UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Osamah Mohammad Yacoub Petitioner, v. Kristi Noem Secretary, U.S. Department of Homeland Security et al.	Cause No 4:25-cv-5639

RESPONSE IN OPPOSITION TO FEDERAL DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT

The Petitioner files the foregoing Response to the Federal Respondents' Motion for Summary Judgement. (*Dkt 5*)

I. NATURE OF PROCEEDINGS

Petitioner Osamah Mohammed Yacoub (A[redacted] through counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2241, challenging the legality of his continued detention by Immigration and Customs Enforcement ("ICE"). Petitioner is a stateless national of Palestine who has resided in the United States since 1996. The immigration court concluded his removal proceeding in 2005

and Respondents have been unable to effectuate the removal since that date. Petitioner has been in custody, constructive or physical, since his final order of removal. Petitioner began reporting on an Order of Supervision "OSUP" in 2006. In June of 2025, Petitioner's manner of custody was arbitrarily changed from constructive to physical. Accordingly, the Petitioner is left with no recourse but to file this a writ of habeas corpus and seek his release from physical custody.

II. JURISDICTION

This Court has jurisdiction to hear this case under *28 U.S.C. § 2241* and *28 U.S.C. § 1331*, Federal Question Jurisdiction, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to *28 U.S.C. § 2241*, and the *All Writs Act, 28 U.S.C. § 1651.*

III. FACTS

Petitioner is a stateless national of Palestine who first entered the United States in 1996. Petitioner was placed in removal proceedings in which the immigration judge ordered his removal on July 13, 2005. (*Dkt. 1-2 EOIR Case Tracker*) On March 14, 2006, the Petitioner was issued form I-220b Order of Supervision "OSUP" by DHS and was required to regularly report. (*Dkt. 1-3 OSUP*). On June 19, 2025, the Petitioner was taken into custody by DHS.

No reason was provided for his re-detention or change of circumstances. The Petitioner had not violated the conditions of his OSUP or been arrested or charged with any violation or state, federal or immigration law. On September 19, 2025, ICE held a custody review for the Petitioner and decided to continue his detention. (*Dkt. 1-4 Custody Redetermination*)

IV. ARGUMENT

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that post-removal-order detention is limited to six months, and continued detention is only lawful if removal is reasonably foreseeable.

i. The Manner in which the Respondents Changed Custodial Status of the Petitioner, from Constructive Custody to Physical Custody Violated Federal Regulations and the Petitioners Due Process Under 8 C.F.R. § 241.

The Supreme Court recently weighed in on the revoking of conditional release on OSUP. In *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025), Justice Sotomayer stated that in order to revoke conditional release under 8 C.F.R. § 241, "the [g]overnment must provide adequate notice and 'promptly' arrange an 'initial informal interview . . . to afford the [noncitizen] an opportunity to respond to the reasons for the revocation stated in the notification." It is in this light that the Government violated the Petitioner's due process rights. Here, Petitioner has faithfully reported to his order of supervision, for eleven years. (*Dkt. 1-4, 1-5 OSUP*) There is no change in

circumstances regarding the Petitioner's matter; he is not a flight risk, and there is no significant likelihood of removal of the Petitioner in the foreseeable future. There are no allegations of changed circumstances that are even alleged by the Government. The Government only asserts a change in presidential policy. (*Dkt. 5-1 at ¶ 45*). In fact, the Federal Respondents' declaration actually provides credence to the Petition's position that he has not violated his OSUP, there is no change in circumstances that necessitate re-detention and that they have no actual ability to remove the Petitioner in the foreseeable future. (*Id.*)

Recent case law in identical Habeas Petitions have favored the Petitioner in matters of re-detention following many years of OSUP reporting where ICE failed to provide adequate notice of changed circumstances and a significant likelihood that removal is reasonable in the foreseeable future. *See Van Nguyen v. Hyde* No. 25-cv-11470, 2025 U.S. Dist. LEXIS 117495, 2025 WL 1725791 (D. Mass. June 20, 2025), *Escalante v. Noem* 9:25-cv-00182 MJT 2025 U.S. Dist. LEXIS 148899 *; 2025 LX 363146; (E.D. Tex. August 2, 2025), *Roble v Bondi*, No. 25-cv-3196 (LMP/LIB) 2025 U.S. Dist. LEXIS 164108 (D. Minn August 25, 2025), *Sarail A. v. Bondi* No 25-cv-2144 (ECT/JFD) 2025 U.S. Dist. LEXIS 171005 (D. Minn. September 3, 2025), *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025), *Abuelhawa v. Noem et al*, 4:25-cv-04128 (S.D. Tex. Oct. 17. 2025), *Salgar v. Noem*, 4:25-cv-04797 (S.D. Tex. Nov. 14, 2025), *Ahmed v Tate*, 4:25-cv-05639 (S.D. Tex. Dec. 15, 2025)

On October 17, 2025, the Southern District of Texas issued a decision granting a Petition for Habeas Corpus for a very similar factual scenario as the Petitioner. *See Abuelhawa v. Noem et al*, 4:25-cv-04128 (S.D. Tex. Oct. 17. 2025) Judge Eskridge cited the same Federal District Court decisions noted above by the Petitioner. Specifically, *Abuelhawa* states:

> A number of recently decided cases applying §241.13(i)(2) are in accord that, upon revocation of release, the Government bears the burden to show a significant likelihood that the alien may be removed in the reasonably foreseeable future. *See Escalante v. Noem*, 2025 WL 2206113 at *3; *Balouch v. Bondi*, 2025 WL 2871914, *2 (ED Tex); *Roble v Bondi.*, 2025 WL 2443453, *4 (D Minn); *Van Nguyen v. Hyde*, 2025 WL 1725791, *3 (D Mass). *Abdelhawa* at 16.

Judge Eskridge noted that the declarations submitted by the Government in Abuelhawa, like the declaration submitted in the instant matter, "baldly" state that there is a significant likelihood of removal but lack any explanation of what the change in circumstance is. This evidences a lack of compliance with 8 C.F.R. § 241.13(i)(2). *Id* at 16.

Further, *Abdelhawa* explains the due process rights owed to a re-detained alien by DHS. *Id* at 18-19. The Respondents, at minimum, owed the Petitioner an informal interview with explanation of the reasons for re-detention and the ability to respond under 8 C.F.R. § 241.13. It is clear from the record that this never happened. (*See Dkt. 5-1 Declaration of Deportation Officer George Maple Jr.*)(*See also Petitioner's Declaration*). The Declaration provides no evidence of changed circumstances that would necessitate re-detention or even

an explanation why the Government believes removal is imminent in the foreseeable future. The Defendants do not have a passport or travel document in which they can remove the Petitioner with, nor did they even bother to apply for one prior to his re-detention. With the Government being unsuccessful in removing the Petitioner for years their ability to now remove him is highly speculative. The Declaration evidences clear violations of 8 C.F.R. § 241.13 and the Petitioner's due process rights.

Similarly, Judge Bennett in *Salgar v. Noem*, 4:25-cv-04797 (S.D. Tex. Nov. 14, 2025) found for the Petitioner in a very similar habeas matter. He stated:

> Under the governing regulations, an Order of Supervision may be revoked if the noncitizen violates its conditions. See 8 C.F.R. §§ 241.4(1)(1), (1)(2)(ii). In addition, an Order of Supervision may be revoked when it is appropriate to enforce a removal order or when "(t]he conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. §§ 24 1 .4(1)(2)(iii), (1)(2)(iv). ... Upon revocation, the noncitizen must "be notified of the reasons for revocation of his or her release" and must be afforded a prompt "initial informal interview" to allow the noncitizen an opportunity to respond to and contest the reasons for revocation. 8 C.F.R. § 241.4(1)(1). These procedures and safeguards provide protection "where the detention or re-detention of noncitizens is necessarily an action that results in the loss of personal liberty that requires due process protections," *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025)...
>
> Respondents do not allege, nor have they provided any evidence to demonstrate, that ICE complied with the required procedural safeguards... Absent any evidence that Petitioner's Order of Supervision was revoked for a legally permissible reason by an official with proper authority, Respondents have not shown that they afforded Petitioner with

> due process in connection with the purported revocation of his Order of Supervision... Here, the record is clear that ICE violated its own regulations by failing to have an authorized official make the revocation decision, failing to provide Petitioner with notification of the reasons for his re-detention, and failing to provide Petitioner with an informal interview. ICE's failure to follow the procedural requirements for revoking Petitioner's Order of Supervision renders Petitioner's detention unlawful. Accordingly, the Court grants the Petition for Writ of Habeas Corpus and orders Petitioner's immediate release

The recent decisions in *Abuelhawa* and *Salgar* are incredibly instructive as they detail the evidence the Government must put forward to establish changed circumstances. Like *Abuelhawa* and *Salgar,* the Government in the Petitioner's matter has not provided an iota of evidence of changed circumstances nor their ability to actually remove the Petitioner. The Declaration by Officer Daniel Sheehan, makes it clear that a passport or suitable travel document was not even requested from the Petitioner's home country prior to his re-detention. (*Dkt 5-1*)(*See also Ex 1 Petitioner Declaration*) The Petitioner cannot be returned home, even assuming removal was possible, without a passport or travel document. No evidence, not even a statement, was provided that a passport or like travel document was obtained or even requested from the Consulate prior to re-detention. [1] The declaration is also absent of any explanation of the procedural safeguards for alien detainees in 8 CFR 241.13. No evidence of an informal interview explaining why the Government revoked

[1] Mention of Jordanian and Israeli removals are not persuasive as removal of Palestinian individuals presents and entirely different set of problems in regard to statelessness. The affidavit does not address this issue.

the Petitioner's OSUP was provided nor was the Petitioner afforded the ability to rebut the Government's reasoning for re-detention and revocation, in violation of 8 CFR 241.13(i). With all the above considered the re-detention of the Petitioner and revocation of his OSUP is unlawful and in violations of Federal Regulations and his Due Process Rights.

ii. Re-detention of the Petitioner is Unlawful as Removal is Not Imminent in the Reasonably Foreseeable Future

The Federal Respondents response to the Petition for Writ of Habeas Corpus almost entirely rests on their belief that 1) the Petitioner is Jordanian and 2) the County of Jordan is accepting repatriation of its own nationals. The fatal flaw in the Federal Respondents argument is simple; the Petitioner is not a Jordanian National or Citizen. As mentioned, the Petitioner is Palestinian and has never been a citizen of national of Jordan. The Petitioner was born in Jerusalem and bears are birth certificate issued by the Kingdom of Jordan and previously held a two year travel document issued also by the Kingdom of Jordan. (*Ex 2 Petitioner's Birth Certificate, Ex 3 Petitioner's Jordanian Travel Document*) Neither of these documents however make him and citizen or national of Jordan. To understand this aspect of the Petitioners' history a deeper dive into the geopolitics of the regions must be undertaken.

A. Jordanian Occupation of Jerusalem and the West Bank

Following World War II, the British divided portions of what is now modern

day Israel and Palestine. The divisions and creation of a Jewish state lead to decades of occupation and military operations. During the 1948 Arab–Israeli War that followed the end of the British Mandate of Palestine and the declaration of the State of Israel, Jordan's Arab Legion advanced into the territory west of the Jordan River that had been allocated to an Arab state under the 1947 UN Partition Plan. [2]Jordanian forces took control of East Jerusalem, including the Old City and its holy sites, as well as much of the territory that became known as the West Bank. The military occupation was largely completed by the end of hostilities, and these positions were subsequently reflected in armistice lines. [3]

On April, 3 1949, Jordan signed an armistice agreement with Israel that established ceasefire boundaries. These lines delineated Jordanian-controlled territory from Israeli-controlled territory — essentially legitimizing the battlefield control Jordan had gained, including East Jerusalem and the West Bank. (id)

On April 24, 1950, the Jordanian Parliament adopted a resolution formally annexing East Jerusalem and the West Bank to the Hashemite Kingdom of Jordan. The official reasoning invoked the "national, geographic, and demographic unity" of the two banks of the Jordan River and affirmed full

[2] www.justice.gov/sites/default/files/eoir/legacy/2013/12/04/JOR37694-Stateless%20Palestinians.pdf
[3] Human Rights Watch 2010, Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality, February.

constitutional and legal union under the Jordanian state. Under this decision:

1) Palestinians in East Jerusalem and the West Bank were granted Jordanian citizenship and representation in the Jordanian Parliament.
2) Jordan administered the territory as an integral part of the kingdom.

The territory under Jordan's rule was governed as part of the state's administrative structure — not merely as a military occupation — and many local institutions were integrated into the Jordanian system.

In June 1967, during the Six-Day War, Israel fought against Egypt, Syria, and Jordan. Israel captured the West Bank and East Jerusalem from Jordanian control. From June 7, 1967, the territory came under Israeli military occupation, ending Jordan's direct governance and administrative control. Israel's military government assumed civil, legislative, and executive authority in the former Jordanian-administered areas. While Israel took control over Jerusalem and the West Bank in 1967 the Kingdom of Jordan continued to provide administration in civil affairs for Palestinians (issuance of travel documents, marriage documents, birth and death certificates.) After 1967, Jordan created a Ministry of Occupied Territories. (Id)

The Petitioner was born in Israeli controlled Jerusalem in 1969 therefore, as a Palestinian, his birth certificate was issued by the Kingdom of Jordan despite his birth in Israeli occupied territory. The issuance of this birth certificate alone did not make the Petitioner a national or a citizen of Jordan.

[4]The Kingdom of Jordan merely were the administrators of civils documents to Palestinians living in Israeli occupied Jerusalem and the West Bank due the Israeli disparate treatment of Palestinians.

In 1988, Jordan formally disengaged from the West Bank. As a result Jordan withdrew nationality from most West Bank Palestinians. Palestinians were thereafter considered Palestinians, not Jordanians, under Jordanian law. However, Jordan continued issuing civil documents, including: Birth certificates Family books (daftar al-'ā'ila), and travel documents referred to as temporary or two-year passports. The two-year passport is not considered evidence of nationality or citizenship in Jordan.[5]

In the Petitioner's matter he entered the country of Jordan through a temporary bridge crossing permit and applied for a temporary travel document. (*See Declaration and Jordanian Border Crossing Permit*) The Petitioner would not need a border permit if he was a national or citizen of Jordan. He received this special permit because he was a stateless Palestinian and he need to apply for a civil document in which Jordan was the only country offering civil documents to Palestinians born at the Petitioners place of birth and era. It is therefore clear, that due the Petitioner not being a national or citizen of Jordan any attempts by the Government to apply for a travel document from this

[4] Human Rights Watch 2010, Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality, February.
[5] Human Rights Watch 2010, Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality, February.

country would be futile making his removal from the United States not imminent in the reasonably foreseeable future.

V. CONCLUSION

For the foregoing reasons, the Petition for Writ of Habeas Corpus should be granted.

December 15, 2025

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CERTIFICATE OF SERVICE

I certify that on December 15, 2025, the foregoing document was filed with the Court through the Court CM/ECF system on all parties and counsel registered with the Court CM/ECF.

Dated this 9th day of December 2025.

/s/ Javier Rivera
Javier Rivera