

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 25-CV-25618-BLOOM

**MOHAMMAD ABDELRAHMAN
SAMHAN,**

Petitioner,

v.

**KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security, et al.,**

Respondents.

**RESPONDENTS' RETURN IN RESPONSE TO VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE RELIEF**

Respondents, by and through the undersigned Assistant United States Attorney, submit the following return in response to the Verified Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief [DE 1] (Petition); and, herein, seek denial of the same.

The Petition is an impermissible shotgun pleading and should be dismissed on that basis alone. To the extent the Court permits the violative pleading to proceed, 8 U.S.C. § 1252(g) precludes jurisdiction to the extent Petitioner, Mohammad Abdelrahman Samhan (Petitioner), seeks to challenge any decision or action to execute Petitioner's removal order. Should the violative proceeding be permitted to proceed and the Court finds jurisdiction to entertain the Petition, the relief sought, namely immediate relief, is improper. The heart of Petitioner's claim appears to be that his detention is unlawful because his order of supervised release was unlawfully revoked. Petitioner admits he is subject to a final order of removal. Petitioner's order of supervise released was revoked to enforce his final order of removal in accordance with 8 C.F.R. 241.4(l)(2). Petitioner fails to state a claim.

FACTUAL BACKGROUND

The Petitioner was born in Jordan. Declaration of Supervisory Detention and Deportation Officer James R. Gamo ¶5 (attached as Exhibit 1). On or about September 20, 1986, Petitioner entered the United States without inspection at Miami, Florida. *Id.* ¶6.

On August 3, 1992, Petitioner was convicted of food stamp fraud in Miami Dade County, Florida (*State of Florida v. Mohammad A. Samhan*, Case No. 90-37692B). *Id.* ¶7. He was sentenced to probation for six months and ordered to pay restitution. *Id.*

On August 22, 1992, Petitioner's immigration status was adjusted to that of a lawful permanent resident of the United States as of August 22, 1991. *Id.* ¶8.

On June 7, 2002, Petitioner was convicted of three counts of knowingly and intentionally possessing and distributing pseudoephedrine in violation of 21 U.S.C. § 841(d)(2) (*United States v. Mohammed Samhan*, Case Number 00-CR-06211-014 (S.D. Fla. August 2000)). *Id.* ¶9. On June 07, 2002, he was sentenced to imprisonment for 78 months on each count to be served concurrently, followed by supervised release for 36 months, and a \$ 10,000 fine. Petitioner appealed the conviction. *Id.*

On August 15, 2002, Petitioner was encountered at the Federal Detention Center located in Miami, Florida by the Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) where he was serving his sentence. *Id.* ¶10. Petitioner was placed in removal proceedings by the issuance of a Notice to Appear (NTA) charging Petitioner with removability under INA § 237(a)(2)(A)(iii) (8 U.S.C. § 1227(a)(2)(A)(iii)), as an aggravated felon, and § 237(a)(2)(B)(i) (8 U.S.C. § 1227(a)(2)(B)(i)), as having been convicted of a crime relating to a controlled substance violation. *Id.*

After the initiation of removal proceedings, Petitioner's appeal of his federal drug conviction resulted in Petitioner's plea to one count of knowingly and intentionally possessing and distributing pseudoephedrine in violation of 21 U.S.C. § 841(d)(2) on February 1, 2005. *Id.* ¶11. He was re-sentenced to 364 days of imprisonment and 3 years of supervised release. *Id.* The allegations on the NTA were amended to reflect the updated conviction. *Id.* ¶12. Based on the admissions and evidence provided to the immigration judge, the immigration judge sustained allegation contained in the NTA and determined Petitioner was removable as to both charges of removability contained in the NTA. *Id.* On December 12, 2005, the immigration judge denied Petitioner's applications for relief from removal and ordered Petitioner removed to Jordan or Israel (Occupied Territories) in the alternative. *Id.*

On April 10, 2006, ICE ERO released Petitioner with a Form I-220B, Order of Supervision (OSUP). *Id.* ¶13. Petitioner remained on OSUP for two years before being placed in the Enhanced Supervision Program. *Id.* On December 14, 2009, Petitioner was placed in the Intensive Supervision Appearance Program (ISAP) until July 21, 2010. *Id.*

On July 21, 2010, Petitioner was encountered by ICE after he was arrested in Miami-Dade County, Florida for 39 felony counts and 7 misdemeanor counts relating to white collar crime, racketeering, and sales tax evasion (*State of Florida vs. Mohammad Abdel Samhan*, Case No. F10021152C). *Id.* ¶14.

On September 24, 2010, ICE re-released Petitioner on OSUP. *Id.* ¶15. On or about February 01, 2012, all charges pending by the State of Florida relating to Case No. F10021152C were dismissed against Petitioner after he completed a pretrial diversion program. *Id.*

On November 20, 2025, Petitioner reported to ERO for his scheduled OSUP appointment. Petition ¶25. On the same day, ICE ERO detained Petitioner and served him a Notice of Revocation of Release, signed by the Assistant Field Office Director and advising Petitioner that ICE detained him to affect his removal from the United States. Gamboa Dec. ¶16. Petitioner was informed that his OSUP was revoked to affect his removal from the United States and was provided an opportunity to ask questions regarding the revocation of release. *Id.* Petitioner is currently in ICE custody at Krome North Service Center (Krome) awaiting removal from the United States. *Id.* ¶17.

ANALYSIS

I. The Petition is an impermissible shotgun pleading.

In the Eleventh Circuit, pleadings that violate Rules 8(a) and 10(b) of the Federal Rules of Civil Procedure are known as shotgun pleadings. *See, e.g., Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1320 (11th Cir. 2015). The Eleventh Circuit “has addressed the topic of shotgun pleadings on numerous occasions in the past, often at great length and always with great dismay.” *Strategic Income Fund, LLC v. Spear, Leeds & Kellogg Corp.*, 305 F.3d 1293, 1295 n.9 (11th Cir. 2002). Throughout its analysis, the Eleventh Circuit has expressly and repeatedly condemned shotgun pleadings. *See, e.g., Joseph v. Bernstein*, 612 F. App'x 551, 555 (11th Cir. 2015) (“Shotgun-style pleadings have been ‘explicitly condemned’ by this court.”) (citing *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 979 n. 54 (11th Cir.2008)); *Kabbaj v. Obama*, 568 F. App'x 875, 879 (11th Cir. 2014) (“This Court has repeatedly condemned shotgun pleadings.”); *Magluta v. Samples*, 256 F.3d 1282, 1284 (11th Cir. 2001) (“The complaint is a quintessential ‘shotgun’ pleading of the kind we have condemned repeatedly”). Moreover, the

Eleventh Circuit has “repeatedly held that a District Court retains authority to dismiss a shotgun pleading on that basis alone.” *Jackson v. Bank of America*, 898 F.3d 1348, 1357 (11th Cir. 2018) (citing *Weiland*, 792 F.3d at 1320); *see also McDonough v. City of Homestead*, No. 17-23227-CIV, 2018 WL 11250006, at *1 (S.D. Fla. June 5, 2018), *aff’d*, 771 F. App’x 952 (11th Cir. 2019) (“A court has the discretion to dismiss a complaint for failure to comply with the pleading rules.”) (citing *Heard v. Nix*, 170 F. App’x 618, 619-20 (11th Cir. 2006)).

In *Weiland*, the Eleventh Circuit “examined more than sixty published decisions issued since . . . 1985” and “identified four rough types or categories of shotgun pleadings.” *Weiland*, 792 F.3d at 1321.

The *most common* type—by a long shot—is *a complaint containing multiple counts where each count adopts the allegations of all preceding counts*, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint. The next most common type, at least as far as our published opinions on the subject reflect, is a complaint that does not commit *the mortal sin of re-alleging all preceding counts* but is guilty of the venial sin of being replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action. The third type of shotgun pleading is one that commits the sin of not separating into a different count each cause of action or claim for relief. Fourth, and finally, there is the relatively rare sin of asserting multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against.

Id. at 1321–23 (internal footnotes omitted and emphasis added).

The Petition commits the mortal sin of adopting all preceding counts in subsequent counts. The Petition contains seven counts, with the first paragraph of each count “realleg[ing] all paragraphs above as if fully set forth here,” Petition ¶¶52, 58, 67, 78, 85, 87, so that each successive count incorporates each preceding count “causing each successive count to carry all that came before and the last count to be a combination of the entire complaint,” *Weiland*, 792 F.3d at 1321.

The Petition is a shotgun pleading and should be dismissed for violating Rules 8 and 10.

To the extent the Petition is not dismissed, Respondents move for a more definite statement pursuant to Rule 12(e).

II. Section 1252(g) precludes jurisdiction over any claim arising from the decision or action to execute Petitioner's removal order.

To the extent the Court permits the Petition to proceed as is, § 1252 precludes jurisdiction to the extent any claim in the Petition can be read to arise from the decision or action to execute Petitioner's removal orders. 8 U.S.C. § 1252(g) reads as follows:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, by sections 1361 or 1651 of such title, *no court shall have jurisdiction to hear any clause or claim by or on behalf of any alien arising from the decision or action of the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.*

8 U.S.C. § 1252(g) (emphasis added). In this case, Petitioner was detained by ICE ERO in order “to affect his removal from the United States.” Gamo Dec ¶16. Accordingly, his challenge to the decision to detain him arises from Respondents' decision to execute his removal order, and jurisdiction is precluded under § 1252(g).

III. Petitioner's detention is proper.

To the extent the Court entertains the Petition as is and finds jurisdiction over any claim in the Petition, the relief Petitioner seeks—release from custody—is not proper. Respondents maintain that Petitioner's detention is proper. Petitioner admits that he is subject to a final order

of removal. Petition ¶¶20-21. ICE ERO detained Petitioner in order “to affect his removal from the United States.” Gamao Dec ¶17. Detention is proper under 8 U.S.C. § 1231(a).¹

Petitioner does not appear to be challenging the basis of his detention per se; rather, Petitioner brings various claims challenging the propriety of the revocation of his OSUP. *See generally* Petition. Petitioner effectively is arguing both that the revocation of his OSUP was improper, and since it was improper, his OSUP should be reinstated and Petitioner released. Accordingly, Petitioner’s argument depends upon the validity of the revocation of his OSUP. If Respondents had the authority to revoke the OSUP and correctly exercised that authority, the Petition fails to state a claim.

Petitioner’s OSUP was revoked pursuant to 8 C.F.R. § 241.4 because the revoking official determined that it was appropriate to enforce Petitioner’s removal order. Josil Dec ¶17. Pursuant to § 241.4:

Release may be revoked in the exercise of discretion when, in the opinion of the revoking official:

- (i) The purposes of release have been served;
- (ii) The alien violates any condition of release;
- (iii) *It is appropriate to enforce a removal order* or to commence removal proceedings against an alien; or
- (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

8 C.F.R. § 241.4(l)(2) (emphasis added). Petitioner was given notice by way of the Notice of Revocation of Release.

¹ Section 1231(a) mandates (i.e., “shall detain the alien”) detention during the “removal period.” 8 U.S.C. § 1231(a)(2)(A). While the “removal period” is a definitive period, Petitioner has only been detained since November 20, 2025. Any challenge to the length of his detention is premature.

While notice was provided to Petitioner in this case, “it does not appear that Petitioner was entitled to notice or an informal interview under § 241.4.” *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *6 (S.D. Fla. Aug. 8, 2025). While § 241.4(l) provides for notice and interview, “the notice and interview requirements are only referenced in § 241.4(l)(1)—the OSUP revocation provision based on an alien's violation of his conditions of release—and not § 241.4(l)(2)—the OSUP revocation provision based on the discretion of a qualified official to enforce a removal order or to commence removal proceedings.” *Id.* As Petitioner’s revocation occurred under § 241.4(l)(2), notice and interview were not required.

Regardless, notice was provided, and Petitioner’s order of supervised release was revoked “to affect his removal from the United States.” *Gamo* Dec ¶17. Accordingly, revocation was proper.

To the extent Petitioner seeks to challenge the authority of the revoking official, that challenge is unavailing. The Assistant Field Office Director (AFOD) signed the Notice of Revocation of Release and is the revoking official. In the Delegation of Signature Authority, ICE delegated signature authority to the AFOD on a Notice of Revocation of Release. Delegation of Signature Authority pp.3-4 (attached as Exhibit 2). As in *Barrios*, this Court should be “disinclined to interfere with the discretion delegated to those charged with enforcing immigration laws.” *Barrios*, 2025 WL 2280485, at *7 (quoting *Goldovsk v. U.S. Citizenship & Immigr. Servs.*, No. 07-CV-21342-PCH, 2007 WL 9702722, at *1 (S.D. Fla. Sept. 28, 2007)).

Respectfully submitted,

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