

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

HAMEED KHALID DARWEESH and
HAIDER SAMEER ABDULKHALEQ
ALSHAWI,

on behalf of themselves and others similarly
situated,

Petitioners,

v.

DONALD TRUMP, President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY (“DHS”); U.S.
CUSTOMS AND BORDER PROTECTION
(“CBP”); JOHN KELLY, Secretary of DHS;
KEVIN K. MCALEENAN, Acting
Commissioner of CBP; JAMES T.
MADDEN, New York Field Director, CBP,

Respondents.

**Emergency Motion for Stay of
Removal**

Case No. 1:17-cv-00480

Date: January 28, 2017

PETITIONERS’ EMERGENCY MOTION FOR STAY OF REMOVAL

Pursuant to Federal Rule of Civil Procedure 7(b)(1) and Local Rule 7.1, Petitioners Hameed Khalid Darweesh, Haider Sameer Abdulkhaleq Alshaw, and class members file this *emergency motion* respectfully requesting that the Court immediately stay their removal from the United States during the pendency of their habeas petition. In early January 2017, Petitioners were both granted valid entry documents from the federal government to enter the United States. However, on the evening of January 27, 2017, U.S. Customs and Border Protection (“CBP”) blocked both Petitioners from exiting John F. Kennedy International Airport (“JFK Airport”) and detained Petitioners therein solely pursuant to an executive order issued on January 27, 2017 by

President Donald J. Trump. Petitioners filed a habeas petition and motion for class certification in the early morning on January 28, 2017, arguing that their continued detention violates their Fifth Amendment procedural and substantive due process rights, is ultra vires under the immigration statutes, and violates the Administrative Procedure Act. Petitioner Darweesh was released from CBP custody subsequent to the filing of the habeas petition in this case, but, on information and belief, CBP continues to hold Petitioner Alshawhi and other members of the proposed class, including dozens and dozens other individuals currently detained at JFK Airport. Further, Respondents' continued detention of members of the proposed class is part of a widespread policy, pattern, and practice applied to many refugees, arriving aliens and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States, but who have been or will be detained at ports of entry and denied entry to the United States on the basis of the January 27 Executive Order.

Therefore, on behalf of themselves and all others similarly situated putative class members, Petitioners respectfully move this Court to immediately grant a class-wide stay of removal during the pendency of this habeas petition for the reasons stated in the attached Memorandum of Law.

DATED: January 28, 2017
New Haven, Connecticut

Respectfully submitted,

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**Application for admission forthcoming.

* Motion for law student appearance forthcoming.

[†] Motion for admission *pro hac vice* forthcoming.

^{††} For identification purposes only. This motion has been prepared by a clinic operated by Yale Law School, but does not purport to present the school's institutional views, if any.

Counsel for Petitioners

CERTIFICATE OF SERVICE

I, Michael Wishnie, hereby certify that on January 28, 2017 the foregoing motion for a stay of removal and accompanying documents were filed through the CM/ECF system and will be sent by FedEx to the parties at the addresses below.

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