

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KHALID ABUBLAKAN,

Petitioner,

v.

WARDEN, SOUTH FLORIDA SOFT-
SIDED FACILITY SOUTH, et al. (all
official capacity),

Respondents.

Case No. 2:26-cv-808-SPC-NPM
A No. 
Saudi Arabia

FEDERAL RESPONDENTS' MOTION FOR CLARIFICATION

The Federal Respondents respectfully request clarification of the Court's April 9, 2026 order directing Federal Respondents to conduct a custody review considering whether Khalid Abublakan ("Petitioner") presents a danger to the community. *See* ECF 9 at 5.

BACKGROUND

On March 20, 2026, this matter commenced with the filing of a petition seeking relief pursuant to the Writ of Habeas Corpus.¹ ECF 1. Respondents were ordered to show cause by March 31, 2026 as to why the petition should not be granted, and as directed, Federal Respondents filed their response on March 31, 2026. ECF 8. In their

¹A notice of related action was filed in this case (ECF 7) because Abublakan filed a previous habeas petition challenging his detention on January 21, 2026, which was denied without prejudice by Judge Dudek on March 4, 2026.

response, Federal Respondents argued that Petitioner's detention did not violate the Fifth Amendment to the U.S. Constitution because his period of detention remained presumptively reasonable. *See* ECF 8 at 6-14; *see also Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because Petitioner's detention remained presumptively reasonable, Federal Respondents argued that the burden-shifting framework requiring the government to demonstrate a significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") had not been triggered. *Id.* The Court disagreed, finding that the presumptively reasonable detention period had expired and that the government had not demonstrated SLRRFF. ECF 9 at 3-4. However, given the Petitioner's criminal record, the Court directed ICE to "conduct a custody review to determine whether Abublakan poses a danger to the community sufficient to justify continued detention." *Id.* at 5.

DISCUSSION

Federal Respondents' position is that where a determination has been made that there is no SLRRFF—as is the case here with the Court's finding—the operative regulation governing detention is 8 C.F.R. § 241.13. This regulation considers the alien's likelihood of removal in the reasonably foreseeable future and generally does not permit the government to base its detention decision on whether the alien presents a potential danger to the community. *Id.* There is a narrow exception for "special circumstances" in which the alien's detention may be considered under a separate regulation: 8 C.F.R. § 241.14. *See* 8 C.F.R. § 241.13(e)(6). Examples of "special

circumstances” include contagious disease posing a threat to public safety, potential serious adverse foreign policy consequences, terrorism, or where the alien has been deemed “specially dangerous” based on his commission of serious crimes on account of a mental condition or personality disorder. 8 C.F.R. § 241.14(b)–(f).

In Federal Respondents’ view the facts do not support a conclusion that Petitioner falls within any of § 241.14’s criteria. Therefore, Petitioner’s detention should be considered under § 241.13. Given the Court’s determination that the government failed to establish SLRRFF—ECF 9 at 3-4—the appropriate remedy here would be an order directing Federal Respondents to release Petitioner from custody under appropriate conditions of supervision to be determined by ICE. *See* 8 C.F.R. § 241.13(g)(1) (where the alien has demonstrated to ICE that there is no significant likelihood of removal, “[u]nless there are special circumstances justifying continued detention, the Service shall promptly make arrangements for the release of the alien subject to appropriate conditions, as provided in” 8 C.F.R. § 241.13(h)). Put simply, although the Federal Respondents appreciate the opportunity the Court has provided to consider Petitioner’s potential danger to the community, under the facts of this case, the Federal Respondents do not see a regulatory mechanism that would permit the Federal Respondents or the Court to continue Petitioner’s detention due to concerns about his dangerousness.

Federal Respondents respectfully request clarification as to whether the Court’s order directing them to conduct a custody review to consider whether Petitioner

presents a danger to the community is appropriate in light of the regulatory framework. If so, to ensure compliance with the Court's order, the Federal Respondents respectfully request further clarification as to the specific criteria the Court would like them to consider in determining whether Petitioner presents a danger to the community. If the Court concludes that such review is not appropriate, the Federal Respondents request that the Court issue an order directing the Federal Respondents to release Petitioner under appropriate conditions of supervision to be determined by ICE.

DATED: April 22, 2026

Respectfully submitted,

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3.01(g) CERTIFICATION

Because Petitioner filed his habeas petition pro se, and he remains in immigration custody, the undersigned is not able to confer with him about the substance of this motion.

/s/ Kelley C. Howard-Allen
KELLEY C. HOWARD-ALLEN
Assistant United States Attorney