

1 MICHAEL T. SHAMOON, ESQ.
Nevada Bar. No. 15324
2 ATHENA C. ELIADES, ESQ.
Nevada Bar. No. 15216
3 SHAMOON ELIADES, LLP
7995 W Sahara Ave, Suite 101
4 Las Vegas, Nevada 89117
Telephone: 702-996-7411
5 Email: mts@shamooneliades.com
Attorneys for Petitioner

6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 HAMED SALIMABADI,

9
10 Petitioner,

11 v.

12 KRISTI NOEM, *et. al.*,

13 Respondents.

Case No. 2:25-cv-02508-JAD-DJA

**PETITIONER’S REPLY IN SUPPORT
OF PETITION FOR WRIT OF
HABEAS CORPUS**

14
15 Petitioner Hamed Salimabadi respectfully replies to Respondents’ Response (ECF No. 13)
16 and requests that the Court grant the Petition for Writ of Habeas Corpus (ECF No. 1), reinstate
17 Petitioner’s prior Order of Supervision, and enter permanent injunctive relief preventing future
18 re-detention absent strict compliance with the governing regulations.

19 **I. INTRODUCTION**

20
21 This case is now in a procedurally unusual posture because the Court has already
22 adjudicated the core merits question—whether Petitioner is likely unlawfully detained under
23 *Zadvydas*—and answered it in Petitioner’s favor. On January 13, 2026, the Court granted a
24 preliminary injunction directing Petitioner’s immediate release under reasonable terms of
25 supervision set forth in 8 U.S.C. § 1231(a)(3) and expressly ordered that the injunction remain in
26 effect until final decision on the habeas petition absent modification or dissolution. ICE complied
27 and released Petitioner on January 14.
28

1 Respondents’ opposition largely re-argues positions that the Court already rejected as
2 unsupported or legally defective: (1) that the Court lacks jurisdiction under 8 U.S.C. § 1252; (2)
3 that Petitioner cannot satisfy *Zadvydas*; (3) that Petitioner’s failure to “independently” obtain
4 travel documents tolls or defeats relief; and (4) that ICE revoked Petitioner’s Order of Supervision
5 and lawfully re-detained him. The Court has already found—on this record—that Petitioner is
6 likely to succeed in showing removal is not reasonably foreseeable, that the government’s “Iran
7 is accepting deportees” assertion is unsupported by evidence, and that the government produced
8 no evidence supporting its narrative that Petitioner violated supervision or that any revocation
9 occurred.
10

11
12 Petitioner is not challenging his underlying removal order. He challenges only custody:
13 ICE’s decision to arrest and detain him while he was at liberty under an Order of Supervision and
14 where there had been no change in circumstances and no realistic prospect of removal. That claim
15 lies at the core of habeas jurisdiction, and the Court has already confirmed it is reviewable and
16 likely meritorious.
17

18 **II. THIS CASE IS NOT MOOT**

19 Respondents’ compliance with the preliminary injunction does not moot the habeas
20 petition. The Court’s injunction remains in effect until final decision, and Petitioner continues to
21 live under the shadow of re-detention based on the same asserted rationale (alleged
22 noncooperation and speculative removability) that the Court has already found unsupported on
23 this record. Habeas relief remains available and necessary to (1) convert the preliminary relief
24 into final relief, (2) reinstate the prior supervision status quo ante, and (3) prevent recurrence of
25 the same unlawful conduct absent strict adherence to the governing regulations.
26
27
28

III. JURISDICTION

A. The Court has habeas jurisdiction to order relief related to Petitioner's detention.

As the Court explained, the writ of habeas corpus is available to every individual detained in the United States and permits a person in custody to challenge the legality of detention; courts may order release if detention is unlawful. The Court further held that its habeas jurisdiction encompasses a noncitizen's challenge to detention under the immigration laws.

Respondents attempt to reframe this case as a challenge to "execution" of a removal order and therefore barred by 8 U.S.C. §§ 1252(g) and 1252(b)(9). That is incorrect as a matter of law and inconsistent with the Court's jurisdictional ruling. Petitioner does not seek review of his removal order and does not ask the Court to enjoin removal generally; he challenges only the legality of detention and the unlawful deprivation of liberty that occurred when ICE arrested him from OSUP status without revocation and without any showing that removal was reasonably foreseeable.

B. Respondents' § 1252 arguments rely on noncontrolling out-of-circuit authority and mischaracterize the claim.

Respondents' briefing is dominated by Third Circuit authority (including *Tazu*) and other out-of-circuit cases. Those cases do not control in this Court, and in any event, they address materially different circumstances and theories. The Supreme Court has made clear that § 1252(g) is narrow, and courts must not expand it beyond its limited text. Here, Petitioner's claim is straightforward: ICE arrested and detained a person who had long lived at liberty under an order of supervision despite decades of inability to remove him—without following the agency's own procedures and without evidence that removal was foreseeable.

Notably, Respondents' own Response concedes that the *Zadvydass* claim is not barred by § 1252—yet Respondents simultaneously insist the Court lacks "habeas jurisdiction" over the

1 petition. That internal inconsistency underscores the core defect in Respondents’ position: this is
2 a detention challenge that remains reviewable, and the PI Order already so held.

3 **IV. STATUTORY AUTHORITY AND THE SIX-MONTH LIMIT UNDER *ZADVYDAS***

4 **A. The government has authority to detain noncitizens after a final order—but only for the**
5 **time reasonably necessary to remove them.**

6
7 As the Court explained, 8 U.S.C. § 1231 governs post-order detention, establishes the
8 mandatory 90-day “removal period,” and permits continued detention beyond that period under
9 § 1231(a)(6) in limited circumstances. But the Supreme Court rejected the government’s
10 contention that § 1231(a)(6) authorizes indefinite detention; to avoid serious constitutional
11 problems, the statute is construed to permit continued detention only so long as removal is
12 “reasonably foreseeable.” Six months is presumptively reasonable; after that, the detainee may
13 obtain release by providing good reason to believe there is no significant likelihood of removal
14 in the reasonably foreseeable future, at which point the government must respond with evidence
15 sufficient to rebut the showing.
16

17
18 **B. Petitioner has shown good reasons to believe he will not be removed in the reasonably**
19 **foreseeable future.**

20 The Court already found Petitioner is likely to succeed in showing he has good reason to
21 believe removal is not reasonably foreseeable based on the facts of this record: ICE has been
22 unable to remove Petitioner for approximately two decades; Petitioner alleges Iranian officials
23 refused to recognize him as an Iranian national for repatriation purposes; and Petitioner alleges
24 an ICE field officer told him he did not know why Petitioner was arrested and that Iran would not
25 accept him.
26

27 Respondents’ Response does not rebut those facts. It repeats generalized assertions that
28 ICE is making “good faith efforts” and suggests that removal may occur at some unspecified time.

1 That is not evidence, and it is not a rebuttal under *Zadvydas*. The government must show a
2 significant likelihood of removal for *this* Petitioner in the reasonably foreseeable future.

3 **C. The government’s claim that Iran is “accepting deportees” remains unsupported by**
4 **evidence—and even if it were true, it still would not carry Respondents’ burden.**

5 The Court expressly found that the government’s assertion that Iran “accepted
6 approximately 100 Iranian citizens” deported by the United States was not supported by any
7 evidence. The Court further held that even if the attorneys’ statement were accepted as true, it
8 would not satisfy the government’s shifted burden because the fact that Iran accepted some
9 deportations would not show that it will continue to do so, nor that it has reconsidered its previous
10 conclusion that Petitioner would not be accepted, and the government provided no indication that
11 Iran would accept Petitioner.
12

13 Respondents’ Response does not fix that evidentiary failure. It offers no competent proof
14 of diplomatic acceptance, no individualized repatriation assurance, and no evidence that travel
15 documents exist or can be obtained for Petitioner. Under *Zadvydas*, speculation is not enough.
16

17 **V. RESPONDENTS’ “FAILURE TO COOPERATE” / TOLLING THEORY FAILS**

18 Respondents invoke 8 U.S.C. § 1231(a)(1)(C) and Ninth Circuit “noncooperation” cases
19 to argue Petitioner is to blame for the lack of removal. The Court already addressed this: Ninth
20 Circuit cases deny relief where ICE shows a noncitizen refused to fill out a passport application
21 or otherwise thwarted removal efforts—but the government provided no evidence of any such
22 refusal here. The Court further noted that counsel represented Petitioner left Iran as an infant,
23 possessed only a birth certificate as Iranian documentation, and gave it to ICE in 2006; and the
24 government provided no support for the contention that he was required to do more or that “more”
25 was required by the OSUP. The Court also noted the government did not meaningfully respond
26
27
28

1 to Petitioner’s allegation that he spoke with an Iranian consular official in 2010 and was told he
2 would not be accepted.

3 Respondents’ Response doubles down on the same theory, but it still fails for multiple
4 independent reasons:

- 5
6 1. Wrong legal standard: Ninth Circuit noncooperation cases require proof of actual refusal
7 or obstruction—e.g., refusing to complete a passport application or otherwise thwarting
8 removal. Respondents present none.
- 9
10 2. Record contradiction: The Court found the government produced no evidence of refusal
11 and no evidence that Petitioner was required by his OSUP to affirmatively seek documents
12 independent of ICE’s efforts.
- 13
14 3. Agency-created impossibility: Petitioner cooperated with ICE and provided the only
15 Iranian document he ever possessed—his birth certificate—during the 2006 detention. If
16 ICE never returned it and now cannot produce it, that is not Petitioner’s “failure”; it is the
17 agency creating an impossible condition and then punishing Petitioner for the
18 impossibility.
- 19
20 4. No causation: Even if Respondents could show a technical deficiency in “independent”
21 requests (they cannot), Respondents must still show a significant likelihood of removal in
22 the reasonably foreseeable future. The Court already found they did not and have not met
23 that burden.

24 **VI. ORDERS OF SUPERVISION, REVOCATION PROCEDURES, AND *ACCARDI***

25 Respondents assert DHS “revoked” Petitioner’s supervised release and lawfully detained
26 him, citing only a Warrant of Removal/Deportation. But the Court already found the government
27 produced no evidence that supervision was revoked for the asserted reason or that any revocation
28

1 occurred, and that the “failure to seek documents” revocation theory appeared specious in light
2 of the actual OSUP documents.

3 The governing regulation, 8 C.F.R. § 241.4(l), permits revocation of supervision, but it
4 imposes mandatory process: notice stating reasons for revocation; a prompt initial interview
5 giving the alien an opportunity to respond; and subsequent review procedures if the alien is not
6 released. Respondents have never produced a revocation notice, never produced any record of the
7 required revocation interview, and never produced a determination supported by disputed-fact
8 evaluation as required by the regulation.
9

10 That failure is independently unlawful under *Accardi*. Agencies must follow their own
11 rules. ICE cannot lawfully convert long-standing supervised liberty into detention by ambush and
12 then attempt to justify it retroactively with a defective warrant. The Court’s preliminary injunction
13 rested on the likelihood of success on the *Zadvydas* claim and did not need to reach the revocation
14 claim; but for final relief, the absence of any revocation instrument and the failure to follow §
15 241.4(l) procedures remains a separate basis for habeas relief and injunctive relief preventing
16 recurrence.
17

18 **VII. THE WARRANT OF REMOVAL CONFIRMS ARBITRARINESS AND LACK OF** 19 **INDIVIDUALIZED REVIEW** 20

21 The Court found the Warrant of Removal cited 8 U.S.C. § 1231(a)(5) (reinstatement after
22 unlawful reentry), and that the government conceded at the hearing that the provision does not
23 apply to Petitioner. The Court also found the warrant spelled Petitioner’s name four different
24 ways—each wrong.
25

26 That is not a harmless technicality. It reinforces what the record already shows: the
27 absence of individualized review, the arbitrary nature of ICE’s action, and the lack of a lawful
28 revocation pathway. The warrant cannot substitute for the revocation procedures mandated by 8

1 C.F.R. § 241.4(l), and it cannot satisfy *Zadvydas*'s evidentiary requirement that the government
2 respond with evidence showing a significant likelihood of removal in the reasonably foreseeable
3 future.

4
5 **VIII. RESPONDENTS' RELIANCE ON CRIMINAL HISTORY IS A LEGAL NON**
6 **SEQUITUR**

7 Respondents argue that Petitioner "conveniently" hid a criminal history and suggest that
8 this somehow justifies detention. But under *Zadvydas*, the question is not whether ICE prefers to
9 detain—it is whether detention remains tied to a realistic prospect of removal. Once removal is
10 not reasonably foreseeable, continued detention exceeds statutory authority and violates due
11 process regardless of the historical conviction. The Court's PI Order reflects this framework: the
12 merits analysis turned on foreseeability and the government's evidentiary failure, not on criminal
13 history.
14

15 Moreover, Respondents never show a change of circumstances that would justify re-
16 detention after years of supervised liberty—nor do they point to any administrative finding that
17 Petitioner is currently a danger to the community or a flight risk warranting re-detention
18 notwithstanding the lack of removability. Their criminal-history rhetoric is therefore irrelevant to
19 the legal test and cannot cure the absence of evidence of foreseeable removal or lawful revocation.
20

21 **IX. NATIONAL-ORIGIN DISCRIMINATION IS CENTRAL TO WHY PETITIONER**
22 **WAS ARRESTED**

23
24 The timing and circumstances of Petitioner's June 2025 arrest reveal the true driver of
25 ICE's decision: national origin. As the Court summarized, Petitioner alleges he was detained as
26 part of a concerted effort to "round up all Iranians," after years of living at liberty under OSUP
27 through multiple administrations. Respondents' Response does not meaningfully rebut that
28 showing; instead it dismisses the claim as "generalized assumptions" while simultaneously

1 admitting it has no evidence of any lawful revocation, no evidence Petitioner violated OSUP
2 conditions, and no evidence of a realistic removal pathway for Petitioner.

3 That matters for two reasons:

- 4 1. It reinforces arbitrariness. Where there is no individualized basis—no revocation, no
5 violation, no change in circumstances, and no removal pathway—the most plausible
6 explanation for the sudden arrest is discriminatory targeting based on nationality.
- 7 2. It supports APA and due process relief beyond release. Even after release, Petitioner needs
8 final habeas relief that reinstates the prior OSUP and prohibits ICE from repeating the
9 same conduct—arresting him from supervised liberty without notice, without revocation
10 procedures, and without any realistic removal plan—under a pretextual “noncooperation”
11 narrative.
12
13

14 ICE has tools if circumstances genuinely change. But those tools require process. That is
15 exactly why Petitioner requests permanent relief conditioning any future re-detention on strict
16 compliance with the revocation regime and on fear-process protections if ICE purports to identify
17 a third-country pathway.
18

19 **X. REQUESTED RELIEF**

20 Petitioner respectfully requests that the Court:

- 21 1. Grant the Petition for Writ of Habeas Corpus and declare that Petitioner’s arrest and
22 detention beginning June 25, 2025 exceeded Respondents’ statutory authority and violated
23 the Fifth Amendment, *Accardi*, and the APA;
- 24 2. Order final, permanent habeas relief requiring that Petitioner remain at liberty under
25 supervision as required by 8 U.S.C. § 1231(a)(3);
- 26 3. Reinstatement of Petitioner’s prior Order of Supervision (status quo ante), not a materially altered
27 supervision instrument imposed as a substitute for lawful revocation;
28

1 4. Enter an order providing that if Respondents seek to re-arrest Petitioner in the future, they
2 may do so only upon:

3 (a) a genuine, documented change in circumstances or a real, individualized third-
4 country removal pathway;

5 (b) strict compliance with 8 C.F.R. § 241.4(l), including written notice of reasons,
6 a prompt revocation interview, and the full review procedures mandated by the
7 regulation; and
8

9 (c) where Respondents propose removal to any third country, advance notice and
10 a meaningful opportunity for Petitioner to raise any fear-based claims related to
11 that proposed third country before any removal is attempted.
12

13 **XI. EAJA PRESERVATION**

14 Petitioner preserves all rights to seek attorneys' fees under the Equal Access to Justice
15 Act. The Court's preliminary injunction findings and Respondents' evidentiary failure to justify
16 detention support prevailing-party status and undermine any claim of substantial justification.
17

18 Petitioner will raise EAJA entitlement on the Court's schedule.

19 DATED this 15th day of January, 2026.

20 Respectfully Submitted,
21 SHAMOON ELIADES, LLP
22 /s/ Michael T. Shamoan
23 Michael T. Shamoan, Esq.
24 Nevada Bar. No. 15324
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Certificate of Service

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I hereby certify that on January 15, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system. Participants in the case who are registered CM/ECF users and will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

John Mattos, Warden
Nevada Southern Detention Center
2190 E Mesquite Avenue
Pahrump, NV 89048

s/ Michael T. Shamoan