

writ [of habeas corpus] should not be granted” within three days. *See* 28 U.S.C. § 2243. Further, Petitioner asks the Court to issue a writ of habeas corpus determining that his detention is not justified because (1) Petitioner is a U.S. citizen or, in the alternative, (2) Respondents have not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, the general grant of habeas authority to the District Courts; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331(a) (federal question).

2. Venue is proper in the Southern District of Florida because that is where Petitioner is detained. *See* 28 U.S.C. § 1391(b); *See also Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

II. THE PARTIES

3. Petitioner SHAHER TAYSIR BARGHOUTHY is a native of Palestine. He was admitted to the United States as a lawful permanent resident (LPR) on January 28, 1978. He is currently detained by ICE at the Krome North Service Processing Center in Miami, Florida.

4. Respondent ZOELLE RIVERA is the Assistant Field Office Director of the Krome North Service Processing Center. She is responsible for the overall operation and direction of the detention center where Petitioner is currently detained under the authority of the Department of Homeland Security (DHS). Respondent RIVERA may be considered to be Petitioner’s immediate custodian. This action is brought against her in her official capacity.

5. Respondent TODD M. LYONS is Acting Director of ICE. He is responsible for ICE’s policies, practices, and procedures, including those relating to the detention of immigrants.

Respondent LYONS is considered Petitioner's legal custodian. This action is brought against him in his official capacity.

6. Respondent GARRETT J. RIPA is the Field Office Director for ICE, Enforcement and Removal Operations' (ERO) Miami Field Office. Respondent RIPA is considered Petitioner's legal custodian. This action is brought against him in his official capacity.

7. Respondent KRISTI NOEM is the Secretary of the DHS. She is generally charged with the administration and enforcement of the Immigration and Nationality Act (INA) and has control, direction, and supervision of all employees and of all the files and records of ICE. She is authorized to delegate such powers and authority to subordinate employees of the DHS. 8 U.S.C. § 1103(a). This action is brought against her in her official capacity.

8. Respondent PAMELA BONDI is the Attorney General of the United States of America. The Attorney General is responsible for the administration and enforcement of the INA pursuant to 8 U.S.C. § 1103(a). This action is brought against her in her official capacity.

III. FACTUAL ALLEGATIONS

9. Petitioner is a native of Palestine who was admitted to the United States as an LPR on January 28, 1978. *See Exhibit A* (Petitioner's Birth Certificate). He resided with his parents and siblings.

10. On April 15, 1984, Petitioner's parents legally divorced in Louisiana. *See Exhibits B* (Petitioner's Parents' Marriage Certificate), *C* (Petitioner's Parents' Divorce Decree). However, after the divorce, Petitioner's parents continued to share legal and physical custody of Petitioner. *See Exhibits E* (Letters of Support from Petitioner's parents), *F* (Petitioner's School Records).

11. On November 27, 1985, when Petitioner was eight (8) years old, Petitioner's father became a naturalized citizen of the United States. *See Exhibit C* (Petitioner's Father's Certificate of Naturalization).

12. On February 3, 2000, Petitioner was ordered removed. *See Exhibit G* (Petitioner's Order of Supervision).

13. Because DHS was unable to effectuate Petitioner's removal, DHS released and Petitioner and placed him on an Order of Supervision. *See id.* He has attended all required check-ins between 2009 and 2025.

14. For over twenty years, Petitioner has been complying with the conditions of his supervised release.

15. Since then, Petitioner has built life for himself and developed strong ties to the United States.

16. Petitioner is the father of U.S. citizen, A [REDACTED]. *See Exhibit H* (A [REDACTED]'s Birth Certificate). His parents, Ilham Barghouthi and Steve Barghouthi, are also U.S. citizens. *See Exhibits D* (Steve Barghouthi's Certificate of Naturalization), *H* (Ilham Barghouthi's U.S. Passport).

17. Petitioner has positively contributed to his community. He opened his own business in Fort Myers on June 1, 2023. He has also been consistently filing his tax returns every year.

18. On May 17, 2025, Petitioner attended a check-in appointment at ICE. At the appointment, ICE revoked his release and detained him.

19. Since his detention, Petitioner has cooperated with ICE in effecting his removal from the United States. However, ICE has been unable to find a country for his removal.

20. In the over six months he has been detained, Petitioner has not received an

individualized bond hearing where the government has had to prove that he is a flight risk and danger; nor could they.

IV. LEGAL BACKGROUND

A. Acquisition of U.S. Citizenship

21. The Child Citizenship Act of 2000 (CCA) amended the INA of 1965 regarding acquisition of citizenship by children of United States citizens. *See* 8 U.S.C. § 1431.

22. CCA does not apply to individuals who were 18 years of age or older before February 27, 2001. However, such persons may have derived citizenship through the relevant law in effect before the CCA.

23. In general, former 8 U.S.C. § 1432 applies to persons who reached the age of 18 years on or after December 24, 1952, but before February 27, 2001.

24. According to former 8 U.S.C. § 1432, a child born outside of the United States to two alien parents becomes a U.S. citizen if all of the following conditions were met before the child was 18 years of age:

One parent naturalized who had legal custody of the child if there was a divorce or legal separation of the parents;

The child was under 18 years of age when the parent or parents naturalized; and

The child was residing in the United States following a lawful admission for permanent residence at the time the parent or parents naturalized or thereafter began to reside permanently in the United States while under the age of 18.

25. In order for parents to legally separate, they must be married or in a legally recognized relationship, from which they could legally separate.

26. For purposes of former 8 U.S.C. § 1432, a relevant court must have determined the legal separation or the divorce.

27. Joint custody may be sufficient to satisfy the legal custody requirement under former INA 321.

28. Petitioner met all of the requirements of 8 U.S.C. § 1432 before he turned 18 years old on May 12, 1995.

29. Petitioner was lawfully admitted for permanent residence on January 28, 1978.

30. On April 15, 1984, Petitioner's parents legally divorced in Louisiana.

31. After the divorce, Petitioner's parents continued to share legal and physical custody of Petitioner, despite the custody order from the Louisiana court. Petitioner's parents provided statements describing the custody arrangement. A copy of Petitioner's school report also shows both parents as legal guardians of Petitioner in 1985.

32. On November 27, 1985, Petitioner's father became a naturalized citizen of the United States. At the time of his father's naturalization, Petitioner was eight (8) years old.

33. Because Petitioner satisfied all of the requirements of former 8 U.S.C. § 1432 before his 18th birthday, he acquired his U.S. citizenship through his father's naturalization.

B. Statutory and Constitutional Limits for Immigration Detention

34. Petitioner is detained under an immigration statute that mandates the detention of aliens with final orders of removal during the removal period. *See* 8 U.S.C. § 1231(a)(2). The removal period begins on the latest of the following:

- (1) The date the order of removal becomes administratively final.
- (2) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.
- (3) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

35. The removal period is ninety days; however, the ninety-day period may be extended only “if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C).

36. Moreover, an alien who is not removed within the ninety-day period is placed on an order of supervision unless the alien is a danger to the community or unlikely to comply with the removal order. 8 U.S.C. § 1231(a)(3).

37. However, DHS’ may not indefinitely detain aliens with final orders of removal. The Supreme Court found an implicit restriction in the statute’s post-removal period detention provision, defining it as “the period reasonably necessary to bring about [the individual detainee’s] removal.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).

38. The Court provided a six-month period for the government to effect removal. *Zadvydas*, 533 U.S. at 701. After that, the Court held that persons who are detained under 8 U.S.C. § 1231(a)(6) that can show there is “no significant likelihood of removal in the reasonably foreseeable future” must be released. Thus, noncitizens who may not be removable in the “reasonably foreseeable future” because, for example, the U.S. lacks a repatriation agreement or the consulate refuses to issue travel documents, should be granted supervised release.

39. Petitioner’s removal period began on May 17, 2025, when he was detained by ICE at his check-in appointment.

40. His ninety days expired on August 17, 2025. ICE reviewed Petitioner’s custody and decided to continue Petitioner’s detention, alleging that Petitioner posed a threat to public safety.

41. Six months have passed since Petitioner was detained and DHS has been unable to show that Petitioner is likely to be removed in the reasonably foreseeable future. Petitioner has not made any efforts to hinder his removal.

42. DHS has not shown that any special circumstances exist to justify Petitioner's continued detention.

43. Therefore, Petitioner's continued detention is unlawful and this Court should order his release.

COUNT ONE

44. Petitioner re-alleges and incorporates by reference each allegation contained above.

45. Respondents lack authority to detain U.S. citizens.

46. Petitioner acquired his U.S. citizenship through his father's naturalization.

Therefore, Petitioner's detention is unlawful.

COUNT TWO

47. Petitioner re-alleges and incorporates by reference each allegation contained above.

48. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

49. Detention without a bond hearing is unconstitutional when it exceeds six months.

50. Because his detention has lasted beyond the six-month benchmark relied upon by courts it has become unconstitutionally prolonged.

51. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decision maker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, even

after consideration whether alternatives to detention could sufficiently mitigate that risk.

52. For these reasons, Petitioner's ongoing prolonged detention without a hearing violates due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks the Court to:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus requiring Respondents to produce the Petitioner and to show why Petitioner's detention is not unlawful;
3. Declare the continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering Respondents to release the Petitioner from custody immediately;
5. In the alternative, order a bond hearing where Respondents must show Petitioner is a flight risk and/or a danger by clear and convincing evidence;
6. Award Petitioner attorneys' fees and costs; and
7. Grant such other relief as the Court deems necessary and proper.

Respectfully Submitted,

Dated: December 3, 2025

s/ Alejandra China Vicente
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