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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

EBDALNASSR ALEBW,

Petitioner,

v.

ARNALDO HERNANDEZ,
SUPERINTENDENT, ANCHORAGE
CORRECTIONAL COMPLEX;

LAURA HERMOSILLO, FIELD OFFICE
DIRECTOR, SEATTLE FIELD OFFICE,
UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT;

TODD LYONS, ACTING DIRECTOR,
UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT;

MARKWAYNE MULLIN, SECRETARY
OF U.S. DEPARTMENT OF
HOMELAND SECURITY;

TODD BLANCHE, ACTING UNITED
STATES ATTORNEY GENERAL,

Respondents.

Case No. 3:26-CV-00228-SLG

PETITIONER'S REPLY
TO RESPONDENTS'
RETURN ON ORDER
TO SHOW CAUSE

I. A BRIEF STATEMENT OF THE ISSUE TO BE DECIDED

On June 5, 2026, Petitioner Ebdalnassr Alebw (thereafter “Mr. Alebw”) filed his petition for a writ of habeas corpus asking the Court to find that his ongoing detention violates the Due Process Clause of the Fifth Amendment and to order his immediate release from the ICE custody. On June 8, 2026, Mr. Alebw filed an amended petition for a writ of habeas corpus, supplementing the prayer for relief with the request to order Respondents to move to reopen his removal proceedings in the immigration court. On June 11, 2026, the immigration judge reopened Mr. Alebw’s removal proceedings *sua sponte* stating that “[p]ursuant to the recent decision in *Easy Bay Sanctuary Covenant v. Trump*, WL 125873 (N.D. Cal. May 7, 2026), the [] motion to reopen is granted by this court sua sponte.” Dkt. 23. In light of the development of the case, Mr. Alebw withdraws his prayer to order Respondents to move to reopen his removal proceedings in the immigration court and reiterates his claim that his ongoing detention violates the Due Process Clause of the Fifth Amendment.

II. A SUMMARY OF ARGUMENT PRESENTED

Under as-applied challenge to constitutionality of his detention under detention statute 8 U.S.C. § 1225(b)(1) and detention statute 8 U.S.C. § 1231(a), Ms. Alebw’s detention for more than 17 (seventeen) months (precisely 515 days) has become unreasonably prolonged and violates his due process rights.

All *Jamal* factors weigh in Mr. Alebw’s favor: (1) the total length of detention to date is more than seventeen months which is considerably longer than the length of detention recognized by district courts as unreasonably prolonged; (2) the likely duration of future detention is uncertain due to necessity to consider the current country conditions in Syria and

possibility of a lengthy appeal with the Board of Immigration Appeals (“BIA”); (3) the conditions of detention clearly weigh in Mr. Alebw’s favor because, due to his forced isolation from other prisoners, he is confined in his cell for more than 23 hours a day; (4) no delays in the removal proceedings have been caused by Mr. Alebw; (5) the government caused a delay in his removal proceedings by not reopening his case as soon as the regulatory bar to Mr. Alebw’s asylum eligibility was vacated; and (6) the likelihood that the removal proceedings will result in a final order of removal is low because on June 27, 2025, the immigration judge decided that it is more likely than not that Mr. Alebw will be persecuted in Syria if removed.

All *Mathews* factors weigh in Mr. Alebw’s favor: (1) Mr. Alebw has a significant private interest in avoiding detention; (2) the risk of erroneous deprivation of liberty is high as his risk of flight and dangerousness were never assessed; (3) Respondents have not shown that they have a significant interest in Mr. Alebw’s ongoing detention and his detention would impose more costs upon Respondents.

III. “CIRCUMVENTION OF LAWFUL PATHWAYS” BAR TO ASYLUM ELIGIBILITY

In her ruling to reopen Mr. Alebw’s removal proceedings in the immigration court, the immigration judge explained the reason for reopening – the recent decision in *Easy Bay Sanctuary Covenant v. Trump*, WL 125873 (N.D. Cal. May 7, 2026). *Easy Bay Sanctuary Covenant* vacated, in its entirety, the so-called Circumvention of Lawful Pathways rule (“CLP rule”) under 8 C.F.R. § 1208.33(a)(1).

The CLP rule bars asylum for most non-Mexicans who arrived at the U.S. southern border between May 11, 2023 and May 11, 2025. The only such individuals not subject to the

bar are those who applied for asylum or other protection in a transit country and received a final denial of relief; used the now-defunct CBP One app to obtain an appointment to cross the border at a port of entry; or received advance permission to travel to the United States through an approved parole program. 8 C.F.R. § 1208.33(a)(2). In addition, the CLP rule contains extremely narrow exceptions for people who can demonstrate “exceptionally compelling circumstances,” including an “acute medical emergency,” an “imminent and extreme threat” to life or safety, or being a “victim of a severe form of trafficking in persons.” 8 C.F.R. § 1208.33(a)(3).

The CLP rule was challenged in a federal district court of the Northern District of California.

On July 25, 2023, the district court granted summary judgment to Plaintiffs, vacating the CLP rule as contrary to the asylum statute, arbitrary and capricious, and procedurally defective. *East Bay Sanctuary Covenant, et al., v. Biden, et al.*, 683 F.Supp.3d 1025 (N.D. Cal. 2023).

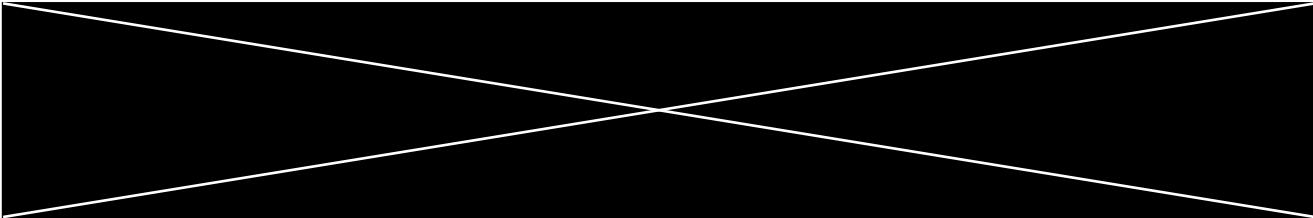
The government appealed that decision and obtained a stay pending appeal, meaning that the CLP rule remained in effect. Following argument, the U.S. Court of Appeals for the Ninth Circuit vacated the district court’s order and remanded for supplemental briefing on standing and the CLP rule’s validity in light of intervening Supreme Court precedent *Food and Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024), which addressed organizational standing, and the Trump administration’s termination of the CBP One appointment system, parole programs, and other policies cited in the Rule. *E. Bay Sanctuary Covenant v. Trump*, 134 F.4th 545, 548 (9th Cir. 2025).

On May 7, 2026, after considering the parties’ supplemental arguments on remand, the district court reaffirmed its 2023 decision and again vacated the CLP rule. *East Bay Sanctuary Covenant v. Trump*, 2026 WL 1256873 (N.D. Cal. May 7, 2026). Therefore, the CLP rule is currently vacated and unenforceable.

As Mr. Alebw’s application for asylum was denied *solely* on the ground of the regulatory bar to asylum eligibility under the CLP rule, 8 C.F.R. § 1208.33, the immigration judge reopened his removal proceedings. *See Harmon v. Thornburgh*, 878 F.2d 484, 495 n.21 (D.C. Cir. 1989) (“When a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed.”); *Action on Smoking & Health v. C.A.B.*, 713 F.2d 795, 797 (D.C. Cir. 1983) (per curiam) (“To vacate ... means ‘to annul; to cancel or rescind; to declare, to make, or to render, void; to defeat; to deprive of force; to make of no authority or validity; to set aside.’ ” (citation omitted)); *Kiakombua v. Wolf*, 498 F.Supp.3d 1, 50 (D.D.C. 2020) (Jackson, J.) (“In essence, a vacatur order takes the unlawful agency action off the books[.]” (citation and internal quotation marks omitted)).

IV. STATEMENT OF FACTS AND STATEMENT OF THE CASE

Petitioner Mr. Alebw is a citizen and national of Syria and 



On December 28, 2024, Mr. Alebw crossed the Mexico-U.S. border without inspection, seeking refuge and asylum, He was taken in ICE custody shortly after his entry

and detained in the Jackson Parish Correctional Center, Louisiana. The DHS placed Mr. Alebw in expedited removal proceedings and issued an expedited removal order. On February 05, 2025, the immigration judge of the LaSalle Immigration Court, Louisiana ruled that Mr. Alebw “has established a reasonable probability (substantially more than a reasonable possibility but somewhat less than more likely than not) of persecution or torture.” *Exhibit A. Order of the Immigration Judge dated February 5, 2025*. As a result, by operation of the law, the expedited removal order was vacated and on March 24, 2025, the Department of Homeland Security (DHS) placed Respondent in full removal proceedings before the Oakdale Immigration Court, Louisiana.

On May 8, 2025, Mr. Alebw filed, with the Oakdale Immigration Court, his application for asylum, for withholding of removal, and for protection under the Convention Against Torture.

At the individual hearing on June 27, 2025, the immigration judge found that Mr. Alebw suffered past persecution, *Exhibit B. Transcript of the IJ oral decision*, at 3 (“I do believe you have suffered past persecution.”); *id.* at 13 (“In this case, the Court finds that the respondent has suffered past persecution.”), and that the persecution was on account of a protected ground, *id.* at 14 (“[T]he Court finds this was done on account of his religious beliefs.”). Furthermore, the immigration judge found that Mr. Alebw’s state – Syria – is not just unable and unwilling to control the Respondent’s persecutors but is likely to persecute Respondent. *Id.* at 15 (“Therefore, the Court finds that the state is not just unable or unwilling to control, but is the actual entity who is likely to harm the respondent.”). The immigration judge also found that Respondent could not safely relocate

within his country of origin. *Id.* at 4 (“I can't find it's reasonable for you to live anywhere in Syria, because the people who harmed you in the past are now in control of the whole country.”); *id.* at 16-17 (“The Court also takes notice that this particular group was a designated foreign terrorist organization considered terrorist by the United States government. This is the same group who previously harmed this respondent for his religious beliefs. Therefore, it is no longer reasonable for the respondent to relocate anywhere within Syria, as they control the entire country at this point.”).

As a result, the immigration judge found “that it is more likely than not Mr. Alebw will again be persecuted by the current ruling regime in Syria if he is returned to that country.” *Id.* at 17. By making such determination, the immigration judge acknowledged that Mr. Alebw met his burden *both* for asylum (requiring at least 10% probability of future persecution under so-called “well-founded fear of future persecution” standard) *and* for withholding of removal (requiring more than 50% probability of future persecution under so-called “more likely than not” standard).

Nevertheless, the immigration judge found that Mr. Alebw is unable to meet exception to or rebut presumption of the CLP bar under 8 C.F.R. § 1208.33(a)(1). *Id.* at 16 (“While the Court recognizes that the respondent faced some harm and threats in Mexico, he still chose to cross the border into the United States without going through a port of entry or presenting himself to an officer to claim asylum, thus circumventing the lawful pathways provided.”).

Since the immigration judge found Mr. Alebw ineligible for asylum due to the CLP rule applicability, she ordered Respondent’s removal to Syria, but concurrently granted

withholding of removal under INA § 241(b)(3). In her oral decision, the Immigration Judge specifically noted that:

You are not eligible for asylum because that regulatory bar applies, given the manner in which you crossed the border into this country.

Exhibit B. Transcript of the IJ oral decision, at 3.

On September 30, 2025, Respondent's previous immigration attorney Rashad Alasmari filed "Motion to Reconsider or, in the Alternative, to Reopen Proceedings" with the Oakdale Immigration Court. The immigration judge denied it on October 1, 2025, stating that:

In this case, the Court found the respondent ineligible for asylum due to the Circumvention of Lawful Pathways bar but granted withholding of removal under Section 241(b)(3) of the Act. It did not grant Voluntary Departure as counsel mistakenly claims in the motion and these two forms of relief or protection are mutually exclusive. As the respondent was denied asylum due to a regulatory bar and not on the merits of the claim itself, there is no legal basis to reconsider the decision. Reconsideration of any new evidence will not change the outcome, as it merely provides more support for the application that was already granted.

Exhibit C. Order of the Immigration Judge dated October 1, 2025.

This order of the immigration judge clearly reiterates that the Mr. Alebw's application for asylum was denied *solely* on the ground of the regulatory bar to asylum eligibility under the CLP rule.

In their Response in Opposition to Amended Motion for Temporary Restraining Order, Respondents misinformed the Court stating that "[a]t the immigration court, [Mr. Alebw] litigated his asylum claim, a claim he failed to establish." Dkt. 19 at 2. As shown above, Mr. Alebw has not only *established* his claim for asylum, he *over-established* his claim for asylum by meeting the heightened burden for his withholding of removal grant.

The order of removal issued by the immigration judge on June 27, 2025 became final on July 28, 2025, i.e. upon expiration of 30 days allotted for appeal if an applicant does not file an appeal within that time. 8 C.F.R. § 1241.1(c); *see also* Dkt. 11-3 at 1 (“The order became administratively final on July 28, 2025”). Therefore, on July 28, 2025, the detention statute applicable to Mr. Alebw’s detention changed from 8 U.S.C. § 1225(b)(1) to 8 U.S.C. § 1231(a).

From December 28, 2024 to July 27, 2025, i.e. for seven months (212 days exactly), Mr. Alebw was detained pursuant to 8 U.S.C. § 1225(b)(1) as an alien transferred from expedited removal proceedings to full removal proceedings. *See Matter of M-S-*, 27 I&N Dec. 509 (A. G. 2019), (“An alien who is transferred from expedited removal proceedings to full removal proceedings after establishing a credible fear of persecution or torture is ineligible for release on bond. Such an alien must be detained until his removal proceedings conclude, unless he is granted parole.”). From July 28, 2025 to May 13, 2026, i.e. for more than nine months (290 days exactly), Mr. Alebw was detained pursuant to 8 U.S.C. § 1231(a).

Even though Mr. Alebw’s removal order became final on July 28, 2025, Respondents tremendously delayed his removal for many months. As a result, on May 12, 2026, the District Court of the Western District of Louisiana found that there is no significant likelihood of Mr. Alebw’s removal in a reasonably foreseeable future and granted his Petition for a Writ of Habeas Corpus. Dkt. 11-4. On May 13, 2026, Respondent was released from ICE custody, and he settled in Anchorage, Alaska.

On June 5, 2026, Respondent was re-detained by ICE and notified that he would be removed to the Central African Republic by June 11, 2026. On the same day, June 5, 2026,

Respondent filed a Petition for a Writ of Habeas Corpus with the District Court of the Alaska District which granted a Temporary Restraining Order and issued an Order to Show Cause.

On June 10, 2026, Mr. Alebw filed a Motion to Reopen with the Oakdale Immigration Court which was granted *sua sponte* “[p]ursuant to the recent decision in *East Bay Sanctuary Covenant v. Trump*, 2026 WL 1256873 (N.D. Cal. May 7, 2026).” Dkt. 23. By operation of the law, reopening of removal proceedings vacated Mr. Alebw’s final removal order. *See Lopez-Ruiz v. Ashcroft*, 298 F.3d 886, 887 (9th Cir. 2002) (“The BIA’s granting of the motion to reopen means there is no longer a final decision to review.”); *Nken v. Holder*, 556 U.S. 418, 429 n.1 (2009) (“If the motion to reopen is granted, that vacates the final order of removal and, therefore, there is no longer a final order of removal pursuant to which the alien could be removed.”) (quoting Acting Solicitor General).

As of today, Ms. Al Attar has been detained for more than 17 (seventeen) months (515 days). From December 28, 2024 to July 27, 2025 plus from June 11, 2026 to June 17, 2026, he was detained for total 219 days pursuant to 8 U.S.C. § 1225(b)(1), and from July 28, 2025 to May 13, 2026 plus from June 5, 2026 to June 10, 2026, he was detained for total 296 days pursuant to 8 U.S.C. § 1231(a).

V. ARGUMENT

a. Viability of Mr. Alebw’s constitutional challenge to his ongoing detention

This Court should grant Mr. Alebw’s petition for a writ of habeas corpus and rule that the detention statutes 8 U.S.C. § 1225(b)(1) and 8 U.S.C. § 1231(a) have been applied to Mr. Alebw in an unconstitutional manner, causing him being detained for more than 17 months.

“‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *Hernandez Torrealba v. U.S. Department of Homeland Security*, No. 1:26-CV-00247, 2026 WL1145564, at *22 (Apr. 28, 2026) (quoting *Trump v. J.G.G.* 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993))).

In an as-applied constitutional challenge, a court assesses whether a law with some permissible uses “is nonetheless unconstitutional as applied to [the Respondents’] activity.” *United States v. Morgan*, 147 F.4th 522, 526 (5th Cir. 2025) (quoting *Spence v. Washington*, 418 U.S. 405, 414 (1974)). In *Johnson v. Arteaga-Martinez*, the Government conceded before the Supreme Court “that as applied constitutional challenges remain available to address ‘exceptional’ cases” in the context of immigration detention, 596 U.S. 573, 583 (2022).

Courts have consistently held that as-applied due process challenges to noncitizen’s detention remain viable, and that when detention becomes unreasonably prolonged, the Due Process clause demands a bond hearing before a neutral arbiter to determine whether a noncitizen’s ongoing detention can be justified. *See, e.g., Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (concluding that the Due Process Clause limits mandatory detention under 8 U.S.C. § 1226(c)); *Black v. Decker*, 103, 145 F.4th 133 (2d Cir. 2024) (same); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 210 (3d Cir. 2020) (same); *Chavez-Alvarez v. Warden York Co. Prison*, 783 F. 3d 469, 478 (3d Cir. 2015) (holding that six-month to one-year period triggers a bond hearing)); *A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025) (granting petition for a writ of habeas corpus to the petitioner detained for nearly 10 months); *Gao v. LaRose*, No. 25-CV-2084, 2025 WL 2770633, at *5 (S.D. Cal. Sept. 26, 2025) (“The

Court finds that Petitioner's detention for over 10 months without a bond hearing, in the context of the specific circumstances described above, has become unreasonable and violates due process.”); *Tonoyan v. Andrews*, No. 1:25-CV-00815, 2025 WL 3013684, at *4 (E.D. Cal. Oct. 28, 2025) (“Petitioner has been detained approximately 11 months. This period ... qualifies as prolonged.”); *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022) (“Petitioner has been in immigration detention ... approximately one year. District court have found shorter lengths of detention ... without a bond hearing to be unreasonable.”); *Sajous v. Decker*, No. 18-CV-2447, 2018 WL 2357266, at *1, 11 (S.D.N.Y. May 23, 2018) (granting preliminary injunction and ordering individualized bond hearing for petitioner detained more than eight months); *Sadeqi v. LaRose*, No. 25-CV-2587, 2025 WL 3154520, at *4 (S.D. Cal. Nov. 12, 2025) (finding that the petitioner's detention for over 11 months without a bond hearing “has become unreasonable and violates due process”); *Aguilar Nunez v. Grant Dickey*, No. 4:26-CV-00987, 2026 WL1270804, at *1 (S.D. Tex. Mar. 13, 2026) (finding that the petitioner's ongoing mandatory detention violated her substantive due process rights because the “detention [did] not ‘bear a reasonable relation to the purpose for which she was committed’”) (quoting *Salvador Rodriguez*, No. 4:26-CV-00798, 2026 WL 709487, at *4 (S.D. Tex. Mar. 13, 2026) (quoting *Demore v. Kim*, 538 U.S. 510, 527 (2003))); *K.A. v. Green*, No. 18-3436, 2018 WL 3742631 (D.N.J. Aug. 7, 2018) (detention of 19 months required a bond hearing where the court found no bad faith actions by the petitioner contributed to the delay); *C.A. v. Green*, 2018 WL 4110941 (D.N.J. Aug. 29, 2018) (detention of 15 months required a bond hearing where none of the delays were attributable to bad faith on the part of the petitioner); *Perez v. Decker*, No. 18-CV-5279, 2018 WL 3991497, at *5 (S.D.N.Y. Aug.

20, 2018) (over nine months); *Brissett v. Decker*, 324 F. Supp. 3d 444, 452 (S.D.N.Y. 2018) (over nine months); *Lett v. Decker*, 346 F.Supp.3d 379, 2018 WL 4931544 (S.D.N.Y. Oct. 10, 2018) (nearly ten months).

“Civil immigration detention is regulatory, not punitive, and must remain tethered to its legitimate purposes of ensuring appearance at proceedings and protecting the community.” *Vasquez Gonzalez v. Oddo*, No. 3:25-CV-424, 2026 WL 1139544, at *3 (W.D. Pa. Apr. 28, 2026) (quoting *Perez Sierra v. Bondi*, No. 25-CV-18829, 2026 WL 497070, at *5 (D.N.J. Feb. 23, 2026)). “Due process requires that the nature of commitment bear some reasonable relation to the purpose for which the individual is committed.” *Noguez Estrada v. Warden*, No. 5:26-CV-00359, 2026 WL 1270556, at *2 (S.D. Tex. Apr. 02, 2026) (citing *Foucha v. Louisiana*, 504 U.S. 71, 72 (1992) (citing *Jones v. United States*, 463 U.S. 354, 368 (1983))).

Mr. Alebw’s civil nonpunitive detention has already reached far beyond the point where it could be substantiated by any legitimate purpose. Arbitrary civil detention is not a feature of our American government. *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018).

b. Legal frameworks applied by district courts in the Ninth Circuit to determine whether ongoing immigration detention has become constitutionally deficient

Courts in this circuit have taken various approaches to determining whether ongoing immigration detention in a particular case violates due process.

1) six-month bright-line rule in 8 U.S.C. § 1226(c) context, *see, e.g., Rodriguez v. Nielsen*, No. 18-CV-04187, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019);

2) six-factor *Jamal* test developed in *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 858-59 (D. Minn. 2019) that considers “(1) the total length of detention to date; (2) the likely

duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal,” *see, e.g., Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117 (W.D. Wash. 2019);

3) eight-factor test that considers “whether the detention will exceed the time the petitioner spent in prison for the crime that made him [or her] removable” and “the nature of the crimes the petitioner committed” in addition to the six factors set forth above in 8 U.S.C. § 1226(c) context, *see, e.g., Juarez v. Wolf*, No. C20-1660-RJB-MLP, 2021 WL 2323436, at *4 (W.D. Wash. May 5, 2021);

4) three-factor *Lopez*-test developed in *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022) that considers (1) the total length of detention to date, (2) the likely duration of future detention, and (3) the delays in the removal proceedings caused by the petitioner and the government, *see, e.g., Abdul-Samed v. Warden of Golden State Annex Detention Facility*, No. 1:25-CV-00098, 2025 WL 2099343, at *7-8 (July 25, 2025);

5) three-factor *Mathews*-test developed in *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) that considers (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail, *see, e.g., Henriquez v. Garland*, No. 5:22-cv-00869, 2022 WL 2132919, at *5–6 (N.D. Cal. June 14, 2022).

Some courts have applied both *Jamal*-test and *Mathews*-test in an abundance of caution

given the uncertainty regarding which test to apply. *See Zagal-Alcaraz*, 2020 WL 1862254, at *4; *Mitka v. ICE Field Office Dir.*, No. C19-193, 2019 WL 5892025, at *2 (W.D. Wash. Nov. 12, 2019).

In their Return on Order to Show Cause, Respondents use *Jamal*-test. Dkt. 24 at 2-3. In abundance of caution, Mr. Alebw will conduct the analysis under both *Jamal* and *Mathews* tests

c. Under *Jamal* framework, the ongoing detention of Mr. Alebw violates his due process rights

1. Total Length of Detention to Date.

The total length of detention to date is considered the most important factor. *Banda*, 385 F.Supp.3d at 1118. Courts have previously found that much shorter lengths of detention were unreasonable. *See, e.g., Masood v. Barr*, No. 19-CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) (finding detention for nearly nine months weighs in favor of the petitioner).

In their Return on Order to Show Cause, Respondents assert that “Petitioner’s detention has been over six months.” Dkt. 24 at 3. Assuming that Respondents are referring *only* to the period of detention pursuant to 8 U.S.C. § 1225(b)(1) – even though both *Jamal*-test and *Lopez*-test are clearly referring to “total length of detention” – they are mistaken because Mr. Alebw’s detention pursuant to 8 U.S.C. § 1225(b)(1) has been longer than seven months and it is ongoing. Moreover, Respondents fail to cite – and Mr. Alebw is unaware of – *at least one authority* holding that change of the detention statute reduces somewhat the period of detention and that Respondents may ignore 296 days of Mr. Alebw’s detention

pursuant to 8 U.S.C. § 1231(a).

Nevertheless, even assuming *arguendo* that Mr. Alebw was detained for over seven months, the Respondents' argument is without merits because "[c]ourts have found detention over seven months without a bond hearing weighs toward a finding that it is unreasonable". *Hoyos Amado v. U.S. Dep't of Justice*, No. 25-CV-2687, 2025 WL 3079052, at *5 (S.D. Cal. Nov. 4, 2025). *See also Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (detention for over seven months weighs in favor of the petitioner); *Perera v. Jennings*, No. 21-CV-04136, 2021 WL 2400981 (N.D. Cal. June 11, 2021) (granting TRO and ordering individualized bond hearing for petitioner detained almost two months); *Banegas Avila v. Frink*, No. H-26-916, 2026 WL 976144, *4 (S.D. Tex. Apr. 10, 2026) (finding that the petitioner's detention for more than six months "is past the point where detention is presumptively reasonable, and the end of his immigration proceedings is not in sight").

2. Likely Duration of Future Detention.

The second *Jamal* factor requires consideration of "how long the detention is likely to continue absent judicial intervention; in other words, the 'anticipated duration of all removal proceedings – including administrative and judicial appeals.'" *Singh v. Noem*, No. 26-CV-0265, 2026 WL 206716, at *5 (S.D. Cal. Jan. 27, 2026) (quoting *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1119 (W.D. Wash. 2019)).

Here, the length of future detention is unclear. Mr. Alebw's master calendar hearing is set for June 18, 2026. *Exhibit D. Notice of Hearing*. It is possible that the immigration judge will schedule an individual hearing to address the current situation in Syria. If the decision of the immigration judge is not favorable, administrative and judicial appeals will follow. *See*

Guatam v. Corr. Corp. of Am., No. 3:25-CV-3600, 2026 WL 25846, at *5 (S.D. Cal. Jan. 5, 2026) (“[A] removal order may not become final until after the appeals Petitioner could file, to both the Board of Immigration Appeals and Ninth Circuit...These appeals can take a long time.”); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-00098, 2025 WL 2099343, at *7 (E.D. Cal. July 25, 2025) (“Although the Court recognizes that future events are difficult to predict, the Court nevertheless finds that in the event Petitioner's applications for relief from removal are denied, Petitioner's possible administrative appeal and judicial review by the Ninth Circuit will be sufficiently lengthy such that this factor weighs in favor of Petitioner.”); *A.L. v. Oddo*, 861 F.Supp.3d at 826 (“[I]t is likely that Petitioner's detention will continue while Petitioner's appeal from the denial of his request for asylum is pending, which could take months.”).

In their Return on Order to Show Cause, Respondents assert that “[o]nce [Mr. Alebw’s] immigration Court case is concluded, he will either be afforded an opportunity to stay in the United States or he will be ordered removed.” Dkt. 24 at 3. This is not true. Mr. Alebw cannot be removed without a final removal order, and even if the immigration judge will order his removal, the order of removal will not become final until possible appeal is concluded.

3. Conditions of Detention.

There can be no doubt that Mr. Alebw is “experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, ...lack of privacy, and, most fundamentally, the lack of freedom of movement.” *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025).

Mr. Alebw submitted his declaration describing his conditions of detention. *See Exhibit E. Declaration of Ebdalnassr Alebw*. He is held in a small cell together with other immigration detainee for almost all the time. *Id.* ¶ 5 (“I am isolated from the criminal detainees, so I am not allowed to exercise in a gym, to go for a walk in the yard, or to watch TV. I spend all the time in my cell with the second immigration detainee. I am allowed to be out of the cell for 20-30 min a day, and I use this time either to take a shower or to call my brother. This Sunday, on June 14, 2026, I was not allowed to leave my cell at all. On Monday, I was allowed to be out of my cell for 10 minutes.”).

Contrary to Respondents’ assertion that “[o]n June 12, 2026, [Mr. Alebw] refused routine laboratory testing,” Dkt. 24 at 3, Mr. Alebw states that he did not *refuse* anything, he was not called to the medical department and was not able to leave his cell on his own will. *Id.* ¶ 12 (“I sent my request to the medical department to see a nurse to address my constipation. I received an answer that I needed to come out from my cell when the medical called. Nobody actually called me but in two days I was charged \$5 for not coming to the medical department when called. Again – nobody approached my cell and called me.”).

This is true that “based upon his reported medication list and specific dosages, Alaska DOC ordered prescriptions to maintain continuity of care. [Mr. Alebw] began taking this medication on June 14, 2026.” Dkt. 24 at 3. However, Respondents fail to mention that it happened only *after* Mr. Alebw’s immigration attorney interfered and provided medical records from the Jackson Parish Correctional Center, LA to the ICE. *Exhibit F. Letter to ICE*.

4. Delays in Removal Proceedings.

The fourth and fifth *Jamal*-factors concern delays in the removal proceedings caused by Mr. Alebw or Respondents. Mr. Alebw's reopening of removal proceedings in the immigration court and possible appeal to the BIA cannot be considered "bad-faith" efforts because holding the voluntary pursuit of appeals to which he is legally entitled for "bad-faith" efforts would "effectively punish [him] for pursuing applicable legal remedies." *Leslie v. Att'y Gen.*, 678 F.3d 265, 271 (3d Cir. 2012). *See also Hernandez v. Decker*, No. 18-CV-2026, 2018 WL 3579108, at *9 (S.D.N.Y. July 25, 2018) ("[T]he mere fact that a noncitizen opposes his removal is insufficient to defeat a finding of unreasonably prolonged detention."); *A.L. v. Oddo*, 761 F.Supp.3d 822, 825 (W.D. Pa. 2025) ("Delays while he exercises the rights afforded to him by statute cannot be held against him.") (quoting *German Santos*, 965 F.3d at 212).

Therefore, Respondents' contention that "[t]he delay in removal is solely attributable to the Petitioner and not the Government. He is the one seeking further litigation at the Immigration Court—not the Government. Moreover, he initiated this Petition as well" is meritless, because, where a noncitizen has asserted a good faith challenge to removal, "the categorical nature of the detention will become increasingly unreasonable." *Sajous v. Decker*, No. 18-2447, 2018 WL 2357266, at *11 (S.D.N.Y. May 23, 2018) (quoting *Reid*, 819 F.3d at 500).

Discussing "delay in removal" instead of "delay in removal *proceedings*," Respondents misstate the *Jamal*-test; they even blame Mr. Alebw for not applying for voluntary departure to accelerate his removal. Dkt. 24 at 3 ("Additionally, while he was

ordered removed, but removal to Syria was withheld, he could have applied for voluntary departure, but did not.”). Respondents blame Mr. Alebw for delaying his removal completely failing to acknowledge that they kept Mr. Alebw in detention *after* his removal order became final without initiating his removal, and initiated Mr. Alebw’s removal to the Central African Republic only after the district court in Louisiana ordered his release from ICE custody. This is clearly “bad faith.”

5. Likelihood of Final Removal Order.

Respondents contend that “the Court should reason that because [Mr. Alebw] was ordered removed previously, it is likely that he will be ordered removed at the conclusion of his immigration court proceedings.” Dkt. 24 at 3. Such a contention is an egregious misstatement of the facts because Respondents are well aware that Mr. Alebw was ordered removed previously *solely* because of applicability of now-vacated CLP rule. *Exhibit C. Order of the Immigration Judge dated October 1, 2025.*

Therefore, all factors of *Jamal*-test weigh in favor of Mr. Alebw.

d. Under *Mathews* framework, the ongoing detention of Mr. Alebw violates his due process rights

The first *Mathews* factor clearly weighs in favor of Mr. Alebw. there is no dispute that Mr. Alebw has a significant private interest in avoiding detention, as the private interest at stake here “is the most elemental of liberty interests—the interest in being free from physical detention by one's own government.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

The second Mathews factor also weighs in Mr. Alebw's favor. Clearly, there is a high risk of erroneously depriving Mr. Alebw of his freedom if no neutral arbiter has ever assessed her risk of flight and dangerousness. Nor have Respondents argued or demonstrated that Mr. Alebw is a flight risk or a danger to the community.

Finally, under the third Mathews factor, even though Respondents "have a legitimate interest in ensuring noncitizens' appearance at removal proceedings and preventing harms to the community," *Sampiao v. Hyde*, No. 1:25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sep. 9, 2025), Respondents have not shown that they have a significant interest in Mr. Alebw's ongoing detention. Notably, continuing to enforce his detention would likely impose more costs upon Respondents, as it would be required to continue funding and overseeing her detention.

"One must [] distinguish between the substantive power of the Executive branch over immigration issues, an area in which it indeed has plenary power, and the means the government has chosen to exercise that plenary power, to which no executive deference is necessary. *Alvarez Martinez v. Secretary Noem*, No. 5:25-CV-01007, 2025 WL 2598379, at *2 (W.D. Tex. Sep. 8, 2025) (citing *Ashley v. Ridge*, 288 F. Supp. 2d 662, 667 (D.N.J. 2003) (addressing a petitioner's procedural due process cause of action)).

e. Proper remedy

Majority of courts, after finding that a noncitizen's due process rights were violated order, as a remedy, a bond hearing in the immigration court where the government must show by clear and convincing evidence that the detained presents a flight risk or a danger to

community. *See, e.g., Calderon-Rodriguez v. Wilcox*, No. 18-1373, 2019 WL 487709, at *6 (W.D. Wash. Jan. 9, 2019), R & R adopted, 374 F.Supp.3d 1024 (W.D. Wash. 2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1146-47 (N.D. Cal. 2018); *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224 n.12 (3d Cir. 2018).

However, in this specific case, taking into account numerous bad-faith efforts of Respondents listed above, the immediate release is a proper remedy. The most egregious Respondents' action was their attempt to remove Mr. Alebw to the Central African Republic *after* the CLP rule which had prevented Mr. Alebw from grant of asylum on June 27, 2025, was vacated on May 7, 2026. Respondents are fully aware of the reason why Mr. Alebw's application for asylum was denied, *see Exhibit C, Order of the Immigration Judge dated October 1, 2025* ("[Mr. Alebw] was denied asylum due to a regulatory bar and not on the merits of the claim itself.") but, nevertheless, have asserted in their submissions to the Court that "[a]t the immigration court, [Mr. Alebw] litigated his asylum claim, a claim he failed to establish," Dkt. 19 at 2, and "the Court should reason that because [Mr. Alebw] was ordered removed previously, it is likely that he will be ordered removed at the conclusion of his immigration court proceedings." Dkt. 24 at 3.

Such conduct cannot be tolerated.

V. CONCLUSION

For these reasons, the instant Petition for a Writ of Habeas Corpus should be granted and this Court should order the immediate release of Mr. Alebw from ICE custody.

DATED at Anchorage, Alaska this 17th day of June, 2026.

Respectfully submitted,
FEDERAL PUBLIC DEFENDER
DISTRICT OF ALASKA

/s/ Jane M. Imholte

Jane M. Imholte
Assistant Federal Defender

Certificate of Service:

I hereby certify that I electronically filed the foregoing and any attachments with the Clerk of Court for the United States District Court for the District of Alaska by using the district's CM/ECF system on June 17, 2026. All participants in this case are registered CM/ECF users and will be served by the district's CM/ECF system.

/s/ Jane M. Imholte

EXHIBIT A



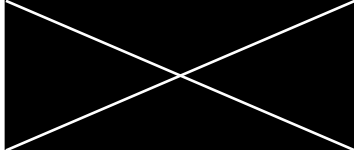
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
LASALLE IMMIGRATION COURT

Respondent Name:

ALEBW, EBDALNASSR

To:

Abusharar, Akram



A-Number:



Riders:

In Credible Fear Review Proceedings

Initiated by the Department of Homeland Security

Date:

02/05/2025

ORDER OF THE IMMIGRATION JUDGE

On 02/05/2025, a review of the Department of Homeland Security's (DHS's) negative credible fear determination was held in this matter. This Court considered testimony and any documentary evidence submitted regarding the Applicant's fear of persecution or torture.

Upon de novo consideration, the Court makes the findings below —

[Complete section 1, then complete section 2 only if applicable.]

(1) — Final Rule ("FR") limitation on asylum eligibility

A. The Applicant

☒ Is covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because the Applicant entered the United States during the time and in the manner described in § 1208.13(g), and there is not a significant possibility that the Applicant could establish that they are described under section 3(b) of the Presidential Proclamation of June 3, 2024, as amended by the Presidential Proclamation of September 27, 2024. *See* 8 C.F.R. §§ 1208.13(g), 1208.35(a)(1). **[If this box is checked, proceed to Part B.]**

or

☐ Is not covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because there is a significant possibility that the Applicant could establish that they are described under section 3(b) of the Presidential Proclamation of June 3, 2024, as amended by the Presidential Proclamation of September 27, 2024. *See* 8 C.F.R. § 1208.35(b)(2)(ii). **[If this box is checked, proceed to Part C.]**

or

☐ Is not covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because there is a significant possibility that the Applicant could establish that they did not enter the United States during the time and in the manner described in § 1208.13(g). *See* 8 C.F.R. §§ 1208.13(g); 1208.35(b)(2)(i). **[If this box is checked, proceed to Section 2.]**

B. If the Applicant is covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1)

☐ There is a significant possibility the Applicant could establish an exception based on exceptionally compelling circumstances. *See* 8 C.F.R. § 1208.35(a)(2)(i). **[If this box is checked, proceed to Part C.]**

or

☒ There is not a significant possibility that the Applicant could establish an exception based on exceptionally compelling circumstances. *See* 8 C.F.R. § 1208.35(a)(2)(i). **[If this box is checked, proceed to Part D.]**

C. **If the Applicant is not covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1) because there is a significant possibility the Applicant could establish that they are described in section 3(b) of the Proclamation, *see* 8 C.F.R. § 1208.35(b)(2)(ii); or if there is a significant possibility they could establish an exception based on exceptionally compelling circumstances under 8 C.F.R. § 1208.35(a)(2)(i), the Applicant**

☐ Has established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, vacate.]**

☐ Has not established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, affirm.]**

D. **If the Applicant is covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1), and there is not a significant possibility that they could establish an exception based on exceptionally compelling circumstances, the Applicant**

☒ Has established a reasonable probability (substantially more than a reasonable possibility, but somewhat less than more likely than not) of persecution or torture. *See* 8 C.F.R. § 1208.35(b)(2)(iii). **[If this box is checked, vacate.]**

☐ Has not established a reasonable probability (substantially more than a reasonable possibility, but somewhat less than more likely than not) of persecution or torture. *See* 8 C.F.R. § 1208.35(b)(2)(iii). **[If this box is checked, affirm.]**

(2) — Lawful pathways condition on asylum eligibility

A. **The Applicant**

☐ Is covered by the presumption of asylum ineligibility at 8 C.F.R. § 1208.33(a)(1)-(2),

or

☐ Is not covered by the presumption of asylum ineligibility at 8 C.F.R. § 1208.33(a)(1)-(2).

B. **If the Applicant is covered by the presumption of asylum ineligibility**

☐ There is a significant possibility the Applicant could establish that the presumption does not apply or that they meet an exception to or can rebut the presumption under 8 C.F.R. § 1208.33(a)(3),

or

☐ There is not a significant possibility the Applicant could establish that the presumption does not apply or that they meet an exception to or can rebut the presumption under 8 C.F.R. § 1208.33(a)(3).

C. If the Applicant is not covered by the presumption or has rebutted the presumption, the Applicant

☐ Has established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, vacate.]**

☐ Has not established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, affirm.]**

D. If the Applicant is covered by the presumption and has not rebutted the presumption, the Applicant

☐ Has established a reasonable possibility of persecution (meaning a reasonable possibility of being persecuted because of their race, religion, nationality, political opinion, or membership in a particular social group) or torture. **[If this box is checked, vacate.]**

☐ Has not established a reasonable possibility of persecution (meaning a reasonable possibility of being persecuted because of their race, religion, nationality, political opinion, or membership in a particular social group) or torture. **[If this box is checked, affirm.]**

Based on the findings above, the Court issues the following order -

IT IS HEREBY ORDERED THAT:

- ☐ The DHS credible fear determination is **AFFIRMED**, and the case is returned to DHS for removal of the Applicant.
- ☒ The DHS credible fear determination is **VACATED**.

This is a final order. There is no appeal from this decision.



Immigration Judge: DEPUY, ALBERTO 02/05/2025

Certificate of Service

This document was served:

Via: ☐ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Noncitizen | ☐] Noncitizen c/o custodial officer | ☐ E] Noncitizen's atty/rep. | ☐ E] DHS

Respondent Name : ALEBW, EBDALNASSR | A-Number : 

Riders:

Date: 02/05/2025 By: DESIR, JOANE, Court Staff

EXHIBIT B

OAKDALE IMMIGRATION COURT
OAKDALE, LOUISIANA

PROCEEDING REGARDING
EBDALNASSR ALEBW

A No.



Respondent.

Transcript of Excerpts of Proceeding held on
Friday, June 27, 2025, before Honorable D'Anna Freeman,
Immigration Judge.

COUNSEL PRESENT:

Counsel for the Respondent: Akram Abusharar, Esq.

Counsel for the Department of Homeland Security

COURT REPORTER:

Noreen A. Re, RMR, CRR
122 Woodsdale Road
Pittsburgh, PA 15237

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

P R O C E E D I N G S

(An interpreter was being used for the following.)

(The following are excerpts from the Friday, June 27, 2025, hearing before D'Anna Freeman, Immigration Judge.)

THE COURT: This is Immigration Judge D'Anna Freeman. June 27, 2025. This is an individual hearing in the case of Ebdalnassr Alebw, A No. [REDACTED]

[REDACTED] The respondent is appearing via Webex from Jackson Parish, Oakdale, Louisiana, Court Docket.

THE COURT: I'm going to -- sir, I would normally hear closing arguments from both sides, but due to time and I don't believe it's needed. I know what my decision is. So I'll talk to you about that right now.

First, I do believe you're a credible witness.

The reference to a judge in a Credible Fear Interview is apparently the only thing that seems to be a mismatch, and you said what the answer should have been. And it could have been a mistake in translation. But whether or not that is true, one

1 discrepancy is not going to make you an incredible
2 witness.

3 You are not eligible for asylum because that
4 regulatory bar applies, given the manner in which you
5 crossed the border into this country.

6 I do believe you have suffered past persecution.

7 Now, granted the first one was a dozen years ago. And
8 it was on religious grounds, because the actual charge
9 was possession of those -- I think you said they were
10 considered infidel items or cult items.

11 And even though you ended up serving a sentence
12 for 90 days when you returned in 2024, it sounds like
13 the government is trying to argue that was prosecution
14 for a criminal offense. But in this case it sounds
15 more like persecution to me, because it was for
16 religious reasons, not that you violated any
17 legitimate law, but you had possession of items
18 related to your particular brand of worship.

19 Now, normally I would find that you could safely
20 relocate within the country. And if I was hearing
21 this case 6-7 months ago, I would probably deny
22 everything on that basis. And I believe it's rather
23 fortunate that you managed to get out of Syria before
24 Bashar al-Assad fled the country and this new
25 government took control.

1 But fortunately for your case today, it works in
2 your favor, because now I can't find it's reasonable
3 for you to live anywhere in Syria, because the people
4 who harmed you in the past are now in control of the
5 whole country.

6 And that is well-documented. And I even did a
7 search for the facts of when all of that happened.
8 Because it is so recent, it doesn't show up in any of
9 our official reports that we normally look at.

10 So legally speaking, I have to order your
11 removal to Syria, because you are not eligible for
12 asylum, but I will grant the application for
13 withholding of removal so you will not actually be
14 sent back. But it's important that you understand
15 that this does not provide you with lawful status.

16 You will not eventually get a Green Card here
17 through this. And if things change for the better in
18 Syria, you can be put back in court to have this order
19 taken away and return to Syria.

20 So Mr. Abusharar (phonetic), what is the
21 respondent's position on appeal?

22 MR. ABUSHARAR: Waives, Your Honor.

23 THE COURT: And Ms. Reiland (phonetic)?

24 MS. REILAND: Reserve.

25 THE COURT: All right. Sir, I need about 10 to

1 15 minutes to prepare an oral decision.

2 And counsel, will you waive interpretation for
3 the oral decision, particularly since it's not your
4 appeal?

5 MR. ABUSHARAR: Yes, Your Honor.

6 THE COURT: Okay. All right. I'll see everyone
7 back at ten minutes till.

8 MR. ABUSHARAR: Okay.

9 (Recess taken.)

10 THE COURT: We are back on the record. All
11 right. Sir, I'm going to dictate the oral decision.
12 It will not be interpreted for you.

13 So to the interpreter, just stand by. If you
14 need to step away, this will take about ten minutes.

15 THE INTERPRETER: Okay.

16 THE COURT: Transcriber, go to the oral decision
17 format, standard heading, Oakdale, Louisiana.

18 In the matter of Ebdalnassr Alebw, A No. 

19  detained and removal proceedings.

20 Charges, Section 212(A)(7)(A)(i)(I) of the
21 Immigration and Nationality Act as an immigrant who at
22 the time of application for admission is not in
23 possession of a valid, unexpired immigrant visa,
24 re-entry permit, border crossing card or other valid
25 entry document required by the Act; 212(A)(6)(A)(i) of

1 the Immigration and Nationality Act, as an alien
2 present in the United States without being admitted or
3 paroled or who arrived in the United States at any
4 time or place other than as designated by the Attorney
5 General.

6 Applications. Section 208 of the Act, Asylum;
7 Section 241(B) (3) of the Act, withholding of removal;
8 protection under the Convention Against Torture.

9 On behalf of the applicant, Ekram Abusharar.
10 On behalf of the government, Carmen Reiland
11 (phonetic).

12 Decision and Orders of the Immigration Judge.
13 Section 1, Procedural History. On March 24, 2025, the
14 Department of Homeland Security (department) filed
15 with the Court a Notice to Appear charging the
16 respondent as removable pursuant to Section 212(A) (6) -
17 (A) (i) and 212(A) (7) (A) (i) (I) of the Act. See Exhibit 1.

18 The respondent, through written pleadings,
19 admitted the allegations, conceded the charge and
20 declined to designate a country of removal. See
21 Exhibit 2.

22 Based on these written pleadings, the Court
23 sustained the charge and directed Syria as the country
24 of removal.

25 The respondent filed Form I-589, application for

1 asylum and for withholding of removal, as well as
2 supporting documents. At the individual hearing on
3 June 27, 2025, the respondent testified in support of
4 his application.

5 Section 2, Summary of Evidentiary Record on
6 Relief.

7 Exhibit 1, Form I-862, Notice to Appear.
8 Exhibit 2, the respondent's written pleadings.
9 Exhibit 3, Form I-589, application for asylum and for
10 withholding of removal. Exhibit 4, the respondent's
11 evidence, Part 1, containing the respondent's
12 declaration and country conditions evidence.

13 Exhibit 5, respondent's evidence, Part 2,
14 containing the respondent's birth certificate and two
15 affidavits. Exhibit 6, the respondent's proposed
16 particular social group (PSG) definition.

17 Exhibit 7, the department's impeachment evidence
18 filed the day of the hearing containing the
19 respondent's Credible Fear Interview notes,
20 January 30, 2025.

21 Section 3, Analysis and Conclusions of Law. The
22 Court will provide to both parties as well as the
23 record of proceedings and addendum of law. This
24 document details the statutory, regulatory and case
25 law that the Court is considering in making its

1 decision and is to be incorporated by reference.

2 Subsection, Credibility and Corroboration. In
3 this case, only one possible inconsistency was pointed
4 out, as shown by the government impeachment evidence
5 contained in Exhibit 7.

6 In the Credible Fear Interview, the respondent
7 was asked what was said to him the day he returned to
8 his hometown in 2024. And his answer was "They said
9 there is a charge. They took me to see the judge."
10 Exhibit 7 at 14.

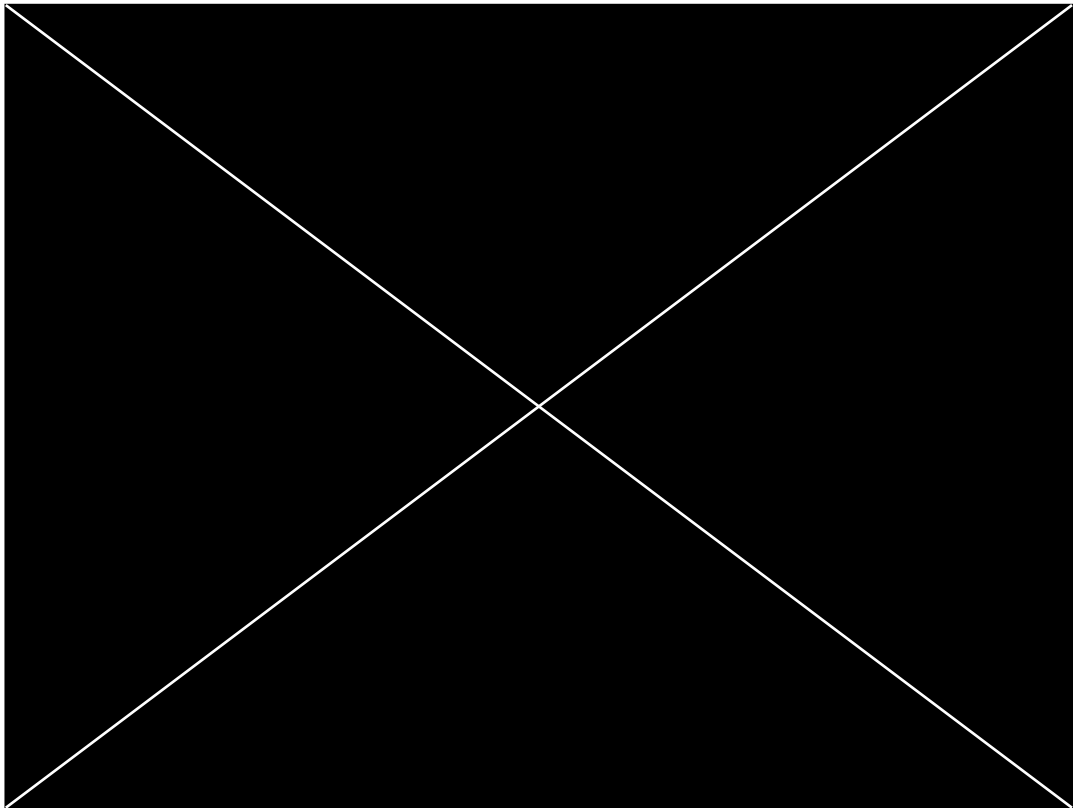
11 When asked about this and why he stated
12 previously in his testimony that he had never been
13 taken in front of a judge, the respondent said that he
14 explained he was taken to the department or police
15 station, not to a judge, and it was likely a
16 translation error.

17 The Court notes that the vast majority of
18 Credible Fear Interviews at the current time are
19 conducted over a telephone with a telephonic
20 interpreter. And because the remainder of the
21 respondent's testimony was consistent and he was very
22 clear that he was never taken before a judge, the
23 Court finds that it is very likely a mistake of
24 interpretation or possibly a mistake by the asylum
25 officer. Even if the Court were to find this was an

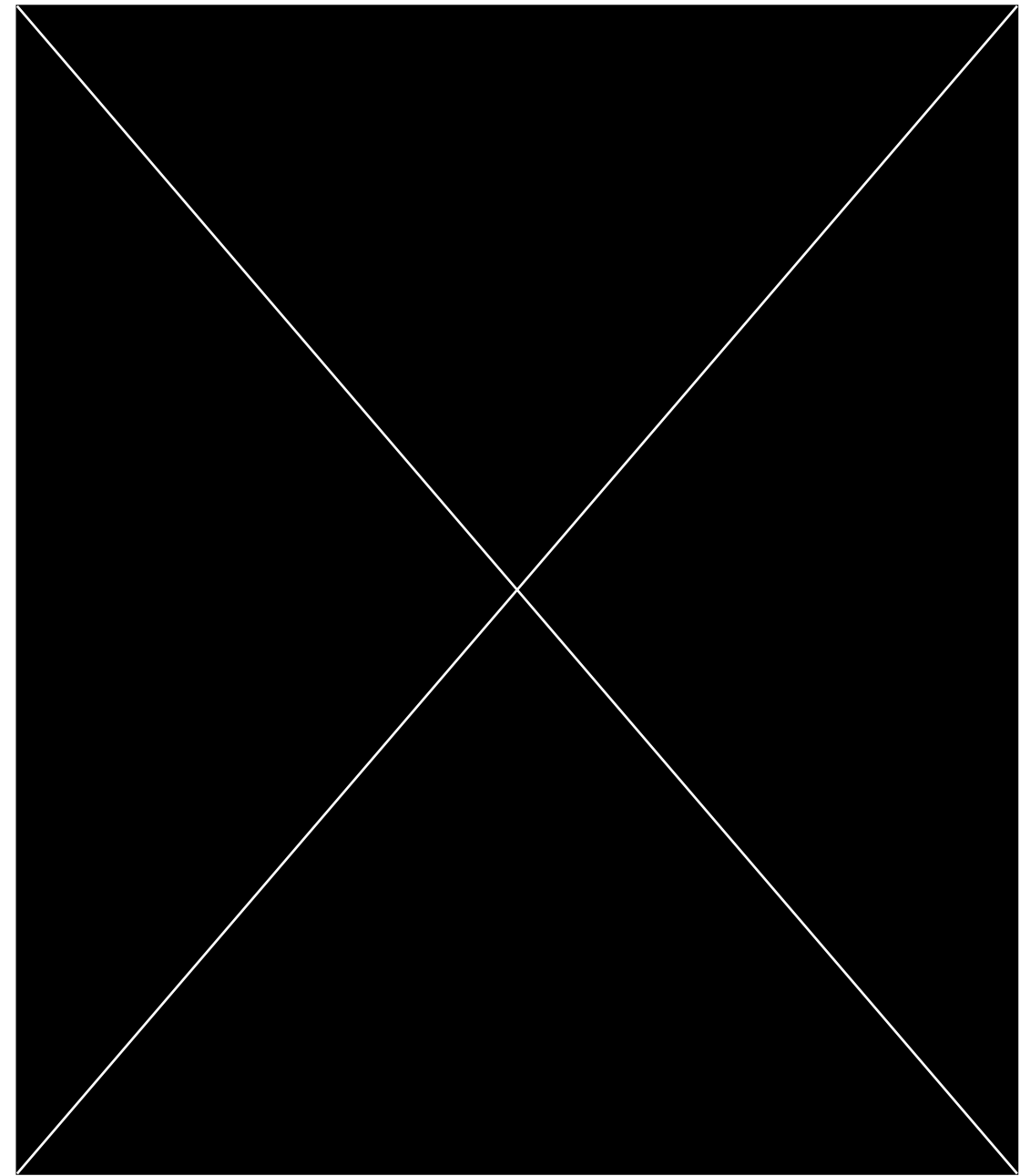
1 actual discrepancy, it is not going to make an adverse
2 credibility finding based on this one small
3 discrepancy.

4 Additionally, the respondent has provided
5 corroborating evidence, including his own birth
6 certificate, an affidavit from the paternal uncle who
7 assisted in getting him released in 2013 and from a
8 doctor who treated him in 2013. Additionally,
9 numerous supporting documents were filed to show the
10 country conditions. See Exhibits 4 and 5.

11 Next, Subsection, Statement of Facts. The
12 respondent is a 54-year-old divorced male native and
13 citizen of Syria. 



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He was not provided any medical treatment while in detention, but the respondent attempted to treat his own finger with the help of people who were there. However, every time he was beaten, he stated that his attackers would target that injured finger. During this detention, the respondent stated that he

1 was fed only two times a day and not very much.

2 He had no access to an attorney or any family
3 visits. He was never referred to a court and never
4 saw a judge. [REDACTED]

[REDACTED]

5
6
7
8 The respondent then went to Lebanon and sought
9 some treatment there. Specifically, he saw a dentist
10 and a doctor for bones. The respondent would obtain a
11 six-month visa to stay in Lebanon, which could be
12 renewed.

13 The respondent would travel back and forth to
14 Damascus from Beirut and renew this six-month visa
15 every six months from 2013 until 2017.

16 He never obtained any permanent status in
17 Lebanon, was not allowed to own property and not
18 allowed to receive any public benefits.

19 The respondent then relocated to Damascus,
20 Syria, in 2017, believing that the situation was a bit
21 more stable at that time. The Bashar regime was in
22 control at that time. The respondent then stayed in
23 Damascus for approximately two years, but was
24 traveling back and forth to Lebanon during that time.

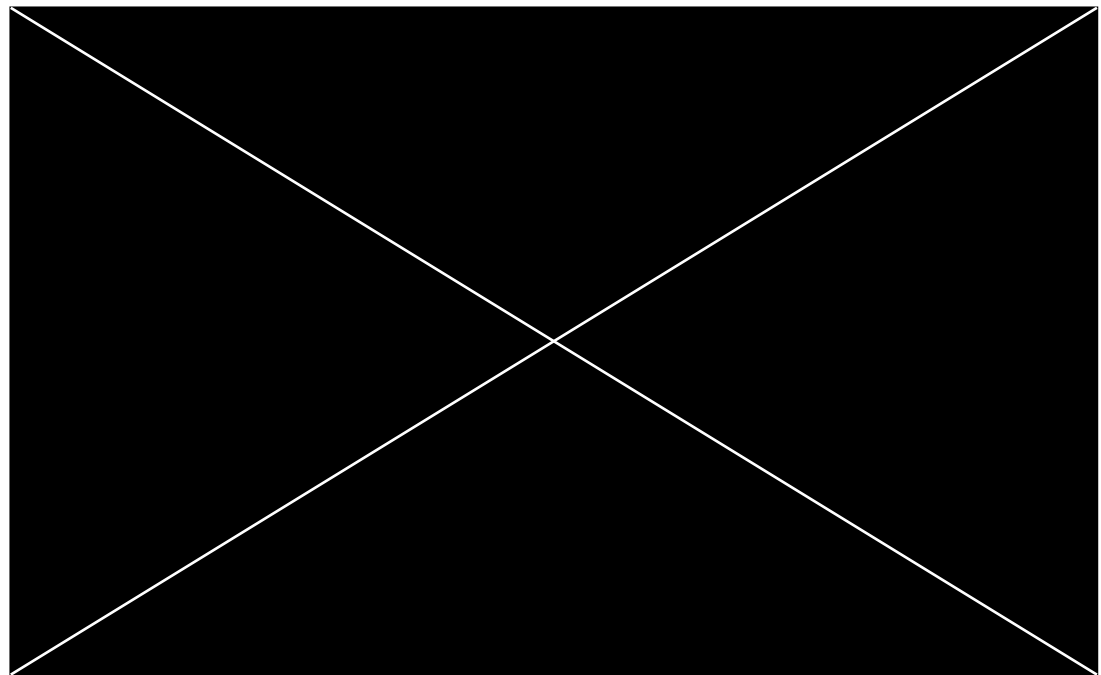
25 In early 2024, the respondent took a taxi to go

1 back to [REDACTED] because a cousin had
2 told him that the situation was getting better.

3 However, when the respondent was stopped [REDACTED]
4 at a checkpoint, [REDACTED]

5 [REDACTED]

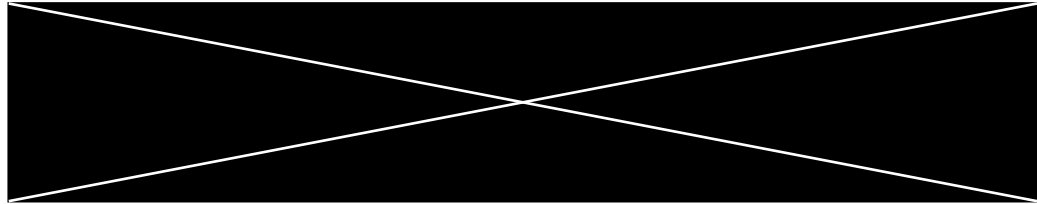
6 [REDACTED] had information
7 about this respondent.



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18 After the respondent was released, he left
19 [REDACTED] and then left Syria approximately 15 to 20
20 days later to go to Lebanon.

21 He then traveled to the United States through
22 several countries finally in Mexico where he crossed
23 the border. The respondent was threatened while in
24 Mexico by the person he was told could obtain a legal
25 document or make an appointment for him to enter the

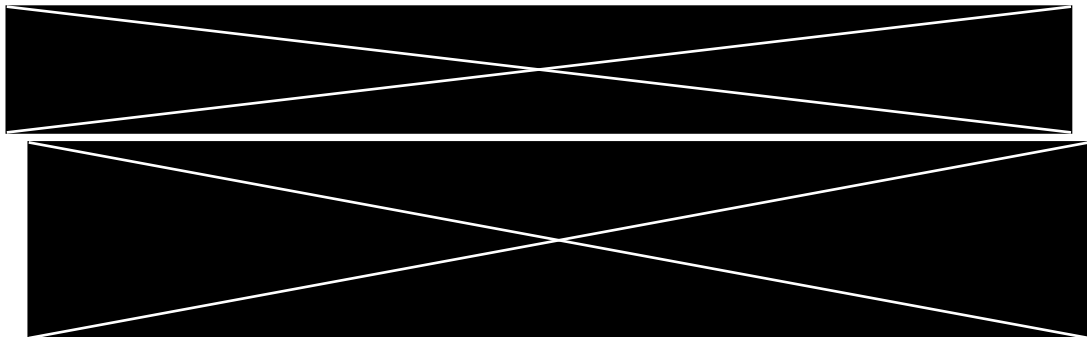
1 United States legally.



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5  The respondent then crossed the
6 border into the United States less than 24 hours later
7 without making a CPBOne appointment or going directly
8 to a port of entry to claim asylum.

9 The respondent spent two years and seven months
10 performing the obligatory military service in Syria
11 starting when he was 18 years old. The respondent
12 stated that because he was overweight at that time, he
13 and others were put to work in a kitchen serving
14 sensitive groups food; and, therefore, he never
15 received any weapons training.

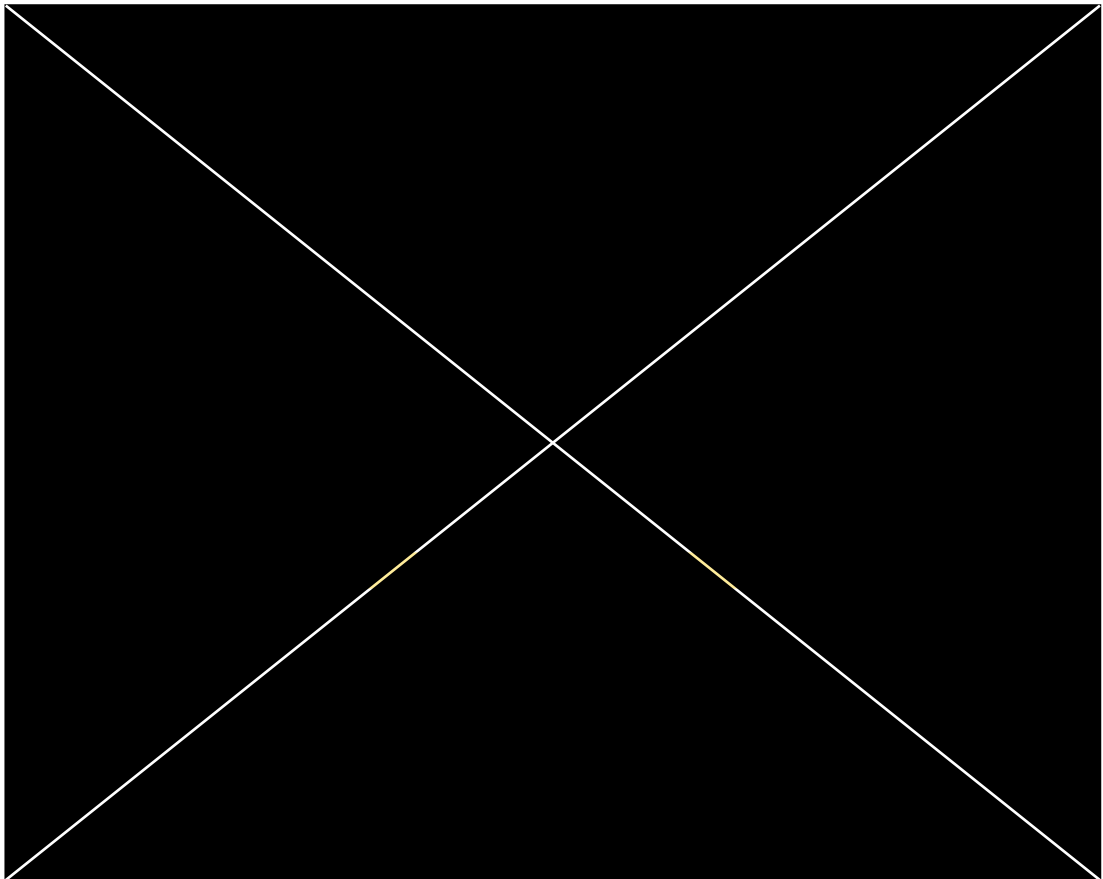
16 The respondent has not been in contact with
17 anyone in Syria since he left in 2024. 



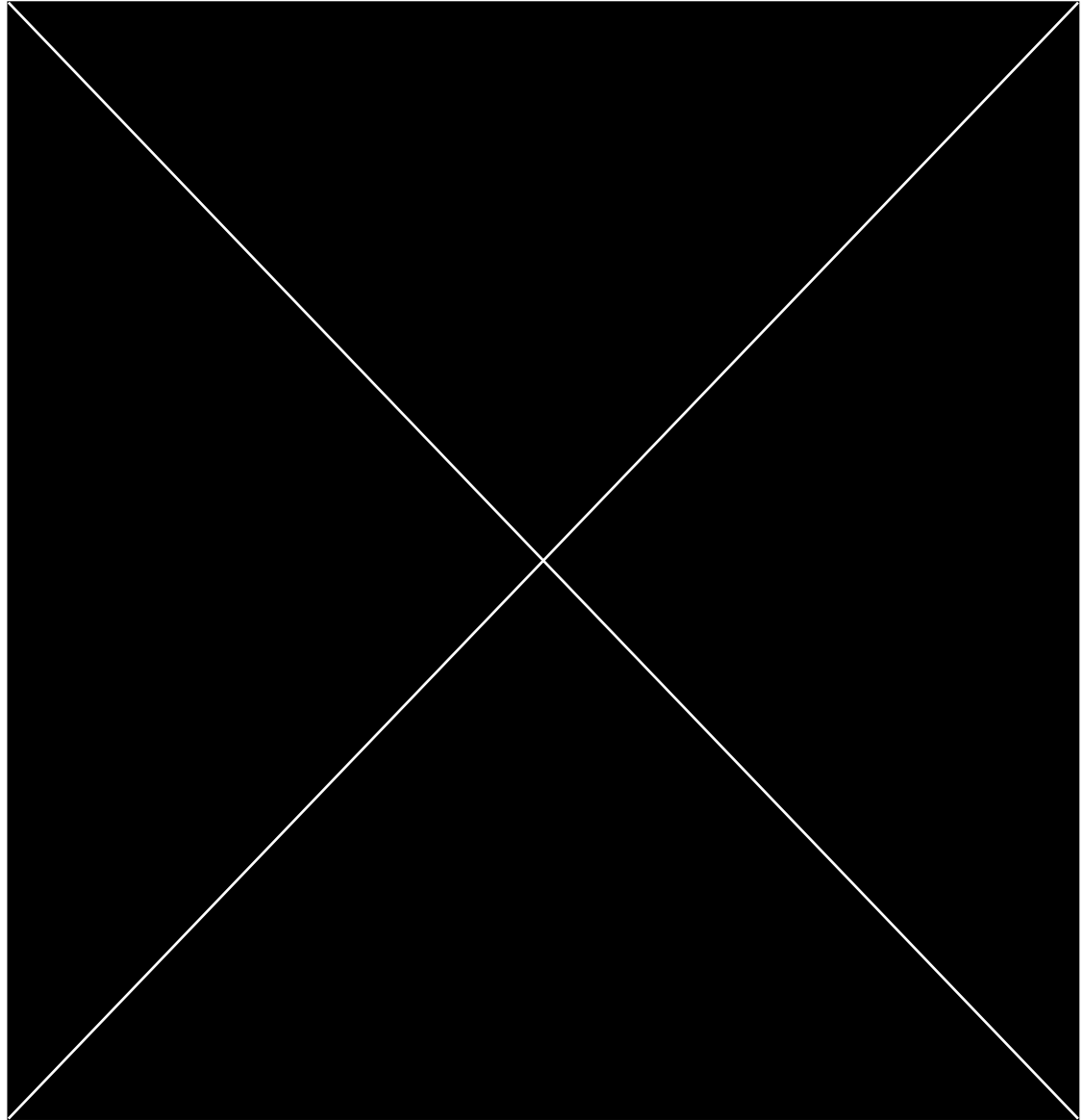
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23 Subsection, Past Persecution on Account of a
24 Protected Ground. In this case, the Court finds that
25 the respondent has suffered past persecution. This

1 was primarily as a result of his 56-day detention in
2 2013 where he was beaten approximately 50 times, his
3 finger was fractured, and he lost three upper teeth
4 due to the beating.

5 Additionally, in 2024, he had to serve 90 days
6 of a sentence related to the alleged crime committed
7 in 2013. While this was serving a sentence for a
8 conviction, the Court finds this to be persecution,
9 not prosecution, because 



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23 The Court can find no meaningful distinction
24 between this proposed PSG and his claim under
25 religion. And, therefore, the same analysis applies.



Therefore, the Court finds that the state is not just unable or unwilling to control, but is the actual entity who is likely to harm the respondent.

Subsection, Eligibility for Asylum. Having entered this country on December 28, 2024, the circumvention of lawful pathways regulation and the presidential proclamation apply to this case making the respondent ineligible for asylum.

1 While the Court recognizes that the respondent
2 faced some harm and threats in Mexico, he still chose
3 to cross the border into the United States without
4 going through a port of entry or presenting himself to
5 an officer to claim asylum, thus circumventing the
6 lawful pathways provided. He was not in immediate
7 danger and had no medical emergency at the time of
8 crossing, so there is no exceptional circumstance to
9 excuse this.

10 Additionally, the respondent does not have a
11 spouse or a child whose to follow and join. He is
12 divorced. And his two children are above the age of
13 21 and, therefore, not considered children for
14 purposes of the family reunification exception.

15 Subsection, Internal Relocation. Had this Court
16 heard this same case last year, the Court would have
17 found internal relocation would be reasonable as the
18 respondent lived for years in Damascus and only faced
19 serious threats or harm or loss of freedom when he
20 returned to his hometown [REDACTED]

21 However, the Court takes judicial notice of the
22 fact that the previous ruler, Bashar al-Assad, fled
23 Syria in December 2024. [REDACTED]
24 [REDACTED]

25 The Court also takes notice that this particular

1 group was a designated foreign terrorist organization
2 considered terrorist by the United States government.
3 This is the same group who previously harmed this
4 respondent for his religious beliefs. Therefore, it
5 is no longer reasonable for the respondent to relocate
6 anywhere within Syria, as they control the entire
7 country at this point.

8 Therefore, the Court finds that it is more
9 likely than not the respondent will again be
10 persecuted by the current ruling regime in Syria if he
11 is returned to that country.

12 Section 4, Orders. It is hereby ordered that
13 the respondent's application for asylum in the United
14 States pursuant to Section 208 of the Act be denied.
15 It is further ordered that the respondent be removed
16 from the United States to Syria on the charges
17 contained in the Notice to Appear.

18 It is further ordered that the respondent's
19 application for withholding of removal pursuant to
20 Section 241(B)(3) of the Act be granted.

21 Any appeal must be received by the Board of
22 Immigration Appeals on or before July 28, 2025.

23 D'Anna H. Freeman, Immigration Judge.

24 I need the interpreter back at this point.

25 All right. Sir, I have concluded the oral

1 decision; and your attorney has heard it. Although
2 this is not your appeal, it is the government's
3 appeal, please stay in touch with your attorney. And
4 he will keep you updated on the status of that appeal.

5 Anything else from either party?

6 MR. ABUSHARAR: Nothing from the respondent,
7 Your Honor. Thank you very much.

8 MS. REILAND: Nothing from the department.

9 THE COURT: All right. Thank you, everyone.
10 That concludes the hearing. Have a good weekend.

11 MS. REILAND: Thank you.

12 MR. ABUSHARAR: Thank you, Your Honor.

13 -----

14 (Whereupon, the above-captioned excerpt was
15 concluded.)

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1 COMMONWEALTH OF PENNSYLVANIA

2 COUNTY OF ALLEGHENY

3 CERTIFICATE OF REPORTER

4 I, Noreen A. Re, do hereby certify that the
5 evidence and proceedings are contained fully and accurately in
6 the machine shorthand notes taken by me at the hearing of the
7 within cause and that the same were transcribed under my
supervision and direction and that this is a correct
transcript of the same.

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9 Certified Realtime Reporter

10 DATE: June 11, 2026
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EXHIBIT C



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT

Respondent Name:

ALEBW, EBDALNASSR

To:

Almasmari, Rashad



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

10/01/2025

☐ Unable to forward - no address provided.

☒ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.

☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.

☐ Other:

Date: 10/01/2025



Immigration Judge: FREEMAN, D'Anna H. 10/01/2025

Certificate of Service

This document was served:

Via: ☒ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Alien | ☐] Alien c/o custodial officer | ☐ E] Alien atty/rep. | ☐ E] DHS

Respondent Name : ALEBW, EBDALNASSR | A-Number :



Riders:

Date: 10/01/2025 By: Scott, Zachary, Court Staff



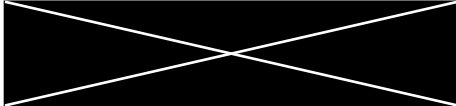
**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT**

Respondent Name:

ALEBW, EBDALNASSR

To:

Alasmari, Rashad



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

10/01/2025

ORDER OF THE IMMIGRATION JUDGE

☒ Respondent ☐ the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
☐ granted ☒ denied for the following reason(s):

- ☐ The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- ☐ The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- ☒ The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- ☒ Other:

In this case, the Court found the respondent ineligible for asylum due to the Circumvention of Lawful Pathways bar but granted withholding of removal under Section 241(b)(3) of the Act. It did not grant Voluntary Departure as counsel mistakenly claims in the motion and these two forms of relief or protection are mutually exclusive. As the respondent was denied asylum due to a regulatory bar and not on the merits of the claim itself, there is no legal basis to reconsider the decision. Reconsideration of any new evidence will not change the outcome, as it merely provides more support for the application that was already granted.

D'Anna H. Freeman

Immigration Judge: FREEMAN, D'Anna H. 10/01/2025

Appeal: Department of Homeland Security: ☐ waived ☐ reserved
Respondent: ☐ waived ☐ reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : ALEBW, EBDALNASSR | A-Number :



Riders:

Date: 10/01/2025 By: Scott, Zachary, Court Staff

EXHIBIT D

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT

LEAD FILE: [REDACTED]
IN REMOVAL PROCEEDINGS
DATE: Jun 11, 2026
EAD Clock: 50 days elapsed

TO: none
Howykwycz, Mariya Vasylivna

[REDACTED]

RE: [REDACTED] ALEBW, EBDALNASSR

Notice of In-Person Hearing

Your case has been scheduled for a MASTER hearing before the immigration court on:

Date: Jun 18, 2026
Time: 09:00 A.M. CT
Court Address: 2327 INDUSTRIAL DRIVE, JONESBORO, LA 71251

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

Failure to Appear: If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

Change of Address: The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by [completing the enclosed paper form](#) and mailing it to the immigration court listed above.

Internet-Based Hearings: If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

In-Person Hearings: If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call **1-800-898-7180** (toll-free) or **304-625-2050**.

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL[M] PERSONAL SERVICE[P] ELECTRONIC SERVICE[E]
TO: [] Noncitizen | [] Noncitizen c/o Custodial Officer |
[E] Noncitizen ATT/REP | [E] DHS
DATE: 6/11/26 BY: COURT STAFF JDW
Attachments: [] EOIR-33 [] Appeal Packet [] Legal Services List [] Other NH



Use a smartphone's camera to scan the code on this page to read the notice online.

Usa la cámara de un teléfono inteligente para escanear el código de esta página y leer el aviso en línea.

Use a câmara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

使用智能手机摄像头扫描本页面的代码，即可在线阅读该通知。

ਨੋਟਿਸ ਨੂੰ ਆਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੰਨੇ 'ਤੇ ਕੋਡ ਨੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পজেরে কোডটি স্ক্যান করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন

सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane kòd ki nan paj sa a pou li avè a sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في هذه الصفحة لقراءة الإشعار على الإنترنت

Чтобы прочитатъ уведомление онлайн, отсканируйте код на этой странице с помощью камеры вашего смартфона.

Utilisez l'appareil photo d'un téléphone intelligent pour scanner le code sur cette page afin de lire l'avis en ligne.

EXHIBIT E

DECLARATION OF EBDALNASSR ALEBW

I, Ebdalnassr Alebw, make the following statement under penalty of perjury:

1. My name is Ebdalnassr Alebw. I am from Syria and I am 55 years old.
2. I fled from Syria because I was targeted for my religion and my political views.
3. I was ordered removed on June 27, 2025, and concurrently I was granted withholding of removal to Syria. On June 11, 2026, the immigration judge reopened my proceedings in the immigration court, so there is no removal order now.
4. I was arrested and re-detained on June 5, 2026. I am currently held in the Anchorage Correctional Center.
5. There are only two immigration detainees in the facility, and the conditions of our incarceration are worse than those of the criminal detainees. I am isolated from the criminal detainees, so I am not allowed to exercise in the gym, to go for a walk in the yard, or to watch TV. I spend all the time in my cell with the second immigration detainee. I am allowed to be out of the cell for 20-30 min a day, and I use this time either to take a shower or to call my brother. This Sunday, on June 14, 2026, I was not allowed to leave my cell at all. On Monday, I was allowed to be out of my cell for 10 minutes.
6. The cell is very small; there are two beds with a toilet between them. There is zero privacy when I relieve myself. There is also a sink with running water, so I can wash my hands and drink.
7. When I was detained, I was provided with one set of clothes (pants, coat, boxers, socks). I am in detention for more than 10 days and all my requests for at least fresh boxers are ignored.
8. To make things worse, I developed serious health problems when I was held in the Jackson Parish Correctional Center, LA. Additional to diabetes, high blood pressure, constant toothache, and psoriasis, I am suffering from digestive problems. I feel nauseous, there is blood in my urine and stool.
9. Since June 5, 2026, I was without my medications for 9 days. I asked a guard for medications, and he answered that he would send a request for list of my medications to my previous detention facility, i.e. Jackson Parish Correctional Center.

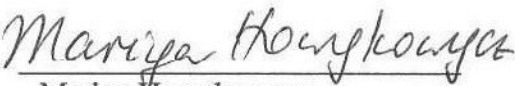
12. On June 11, 2026, I finally saw a nurse who took my blood pressure and sugar level. My blood pressure was 169/98 and my glucose was 263, even though I didn't have breakfast. The normal range of glucose is 70-99. I got afraid that I would go in the diabetic coma. On the same day, I sent my request to the medical department to see a nurse to address my constipation. I received an answer that I needed to come out from my cell when the medical called. Nobody actually called me but in two days I was charged \$5 for not coming to the medical department when called. Again – nobody approached my cell and called me.

13. My attorney Mariya Howykowycz obtained previously my medical records from Jackson Parish Correctional Center and on June 13, 2026, she sent the list of my medications to ICE. On June 14, 2026, I was finally provided with my medications.

14. On June 15, I had blood tests. I hope the damage to my health can be reduced if I am released from jail and receive a proper medical care.

Due to Mr. Alebw's Detention, he was unavailable for signature. This Declaration was read to him over the telephone by me, Mariya Howykowycz, on June 17, 2026 at 11.30 am during my attorney call, and he agreed orally that it was true and correct.

Respectfully,


Mariya Howykowycz

June 17, 2026

EXHIBIT F



Arichka Attorney <kotsyubahowykowycz@gmail.com>

A# [REDACTED] medical problems - urgent

2 messages

Arichka Attorney <kotsyubahowykowycz@gmail.com>

Sat, Jun 13, 2026 at 10:48 AM

To: Seattle.Outreach@ice.dhs.gov

Dear ERO officer,

My client Mr. Ebdalnasser Alehwy is detained in the Anchorage facility, AK. He is suffering from many medical problems,

[REDACTED] Nevertheless, he is denied access to necessary medications.

Please see his medical records from Jackson Parish Correctional Center and my G-28 attached. The medical records list necessary medications that must be taken regularly.

I appreciate your attention to this urgent matter.

Best regards,

--

Mariya Howykowycz - Admitted to practice by New York State - Practice Limited Exclusively to Immigration and Naturalization Law - Authorized to Practice Immigration and Naturalization Law in All 50 States and US Territories Pursuant to 8 USC 1292.1

2 attachments

 **G-28 ICE signed.pdf**
699K

 **Medical records.pdf**
784K