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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Seyidxan Salih,

Petitioner,

vs.

David R. Rivas, Warden, San Luis Regional
Detention Center;

Gregory Archambeault, Field Office Director,
San Diego Field Office, Bureau of
Immigration and Customs Enforcement;

Pamela Jo Bondi, Attorney General of the
United States; and

Kristi Noem, Secretary of Homeland
Security,


Respondents.

No. 2:25-cv-2096-PHX-SMB (MTM)

**Amended Petition for a Writ of Habeas
Corpus Under 28 U.S.C. § 2241**

Petitioner Seyidxan Salih now files, with the assistance of appointed counsel, this amended petition for a writ of habeas corpus under 28 U.S.C. § 2241. This amended petition supersedes the original petition filed on June 14, 2025. (Dkt. #1) *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (explaining that “an amended pleading supersedes the original”). This petition retains all of the factual allegations and legal claims contained in the original petition, altered to conform to the declaration of Marcus Vera dated July 7, 2025 (Dkt. #16-1), plus adds new allegations in support of two new legal claims.

Technical Data

1. Mr. Salih is challenging the validity of his detention in immigration custody. His A number is 
2. Mr. Salih is challenging the decision made by U.S. Immigration and Customs Enforcement (ICE) that a prior release order, issued in approximately 2024, be revoked and that he be detained again pending removal from the United States.
3. Mr. Salih was taken into immigration custody on January 27, 2025. He is presently detained at the San Luis Regional Detention Center in San Luis, Arizona. Upon information and belief, he has not seen a judge and thus had no opportunity to exhaust his administrative remedies.

Parties, Jurisdiction, and Venue

4. Petitioner Seyidxan Salih is an ethnic Kurd and a native of Syria. He is the subject of a removal order issued in 2019, and is being detained by the respondents based on that removal order.
5. Respondent David R. Rivas is the Warden of San Luis Regional Detention Center, where Mr. Salih is being detained. He is Mr. Salih's immediate legal custodian and thus a proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).
6. Respondent Gregory J. Archambeault is the San Diego Field Office Director for U.S. Immigration and Customs Enforcement. He is responsible for Mr. Salih's detention, and thus a legal custodian of Mr. Salih.
7. Respondents Kristi Noem and Pamela Jo Bondi are, respectively, the Secretary of Homeland Security and the Attorney General of the United States. As such, they are responsible for maintaining the immigration detention system. They are thus legal custodians of Mr. Salih.
8. This Court has jurisdiction under 28 U.S.C. §§ 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; the Administrative

Procedure Act, 5 U.S.C. § 706; and the Fifth Amendment to the United States Constitution.

9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (c)(1)(B) because a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this district.

Background

10. Mr. Salih was born in Qamishli, Syria, in 1984. (Dkt. #16 at 2; Dkt. #16-1 at 3 ¶ 6) He is a member of the Kurdish ethnic minority. This map shows the location of Qamishli (the pin) within the country of Syria. (It was copied from Google Maps, and is thus a proper subject of judicial notice. *See United States v. Brown*, 636 F. Supp. 2d 1116, 1124 n.1 (D. Nev. 2009).) Qamishli is in the northeastern region of Syria that is predominately occupied by the Kurdish people.



- a. According to an October 1996 report published by Human Rights Watch on the history of the Kurds in Syria, the Kurds are the largest non-Arab ethnic minority in Syria. In 1962, a census stripped 142,465 Kurds of their Syrian citizenship (or more; Kurdish sources count over 200,000 who were stripped of their citizenship). “Since these Kurds did not—and do not—have citizenship in another country, they are stateless as a matter of international law. They have been issued special red identity cards by the Ministry of Interior and, pursuant to discriminatory state policy, are denied many rights which other Syrians enjoy, such as as the right to vote, the right to own property, and the right to have marriages legally recognized. They are not entitled to passports and thus cannot exercise the internationally guaranteed right to freedom of movement and legally leave the country. It is estimated that there [were in 1996] some 200,000 Kurds in Syria who are officially classified as ‘foreigners.’ But the Syrian government

informed Human Rights Watch in July 1996 that the number is significantly lower: 67,465 as of October 31, 1995.” Virginia N. Sherry & Human Rights Watch, *Syria: The Silenced Kurds* (Oct. 1, 1996) [hereinafter “*Silenced Kurds*”].¹

- b. The children of those stripped of Syrian citizenship in the 1962 census are similarly stateless. “One Kurdish resident of Hasakeh governorate told us that when his father, who was born in Syria, lost his nationality in the 1962 census, he and his three brothers—all born in Syria—became ‘foreigners’ as well. The four brothers have since married, and their thirty-three children, all born in Hasakeh governorate, are not Syrian citizens.”² *Id.*
- c. The State Department’s official report for 2002 on human rights practices in Syria noted that the “Government has refused to recognize the citizenship of or to grant identity documents to some persons of Kurdish descent. Their lack of citizenship or identity documents restricts them from traveling to and from the country.” U.S. Dep’t of State, *2002 Country Reports on Human Rights Practices: Syria* (Mar. 31, 2003) [hereinafter “2002 Country Report”]. The report also noted that although the Syrian government had “stopped the practice of stripping Kurds of their Syrian nationality (some 120,000 had lost Syrian nationality under this program in the 1960s), it never restored the nationality to those who lost it earlier. As a result, those who had lost their nationality, and their children, have been unable to obtain passports, or even identification cards and birth certificates. Without Syrian nationality, these stateless Kurds, who according to UNHCR [United Nations High Commissioner for Refugees] estimates number

¹ It is notable that the 1996 Human Rights Watch report says that the Syrian government has issued distinctive identification cards to the minority of stateless Kurds living in Syria, while the 2002 State Department country report says that Kurds living in Syria receive no identity documents at all from the Syrian government. This discrepancy does not affect the legal claims set forth in this petition.

² Hasakeh province is the region of Syria where most Kurds live, in the northeastern corner of the country, bordering Iraq and Turkey, two countries that also have sizable Kurdish populations.

approximately 200,000, are unable to own land, are not permitted to practice as doctors or engineers or be employed by the Government, are ineligible for admission to public hospitals, have no right to vote, and cannot travel to and from the country.” *Id.*

11. Upon information and belief, in or around 2002, Mr. Salih and his family fled Syria on account of persecution due to their Kurdish heritage. They arrived at a refugee camp in Germany in 2003, and from there were approved to resettle in the United States. He and his family settled in the San Diego area. It is unclear whether Mr. Salih’s family had been stripped of their citizenship in the 1962 census. Given that the Syrian government did not issue passports to stateless Kurds living in the country, it is similarly unclear whether Mr. Salih had in his possession a valid Syrian passport when he entered the United States in 2003.
12. Mr. Salih adjusted his status to that of a lawful permanent resident in 2007. (Dkt. #16-1 at 3 ¶ 12) *See generally* 8 U.S.C. § 1159 (providing for adjustment of status to persons admitted to the United States as refugees after one year of continuous physical presence in the United States). He retained this status until 2019, when he was stripped of lawful permanent resident status. Mr. Salih was instead granted withholding of removal because of his fear of persecution in Syria on account of his Kurdish ethnic heritage. (Dkt. #16-1 at 4 ¶ 16) *See* 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 208.16(b) (allowing for withholding of removal for persons who fear that their “life or freedom would be threatened” in a country to which they had been ordered removed “on account of... membership in particular social group”); *Mgoian v. INS*, 184 F.3d 1029, 1037 (9th Cir. 1999) (explaining that a credible fear of persecution on account of membership in the Kurdish ethnic minority qualified for asylum).
13. In November 2022 Mr. Salih was convicted in the San Diego County Superior Court of one count of willfully inflicting corporal injury on a domestic partner, in violation of Cal. Penal Code § 273.5. This conviction rendered him statutorily ineligible for withholding of

removal. *See Garcia Aguilar v. Garland*, No. 23-986, 2024 WL 4635243, at *1 (9th Cir. Oct. 31, 2024). On or about August 13, 2024, Mr. Salih was ordered removed from the United States following the termination of his withholding of removal. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Nevertheless, on August 27, 2024, ICE officials allowed him to remain at liberty subject to conditions even after this removal order became final.

14. Mr. Salih was arrested by ICE officials on January 27, 2025, at his place of work in the San Diego area. He was ultimately transferred to the San Luis Regional Detention Center in San Luis, Arizona. He remains detained there today.
 - a. Mr. Salih's release in August 2024 presumably rested on the fact that there was then, in the government's estimation, no significant likelihood of removal in the reasonably foreseeable future. Respondents have not yet said anything to refute this presumption.
 - b. On January 20, 2025, President Trump directed the Secretary of Homeland Security to take steps to "ensur[e] the successful enforcement of final orders of removal." Executive Order No. 14159, § 4, 90 Fed. Reg. 8443, 8444 (Jan. 29, 2025).
 - c. Mr. Salih's arrest one week later appears to be consistent with this directive. What the government has not yet explained is what changed about its assessment that there was no significant likelihood of removal in the reasonably foreseeable future in the four months between Mr. Salih's release and his re-detention.
15. Even so, as of May 27, 2025, ICE had been unsuccessful in obtaining travel documents to facilitate Mr. Salih's return to Syria. (Dkt. #16-1 at 5 ¶ 31)
16. There is reason to believe that ICE will not succeed in obtaining these travel documents in the future.
 - a. Generally, these documents are obtained from the embassy of the country to which removal has been ordered. *See generally, e.g., Senor v. Barr*, 401 F. Supp. 3d 420, 430-31 (W.D.N.Y. 2019) (finding no significant likelihood of removal where

Haitian Embassy stopped responding to requests for travel documents); *Callender v. Shanahan*, 281 F. Supp. 3d 428, 432–33 (S.D.N.Y. 2017) (explaining that ICE had contacted the Embassy of Barbados in order to obtain travel documents); *Bah v. Cangemi*, 489 F. Supp. 2d 905, 911 (D. Minn. 2007) (explaining that ICE had submitted a request for travel documents to the Liberian Embassy).

- b. But Syria does not appear to have any diplomatic presence whatsoever in the United States. The State Department explains that there is presently “no diplomatic or consular representation for Syria in the United States.” It refers consular-notification requests to the Syrian Honorary Consul in Montreal, Quebec, Canada. Nothing in the State Department’s explanation suggests that the Syrian Embassy to the United States may reopen in the foreseeable future.
 - c. Nor does it appear that the diplomatic presence of the Syrian government in all of Canada can issue a passport to Mr. Salih. A Google search for “honorary consulate of syria in montreal” reveals that the Syrian Honorary Consul in Montreal is permanently closed. The website linked to the Google profile is inoperative. There is an Honorary Consulate for Syria in Vancouver, British Columbia, Canada, but it says it has “no jurisdiction to issue new Syrian passports and the extension of Syrian passport [*sic*] is not available anymore.” Nor is there any indication whether the Syrian Embassy to Canada might reopen in the foreseeable future.
 - d. The Syrian consulate in Vancouver refers Syrians who need passports to the Syrian Embassy in Havana, Cuba. It does not appear that the Syrian Embassy in Havana has an official presence on the internet.
17. Even if the Syrian Embassy to the United States or to Canada were open for the business of issuing travel documents to Syrian citizens, there remains the distinct possibility that Mr. Salih would never be recognized as a citizen if his parents lost their citizenship in the 1962 census.

18. In sum, because the Syrian Embassies in both the United States and Canada are presently closed, and Mr. Salih may be the descendant of stateless Syrians by virtue of the 1962 census, there is no significant likelihood that ICE will be able to obtain travel documents for him in the reasonably foreseeable future. There is similarly no basis to believe that the fact that “the United States has removed 41 individuals to Syria in 2025” (Dkt. #16-1 at 5 ¶ 34) has any bearing on the government’s ability to remove Mr. Salih to Syria in the reasonably foreseeable future.
19. The current administration’s desire to remove people to third countries—notably including El Salvador, Libya, South Sudan, and Eswatini (formerly Swaziland)—is well documented. *See, e.g., DHS v. D.V.D.*, 145 S. Ct. 2153, 2154 (2025) (Sotomayor, J., dissenting) (describing an “internal guidance document” issued by DHS on February 18, 2025, that directed “immigration officers to review for removal all cases on the non-detained docket and determine the viability of removal to a third country”). But because Mr. Salih has not been ordered removed to any country other than Syria, he has not had adequate notice and an opportunity to request protection against persecution or torture in any third country.

Grounds for Relief

Ground One: Mr. Salih’s detention in immigration custody violates the Due Process Clause of the Fifth Amendment because there is no realistic possibility of his being removed to Syria in the foreseeable future.

20. Mr. Salih and his family fled Syria because they faced persecution there on account of their Kurdish ethnicity. Mr. Salih still fears persecution there on that basis.
21. Having been allowed to remain at liberty under an order of supervision approximately four months earlier, Mr. Salih was nevertheless taken into custody at his workplace in the San Diego area on January 27, 2025. He has been detained by immigration officials ever since. It is not likely that ICE officials will be able to obtain travel documents for him in the foreseeable future because the Syrian Embassies in the United States and Canada are

indefinitely closed, and he may lack Syrian citizenship by virtue of the Syrian government's decision to strip his parents of their citizenship in the 1962 census.

22. The Due Process Clause of the Fifth Amendment limits an alien's "detention to a period reasonably necessary to bring about that alien's removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this constitutional limitation, 8 U.S.C. § 1231 "does not permit indefinite detention." *Id.*
23. If the alien "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701.
24. Although Mr. Salih has not yet been detained by immigration officials for over six months, *see id.* (imposing a presumption of indefinite detention after six months of detention), this petition is not premature. Because the Syrian Embassies in the United States and Canada are closed, and Mr. Salih may in fact be stateless, there is no significant likelihood that he will be removed to Syria in the reasonably foreseeable future. This Court accordingly should order Mr. Salih released from immigration detention now, subject to appropriate conditions.

Ground Two: Mr. Salih's detention in immigration custody pending removal to any third country violates the Due Process Clause of the Fifth Amendment because ICE has not given him sufficient notice of the proposed third country and an opportunity to request deferral or withholding of removal to that country under CAT.

25. "It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (*per curiam*) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Mr. Salih thus is entitled to "notice and an opportunity to be heard appropriate to the nature of the case." *Id.* (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). As relevant here, this means that Mr. Salih is entitled to notice that he is to be removed to a third country "within a reasonable time and in such a manner as will allow [him] to actually seek habeas relief in the proper venue before such removal occurs." *Id.*

26. Upon information and belief, Mr. Salih has not been formally ordered removed to any country other than Syria. As such, he has never had an opportunity to contest removal to any third country on the ground that he may face persecution or torture if he is removed to that country.
27. To the extent that Mr. Salih's detention is meant to facilitate his removal to a third country, *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention following a removal order is intended to facilitate removal), if such a removal is to be accomplished in violation of his due-process rights, then his present detention is illegal. This due-process claim "necessarily impl[ies] the invalidity of [his] confinement and removal" to a third country not yet named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his due-process claim is properly brought in a habeas petition, and a court order that he be released from detention is a proper remedy for such a violation. This Court should order him released from custody on supervision unless and until the respondents afford him adequate notice and an opportunity to contest his removal to any country other than Syria.

Ground Three: Mr. Salih's detention in immigration custody violates the Administrative Procedure Act because respondents' decision to detain him in January 2025 was arbitrary and capricious.

28. The Administrative Procedure Act, 5 U.S.C. § 706(2) (APA), requires this Court to "hold unlawful and set aside agency action" that is "(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D) without observance of procedure required by law[.]"
29. "[T]he touchstone of arbitrary and capricious review under the APA is reasoned decisionmaking.'" *Y-Z-L-H v. Bostock*, No. 3:25-cv-965-SI, 2025 WL 1898025, at *11 (D. Or. Jul. 9, 2025) (*quoting Altera Corp. & Subsidiaries v. Comm'r*, 926 F.3d 1061, 1080 (9th Cir. 2019) (internal quotation marks omitted)). "[A]n agency's action can only survive

arbitrary or capricious review where it has articulated a satisfactory explanation for its action including a rational connection between the facts found and the choice made.’” *Id.* (quoting *Alliance for the Wild Rockies v. Petrick*, 68 F.4th 475, 493 (9th Cir. 2023)). “A court ‘may not infer an agency’s reasoning from mere silence,’” *id.* (quoting *Arrington v. Daniels*, 516 F.3d 1106, 1112 (9th Cir. 2008)), “because ‘it makes no difference what [an agency] may have had in mind but failed to express; an administrative agency is not allowed to change direction without some explanation of what it is doing and why.’” *Id.* (quoting *Int’l Union, UAW v. NLRB*, 802 F.2d 969, 973–74 (7th Cir. 1986)). “An agency may not, for example, depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). In addition, an agency’s failure to “‘adhere firmly to self-adopted rules by which the interests of others are to be regulated,’” is “unlawful and thus actionable under [the APA].” *Damus v. Nielsen*, 313 F. Supp. 3d 317, 336–37 (D.D.C. 2018) (quoting *Mass. Fair Share v. Law Enf’t Assistance Admin.*, 758 F.2d 708, 711 (D.C. Cir. 1985)).

30. ICE’s re-detention of Mr. Salih violates the APA.

- a. In 2024, the agency recognized that Mr. Salih was an appropriate candidate for release, and decided to release him. (Dkt. #16-1 at 4 ¶ 23) This decision presumably rested on a sufficient showing of identity, lack of flight risk, and lack of danger. *See* 8 U.S.C. § 1226(c)(4); 8 C.F.R. § 236.1(c)(3), (c)(8); 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(b).
- b. In 2025, the agency suddenly reversed this decision in a lawless and arbitrary fashion. In defiance of the applicable statutes, regulations, and directive, the agency reversed its release decision without identifying any change of circumstances having any particular relevance to Mr. Salih. (Dkt. #16-1 at 4–5 ¶ 25) Nothing had changed between August 2024 and January 2025 with respect to the actual likelihood of removing Mr. Salih to Syria in the reasonably foreseeable future. The Syrian government still lacks any diplomatic presence in

the United States or in Canada. Nothing in the declaration submitted with respondents' answer to Mr. Salih's original petition explains which officials of the Syrian government—if any—have responded to their requests on Mr. Salih's behalf for travel documents.

c. This is arbitrary and unlawful agency action in its purest form. Pursuant to the APA, it must be set aside. *See Y-Z-L-H*, 2025 WL 1898025, at *14 (granting habeas corpus petition pursuant to APA and barring detention of asylum-seeker whose release was summarily revoked via mass DHS email); *Doe v. Noem*, No. 1:25-CV-10495-IT, 2025 WL 1099602 (D. Mass. Apr. 14, 2025) (staying, as violative of the APA, premature revocation without case-by-case review of parole granted to noncitizens from certain countries).

31. This APA claim “necessarily impl[ies] the invalidity of [his] confinement and removal” to a third country not yet named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his APA claim is properly brought in a habeas petition, and a court order that he be released from detention is a proper remedy for arbitrary and capricious agency action.

Prayer for Relief

32. Mr. Salih is being illegally detained, in violation of the Due Process Clause of the Fifth Amendment and the Administrative Procedure Act. He respectfully asks the Court to:
- a. order the government to answer this petition;
 - b. permit him to file a reply in support;
 - c. allow him to conduct discovery in order to support his claim for relief;
 - d. convene an evidentiary hearing, if needed to resolve disputed facts;
 - e. order Respondents to release him from their custody under supervision; and
 - f. grant any other relief that is just and practicable.

Respectfully submitted:

July 21, 2025.

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