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

9 Frandy Joseph,

10 Petitioner,

11 vs.

12 David R. Rivas, Warden, et al.,

13 Respondents.
14

No.

**Motion for Limited Discovery in
Support of Petition for a Writ of Habeas
Corpus and Motion for a Preliminary
Injunction**

15 In his petition for a writ of habeas corpus, Mr. Joseph contends that his prolonged
16 detention by immigration officials pending an attempt to remove him to Haiti amounts to
17 unconstitutional indefinite detention, in violation of the Due Process Clause of the Fifth
18 Amendment as interpreted in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Under *Zadvydas*, an alien
19 who has been ordered removed from the United States may be detained only “during a period
20 reasonably necessary to bring about that alien’s removal from the United States.” *Id.* at 689.
21 After six months of post-removal-period detention, there arises a presumption that the detention
22 is unlawful; however, even after that six-month period, “an alien may be held in confinement
23 until it has been determined that there is no significant likelihood of removal in the reasonably
24 foreseeable future.” *Id.* at 701. Mr. Haiti contends that the Haitian Embassy will not issue travel
25 documents for him promptly (if at all), such that there is no likelihood of his removal in the
26 reasonably foreseeable future. Accordingly, his detention in respondents’ custody violates the
27 Fifth Amendment as interpreted in *Zadvydas*.
28

1 The allegations in the petition come from counsel's interview with Mr. Joseph and a
2 search for publicly available court records reflecting his immigration and criminal histories.
3 Owing to his current custody status, Mr. Joseph does not have access to documents that may
4 substantiate the allegations in the petition; as a result, many crucial facts in the petition are
5 alleged on information and belief. Respondents, however, are certain to have these documents in
6 their possession. Mr. Joseph respectfully asks the Court to provide those documents to his
7 counsel so that he may amend his petition as necessary.

8 Where "specific allegations before the court show reason to believe that the petitioner
9 may, if the facts are fully developed, be able to demonstrate that he is entitled to relief, it is the
10 duty of the court to provide the necessary facilities for an adequate inquiry." *Bracy v. Gramley*,
11 520 U.S. 899, 909 (1997) (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)). The facts as they
12 stand now are not fully developed, because the government presumably possesses information
13 that bears on whether Mr. Joseph's due process claims are likely to succeed. This information is
14 likely contained in Mr. Joseph's A-file, or in other files or databases maintained by the
15 Departments of Justice and Homeland Security, to which neither he nor his counsel have access.
16 The relevant documents include, but are not limited to, the following:

- 17 1. Mr. Joseph's entire A-file;
- 18 2. A transcript (or, failing that, a recording) of any and all hearings in Mr. Joseph's
19 case before the immigration courts that led to his being ordered removed from the
20 United States;
- 21 3. Any and all requests from ICE to any diplomatic representative of the Republic of
22 Haiti pertaining to travel documents that would "facilitate" Mr. Joseph's removal
23 to Haiti, and any responsive or related correspondence to or from those
24 diplomatic representatives pertaining to these requests for travel documents;
- 25 4. Any and all documents relating to the periodic custody reviews described in 8
26 C.F.R. § 241.4 for all periods of time that Mr. Joseph has been in ICE custody;
27 and
- 28 5. Any and all documents relating to any determination under 8 C.F.R. § 241.13 and
8 C.F.R. § 241.14, whenever made, regarding whether there is a significant
likelihood of removing Mr. Joseph in the reasonably foreseeable future.

1 Mr. Joseph respectfully asks the Court to order the government to furnish these
2 documents to his counsel by the close of business on Friday, October 24, 2025. Mr. Joseph has
3 good cause for the Court to allow discovery. *Cf. Bracy*, 520 U.S. at 909 (guarantee of success on
4 the merits of a habeas claim is not required for allowing discovery). The deportation officers who
5 have been and are now responsible for assisting Mr. Joseph in obtaining a passport or other travel
6 documents have likely been privy to information about efforts to obtain those documents have
7 been unsuccessful. Because Mr. Joseph has not been able to obtain travel documents after nearly
8 two years in ICE detention, further such efforts are likely to prove not to be fruitful.

9 In sum, the discovery Mr. Joseph is requesting may help him establish that there is no
10 reasonable likelihood of his removal in the foreseeable future. This Court should grant the
11 motion and order the government to provide the requested documents to Mr. Joseph and his
12 counsel.

13 A proposed order is being lodged herewith.

14 Respectfully submitted:

October 10, 2025.

15 JON M. SANDS
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