IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FIRAS HASSAN ALNABHANI,
Petitioner,

v.

JOSHUA JOHNSON, *et al.*,
Respondents.

Civil Action No. 3:25-CV-3034-G-BW

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Firas Hassan Alnabhani, a.k.a. Firas Saad Hassan, is subject to a final order of removal and currently is in immigration detention as the government attempts to execute his removal from the country. He seeks a writ of habeas corpus under a theory that he is a stateless Palestinian at risk of being removed to an "unknown third country," but as explained herein, his claims are meritless and his petition should be denied.

I. Background

A. Petitioner, an Iraqi citizen, comes to the United States on a student visa but is then ordered removed after failing to maintain student status.

Petitioner is—according to his own notarized-and-sworn statement previously tendered in immigration court, and contrary to what he now represents in his petition in this Court—a "native and citizen of Iraq." (App. 019.) He entered the United States in 2012 on a student visa. (App. 002, 019.) After he failed to maintain student status (allegedly due to an error by the school, he says), he was placed in removal proceedings in 2013. (App. 002.)

The notice to appear that commenced removal proceedings was personally served on Petitioner in 2013, and Petitioner was not thereafter kept in custody but rather was released on his own recognizance with certain conditions, including for periodic check-ins. (App. 002, 005–07.) In October 2013, Petitioner failed to appear at one such check-in required by his order of release. (App. 002.)

Petitioner was scheduled for a hearing in immigration court at 1:00 p.m. on April 2, 2014, but he did not show up. (App. 002, 040.) He was ordered removed to Iraq, *in absentia*, by an order signed that same day. (App. 008.)

B. Petitioner's attempt to reopen his removal proceedings is denied.

On May 21, 2014, Petitioner filed a motion to reopen his removal proceedings. (App. 010.) In this motion, Petitioner claimed that he had been in a car accident four days before the removal hearing, had been required to take "sleeping pills" at approximately 5:00 a.m. on the day of hearing, and did not wake up in time for the hearing (instead sleeping until 7:00 p.m.). (App. 012–13, *see also* App. 020.) Explaining that he had a plan to attempt to reinstate his student visa and that he was married to a lawful permanent resident, Petitioner asserted that he "has many ways to stay in the United States lawfully if his case is re-opened." (App. 013.) Notably, though, Petitioner did not assert that he would be harmed by being required to return to Iraq; instead, the motion stated only that if he were to "return to Iraq," it would be "difficult to get him back" to the United States, and that his "wife . . . cannot return to Iraq with him." (App. 014.)

The immigration court denied Petitioner's motion to reopen, with an explanation

that Petitioner's account of having taken "what can only be construed as very strong sleeping pills" (since they purportedly caused him to sleep approximately 14 hours, from 5:00 a.m. to 7:00 p.m.) failed to rise to the level of exceptional circumstances justifying reopening the proceedings under the relevant law. (App. 040.) The immigration court noted that Petitioner had "failed to submit any evidence regarding his car accident, medical records, or copies of his prescription in support of his claims." (App. 040.) The immigration court also cited a similar Board of Immigration Appeals decision in which the Board held that an alien's "failure to appear 'because he had overslept due to the strong pain medication he had been taking at the time to alleviate back pain as a result of injuries he sustained in a car accident' was not an 'exceptional circumstance" as defined by the [Immigration and Nationality] Act." (App. 040–41 (quoting *Matter of Zelaya*, 2006 WL 3088743 (BIA Sept. 15, 2006)).)

C. Petitioner's attempt to obtain lawful status in the United States through his wife is denied.

Petitioner did not leave the United States after he was ordered removed and his motion to reopen was denied, but apparently stayed in the country illegally. A few years later, in 2016, his wife filed an I-130 petition with U.S. Citizenship and Immigration Services (USCIS), seeking approval to sponsor Petitioner for a visa. (App. 003.) This petition was approved, meaning not that Petitioner was granted some immigration benefit, but merely that he was then allowed to file his own I-485 application to request adjustment of status to allow residency in the United States, with his wife as his sponsor. (App. 003.) This application, however, was denied by USCIS in 2021. (App. 003.)

D. Petitioner is detained after being arrested by state authorities, and files this habeas petition.

More recently, Petitioner was encountered by immigration authorities in a county jail after he had been arrested on a misdemeanor deadly conduct charge. (App. 003.) He was apparently acquitted at trial in county court, but was then taken into custody by U.S. Immigration and Customs Enforcement (ICE) for purposes of attempting to effectuate his removal. (App. 003.) In his habeas petition, Petitioner asserts that he is a "stateless Palestinian refugee" and that he allegedly is at risk of being "unlawfully remov[ed] . . . to a third country." (Doc. 1, ¶¶ 7, 11.) He seeks habeas relief under four seemingly overlapping counts by which he alleges that (1) he has not had the opportunity to have "claims for mandatory protection against removal to a third country" heard; (2) the Suspension Clause requires that "the federal courts have an opportunity for meaningful review of [his] claims against removal"; (3) substantive due process is violated by ICE's alleged plan to remove him to an "unknown third country"; and (4) he should be released on bail pending a "determination of the merits" because his case allegedly presents extraordinary circumstances. (Doc. 1, ¶¶ 38, 49, 55, 63.)

II. Argument and Authorities

Petitioner is not entitled to any relief in this action and his habeas petition should be denied in its entirety. Petitioner's claims by and large rest on the twin assertions that (1) he is purportedly a stateless Palestinian, and therefore (2) he is at imminent risk of being sent to some "unknown third country" without any due process or otherwise in violation of his rights. (*See* Doc. 1, ¶ 11.) But neither assertion is correct, and therefore

Petitioner's claims that are built on this flawed foundation cannot succeed.

First, Petitioner is—by his own admission in a sworn statement previously provided to the government in immigration court at a time when Petitioner was represented by counsel—not a stateless Palestinian, but rather a "native and citizen and Iraq." (App. 019.) Petitioner personally signed a notarized affidavit attesting to this, as shown here:

AFFIDAVIT OF FACT OF FIRAS SAAD HASSAN

County of Denton §
§
State of Texas §

BEFORE ME, the undersigned authority, on this day personally appeared, Firas Saad Hassan, and upon his oath being by me sworn stated the following:

1. My name is Firas Saad Hassan. I am a native and citizen of Iraq. I came to the United States on a student visa and have been attending school since arriving. I am married to Marwah Imad Ahmed who is a permanent resident of the United States.

* * * *

[signature] Firas Saad Hassan

05-16-14
Date

Sworn to and subscribed before me on this 16 day of May, 2014.

ISELA TRENADO
Notary Public, State of Texas
My Commission Expires
February 25, 2018

Isela Trenado
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My commission expires: February 25, 2018

(App. 019, 020 (highlighting added).)

Nor was this some idle or stray statement. Petitioner was represented by counsel at the time he gave that sworn statement, and Petitioner's counsel also expressly represented in a pleading filed in immigration court that Petitioner "is a native and citizen

of Iraq," as shown here:

> MOTION TO REOPEN AN IN ABSENTIA ORDER
>
> COMES NOW, Respondent Firas Hassan, by and through his attorney of record Nathan Christensen, and respectfully moves the Immigration Judge to reopen the present proceedings.
>
> FACTS
>
> 1. The Respondent is a native and citizen of Iraq. He came to the United States on a student

(App. 012.) Similarly, in an I-539 application to extend/change nonimmigrant status that Petitioner submitted (apparently as part of his attempt to reinstate his student status), Petitioner listed "Iraq" in the "Country of Citizenship" box, as shown here:

> Country of Citizenship
> Iraq

(App. 029.)

Petitioner has also long been aware of the government's understanding that he is an Iraqi citizen: in the notice to appear that was served on Petitioner in 2013 to place him in removal proceedings, the government specifically alleged that "You are a citizen of Iraq and national of Iraq." (App. 005.) Yet Petitioner seems to have never previously claimed not to be an Iraqi citizen, and he even affirmatively represented that he was an Iraqi citizen multiple times, as noted above.

Indeed, this pattern continued even after Petitioner was in fact ordered removed to Iraq. When Petitioner filed his motion to reopen the removal proceedings in an attempt to undo the order of removal, one would have expected to see some protest that Petitioner was not an Iraqi and that removal there would be improper, if that were in fact the case. But Petitioner made no such argument. To the contrary, his motion to reopen expressed

no apprehension whatsoever about returning to Iraq—his only complaints were that "[i]f he is forced to return to Iraq . . . , it will be difficult to get him back" to the United States, and that if sent to Iraq, "[h]is wife . . . cannot return to Iraq with him." (App. 014; *see also* App. 020 (statement in Petitioner's affidavit that if "forced to go back to Iraq . . . my attorney says it could be hard for me to come back as I will need a waiver").) These are not the kind of complaints that would have been lodged by a non-Iraqi alien who had somehow been ordered removed to Iraq by mistake or under some mistaken impression by the government about the alien's true citizenship otherwise.

To sum up, Petitioner's newfound claim, in this proceeding, to be a stateless Palestinian is not supported by the record and is not consistent with his own past representations to the government. Petitioner is, as he has already affirmed in a sworn statement submitted to the immigration court and confirmed elsewhere, a "native and citizen of Iraq." (App. 019; *see also* App. 012, 029.)

Second, Petitioner's arguments that he is at risk of being improperly removed to some "unknown third country" are also not supported by the record and appear to stem from his (flawed) claim to be a stateless Palestinian—such that removal to *any* country would presumably then be to a "third country." But in any event, ICE is attempting to remove Petitioner to his home country of Iraq, not to any "unknown third country." (App. 003–04.) And Iraq is the country of removal named in Petitioner's order of removal. (App. 008.) Moreover, as noted above, Petitioner has never claimed that Iraq would somehow be an improper removal destination, and instead he explained in his motion to reopen that his desire not to return to Iraq was based on the facts that (1) his

wife was apparently unwilling to accompany him there, (App. 014), and (2) he was told by his attorney that it would be difficult to come back to the United States once in Iraq, because he would need a waiver, (App. 014, 020). These types of concerns do not provide the grounds for any legal relief in the nature of asylum or withholding of removal so as to foreclose Petitioner's removal to Iraq or entitle him to remain in the country.

Furthermore, even if it were to become necessary at some point to explore options to remove Petitioner to a country other than Iraq, this would not be improper and instead is expressly contemplated by statute. *See* 8 U.S.C. § 1231(b)(1)(C)(iv), (2)(E); *see also* App. 003–04 (explaining that "if DHS is unable to effectuate Petitioner's removal to Iraq within a reasonable time, then DHS will investigate potential third country removal options in accordance with law," but that "[i]n no event will DHS remove Petitioner to a country where Petitioner's life or freedom would be threatened as defined by law, such determinations being made in accordance with law"). At this time, though, Petitioner fails to show any risk of a third-country removal and thus lacks standing for any such challenge. *See Nguyen v. Noem*, 797 F. Supp. 3d 651, 671 (N.D. Tex. 2025) ("The Court thus concludes that there is presently no risk that Nguyen will be removed to a country other than Vietnam, and Nguyen therefore lacks standing to bring such a challenge.").

* * * * *

With Petitioner's assertions of being a stateless Palestinian and allegedly at imminent risk of removal to an "unknown third country" shown to be faulty for the reasons outlined above, his habeas claims collapse and are likewise meritless.

For example, count one of the petition is expressly premised on an alleged need

for "protection against removal to a third country." (*See* Doc. 1, ¶ 38.) As discussed above, though, Petitioner's third-country-removal theory is unsupported and legally baseless, and thus provides no grounds for relief.

Count two is somewhat vaguer in nature but avers that the Suspension Clause requires "that the federal courts have an opportunity for meaningful review of [Petitioner's] claims for relief against removal" in light of allegedly changed circumstances and unspecified "grave risks." (Doc. 1, ¶¶ 49, 50.) But these alleged circumstances or risks are not clearly articulated, nor are they supported by the record. As noted above, Petitioner is an Iraqi citizen, he was ordered removed to Iraq, and the government is attempting to effectuate that removal. Petitioner also had the opportunity to obtain judicial review of any order of removal and of any possible defenses against removal, but he failed to appear for his removal hearing and did not take the necessary steps to pursue such relief in court. The Suspension Clause is in no way implicated by, much less violated by, this state of affairs.

Count three asserts a substantive due process right to be free of imprisonment. But Petitioner is subject to a final order of removal and a federal statute expressly authorizes—and in fact mandates—that the government detain removable aliens such as Petitioner while attempting to effectuate their removals. *See* 8 U.S.C. § 1231. It is also abundantly clear that the Constitution does not prohibit the detention of an alien in these circumstances. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). And here, Petitioner has a record of not appearing for things like mandatory check-ins or court appearances. (App. 002.) So even if it were not the rule that the government has the right to detain *any* alien

who is subject to a final order of removal for purposes of attempting to remove the alien, it would still be the case that the government has a legitimate interest in detaining Petitioner in particular, so as to ensure that he is available to be removed if and when the government is able to execute his removal order.

Finally, count four asserts that Petitioner is entitled to be released on bail "pending determination of the merits" and that his "confinement prevents him from adequately litigating his prime facie eligibility for adjustment of status." (Doc. 1, ¶¶ 63, 65.) But Petitioner identifies no statute entitling him to be released on bail while he is in post-final-order-of-removal detention pending the government's efforts to effectuate his removal. And it is unclear what "merits" determination he is awaiting that he needs to be released for, or what he means by the alleged need to litigate his adjustment-of-status request. Immigration detainees not infrequently turn to the federal courts to attempt to obtain a bond hearing in immigration court pending administration adjudication of their removal proceedings. *See, e.g.*, *P.B. v. Bergami*, No. 3:25-CV-2978-O, 2025 WL 3632752, at *1 (N.D. Tex. Dec. 13, 2025) (entertaining, but ultimately denying such a claim). But Petitioner is not in this situation—his removal proceedings have long since concluded. (*See* App. 008, 039–41.) And likewise, Petitioner's request for an adjustment of status was denied by USCIS back in 2021. (App. 003.) No basis for a release on bail is shown.

III. Conclusion

The petition for writ of habeas corpus should be denied.

Respectfully submitted,

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Certificate of Service

On December 18, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Brian W. Stoltz
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