

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

**USAMA JAMIL HAMAMA,
ATHEER FAWOZI ALI,
ALI AL-DILAMI,
HABIL NISSAN,
JIHAN ASKER,
MOAYAD JALAL BARASH,
SAMI ISMAEL AL-ISSAWI,
ABDULKUDER HASHEM AL-
SHIMMARY,
QASSIM HASHEM AL-SAEDY, and
ABBAS ODA MANSHAD AL-
SOKAINI**, on behalf of themselves and
all those similarly situated,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, Director of the
Detroit District of Immigration and
Customs Enforcement,
THOMAS HOMAN, Acting Director of
U.S. Immigration and Customs
Enforcement, and
JOHN KELLY, Secretary of the U.S.
Department of Homeland Security, in
their official capacities,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

Mag. David R. Grand

Class Action

**PLAINTIFFS/PETITIONERS' EMERGENCY MOTION TO EXPAND
ORDER STAYING REMOVAL TO PROTECT NATIONWIDE CLASS OF
IRAQI NATIONALS FACING IMMINENT REMOVAL TO IRAQ**

Local Rule 7.1(a)(1) requires petitioners to ascertain whether this motion is opposed. Petitioners' counsel Margo Schlanger communicated personally, via email, with Jennifer L. Newby, Assistant United States Attorney, Eastern District of Michigan, respondent's counsel, explaining the nature of the relief sought and seeking concurrence. Ms. Newby denied concurrence, also by email.

1. On June 15, 2017, Petitioners filed a class action habeas petition on behalf of Iraqi nationals with final orders of removal arrested or detained by the Detroit ICE Field Office. On June 22, 2017, this Court granted an order staying removal for fourteen days of the Petitioners and all members of the class, defined by the Court as all Iraqi nationals within the jurisdiction of the Detroit ICE Field Office with final orders of removal, who have been, or will be, arrested and detained by ICE, including those detained in Michigan and transferred outside of Michigan to other detention locations. The Court found that the Petitioners face irreparable harm given the “significant chance of loss of life and lesser forms of persecution” which “far outweighs any conceivable interest the Government might have in the immediate enforcement of the removal orders, before this Court can clarify whether it has jurisdiction to grant relief to Petitioners on the merits of their claims.” Opinion and Order, R. 32, Pg.ID# 501.

2. This action and the Petitioners' original motion for a temporary restraining order/stay of removal were filed on an emergency basis after U.S. Immigration and Customs Enforcement (ICE) arrested and detained a large number of Iraqi nationals in the Detroit Metro region on June 11, 2017, with plans to remove them to Iraq, immediately.

3. Since that time it has become apparent that ICE has been arresting a large number of Iraqi nationals around the country. According to ICE officials, as of June 14, 2017, at least 85 Iraqi nationals have been arrested throughout the United States, in addition to 114 Iraqi nationals arrested in the Detroit Metro area. *See* Ben Klayman, "Iraqis Detained in Detention Sweep," U.S. News & World Report (June 14, 2017), <https://www.usnews.com/news/us/articles/2017-06-14/us-arrests-nearly-200-iraqis-in-deportation-sweep>. It is unknown how many Iraqi nationals have been arrested since June 14, 2017.

4. According to national news reports, there are 1,444 Iraqi nationals with final orders of removal, all of whom may face deportation under ICE's sudden change of policy. *See* Associated Press, "Detroit Judge Halts Deportation of Iraqi Christians," The New York Times (June 22, 2017), <https://www.nytimes.com/aponline/2017/06/22/us/ap-us-immigration-arrests-michigan.html>.

5. ICE has already removed at least eight individuals, despite the dangerous conditions in Iraq. *Id.*

6. ICE's counsel has represented to Petitioners' counsel that no deportations of Iraqi nationals will occur before Tuesday, June 27, 2017, but has refused any further assurances. Accordingly, **as soon as Tuesday, June 27, 2017.** ICE may begin deporting Iraqi nationals not covered by this Court's June 15 order.

7. While the stay issued by this Court protects Iraqi nationals within the jurisdiction of the Detroit ICE Field Office, similarly-situated Iraqi nationals around the country face the same imminent threat of irreparable harm and have precisely the same claims. Indeed, this Court recognized that very issue at the June 21, 2017 hearing on the stay, asking about the danger to Iraqi nationals outside of Michigan.¹

¹ THE COURT: Are there other threatened deportations of the Iraqi nationals outside of Michigan?

MR. GELERT: Yeah, that's a good question, your Honor, and so when we filed this case, what we were hearing about were cases here. It now turns out that there appear to be cases around the country and so I think we're going to have to figure out how to deal with it and whether it's to amend our complaint before you, your Honor, if you would be amenable to that and that makes sense to deal with it all at once or whether we need to go around the country filing additional cases because we are very fearful that now what we're hearing is people around the country are going to be transferred and then removed to Iraq immediately and that would be unfortunate

8. To protect similarly-situated Iraqi nationals, who—like Iraqi nationals in Michigan—face a grave danger of persecution, torture or death if removed to Iraq, Petitioners have now filed an amended habeas petition and complaint for declaratory, injunctive, and mandamus relief. Three additional named Plaintiffs/Petitioners have been added. They are long-time U.S. residents who are Iraqi nationals with U.S. citizen families. The new Plaintiffs/Petitioners were arrested in Tennessee and New Mexico, and have been moved from jurisdiction to jurisdiction—in some cases, repeatedly—preventing them from filing habeas petitions in any particular jurisdiction. Like the original Petition, the amended Petition and Complaint is filed on behalf of others similarly situated to the named Petitioners/Plaintiffs, and includes full class allegations.

9. As set out in Plaintiffs/Petitioners' brief in support of this motion, this Court has jurisdiction to expand the stay to cover all Iraqi nationals subject to ICE's changed policy.

10. Pursuant to Fed. R. Civ. P. 65, Plaintiffs/Petitioners seek expansion of this Court's Order Staying Removal to stay the removal of all Iraqi nationals with final orders of removal who have been, or will be, arrested and detained by ICE.

just because no one was able to get into court and file a habeas or a complaint ...

Transcript of June 21, 2017 Hearing, at 22.

11. Plaintiffs/Petitioners incorporate by reference all earlier filings in support of the Order Staying Removal issued by this Court. (Note, however, that we have newly discovered several immaterial mistakes in the Declarations that accompanied the prior filings, that were introduced in the press of the emergency; we will correct these promptly with amended signed declarations as soon as we are able to have Declarants review and re-sign them. Correspondingly, at page 4 of the June 15 brief in support of the prior motion, Atheer Ali's recent conviction for marijuana possession should not have been described as a misdemeanor.)

12. Because deportations of Iraqi nationals who are not covered by this Court's current stay order **could begin as early as Tuesday, June 27, 2017**, Plaintiffs/Petitioners respectfully request that this Court rule on this motion by Monday, June 26, 2017.

WHEREFORE, for the reasons set forth in the accompanying brief, Plaintiffs/Petitioners respectfully request this Court to issue a revised Order Staying Removal, staying removal of all Iraqi nationals with final orders of removal who have been, or will be, arrested and detained by ICE.

Respectfully submitted,

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**PLAINTIFFS/PETITIONERS' MEMORANDUM OF LAW IN SUPPORT
OF EMERGENCY MOTION FOR EXPANSION OF THE ORDER
STAYING REMOVAL**

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STATEMENT OF ISSUES PRESENTED

This Court granted a stay of removal while it determines its own jurisdiction because the potential harm to Iraqi nationals within the responsibility of the Detroit ICE Field Office who are deported far outweighs the Government's interest in immediate removal. Should the Court expand that order to cover all Iraqi nationals in the United States with final orders of removal who have been, or will be, arrested and detained by ICE, since all Iraqi nationals face the same irreparable harm?

Petitioners' Answer: Yes.

CONTROLLING OR MOST APPROPRIATE AUTHORITY

Roman v. Ashcroft, 340 F.3d 314 (6th Cir. 2003)

Ziglar v. Abbasi, __ S. Ct. __, 2017 WL 2621317 (June 19, 2017)

Califano v. Yamasaki, 442 U.S. 682 (1979)

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INTRODUCTION

This Court has already granted an order staying for 14 days the removal of the Petitioners and all members of the class, defined as “all Iraqi nationals within the jurisdiction of the Detroit ICE Field Office, with final orders of removal, who have been, or will be, arrested and detained by ICE as a result of Iraq’s recent decision to issue travel documents to facilitate U.S. removals.” The original definition includes those detained in Michigan but then transferred outside of Michigan to other detention locations.

The Court’s June 22, 2017 Opinion and Order, R. 32, fully explains why a stay is needed to prevent irreparable harm to Iraqi nationals while this Court continues to consider the jurisdictional issues and the merits of this case. Plaintiffs/Petitioners will not here repeat the arguments made in their earlier briefing in support of that stay, but incorporate them by reference.

The question before the Court now is not whether, applying the TRO factors, a stay of removal is warranted. The Court has already found that the Petitioners face irreparable harm given the “significant chance of loss of life and lesser forms of persecution,” and that such harm “far outweighs any conceivable interest the Government might have in the immediate enforcement of the removal orders, before this Court can clarify whether it has jurisdiction to grant relief to Petitioners on the merits of their claims.” Opinion and Order, R. 32, Pg.ID# 501. Rather, the

issue before the Court now is whether its stay of removal should remain limited to those Iraqi nationals who happen to have been arrested or detained within the jurisdiction of the ICE Detroit Field Office, or whether this Court should expand the stay of removal to cover all similarly-situated Iraqi nationals, who likewise face a grave danger of persecution, torture and death if deported to Iraq.

In order to protect all Iraqi nationals who face this danger nationwide, Petitioners/Plaintiffs have filed an Amended Habeas Corpus Class Action Petition and Class Action Complaint for Declaratory, Injunctive, and Mandamus Relief. As discussed in Petitioners' prior pleadings, this Court has jurisdiction over Petitioners' habeas corpus request to 28 U.S.C. §§ 2241 *et seq.*, and Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court also has jurisdiction over Plaintiffs' complaint for injunctive and declaratory relief pursuant to 28 U.S.C. § 1331; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651; it has jurisdiction over Plaintiffs' mandamus request under 28 U.S.C. § 1361.

Given that Iraqi nationals who were not arrested or detained within the jurisdiction of the ICE Detroit Field Office face the same imminent dangers as those who are, and given that the balance of equities are the same for the national class of Iraqis facing deportation, Plaintiffs/Petitioners now respectfully request

this Court to issue a revised order staying the removal of all Iraqi nationals with final orders of removal who have been, or will be, arrested and detained by ICE as a result of Iraq's recent decision to issue travel documents to facilitate U.S. removals.

FACTS

A. Across the Country, Iraqi Nationals Face An Imminent Threat of Removal

As this Court is aware, on or about June 11, 2017, ICE began arresting Iraqi nationals in Michigan who had previously been released on orders of supervision. Around the same time, ICE arrested at least 12 Iraqi nationals in Nashville, Tennessee, several Iraqis in New Mexico, and, upon information and belief, additional Iraqi nationals around the country. These Iraqi nationals face a substantial likelihood of persecution, torture or death upon their return to Iraq. And, due to the frequent movement of detainees to random and distant locations, it has become nearly impossible for counsel to seek relief locally.

According to ICE officials, as of June 14, 2017, at least 85 Iraqi nationals have been arrested around the country, in addition to 114 Iraqi nationals arrested in the Detroit area. *See* Ben Klayman, "Iraqis Detained in Detention Sweep," U.S. News & World Report (June 14, 2017), <https://www.usnews.com/news/us/articles/>

2017-06-14/us-arrests-nearly-200-iraqis-in-deportation-sweep. It is unknown how many Iraqi nationals have been arrested since June 14, 2017.

According to national news reports, there are 1,444 Iraqi nationals with final orders of removal, all of whom may face deportation under ICE's sudden change of policy. See Associated Press, "Detroit Judge Halts Deportation of Iraqi Christians," The New York Times (June 22, 2017), <https://www.nytimes.com/aponline/2017/06/22/us/ap-us-immigration-arrests-michigan.html?>. ICE has already removed at least eight individuals to Iraq since March, despite the dangerous conditions in Iraq. *Id.*

While the situation is fluid and much is unknown about ICE's sudden effort to deport Iraqi nationals from many different parts of the United States, the situations of the three new named Plaintiffs/Petitioners, who were arrested in Tennessee and New Mexico, demonstrate that Iraqi nationals around the country face the same dangers and have the same legal claims as those in Michigan. The only significant difference is that, due to the size of the Iraqi community in the metro Detroit area, there were mass arrests in Michigan but only smaller scale arrest operations elsewhere. Most of the Detroit area detainees were initially transferred to Youngstown, Ohio, which – though far away – happens to still be within the area of responsibility of the ICE Detroit Field Office. That allowed this

habeas action to be filed in this Court, prior to ICE transferring any Michigan Petitioners to other states. As is clear from the declarations of counsel who are attempting to represent detainees in other states, the fact that ICE is moving detainees rapidly from location to location has made it even more difficult in other states than it is in Michigan for detainees to obtain counsel and access the federal or immigration courts. *See* R. Andrew Free Decl., (Ex. A) (describing inability to file habeas petitions due to repeated movement of detainees); Maria Martinez Sanchez Decl. (Ex. B) (same); *see also* Susan Reed Decl., R. 25-1, Pg.ID#324-328 (describing obstacles to representation, and the expense and time required to obtain immigration relief). These difficulties are discussed in more detail in the next section. Upon information and belief, only a few of the non-Michigan detainees have so far been able to obtain stays of removal from the Immigration Court or the Board of Immigration Appeals.

B. Arrests in Nashville, Tennessee, and the Difficulty of Representation Faced by Counsel There

Nashville is home to the largest population of Kurds in the U.S. International organizations and U.S. immigration courts continue to recognize Iraqi Kurds as refugees. R. Andrew Free Decl. (Ex. A). Iraqi Kurds face particularly high risk for persecution and torture because of the Iraqi government's ongoing

tension with semi-autonomous Kurdish regional authorities and because of ISIS's extensive penetration into and destruction of Kurdish areas of Iraq. *Id.*

As Andrew Free's declaration (Ex. A) explains, between June 6 and June 12, 2017, at least twelve Kurdish men were arrested and detained by federal immigration authorities, each with a final order of removal to Iraq. These individuals include Petitioner/Plaintiff Abdulkuder Hashem Al-Shimmary and Petitioner/Plaintiff Qassim Hashem Al Saedy. Mr. Al-Shimmary is an Iraqi Kurd who first entered the United States as a refugee on or around September 22, 1994. Since then he has married and [REDACTED]

[REDACTED]. Though Mr. Al-Shimmary was convicted on one count of statutory rape in 1996, for which he served 45 days in jail and one year of supervised probation, under the U.S. Supreme Court's decision in *Equivel-Quintana v. Sessions*, 137 S. Ct. 1562 (2017), that offense no longer results in removal. Mr. Al-Shimmary has no other criminal record and has lived peaceably under an Order of Supervision for over 15 years. Mr. Al-Shimmary fears he will face torture if returned to Iraq. He wishes to continue his ongoing efforts to seek relief from removal. *See* R. Andrew Free Decl. (Ex. A), Kellita Rivera Decl. (Ex. E).

Mr. Al-Saedy first entered the United States as a refugee in or around September 1996. He is [REDACTED]. In 2002, he was convicted of assault and battery arising from a domestic dispute, and has been subject to a removal order since 2003. For the next 14 years, Mr. Al-Saedy diligently reported to ICE under an Order of Supervision and has not had any other criminal involvement. On June 12, 2017, ICE arrested Mr. Al-Saedy in Nashville, Tennessee. He was subsequently transferred to Alabama, and then to Louisiana. Mr. Al-Saedy fears removal to Iraq, especially because his longtime U.S. residence, his status as an apostate, and [REDACTED] [REDACTED] will make him a target for persecution and torture. He wishes to continue his ongoing efforts to seek relief from removal. R. Andrew Free Decl. (Ex. A), Cheryl Lane Decl. (Ex. D).

The Kurds targeted in Nashville, including Mr. Al-Shimmary and Mr. Al-Saedy, have claims to immigration relief. But as the Free Declaration explains, due to ICE's unannounced, sudden, and unpredictable transfer of detainees, securing representation and asserting these claims locally has been impractical, perhaps even impossible. For example, after their arrest and several hours of processing at the ICE Enforcement and Removal Operations ("ERO") office in Nashville, ICE transferred each Nashville detainee first to a county jail, then to the DeKalb

County Jail in Fort Payne, Alabama, and then to the LaSalle Detention Facility in Jena, Louisiana, at least eight hours from Nashville. ICE later transferred at least four detainees from the LaSalle Detention Facility to a facility in Alexandria, Louisiana. Then, on or about June 22, 2017, at least four detainees were flown from Alexandria to Dallas, Texas and then to Florence, Arizona. Florence, Arizona is 1600 miles from Nashville. Such frequent and unpredictable movement has frustrated attempts to assert habeas claims. In fact, one Nashville attorney attempted to but could not finalize or file any habeas petitions before detainees were moved from Nashville to Alabama as a direct result of his limited ability to communicate with, visit and gather information about the potential petitioners. These serial transfers farther away from family, community, and legal resources, which have occurred without warning, impede due process and justify nationwide relief.

C. Arrests in New Mexico, and the Difficulty of Representation by Counsel There

Similar events have transpired in New Mexico, where an unknown number of Iraqi nationals have been detained pending imminent removal to Iraq. These detainees include Plaintiff/Petitioner Abbas Oda Manshad Al-Sokaini, who has lived in Albuquerque, New Mexico, since 1996. *See* Brenda Sisneros Decl. (Ex. C). His wife is a U.S. citizen, and he has three stepchildren, eleven grandchildren,

and five great-grandchildren, all of whom are U.S. Citizens. Mr. Al-Sokaini was charged with a minor drug offense decades ago and has been subject to a final removal order since 2003, but has lived peaceably in the community under an Order of Supervision for over 14 years. Mr. Al-Sokaini fears removal to Iraq, especially because he has been involved with a Baptist Congregation in Albuquerque, a fact possibly known to people in Iraq, making him a special target for persecution or torture. He wishes to continue his ongoing efforts to seek relief from removal.

Similar to the situation playing out in Nashville, ICE has transferred New Mexico detainees, including Mr. Al-Sokaini, away from New Mexico to detention centers in other states and away from their families and attorneys. Maria Martinez Sanchez Decl. (Ex. B). In fact, Mr. Al-Sokaini's attorney has been unable to seek appropriate relief on his behalf because ICE transferred him to Texas, where she is not admitted to practice. This has prevented her and her colleagues from filing habeas petitions on behalf of other detainees as well. Without this Court's intervention on a nationwide basis, there is a substantial risk that detainees, like Mr. Al-Asokaini, will face imminent removal to Iraq and the very real likelihood of persecution, torture and death.

ARGUMENT

THIS COURT HAS JURISDICTION TO EXPAND THE EXISTING ORDER STAYING REMOVAL TO COVER ALL IRAQI NATIONALS FACING IMMINENT REMOVAL

The government's policy of arresting Iraqi nationals and threatening them with imminent removal, without an adequate opportunity to determine whether they are more likely than not to face persecution or torture in Iraq, affects not just Iraqis arrested or detained by ICE's Detroit, Michigan, field office, but Iraqis around the country. As explained above, counsel for these individuals have not only had difficulty accessing immigration court, but have also not found it feasible to file individual, much less district court-specific class action habeas actions. *See* R. Andrew Free Decl. (Ex A); Maria Martinez Sanchez Decl. (Ex. B).

This Court has jurisdiction, on four independent grounds, to broaden the June 22, 2017 Order Staying Removal to cover all Iraqis with prior final removal orders who are or will be threatened with imminent deportation to Iraq.

First, this Court has jurisdiction over a nationwide class action habeas pursuant to 28 U.S.C. §§ 2241 *et seq.*, and Art. 1, § 9, cl. 2 of the United States Constitution (Suspension Clause). *See Ali v. Ashcroft*, 346 F.3d 873, 889-91 (9th Cir 2003) (holding that the district court did not exceed its habeas jurisdiction in certifying a nationwide habeas class), *withdrawn and amended on other grounds*

on reh'g, Ali v. Gonzales, 421 F.3d 795 (9th Cir. 2005). *See also Geraghty v. U.S. Parole Commission*, 429 F. Supp. 737, 740 (M.D. Pa. 1977) (noting that “procedures analogous to a class action have been fashioned in habeas corpus actions where necessary and appropriate”).

The proper respondent for such a national habeas action is Thomas Homan, the acting ICE Director, in Washington, D.C. This Court indisputably has personal jurisdiction over Mr. Homan. *See Straight v. Laird*, 406 U.S. 341, 345 n.2 (1972) (commanding officer is present in a jurisdiction “through the officers in the hierarchy of the command”, and such presence suffices for personal jurisdiction). Accordingly, the amended complaint lists Mr. Homan as the respondent for the nationwide habeas class. Rebecca Adducci, who is the field office director for Detroit, is the proper respondent for the more limited sub-class of petitioners. (The class as defined in the original complaint and in the Court’s Order Staying Removal is the same as the Michigan habeas sub-class as defined in the Amended Class Action Habeas Petition.)

In the Sixth Circuit, under the immediate custodian rule, the proper respondent in a habeas petition is typically the ICE Field Director. *Roman v. Ashcroft*, 340 F.3d 314, 319-321 (6th Cir. 2003); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 436 n. 8 (2004) (noting different views on this issue in different circuits,

and declining to resolve the question). However, the Sixth Circuit has acknowledged that in extraordinary circumstances it is appropriate to substitute a higher level government official responsible for a challenged practice – rather than the local field office director – as the appropriate respondent for a habeas action.²

The Court explained:

Under certain extraordinary circumstances it may be necessary to depart from the immediate custodian rule in order to preserve a petitioner's access to habeas corpus relief . . . Such circumstances may arise where a detainee does not have a realistic opportunity for judicial review of his executive detention. The Constitution safeguards the right to petition for a writ of habeas corpus, U.S. Const. art. I § 9, cl. 2 Therefore, under extraordinary circumstances where it is necessary to preserve a person's access to habeas corpus relief, we may recognize [a senior official] as a respondent to an alien's habeas corpus petition. . . . For example, courts have noted the [government's] ability, as a practical matter, to deny aliens any meaningful opportunity to seek habeas corpus relief simply by transferring aliens to another district any time they filed a habeas petition.

Roman, 340 F.3d at 325-326. Similarly, Justice Kennedy, concurring in *Rumsfeld v. Padilla*, 542 U.S. 426, 453-54 (2004) (Kennedy, J., concurring), noted that in exceptional cases a court may “hear a habeas petition filed against some person other than the immediate custodian of the prisoner, or in some court other than the

² Since the time *Roman* was decided, ICE, within the Department of Homeland Security, has succeeded the Immigration and Naturalization Service, within the Justice Department, as the agency responsible for detention and removal of non-citizens. The higher level official responsible for immigration detainees is the ICE Director (or currently the Acting Director).

one in whose territory the custodian may be found,” such as exceptions necessary “to protect the integrity of the writ or the rights of the person detained.” Justice Kennedy provided the example of where the Government “kept moving [the petitioner] so a filing could not catch up to the prisoner.” *Id.* See also *Padilla*, 542 U.S. at 422 (majority opinion) (petitioner’s detention was “not unique in any way that would provide arguable basis for a departure from the immediate custodian rule”).

There can hardly be more extraordinary circumstances than those present here, where hundreds, or even more than a thousand, Iraqi nationals face the risk of deportation to a country where they are likely to be in grave danger. ICE has itself created those exceptional circumstances, by rapidly moving detainees from location to location and rushing to complete the deportations without giving detainees time to consult with counsel, to file the necessary pleadings for their claims to be adjudicated in immigration court, or to file habeas petitions in the (ever-changing) jurisdictions where they are detained. By rapidly transferring detainees from location to location, ICE has effectively prevented detainees’ counsel from filing habeas petitions. Even if counsel can determine the detainee’s location and prepare a petition for filing before the detainee is moved again, counsel generally are not barred in multiple states and therefore, in jurisdictions

where they are not licensed, it is difficult for them to file rapidly enough to prevent deportation.

Second, this Court can grant a nationwide stay based on the fact that the Plaintiffs/Petitioners have brought a class action complaint for declaratory and injunctive relief under 28 U.S.C. § 1331; the Declaratory Judgment Act, 28 U.S.C. § 2201; and the All Writs Act, 28 U.S.C. § 1651. It is well settled that the federal courts can enjoin ongoing violations of federal law by executive officials. *See, e.g., Ziglar v. Abbasi*, __ S. Ct. __, 2017 WL 2621317, at *19 (June 19, 2017) (reaffirming that “detainees may seek injunctive relief” for allegedly unconstitutional and nationwide “large-scale policy decisions concerning the conditions of confinement imposed on hundreds of prisoners”); *Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–21 (1912) (listing numerous cases where officials were barred from claiming immunity where injunctive relief based on illegal acts, and applying reasoning to Secretary of War); *Goltra v. Weeks*, 271 U.S. 536, 545 (1926) (noting that Secretary of War is not immune from injunction, as the court is not interfering with his “official discretion,” as the suit rests on “the charge of abuse of power”). It is also well settled that district courts can certify nationwide classes. *Califano v. Yamasaki*, 442 U.S. 682, 702–03 (1979) (“The certification of

a nationwide class, like most issues arising under Rule 23, is committed in the first instance to the discretion of the district court.”)

Here, declaratory and injunctive relief is warranted based on the statutory and due process violations that would occur were Plaintiffs/Petitioners removed from the country without a determination as to whether they would face persecution or torture in Iraq. That violation will imminently occur pursuant to a policy that, on information and belief, was adopted by Immigration and Customs Enforcement (ICE) in Washington, D.C., and has been implemented throughout the United States, including in the Eastern District of Michigan.

Third, this case is also appropriate for a writ of mandamus and/or prohibition under 28 U.S.C. § 1361, which provides that “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” As a matter of due process, and under the terms of the INA and the international treaties to which the United States is a signatory, ICE is under a mandatory duty not to return individuals to countries where they would face persecution, torture or death, and to provide a fundamentally fair process to reach a decision about whether such a situation exists. Plaintiffs/Petitioners have a clear right to relief (in the form of an individualized determination whether they can be

safely returned to Iraq), the Defendant/Respondents have a clear and mandatory duty to act (by making such determinations), and there is no other adequate remedy available to the Plaintiffs/Petitioners to ensure that that such determinations will be made by Defendants/Respondents prior to their deportations. *Carson v. U.S. Office of Special Counsel*, 633 F.3d 487, 491 (6th Cir. 2011).

Fourth and finally, at a minimum, this Court has jurisdiction to determine its own jurisdiction. Opinion and Order, R. 32, Pg.ID# 500 (“It is well-settled, as the Government concedes, that a court has jurisdiction to determine its own jurisdiction.”). *See also United States v. United Mine Workers of Am.*, 330 U.S. 258, 290 (1947); *Derminer v. Kramer*, 386 F. Supp. 2d 905, 906 (E.D. Mich. 2005). Here the Court has already determined that in light of the “complex jurisdictional issues, and the speed with which the Government is moving to remove the Petitioners, it is necessary to stay Petitioners’ removal pending the Court’s determination regarding its jurisdiction.” Opinion and Order, R. 32, Pg.ID# 500.

Thus, this Court can expand the temporary stay of removal which it issued for the purpose of preserving the status quo while it determines its jurisdiction, to cover a nationwide class of Iraqis facing imminent removal to Iraq. *Mustata v. U.S. Dep’t of Justice*, 179 F.3d 1017, 1019 (6th Cir. 1999) (district court has

jurisdiction to issue stay in habeas proceeding); *Hamdi ex rel. Hamdi v. Napolitano*, 620 F.3d 615, 622 (6th Cir. 2010) (citing *Mustata* approvingly for principle that stay is available remedy on federal habeas review); *Kumar v. Gonzales*, No. 107-CV-003, 2007 WL 708628, at *1 (W.D. Mich. Mar. 5, 2007) (temporary stay of removal on the day petitioner was scheduled to be deported in order to decide whether it had jurisdiction over petitioner's habeas petition); *Okoro v. Clausen*, No. 07-13756, 2008 WL 253041, at *1 (E.D. Mich. Jan. 30, 2008).

In sum, the Court had jurisdiction to grant a nationwide order staying removal because it has (1) jurisdiction over a nationwide class action habeas petition based on the extraordinary circumstances present here; (2) jurisdiction over the complaint for injunctive and declaratory relief; (3) jurisdiction over the complaint for mandamus relief; and (4) jurisdiction to determine its own jurisdiction.

CONCLUSION

This Court has already determined, with respect to the Michigan petitioners, that they face irreparable harm that far outweighs any government interest in suddenly deporting hundreds of individuals who have lived, often for decades, in the United States, and who in many cases have U.S. citizen children and spouses. The Court has also already determined that the “public interest is also better served

by an orderly court process that assures Petitioners' invocation of federal court relief is considered before the removal process continues." Opinion and Order, R. 32, Pg.ID# 500. And while the Court has yet to decide the jurisdictional issues or the merits, the Court has concluded that "[g]iven that the other factors clearly favor a stay, the present indeterminacy of the merits does not undermine the conclusion that a stay is appropriate." *Id.*

Iraqi nationals who face deportation to Iraq face the same dangers and have the same legal rights and claims, regardless of where they happen to be located. A stay of removal is just as necessary and appropriate to maintain the status quo for a nationwide class as it was to maintain the status quo for a class of those within the purview of the Detroit ICE Field Office.

Time is of the essence, because Iraqi nationals who are not protected from immediate deportation under this Court's existing stay face **deportation as soon as Tuesday, June 27, 2017**. Wherefore, Plaintiffs/Petitioners respectfully request that this Court issue a revised Order Staying Removal to include all Iraqi nationals with final orders of removal who have been, or will be, arrested and detained by ICE.

Dated: June 24, 2017

Respectfully submitted,

/s/Michael J. Steinberg

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2017, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF filers of record. I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants:

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

**USAMA JAMIL HAMAMA,
ATHEER FAWOZI ALI,
ALI AL-DILAMI,
HABIL NISSAN,
JIHAN ASKER,
MOAYAD JALAL BARASH,
SAMI ISMAEL AL-ISSAWI,
ABDULKUDER HASHEM AL-
SHIMMARY,
QASSIM HASHEM AL-SAEDY, and
ABBAS ODA MANSHAD AL-
SOKAINI**, on behalf of themselves and
all those similarly situated,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, Director of the
Detroit District of Immigration and
Customs Enforcement,
THOMAS HOMAN, Acting Director of
U.S. Immigration and Customs
Enforcement, and
JOHN KELLY, Secretary of the U.S.
Department of Homeland Security, in
their official capacities,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

Mag. David R. Grand

Class Action

**INDEX OF EXHIBITS TO PLAINTIFFS/PETITIONERS' EMERGENCY
MOTION TO EXPAND ORDER STAYING REMOVAL TO PROTECT
NATIONWIDE CLASS OF IRAQI NATIONALS FACING IMMINENT
REMOVAL TO IRAQ**

Exhibit A: Declaration of Attorney R. Andrew Free

Exhibit B: Declaration of Maria Martinez Sanchez

Exhibit C: Declaration of Brenda Sisneros

Exhibit D: Declaration of Cheryl Lane

Exhibit E: Declaration of Kellita Rivera

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
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**USAMA JAMIL HAMAMA,
ATHEER FAWOZI ALI,
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Class Action

DECLARATION OF ATTORNEY R. ANDREW FREE

DECLARATION OF R. ANDREW FREE

I, R. Andrew Free, hereby declare:

I make this declaration based on my own personal knowledge, and if called to testify, I could and would do so completely as follows

1. I am an attorney licensed to practice in Tennessee. My private practice is based in Nashville, Tennessee. Our firm focuses our practice on immigration law, civil rights, workplace justice and government accountability litigation.

2. I am a 2010 graduate of Vanderbilt University Law School, where I founded The List Project at Vanderbilt, a student-led group focused on assisting with the legal and resettlement needs of Iraqi allies in association with The List Project to Resettle Iraqi Allies. I was selected by the faculty to receive the Bennett Douglas Bell Memorial Prize in large part due to this work. As a student and in my subsequent law practice, I have represented former Iraqi government officials seeking refuge in the United States, religious refugees from Iraq, organizations seeking to protect and resettle Iraqi nationals, Iraqi refugees, and Special Immigrant Visa (“SIV”) applicants. In my volunteer work, I have assisted in the resettlement, orientation, and job training of dozens of Iraqi families to the Middle Tennessee area.

3. I am a member in good standing of the American Immigration Lawyers Association, where I previously served on the Federal Litigation Steering

Committee, and the National Immigration Project of the National Lawyers Guild, for which I have served as a continuing legal education presenter. I have served as Chair of the ABA Committee on the Rights of Immigrants within the Individual Rights and Responsibilities Section, as Chair of the Legal Advisory Board of Dignidad Obrera/Worker's Dignity, as a Board Member of Tennessee Justice for Our Neighbors.

4. Nashville, Tennessee is said to be home to the largest population of Kurds outside of Kurdistan. The vast majority of Nashville's Kurds count Iraq as their country of nationality. There have been at least three waves of Kurdish resettlement to the Nashville area, dating back to the early 1990s. Through my law practice and civic engagement, I have had extensive involvement in Nashville's Kurdish community. Over the past several years, I have regularly advised Kurdish community leaders and organizers on matters relating to immigration, civil rights, and public policy.

5. In the early morning hours of June 7, 2017, I learned from a Kurdish community leader that several Kurdish men had been arrested and detained by federal immigration authorities. In the days that followed, we discovered through community engagement, direct interviews, meetings with the American Muslim Advisory Council, the Islamic Center of Tennessee, and the Salahadeen Center, and confidential client consultations, that U.S. Immigration and Customs

Enforcement (“ICE”) agents targeted roughly thirty (30) Iraqi men living in the Nashville area. ICE agents arrested at least twelve (12) of these men between June 5 and June 16, 2017. I am aware of the names and/or alien registration numbers of each of these men. As of today, I represent six (6) of these men on a pro- or low-bono basis. I am also in regular contact with attorneys and organizations in Nashville who represent or have been consulted by several of the other detainees.

6. Based on the facts available to me, including public statements from ICE, it appears that each person targeted or arrested by the agency has a final order of removal to Iraq. Because Iraq was not issuing travel documents that would facilitate repatriation until March of this year, none of those targeted or arrested had been removed from the United States. Instead, each person was checking in regularly (either yearly or semi-yearly), at the local ICE office. As far as I am aware, none of the twelve men ICE agents arrested was wanted for any crime or had any serious criminal matter open or pending. The majority of the twelve individuals arrested—and indeed, the majority of the thirty individuals targeted—have removal orders that are nearly a decade old.

7. In the days following ICE’s aggressive enforcement activities targeting Iraqis and U.S. citizens of Iraqi heritage in Nashville, fear and panic gripped the Kurdish community. *See* Exhibit A, June 13, 2017 Letter from Nashville Mayor Megan Barry to Joshua Jack, Community Relations Officer U.S.

Immigration and Customs Enforcement New Orleans Field Office. At the same time, a broad coalition of attorney and non-attorney support formed to provide resources and protection for targeted individuals and their families. A host of non-profit and private actors have worked closely with representatives of the Kurdish community to facilitate legal representation, know-your-rights presentations, advocacy, and support. There are currently networks that include dozens of lawyers and law students in Nashville and elsewhere standing ready to assist affected individuals and families with their legal needs.

8. After their arrest and several hours of processing at the ICE Enforcement and Removal Operations (“ERO”) office at 501 Brick Church Park Drive in Nashville, ICE transferred each person to a Davidson County (TN) jail facility in Nashville. From there, after roughly 72-96 hours, ICE transferred each person to the Dekalb County Jail in Fort Payne, Alabama, where they remained for several days. ICE then transferred each arrestee to the LaSalle Detention Facility in Jena, Louisiana, which is a seventeen (17)-hour round-trip drive from Nashville. Several days ago ICE then transferred at least four detainees from the LaSalle Detention Facility to The GEO Group, Inc.’s Alexandria, Louisiana airport facility. On or about June 22, 2017, ICE transferred at least of four of the men who were arrested in Nashville—including three of my clients—were flown from Alexandria to Dallas, Texas and then to the Florence Service Processing Center in Florence,

Arizona. Florence, Arizona is 1600 miles from Nashville, and a twenty-four (24) hour one-way drive.

9. ICE's unannounced, sudden, and somewhat unpredictable movements of arrestees—including those who have legal representation—have made harnessing the pro- and low-bono legal resources we have assembled exceedingly difficult. Effectively communicating with a client we cannot locate is nearly impossible. For many individuals who need to file motions to reopen their removal proceedings based on changed country conditions and motions for stay of removal pending resolution of the motion to reopen, the limitations on communication with counsel posed by these transfers has made it impossible to prepare their filings.

10. Compounding the difficulty of locating, communicating with, and ensuring competent representation for Nashville's Iraqi arrestees is the pattern we have documented of ICE agents engaging in coercive practices to speed up the deportation process. At least three of my clients have reported ICE officers engaging in coercive tactics against Iraqi detainees. One such tactic involves threats of criminal prosecution for failing cooperate in removal whenever detainees assert their right to counsel and announce their intention to seek relief under the Convention Against Torture (CAT). When I pointed out to a Deportation Officer who engaged in these actions that my client is represented by counsel and pursuing immigration relief, the officer repeated the threat of prosecution to me.

Accordingly, on June 19, 2017, the National Immigrant Justice Center and I sent a cease-and-desist letter to the New Orleans Field Office Director demanding that he put an end to these practices. *See* Exhibit B – June 19, 2017 Cease and Desist Letter to Scott Sutterfield, ICE New Orleans Field Office Director (attached).

11. Another coercive ICE tactic deportation officials are reportedly using is to falsely inform detainees that they have no legal recourse, and that no lawyers can help them. Finally, I was informed by a client on June 22, 2017 that immigration officials in Arizona forcibly applied detainees' fingerprints to travel documents when those detainees refused to do so of their own volition.

12. Upon learning of the arrests and detentions of Iraqis in Nashville, my office immediately began preparing a form habeas corpus petition to be filed in the U.S. District Court for the Middle District of Tennessee. Unfortunately, because of limitations on communication, visitation, and information regarding who was arrested and when, we were unable to finalize and file any of those petitions prior to individuals' transfer from Nashville to Ft. Payne, Alabama. Our office has also contemplated habeas litigation in the Western District of Louisiana once detainees arrive in the LaSalle Detention Facility. However, several of the detainees for whom we contemplated such litigation were transferred to a detention facility in Alexandria, Louisiana, and, most recently, to Florence, Arizona. These serial transfers farther away from family, community, and legal resources, which have

occurred without warning, have impeded due process and made habeas filings extremely difficult to prepare and submit. *See, e.g.*, Exhibit B – June 22, 2017 Letter from Representative Jim Cooper (D-TN) to His Excellency Fareed Yaseen, Ambassador of Iraq.

13. All of the targeted Iraqis I have consulted or agreed to represent have colorable claims to immigration relief. Based on my legal experience and interactions with Nashville's Kurdish population, it is my belief and understanding that international organizations and U.S. immigration courts continue to recognize Iraqi Kurds as refugees and resettle them to the United States. For example, last week I consulted with a member of a Kurdish family who were resettled to the Nashville area from Iraq in November 2015. It is my understanding that Iraqi Kurds are particularly at risk for persecution and torture because of the Iraqi government's ongoing tension with semi-autonomous Kurdish regional authorities and because of ISIL's extensive penetration into and destruction of Kurdish areas of Iraq. Similarly, a number of the individuals I have consulted with either worked for American troops or contractors in Iraq, or have family who did so. These individuals are at significant risk of persecution, torture, and death in Iraq.

14. I represent Abdulkuder Hashem Al-Shimmary. Mr. Al-Shimmary is an Iraqi Kurd who first entered the United States as a refugee on or around September 22, 1994. He was convicted of one count of statutory rape of a 17-year

old in violation of Tennessee Code Annotated § 39-13-506 on September 26, 1996. He was ordered removed by an Immigration Judge on January 7, 1999. The Board of Immigration Appeals dismissed his appeal of the Immigration Judge's decision on March 12, 2002, and denying his motion to reopen the proceeding to seek CAT relief as untimely on July 30, 2002. Mr. Al-Shimmary has been on an Order of Supervision for over 15 years. In that time, he has gotten married and [REDACTED] [REDACTED] Mr. Al-Shimmary successfully petitioned for removal from the Tennessee sex offender registry in 2016. ICE arrested Mr. Al-Shimmary on or around June 12, 2017. Because of the U.S. Supreme Court's decision in *Equivel-Quintana v. Sessions*, Mr. Al-Shimmary is no longer removable from the United States. Accordingly, I filed a Motion to Reconsider with the Board of Immigration Appeals on Mr. Al-Shimmary's behalf on June 15, 2017, along with an emergency motion to stay his removal. The Board has not yet decided our Stay request. Unlike many of the other men arrested, Mr. Al-Shimmary's family had a pre-existing relationship with community-based organizations that allowed her to locate and secure legal representation quickly.

15. I represent Qassim Hashem Al Saedy. Mr. Al Saedy first entered the United States as a refugee in or around September 1996. He is [REDACTED] [REDACTED]. He was charged with assault and battery on two occasions –

once in 1998, and a second time in 2002. The 1998 charged was dismissed. The 2002 charge, which arose out of a domestic dispute between Mr. Al Saedy's U.S. Citizen wife, [REDACTED] resulted in a conviction. ICE transferred Mr. Al Saedy to Oakdale, Louisiana, where he received a removal order on September 23, 2003. Mr. Al Saedy did not appeal the order. Instead, he was released on an Order of Supervision. He checked in diligently with ICE for the next fourteen years, up to and including March of 2017. On June 12, 2017, ICE arrested Mr. Al Saedy in Nashville, Tennessee. He was subsequently transferred to Alabama, and then to Louisiana, where he remains.

ATTESTATION

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and understanding

Sworn this 23 day of June, 2017 by



R. Andrew Free

EXHIBIT A



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

MEGAN BARRY
MAYOR

OFFICE OF THE MAYOR
METROPOLITAN COURTHOUSE
NASHVILLE, TENNESSEE 37201
PHONE: (615) 862-6000
EMAIL: mayor@nashville.gov

June 13, 2017

Mr. Joshua Jack
Community Relations Officer
Immigration and Customs Enforcement
United States Department of Homeland Security
1250 Poydras Street, Suite 2200
New Orleans, LA 70113

Dear Mr. Jack,

As you are no doubt aware, Nashville is home to many Kurdish and Iraqi refugees who fled persecution and oppression to seek a better life for themselves and their families.

Over the past few days, we have heard disturbing reports of members of our community being stopped, questioned, and even harassed as part of an increased effort to enforce deportation orders for individuals who had previously been convicted of criminal activity.

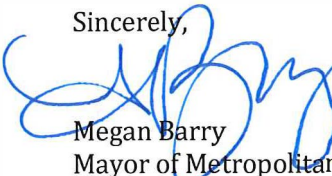
Earlier today, I witnessed a video of a Kurdish-American citizen being stopped and questioned by an ICE official for no apparent reason. On the vest was the word "POLICE," which most in the community assume to mean the Metro Nashville Police Department. This raises a number of concerns for our city.

First and foremost, our Metro Nashville Police Department has gone to great lengths in building relationships with our New American community in order to promote public safety. This effort can be undermined when ICE agents act aggressively toward our citizens without properly identifying themselves as agents of the federal government rather than local law enforcement. We would ask that any ICE agents operating within Davidson County do so in a way that does not impede the job of local law enforcement to keep all Nashvillians safe.

There are also allegations that non-criminal immigrants and refugees are being targeted for enforcement actions or swept up in this enhanced activity. If ICE would release the names of those who have been detained, and give the public a greater understanding of the crimes these individuals were convicted of, this might help allay some of the fears in the community.

According to your website, "ICE is committed to maintaining a collaborative and transparent dialogue with the public over the agency's mission and core values." To make good on this commitment, I would implore you to work more closely with our immigrant and refugee community and local stakeholders to ensure that the broader community is not negatively impacted by what is purported to be targeted enforcement against those who have committed serious crimes in the United States.

Sincerely,


Megan Barry
Mayor of Metropolitan Nashville and Davidson County

cc: The Honorable Senator Lamar Alexander
The Honorable Senator Bob Corker
The Honorable Representative Jim Cooper

EXHIBIT B



June 19, 2017

By Email and U.S. Mail

Scott Sutterfield
Acting Field Office Director
ICE New Orleans Field Office
1250 Poydras Suite 325
New Orleans, LA, 70113

**Re: *Iraqi Nationals Seeking Relief from Deportation*
Cease and Desist Erroneous Threats of Prosecution under 8 U.S.C. §
1253**

Dear Acting Field Office Director Sutterfield:

This week, we learned that ICE agents in various cities rounded up longtime resident Iraqi nationals, who had prior orders of removal but otherwise have been fully compliant with their orders of supervision. Many of these detained individuals are now represented by counsel and are in the process of seeking reopening of their removal proceedings in order to seek relief under the Convention Against Torture and other forms of relief under immigration law. Many others are actively seeking legal representation.

It has come to our attention that ICE officers under your supervision have threatened some of these Iraqi nationals with prosecution under 8 U.S.C. § 1253(a)(1) (willful failure to cooperate with removal), presumably to coerce them into expeditiously acquiescing to deportation rather than seek protection under the Immigration and Nationality Act (INA).

For those Iraqi nationals seeking relief, please cease and desist erroneously threatening them with prosecution under 8 U.S.C. § 1253(a)(1). They all satisfy the express exception from prosecution, contained in subparagraph §1253(a)(2). The exception states:

It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

8 U.S.C. § 1253(a)(2).

Please confirm receipt of this letter and communication of its contents to ICE agents and officers under your supervision.

Sincerely,



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EXHIBIT C

JIM COOPER

5TH DISTRICT, TENNESSEE

COMMITTEES:

ARMED SERVICES

OVERSIGHT AND
GOVERNMENT REFORMWEB SITE: www.cooper.house.gov

PLEASE MAIL TO NASHVILLE OFFICE:

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FAX: (202) 226-1035

Congress of the United States
House of Representatives
 Washington, DC 20515

June 22, 2017

His Excellency Fareed Yaseen
 The Ambassador of Iraq
 3421 Massachusetts Ave NW
 Washington, D.C. 20007

Dear Mr. Ambassador,

I am writing on behalf of my Kurdish constituents in Middle Tennessee about the possible deportation of a dozen of them due to recent raids by U.S. Immigration Control and Enforcement. As you may know, Nashville has one of the largest populations of Kurdish Americans in the United States.

During the past two weeks, several long-time Kurdish immigrants to the Nashville area have been detained by ICE and transported to Jena, Louisiana – a 17-hour drive for their families – where they are awaiting further government action.

Many of the final orders of deportation for these individuals are over a decade old. I am told that, whatever their original offenses, the detainees have paid their dues to society, have been under court supervision, have led respectable lives, and have families and loved ones whose lives have been traumatized by the ICE raids.

It is also my understanding that at least one class-action lawsuit has been filed to prevent or delay the deportation of Iraqi nationals such as these, many of whom are religious and ethnic minorities (such as Chaldeans), until all the detainees are afforded a process. For example, at least some of the detainees were apparently told falsely that appealing their detention could hasten their deportation. Many of them have not been able to consult with an attorney.

It is vitally important to determine if the dangers they could face abroad entitle them to at least temporary protection from removal. In order to gather more information for my constituents, I respectfully request answers to the following questions:

- Is your Embassy able to halt or slow the issuance of travel documents until the detainees are afforded their rights to legal representation and due process?
- If it is determined that the current conditions and circumstances are safe for repatriation, can the Nashville Kurds fly directly to a city in Northwestern Iraq near their relatives and contacts?

- If the Nashville Kurds are not able to fly directly to Northwestern Iraq, are there sufficient measures in place to ensure that they will have safe passage to Northwestern Iraq immediately upon arrival to Baghdad?

Thank you for your attention to this important humanitarian matter. I look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Cooper", written over a horizontal line.

Jim Cooper
Member of Congress

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

**USAMA JAMIL HAMAMA,
ATHEER FAWOZI ALI,
ALI AL-DILAMI,
HABIL NISSAN,
JIHAN ASKER,
MOAYAD JALAL BARASH,
SAMI ISMAEL AL-ISSAWI,
ABDULKUDER HASHEM AL-
SHIMMARY,
QASSIM HASHEM AL-SAEDY, and
ABBAS ODA MANSHAD AL-
SOKAINI**, on behalf of themselves and
all those similarly situated,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, Director of the
Detroit District of Immigration and
Customs Enforcement,
THOMAS HOMAN, Acting Director of
U.S. Immigration and Customs
Enforcement, and
JOHN KELLY, Secretary of the U.S.
Department of Homeland Security, in
their official capacities,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

Mag. David R. Grand

Class Action

DECLARATION OF MARÍA MARTÍNEZ SÁNCHEZ

María Martínez Sánchez, under penalty of perjury, states as follows:

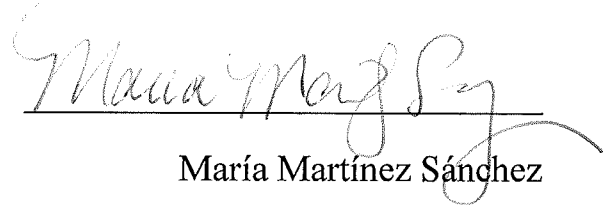
1. I am an attorney licensed in the State of New Mexico and I am employed by the American Civil Liberties Union of New Mexico (ACLU-NM). I work under the supervision of ACLU-NM Legal Director Eliza Bechtold. The ACLU's mission is to protect, defend, and extend the civil rights and civil liberties of all people in New Mexico through litigation, education, and advocacy. Most of my work for the ACLU Legal Department is done on behalf of the American Civil Liberties Union Foundation of New Mexico, a 501(c)(3) corporation that carries out the ACLU's litigation and public education programs. In this declaration, I refer to the two organizations collectively as "ACLU."
2. As a staff attorney in the ACLU's Legal Department, my job includes reviewing and investigating requests for legal assistance, writing advocacy letters, participating in the ACLU's litigation with the ACLU Legal Director and volunteer cooperating attorneys who agree to take on cases pro bono for the ACLU, and educating the public about civil rights and civil liberties and the protections and guarantees of the constitutions of the United States and the State of New Mexico.

3. As part of my job with the ACLU, I am currently involved in investigations of the enforcement, detention, and removal activities of Immigration and Customs Enforcement (ICE).
4. With my colleagues, I have contemplated filing a habeas class action for Iraqi nationals who have lived for many years in the United States and who were recently arrested by ICE in New Mexico.
5. Because ICE is transferring the Iraqi nationals who had lived for many years here in New Mexico away from New Mexico to detention centers in other states—in some cases to multiple detention centers in multiple states—I have no assurance that if I prepare pleadings here in New Mexico that I will be able to file the pleadings before my clients are transferred.
6. ICE has transferred Iraqi nationals arrested in New Mexico to detention centers in multiple jurisdictions, such as Texas and Arizona, where I am not barred.
7. Without this Court's intervention, there is a substantial risk that my client, Abbas Oda Manshad Al-Sokaini, will face imminent removal to Iraq, and the very real probability of persecution, torture, or death.

8. For that reason, I request that the Court grant the relief sought in the Complaint.

Date: June 23, 2017

Signed:

A handwritten signature in cursive script, reading "Maria Martinez Sanchez", written over a horizontal line.

María Martínez Sánchez

Staff Attorney

ACLU of New Mexico

1410 Coal Ave. SW

Albuquerque, NM 87104

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

**USAMA JAMIL HAMAMA,
ATHEER FAWOZI ALI,
ALI AL-DILAMI,
HABIL NISSAN,
JIHAN ASKER,
MOAYAD JALAL BARASH,
SAMI ISMAEL AL-ISSAWI,
ABDULKUDER HASHEM AL-
SHIMMARY,
QASSIM HASHEM AL-SAEDY, and
ABBAS ODA MANSHAD AL-
SOKAINI**, on behalf of themselves and
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REBECCA ADDUCCI, Director of the
Detroit District of Immigration and
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THOMAS HOMAN, Acting Director of
U.S. Immigration and Customs
Enforcement, and
JOHN KELLY, Secretary of the U.S.
Department of Homeland Security, in
their official capacities,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

Mag. David R. Grand

Class Action

DECLARATION OF BRENDA SISNEROS

Brenda Sisneros, under penalty of perjury, states as follows:

1. I am the spouse of Abbas Oda Manshad Al-Sokaini (“Abbas”), a 52-year-old Iraqi national.
2. Abbas has lived in the United States since 1996, in Albuquerque, New Mexico.
3. I am a United States citizen.
4. Abbas has three stepchildren, eleven grandchildren, and five great-grandchildren, all of whom are U.S. citizens.
5. On information and belief, Abbas has been subject to a final removal order to Iraq since October 21, 2003, and he was living in the community pursuant to an order of supervision, with which he was complying.
6. On June 20, 2017, without warning, ICE arrested Abbas, and transferred him to a detention center in El Paso, Texas, where he faces imminent removal to Iraq.
7. On information and belief, when Abbas was a young man, he was charged with a drug crime and was placed on supervision, but he was never sentenced to any period of incarceration.
8. Since then, although Abbas still identifies as a Muslim based on his upbringing, he has been involved in the Uptown Church in Albuquerque, New Mexico, a Baptist congregation.

9. Abbas is the primary breadwinner for our family, working as a home healthcare provider and as an Uber and Lyft driver.
10. Abbas is our family's backbone and his home healthcare clients describe him as their family.
11. Abbas fears removal to Iraq.
12. My family and I are contacting counsel to assist Abbas in obtaining relief from removal, but Abbas has not yet met with an immigration attorney since his arrest and detention.

Date: June 22, 2017

Signed:

A handwritten signature in cursive script that reads "Brenda Sisneros". The signature is written in dark ink and is positioned above the printed name.

Brenda Sisneros

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

In the Matter of:

Qassim Hashim Al-Saedy

In removal proceedings

)
)
)
)
)

File No: A 071 724 296


Declaration of Cheryl Lane

I, Cheryl Lane, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge, recollection, and understanding:

1. My name is Cheryl Lynne Lane. I have lived with Qassim Al-Saedy for 18 years. We were married from 1999 to 2002. I am the mother of Qassim's U.S. citizen son. [REDACTED]
[REDACTED]
2. Before fleeing Iraq and securing refugee status in the United States, Qassim was tortured by the Iraqi military for 6 months. They accused him of stealing guns and tortured him to get a confession out of him. He never confessed because he did not steal the guns. After 6 months with no confession, they released him. Afterwards, the Iraqi military found his brothers and tortured them, trying to get more information on Qassim.
3. Qassim came to the U.S. as a refugee in 1996.
4. In 1998, Qassim pleaded guilty to Assault, Bodily Injury in Davidson County, Tennessee. In 2002, Qassim pleaded guilty to Domestic Assault, Bodily Injury in Davidson County, Tennessee. Following his convictions, he was detained by ICE in Oakdale, Louisiana.

5. An immigration judge entered an order of removal in his case in September of 2003. However, Iraq wasn't issuing travel documents, so he was never physically deported. He has stayed in the United States since then.
6. Qassim has checked in with ICE regularly since 2013.
7. Qassim is a very hard worker. He went to truck driving school and worked as a dump-truck driver.
8. Qassim loves being in the United States and has been very supportive of the U.S. government. He worked in Georgia [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
9. Qassim has told me repeatedly about threats he receives on Facebook and YouTube from people in Iraq.
10. He sees posts by people in Iraq and will respond by criticizing ISIS and the militias. Several times, people have commented back, threatening him with death if he is ever in Iraq. He is particularly afraid of the Mahdi militia.
11. Qassim is a good person with a really big heart. He supports his siblings by sending them money when they need it. My brother is disabled, and Qassim mows his yard for him. He is always willing to help others.

Signed this 21st day of June, 2017 by _____

 06/21/17

Cheryl Lane

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

In the Matter of:)	
)	
Abdulkuder Hashem Alshimmary)	File No: A 071-676-360
)	
In removal proceedings)	

Declaration of Kellita Rivera

I, Kellita Rivera Valera, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge, recollection, and understanding:

1. My name is Kellita Rivera Valera, I have lived with Abdulkuder for 14 years. We were married in May 12, 2006. I am the mother of our three U. S. Citizen children. [REDACTED]
[REDACTED]
2. Before fleeing Iraq and living in a refugee camp for 5 years before securing refugee status in the United States, Abdulkuder was tortured by the Iraq military. During his attempt to escape the Iraqi militia, he was wounded with shrapnel in his arm and leg.
3. Abdulkuder came to the U.S. as a refugee in 1994.
4. In 1996, Abdulkuder pleaded guilty to Statutory Rape in Davidson County, Tennessee. Following his convictions, He was detained by ICE in Oakdale, Louisiana.
5. An immigration Judge entered an order of removal in his case in January 7, 1999. However, Iraq wasn't issuing travel documents, so he was never physically deported. He was stayed in the United States since then.
6. Abdulkuder has checked in with ICE regularly since 2009.
7. Abdulkuder is the main financial supporter for our family. He works as a mechanic.
8. Abdulkader considers the United States his home and he is supportive of the government of the United States.
9. Abdulkuder actively participates with his community and mosque.
10. His family in Iraq, continues to receive threats. His two brothers and father were incarcerated in order to get information and since they refused they were executed.

11. He is a peaceful who doesn't want to be involved in conflict. He is a counselor. He is helpful. He steps in to stop abuse. He is a family man who loves his kids. Everything he does, he does for his family.

Signed this 22st day of June 2017 by K. R. Valera 06/22/2017
Kellita Rivera Valera

Certificate of Translation

I, Leslie Catherine Carrillo, declare under penalty of perjury that I am competent to translate between Spanish into English, and certify that the attached translation of DECLARATION OF KELLITA RIVERA VALERA is true and accurate to the best of my abilities.

Leslie Carrillo
Leslie Catherine Carrillo
P.O. Box 90568
Nashville, TN 37209
cathy@immigrantcivilrights.com
615-594-8290

06/22/17
Date