

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 25-cv-25618-BLOOM/Elfenbein

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 AND
REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

I. INTRODUCTION

Petitioner Mohammad Abdelrahman Samhan, by and through his undersigned counsel, submits this Traverse to Respondents' Return and Reply to Respondents' Response to Order to Show Cause, and in support, states the following:

The Court ordered the Government to show cause why Petitioner was not given the opportunity to "provide evidence to demonstrate that [his] removal is unlikely," as explicitly promised in the Government's own Notice of Revocation of Release.

Respondents have failed to show cause. Instead, they admit that the only "opportunity" provided to Petitioner occurred simultaneously with his arrest and consisted merely of the chance to "ask questions". Respondents attempt to evade their own stated procedures by arguing that the Notice "is not a regulation". This argument ignores the *Accardi* doctrine and this Court's finding that it has jurisdiction to review whether the Government followed its own binding stated procedures. Furthermore, Respondents' assertion that removal is reasonably foreseeable is directly

contradicted by their own evidence, which admits the Petitioner has "no valid travel document" in his file.

II. ARGUMENT

A. Respondents Failed to Comply with the Binding "Stated Procedures" in the Notice of Revocation (*Accardi* Violation).

In the Second Order to Show Cause, this Court cited *Barrios v. Ripa* and *Kurapati* to affirm jurisdiction over whether the Government "follow[ed] its own binding regulations" or "stated procedures". The Notice of Revocation (Exhibit H) served on Petitioner contained a specific, binding promise:

"You **will promptly be afforded** an informal interview at which you will be given the opportunity to respond to the reasons for the revocation and to **provide evidence to demonstrate that your removal is unlikely.**" (emphasis added).

Respondents admit they failed to provide this specific opportunity. Their defense rests on two flawed arguments:

1. **"Asking Questions" is Not "Providing Evidence"**: Respondents rely on the Declaration of SDDO Gamboa, who states only that Petitioner "was provided an opportunity to **ask questions** regarding the revocation of release" at the time of his arrest. The right to "ask questions" regarding an arrest is fundamentally different from the due process right to "provide evidence" that removal is unlikely. By substituting the former for the latter, Respondents failed to follow the procedure they mandated for themselves.
2. **The "Future Tense" Impossibility**: Respondents argue that the interaction at the moment of arrest on November 20, 2025, satisfied the requirement. However, the Notice served

during that arrest uses the future tense: "You **will promptly be afforded** an informal interview...". It is logically impossible for a simultaneous arrest encounter to satisfy a promise for a *future* evidentiary opportunity contained in the document being served.

Respondents argue that the Notice "is not a regulation". However, under the *Accardi* doctrine, agencies must follow their own rules and instructions where the rights of individuals are affected, even if those procedures are more rigorous than statutory requirements. Having affirmatively promised Petitioner an opportunity to present evidence regarding the likelihood of removal, the Government cannot strip him of that liberty interest by reclassifying the promise as non-binding.

B. Removal is Not Reasonably Foreseeable (*Zadvydas* Claim).

To justify detention under 8 U.S.C. § 1231(a)(6), there must be a significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Respondents claim detention is necessary "to affect his removal" to Jordan. This assertion is demonstrably false based on Respondents' own exhibits:

1. **Admission of No Travel Documents:** While SDDO Gamboa asserts generally that Petitioner is a citizen of Jordan, the "Record of Deportable/Inadmissible Alien" attached to his declaration explicitly states: "**VALID TRAVEL DOCUMENT: The subject does not have a valid travel document in his A-file.**".
2. **History of Rejection:** The record reflects that Petitioner was released in 2006 specifically because "both the Jordanian and the Israeli Consulates failed to issue travel documents".
3. **Statelessness:** Petitioner has certified he is a stateless Palestinian. Respondents offer no evidence—such as a flight itinerary, a travel document, or a letter of acceptance from Jordan—to rebut the fact that removal remains as impossible today as it was 19 years ago.

C. Jurisdiction is Proper and the Petition is Valid.

Respondents argue that 8 U.S.C. § 1252(g) bars jurisdiction. This is incorrect. As noted in *Ceesay v. Kurzdorfer*, courts distinguish between challenges to the *discretion* to execute a removal order (barred) and challenges to the *constitutionality of detention* or the *failure to follow procedures* (not barred). Petitioner does not challenge the removal order itself, but rather the indefinite detention and the procedural violations surrounding the revocation of his release.

Finally, Respondents' characterization of the Petition as a "shotgun pleading" is a procedural deflection. The Petition clearly articulates the facts of Petitioner's statelessness, his 19-year compliance with supervision, and the specific legal claims under the Due Process Clause and *Accardi* doctrine. Respondents have successfully identified the claims well enough to file a substantive Response, negating any prejudice.

III. CONCLUSION

Respondents have failed to show cause why Petitioner was denied the evidentiary opportunity promised in the Notice of Revocation. Furthermore, the record confirms Respondents lack the travel documents necessary to effectuate removal. Accordingly, Petitioner's continued detention is both procedurally defective and substantively unconstitutional.

Petitioner respectfully requests that this Court **GRANT** the Writ of Habeas Corpus and order Petitioner's immediate release under an Order of Supervision, or alternatively, order a bond hearing before an Immigration Judge.

DATED: December 24, 2025

Respectfully submitted,

By: /s/ Sara J. Saba

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