupported” claims).
8

9 The absence of documentation here is telling. The government has produced no record
10 of a ticket, itinerary, transport, or refusal. In this context, the stark lack of evidence—particularly
11 when such evidence was ordered by this Court—is affirmative evidence that no such visa or flight
12 was offered, and no such refusal occurred.
13

14 **B. Petitioner’s Detention Has Exceeded the Presumptively Reasonable Period.**

15 Petitioner has now been detained for more than eight months following his final order
16 of removal. Respondents’ calculation that the six-month period has not elapsed appears to restart
17 the clock *after* the ninety-day statutory removal period in 8 U.S.C. § 1231(a)(1)(A). *See* Dkt. 7,
18 p. 5-6. There is no authority for this calculation.
19

20 Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), detention becomes presumptively
21 unreasonable after six months absent evidence of a significant likelihood of removal in the
22 reasonably foreseeable future. Respondents have provided none.

23 To the extent Respondents seek to invoke § 1231(a)(1)(C), that provision applies only
24 when a noncitizen “fails or refuses to make timely application in good faith for travel or other
25 documents, or conspires or acts to prevent [his] removal.” The Ninth Circuit in *Lema v. INS*, 341
26 F.3d 853 (9th Cir. 2003), upheld extended detention only where the petitioner actively impeded
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1 removal—there, by repeatedly misrepresenting his nationality and refusing to apply for
2 documents under his true identity. *Id.* at 855 & nn. 2–5.

3
4 Here, by contrast, Petitioner has done everything ICE could reasonably request. Within
5 one week of his removal order, he provided an expired Syrian passport and his Syrian birth
6 certificate. *See* Dkt. 1, Exh. C, ¶ 7; *see also attached* Exh. A ¶ 2. He has never misrepresented
7 his nationality and has never refused to cooperate. *Id.* The government, for its part, has not even
8 alleged that it requested additional documents or that Petitioner refused to apply for them. *See*
9 Dkt. 7, 7-1. The record is devoid of any evidence of obstruction.

10
11 **C. Refusal to Sign Form I-229(a) Does Not Constitute Noncooperation.**

12 Respondents imply that Petitioner’s alleged refusal to sign a Form I-229(a) (“Warning
13 for Failure to Depart”) demonstrates noncooperation. Dkt. 7, p. 2-3. Even if Petitioner had been
14 allowed to view these forms, that contention misstates both the law and agency practice. Refusal
15 to sign the I-229(a) does not constitute a violation of § 1231(a)(1)(C) and does not prevent
16 removal from moving forward. The form merely documents that a warning has been issued; its
17 signature is not legally required, and its execution is not a condition precedent to removal. *See*
18 *Lema*, 341 F.3d at 856 (extension of detention requires evidence that the detainee “acted to
19 prevent removal,” not mere noncompliance with paperwork); *Diouf*, 542 F.3d at 1232 (requiring
20 “positive evidence” of obstruction). Other courts likewise reject the claim that declining to sign
21 Form I-229(a) equals noncooperation. *See Abdel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D.
22 Pa. 2004) (holding that a detainee’s refusal to sign Form I-229(a) does not constitute non-
23 cooperation where the government failed to demonstrate that the detainee’s alleged failure to
24 cooperate hindered removal efforts). ICE routinely removes individuals who never sign the form;
25 its execution is purely administrative.
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1 **D. ICE's Failure to Provide an Interpreter Undermines Any Claim of Noncooperation.**

2
3 There is also reason to believe ICE has failed to provide Petitioner with an interpreter
4 when presenting documents for signature. *See* Dkt. 7-1, Exhibits 2-5; *see also attached* Exhibit
5 A, ¶ 10-11. Petitioner does not read or understand English at a level sufficient to comprehend
6 legal warnings or removal-related paperwork. *See attached* Exh. A, ¶ 10-11. Courts have
7 recognized that requiring a non-English-speaking detainee to sign documents he cannot read or
8 understand—if shown to the detainee in the first place--does not comport with due process and
9 cannot support a finding of bad faith or obstruction. *See Bermeo Sicha v. Bernal*, No. 1:25-cv-
10 00418-SDN, 2025 U.S. Dist. LEXIS 169007, at 4 (*D. Me. Aug. 29, 2025*) (although petitioner
11 signed ICE documents, the absence of interpreter certification suggested the document was never
12 explained in petitioner's native language); *see also Banda v. Nielsen*, 385 F. Supp. 3d 1099
13 (W.D. Wash. April 10, 2019) (finding that a noncitizen whose best language was other than
14 English could not be shown to have deliberately delayed removal proceedings by insisting on an
15 interpreter). When a detainee cannot understand the warnings or requests ICE presents, any
16 alleged "refusal" to sign or comply cannot reasonably be construed as a failure to cooperate
17 under 8 U.S.C. § 1231(a)(1)(C). Rather, the absence of language access demonstrates a failure
18 by ICE to afford basic procedural fairness—further eroding the credibility of its claim that
19 Petitioner is impeding his own removal.
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22 **E. Bare Assertions Cannot Sustain Indefinite Detention.**

23
24 The government relies on a generalized hearsay statement from an individual to whom
25 no title is attached--at "HQ RIO" -- to assert that "there are no current impediments to conducting
26 removals to Syria." Dkt. 7-1, ¶ 11. Such conclusory declarations are insufficient as a matter of
27 law. Courts have repeatedly rejected "vague and conclusory" assertions that fail to rebut a
28

1 petitioner's showing under *Zadvydas*. See *Kamyab v. Bondi*, 2025 U.S. Dist. LEXIS 202685
2 (W.D. Wash. Oct. 14, 2025); citing *Singh v. Gonzales*, 488 F. Supp. 2d 1214, 1220 (W.D. Wash.
3 2006) (finding the government failed to meet its burden where it could not provide any
4 "substantive indication regarding how or when it expected to obtain the necessary travel
5 document.")
6

7 Because Respondents have failed to produce any documentary evidence establishing
8 either (1) a viable removal plan or (2) any act of obstruction by Petitioner, they have not met
9 their burden under *Zadvydas* and its progeny. The record demonstrates only the government's
10 unsupported assertions. Accordingly, the Court should grant the writ.
11

12 **F. Respondents Failed to Address the Remaining Issues Identified by the Court.**

13 Finally, Respondents entirely failed to address two issues the Court specifically ordered
14 them to discuss: (1) whether Petitioner, if released, is entitled to a pre-deprivation hearing prior
15 to any future re-detention, and (2) whether Petitioner is a member of the *D.V.D. v. Dep't of*
16 *Homeland Security*, No. 25-cv-10676 (D. Mass. 2025) class. See Order, p. 3-4 (October 8, 2025).
17 Where the government disregards a direct judicial inquiry, the omission should be construed in
18 Petitioner's favor. The absence of any response underscores Respondents' inability to dispute
19 Petitioner's entitlement to the procedural protections requested in the Petition.
20

21 **CONCLUSION**

22 For the reasons set forth herein, Petitioner respectfully requests that the Court grant his
23 Petition for Writ of Habeas Corpus and order his immediate release from custody. The Petitioner
24 requests that the Court order he be provided with a hearing before an immigration judge prior to
25 any future re-detention. Finally, he requests that he be provided with certain procedures to
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express a fear of return to any un-designated country of removal prior to being removed to any country other than Venezuela.

Dated: October 22, 2025

Respectfully submitted,

s/Jesse Evans-Schroeder
Jesse Evans-Schroeder, Esq.
Counsel for Petitioner

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 22nd day of October, 2025 in Tucson, Arizona.

/s/Jesse Evans-Schroeder
Jesse Evans-Schroeder
Attorney for Petitioner

TAB A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jalal AL CHAIR,

Plaintiff,

v.

John Cantu, Field Office Director of Phoenix
Office of Detention and Removal, U.S.
Immigrations and Customs Enforcement; U.S.
Department of Homeland Security;

Pamela Bondi, in her Official Capacity,
Attorney General of the United States;

Kristi Noem, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security;

Todd Lyons, Acting Director, Immigration
and Customs Enforcement, U.S. Department
of Homeland Security; and

Fred Figueroa, in his Official Capacity,
Warden, at Eloy Detention Center, Eloy,
Arizona

Respondents-Defendants.

Case No. 25-cv-03704-KML JFM)

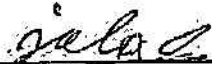
**DECLARATION OF
JALAL AL CHAIR**

1. My name is Jalal Al Chair. I am the Petitioner in connection with my Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief and my Motion for an Ex Parte Temporary Restraining Order.
2. On or about May 20, 2025, ICE met with me in the Eloy Detention Center. They demanded that I sign a form. At the bottom of this Form it said I-229(a). The ICE official showed me a copy of my expired Syrian passport. I had provided them with this copy of my passport shortly after the Immigration Judge ordered my removal.
3. At this meeting, I requested an interpreter. The ICE official who met with me insisted that this was not necessary. He continued to demand my signature and used a sheet of paper to cover the contents of the form, except for my signature block.
4. After this, I was placed in "Bravo 6," which is a solitary confinement unit, for four days. I believe I previously stated that the solitary confinement occurred in July, but today, recalling the May 20, 2025 events, I am certain it was after this meeting with the ICE officer on May 20, 2025.
5. While in "Bravo 6" I was recorded with a camera.
6. I have never been presented with a visa or any indication of a flight to Syria.
7. I have never been taken to an airport or refused to board a plan.
8. I have not left the Eloy Detention Center a single time since I was detained in June of 2024.
9. I did sign a form presented to me by ICE on or about August 20, 2025. I signed that form because for the first time the officer briefly explained that its purpose was to help in obtaining travel documents to Syria.
10. On October 16, 2025, ICE officials met with me and asked if I spoke English. I informed them that Arabic is my preferred language. They said they would come back another day, and they have not returned since.
11. This was the first time they have asked for my best language.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my own personal knowledge. Executed this 21 day of October 2025 in Eloy, Arizona.

Dated: October 21, 2025

Respectfully,



Jalal Al Chair
Petitioner/Declarant