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

16 Ezra Huber,

17 Petitioner,

18 v.

19 David R. Rivas, et al.,

20 Respondents.

No. CV-25-03826-PHX-SMB (JZB)

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

21 Respondents David R. Rivas, Warden, San Luis Regional Detention Center;
22 Gregory J. Archambeault, San Diego Field Office Director, U.S. Immigration and Customs
23 Enforcement (ICE), Enforcement and Removal Operations; Kristi Noem, Secretary of
24 Homeland Security (DHS); and Pamela J. Bondi, Attorney General of the United States,
25 through undersigned counsel, respond to the Petition for Writ of Habeas Corpus. Doc. 1.
26 Petitioner Ezra Huber is subject to a final order of removal following a prison sentence
27 resulting from an assault with a firearm conviction. ICE is continuing to actively monitor
28 its pending travel document request with the Israeli Embassy and ICE will confirm another
flight for Petitioner's removal with the intent to imminently effectuate his removal once
travel documents are received. For these reasons, the habeas petition should be denied
because Petitioner's removal is significantly likely to occur within the reasonably

1 foreseeable future.

2 **I. FACTUAL AND PROCEDURAL BACKGROUND.**

3 Respondent reproduces below the facts contained in its Response filed in Opposition
4 to Petitioner's Request for a Temporary Restraining Order (TRO) and Preliminary
5 Injunction and attaches the same foundational exhibit as Exhibit A. Doc. 12. Respondent
6 also attaches a supplemental declaration from the same declarant with updated information
7 attached as Exhibit B.

8 Petitioner Ezra Huber (Petitioner) is a native and citizen of Israel. *See* Declaration
9 of Jose Ruiz, Deportation Officer (DO), attached as Exhibit A, at ¶ 4. Petitioner was
10 admitted to the United States on May 17, 2004, as a non-immigrant using a B-2 Visitor
11 visa with a duration of stay until November 17, 2004. *Id.* at ¶ 5. He remained in the United
12 States beyond November 17, 2004, without authorization. *Id.* at ¶ 6. Records indicate
13 Petitioner does not have any applications or petitions pending with United States
14 Citizenship and Immigration Services (USCIS) and he was not granted lawful permanent
15 resident status. *Id.* On September 10, 2024, Petitioner was convicted of Assault with a
16 Firearm in violation of California Penal Code Section 245(a)(2) in California Superior
17 Court. *Id.* at ¶ 7. He was sentenced to two years in prison. *Id.*

18 On February 25, 2025, Petitioner was released from California criminal custody and
19 booked into ICE custody in Bakersfield, CA. *Id.* at ¶ 8. He was transferred to the San Luis
20 Regional Detention Center in Arizona on July 17, 2025. *Id.* at ¶ 8. Petitioner was issued a
21 Notice to Appear on February 25, 2025, charging him as removable under Section
22 237(a)(1)(B) of the Immigration and Nationality Act (INA), in that after admission as a
23 nonimmigrant under Section 101(a)(115) of the Act, he had remained in the United States
24 for a longer time than permitted in violation of the Act. *Id.* at ¶ 9. On March 4, 2025, an
25 Immigration Judge ordered Petitioner removed to Israel. *Id.* at ¶ 10. Petitioner did not
26 appeal the removal order. *Id.* at ¶ 11. His removal order became administratively final on
27 April 3, 2025. *Id.*

28 Since submitting his original declaration, DO Jose Ruiz, who originally was under

1 the impression that the Israel Embassy had submitted travel documents for Petitioner,
2 determined afterwards that statement was made in error and that ICE Enforcement and
3 Removal Operations (ERO) had instead submitted a travel document request for Petitioner
4 on October 10, 2025.¹ See Supplemental Declaration of Jose Ruiz, Deportation Officer,
5 attached as Exhibit B, at ¶ 4. As such, Petitioner's removal flight that was originally
6 scheduled to occur this month, November 2025, was cancelled because the Israeli Embassy
7 had not yet issued travel documents. *Id.* at ¶ 6. ERO will continue to monitor the pending
8 travel document request with the Israeli Embassy. *Id.* at ¶ 7. Once the travel documents are
9 received, ERO will work on confirming another flight for Petitioner's removal with the
10 intent to effectuate his imminent removal. *Id.* at ¶ 8.

11 Respondents were served with the habeas petition on October 23, 2025, rendering
12 the 20-day responsive deadline as November 12, 2025. In his Petition and request for a
13 TRO, Petitioner claims that his detention violates his due process rights under the Fifth
14 Amendment, and argues, among other things, that Respondents have "been unable to
15 process travels documents to facilitate Mr. Huber's return to Israel while he has been
16 detained." Doc. 3 at 2. Respondents continue to assert Petitioner's removal is significantly
17 likely to occur within the reasonably foreseeable future based on recent developments, as
18 noted above. Respondents respond to the merits of the Petition below.

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21 ¹ For the Court's reference, the supplemental declaration references the following
22 information contained in Exhibit A: "ICE Enforcement and Removal Operations (ERO)
23 has worked on obtaining a travel document and flight itinerary for the Petitioner to be
24 removed to Israel. *Id.* at ¶ 12. In April 2025, Petitioner relayed to ERO that he was having
25 his Israeli passport sent to him from his family in Israel. *Id.* at ¶ 13. On or about May 6,
26 2025, Petitioner informed ERO that he did not have any travel documents, which caused
27 ERO to begin the process of requesting travel documents. *Id.* at ¶ 14. On October 10, 2025,
28 ERO obtained travel documents from the Israeli Embassy for the Petitioner. *Id.* at ¶ 15.
ERO then began the process of finding and booking a removal flight. *Id.* ERO served
Petitioner with a Notice of Imminent Removal on October 20, 2025. *Id.* at ¶ 17. He is
scheduled for imminent removal to Israel. *Id.*" See Doc. 13 at 1.

1 **II. ARGUMENT.**

2 **A. Standard Governing Detention of Aliens Ordered Removed.**

3 The detention, release, and removal of aliens subject to a final order of removal is
4 governed by § 241 of INA, 8 U.S.C. § 1231. Under the INA § 241(a), the Attorney General
5 has 90 days to remove an alien from the United States after an order of removal becomes
6 final. During this “removal period,” detention of the alien is mandatory. *Id.* After the 90-
7 day period, if the alien has not been removed and remains in the United States, his detention
8 may be continued, or he may be released under the supervision of the Attorney General.
9 INA § 241, 8 U.S.C. §§ 1231(a)(3) and (6). Under this section, ICE may detain an alien for
10 a “reasonable time” necessary to effectuate the alien’s deportation. INA § 241(a), 8 U.S.C.
11 § 1231(a). However, indefinite detention is not authorized. *Id.*

12 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court designated six
13 months as a presumptively reasonable period of time to allow the government to remove
14 an alien detained under 8 U.S.C. § 1231(a)(6), but an alien is not entitled to release after
15 six months detention. *Id.* at 701 (“This 6-month presumption, of course, *does not mean that*
16 *every alien not removed must be released after six months.* To the contrary, an alien may
17 be held in confinement until it has been determined that there is no significant likelihood
18 of removal in the reasonably foreseeable future.”) (emphasis added). The passage of time
19 alone is insufficient to establish that no substantial likelihood of removal exists in the
20 reasonably foreseeable future. *Lema v. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D. Wash.
21 2002). In *Lema*, where the petitioner had been detained for more than a year, the district
22 court held that the passage of time was only the first step in the analysis, and that the
23 petitioner must then provide good reason to believe that no significant likelihood of
24 removal exists in the reasonably foreseeable future. *Id.*

25 **B. Petitioner is Lawfully and Constitutionally Detained.**

26 Here, Petitioner became subject to a final order of removal on April 3, 2025, and
27 thus his detention, which is not prolonged, is governed by 8 U.S.C. § 1231(a)(6). *See*
28 *Zadvydas*, 533 U.S. at 688-89. Additionally, noting the six-month presumptively

1 reasonable period of detention as outlined under *Zadvydas*, Petitioner's length of detention
2 is only slightly over the six-month threshold. Furthermore, the Supreme Court clarified that
3 its holding in *Zadvydas* was concerned with detention that is "indefinite and potentially
4 permanent," and for aliens whose removal is "no longer practically attainable." *Demore v.*
5 *Kim*, 538 U.S. 510, 527-28 (2003) (internal quotations omitted). The mere fact that an
6 alien's detention "lacks a certain end date" does not render their detention unlawfully
7 indefinite. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008). As such,
8 Petitioner has failed to show that his detention violates his due process rights under the
9 Fifth Amendment because it is indefinite. Rather, Petitioner is lawfully and constitutionally
10 detained pursuant to a final order of removal and will be removed to Israel once travel
11 documents are received.

12 **C. Petitioner Has Not Met His Burden to Establish There Is No Significant**
13 **Likelihood of Removal in the Reasonably Foreseeable Future.**

14 *Zadvydas* places the burden on the alien to show, after a detention period of six
15 months, that there is "good reason to believe that there is no significant likelihood of
16 removal in the reasonably foreseeable future." 533 U.S. at 701. If the alien makes that
17 showing, only then does the burden shift to the Government to show that removal is
18 substantially likely in the reasonably foreseeable future. *Id.*

19 Petitioner has not met his burden. As noted in the Respondents' Opposition in
20 Response to Petitioner's Request for a TRO, Doc. 12, Petitioner's main claim is that ICE
21 has "been unable to process travels documents to facilitate Mr. Huber's return to Israel
22 while he has been detained." Doc. 3 at 2. Petitioner helpfully points out that ICE has done
23 more than be "unable to process travel documents," when he states that ICE "had paid the
24 Israeli Embassy the required fee for issuing Mr. Huber's passport." Doc. 1 at 4. This
25 statement demonstrates that the process is actively in motion, which comports with DO
26 Ruiz's supplemental declaration.

27 Even if Petitioner had met his burden of showing that his removal is not significantly
28 likely to occur within the reasonably foreseeable future, which he has not, the Government

1 refutes his assertions showing recent efforts aimed at effectuating the Petitioner's removal.
2 Respondents acknowledge that the request for travel documents remains pending, causing
3 Petitioner's removal flight scheduled this month to be cancelled, but notes that the request
4 was only submitted on October 10, 2025. Ex. B at ¶ 4. ERO will continue monitoring the
5 pending travel document request with the Israeli Embassy. *Id.* at ¶ 7. Once the travel
6 documents are received, ERO will confirm another flight to effectuate Petitioner's
7 imminent removal. *Id.* at ¶ 8. Based on past efforts demonstrating a quick turn-around in
8 scheduling a removal flight to Israel, *see e.g.*, Ex. A at ¶¶ 14-17, Respondents expect the
9 same to occur here once travel documents are received.

10 **III. CONCLUSION.**

11 For the reasons set forth in this Response, Respondents respectfully request this
12 Court deny the habeas petition and dismiss the case.

13 Respectfully submitted on November 12, 2025.

14 TIMOTHY COURCHAINE
15 United States Attorney
16 District of Arizona

17 /s/ Lindsey E. Gilman
18 LINDSEY E. GILMAN
19 Assistant United States Attorney
20 *Attorneys for Respondents*

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and mailed the attached to the following individuals who are not registered participants of the CM/ECF System:

Ezra Huber
San Luis Regional Detention Center
406 N. Avenue D
San Luis, Arizona 85349

s/ Lindsay Little
United States Attorney's Office