UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ahmad Fareez THABATEH, Petitioner, v. SHERIFF MAT KING, in his official capacity as Warden of the St. Clair County Jail, Respondent.	**Case No. 2:25-cv-14018** **Petition for Writ of Habeas Corpus** Agency No. A[redacted] **DETAINED – Detroit Field Office**

AMENDED PETITION FOR A WRIT OF HABEAS CORPUS

BY A PERSON SUBJECT TO POST REMOVAL DETENTION

PURSUANT TO 28 U.S.C. §2241

INTRODUCTION

Petitioner, Ahmed THABATEH, was born in 1976 in Ramallah in the Israeli-occupied territories in the West Bank. [redacted] He is a citizen and national of Israel. On June 10, 2025, at a regularly scheduled check-in with the Detroit Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO), Petitioner was detained. Petitioner remains in the legal custody of Detroit ICE/ERO and is physically detained at the St. Clair County Jail in Port Huron, Michigan. As of this filing, Respondents have held in post-final-order detention for 193 days.

This case has a long history. On May 24, 2000, Petitioner pled guilty to the offense of Burning Other Real Property under MCL 750.73 and on August 16, 2000, was sentenced to one year of probation. On August 8, 2001, his probation officer reported to the Court that he had completed probation successfully, fulfilled all conditions of probation, paid all costs and fees in full, and had no new criminal activity.

Respondent was served with a Notice to Appear (NTA) dated October 14, 2003. The Detroit Immigration Court denied his applications for withholding of removal under the INA and deferral of removal under the Convention Against Torture on August 1, 2006. Respondent timely filed an appeal which was dismissed by the Board of Immigration Appeals (BIA) on September 15, 2008. Respondent

filed a Motion to Reopen which was granted by the BIA on June 3, 2009, (noting the "voluminous evidence of the bona fides of his 2003 marriage such that prima facie eligibility for adjustment has been shown") remanding to the IJ to allow Respondent to file for adjustment of status and an accompanying 212(h) waiver of inadmissibility. Following remand, Respondent's application for adjustment of status with an accompanying 212(h) waiver of inadmissibility was denied by the Immigration Court on February 28, 2018. The IJ ordered Petitioner removed to Israel and the Occupied Territories. Petitioner timely appealed that order to the BIA, which dismissed his appeal on May 26, 2023. Thus, after exhausting administrative remedies, Petitioner's order of removal became final on May 26, 2023.

Petitioner's 193 days of incarceration since being detained at his regular check-in appointment with Detroit ICE/ERO on June 10, 2025, constitute 193 days of post-order detention.

Until now, the Israeli Embassy has failed to issue Petitioner a travel document to allow Immigration and Customs Enforcement ("ICE") to remove him. Therefore, pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 150 L. Ed. 2d 653, 121 S.Ct. 2491 (2001), since it is not "significantly likely" that Petitioner will be removed in the "reasonably foreseeable future" and his detention, pending removal, has exceeded 180 days, Petitioner's Writ of Habeas Corpus petition MUST be granted.

BACKGROUND

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus under 28 U.S.C. §2241 to remedy his unlawful detention.

JURISDICTION AND VENUE

1. This is a petition for habeas corpus challenging the unlawful indefinite detention of an alien who has been ordered removed from the United States, but who has not been physically deported from the United States. This action arises under the United States Constitution and the Immigration & Nationality Act of 1952, as amended (the "Act"), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 150 L. Ed. 2d 653, 121 S.Ct. 2491 (2001); *Ma v. Ashcroft*, 257 F.3d 1095 (9th Cir. 2001).

2. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner remains in post-order detention at the direction of Detroit ICE Field Office Director Kevin Raycraft. *See Roman v.*

Ashcroft, 340 F.3d 314, 320-21 (6th Cir. 2003). Petitioner's day-to-day physical detention is under the supervision of Respondent Sheriff Mat King in his role as Warden of the St. Clair County Jail in Port Huron, Michigan – also in the Eastern District of Michigan.

3. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Eastern District.

EXHAUSTION OF ADMINSTRATIVE REMEDIES

4. There is no statutory requirement that administrative remedies be exhausted in the present case, since Petitioner is not requesting review of a final order of removal. See 8 U.S.C. § 1252(d)(1) (providing that "[a] court may review a final order of removal only if . . . the alien has exhausted all administrative remedies available to the alien as of right."). Petitioner has, however, exhausted his administrative remedies in this case, or, alternatively, any administrative remedies would be futile.

5. Petitioner also has exhausted his administrative remedies with the Department of Homeland Security. Petitioner received his 90-day custody review pursuant to 8 C.F.R. § 241.4 and § 241.13, and the agency refused to authorize his

release. Petitioner is now being held beyond the 180-day review pursuant to 8 C.F.R. § 241.4 and § 241.13.

FACTS AND PROCEDURAL HISTORY

6. Petitioner is a 49-year-old male, born in 1976 in Ramallah, in the West Bank of Palestine, in Israeli-occupied territories. **Exhibit A – ID docs**.

7. Petitioner was admitted to the United States pursuant to a valid F-1 student visa in August of 1995 some thirty (30) years ago. **Id.**

8. On JUNE 10, 2025, Petitioner was detained by officers and/or agents of the Detroit Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) while attending a regularly-scheduled check-in with Detroit ICE/ERO. The Detroit ICE/ERO Field Office continues the detention of Petitioner and have placed Petitioner in the St. Clair County Jail in Port Huron, Michigan, where Petitioner is under the physical control of Respondent Sheriff Mat King in his role as Warden of the St. Clair County Jail. **Exhibit B**.

9. On February 28, 2018, Petitioner was ordered removed to Israel and the occupied territories. **Exhibit C, at 16**.

10. On May 26, 2023, the BIA dismissed Petitioner's appeal of his order of removal. **Exhibit D**. On this date, the order of removal became final.

11. In August of 2023, Detroit ICE/ERO placed petitioner on an Order of Supervision (OSUP). **Exhibit E.** On information and belief, Respondent has complied completely with all requirements of OSUP, missing only one appointment and rectifying that immediately with his removal officer. **Id.**, at 5.

12. At his most-recent scheduled OSUP check-in date on June 10, 2025, Petitioner was detained by Detroit ICE/EOR, which placed him at the St. Clair County Jail in Port Huron, Michigan, under the supervision and physical custody of Respondent Sheriff Mat King.

13. Since detaining Petitioner on June 10, 2025, Detroit ICE/ERO have apparently unsuccessfully attempted to obtain a travel document for Petitioner to remove him to Israel and the occupied territories.

14. On September 9, 2025, Detroit ICE/ERO conducted a "90-day review" and decided to continue their decision to detain Petitioner in post-final-order immigration detention. Petitioner was issued a "Decision to Continue Detention" wherein he was notified that "ICE has determined to maintain your custody because: ... ICE is in receipt of or expects to receive the necessary travel documents to effectuate your removal...". **Exhibit F.** (emphasis added).

15. The "90-day review" further indicated that "[t]o assist in the ERO Removal Division custody review, you will be afforded a personal interview." **Id.**, at 2. To date, Petitioner has not been afforded a personal interview.

16. As of this date of filing, a second ninety (90) period has elapsed and Petitioner has not been afforded a personal interview, not removed, and not released. To date, Detroit ICE/ERO have held Petitioner in post-order custody, currently housed at the St. Clair County Jail in Port Huron, Michigan, since June 10, 2025, totalling 193 days.

17. Therefore, to date, Detroit ICE/ERO has been unable to obtain a travel document from Israel and the occupied territories and failed to successfully remove Petitioner. Petitioner has now been subject to detention following a final order of removal for more than 180 days.

18. According to 8 U.S.C. § 1231(a)(1)(A) the "removal period" runs for ninety days after an order of removal becomes final. During this ninety-day "removal period", the petitioner is mandatorily detained. See 8 U.S.C. § 1231(a)(2). After the completion of the "removal period," the petitioner's detention is governed by 8 U.S.C. § 1231(a)(6), which provides for the possibility of release under supervision.

19. In *Zadvydas v. Davis*, 533 U.S. 678, 150 L. Ed. 2d 653, 121 S.Ct. 2491 (2001), the United States Supreme Court examined 8 U.S.C. §1231(a)(6), in light of the due process protections of the United States Constitution and held:

> ...we read an implicit limitation into the statute [8 U.S.C. § 1231(a)(6)] before us. In our view, the statute, read in light of the constitution's demands, limits an alien's post-removal period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention.

Zadvydas, 121 S.Ct. at 2498. The Court stated that once the statutory removal period of 90 days [8 U.S.C. § 1231(a)(2)] has passed, further detention is only authorized if it is "reasonable". *Id.*, at 2503. The Court then found "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* In order to grant relief to Petitioner, it is not necessary for this court to find that removal is impossible or unlikely, rather the court need only conclude that there is no "significant likelihood" that removal will occur in the "reasonably foreseeable future". *Id.*, at 2505.

20. The High Court in *Zadvydas* put a constitutional limit of SIX months post-removal detention, after which, if the alien can provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, it becomes the government's burden to rebut that evidence. Id.

21. Petitioner has now been detained post final order for more than six months since being detained on June 10, 2025. Upon information and belief, Detroit ICE/ERO does not intend to release Petitioner because they maintain removal is "imminent." However, it appears that a travel document has not been obtained and that removal is not imminent.

22. Furthermore, Petitioner is not a flight risk. Petitioner has deep roots in Michigan, U.S. citizen immediate family, and employment. Furthermore, Petitioner is the beneficiary of a pending I-130 that is now scheduled for interview. **Exhibit G.**

23. As the Court in *Ahmed v. Brott* noted, a petitioner can meet his burden in five types of cases:

> (1) where the detainee is stateless and no country will accept him; (2) where the detainee's country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee's native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country's delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue.

No. CIV. 14-5000, 2015 WL 1542131, at *4 (D. Minn. Mar. 7, 2015), *report and recommendation adopted,* No. CIV. 14-5000, 2015 WL 1542155 (D. Minn. Apr. 7, 2015).

24. In the instant case, Petitioner has met his burden in at least three of the five ways set forth in *Ahmed v. Brott*: (1) Petitioner is arguably stateless as he was born an ethnic Palestinian in Israeili-occupied territories, and tensions and conditions pursuant to Israel's continued occupation persist; (2) Petitioner's designated country of origin, "Israel and the occupied territories," clearly refuses to issue a travel document; and (5) Israel's delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue.

25. Petitioner submits that he met his burden and has demonstrated that Detroit ICE/ERO is not able to remove him in the reasonably foreseeable future as Detroit ICE/ERO has been unable to obtain a travel document from the Israeli government for at least the past six months. There is no clear likelihood of removal in the reasonably foreseeable future.

26. Detroit ICE/ERO has not provided any documentation of "imminent removal" that would rebut Petitioner's claim that his removal is not likely in the reasonably foreseeable future.

27. Counsel for Petitioner submits that he is clearly *indefinitely detained* within the High Court's meaning in *Zadvydas*.

GROUNDS FOR RELIEF

Count I

Indefinite Detention in Violation of the Fifth and Fourteenth Amendments to the United States Constitution

28. Petitioner's continued detention is a violation of his constitutionally protected due process rights. *See* U.S. const. amend. V & XIV.

29. The Supreme Court has concluded that a detention period of six months is presumed to be reasonable, but that detention exceeding that period is presumed to be unreasonable unless the Government can meet its burden and demonstrate a special justification for his continued detention at an individualized bond hearing.

30. The Petitioner has been detained for over nine months post order of removal. His detention period clearly exceeds the six-month limitation. *See Zadvydas v. Davis*, 533 U.S. 678, 699-701 (2001).

31. Petitioner's release is not reasonably foreseeable or foreshortened.

32. Petitioner does not constitute a flight risk.

33. The government's interest in this deprivation of liberty is minimal at best or erroneous and punitive at worst, and Petitioner should be entitled to

be paroled on a reasonable bond or other reasonable condition of release. *See, e.g.*, *Matter of Patel*, 15 I. & N. Dec. 666, 666 (B.I.A. 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk.")

34. The deprivation of Petitioner's liberty interest thus far outweighs any purported governmental interest in his continued detention.

35. For all of the reasons presented above, the Petitioner's continued detention is not authorized or valid under the Fifth and Fourteenth Amendments to the United States Constitution, and Respondent must be directed to release the Petitioner immediately.

36. Petitioner's indefinite detention violates his substantive and procedural due process rights under the Due Process Clause of the Fifth Amendment to the Constitution. See, e.g., *Tam v. INS*, 14 F. Supp. 2d 1184 (E.D. Cal. 1998); *Kay v. Reno*, 94 F. Supp. 2d 546 (M.D. Pa. 2000); *In Re: Indefinite Detention Cases*, 82 F. Supp. 2d 1098 (C.D. Cal. 2000); *Nguyen et.al. v. Fasano*, 84 F. Supp. 2d 1099 (S.D. Cal. 2000); *Phan v. Reno*, 56 F. Supp. 2d 1149 (W.D. Wash. 1999); *Le v. Greene*, 84 F. Supp. 2d 1168 (D. Col. 2000). See also *Wong Wing v. United States*, 163 U.S. 228 (1896). (Punishment cannot be imposed on a post removal order alien, unless the

alien is given full due process protections afforded criminal defendants).

37.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that the Court grant the petition for a writ of habeas corpus and order Respondent to release Petitioner from its custody by a date certain, under reasonable conditions of supervision.

Respectfully submitted this 19th day of December, 2025.

/s/ GLENN ERIC SPROULL

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