UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners,

v.

REBECCA ADDUCCI, Director, Detroit District of Immigration and Customs Enforcement, et al.,

Respondents.

Civil No. 17-11910
Hon. Mark A. Goldsmith
Mag.Judge David R. Grand

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONERS' REQUEST FOR A PRELIMINARY INJUNCTION

Respondents, by and through their undersigned counsel, opposes Petitioners' Request for a Preliminary Injunction. The grounds for this motion are set forth more fully in the attached supporting brief.

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Dated: July 20, 2017

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I. STATEMENT OF ISSUES PRESENTED

Whether Petitioners are entitled to a preliminary injunction from removal in federal district court despite the existence of final orders of removal against them and the availability of administrative remedies.

II. MOST CONTROLLING AUTHORITY

8 U.S.C. § 1252

Munaf v. Geren, 553 U.S. 674 (2008)

Muka v. Baker, 599 F.3d 480 (6th Cir. 2009)

I. INTRODUCTION

The relief Petitioners seek here – a stay of removal – is not available through habeas, but it is fully available through the process Congress designed for these purposes, a motion to reopen filed in the immigration courts, with review by the court of appeals. This process is open and available to each of the petitioners and can hear and decide requests for relief in exigent circumstances. Indeed, the immigration courts are better suited to handle emergency stay requests due to procedures put in place specifically to address such emergencies. They can also promptly assess the individual circumstances that must be considered in evaluating a stay, unlike this Court.

These procedures have been uniformly approved by the courts of appeals, including the Sixth Circuit, and plaintiffs have offered no viable reason to deviate or otherwise undermine these settled practices. The barriers to review identified by petitioners are present with respect to any effort to obtain adjudication of a claim, whether in this Court or an immigration court, and they cannot form the basis for invalidating an act of Congress that channels review to the alternate forum. Moreover, contrary to what Petitioners have repeatedly argued before this Court, there is nothing extraordinary about the facts of this case. Recent efforts to return Iraqi nationals to Iraq do not reflect a change in policy and there have been numerous removals to Iraq in each of the past ten years.

The administrative and judicial procedures available to individuals, like Petitioners, who have been ordered removed also are not new. From the time Petitioners first received their removal orders, they have had an adequate and available process to raise any available basis—including protection under the Convention Against Torture ("CAT")—to challenge their removal order. A removal order may be executed at any time—in this case, a time that depended on diplomatic negotiations with Iraq beyond the control of any of the Petitioners. It is therefore incumbent on that individual to diligently move to reopen those proceedings—regardless of how remote actual removal may subjectively appear at the time—so they can obtain relief that may be available. This is particularly true here, given that Petitioners have admitted that the conditions they allege give rise to their claims arose three years ago, in 2014.

Petitioners' claims also fail on the merits. They are not seeking review of their removal orders, so their claims tied to their removal cannot justify injunctive relief. And their due process claim fails given the availability of an adequate forum to consider individual claims. Indeed, this is a highly unusual use of the habeas writ, given that they do not seek release from detention, and instead are seeking only to halt their removal. Such a novel use of the writ is not covered by the habeas statute, nor is it protected by the Suspension Clause. The proper

avenue for review here, which is fully available to consider individual claims, is to seek reopening and a stay from the immigration courts, as Congress provided.

II. BACKGROUND

It is undisputed that the putative class members in this case all have final orders of removal to Iraq, the validity of which they do not challenge in this action. Pet'rs.' Mot. for a TRO, ECF 11, at 15. While Petitioners allege that their detention locations preclude access to counsel and thus the ability to file motions to reopen, over the past few months—and, notably, while in detention locations across the country—all but one of the named Petitioners have availed themselves of the administrative processes Congress laid out and have filed a motion to reopen their removal proceedings as well as contemporaneous motions to stay removal. *See* Estrada Decl., Ex. H; *See also*, Manuel Decls., Ex. I-J; Liggins Decls., Ex. K-L; Sidhu Decls., Ex. M-N; Liggins Decls., Ex. O-P; ECF 17-6.

In fact, contrary to Petitioners' allegations, ICE's national detention standards ensure that detainees—regardless of their detention location—have the opportunity to maintain ties with their families, communities, legal representatives, and government agencies by providing them reasonable and equitable access to telephone services and in-person visitation rights. *See* McGregor Decl., Ex. F; *see also*, Carusso Decl., Ex. D. Finally, ICE's process of repatriating individuals is complex, and, in nearly every instance, involves

transferring detainees between detention facilities. *See generally*, Lowe Decl., Ex. E; *see also*, Schultz Decl., Ex. C, ¶ 9. However, such transfers are not for the purpose of frustrating an alien's administrative recourses, but are designed to effectuate the removal process while balancing ICE's finite resources with the safety and security of staff, detainees, and the American public. *See id*.

Further, while Petitioners argue it was unreasonable to have moved to reopen their final orders of removal on the basis of changed country conditions before Iraq changed its policy to accept Iraqis without travel documents, at least two Petitioners did just that, in 2011 and in 2012. ECF 17, at 2–3; ECF 17-4, 17-7.

III. LAW AND ANALYSIS

A preliminary injunction is "an extraordinary and drastic remedy[.]" *Munaf v. Geren*, 553 U.S. 674, 689 (2008). A party seeking such relief "must establish that [it] is likely to succeed on the merits, that [it] is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [its] favor, and that an injunction is in the public interest." *Winter v. NRDC*, 555 U.S. 7, 20 (2008). Because Petitioners do not establish entitlement to this extraordinary relief, their motion should be denied.

A. Petitioners Fail to Demonstrate a Likelihood of Success on the Merits.

While all four factors set forth in *Winter* must be considered in assessing a motion for preliminary injunctive relief, the moving party's likelihood of success on the

merits is the most important. *Jones v. Caruso,* 569 F.3d 258, 277 (6th Cir. 2009). Because it is a threshold inquiry, when a "plaintiff has failed to show the likelihood of success on the merits, we 'need not consider the remaining three [*Winter* elements].'" *Id*. Moreover, any inquiry into the merits must first consider threshold issues such as jurisdiction, which if not satisfied by the movant, require finding in the government's favor on this factor and requires dismissal. *See Munaf*, 553 U.S. at 690; *Steel Co. v. Citizens for a Better Env't,* 523 U.S. 83, 101–02 (1998).

1. This Court lacks jurisdiction over Petitioners' claims.

This court lacks jurisdiction because Congress's chosen method for considering claims like Petitioners' is constitutionally valid under the Suspension Clause and provides a fully adequate individual remedy.[1]

a. **The claim-channeling provisions of 8 U.S.C. § 1252 clearly preclude this Court's jurisdiction over Petitioner's attack on their final orders of removal.**

As this Court has previously held, Congress made clear through multiple provisions in 8 U.S.C. §1252 that any claims arising from the removal process, including a claim seeking review of a final order of removal, are to be consolidated

[1] The Court's July 11, 2017 Order on jurisdiction appeared to only decide the issue for the purposes of a temporary restraining order, and any such conclusions of law do not bind the Court at later stages in the litigation. *Cf. William G. Wilcox, D.O., P.C. Emp.s' Defined Ben. Pension Trust v. United States*, 888 F.2d 1111, 1114 (6th Cir. 1989).

and "channeled" to the courts of appeals on a petition for review. *See* 8 U.S.C. §§ 1252(a)(2)(D), (a)(5), (b)(9); *Elgharib v. Napolitano*, 600 F.3d 597, 603 (6th Cir. 2010); *Hamdi ex rel. Hamdi v. Napolitano*, 620 F.3d 615, 626 (6th Cir. 2010).

Congress also precluded habeas challenges to a "decision or action by the Attorney General to . . . execute removal orders against any alien." 8 U.S.C. §1252(g). As this Court concluded, Petitioners' claims here without question are subject to these provisions and, according to statute must be brought through the procedure that Congress established under § 1252. But contrary to this Court's conclusion, Congress's comprehensive review scheme is fully adequate and does not violate the Suspension Clause, even in emergent circumstances—and particularly where those circumstances are emergent due to Petitioners' failure to act.

b. **The Administrative Motion to Reopen Process is Adequate**.

Petitioners' claims fail to confer jurisdiction on the federal district courts because the motion to reopen and petition for review processes created by Congress for this purpose are fully adequate substitutes for habeas relief, and are equally available to individual petitioners as a habeas claim filed in this Court. The Supreme Court has noted that in deciding whether a set of procedures confers an adequate substitute for habeas corpus, "[w]hat matters is the *sum total* of procedural protections afforded to the detainee *at all stages*, direct and collateral." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (emphasis added). Further, to be adequate, "the court that conducts the

habeas [or substitute] proceeding must have the means to correct errors that occurred during the [underlying proceedings]." *Id.* at 786.

First, every court of appeals to address the issues raised here have concluded that the petition for review process provides an adequate substitute for habeas. The Sixth Circuit, in *Muka v. Baker*, held that "[b]ecause a petition for review provides an alien with the availability of the same scope of review as a writ of habeas corpus, . . . facially, the limitation on habeas corpus relief in the REAL ID Act [codified at 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), and 1252(g)] does not violate the Suspension Clause." 559 F.3d 480, 485 (6th Cir. 2009).

More specifically, the motion to reopen process has been upheld under the Suspension Clause by multiple courts of appeal. *Iasu v. Smith*, 511 F.3d 881, 893 (9th Cir. 2007) ("[A] potential motion to reopen at the administrative level and the possibility of judicial review thereafter provides the necessary process to alleviate Suspension Clause concerns."); *Alexandre v. U.S. Atty. Gen.*, 452 F.3d 1204, 1206 (11th Cir. 2006) ("Even though habeas corpus relief is precluded by the REAL ID Act, a deportable alien can still seek review . . . by moving the BIA to reopen or reconsider its previous ruling, and if unsuccessful, by filing a petition for review in the court of appeals. This procedure offers the same review as that formerly afforded in habeas corpus . . . . Since the substitute remedy of a petition for review offers the same scope of review as a habeas remedy, it is adequate and effective.") (internal

citations omitted). *Luna v. Holder*, 637 F.3d 85, 97 (2d Cir. 2011) (finding that the motion to reopen process "provides Petitioners with an adequate and effective substitute for habeas"). Importantly, in *every* reopening case, the court is faced with a situation where the alien must halt execution of the removal order using the administrative process like here. This case does not present a reason to depart from these well-established holdings.

Second, the administrative review procedures provided here are fully adequate, including in exigent circumstances. Here, the "sum total of procedural protections afforded to the detainee" are fully adequate because the substitute procedure provides "the means to correct errors," including in exigent circumstances. *Boumediene*, 553 U.S. at 786.

After a removal order is final and enforceable, the alien may file a motion to reopen before the agency if circumstances have changed, and there is no time or number limits with respect to motions that raise concerns about treatment in the country to which the alien will be removed. 8 U.S.C. § 1229a(c)(7)(C)(ii). The requirements for the motion are not elaborate, and it need only "state the new facts that will be proven" and include evidence relating to those facts. *Id*. § 1229a(c)(7)(B); see 8 C.F.R. §. §§ 1003.2(c)(1), 1003.23; Board Practice Manual § 5.2(b) ("[t]here is no official form for filing a motion with the Board"); *see also Sinistaj v. Ashcroft*, 376 F.3d 516, 519 (6th Cir. 2004). While a motion will not be

held pending the submission of evidence, the Board Practice Manual allows for the possibility of the submission "of supplemental evidence." Board Practice Manual § 5.2(f); *see* McNulty Decl., Ex. B, ¶ 20 (considering stay motions even if alien may still need time "to obtain . . . appropriate evidence").

Once a motion to reopen is filed, the alien may seek a stay of removal from the immigration court. *See* 8 CFR §§ 241.6(a)–(b), 1241.6(a)–(b); *See generally,* McNulty Decl.,., Ex. B. The immigration courts are fully capable of considering emergency stay requests on a highly expedited basis. The immigration courts, in turn, are "dedicated to issuing decisions in a timely manner so that no respondent with a pending motion . . . is removed prior to receiving an adjudication." Ex. B, ¶ 14. Additionally, the Board has created the Emergency Stay Unit (Unit) designed for exactly the type of circumstances presented here, "to achieve the timely adjudication of every [stay request] it receives." Ex. A., ¶ 17.

Just as in this Court, the traditional stay standards are relevant in immigration courts and apply in the federal appellate courts. *See Nken*, 556 U.S. at 433–34. And, like this Court, the federal appellate courts are fully capable of acting on a highly expedited basis in these circumstances. *See*, *e.g.*, *Khan v. Attorney General*, 691 F.3d 488, 491 (3d Cir. 2012) (panel "granted the petitioners a temporary stay of removal" in case where petitioner alleged that BIA had not "adjudicated their motion" that was filed "within hours of [the alien's] scheduled removal"). Indeed, to the extent a

federal court remedy may be needed in exigent circumstances, that remedy would be in the appellate courts Congress designated for review of final orders of removal, not a habeas corpus action that Congress specifically barred. *Id.*

Thus, the availability of the motion to reopen process as a substitute to habeas relief in federal district court does not raise Suspension Clause concerns as applied to Petitioners. Indeed, all seven of the initial Petitioners and many putative class members have availed themselves of this process. *See generally* Ex. I–P; *See also* Ex. B, ¶ 23 (Detroit immigration court has adjudicated 79 stay requests since June 13).

Third, Petitioners' adequacy arguments do not assert that their claim cannot be heard in the process Congress designed—indeed, they concede that they can. Instead, Petitioners rely on barriers that exist with respect to any form of judicial review, and cannot properly lead to the conclusion that the process and court that Congress selected is constitutionally inadequate. Petitioners make a variety of arguments that, at bottom, simply illustrate the reality that there is a burden in seeking relief from an adjudicatory forum. Those type of arguments were not identified by the Supreme Court as justifying a Suspension Clause holding, *see St. Cyr*, 533 U .S. 300–02 (identifying Suspension Clause concerns that may arise when there is *no* forum to address legal and constitutional questions), and Petitioners have

cited no case that relied on these type of factors to conclude that an open and available avenue of review for legal claims is somehow constitutionally inadequate.

Petitioners argue that a motion to reopen "must be supported by affidavits or other evidentiary materials." Pet'rs.' Mot. for a Prelim. Inj., ECF 77, at 8. But a request for preliminary relief also requires the support of evidentiary materials of at least a similar quality. *See* Fed. R. Civ. P. 65(a) (discussing "evidence that is received on the motion"). Habeas rules require a similar showing. *See* 28 U.S.C. § 2241(c)(3) (petitioner must show "custody in violation of the Constitution or laws or treats"); Habeas Rule 2 (habeas petition must "specify all the grounds for relief" and "state the facts supporting each ground").

Relatedly, Petitioners state that they must obtain the "comprehensive files kept by" DHS, ECF 77, at 8, and it takes time to prepare pleadings. *Id.* at 11. That is the case in any court. Moreover, the alien should be in possession of her immigration papers—and, more importantly in this context—should be uniquely aware of new facts not necessarily appearing in the record of proceedings ("ROP") relating to her potential treatment upon return to Iraq. Further, the immigration courts have the ROP available to them and are "not delay[ing] issuing a ruling on a stay request if removal is imminent" even if the ROP has not yet been obtained. Ex. B, ¶ 16. In any event, filing a motion to reopen in immigration court presents no greater challenge than filing a request for relief in this Court on essentially the same grounds. In these

circumstances, there is no reason to conclude that the process designed by Congress must be struck down as a suspension of the writ of habeas corpus.

Indeed, if anything, the processes available in the administrative forum are *better* suited than this Court to the emergent situation presented by individual claimants.

First, as explained, the BIA has developed a special Unit to handle stay of removal requests, specifically designed to ensure consideration of those request prior to the time when removal is executed. Importantly, the Board, as well as the immigration courts, have immediate access to deportation times, information that is not readily or immediately available to a federal habeas court. Second, the immigration courts address these kinds of issues every day, and are familiar with the needs presented in individual cases, both with respect to the timing of a stay request as well the equities in individual cases. *See* Ex. B, ¶¶ 14–24. Third, the immigration courts are fully able to address the influx of cases, contrary to this Court's suggestion. *Id.* Fourth, the immigration courts have access to the record in individual cases, *see* Ex. B, ¶¶ 15–16, which is simply not readily available in district court.

There is only one difference between the process this Court is providing and the process available to every petitioner in the immigration courts and the courts of appeals: this Court may have authority to certify a class and grant class-wide relief. *See* Fed. R. Civ. P. 23. But habeas is, at its core, an individual remedy to test the lawfulness of a person's individual detention. *See* 28 U.S.C. § 2241 (habeas writ

shall "not extend to *a* prisoner" unless "*he* is in custody in violation of the" law); Rule 1 of Rules Governing Habeas Corpus Cases under Section 2254 (providing no rule permitting class actions and specifying that a petition is filed by "a person in custody"). Class remedies are decidedly not a traditional element of habeas relief. As the Supreme Court explained, the "applicability to habeas corpus of the rules concerning . . . class actions has engendered considerable debate." *Harris v. Nelson*, 394 U.S. 286, 294 n.5 (1969); *Schall v. Martin*, 467 U.S. 253, 260 n.10 (1984) ("[w]e have never decided" whether Rule 23 "is applicable to petitions for habeas corpus relief"). Given that debate, Congress cannot be said to have suspended the traditional writ when it created an alternate process that is fully adequate to consider individual claims but does not include a mechanism for hearing class claims.

In sum, the administrative review procedure is no different in substance from the relief available in his Court. The forum that Congress created as the exclusive one possesses the authority to address exigent circumstances and provide complete relief with respect to Petitioners' individual claims. Moreover, the remedy provided by Congress would be rendered completely superfluous if a habeas remedy lies here. It is therefore fully adequate and Congress did not violate the Suspension Clause in directing claims to that forum. *Boumediene*, 553 U.S. at 783, 786.

c. **The Suspension Clause does not require overriding Congress's decision that there is no jurisdiction over this habeas action.**

Respondent has explained how the alternate procedures here are fully adequate, but the more fundamental problem with this suit is that it asks for a novel exercise of habeas jurisdiction that does not square with the habeas statute or the traditional scope of the writ that is protected by the Suspension Clause. The Supreme Court has made clear that the traditional—and thus constitutionally protected—writ of habeas corpus is limited. The Supreme Court has never decided whether the meaning of the Suspension Clause was fixed in 1789, or whether the Clause might evolve consistent with the expansion of statutory habeas over the course of American history. *See INS v. St. Cyr*, 533 U.S. 289, 304–05 (2001). In either circumstance, the Suspension Clause does not require invalidation of Congress's chosen method for handling the types of claims brought here.

The common-law right was to seek release from the sovereign's custody. *See* 3 Blackstone, Commentaries on the Laws of England, 131 (1st ed. 1765). The Supreme Court has thus noted, "[h]abeas is at its core a remedy for unlawful executive detention," and "[t]he typical remedy for such detention is, of course, release." *Munaf*, 128 S. Ct. at 2211. *See, e.g., Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he traditional function of the writ is to secure release from illegal custody.").

With this limitation in mind, the Supreme Court has refused to extend even *statutory* habeas corpus to encompass challenges to anything other than the fact or duration of detention, and the Sixth Circuit has rejected the use of statutory habeas

to make such collateral challenges. *See Bell v. Wolfish*, 441 U.S. 520, 526 n.6 (1979); *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). As the Sixth Circuit has explained, "no grounds for habeas relief were established" under Section 2241 when the petitioner "did not challenge the terms or validity of his . . . prison term" but challenged conditions and sought a transfer. *Id*.

The Supreme Court's unanimous decision in *Munaf* further supports this understanding of the writ's narrow scope. In *Munaf*, two American citizens held in Iraq by the United States military filed habeas petitions seeking to prevent the United States from transferring them to the custody of the Iraqi government. 553 U.S. at 683–84. The citizens claimed they would face mistreatment and torture if transferred to Iraqi custody. *Id*. at 700. The Supreme Court held that the type of relief sought—an injunction preventing petitioner's transfer from United States custody to the custody of another sovereign—was not available in habeas, even where such transfer would eliminate the district court's jurisdiction over the core habeas action challenging the petitioner's detention, and even where there were allegations that the transfer would lead to torture. *Id.* at 700–04.

Munaf, therefore, rejected the notion that there is a statutory, much less a constitutional, habeas right to challenge a transfer from custody.[2] The Court explained that the habeas right to "release" does not mean that the habeas petitioners can pick and choose the terms, timing, location, and conditions of their release. *Id.*at 2221, 2223. Indeed, the Court specifically rejected the suggestion that detainees could use habeas as a vehicle for seeking "release in a form that would avoid transfer" to another country's custody. *Id.* at 2223. *See also Kiyemba v. Obama*, 561 F.3d 509, 516 (D.C. Cir. 2009) (habeas relief is not available to bar transfer of detainees on grounds detainee might be subject to torture or prosecution).

Thus, because the Supreme Court has not interpreted *statutory* habeas jurisdiction to encompass ancillary claims, such as efforts to halt a detainee's release from custody or limit a transfer to another sovereign, or challenges to conditions of confinement, the Suspension Clause does not protect such claims. *See Rasul v. Bush*, 542 U.S. 466, 474 (2004) ("[H]abeas statute clearly has expanded habeas corpus 'beyond the limits that obtained during the 17th and 18th centuries.'").

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[2] The Supreme Court's decision in *Boumediene*, decided the same day as *Munaf*, fully comports with this understanding. In *Boumediene*, at issue was ongoing detention. *Boumediene*'s holding is thus focused on this core aspect of the writ and refers only to a habeas right to challenge detention. *See, e.g.*, *Boumediene*, 553 U.S. at 783 ("The habeas court must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executive's power to detain.").

i. Petitioners' action is not cognizable in habeas because they do not seek release from custody.

Petitioners' habeas action at its core does not challenge their detention, and therefore does not request a traditional exercise of this Court's habeas jurisdiction that is protected by the Suspension Clause. Nor would such a suit be cognizable in a statutory habeas action under these precedents.

The simple fact is, Petitioners do not challenge their detention in this case. Instead, they seek to "enjoin . . . remov[al] to Iraq" and "enjoin . . . transfer[] to detention centers." ECF 35 at 36–37. Petitioners do not propose challenging their removal orders on this motion; they concede that they "are all subject to final orders of removal." ECF 77, at 20. They do not seek a holding from this Court that those orders are invalid and that detention pursuant to them must end either due to CAT, the Due Process Clause, or any other provision of the INA. *See* ECF 35 at 36–37; ECF 77, at 18–23 (arguing that the INA, CAT, and Due Process Clause require that detention continue during period when administrative proceedings will be pursued); ECF 77, at 2 ("central claim" is "that ICE cannot lawfully remove them to Iraq until

an appropriate process has determined whether, in light of current conditions and circumstances, they are entitled to mandatory protection against removal"). [3]

Petitioners' claims based on CAT and the Due Process Clause lack merit because, explained below, the agency is fully capable of considering requests by each petitioner to stay their removal pending further administrative proceedings, that process is fair, and it is the process that is due. But more fundamentally here, Petitioners do not seek release or claim unlawful detention, but a *halt* to their upcoming transfer and release through removal. Such a novel use of habeas is not consistent with the statute, which confers jurisdiction to review a claim of "custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(b)(3). As the Supreme Court explained in *Munaf*, "the writ of habeas corpus could not be used to enjoin release." 553 U.S. at 682; *see Preiser*, 411 U.S. at 484 (1973); *Martin*, 391 F.3d at 714 (no habeas jurisdiction to over transfer claim). Because the claim does not seek to end unlawful detention, it is not a valid habeas claim and, *a fortiori*, cannot be considered by this Court under the Suspension

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[3] The only reference to release in the Petition is a request for bond hearings before an IJ. *See* ECF 35 at 37 (paragraph J). But such a request for relief is not valid or ripe. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (alien may be detained for execution of removal order for sixth months and thereafter if there is a reasonable chance of removal); *see also Ly v. Hansen*, 351 F.3d 263, 267 (6th Cir. 2003). This part of their Petition also has no relation to the claims brought in their preliminary injunction motion, and is in fact *inconsistent* with their other requests for relief that seek to *extend* their detention and prevent a release in Iraq.

Clause by invalidating Congress's path for review and clear direction that this Court lacks jurisdiction to halt the "execut[ion of] removal orders." 8 U.S.C. § 1252(g).

ii. The Suspension Clause cannot override Congress's chosen handling of claims that the location of transfer is improper.

Even if the habeas petition were construed, contrary to its terms, to seek release, the Suspension Clause does not apply to override Congress's chosen framework for considering a claim that the manner of transfer out of custody is unlawful, as this is not the type of habeas claim cognizable under common law.

First, at its core, habeas concerns the release from custody, and habeas does not traditionally secure "release in a form that would avoid transfer" in the manner preferred by the petitioner. *Munaf*, 553 U.S. at 697. "To the extent the detainees seek to enjoin their transfer based upon the expectation that a recipient country will detain or prosecute them" or based on a "likelihood a detainee will be tortured," the D.C. Circuit has explained that "*Munaf* . . . bars relief." *Kiyemba*, 561 F.3d at 516. The same principle precludes relief here, especially given that Congress has expressly channeled review of such claims through a distinct, fully adequate process.[4]

[4] Nor do Petitioners allege that their transfer is to evade habeas jurisdiction, such that the common-law habeas right might apply. *See, e.g.,* Habeas Corpus Act of 1679, §XI (restricting king's practice of sending prisoners to places that he controlled but which were beyond the territorial jurisdiction of the common-law courts); *cf.* Fed. R. App. P. 23 (barring custodial respondent from transferring habeas

Second, as *Kiyemba* further explained, "Congress limited judicial review under the [CAT] to claims raised in a challenge to a final order of removal." *Id*. at 515–16 (citing 8 U.S.C. § 1252(a)(4)). That statute makes clear that the CAT—which is not self-executing—provides enforceable rights only in the administrative removal proceedings authorized by Congress, as set forth in implementing regulations. The CAT therefore cannot form the basis of a habeas claim under statute, much less allow one to invoke the Suspension Clause and invalidate the procedure Congress crafted.

Third, Petitioners invoke habeas jurisdiction to pursue an entirely different administrative remedy. ECF 77, at 20 ("each individual will need to file a motion to reopen before proceeding to the merits of her/his individual claims"). This is decidedly not a traditional protection provided by habeas corpus. Indeed, it is quite clear that "petitioners invoking habeas jurisdiction must assert claims that sound in habeas," *Aamer*, 742 F.3d at 1033, and habeas is not simply a place holder to exercise some different statutory or procedural right.

Fourth, even if Petitioners could raise a CAT claim or claim for withholding of removal claim under the Immigration and Nationality Act, and could prevail on such

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petitioner, with an appeal pending, to another custodian within the same sovereign entity). Here, Petitioners' transfer to Iraq would release petitioners from United States custody, which is the full extent of the relief to which they would be entitled if there were traditional habeas jurisdiction. *Munaf*, 553 U.S. at 693–94; *cf. Qassim v. Bush*, 466 F.3d 1073 (D.C. Cir. 2006).

a claim in this Court, they would remain subject to detention under final orders of removal. 8 U.S.C. § 1231(b)(3), 8 C.F.R. §§ 208.16(d)–(f), 208.17(a)–(c) (CAT and withholding only preclude removal to specific identified country). Thus, their claims cannot properly result in a release from detention, further showing that this is not a traditional habeas case protected by the Suspension Clause. *See Munaf*, 553 U.S. at 697; *Kiyemba*, 561 F.3d at 514–15; 8 U.S.C. § 1231(a) (post-order detention).

Fifth, to the extent 8 U.S.C. § 1252(g) effectively eliminates the authority of this court to consider class-wide relief, that cannot be understood to violate the Suspension Clause. Whatever the precise contours of the "core" habeas rights protected by the Suspension Clause, they do not include this type of modern class action. *See Harris*, 394 U.S. at 294 n.5.

In sum, Petitioners' use of a habeas remedy to halt their transfer is highly unusual and without precedent. That unusual remedy is not encompassed by Section 2241, and is certainly not so inherent in traditional habeas so as to require invalidation of Congress's established and adequate method to review such claims.

2. Even if this Court had jurisdiction, Petitioners' claims are meritless.

Count One. In Count One, petitioners allege a violation of CAT. But petitioners do not seek CAT relief in this proceeding, and indeed acknowledge that such relief is unavailable. This claim therefore must fail. In any event, CAT is not a self-executing treaty, and the INA specifies that the only enforceable CAT rights are

available in a petition for review proceeding. *See* 8 U.S.C. § 1252(a)(4). Claims seeking withholding or deferral of removal or asylum are also only cognizable in removal proceedings. In sum, federal courts lack jurisdiction to review issues arising from removal proceedings through this mechanism. 8 U.S.C. § 1252(b)(9); *Muka*, 559 F.3d at 483–84; *Almuhtaseb v. Gonzales*, 453 F.3d 743, 747 (6th Cir. 2006).

Count Two. Here, Petitioners allege that a Due Process Clause violation because "they have not received their core procedural entitlement . . . [of] an opportunity to have their claims heard at a meaningful time and in a meaningful manner . . . with respect to current conditions, not the conditions that existed at the time their removal order was first issued." ECF 35, at 21. This claim fails because, as explained *supra*, the statutory procedures to hear Petitioners' motions are fully adequate.

A Due Process violation in the context of removal proceedings only occurs when "the proceeding was so fundamentally unfair that the alien was *prevented from* reasonably presenting his case." *Modarresi v. Gonzales*, 168 F. App'x 80, 85 (6th Cir. 2006). Petitioners must also show "that the due process violations led to *a* substantially different outcome from that which would have occurred in the absence of those violations." *Graham v. Mukasey*, 519 F.3d 546, 549 (6th Cir. 2008).

As an initial matter, Petitioners cannot demonstrate that they were *prevented* from reasonably presenting their case. They could have filed motions to reopen at any time if they thought conditions in Iraq had sufficiently changed. 8 U.S.C. §

1252(a)(5), (b)(9), (g). Indeed, many Petitioners did just that, some as early as 2011 and 2012. *See generally* Ex. I-P; *see also* ECF 17-2–17-8.

Further, Petitioners do not establish that emergent circumstances prevent them from filing motions to reopen in the absence of a preliminary injunction, in light of the numerous procedural protections outlined *supra*. *See Abdallahi v. Holder*, 690 F.3d 467, 473 (6th Cir. 2012) (no procedural due process violation where the IJ "satisfied the procedure dictated in the applicable Federal Regulations"); *Shewchun v. Holder*, 658 F.3d 557, 569 (6th Cir. 2011).

Nor have they established prejudice that justifies class-wide relief; every petitioner presents different circumstances that can only be considered in Congress's designated forum. That each individual presents a unique set of facts and circumstances with regard to the ultimate viability of their claims, as Petitioners concede, *see* ECF 77, at 25, underscores it is inappropriate for this Court to step in to grant class-wide relief under the Due Process Clause. *See* Fed. R. Civ. P. 23(a)(2).

Count Three. In Count Three, Petitioners allege that "ICE's decision to transfer Plaintiffs/Petitioners who reside in one state to detention centers that are hundreds of miles away, and sometimes further, is interfering with their statutory right to counsel and their due process right to a fair hearing." ECF 35 at 34–35. Notwithstanding the Court's lack of jurisdiction, Petitioners fail to establish a likelihood of success on the merits of their claim.

Here, Petitioners allege that the transfer of putative class members to detention facilities across the country has "effectively disrupted detainees' ability to access pre-existing counsel" and "to access pro bono resources that have been mobilized by their local communities." ECF 35 at 26. But as explained in the attached declarations, petitioners have a robust ability to contact counsel by phone, and to access available pro bono providers. *See, e.g.*, Ex. F, ¶¶ 3-4; Ex. D, ¶¶ 3-9. In person visits are also available. *Id*. Importantly, ICE explained why aliens are occasionally moved between detention facilities, and it is clear that there has been no intention to restrict counsel access. *See generally* Ex. E; *see also*, Ex. C, ¶ 9. Petitioners have not explained how this access is insufficient in a constitutional sense or under the statute providing for the "privilege of being represented" in immigration proceedings. 8 U.S.C. § 1362.

B. Petitioners Have Not Established Irreparable Harm.

Petitioners make severe allegations of danger in parts of Iraq, and this Court has relied on them in granting temporary nationwide relief. But the potential harm faced by each person is unique, and it is inappropriate for this Court to enjoin all removals based on Petitioners' general speculation of harm. Instead, any claims of harm are properly addressed by the immigration courts, which can fully consider stay requests and motions to reopen addressing the harm faced by individual requesters on an individualized basis.

Indeed, this Court's speculation shows it is ill-suited to evaluate the harm faced by Petitioners. This Court and Petitioners rely primarily on conditions in ISIS-controlled territory to establish harm. *See* Order at 6 (risk of "persecution at the hands of ISIS"); ECF 77, at 4–5 (discussing danger in ISIS controlled territory and areas "recaptured from ISIS"). But no alien would be removed to that part of Iraq. *See* Ex. C, ¶ 6; *see INS v. Orlando-Ventura*, 537 U.S. 12, 18 (2002) ("[A]n individual who can relocate safely within his home country ordinarily cannot qualify for asylum here.").

Further, as explained in the attached declarations, people have been removed to Iraq throughout this period, Ex. C, ¶ 6, and some class members are seeking to be released from this Court's order so their removal may move forward. There may be risks posed to some class members, but the balance of equities must take into account the remedy available, and the reality that this Court is not suited to consider the individual circumstances regarding potential harm. Ultimately, the class claim of harm is speculative, as the inquiry turns on individual circumstances that have not been presented to this Court.[5] *See Abney v. Amgen, Inc.*, 443 F.3d 540, 552 (6th Cir.

[5] Further, irreparable harm must be *legally cognizable* harm to satisfy this prong. *See JDC Mgmt., LLC v. Reich*, 644 F. Supp. 2d 905, 917 (W.D. Mich. 2009) (citing *Audi AG v. D'Amato*, 469 F.3d 534, 550 (6th Cir. 2006)). However, as Petitioners concede, ECF 35 at 36–37, this Court cannot address the merits of Petitioners'

2006) ("To demonstrate irreparable harm, the plaintiffs must show that . . . they will suffer 'actual and imminent' harm rather than harm that is speculative or unsubstantiated."); *see also Harchenko v. I.N.S.,* 379 F.3d 405, 410 (6th Cir. 2004) (quoting *Dokic v. INS,* No. 92-3592, 1993 WL 265166, *5 (6th Cir. July 15, 1993)).

Even putting aside the need for individualized consideration, the Sixth Circuit "has repeatedly held that substantial evidence supports the conclusion that one's status as a Christian, without more, does not create a sufficiently particularized risk of persecution" or torture in Iraq. *Hanna v. Holder*, 335 F. App'x 548, 551 (6th Cir. 2009) (citing *Hanona v. Gonzales*, 243 F. App'x 158, 163 (6th Cir. 2007)); *Shasha v. Gonzales*, 227 F. App'x 436, 440 (6th Cir. 2007); *Elias v. Gonzales*, 212 F. App'x 441, 448 (6th Cir. 2007); *Aoraha v. Gonzales*, 209 F. App'x 473, 476 (6th Cir. 2006)). Petitioners in those cases cited State Department reports and newspaper articles showing that Christians and other religious minorities were at risk in Iraq, but the reports also indicated that not all Christians in all circumstances were at risk, and "[s]uch a generalized or random possibility of harm in the country of removal is

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claims. *See* 8 U.S.C. §§ 1229a, 1252(a)(5), (g); *Elgharib*, 600 F.3d at 600–06; *Muka*, 559 F.3d at 483–86. The harm allegedly flowing from those claims is accordingly non-cognizable in this forum, and cannot be treated as cognizable for purposes of this motion. *See JDC Mgmt., LLC v. Reich*, 644 F. Supp. 2d at 917.

insufficient to establish a fear, or a pattern or practice, of persecution." *Id.* (citing *Almuhtaseb v. Gonzales*, 453 F.3d 743, 750 (6th Cir. 2006)).[6]

Similarly, while the most recent State Department report for Iraq notes that terrorists—ISIS in particular—committed atrocities against Christians and other religious and ethnic groups, the Secretary of State described ISIS's atrocities as occurring "in areas under its control," U.S. Dep't of State, Country Reports on Human Rights Practices for 2016: Iraq, at 2–3 (updated Mar. 29, 2017), *available at* http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dlid=265498. Such areas in Iraq are limited and have been shrinking as of late. *See* Tim Arango & Michael R. Gordon, "Iraqi Prime Minister Arrives In Mosul to Declare Victory Over ISIS," N.Y. Times (July 9, 2017), https://www.nytimes.com/2017/07/09/world/middleeast/mosul-isis-liberated.html. This evidence is particularly significant given that ICE has recently conducted removals to Iraq and does not remove individuals to ISIS-controlled territory. Ex. C, ¶ 6; *see* 8 C.F.R. § 208.16(b)(3) (requiring reasonable internal relocation).

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[6] Petitioners cite recent Sixth Circuit language suggesting that a Chaldean Christian qualified for withholding of removal on the basis of that status alone. *Yousif v. Lynch*, 796 F.3d 622, 628 (6th Cir. 2015). But in that case, ICE did not challenge that form of relief, which underscores the need for individual consideration before the immigration courts.

This is not to deny that there are risks to certain minority groups in Iraq. But the degree of risk turns on highly particularized circumstances unique to individual Iraqis, and the "generalized or random possibility" of Petitioners encountering harm, *see Almuhtaseb*, 453 F.3d at 750, which is all their evidence supports, would impermissibly require the Court to speculate on the likelihood of harm and thus cannot meet Petitioners' burden of showing a "clear and present" risk of such injury. *See Abney,* 443 F.3d at 552. Instead, it supports Respondents' position that the appropriate process is not this one, but the administrative process that will consider these individualized circumstances and is fully available to Petitioners.

C. The Balance of Harms and Public Interest Favor Respondents.

This Court's intervention in the established motion to reopening process poses severe consequences. While Petitioners assert this case is unique, it is very easy to describe an impending removal as presenting significant dislocation, or as involving a previously unasserted claim relating to CAT or withholding of removal. If class-wide relief is imposed in these circumstances with respect to an entire country rather than individual circumstances, the ability to effectuate removals, a significant congressional priority, will be halted. *See, e.g.*, *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977). Moreover, this Court's ruling will encourage aliens to sit on their rights of which they are aware, and seek exigent relief only when removal is imminent, burdening the government and the courts. *See* Ex. C, ¶ 8.

As the Supreme Court explained, "[t]here is always a public interest in prompt execution of removal orders." *Nken*, 556 U.S. at 436. That interest should only be outweighed based on an individual presenting circumstances that would justify a stay based on harm to that person. Basing an injunction not on those individual circumstances but on general country conditions contravenes the Supreme Court's direction that "a court asked to stay removal cannot simply assume that '[o]rdinarily, the balance of hardships will weigh heavily in the applicant's favor.'" *Id*. This Court should not walk further down that path, and instead allow the robust administrative process to operate as Congress intended.

An injunction will also cause severe problems for the courts, for aliens, and for the DHS. There were over 400,000 removals in 2016. An injunction here therefore has the potential to create duplicative review paths in thousands of cases. By endorsing two separate but nonexclusive review mechanisms, both paths will be utilized in the hope of evading removal or finding a favorable forum. An injunction is liable to cause conflict between the trial and appellate levels of the federal courts. As explained, the Sixth Circuit has very recently rejected claims like those brought here in multiple cases by aliens seeking to halt removals to Iraq. A prudent attorney would be compelled to utilize both review tracks simultaneously, and the resulting confusion will primarily benefit only aliens seeking to delay an inevitable removal. The Supreme Court in *St. Cyr* recognized concerns about "congruent means of

review" and explained "that Congress could, without raising any constitutional questions, provide an adequate substitute through the courts of appeals." 533 U.S. at 313 n. 38. That is precisely what Congress did in the REAL ID Act, and this Court should defer to the review scheme that Congress designed.

Petitioners' removals have been determined lawful and have merely been delayed up until now by circumstances outside of the United States' control. Further, many Petitioners were ordered removed on the basis of committing criminal offenses, *see* ECF 77-20 at 5—who have demonstrated their disregard for the country's laws and willingness to harm others. And Petitioners admit they have sat on their rights since 2014. It harms the governmental and public interest to further postpone their lawfully ordered removal based on speculative, not-yet-substantiated grounds for reopening their final orders. *See, e.g.*, *Kayrouz v. Ashcroft*, 261 F. Supp. 2d 760, 767 (E.D. Ky. 2003) ("prompt removal of aliens convicted of serious felonies is essential to the nation's ability to control its borders"), *aff'd*, 115 F. App'x 783 (6th Cir. 2004).

IV. CONCLUSION

For the foregoing reasons, the Court should deny a preliminary injunction.

Dated: July 20, 2017

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

AUGUST FLENTJE
Special Counsel

WILLIAM C. PEACHEY
Director

/s/ William C. Silvis
WILLIAM C. SILVIS
Assistant Director

VINITA B. ANDRAPALLIYAL
MICHAEL A. CELONE
JOSEPH A. DARROW
Trial Attorneys

Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the foregoing Defendants' Opposition to be served via CM/ECF upon all counsel of record.

Dated: July 20, 2017

Respectfully submitted,

/s/ William C. Silvis
WILLIAM C. SILVIS

Counsel for Defendants

	UNITED STATES DISTRICT COURT **FOR THE EASTERN DISTRICT OF MICHIGAN** **SOUTHERN DIVISION** **Case No. 2:17-cv-11910** **INDEX OF EXHIBITS**
Exhibit	Description
A	Declaration of Christopher Gearin (Board of Immigration Appeals—Motion to Reopen/Stay Procedures)
B	Declaration of the Honorable Sheila McNulty (Detroit Immigration Court—Motion to Reopen/Stay Procedures)
C	Declaration of John A. Schultz Jr. (ICE/ERO Removal Management Division—Removal to Iraqi)
D	Declaration of Christopher Carusso (Northeast Ohio Correctional Center—Access)
E	Declaration of Caleb Lowe (Detroit Field Office—Detainee Transfers)
F	Declaration of Christopher D. McGregor (Florence Detention Center—Access)
G	Declaration of Janee M. Aska (Florence Detention Center—Iraqis Seeking Removal)
H	Declaration of Elizabeth Estrada (Abbas Oda Al-Sokaini)
I	Declaration of Martin Manuel (Qassim Hashem Al-Saedy)
J	Declaration of Martin Manuel (Abdulkuder Al-Shimmary)

K	Declaration of Vernon Liggins (Atheer Fawozi Ali)
L	Declaration of Vernon Liggins (Habil Nissan)
M	Declaration of Parminderjit Sidhu (Moayad Jalal Barash)
N	Declaration of Parminderjit Sidhu (Sami Ismael Al-Issawi)
O	Declaration Vernon Liggins (Usama Jamil Hamama)
P	Declaration of Vernon Liggins (Ali Al-Dilami)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al., Plaintiffs-Petitioners, v. **REBECCA ADDUCCI,** et al., Defendants-Respondents.	Case No. 2:17-cv-11910 Hon. Mark A. Goldsmith Mag. David R. Grand Class Action **DECLARATION OF CHRISTOPHER GEARIN**

1. I serve as an attorney team leader for the Executive Office for Immigration Review's ("EOIR") Board of Immigration Appeals ("Board"). The Board is the highest administrative body for interpreting and applying the immigration laws. 8 C.F.R. § 1003.1.

2. In this role, I directly supervise and manage a team of paralegals, whose duties include the Board's Emergency Stay Unit. I have managed the Emergency Stay Unit ("ESU") since April 2013.

3. The purpose of this declaration is to explain the Board's procedures for promptly adjudicating discretionary motions for stay.

4. I have knowledge of the facts stated in this declaration.

A. Background

5. By regulation, the Board may enter a stay of an order of removal, deportation, or exclusion.

6. Some stays are discretionary, others are automatic. Automatic stays attach to timely and properly filed direct case appeals and certain other issues. 8 C.F.R. § 1003.2(a). The Board has discretion to grant a stay of a removal order in other

circumstances, 8 C.F.R. § 1003.6(b).

7. The Board may grant an alien's written request for a stay of removal, in the exercise of its discretion (a discretionary stay), pending the Board's adjudication of the underlying matter before it. 8 C.F.R. § 1003.6(b). The Board's Practice Manual provides detailed guidance to parties on the process and requirements for filing a stay request with the Board. *See* Board of Immigration Appeals, *Practice Manual*, Chap. 6 (*available at* https://www.justice.gov/sites/default/files/pages/attachments/2017/02/03/biapracticemanualfy2017.pdf).

8. The Board determines based on the facts of each case whether the request qualifies as "an emergency" or "non-emergency" stay.

9. The Board will deem a stay request as an emergency if removal is imminent. An emergency stay request will be processed if: 1) a motion to reconsider or reopen a prior Board decision, or an appeal of an Immigration Judge's denial of a motion to reconsider or reopen has been entered and received by the Board's Clerk's Office; 2) a written motion for a stay of removal has been entered and received by the Board's Clerk's Office; 3) the DHS's scheduled removal of the alien is imminent; 4) the DHS has confirmed a specific removal date and time, and 5) the alien is in the physical custody of the DHS.

10. If the Board decides that a stay request is a "non-emergency," the Board will not rule immediately on the request but will instead consider it during the normal course of adjudication. If the alien or the alien's attorney informs the Board that removal is imminent, the Board will then treat a pending stay request as an emergency stay request if the alien's case meets the above mentioned requirements. In those circumstances, the alien does not need to file a new stay request.

11. Once a stay request is deemed an emergency, the stay request is prepared for adjudication. It is the responsibility of the ESU to expeditiously process proper stay requests in cases where removal is truly imminent.

B. The Emergency Stay Unit

12. The ESU responds to stay inquiries and processes emergency stay requests when removal is imminent. The ESU is composed of Board legal staff including trained paralegals who prepare the record for Board Member adjudication of emergency stay requests. As stated above, I supervise the ESU. The ESU appreciates the urgency of imminent removal and strives to process emergency stay requests as quickly as possible.

13. When an alien or alien's attorney contacts the ESU, the ESU explains the requirements and procedures for filing emergency stays. The ESU telephone line at (703) 306-0093 is staffed Monday – Friday, during normal business hours. Messages can be left at any time and will be returned.

14. All stay requests must be in writing. Generally, stay requests should accompany the matter pending before the Board. When that is the case, the Board will treat it as an emergency if all requirements are met. If no stay request was included with the underlying matter before the Board, the ESU staff provide instructions on how to file a written request. When appropriate, the ESU staff will authorize the request to be filed by fax. In most cases, a DHS deportation officer will contact the ESU to inquire whether the alien has filed a stay request in a specific case. If the alien has filed one, the deportation officer will provide the ESU a removal date. The ESU will enter the alien's information and removal date onto the "pending stay list." As the removal date approaches and when removal becomes imminent, the ESU will process the alien's stay request for a Board Member's review.

15. If, however, the alien or his or her attorney contacts the ESU believing that removal is imminent, and all filing criteria for an emergency stay request have been met and the alien is in DHS custody, the ESU requests certain information from the alien (or his or her attorney) including the name and contact information of the alien's assigned DHS deportation officer. The ESU then immediately contacts the DHS deportation officer to determine the date and time that DHS has scheduled the alien for removal. Once the removal information is confirmed, the ESU prepares the stay request for immediate delivery to a Board Member and prompt adjudication. Where there is uncertainty and the ESU cannot

confirm the removal date with the DHS, the ESU will process it to a Board Member to decide. Once the Board Member signs the stay order, the ESU immediately contacts the parties by telephone. The ESU will then fax a copy of the signed and dated stay order to DHS and the alien's counsel, if any, and thereafter will serve a copy by mail.

16. If the ESU is advised that removal is not imminent after contacting the appropriate DHS officer, the ESU does not treat the request as an emergency. However, the ESU will ask the deportation officer if a removal date has been set. If it has, the ESU retains the alien's information and removal date on the "pending stay list." If the deportation officer does not have a removal date, the ESU asks the deportation officer to notify the ESU when the date is set. In any event, an alien or his or her attorney can always contact the ESU if removal later becomes imminent.

17. The Board's ESU is comprised of dedicated professionals who understand the gravity and urgency of the requests they process, and our Board members treat these cases as an utmost priority. When removal is imminent and the criteria for an emergency stay are met, the ESU does all that it can to achieve the timely adjudication of every request it receives.

I declare under penalty and perjury that the foregoing is true and correct to the best of my information and belief.

Executed this 20th Day of July, 2017 in Virginia.

Christopher Gearin

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al., Plaintiffs-Petitioners, v. **REBECCA ADDUCCI**, et al., Defendants-Respondents.	Case No. 2:17-cv-11910 Hon. Mark A. Goldsmith Mag. David R. Grand Class Action **DECLARATION OF THE HONORABLE SHEILA McNULTY**

1. I serve as an Assistant Chief Immigration Judge ("ACIJ") for the Executive Office for Immigration Review ("EOIR"). As ACIJ, I have oversight responsibility for the Bloomington, Chicago, Cleveland, Detroit, Kansas City, and Omaha Immigration Courts. I have served in this position since December 2015.

2. I work for the Office of the Chief Immigration Judge, which provides overall program direction, articulates policies and procedures, and establishes priorities for the 58 immigration courts throughout the nation.

3. Beginning on or about June 13, 2017, a large number of detained Iraqi nationals with final removal orders began filing stay requests and motions to reopen with the Detroit Immigration Court.

4. As of July 19, 2017, seventy-nine (79) individuals had filed such requests with the Detroit Immigration Court. As of today's date, the Immigration Court has acted on all but three of the motions.

5. The purpose of this declaration is to explain the Court's procedures for promptly

adjudicating motions for an emergency stay in a timely and informed manner, especially in response to the influx of motions filed by detained Iraqi nationals since June 13, 2017.

6. Through my role as ACIJ and supervisory role of the Detroit Court, I have knowledge of the facts stated in this declaration and am competent to testify to the same.

A. Background: Stays of Removal and Motions to Reopen in Immigration Court

7. A stay prevents the Department of Homeland Security ("DHS") from executing an order of removal, deportation, or exclusion.

8. Stays are automatic in some instances and discretionary in others.

9. I understand that the above captioned lawsuit concerns aliens subject to final orders of removal. Where an alien is subject to a final removal order, federal regulations authorize immigration judges to exercise discretion to stay the execution of the order pending adjudication of an alien's pending motion to reopen the removal decision. 8 C.F.R. §§ 1003.2(f), 1003.23(b)(1)(v).[1] The Immigration Court Practice Manual supplements the regulations and provides detailed guidance to assist litigants filing stay requests. *See* Office of the Chief Immigration Judge, *Immigration Court Practice Manual*, Chap. 8 (available at https://www.justice.gov/eoir/office-chief-immigration-judge-0).

10. Although the mere filing of a motion for a discretionary stay of an order of removal does not prevent execution of the order, the Immigration Court Practice Manual addresses situations where execution of an order is imminent. Specifically, the Immigration Court Practice Manual states that when removal is imminent an alien may designate the stay motion as an "emergency motion to stay removal," *see id.*, which serves to bring the motion to the immigration court's immediate attention and allows an immigration judge to consider and rule on the motion on an expedited basis.

11. The Office of the Chief Immigration Judge prioritizes the timely adjudication of

[1] In some circumstances, the Board of Immigration Appeals ("BIA") has jurisdiction over a motion to reopen and a corresponding stay request. 8 C.F.R. § 1003.23(b)(1). In those circumstances, any motion to reopen and motion for a stay must be filed with the Board.

emergency stay motions. At the Detroit Immigration Court, the adjudication of an emergency stay motion does not depend on the availability of any one particular Immigration Judge. If an Immigration Judge cannot rule on an emergency motion in a timely manner because of docket pressures or other circumstances, the motion is assigned to another available Immigration Judge.

12. For each motion, an Immigration Judge makes a case-by-case determination whether to grant or deny a stay based on considerations including, but not limited to, the facts and circumstances of the alien's case and the alien's likelihood of success if the removal decision is reopened.

13. An alien may appeal to the BIA and file a motion with the BIA requesting a stay in the event that an Immigration Judges denies a motion to reopen. The regulations also permit an alien to request a stay from the Immigration Court while an alien's appeal to the BIA from the Immigration Judge's denial of a motion to reopen is pending. 8 C.F.R. § 1003.6(b). Accordingly, an alien has multiple avenues to seek a stay of imminent removal pending the Immigration Judge's and the BIA's decision on the motion to reopen.

B. The Detroit Immigration Court's Handling of Motions to Reopen/Stays in Response to the Influx of Filings by Detained Iraqi Nationals.

14. Irrespective of the litigation in this case, the Detroit Immigration Court is devoting significant resources and attention to prioritizing and timely ruling on the large number of motions to reopen and stay motions filed by Iraqi nationals at the Detroit Immigration Court since June 13, 2017. The Immigration Court as a whole is dedicated to issuing decisions in a timely manner so that no respondent with a pending motion to reopen is removed prior to receiving an adjudication of his or her motion to reopen.

15. Court staff at the Detroit Immigration Court take immediate action when an alien files a motion to reopen in conjunction with an emergency motion for a stay of removal. [2]

[2] The Detroit Immigration Court provides aliens (or their legal representatives) with two avenues to file a motion to reopen in conjunction with a motion to stay a removal order. The Immigration Court will accept a properly completed motion through mail or in person filing on the court. The court accepts in person filings at the clerk's office from 8:00 a.m. -

Court staff immediately retrieves the Record of Proceeding ("ROP"), which is EOIR's administrative file associated with the individual's removal case, and provides the motions and the ROP to the Immigration Judge. If the ROP is located at the Federal Records Center rather than at the Immigration Court, court staff orders the ROP but does not delay providing the motions to the Immigration Judge and to the Judge's law clerks.

16. As a matter of practice, Immigration Judges at the Detroit Immigration Court will not delay issuing a ruling on the stay request if removal is imminent and the Federal Records Center has not yet sent the ROP.

17. Additionally, Immigration Judges at the Detroit Immigration Court do not delay issuing a ruling on a stay motion if DHS has not filed a timely response to the alien's motion for a stay.

18. It is my understanding that the Immigration Court is treating all motions for a stay filed by the Iraqi nationals as emergency motions and considering their removal to be imminent. In cases where a motion to reopen is filed without a corresponding stay motion, the Immigration Judges are treating the motion to reopen as also including a stay request.

19. If an alien does include an anticipated removal date in the motion, the Immigration Judges at the Court are accepting the alien's representation concerning the anticipated removal date and are setting internal deadlines to adjudicate the motions before that date.

20. The Immigration Judges have created a process at the court to triage these motions as they are received by immediately examining the motion to reopen and determining whether to issue a stay. And in considering the motions to reopen and stay requests, the Immigration Judges are taking into account the possibility that the motions may have been prepared and submitted without the alien (or his or her attorney) having time to obtain all appropriate evidence in support of the motion.

21. The Immigration Judges are promptly granting motions to stay in those cases where there appears to be a potential basis to reopen, even if the Judge determines that he

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4:30 p.m. (Monday-Thursday) and until 4:00 p.m. (Friday).

or she needs more information before actually granting the motion to reopen. To date, thirty-nine (39) stay motions have been granted by the Detroit Immigration Court.

22. In those cases where the Immigration Judge has not issued a stay and has decided to deny the motion to reopen, the judges are also endeavoring to ensure that they issue rulings on the motion to reopens as promptly as possible to allow the alien an opportunity to file an immediate appeal with the Board and to seek an emergency stay.

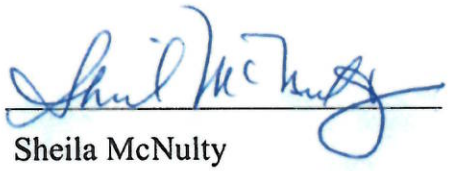
23. As a result of these efforts, the Detroit Immigration Court reports that the Immigration Judges have adjudicated 79 (seventy-nine) motions to reopen and requests for stays filed by Iraqi nationals between approximately June 13, 2017 and July 19, 2017.

- Of this total, Immigration Judges at the Detroit Immigration Court granted a stay of removal in thirty-nine (39) cases.
- Of the remaining total, the Detroit Immigration Court issued thirty-seven (37) decision on the motions to reopen. Of this total, Immigration Judges denied reopening in thirty-three (33) cases and granted reopening in the remaining four (4) cases. There are three (3) recently filed motions that are still outstanding but it is anticipated they will be issued tomorrow.

24. As can been seen, the Detroit Immigration Court has engaged in extensive efforts to timely adjudicate and rule on motions to reopen and stay motions in response to the influx of motions filed by the detained Iraqi nationals.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 19th Day of July 2017 in the State of Illinois.



Sheila McNulty

Assistant Chief Immigration Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF JOHN A. SCHULTZ Jr.

I, John A. Schultz Jr., hereby make the following declaration with respect to the above-captioned matter:

1. I am the Deputy Assistant Director for the Removal Management Division East which encompasses the Asia and Europe Removal and International Operations (RIO) unit as well as the Middle East/East Africa unit within the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs (ICE), Enforcement and Removal Operation's (ERO) Removal Management Division (RMD). The RMD is located at ICE Headquarters in Washington, D.C. RMD provides guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed. RMD collaborates with embassies and consulates, as well as with interagency and international networks to facilitate the efficient removal of aliens from the

United States. RMD provides nationwide Post-Order Custody Review (POCR) guidance, implements policy and procedures, and is responsible for providing case management support for aliens subject to a final order of removal.

2. I have been employed with ICE since April 2003, and I have worked with ERO since then. From July, 2016 to present, I have been employed as the Removal Management Division East Deputy Assistant Director in both an acting and permanent capacity.

3. This declaration is based upon my professional knowledge, information obtained from other individuals employed by ICE, and information obtained from DHS records. I am aware of the facts and circumstances of this case and the efforts to arrange for the removal of Iraqi nationals that have been ordered removed from the United States.

4. The history of removals to Iraq from fiscal year 2007 to the present, including both commercial and charter flights, is listed below. ICE data reveals continuous removals to Iraq have occurred over the past decade. These statistics include individuals who have returned to Iraq on their own volition, as well as formal removals:

FY2007- 27
FY2008- 40
FY2009- 30 (18 removed via two separate charter flights)
FY2010- 65 (nine removed via charter flight)
FY2011- 33
FY2012- 35

FY2013- 29
FY2014- 29
FY2015- 36
FY2016- 48
FY2017- 52 (eight removed via charter)

5. After the successful completion of charter flight operations to Iraq in May and December of 2009, and again in September of 2010, the government of Iraq became increasingly unwilling to facilitate the return of their nationals that have been ordered removed from the United States. However, due to renewed discussions between the United States and Iraq in recent months, Iraq has agreed, using charter flights, to the timely return of its nationals that are subject to final orders of removal. In order to facilitate charter flights to Iraq, the U.S. Department of State (DOS) and ICE have engaged in numerous diplomatic meetings with the governments of Iraq and other international partners to obtain the required landing permissions and approvals necessary for the various flights. Efforts to coordinate removals required participation from ICE and DOS both domestically and abroad and include the use of various commercial vendors to supply the aircraft, support staff and the necessary logistics. The intensive diplomatic coordination and resources that go into planning such removal missions mean there is the potential for severe harm to international relations if the United States government is unilaterally prevented from accomplishing its removal mission.

6. The newly established relationship between ICE, in coordination with DOS, and the Iraqi Ministry of Foreign Affairs (MFA), allows ICE to present travel document requests directly to the MFA to gain the approval to remove Iraqi nationals with final orders of removal. Once MFA agrees that the individuals are Iraqi, they will dispatch consular staff from the Iraqi Embassy to interview and issue travel documents for their return. For the most recent June 2017 charter flight, ICE moved individuals to Arizona for required interviews and flight staging. Previously, the Iraqi government would only accept its nationals that had unexpired passports and only those traveling via commercial flights. Now, Iraq will authorize repatriation with other indicia of nationality. These charter flights fly into Baghdad, not ISIS controlled territory. In Baghdad, the Iraqi nationals will be met by U.S. DOS officials and Iraqi officials from various government agencies.

7. In April of 2017, ICE conducted its first charter removal mission to Iraq since 2010, consisting of eight (8) Iraqi nationals. A second charter mission was scheduled for late June 2017. The manifest for the June flight included individuals who have criminal convictions for the following offenses: homicide, manslaughter, rape, sexual assault, sex offenses, aggravated assault, robbery, burglary, fraud and drug related offenses.

8. The burden on the U.S. government to return aliens back to Iraq is significant, as it is a time consuming, complicated and costly process. Unlike most removals, the process of removals to Iraq requires significant financial cost, the coordination of multiple U.S. government resources and the cooperation of at least two other foreign governments, all of which have to come together during a very limited window of time. ICE estimates that cancellation of a single flight, such as the originally-scheduled and now-cancelled June 2017 charter flight, which ICE attempted to reschedule for July, results in a total loss in excess of $500,000.00, to include an estimated $450,000.00 in air carrier cancellation fees alone. This figure includes multiple variables, such as, contract security services, and ICE personnel's travel, lodging, and per diem costs. ICE's current cost of detention averages $125.56 per bed per day. The cost to detain 230 individuals during the court's temporary restraining order period of June 22, 2017 to July 24, 2017 is approximately $1 million. (230 x 33 days x $125.56= $953,000). The estimated cost to further detain class members for an additional 90 days would be approximately $2.6 million dollars. (230 x 90 days x $125.56 = $2,599,092).

9. Iraqi nationals that ICE recently detained for removal on the agreed upon charter flights have been transferred among various detention facilities. ICE utilizes its finite resources and bed space to locate aliens as close to their initial

point of apprehension as possible. Considering logistical, medical, and personnel concerns, ICE then identifies a staging location that is available to accommodate its removal mission needs. Detainee transfers are based purely on the operational aspects of ICE's removal processes, and are not made with any intent to limit Petitioners' access to counsel, the courts, or their communities. The detention staging location serves as a central point where detainees are consolidated in preparation for imminent removal. Detainees are then staged to a final transfer facility for a limited time prior to their departure from the United States.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July, 2017.

John A. Schultz Jr.
Deputy Assistant Director
Removal Management Division
Washington, D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF CHRISTOPHER CARUSSO

I, Christopher Carusso, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Deportation Officer with the Detroit Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS). My duty station is the Cleveland Sub-Office of the Detroit Field Office. I have been employed by ERO for just short of 8 years, and since September 18, 2016 in my current position. In my current position, I am assigned to the Northeast Ohio Correctional Center in Youngstown, Ohio, (NEOCC Youngstown) where I am responsible for ERO staff-detainee communications and other matters. I have been at NEOCC Youngstown since it began receiving ICE detainees in December of 2016.

2. I am providing this declaration based on my personal knowledge and information I obtained from other individuals employed by ICE and by NEOCC Youngstown. I am aware of the facts and circumstances of this case in so far as it concerns the fact that certain Iraqi nationals are detained for removal from the United States at NEOCC Youngstown.

3. For all ICE detainees received at NEOCC Youngstown, intake processing includes an orientation performed by facility staff. Detainees are given orientation materials during intake processing, including a facility handbook and ICE National Detainee handbook. The materials explain that detainees will have access to a telephone and that telephone calls to an attorney or the court system are confidential. The materials also explain that telephone calls to the detainee's attorney or select free legal service providers, among others, are free of charge through a "Global List" updated by facility staff. . General information is publicly available on the NEOCC Youngstown website: http://www.cca.com/facilities/northeast-ohio-correctional-center.

4. Access to phones and visitation is available as required and prescribed in the ICE 2011 Performance Based National Detention Standards (PBNDS 2011), available at https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf

5. Attorneys and personal visits are both permitted for ICE detainees held at NEOCC Youngstown. Visiting hours are as follows:
    a. Attorney visits: Monday – Friday 8:00 to 4:00 PM; weekends and holidays 8:000 AM to 12:00 PM.
    b. Personal visits: Thursday – Saturday 3:30 PM – 5:30 PM.

    However, as contemplated under standards, unforeseen circumstances, such as safety and security issues, may preclude certain visiting hours. In such cases, the jail staff unit teams make efforts to accommodate visits, including scheduling at alternate times.
6. I have inquired with NEOCC Youngstown regarding the specific allegation that counsel had been denied access by facility staff on June 22 and 23, 2017. According to Warden Christopher LaRose, a review of their records for the dates of June 22 and 23 do not reveal any refusal of access as alleged.
7. Detainee telephone access is generally available from
    a. 8:00 AM to 1:00 PM,
    b. 2:00 PM to 4:00 PM, and
    c. 5:00 PM to 10:00 PM.

    This could be impacted by unforeseen circumstances, such as security-related issues.

8. The detainee phone system includes four telephones per pod. A pod, at capacity, would include 56 or 64 detainees.
9. Detainees purchase telephone time from the facility commissary, with different rates applying depending on the call. Indigent detainees, as defined in the PBNDS 2011, are able to make free calls with the assistance of the jail staff unit team and counselors. Indigent detainees are permitted to make free calls on an as-needed basis to family or other individuals assisting with the detainee's immigration proceedings.
10. Additionally, emergency messages from family members and attorneys are promptly delivered to detainees. Detainees are permitted to promptly return emergency calls at their own expense. Indigent detainees are permitted to make a free return emergency call.
11. Calls to a consulate or free legal service providers (e.g., ICE/ERO-provided Pro Bono list) are free. Detainees can request that their attorney's public number be added to the free of charge list, referred to as the "Global List." Those requests are managed by the jail staff unit team. Materials provided at orientation explain the "Global List" and are further explained by jail unit staff teams and counselors once detainees complete intake and are housed. Additionally, a current "Global List" is posted in each pod.

12. The "Global List" includes the Board of Immigration Appeals Clerks Office and the Immigration Court Information Hotline. Detainees needing to send materials on deadline by facsimile can request the assistance of the jail staff unit team.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20th day of July, 2017

Christopher Carusso
Deportation Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

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Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF CALEB LOWE

I, Caleb Lowe, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Supervisory Detention and Deportation Officer with the Detroit Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS). I have held this job for 6 years. In my current position, my duties include supervising the removal of detained aliens arrested within the state of Michigan. My duties also include the supervision of Deportation Officers.
2. I am providing this declaration based on my personal knowledge and information I obtained from other individuals employed by ICE, including staff I supervise. I am aware of the facts and circumstances of this case and

the efforts to arrange for the removal of Iraqi nationals that have been ordered removed from the United States.

3. Within the Detroit Field Office, there are numerous facilities where aliens arrested for removal may be detained. The Northeast Ohio Correctional Center in Youngstown, Ohio (NEOCC Youngstown), is one such facility. Within the state of Michigan, aliens arrested for removal can be detained by ERO at the following county jails.

    a. Monroe County Jail, Monroe, Michigan;

    b. Calhoun County Jail, Battle Creek, Michigan;

    c. St. Clair County Jail, Port Huron, Michigan; and

    d. Chippewa County Jail, Sault Ste. Marie, Michigan.

4. Additionally, the Detroit Field Office has short-term detention, less than 72 hours, available at the Dearborn Police Department, Dearborn, Michigan, and Kent County Jail, Grand Rapids, Michigan.

5. Currently, the Detroit Field Office has approximately twenty-two (22) beds available at the four county jails listed in 3(a)-(d) above.

6. As it relates to this case, available space is the sole reason for the within-Detroit-Field-Office transfers to NEOCC Youngstown.

7. This practice existed prior to this case, and involved detainees of other than Iraqi nationality as well. Detainees with final orders of removal from the

United States, or whose cases are pending at the Board of Immigration Appeals, have been transferred to NEOCC Youngstown to free up limited space for cases pending before the Detroit Immigration Court of the Executive Office of Immigration Review.

8. The Detroit Immigration Court hears cases via video-teleconference from the four Michigan county jails listed in 3(a)-(d) above. In contrast, pending immigration court cases involving pre-order detainees held at the NEOCC Youngstown fall within the jurisdiction of the Kansas City, Missouri, Immigration Court.

9. The number of arrests related to this case necessitated that detention location be coordinated in advance. Because of the available space, it was determined that NEOCC Youngstown would be the default location for detention.

10. Accordingly, with limited exception, all the arrests related to this case were promptly transferred to NEOCC Youngstown. For the most part, these transfers took place on the same day as the arrest.

11. Because Youngstown is a male-only facility, the females arrested were detained in one of the Michigan county jails referenced above in 3(a)-(d). Additionally, due to observable health concerns, several male detainees were transferred to the Michigan county jails referenced above in 3(a)-(d), rather than to NEOCC Youngstown.

12. Since their arrests, multiple detainees have been transferred at the direction of ERO Removal and International Operations (RIO) for the purpose of staging for removal from the United States to Iraq. In addition to these transfers, within the Detroit Field Office, there have been a limited number of transfers, most often for the purpose of appearing before the immigration court in reopened removal proceedings.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of July, 2017

Caleb Lowe
Supervisory Detention and Deportation Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF CHRISTOPHER D. MCGREGOR

I, Christopher D. McGregor, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Supervisory Detention and Deportation Officer (SDDO) with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and am assigned to the Phoenix Field Office at the Florence Detention Center (FDC), in Florence, Arizona. I have held this position for approximately fifteen months. As part of my responsibilities, I supervise the FDC Compliance Unit (CU), which ensures that facilities follow the Performance Based National Detention Standards (PBNDS) protocols. I also supervise Deportation Officers.
2. I am providing this declaration based on my personal knowledge and information I received from CU staff and the Warden of the Central

Arizona Florence Correctional Complex (CAFCC)—an ICE-contracted detention facility—and a review of supporting documents.

3. When detainees arrive at the FDC, ICE provides them with an orientation, which includes an orientation video, as well as a "Know Your Rights" video. ICE also issues detainees a National Detainee Handbook (Handbook), which provides an overview of detention-related subjects and procedures. Among the subjects covered in the Handbook is access to phones. Detainees also receive a DOJ-approved list of local *pro bono* attorneys. In addition, ICE issues detainees a phone card account and provides them with a PIN number and instructions on how to use the phone system. Instructions are also posted near facility phones. To initiate a personal phone call, detainees have to place money in their account. They then use the PIN number when they dial out. Phone calls to local *pro bono* counsel, consulates, the Immigration Court, the Board of Immigration Appeals (BIA), the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit), the Detention Reporting and Information Line (DRIL), the Office of the Inspector General (OIG), the ACLU, U.S. Citizenship and Immigration Services (USCIS), the American Bar Association, and the Florence Immigrant and Refugee Rights Program (FIRRP) are free of charge.

3. When detainees arrive at the CAFCC, CAFCC personnel provide them with a facility-specific supplemental handbook, give them an orientation, and issue them a new account and PIN number (CAFCC uses a different phone provider). Instructions on the use of phones are posted in housing units. As with the FDC, phone calls to local *pro bono* counsel, consulates, the Immigration Court, the BIA, Ninth Circuit, DRIL, OIG, the ACLU, USCIS, the American Bar Association, and FIRRP are free of charge. A DOJ-approved list of local *pro bono* attorneys is also posted in housing units.
4. Detainees at the CAFCC generally have daily access to phone services from 6:30 a.m. to 11:00 p.m. Prior to June 30, 2017, access to phones was from 5:30 a.m. to 10:00 p.m.
5. Access to phones is not permitted during scheduled detainee count times, as well as during emergencies that require a facility lockdown. Count times at the CAFCC occur at regularly scheduled intervals throughout the day.
6. Detainees at the FDC and/or the CAFCC do not have access to the internet or email.
7. On June 21, 2017, CAFCC unit managers held a town hall meeting with detainees and notified them that the facility was switching to a new

detainee phone service provider. The unit managers explained that, due to the switch, access to phones would be unavailable from 7:30 p.m. on June 29, 2017 to 6:30 a.m. on June 30, 2017.

8. On June 27, 2017, CAFCC staff placed postings in detainee housing units reminding them that the facility would be switching phone providers on June 29, 2017, and noting that, following the switch, the new hours for phone services would be from 6:30 a.m. to 11:00 p.m.
9. On June 29, 2017, consistent with prior notifications, detainee phones were unavailable from 7:30 p.m. until 6:30 a.m. the next morning (June 30, 2017). Once the transition was completed, detainee phones were fully operational again.
10. On July 10, 2017 at approximately 4:27 p.m., the CAFCC Warden informed ICE that the facility was experiencing issues with detainee phones. However, he explained that arrangements were made to allow detainees access to facility phones for attorney calls. These phones are located in unit managers' offices.
11. On July 11, 2017, at approximately 2:18 p.m., the CAFCC Warden informed ICE that the detainee phones were fully operational.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of July, 2017

Christopher D. McGregor
Supervisory Detention and Deportation Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF JANEE M. ASKA

I, Janee M. Aska, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Supervisory Detention and Deportation Officer (SDDO) with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and am assigned to the Phoenix Field Office at the Florence Detention Center (FDC), in Florence, Arizona. I have held this position since approximately April 16, 2017. Prior to this time, I served for approximately twenty months as an SDDO at the Eloy Detention Center (EDC) in Eloy, Arizona.
2. As part of my responsibilities, I supervise the detention and removal of aliens detained at the FDC and the Central Arizona Florence Correctional Complex (CAFCC). I also supervise Deportation Officers.

3. I am providing this declaration based on my personal knowledge and information I received from staff I supervise.
4. On June 27, 2017, Deportation Officers (DOs) assigned to the FDC traveled to the CAFCC in Florence, Arizona to conduct pod walks. During these walks, which typically occur two times a week, DOs visit housing units, talk with the detained population, and answer any questions that detainees may have.
5. When the DO's returned to the FDC, they informed me and several other SDDOs that the Iraqis detained in "Gulf" unit were upset because they (the DOs) were unable to provide them with definite information regarding their departure date, or the status of the temporary restraining order that the U.S. District Court in Detroit issued. As a result, later that same day, the Assistant Officer-In-Charge (AOIC) and three SDDO's, including myself, returned to CAFCC in order to speak to the Iraqi population. During this time, some of the Iraqi's stated they did not want to remain detained, and added that they wanted to withdraw themselves from the lawsuit and return to Iraq.
6. On June 28, 2017, after speaking with the Office of Chief Counsel, several SDDO's, including myself, and DO's returned to CAFCC and obtained the names of Iraqis who did not want to be part of the lawsuit,

and wished to return to Iraq. During this time, we informed the Iraqis who we spoke to that the receipt of their names was not a guarantee that they would return to Iraq in the near future. We also asked whether or not they had counsel.

7. After we returned to the FDC, we checked ICE data systems and confirmed that only one detainee had an attorney of record. This attorney subsequently left me a voicemail, and we spoke on July 17, 2017. During our conversation, the attorney asked if there was anything she could do to separate her client from the class action. She added that her client was interested in returning to Iraq as soon as possible.
8. Since June 27, 2017, Iraqis at the CAFCC have made several inquiries regarding their date of return to Iraq. One Iraqi who expressed frustration, for example, noted that he sold everything he had in the United States and was wasting his time in custody. He added that he could have a life back home in Iraq.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of July, 2017

Janee M. Aska
Supervisory Detention and Deportation Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

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Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER ELIZABETH ESTRADA

I, Elizabeth Estrada, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Deportation Officer with Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS or Department) in El Paso, Texas. I have held this position for 2 years, and I have been employed by ICE since July 17, 2009. In my current position, my duties include execution of final orders of removal.
2. I am currently serving as an Acting Supervisory Detention & Deportation Officer for the Travel Unit in ERO's El Paso Field Office. In this capacity, I supervise other deportation officers that are in charge of obtaining travel documents, and coordinating travel for the repatriation of aliens with final

orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of ABBAS ODA AL SOKAINI. AL SOKAINI is a native and citizen of Iraq subject to a final order of removal to that country.

4. On August 7, 1996, AL SOKAINI was admitted to the United States as a refugee.

5. On April 11, 2001, AL SOKAINI was convicted of felony possession of cocaine in violation of section 30-31-23 of New Mexico Statutes and he was sentenced to one year of supervised probation.

6. On October 8, 2002, AL SOKAINI applied for adjustment of status to lawful permanent resident through the Immigration and Naturalization Service pursuant to section 209 of the Immigration and Nationality Act (Act), 8 U.S.C. § 1159. The Immigration and Naturalization Service, or its successor in interest, the Department, denied this application on July 30, 2003 on account of AL SOKAINI's conviction and initial indictments showing there was reason to believe he was an illicit drug trafficker inadmissible under section 212(a)(2)(C)(i) of the Act.

7. On March 21, 2003, AL SOKAINI was issued a Notice to Appear (NTA) in immigration court for removal proceedings based on a charge of removability under section 237(a)(2)(A)(iii) and (a)(2)(B)(i) of the Act, 8 U.S.C. §1227(a)(2)(A)(iii) and (a)(2)(B)(i), for being convicted of an aggravated felony for illicit trafficking in a controlled substance and for being convicted of any controlled substance offense other than a single offense of possessing a small amount of marijuana, respectively.
8. On October 20, 2003, after two merits hearings on AL SOKAINI's applications for adjustment of status under section 209(a) of the Act in conjunction with a waiver of inadmissibility under Section 209(c) of the Act, 8 U.S.C. §1159(a)&(c); Withholding of Removal under 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3); and protection under Article III of the Convention Against Torture (CAT), 8 C.F.R. §§ 1208.16-.18, an Immigration Judge ordered AL SOKAINI to be removed to Iraq in a written decision. There is no record of any appeal of this order with the Board of Immigration Appeals.
9. On March 30, 2004, AL SOKAINI was placed on an order of supervision due to an inability to obtain a travel document at that time.
10. On June 20, 2017, AL SOKAINI was arrested by ERO Albuquerque for execution of his outstanding order of removal to Iraq. AL SOKAINI was

transferred to the El Paso Processing Center that same day pending travel arrangements.

11. At the time of executing this document, the Department is not aware of any motion to reopen or emergency motion to stay filed with the immigration court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19 day of July, 2017

Elizabeth Estrada
Deportation Officer
ICE El Paso Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,
Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER MARTIN MANUEL

I, Martin Manuel, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Oakdale, Louisiana. I have been employed with ICE since October of 1998. I have been in my current position as a Deportation Officer with ICE/ERO at the New Orleans Field Office since May of 2011.
2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of QASSIM HASHIM ALSAEDY, [redacted] ALSAEDY is a native and citizen of Iraq subject to a final order of removal to that country.

4. On September 27, 1996, ALSAEDY was admitted into the United States as a refugee, and his status was adjusted to that of a lawful permanent resident on June 30, 1998.

5. On May 13, 2002, ALSAEDY was convicted in the General Sessions Court at Davidson County Tennessee for the offense of domestic assault in violation of Tennessee Code Annotated (TCA) §39-13-111. ALSAEDY was sentenced to 11 months and 29 days.

6. On October 21, 2002, ALSAEDY was issued a Notice to Appear (NTA) in immigration court for removal proceedings. ALSAEDY appeared in immigration court in Memphis, Tennessee, where he was represented by counsel. On August 11, 2003, the Immigration Judge sustained the charge of removability under section 237(a)(2)(E)(i), an alien convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment.

7. In a written decision dated September 25, 1993, the Immigration Judge ordered ALSAEDY removed to Iraq. The Immigration Judge determined that ALSAEDY was not eligible for the relief sought, cancellation of

removal because ALSAEDY had not established the requisite period of continuous physical presence in the United States necessary to qualify for that form of relief.

8. On, April 6, 2004, ALSAEDY was placed on an order of supervision.
9. On June 6, 2017, ALSAEDY was arrested by ERO Nashville for execution of his outstanding order of removal to Iraq.
10. On or about June 21, 2017, ALSAEDY filed a motion to reopen and emergency motion to stay with the immigration court in Oakdale, Louisiana. DHS/ICE, through trial counsel, has filed a written opposition to the motion to reopen. The motion to stay removal was granted by the Immigration Judge on June 22, 2017. The motion to reopen remains pending.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of July, 2017

Martin Manuel
Deportation officer
ICE Oakdale Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,
Petitioners and Plaintiffs,

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Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER MARTIN MANUEL

I, Martin Manuel, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Oakdale, Louisiana. I have been employed with ICE since October of 1998. I have been in my current position as a Deportation Officer with ICE/ERO at the New Orleans Field Office since May of 2011.
2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of ABDULKUDER HASHEM AL-SHIMMARY, [redacted] AL-SHIMMARY is a native and citizen of Iraq subject to a final order of removal to that country.

4. On September 22, 1994, AL-SHIMMARY was admitted into the United States as a refugee, and his status was adjusted to that of a lawful permanent resident on December 6, 1995.

5. On January 7, 1995, AL-SHIMMARY pled guilty in the Criminal Court of Davidson County, Tennessee, of statutory rape, in violation of Tennessee Code Annotated (TCA) § 39-13-506. AL-SHIMMARY was sentenced to one year in the workhouse, followed by one year unsupervised probation after AL-SHIMMARY spent 45 days incarcerated.

6. On August 26, 1997, AL-SHIMMARY was issued a Notice to Appear (NTA) in immigration court for removal proceedings. AL-SHIMMARY appeared in immigration court in Memphis, Tennessee, where he was represented by counsel. He admitted the factual allegations in the NTA and conceded the charges of removability under sections 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), for being convicted of an aggravated felony as defined in section 101(a)(43)(A) of the Act, 8 U.S.C, § 1101(a)(43)(A). INA section 101(a)(43)(A) defines aggravated felony as "murder, rape, or sexual abuse of a minor."

7. In a written decision dated January 7, 1999, the Immigration Judge found AL-SHIMMARY subject to removal as charged as an aggravated felon under section 101(a)(43)(A) of the Act and ordered him removed to Iraq. The Immigration Judge determined that the respondent's conviction constituted a particularly serious crime which barred him from relief under section 241(b)(3) of the Act, 8 U.S.C. §1231(b)(3).
8. AL-SHIMMARY appealed the Immigration Judge's decision to the Board of Immigration Appeals (BIA). On March 12, 2002, the BIA affirmed the Immigration Judge's decision that AL-SHIMMARY's conviction was a particularly serious crime which barred him from eligibility of relief under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3).
9. On June 6, 2017, AL-SHIMMARY was arrested by ERO Nashville for execution of his outstanding order of removal to Iraq.
10. On or about June 15, 2016 AL-SHIMMARY filed a motion to reconsider and terminate his removal proceedings with the BIA, arguing that he is no longer removable as an aggravated felon in light of the decision of the Supreme Court of the United States in *Esquivel-Quintana v. Sessions*, 581 U.S. ____ (May 30, 2017). AL-SHIMARY also filed an emergency motion to stay with the BIA. DHS/ICE, through trial counsel, has filed a written

opposition to the motion to reconsider. The motion to reconsider and emergency motion to stay removal are currently pending with the BIA.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of July, 2017

Martin Manuel
Deportation officer
ICE Oakdale Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER VERNON LIGGINS

I, Vernon Liggins, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since October 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2015.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of ATHEER FAWOZI ALI. ALI is a native and citizen of Iraq subject to a final order of removal to that country.

4. I previously provided a sworn declaration in this case on June 19, 2017. This declaration supplements my prior declaration to memorialize events that have occurred relative to ALI since June 19, 2017.

5. On or about June 23, 2017, ALI, through counsel, filed a motion to stay his removal with the Board of Immigration Appeals (Board). Both ALI's motion to reopen and motion for a stay of removal remain pending with the Board.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

VERNON LIGGINS
Deportation Officer
ICE Detroit Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
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Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER VERNON LIGGINS

I, Vernon Liggins, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since October 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2015.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of HABIL NISSAN. NISSAN is a native and citizen of Iraq subject to a final order of removal to that country.

4. I previously provided a sworn declaration in this case on June 19, 2017. This declaration supplements my prior declaration to memorialize events that have occurred relative to NISSAN since June 19, 2017.

5. On June 21, 2017, NISSAN's Emergency Motion to Stay Removal Pending Decision on Motion to Reopen was granted by Immigration Judge David H. Paruch of the Detroit Immigration Court. NISSAN's motion to reopen remains pending.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

Vernon Liggins
Deportation Officer
ICE Detroit Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
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USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER PARMINDERJIT SIDHU

I, Parminderjit Sidhu, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since December 08, 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2015.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of MOAYAD JALAL BARASH. BARASH is a native and citizen of Iraq subject to a final order of removal to that country.

4. I previously provided a sworn declaration in this case on June 19, 2017. This declaration supplements my prior declaration to memorialize events that have occurred relative to BARASH since June 19, 2017.

5. On June 21, 2017, BARASH, through counsel, filed with the Board of Immigration Appeals a Motion to Reopen Case to Apply for Convention Against Torture and Remand Removal Proceedings, as well as an Emergency Motion to Stay Removal Pending the Decision of the Motion to Reopen and Remand Removal Proceedings. Both motions remain pending.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

Parminderjit Sidhu
Deportation Officer
ICE Detroit Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER PARMINDERJIT SIDHU

I, Parminderjit Sidhu, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since December 08, 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2015.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of SAMI ISMAEL AL-ISSAWI. AL-ISSAWI is a native and citizen of Iraq subject to a final order of removal to that country.

4. I previously provided a sworn declaration in this case on June 19, 2017. This declaration supplements my prior declaration to memorialize events that have occurred relative to AL-ISSAWI since June 19, 2017.

5. On June 29, 2017, Immigration Judge David H. Paruch of the Detroit Immigration Court ordered that AL-ISSAWI's motion to reopen be denied and vacated the June 16, 2017 order of the Court staying AL-ISSAWI's removal.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

Parminderjit Sidhu
Deportation Officer
ICE Detroit Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

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Respondents and Defendants.

Case No. 2:17-cv-11910
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Mag. David R. Grand
Class Action

DECLARATION OF DEPORTATION OFFICER VERNON LIGGINS

I, Vernon Liggins, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since October 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2016.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of USAMA JAMIL HAMAMA. HAMAMA is a native and citizen of Iraq subject to a final order of removal to that country.

4. I previously provided a sworn declaration in this case on June 19, 2017. This declaration supplements my prior declaration to memorialize events that have occurred relative to HAMAMA since June 19, 2017.

5. On June 26, 2017, HAMAMA, through counsel, filed with the Board of Immigration Appeals an Emergency Motion to Reopen Based on Changed Country Conditions and to Stay Removal.

6. On or about June 28, 2017, HAMAMA, through counsel, supplemented his motion to reopen with a "Special Motion to Reopen for Relief Under Former Section 212(c) of the Immigration and Nationality Act." At the same time, HAMAMA renewed his request for a stay of removal.

7. HAMAMA's motions remain pending.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

Vernon Liggins
Deportation Officer
ICE Detroit Field Office

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF VERNON LIGGINS

I, Vernon Liggins, make the following declaration.

1. I am a Deportation Officer employed by the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Detroit, Michigan. I have been employed with ICE since October 2008. I have been in my current position as a Deportation Officer with ICE/ERO at the Detroit Field Office since September 20, 2015.

2. My duties include, among other things, the execution of final orders of removal. The subject matter of this declaration involves my official duties as an ICE Deportation Officer and is based on personal knowledge and information made known to me in the course of my professional duties.

3. I am familiar with the case of ALI AL-DILAIMI. AL DILAIMI is a native and citizen of Iraq subject to a final order of removal to that country.

4. I am aware of the sworn declaration that Supervisory Detention and Deportation Officer Kristopher Crowley provided in this case on June 19, 2017. This declaration supplements Officer Crowley's declaration to memorialize events that have occurred relative to AL-DILAIMI since June 19.

5. On or about July 5, 2017, AL-DILAIMI, through counsel, filed an Emergency Motion to Reopen and Motion for Emergency Stay of Removal with the immigration court in Detroit, Michigan.

6. On July 19, 2017, Immigration Judge David H. Paruch ordered that AL-DILAIMI's motion to reopen be denied and that his motion to stay was moot.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July 2017 in Detroit, Michigan.

Vernon Liggins
Deportation Officer
ICE Detroit Field Office