

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 25-cv-25618-BB

MOHAMMAD ABDELRAHMAN SAMHAN,

Petitioner,

v.

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

Respondents.

PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN

I. INTRODUCTION

Petitioner, Mohammad Abdelrahman Samhan, by and through undersigned counsel, submits this Traverse to Respondents' Return in Response to Verified Petition for Writ of Habeas Corpus.

Mr. Samhan is a 51-year-old stateless Palestinian who has resided in the United States for thirty-nine years. Despite the Respondents' attempt to characterize him as "Jordanian," the record confirms he was born in Nablus (West Bank, Palestine) "See, *Ex A: Pet. Decl.* ¶ 2", holds no valid citizenship from Jordan or Israel "See *Ex A: Pet. Decl.* ¶ 3", and was previously released by ICE in 2006 specifically because his removal was not reasonably foreseeable due to his statelessness "See *Ex B: Decl. of Superv, Ex A, pg. 10*". For nearly two decades since that release, Mr. Samhan complied with his Order of Supervision (OSUP), reporting faithfully until his arbitrary re-detention on November 20, 2025.

Respondents' Return relies on procedural technicalities—labeling the Petition a "shotgun pleading"—and a boilerplate declaration from Supervisory Detention and Deportation Officer (SDDO) James R. Gamboa that offers no evidence of a travel document or a specific plan for repatriation. Respondents fail to rebut the core constitutional violation: the indefinite detention of a stateless individual where removal is not significantly likely in the reasonably foreseeable future, in violation of *Zadvydas v. Davis*, 533 U.S. 678 (2001). This Court should reject Respondents' jurisdictional and procedural defenses and grant the Writ.

II. PROCEDURAL POSTURE

Mr. Samhan entered the United States in 1986. Following a final order of removal in 2005, ICE determined it could not remove him to Jordan or Israel and released him on an OSUP in 2006 "*See, Ex B: Decl. of Superv., Ex A p. 10.*" He remained on supervision without incident until November 20, 2025, when he was re-detained at a routine check-in "to affect his removal". He remains detained at Krome Service Processing Center without a bond hearing or a valid travel document.

III. ARGUMENT

A. The Petition is Not an Impermissible "Shotgun Pleading" and Provides Clear Notice of Claims.

Respondents seek dismissal by characterizing the Petition as a "shotgun pleading" simply because it incorporates prior factual allegations into subsequent counts. This argument elevates form over substance to avoid the merits of a serious deprivation of liberty.

The Petition clearly articulates distinct causes of action: Substantive Due Process violations based on indefinite detention (*Zadvydas*); Procedural Due Process violations regarding the revocation of release; and violations of the Administrative Procedure Act (APA) and *Accardi* doctrine. Unlike the pleadings condemned in Eleventh Circuit precedent, which are "replete with conclusory, vague, and immaterial facts," the Petition here provides a specific, chronological factual basis for Mr. Samhan's statelessness, his 19-year compliance with supervision, and the arbitrary nature of his sudden re-detention. Respondents have sufficient notice of the claims to frame a response, as evidenced by their substantive arguments regarding § 1252(g) and the lawfulness of detention. Dismissal of a habeas petition on technical pleading grounds is inappropriate where fundamental liberty interests are at stake.

B. Jurisdiction is Not Barred by 8 U.S.C. § 1252(g).

Respondents erroneously argue that 8 U.S.C. § 1252(g) strips this Court of jurisdiction because Mr. Samhan's detention arises from a "decision or action to execute [a] removal order". This argument conflates a challenge to the *execution* of a removal order with a challenge to the *constitutionality of detention*.

Courts distinguish between challenges to ICE's discretion to execute a removal order (which are barred) and challenges to the legality of detention where removal is not reasonably foreseeable (which are not). Mr. Samhan does not seek to stay his removal or invalidate the 2005 removal order. Rather, he challenges the statutory and constitutional authority of Respondents to detain him indefinitely when they lack the ability to actually execute that removal due to his statelessness or .

Under *Zadvydas v. Davis*, habeas jurisdiction under 28 U.S.C. § 2241 remains available to challenge post-removal-period detention that exceeds statutory authority. Because Petitioner alleges his detention violates 8 U.S.C. § 1231(a)(6) and the Due Process Clause, § 1252(g) does not bar review.

C. Detention is Unlawful Because Removal is Not Reasonably Foreseeable.

Respondents assert detention is lawful under 8 U.S.C. § 1231(a) merely because Petitioner has a final order of removal. However, under *Zadvydas*, detention is only authorized if there is a **"significant likelihood of removal in the reasonably foreseeable future"**.

1. DDO Gamboa's Declaration is Speculative and Insufficient. Respondents rely entirely on the Declaration of SDDO Gamboa to justify detention. Yet, SDDO Gamboa's declaration is strikingly silent on the critical issue: the existence of a travel document.

- Gamboa states Mr. Samhan was detained "to affect his removal". He does not state that a travel document has been issued, that a flight is scheduled, or that Jordan (or any other country) has agreed to accept him.
- Gamboa asserts Petitioner is a "native and citizen of Jordan". This contradicts the record. ICE's own 2006 Post Order Custody Review decision explicitly stated Petitioner was released because "both the Jordanian and the Israeli Consulates failed to issue travel documents" "See Ex B"
- Petitioner certifies he is a stateless Palestinian born in Nablus, and that Jordan has refused to renew his expired two-year travel document long expired or recognize him as a national. "See Ex A"

Respondents offer no evidence that the diplomatic stalemate which necessitated Mr. Samhan's release in 2006 has changed. Without evidence of a travel document, SDDO Gamboa's assertion that removal is forthcoming is speculative boilerplate insufficient to rebut the Petitioner's showing of statelessness.

2. The Government Has Failed to Meet its Burden. Because Mr. Samhan was previously released on an OSUP and the removal period expired years ago, regarding re-detention, the burden shifts to the government to show a significant likelihood of removal. Respondents have failed to meet this burden. Merely citing the 2005 removal order and stating an intent to remove is insufficient to justify re-detention of a stateless individual who has complied with supervision for 19 years.

D. Re-Detention Violates Due Process and Agency Regulations.

Respondents argue that notice and an interview were provided, or alternatively, were not required under 8 C.F.R. § 241.4(l)(2). This relies on a misinterpretation of the law.

1. Lack of Valid Basis for Revocation. Regulations and due process require that revocation of release be based on specific findings, such as a violation of release conditions or a change in circumstances indicating release is no longer appropriate. The Ceesay court carefully analyzed the law of who has authority to revoke an order of supervision and the findings they must make to do so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 159-62. In short, 8 C.F.R. § 241.4(l)(2) empowers the INS "Executive Associate Commissioner" to revoke release on discretion when, in his or her opinion: "(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 (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.”

A “district director” or any other official who is “delegated the function or authority . . . for a particular geographic district, region, or area” may also revoke an order of supervision, 8 C.F.R. § 1.2., but only upon findings that “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.” 8 C.F.R. § 241.4(l)(2).

- Mr. Samhan has "never received a violation" on his monitoring program.
- Respondents cite 8 C.F.R. § 241.4(l)(2) claiming it is "appropriate to enforce a removal order". However, re-detention based solely on the general prospect of removal, absent a finding of flight risk or danger to the community, is ultra vires of 8 U.S.C. § 1231(a)(6) as interpreted by *Zadvydas*.
- Respondents admit the revocation was signed by an *Assistant* Field Office Director (AFOD). Case law suggests that unless specifically delegated, the authority to revoke release lies with the Executive Associate Director, and requires specific public interest findings that appear absent here.

2. Futility of Continued Detention. Mr. Samhan is not a flight risk; he has reported for 19 years. He is not a danger to the community; he has had no arrests since 2010 and has managed commercial properties successfully. His continued detention serves no legitimate government purpose other than punishment, as his removal remains impossible due to his statelessness. The "Notice of Revocation" citing a "significant likelihood of removal" is factually unsupported by the record of failed removal attempts to Jordan and Israel. “*See Ex B*”. In *Zadvydas*, the

Supreme Court determined that INA§ 241(a) authorizes detention after entry of an administratively final order of removal for a period of time that is "reasonably necessary" to accomplish the alien's removal from the United States. *Zadvydas*, 533 U.S. at 699-700. The purpose of detaining a deportable alien is to assure his presence at the moment of removal. See *id.* at 697- 699. In cases where it is unlikely that removal will occur, detention of the alien no longer serves this purpose. See *Clark v. Martinez*, 543 U.S. 371, 384 (2005) (repatriation negotiations had ceased, so removal was not reasonably foreseeable).

IV. CONCLUSION AND RELIEF REQUESTED

Respondents have detained a stateless man who has been a lawful, compliant presence in his community for nearly two decades, based on the illusory promise of removal to a country that has already rejected him. DDO Gamboa's declaration fails to provide a scintilla of evidence that a travel document exists. Accordingly, Mr. Samhan's detention is indefinite and unconstitutional.

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of the petition;
- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the Accardi doctrine;
- d. Order Petitioner's immediate release;

- e. Award Petitioner costs and reasonable attorneys' fees; and
- f. Order such other relief as this Court may deem just and proper.

DATED: December 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 9, 2025, I electronically filed the foregoing document and its Exhibits that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. A copy will also be mailed to Respondents' corresponding offices with Clerk Issued Summons via US Certified Mail.

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Exhibit List

Exhibit No.	Description (Document)	Citation
Exhibit A	Declaration of Petitioner, sworn under 28 U.S.C. §1746	<i>I. Introduction, ¶ 2</i>
Exhibit B	Declaration of Supervisory Detention And Deportation Officer James R Gamboa, Exhibit A, page 10	<i>Jordan and Israel failed to Issue Travel Documents I. Introduction, ¶ 2 II Procedural Posture III. Argument (C)(1) ¶ 3</i>

EXHIBIT A

DECLARATION OF PETITIONER

I, **Mohammad Abdelrahman Samhan**, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

I. Personal Background and Immigration History

1. My full legal name is **Mohammad Abdelrahman Samhan**.
2. I was born in the **Palestinian Territories**, and I am a **stateless Palestinian**. I have never held citizenship, a passport, or any form of nationality documentation from **Israel, nor any other country**.
3. Although ICE has designated me as “Jordanian,” I am not a Jordanian citizen and have never held Jordanian nationality. Many years ago, I was issued a temporary two-year Jordanian travel document that was valid for travel purposes only. This document did not confer citizenship, permanent status, or any right of return. It expired decades ago. Since then, the Jordanian authorities have refused to renew it, have stated that I am not a Jordanian national, and have not agreed to accept me for removal.
4. There is no Palestinian Embassy in the United States and I have been denied travel documentation in 2010 by the PLO Mission.
5. I first entered the United States on July 21, 1986. I have lived in the United States for most of the past thirty-nine (39) years. My **most recent entry** into the United States was in **2000**, and I have resided here continuously since that time. My wife and children—all U.S. citizens—have also lived in the United States throughout this period.
6. I married a United States Citizen and am a father of **three U.S. citizen children**, all of whom continue to reside in this country. I am their primary emotional and financial support of my spouse and 2 of my children.
7. Since 1998, I established and am still operating two companies in South Florida managing commercial properties. I have maintained stable employment and strong community ties throughout my life in the United States.
8. I previously held **asylum** status and was later granted **Lawful Permanent Resident** status, reflecting my lawful admission and long-standing residence.

9. I was first placed on an **Order of Supervision (OSUP)** in **2006**, and then Intensive Supervision Appearance Program (ISAP) since December 14, 2009, and from 2006 until my recent detention in 2025, I complied fully with all ICE reporting and supervision requirements. I never missed a check-in, never absconded, and never violated the terms of supervision.
10. I have not had any arrests, charges, or criminal incidents since **2010**. I have lived incident-free for more than **16 years** prior to this detention.

II. Criminal History

10. I understand that the Court requires an accurate factual account of my criminal history. Below is a true and correct summary of my arrests, the charges, and their outcomes:

Date	Charges	Disposition
Dec. 15, 1989	Purchase of Tobacco Products from Unlicensed Distributor	Donation of \$1,000; No further action
Jan. 31, 1990	Dealing in Stolen Property; Attempt/Solicitation Felony; Attempted Food Stamp Fraud	For certain counts: Withheld adjudication ; 1-year probation; restitution of \$513
Sept. 1999– July 29, 2000	Various federal chemical-related conspiracy charges	Initial conviction was reversed on appeal . The matter was resolved through a 364-day sentence pursuant to plea in the lower court; separate charge nolle prossed
June 21, 2010	White Collar Crime / Aggregate Racketeering / RICO; Failure to Remit Taxes (\$300–20K)	All charges dismissed

11. Since 2010, I have had no arrests, no criminal activity, and have lived in full compliance with the law.
12. I have never refused cooperation with law enforcement at any time.

III. Current ICE Detention and Procedural Posture

13. My A-Number is A 
14. On or about **November 20, 2025**, I was taken into ICE custody and detained at the **Krome Service Processing Center**.

15. I have remained detained **continuously** since that date. I have not received any bond hearing, and ICE has not scheduled or identified any removal arrangements.
16. My **Order of Removal** was entered on **December 12, 2005**, and it is administratively final.
17. I previously applied for withholding of removal and protection under the **Convention Against Torture (CAT)**. These applications were denied, leaving the removal order final.

IV. Efforts to Obtain Travel Documents and Evidence of “Unremovability”

18. For nearly **two decades**, the United States government has been unable to remove me to any country.
19. I have **never refused** to complete any paperwork, attend interviews, or sign travel documents. I have **always cooperated** with ICE officers during every stage of the process.
20. I have personally **contacted and applied to multiple countries for travel documents**, including but not limited to:
 - **Palestinian Authority / PLO** (refused to issue travel documents)
 - **Jordan** (refused to recognize me as a national)
 - **Israel** (refused acceptance)
 - **Other consulates** contacted by ICE over the years
21. Each of these countries has **refused to accept me**, issue travel documents, or acknowledge me as a citizen or national.
22. ICE officers have repeatedly informed me over the years, including during OSUP appointments, that **no country has agreed to repatriate me**.
23. During my current detention, I have again signed all ICE documents, provided all requested information, and submitted to all consular outreach attempts.
24. Despite my full cooperation, **ICE has not secured a single travel document**, nor identified a country willing to accept me.
25. Because I am **stateless**, there is **no country that can legally accept me**, and my removal cannot be effectuated.

V. Length of Detention and Present Circumstances

26. As of the date of this declaration, I have been detained for **weeks** with **no scheduled removal**, no travel documents, no country of acceptance, and no foreseeable prospect of repatriation.
27. ICE's inability to remove me began in **2005** and has persisted for more than ²⁰~~18~~ **years**, including extended periods of supervised release.
28. My present detention is therefore **indefinite**, with no end date, no foreseeable removal, and no legitimate governmental purpose.

VI. Personal Hardship and Impact of Continued Detention

29. I am 39 years a resident of the United States. My entire family, business, and life are here.
30. My three U.S. citizen children depend on me emotionally and financially.
31. My continued detention causes severe harm to my physical and mental health, my family stability, and my ability to support my dependents.
32. The conditions of detention at Krome are restrictive and punitive in nature, despite my detention being **civil** and not criminal.
33. I am not a danger to the community and have lived incident-free for more than sixteen years.

VII. Certification

I, **Mohammad Abdelrahman Samhan**, declare under penalty of perjury under the laws of the United States, pursuant to **28 U.S.C. § 1746**, that the foregoing is true and correct to the best of my knowledge and belief.

Executed on 11/30/2025, 2025 in Miami, Florida

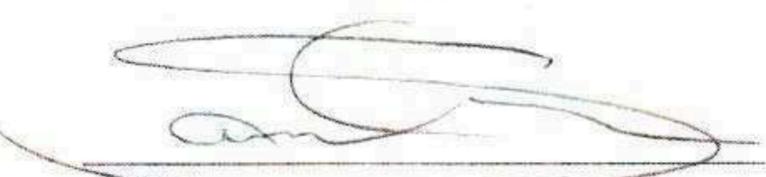

Mohammad Abdelrahman Samhan
A-Number: A 

EXHIBIT B

U.S. Department of Homeland Security

Continuation Page for Form I213

Alien's Name SAMHAN, Mohammad Abdulrahman	File Number [REDACTED] 867 Event No: [REDACTED]	Date 09/08/2010
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ENCOUNTER:

On 07/29/2010, SAMHAN, Mohammad Abdulrahman was encountered and identified through a [REDACTED] in a joint effort with Miami Dade County Pre Trial Detention Center, after an arrest for WHITE COLLAR CRIME/RACKETEER/CONSPIRE/SALES TAX/FAILURE TO REMIT AND EVADE MONEY LAUNDERING AND SALES/TAX FALSE RETURN. A detainer was placed by [REDACTED], [REDACTED] on same date. An interview was attempted on 09/07/2010, however subject was unavailable. Subject is a Final Order.

IMMIGRATION STATUS:

Subject is a citizen and national of Jordan, who entered the United States without inspection on September 20, 1986. On March 29, 1990, subject applied for [REDACTED], which was granted on September 27, 1990 under Section 208 (a) of the INA. On August 22, 1991, subject's application for Lawful Permanent Residence was also approved.

On October 25, 1995, subject applied for Naturalization, however naturalization was denied on March 24, 1998, as subject did not meet the five year residence requirement at that time.

On December 2, 1999, subject once again applied for naturalization, however was denied on June 21, 2002, due to the residency requirement and a conviction of crime involving moral turpitude.

On 08/23/2002, a Notice to Appear was issued by the Office of Investigations to commence immigration proceedings alleging him to be an aggravated felon. During proceedings subject filed [REDACTED] dated, July 15, 2005. All applications for relief were subsequently denied by the IJ, and subject's removal order to Jordan with an Alternative Order to Israel, became final on December 12, 2005. Subject did not file for appeal.

Subject was remanded into ICE/DRO custody, and was subsequently released by a Post Order Custody Review on April 10, 2006, after both the Jordanian and the Israeli Consulates, failed to issue travel documents. Subject was released from Florence Detention Center on 04/10/2006, with instructions to report on an Order of Supervision. Subject was on an Order of Supervision for two years, before he was identified for participation on the Enhanced Supervision Program on November 07, 2008. Subject was subsequently transferred from the ESR program to the Intensive Supervision Appearance program on December 14, 2009, and remained under ISAP until his arrest on July 21, 2010.

Subject will be detained in ICE/ERO custody upon release from Miami Dade County Jail.

BASIS FOR REMOVAL:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43)(B) of the Act, an offense relating to the illicit trafficking in a controlled substance, as described in section 102 of the Controlled Substances Act, including a drug trafficking crime, as defined in section 924(c) of Title 18, United States Code.

...(CONTINUED ON NEXT PAGE)

Signature [REDACTED]	Title IMMIGRATION ENFORCEMENT AGENT
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