

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

CASE NO. 1:25-cv-25960-PCH

**HUSSAM MOHAMMAD ABUEL-HAWA,**

Petitioner,

v.

**KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security, in her official capacity;  
**TODD LYONS**, Acting Director and Senior Official Performing the Duties of the Director of ICE, in his official capacity; **GARRETT RIPA**, Field Office Director for ICE ERO Miami, in his official capacity; **Warden of the Krome North Service Processing Facility**, in his/her official capacity, **U.S. Department of Homeland Security**; and **U.S. Immigration and Customs Enforcement**,

Respondents.

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

Respondents by and through the undersigned Assistant United States Attorney file this Response to Order to Show Cause and request that this Court deny Petitioner's Verified Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief [DE 1] ("Petition") and states in support thereof as follows:

**I. INTRODUCTION**

Petitioner challenges not only his detention but also the revocation of his Order of Supervision on the basis that Respondents violated the "Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the Accardi doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions." [DE 1, ¶ 4]. As set forth below, Petitioner's

detention is lawful, and the revocation of his Order of Supervision is to effectuate a final order of removal, an act of discretion for which notice, and an informal interview were provided. Because Petitioner's removal to Jordan is significantly likely to occur in the reasonably foreseeable future, continued detention remains necessary and a constitutional aspect of the deportation process. As such, the Petition should be denied.

## **II. FACTUAL BACKGROUND**

The Petitioner is a native and citizen of Jordan. *See* Ex. 1, Record of Deportable/Inadmissible Alien (Form I-213), dated October 18, 2025. He entered the United States on February 18, 1978, as a lawful permanent resident. *Id.*

On September 24, 1999, Petitioner was convicted of aggravated assault and possession of cannabis in Broward County, Florida. *See* Ex. 2, Criminal Docket Printout. On October 17, 2001, legacy Immigration and Naturalization Service issued Petitioner a Notice to Appear (NTA) charging him as removable from the United States pursuant to Immigration and Nationality Act (INA) § 237(a)(2)(C), as amended, in that, at any time after admission, he has been convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying in violation of any law, any weapon, part or accessory which is a firearm or destructive device (as defined in section 921(a) of Title 18, United States Code). *See* Ex. 3, NTA.

On November 2, 2001, Petitioner was apprehended by U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) and taken into custody. *See* Ex. 4, Detention History. On November 20, 2001, he was released from custody on an order of release on his own recognizance. *Id.* On November 21, 2001, Petitioner filed an application for relief from removal with the immigration court. *See* Ex. 5, Declaration of Deportation Officer Delgado (Declaration), ¶ 12. On February 5, 2004, the immigration court denied the application for relief and ordered Petitioner removed to Jordan. *See* Ex. 6, Order of the Immigration Judge, dated

February 5, 2004. Petitioner appealed the decision of the immigration court to the Board of Immigration Appeals (BIA). *See* Ex. 5, Declaration, ¶ 14. On February 1, 2005, the BIA dismissed Petitioner's appeal, and the removal order became administratively final. *See* Ex. 7, Decision of the Board of Immigration Appeals, dated February 1, 2005.

On September 30, 2005, Petitioner was encountered by ICE ERO and taken into custody. *See* Ex. 4, Detention History. On March 24, 2006, Petitioner was released on an Order of Supervision (OSUP). Ex. 8, OSUP. On October 17, 2025, Petitioner reported to ICE ERO and was taken into custody in order to effectuate removal. *See* Ex. 1, Form I-213. On October 18, 2025, ICE ERO issued a Notice of Revocation of Release, revoking the OSUP. *See* Ex. 9, Notice of Revocation of Release. On November 2, 2025, ICE ERO conducted an informal interview of Petitioner pursuant to 8 CFR § 241.4(l)(1). *See*, Ex. 5, Declaration, ¶ 20.

On December 31, 2025, ICE ERO submitted a request for a travel document from the Jordanian consulate to effectuate Petitioner's removal. *Id.* at ¶ 21. As of today, the request for the travel document remains pending. *Id.* at ¶ 22. Jordan is accepting individuals removed from the United States and individuals are regularly removed to Jordan. *Id.* at ¶ 23. Jordan routinely issues travel documents. *Id.* at ¶ 24. In the instant case, there is a significant likelihood of removal in the reasonably foreseeable future. *Id.* at ¶ 25. Petitioner remains detained at Krome North Service Processing Center in Miami, Florida. *See* Ex. 4, Detention History.

### **III. ARGUMENT**

#### **A. Respondents' Revocation of Petitioner's OSUP for purposes of Effectuating Removal Cannot be Reviewed by the Court.**

"Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted). "A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does

not exist arises." *Johansen v. Combustion Eng'g, Inc.*, 170 F.3d 1320, 1328 n.4 (11th Cir. 1999). Accordingly, before the Court can proceed, it must determine whether it has jurisdiction over this action. *See Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1323 (11th Cir. 2012) ("Prior to making an adjudication on the merits, we must assure ourselves that we have jurisdiction to hear the case before us.").

As a threshold matter, "the decision to revoke Petitioner's OSUP, for the stated purpose of executing his removal order, clearly falls under the purview of § 1252(g)." *Barrios v. Ripa et al.*, No. 25-cv-22644-Gayles, 2025 U.S. Dist. LEXIS 153228, at \*11 (S.D. Fla. Aug. 8, 2025). Section 1252(g) explicitly states that "no court shall have jurisdiction to hear *any* cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." (emphasis added). § 1252(g). *See Camarena v. Director, I.C.E.*, 988 F.3d 1268, 1274 (11th Cir. 2021) ("the statute's words make that clear. One word in particular stands out: 'any.' Section 1252(g) bars review over 'any' challenge to the execution of a removal order—and makes no exception for those claiming to challenge the government's 'authority' to execute their removal orders.").

The Court also lacks jurisdiction under § 1252(a)(2)(B)(ii) to review Respondents' discretionary decision to revoke the OSUP. Section 1252(a)(2)(B) states that "no court shall have jurisdiction to review any action of the Attorney General the authority for which is specified under this subchapter to be in the discretion of the Attorney General." § 1252(a)(2)(B)(ii). The decision to revoke an OSUP is a discretionary one. *See* 8 C.F.R. § 241.4(l)(2) ("The Executive Associate Commissioner shall have authority, in the exercise of discretion, to revoke release and return to Service custody an alien previously approved for release under the procedures in this section."). The

court also found in *Barrios*, that “because the Attorney General has the discretion to revoke an OSUP, section 1252(a)(2)(B)(ii) also bars review.” 2025 U.S. Dist. LEXIS 153228, at \*11.

Beyond the issue of notice and an informal interview, Petitioner asserts that he did not violate any terms of the OSUP, and circumstances have not changed in any way suggesting that he would now present a flight risk or danger to the community, or that his removal order could be effectuated. [DE 1, ¶¶ 1, 24]. To the extent these assertions are meant to challenge the decision to detain Petitioner in furtherance of the execution of his removal order—review is barred under § 1252(g).

**B. Petitioner is Detained pursuant to 8 U.S.C. § 1231 as there is a Final Order of Removal, thus the Revocation of the OSUP and Re-Detention for Purposes of Effectuating such Removal is Lawful.**

The Department of Homeland Security (“DHS”) has the authority to grant an OSUP for an alien subject to a final order of removal who has not been removed within the 90-day removal period. 8 U.S.C. § 1231(a)(3). Regulations also allow the government to terminate an order of supervision if the ICE District Director chooses to do so in his discretion. 8 C.F.R. § 241.4(l)(2). “A district director may also revoke release of an alien when, in the district director’s opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner. Release may be revoked in the exercise of discretion when, in the opinion of the revoking official:

- (i) The purposes of release have been served;
- (ii) The alien violates any condition of release;
- (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
- (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

*Id.* Here, Petitioner’s Notice of Revocation of Release was issued pursuant to 8 C.F.R. § 241.4 as it was determined appropriate to enforce Petitioner’s removal order. *See* Ex. 9, Notice of

Revocation of Release. Not only was notice provided but also an informal interview was conducted after Petitioner was detained. *See* Ex. 5, Declaration, ¶¶ 19-20.

Further, Petitioner alleges that “the official responsible for revoking Petitioner’s order of supervision is a Deportation Officer and did not first refer the case to the ICE Executive Associate Director, did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision.” [DE 1, ¶ 28]. In the present case, Petitioner’s OSUP revocation was signed by a Supervisory Detention and Deportation Officer (SDDO), which is authorized pursuant to the Delegation of Signature Authority Memorandum, dated July 16, 2025. Ex. 10, Delegation of Signature Authority Memorandum. Such delegation provides that the Field Office Director delegates the ability to sign a Notice of Revocation of Release to the Supervisory Deportation and Detention Officer (SDDO). *Id.* As set forth in Respondents’ Notice of Revocation of Release, the SDDO signed Petitioner’s Notice. Ex. 9, Notice of Revocation of Release. Additionally, Petitioner’s argument regarding the SDDO failing to make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director is a red herring. Contrary to Petitioner’s assertions [DE 1, ¶ 38], 8 C.F.R. § 241.4 does not mandate what Petitioner is requiring, it only suggests that an official take those factors into consideration, therefore, the OSUP revocation was not procedurally deficient.

Under these facts, any claim that Respondents violated their own regulations under the APA, *Accardi* Doctrine or Due Process clause of the Fifth Amendment do not pass muster. First, the APA does not confer jurisdiction for review where there is an alternative statutory remedy. The APA only permits judicial review of an adverse agency decision where no other adequate remedy is available.” *Hogan v. Kerry*, 208 F. Supp. 3d 1288, 1290 (S.D. Fla. 2016); *see* 5 U.S.C.

§ 704 (“Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review.” (emphasis added)).

Second, Petitioner’s argument fails that pursuant to *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, Respondents “violated agency regulation governing who and upon what findings it may properly revoke an order of supervision” and also violated agency instructions in Petitioner’s release notification to an opportunity to prepare for orderly departure” when revoking the OSUP without advance notice. [DE 1, p. 17]. As the *Barrios* Court noted when the delegation of authority was challenged as to an OSUP revocation signed by an SDDO, “Courts are disinclined to interfere with the discretion delegated to those charged with enforcing immigration laws.” *Goldovsk v. U.S. Citizenship & Immigr. Servs.*, No. 07-CV-21342-PCH, 2007 U.S. Dist. LEXIS 116014, at \*1 (S.D. Fla. Sept. 28, 2007). “The Court is unaware of any authority that requires Respondents to publicly document every time an official delegates authority to another official.” 2025 U.S. Dist. LEXIS 153228, at \* 19. Lastly, while Petitioner is not satisfied with the amount of notice provided, it was given, and an interview was conducted thereafter so that he could be heard. Ex. 5, Declaration, ¶¶ 19-20. In turn, due process was afforded to Petitioner.

Above all and as the Supreme Court has emphasized “detention during deportation proceedings [remains] a *constitutionally valid* aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (emphasis added). The Supreme Court has never held that aliens have a constitutional right to be released from custody during the pendency of removal proceedings, and, in fact, has held precisely the opposite. *See id.* at 530; *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of this deportation procedure.”).

**C. There is a Significant Likelihood of Petitioner’s Removal to Jordan in the Reasonably Foreseeable Future.**

Petitioner argues that all past attempts to remove him to Jordan have been futile and there

is no significant likelihood of removal in the reasonably foreseeable future. [DE 1, ¶ 27]. As set forth in the verified Declaration submitted to the Court, on December 30, 2025, ICE ERO submitted a request for a travel document from the Jordanian consulate to effectuate Petitioner's removal. Ex. 5, Declaration, ¶ 21. While the request for the travel document remains pending, Jordan is accepting individuals removed from the United States and regularly removes those individuals. *Id.* at. ¶¶ 22-23.

Although Petitioner does not discuss the length of his detention, he does cite to *Zadvydas v. Davis*, 533 U.S. 678 (2001), stating that “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by § 1231(a)(6). In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances.” [DE 1, ¶ 37]. However, there is no institutional barrier to removal and Petitioner has failed to meet his burden that a current lack of travel documents would preclude immediate removal upon receipt. A delay of several months in the issuance of travel documents does not, without more, establish that a petitioner's removal is unlikely to occur in the reasonably foreseeable future – even if detention extends beyond the presumptively reasonable six-month period as explained in *Zadvydas*. See *Shaikh v. Meade*, No. 21-cv-23752, 2022 U.S. Dist. LEXIS, at \*9-10 (S.D. Fla. Mar. 2, 2022) (concluding Petitioner did not meet his burden in the context of an anticipated delay of several months as it pertained to travel documents).

#### **IV. CONCLUSION**

Based upon the foregoing reasons, the Petition should be denied.

Dated: January 21, 2026

Respectfully submitted,

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