

2020 WL 5891394

Only the Westlaw citation is currently available.

United States District Court, E.D.  
Michigan, Southern Division.

Janet MALAM, Petitioner-Plaintiff,

and

Qaid Alhalmi, et al., Plaintiff-Intervenors,

v.

Rebecca ADDUCCI, et al., Respondent-Defendants.

Case No. 20-10829

|

Signed 10/02/2020

### Attorneys and Law Firms

Rosana Santana Moura Garbacik, [Andrew D. Stacer](#), Stacer, PLC, Plymouth, MI, for Petitioner-Plaintiff.

Daniel S. Korobkin, Monica Cesilia Andrade, American Civil Liberties Union Fund of Michigan, Detroit, MI, [Jeannie S. Rhee](#), [Stanton Lawyer](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC, [Jonathan Silberstein-Loeb](#), Katharine Warren Gadsden, [Oleg Shik](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY, Miriam J. Aukerman, American Civil Liberties Union of Michigan West Michigan Regional Office, Grand Rapids, MI, for Plaintiff-Intervenor Ruby Briselda Escobar.

Daniel S. Korobkin, Monica Cesilia Andrade, American Civil Liberties Union Fund of Michigan, Detroit, MI, [Jeannie S. Rhee](#), [Stanton Lawyer](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC, [Jonathan Silberstein-Loeb](#), Katharine Warren Gadsden, [Oleg Shik](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY, Miriam J. Aukerman, American Civil Liberties Union of Michigan West Michigan Regional Office, Grand Rapids, MI, My Khanh Ngo, American Civil Liberties Union Foundation, San Francisco, CA, for Plaintiff-Intervenor Amer Toma.

Katharine Warren Gadsden, [Oleg Shik](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY, [Stanton Lawyer](#), [Jeannie S. Rhee](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC, for Plaintiff-Intervenors Tomas Cardona Ramirez, Guo Yan [Lin Castro](#), Rudy Sosa Carillo, Sergio Brito, Jose Mauricio Garcia Toledo, Emanuel Rosales Borboa, Damary Rodriguez Salabarria, Qaid Alhalmi, Min Dan Zhang, Baldemar Barajas Santoyo, Jose Gomez

Santiz, Yohandry Ley Santana, Sergio Perez Pavon, Johanna Whernman, Lenche Krcoska, Waad Barash, William Whernman, Zaid Shaher Mohammad al-Araj, Ahammad Ali, Ziggy Marcus Garvie, Juan Guerrero Bernardez, Gan Jin, Tauqir Niazi, Pedro Quijada.

Katharine Warren Gadsden, [Oleg Shik](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY, [Jeannie S. Rhee](#), Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC, for Plaintiff-Intervenors Isaac Orta Vieyra, Julio Fernando Medina Euceda, Leonard Baroi.



Kevin Hirst, Office of Immigration Litigation, Washington, DC, [Bradley Darling](#), U.S. Department of Justice, [Jennifer L. Newby](#), U.S. Attorney, Detroit, MI, for Respondent-Defendants.

### SIXTH ORDER ON BAIL [292]

JUDITH E. LEVY, United States District Judge

\*1 On September 23, 2020, Plaintiffs submitted a bail application for habeas litigation group member Zaid Shaher Mohammad al-Araj. (ECF No. 292.) On September 28, 2020, Defendants filed a response. (ECF No. 301.) On September 30, 2020, Plaintiffs filed a reply. (ECF No. 303.) After reviewing the application and briefing, the Court grants bail for group member al-Araj.

#### I. Eligibility for Bail

The Sixth Circuit has recognized the district court's "inherent authority" to grant a habeas petitioner release on bail pending adjudication of the petition's merits.  *Nash v. Eberlin*, 437 F.3d 519, 526 n.10 (6th Cir. 2006). "The district court may release petitioners on bail if there is a 'substantial claim of law' and the existence of 'some circumstance making [the motion for bail] exceptional and deserving of special treatment in the interests of justice.'" *Id.* (citing  *Lee v. Jabe*, 989 F.2d 869, 871 (6th Cir. 1993)).

On August 4, 2020, the Court found that "[t]he habeas litigation group makes a substantial claim of law" because group members have consistently shown a likelihood of success on the merits. (ECF No. 168, PageID.5294.) Additionally, the Court found that "the COVID-19 pandemic constitutes an exceptional circumstance deserving special treatment in the interests of justice." (*Id.* at PageID.5295.) Calhoun County Correctional Facility currently has twelve

positive cases for COVID-19. E-mail from Jennifer L. Newby, Assistant U.S. Att'y, to Cassandra J. Thomson, Law Clerk to Judge Judith E. Levy (Sept. 16, 2020, 17:12 EST) (on file with the Court).

The Court continues to find that these group members raise substantial claims of law and that COVID-19 presents special circumstances making the bail applications exceptional.

## **II. Zaid Shaher Mohammad al-Araj Bail Application (ECF No. 292)**

The Court makes the following findings with respect to al-Araj's bail application.

Plaintiffs write that al-Araj has no criminal history in the United States. (ECF No. 292, PageID.7396.) Plaintiffs acknowledge that al-Araj has a conviction in Jordan and Interpol Red Notice ("Red Notice") involving unpaid checks but note that these were entered in absentia and al-Araj has not had the opportunity to contest the charges since leaving Jordan. (*Id.*) Plaintiffs highlight the nature of Red Notices as procedural tools generally and the alleged deficiencies in the process of issuing the Red Notice for al-Araj specifically. (*Id.*) Additionally, Plaintiffs note that al-Araj is appealing to the Sixth Circuit Court of Appeals regarding the Immigration Judge's denial of his applications for asylum, withholding of removal, and protection under the implementing regulations for the Convention Against Torture ("CAT"). (*Id.* at PageID.7397.) If released, al-Araj will stay with his friend in Ypsilanti, Michigan. (*Id.*)

Defendants argue that al-Araj is a flight risk because an Immigration Judge denied bond to al-Araj after finding him to be a flight risk. (ECF No. 301, PageID.7542.) Defendants note that Plaintiffs fail to identify why al-Araj has not returned to Jordan to contest the charges underlying his conviction. (*Id.*)

Additionally, Defendants allege that al-Araj has not moved for a stay of removal in his pending immigration appeal before the Sixth Circuit. (*Id.* at PageID.7543.) Defendants do not argue that al-Araj is a danger to the community. (*Id.*)

\*2 Plaintiffs reply that al-Araj is not a flight risk because the Red Notice diminishes the risk that al-Araj would flee. (ECF No. 303, PageID.7652.) Plaintiffs argue that al-Araj has not returned to Jordan to contest the charges underlying the Red Notice because of the danger he faces there. (*Id.* at PageID.7653.) Plaintiffs further note that the Immigration Judge's decision denying bond appears to have relied solely on the Red Notice. (*Id.*) Additionally, Plaintiffs alleged that al-Araj intends to file for a stay of removal as he proceeds pro se in his case before the Sixth Circuit. (*Id.*)

The Court concludes that although al-Araj has a Red Notice, this Red Notice diminishes any risk of flight by al-Araj, and he will not be a flight risk. Additionally, the Court concludes that al-Araj will not be a danger to the community upon release. Accordingly, al-Araj's application for bail is granted.

## **III. Conclusion**

For the reasons stated above, the Court grants bail for habeas litigation group member al-Araj. Habeas litigation group member al-Araj's release is subject to the conditions outlined in this Court's August 12, 2020 order. (ECF No. 179.) Release under the bail process is to follow the bail process and standard Conditions of Release previously set forth. (*See* ECF Nos. 166, 177, 179, 243.)

**IT IS SO ORDERED.**

**All Citations**

Slip Copy, 2020 WL 5891394