

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

SAHAND YOUSEFI NASRABADI,

Petitioner,

v.

MARCELLO VILLEGAS, et al.,

Respondent.

Civil Action No. 1:25-CV-00129-H

APPENDIX IN SUPPORT OF RESPONSE IN OPPOSITION

COME(S) NOW Respondent(s), by and through the United States Attorney for the Northern District of Texas, and pursuant to Local Rule 7.1(i), file this separate, self-contained Appendix, consisting of Exhibit A and Attachments 1-6 in support of Respondent's Response to Preliminary Injunction and Habeas Petition.

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A.	Declaration of Ryan Lankford.....	APP. 001-005
1.	Indictment, <i>Sahand Yousefi Nasrabadi</i> (Aug 22, 2012); Order of Deferred Adjudication, <i>The State of Texas v. Sahand Yousefi Nasrabadi</i> , Case No. 1287243D, 372ND District Court, Tarrant County, Texas (Sept 13, 2013); Judgment and Sentence, <i>The State of Texas v. Sahand Yousefi Nasrabadi</i> , Case No. 1287243, 372ND District Court, Tarrant County, Texas (Sept 13, 2013).....	APP. 006-014
2.	U.S. Department of Homeland Security, <i>Notice to Appear (Form I-862)</i> (Oct 11, 2013)	APP. 015-018
3.	U.S. Immigration Court, <i>Order</i> (Oct 21, 2013)	APP. 019-021

4. U.S. Department of Justice, Executive Office for Immigration Review, *Order of the Immigration Judge* (Jun 30, 2025).....APP. 022-027
5. U.S. Department of Homeland Security, *Exhibit A - Memorandum - Guidance Regarding Third Country Removals* (Mar 30, 2025).....APP. 028-031
6. Supreme Court of the United States, *Department of Homeland Security, et al., v. D.V.D., et al.*, No. 25-10676 (D. Mass) (Jun 23, 2025).....APP. 032-051

Respectfully submitted,

NANCY E. LARSON
ACTING UNITED STATES ATTORNEY

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney
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Attorneys for Respondent

CERTIFICATE OF SERVICE

On August 17, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically

or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

SAHAND YOUSEFINASRABADI,

Petitioner,

v.

MARCELLO VILLEGAS, et al.,


Respondents.

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Case No. 1:25-CV-00129-H

DECLARATION OF RYAN J. LANKFORD

In accordance with the provisions of Section 1746 of Title 28, United States Code, I, the undersigned, Ryan J. Lankford, do hereby make the following declaration, under penalty of perjury in the above-styled and numbered cause:

1. I, Ryan J. Lankford, am presently employed by the United States Department of Homeland Security (“DHS” or the “Department”), Immigration and Customs Enforcement (“ICE”), in the position of Deportation Officer.
2. My duties as a Deportation Officer include the review of alien files and monitoring the custody status of aliens who have a final order removal. In carrying out this duty, I am responsible for obtaining and monitoring the progress of obtaining travel documents necessary for removing aliens to the designated country of removal. As a Deportation Officer, I have access to records maintained in the ordinary course of business by ICE.
3. I am familiar with the case of Sahand YOUSEFINASRABADI, alien file number  a native and citizen of Iran. I have reviewed his case and

I am familiar with his detention history, the efforts to obtain travel documents, and the custody determinations made in his case.

4. YOUSEFINASRABADI entered the United States on or about December 8, 2010, and was granted lawful permanent resident status.
5. On September 13, 2013, YOUSEFINASRABADI was convicted of Injury to a Child, Intentionally or Knowingly Causing Bodily Injury, a Third Degree Felony, in Tarrant County, Texas.
6. On October 11, 2013, YOUSEFINASRABADI was taken into ICE custody and issued a Notice to Appear which placed him into removal proceedings.
7. On October 21, 2013, YOUSEFINASRABADI was ordered removed by an immigration judge in Dallas, TX.
8. YOUSEFINASRABADI did not appeal the decision, therefore the removal order became final.
9. Thereafter, on January 17, 2014, YOUSEFINASRABADI was released from ICE custody and placed under an Order of Supervision because ERO was unable to remove him to Iran at that time.
10. On or about June 10, 2025, YOUSEFINASRABADI's attorney filed a motion to reconsider the 2013 removal order.
11. On June 23, 2025, YOUSEFINASRABADI was arrested and taken into ICE custody. At the time of his arrest, YOUSEFINASRABADI was informed that he would be detained because he was subject to a final order of removal and there is now a likelihood of removal to Iran. In accordance with 8 C.F.R. § 241.13(i)(3),

he was informed that the reason for his revocation and was given the opportunity to respond during this informal interview.

12. On or about June 30, 2025, an immigration judge denied the motion to reconsider. The removal order remained valid.
13. On or about July 3, 2025, a Detention and Deportation Officer from the Headquarters Removal and International Operations (“HQRIO”) group met with the Interest Section of Iran and discussed YOUSEFINASRABADI’s case. The Interest Section of Iran expressed a willingness to help facilitate removal in this case.
14. A formal travel document request is being prepared and will be submitted to the Iranian Interest Section for review and approval. If a travel document is issued, ICE will effectuate YOUSEFINASRABADI’s removal to Iran.
15. If the Iranian Interest Section declines to issue a travel document, HQRIO will likely explore the possibility of a third-country removal.
16. In the event that removal to a country other than Iran is planned, an ERO officer will serve YOUSEFINASRABADI a Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he understands.
17. ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal.

18. If the alien does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, ERO will proceed with removal to the country identified on the notice.
19. If the alien does affirmatively state a fear if removed to the country of removal listed on the Notice of Removal, ERO will refer the case to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under section 241(b)(3) of the INA and the Convention Against Torture (CAT). USCIS will generally screen the alien within 24 hours of referral.
20. If USCIS determines that the alien has not met this standard, the alien will be removed.
21. If USCIS determines that the alien has met this standard, the case will be referred for further proceedings for the sole purpose of determining eligibility for protection under section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Sworn to and subscribed this 14th day of August, 2025.

RYAN J LANKFORD
Digitally signed by
RYAN J LANKFORD
Date: 2025.08.14
09:09:54 -05'00'

Ryan J. Lankford
Deportation Officer
Department of Homeland Security
Immigration and Customs Enforcement

ATTACHMENT 1

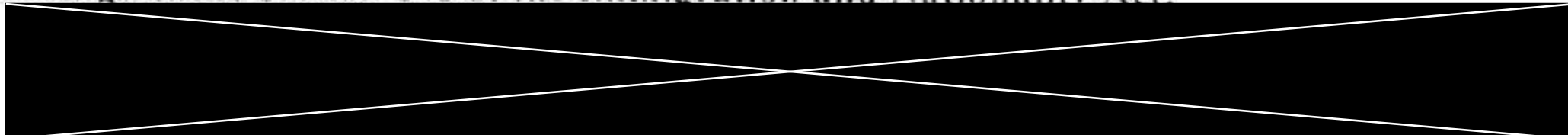
ATTACHMENT 2

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID :



In the Matter of:

Sahand YOUSEFINASRABADI

Respondent:

currently residing at:


ROLLING PLAINS DETENTION CENTER 118 CR. 206 , HASKELL TEXAS 79521

(Number, street, city and ZIP code)

(Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of IRAN and a citizen of IRAN;
3. You were admitted to the United States at New York City, NY on or about December 8, 2010 as an IMMIGRANT;
4. You were, on 9/13/2013, convicted in the 372nd DISTRICT COURT AT TARRANT COUNTY, TEXAS for the offense of  committed on or about 5/1/2012 (in violation of FC 22.04(2) 1);
5. For that offense, a sentence of one year or longer may be imposed.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: 1100 Commerce Street, Room 1060 Dallas TEXAS US 75242

on a date to be set at a time to be set to show why you should not be removed from the United States based on the charge(s) set forth above:

charge(s) set forth above:

G. HUTT #D04358

ASDDO

Date: October 11, 2013

DALLAS, TX

(City and State)

See reverse for important information

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses or locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro-contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on October 11, 2013 in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- in person by certified mail, returned receipt requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

ENGLISH

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

J. KIRKLAND, #D06180 DEPORTATION OFFICER
(Signature and Title of officer)

U.S. Department of Homeland Security

Continuation Page for Form I862

Alien's Name Sahand YOUSEFINASRABADI	File Number 	Date October 11, 2013
ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW: =====		
Section 237(a)(2)(A)(i) of the Immigration and Nationality Act, as amended, in that you have been convicted of a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer may be imposed.		
Section 237(a)(2)(E)(i) of the Immigration and Nationality Act, as amended, in that you are an alien who at any time after entry has been convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment.		
Signature  G. HUTT #004355	Title ASDDO	

3 of 3 Pages

ATTACHMENT 3

UNITED STATES IMMIGRATION COURT
1189 COMMERCE ST., SUITE 1060
DALLAS, TX 75242

IN THE REMOVAL CASE OF
YOUSSEF NASRABADI, SAHAND
RESPONDENT

CASE NO. 

ORDERS

- This is a memorandum of the Court's Decision and Orders entered on 08/17/2025. This memorandum is solely for the convenience of the parties. The oral or written Findings, Decision and Orders is the official opinion in this case. Both parties waived issuance of a formal oral decision in the case.
- The respondent was ordered REMOVED from the United States to Iran in absentia.
- Respondent's application for VOLUNTARY DEPARTURE was DENIED and respondent was ordered removed to _____, as the alternative to _____.
- Respondent's application for VOLUNTARY DEPARTURE was GRANTED until _____ upon posting a voluntary departure bond in the amount of \$ _____ to DHS within five business days from the date of this Order, with an alternate order of removal to _____ or _____. Respondent shall present to DHS within thirty days sixty days from the date of this Order, all necessary travel documents for voluntary departure.
- Respondent's application for ASYLUM was granted denied withdrawn with prejudice.
 subject to the ANNUAL CAP under the INA section 207(a)(5).
 Respondent knowingly filed a FRIVOLOUS asylum application.
- Respondent's application for WITHHOLDING of removal under INA section 241(b)(3) was granted denied withdrawn with prejudice.
- Respondent's application for WITHHOLDING of removal under the Torture Convention was granted denied withdrawn with prejudice.
- Respondent's application for DEFERRAL of removal under the Torture Convention was granted denied withdrawn with prejudice.
- Respondent's application for CANCELLATION of removal under section 203(b) of NACARA 240A(a) 240A(b)(1) 240A(b)(2) of the INA, was granted denied withdrawn with prejudice. If granted, it was ordered that the DHS issue all appropriate documents necessary to give effect to this Order. Respondent is is not subject to the ANNUAL CAP under INA section 240A(e).
- Respondent's application for a WAIVER under the INA section _____ was granted denied withdrawn or other _____. The conditions imposed by INA section 216 on the respondent's permanent resident status were removed.
- Respondent's application for ADJUSTMENT of status under section _____ of the INA NACARA _____ was granted denied withdrawn with prejudice. If granted, it was ordered that DHS issue all appropriate documents necessary to give effect to this Order.

CASE NUMBER XXXXXXXXXX

RESPONDENT: YOUSEFINASRABADI, SAHRND

- Respondent's status was RESCINDED pursuant to the INA section 246.
- Respondent's motion to WITHDRAW his application for admission was
 - granted denied. If the respondent fails to abide by any of the conditions directed by the district director of DHS, then the alternate Order of removal shall become immediately effective without further notice or proceedings; the respondent shall be removed from the United States to _____
- Respondent was ADMITTED as a _____ until _____ As a condition of admission, the respondent was ordered to post a \$ _____ bond.
- Case was TERMINATED with without prejudice ADMINISTRATIVELY CLOSED.
- Respondent was orally advised of the LIMITATION on discretionary relief and consequences for failure to depart as ordered.
 - If you fail to voluntarily depart when and as required, you shall be subject to civil money penalty of at least \$1,000, but not more than \$5,000, and be ineligible for a period of 10 years for any further relief under INA sections 240A, 240B, 245, and 248 (INA Section 240B(d)).
 - If you are under a final order of removal, and if you willfully fail or refuse to 1) depart when and as required, 2) make timely application in good faith for any documents necessary for departure, or 3) present yourself for removal at the time and place required, or, if you conspire to or take any action designed to prevent or hamper your departure, you shall be subject to civil money penalty of up to \$500 for each day under such violation. (INA section 274D(a)). If you are removable pursuant to INA 237(a), then you shall further be fined and/or imprisoned for up to 10 years. (INA section 243(a)(1)).
- Other: _____

Date: Oct 31, 2013


JAMES NUGENT, Judge

APPEAL: waived reserved by Respondent DHS Both
DUE BY:

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL PERSONAL SERVICE

TO: DHS ALIEN Alien's ATT/REP ALIEN c/o Custodial Officer

DATE: _____ BY: COURT STAFF JUDGE

ATTACHMENT 4



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
DALLAS IMMIGRATION COURT

Respondent Name:

YOUSEFINASRABADI, SAHAND

To:

Patel, Vinesh
1111 W. Mockingbird Ln
Suite 680
Dallas, TX 75247

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/30/2025

- Unable to forward - no address provided.
- Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

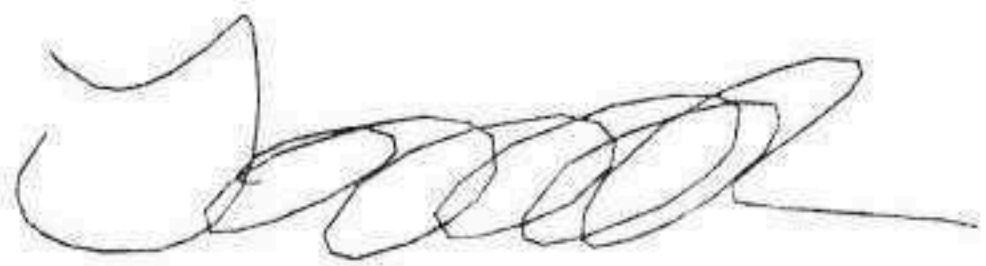
- Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

- Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA § 242.

- Case 1:25-cv-00129-H Document 14 Filed 08/17/25 Page 27 of 54 PageID 109
- Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.
 - Other:


Date:



Immigration Judge: NASELOW-NAHAS, TARA 06/30/2025

Certificate of Service

This document was served:

Via: M] Mail | P] Personal Service | E] Electronic Service | U] Address Unavailable
To: Noncitizen | Noncitizen c/o custodial officer | M] Noncitizen's atty/rep. | M] DHS
Respondent Name : YOUSEFINASRABADI, SAHAND | A-Number : 

Riders:

Date: 06/30/2025 By: Alcaine, Salvador, Court Staff



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
DALLAS IMMIGRATION COURT

Respondent Name:

YOUSEFINASRABADI, SAHAND

To:

Patel, Vinesh
1111 W. Mockingbird Ln
Suite 680
Dallas, TX 75247

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/30/2025

ORDER OF THE IMMIGRATION JUDGE

Respondent the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
 granted denied for the following reason(s):

- The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- Other:

A motion to reconsider must be filed within 30 days of a final administrative order of removal. INA § 240(c)(6)(B). The motion must specify the errors of law or fact in the previous order and be supported by pertinent authority. INA § 240(c)(6)(C). Respondent was ordered removed on October 21, 2013. He did not file a motion to reconsider until June 10, 2025, well over 30 days after his removal order. Respondent argues that the 30-day deadline should be equitably tolled.

The Fifth Circuit has held that a respondent can claim equitable tolling of the 90-day deadline for motions to reopen. *Lugo-Resendez v. Lynch*, 831 F.3d 337, 343-44 (5th Cir. 2016). Respondent cites to an unpublished Fifth Circuit case that extends equitable tolling to motions to reconsider. *See Amaro v. Garland*, No. 23-60330, 2024 WL 1478880 (5th Cir. April 5, 2024) (unpublished). Assuming the Court can equitably toll the 30-day deadline on a motion to reconsider, the respondent must establish “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.” *Lugo-Resendez*, 831 F.3d at 343-44.

Here, Respondent argues that Court made errors at Respondent’s October 21, 2013, hearing, specifically “legal omissions and language-access failures” that constitute an extraordinary circumstance. *See* Motion to Reconsider at 14. Respondent claims that the hearing was improperly conducted in English, and he was not able to understand or ask clarifying questions. *Id.* at 19. He

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further claims that the Court erred in finding him removable and finding that he was only eligible for deferral of removal under the Convention Against Torture (CAT). *Id.* at 14. After a careful review of the record, the Court finds that none of these alleged errors constitute an extraordinary circumstance.

First, although Respondent claims that his English is limited and that he had difficulty communicating in the hearing, a review of the record disputes this claim. *Id.* at 19. On October 21, 2013, the Court explained Respondent's rights to him in the English language. The Court then asked if Respondent understood his rights, and Respondent stated that he did. Respondent never asked any questions about his rights nor expressed that he had not understood even though he was given a chance to make any question known. The Court also asked if Respondent wanted additional time to find an attorney to represent him in immigration proceedings, and Respondent declined. As the hearing progressed, Respondent was able to clearly articulate both his insistence that he had not committed the crime he was convicted of and that he feared harm should he return to Iran. The Court finds that Respondent was able to clearly express himself in the English language and was given ample opportunity to ask for clarification on anything he did not understand.

Next, Respondent claims that he was improperly found removable under INA § 237(a)(2)(A)(i) for a crime involving moral turpitude (CIMT) and § 237(a)(2)(E) for a crime of child abuse. Even if this Court assumes that Respondent's conviction is not a CIMT, the conviction is a crime of child abuse under Fifth Circuit law. See [REDACTED]

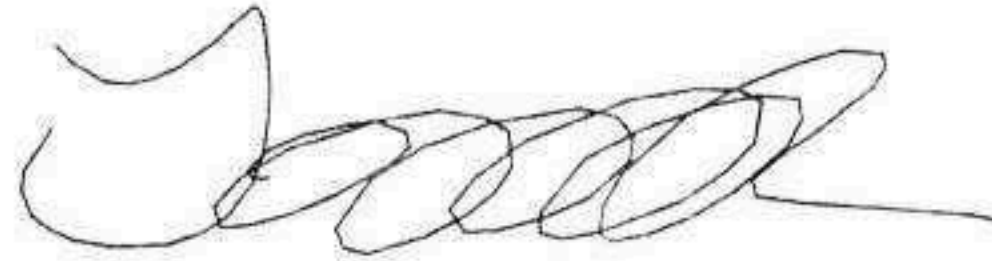
[REDACTED] Respondent was asked to plead to the factual allegations on the Notice to Appear. Based on his admissions and the criminal documents in the record, the Court properly found that Respondent is removable under INA § 237(a)(2)(E).

Finally, Respondent claims that the Court improperly explained the forms of relief available to him and did not explain the consequences of the Court's particularly serious crime finding. See Motion to Reconsider at 13. However, a review of the record shows that Respondent had no interest in pursuing any form of relief with the Court. Respondent was asked if he wanted additional time to find an attorney and he declined. Then, he expressed his fear of returning to Iran, and so the Court gave him the opportunity to apply to relief from removal under the CAT. However, Respondent declined to apply for any relief from removal. He expressed to the Court that he was tired of being in the U.S. and felt that he had been unjustly convicted. The Court confirmed with him multiple times that his refusal to seek relief would mean he would be removed to Iran, a country that Respondent had just expressed fear of returning to. However, Respondent clearly stated that he would accept the Court's removal order as he no longer wanted to be in the U.S. Accordingly, based on Respondent statements in the hearing, the Court finds that Respondent had no desire to pursue any relief before the Immigration Court and wanted to leave the country. Respondent was not misled by the Court as he claims. Thus, the Court finds that no extraordinary circumstance prevented Respondent from timely filing this motion. He has not shown that he merits equitable tolling, and so his motion is untimely and is denied.

Respondent also claims that the Court should sua sponte reconsider this case under 8 C.F.R. § 1003.23(b)(1). As discussed above, a close review of the record disputes Respondent's claims.

Accordingly, the Court will decline to sua sponte reconsider its decision. Because the Court is denying Respondent's motion to reconsider, his motion for a stay of removal is also denied.

Respondent's motion to reconsider is hereby DENIED.
Respondent's motion to stay removal is hereby DENIED.



Immigration Judge: NASELOW-NAHAS, TARA 06/30/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due:

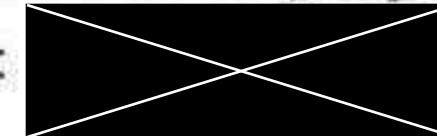
Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Noncitizen | [] Noncitizen c/o custodial officer | [M] Noncitizen's atty/rep. | [M] DHS

Respondent Name : YOUSEFINASRABADI, SAHAND | A-Number :



Riders:

Date: 06/30/2025 By: Alcaine, Salvador, Court Staff

ATTACHMENT 5

EXHIBIT A

Office of the Secretary
U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

March 30, 2025

MEMORANDUM FOR: Kika Scott
Senior Official Performing the Duties of the Director
U.S. Citizenship and Immigration Services

Pete R. Flores
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

Todd Lyons
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Kristi Noem
Secretary of Homeland Security

A handwritten signature in black ink, appearing to read "Kristi Noem", written over the printed name and title.

SUBJECT: **Guidance Regarding Third Country Removals**

Purpose

This memorandum clarifies DHS policy regarding the removal of aliens with final orders of removal pursuant to sections 240, 241(a)(5), or 238(b) of the Immigration and Nationality Act (INA) to countries other than those designated for removal in those removal orders (third country removals).¹ DHS has used similar processes before, including with respect to Title 42 expulsions and the Migrant Protection Protocols.

Process Regarding Third Country Removals²

Written Notice to the Alien & Fear Screening

Prior to the alien's removal to a country that had not previously been designated as the country of removal, DHS must determine whether that country has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured. If the United States has received such assurances, and if the Department of State believes those assurances to be credible, the alien

¹ This memorandum does not address expedited removals pursuant to INA § 235(b)(1).

² These procedures only apply to aliens who have no ongoing proceeding in which to raise a claim under INA § 241(b)(3) or the Convention Against Torture. For aliens who have such proceedings, DHS will follow existing procedures.

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may be removed without the need for further procedures. If the United States has not received those assurances, or if the Department of State does not believe them to be credible, DHS must follow the procedures below.

DHS will first inform the alien of removal to that country. Immigration officers will not affirmatively ask whether the alien is afraid of being removed to that country. DHS is taking this approach in line with its determination in mid-2024 that such questioning may be suggestive and that asking them leads to false claims rendering the immigration system as a whole less efficient. *Securing the Border*, 89 Fed. Reg. 48710, 48743 (June 7, 2024) (noting that aliens are “more likely to respond in the affirmative, even if they do not in fact have a fear of return or intention of seeking asylum” when asked affirmative fear questions); *Securing the Border*, 89 Fed. Reg. 81156, 81235 (Oct. 7, 2024). The allegation that a foreign country’s government will torture an alien or allow an alien to be persecuted, particularly a government with which the United States has a diplomatic relationship, is a serious one. It is not unreasonable for an alien in that circumstance to be expected to affirmatively express a fear of persecution or torture.

Immigration officers will refer any alien who affirmatively states a fear of removal to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under INA § 241(b)(3) and the Convention Against Torture (CAT) for the country of removal.

Where the Alien Affirmatively States a Fear

In cases where the alien affirmatively states a fear, USCIS will generally screen the alien within 24 hours of referral from the immigration officer. This screening may be done remotely. USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal. If USCIS determines that the alien has not met this standard, the alien will be removed.

If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the Immigration Court, USCIS will refer the matter to the Immigration Court in the first instance. In cases where the alien was previously in proceedings before the Immigration Court, USCIS will notify the referring immigration officer of its finding, and the immigration officer will inform U.S. Immigration and Customs Enforcement (ICE). ICE OPLA may file a motion to reopen with the Immigration Court or the Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under INA § 241(b)(3) and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

ATTACHMENT 6

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SUPREME COURT OF THE UNITED STATES

No. 24A1153

DEPARTMENT OF HOMELAND SECURITY, ET AL. *v.*
D.V.D., ET AL.

ON APPLICATION FOR STAY

[June 23, 2025]

The application for stay presented to JUSTICE JACKSON and by her referred to the Court is granted. The April 18, 2025, preliminary injunction of the United States District Court for the District of Massachusetts, case No. 25-cv-10676, is stayed pending the disposition of the appeal in the United States Court of Appeals for the First Circuit and disposition of a petition for a writ of certiorari, if such writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event certiorari is granted, the stay shall terminate upon the sending down of the judgment of the Court.

JUSTICE SOTOMAYOR, with whom JUSTICE KAGAN and JUSTICE JACKSON join, dissenting.

In matters of life and death, it is best to proceed with caution. In this case, the Government took the opposite approach. It wrongfully deported one plaintiff to Guatemala, even though an Immigration Judge found he was likely to face torture there. Then, in clear violation of a court order, it deported six more to South Sudan, a nation the State Department considers too unsafe for all but its most critical personnel. An attentive District Court's timely intervention only narrowly prevented a third set of unlawful removals to Libya.

Rather than allowing our lower court colleagues to manage this high-stakes litigation with the care and attention

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it plainly requires, this Court now intervenes to grant the Government emergency relief from an order it has repeatedly defied. I cannot join so gross an abuse of the Court's equitable discretion.

I
A

Federal law generally permits the Government to deport noncitizens found to be unlawfully in the United States only to countries with which they have a meaningful connection. 8 U. S. C. §1231(b). To that end, Congress specified two default options: noncitizens arrested while entering the country must be returned to the country from which they arrived, and nearly everyone else may designate a country of choice. §§1231(b)(1)(A), (b)(2)(A). If these options prove infeasible, Congress specified which possibilities the Executive should attempt next. These alternatives include the noncitizen's country of citizenship or her former country of residence. §§1231(b)(1)(C), (2)(E).

This case concerns the Government's ability to conduct what is known as a "third country removal," meaning a removal to any "country with a government that will accept the alien." §1231(b)(1)(C)(iv); see §1231(b)(2)(E)(vii). Third-country removals are burdensome for the affected noncitizen, so Congress has sharply limited their use. They are permissible only after the Government tries each and every alternative noted in the statute, and determines they are all "impracticable, inadvisable, or impossible." §§1231(b)(1)(C)(iv), (2)(E)(vii).

Noncitizens facing removal of any sort are entitled under international and domestic law to raise a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U. N. T. S. 113. Article 3 of the Convention prohibits returning any person "to another State where there are substantial grounds for believing

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that he would be in danger of being subjected to torture.” The United States is a party to the Convention, and in 1998 Congress passed the Foreign Affairs Reform and Restructuring Act to implement its commands. The Act provides that “[i]t shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.” §2242(a), 112 Stat. 2681–822, codified as note to 8 U. S. C. §1231. It also directs the Executive to “prescribe regulations to implement” the Convention. §2242(b), 112 Stat. 2681–822. Those regulations provide, among other things, that “[a] removal order . . . shall not be executed in circumstances that would violate Article 3.” 28 CFR §200.1 (2024).

B

On February 18, 2025, the Department of Homeland Security (DHS) issued an internal guidance document directing immigration officers to “review for removal all cases . . . on the non-detained docket” and “determine the viability of removal to a third country.” No. 1:25–cv–10676 (D Mass.), ECF Doc. No. 1–4, p. 2.

Just as DHS circulated this new policy, a Guatemalan man known in this litigation as O. C. G. appeared before an Immigration Judge to seek relief from his impending removal to Guatemala. O. C. G. explained that he had previously been forced to flee Guatemala after facing torture and persecution there for his identity as a gay man. See Dkt. 8–4, p. 1; ECF Doc. 1, p. 24. He fled initially to Mexico, he said, but had not found safety there, either: A group of men raped him and locked him in a room until his sister paid them a ransom. ECF Doc. 8–4, at 1. O. C. G. accordingly asked the judge whether he “could be deported to a country other than Mexico or Guatemala.” *Ibid.* The Immigration

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Judge granted withholding of removal to Guatemala, the only country designated in the order of removal. *Id.*, at 1–2; see also ECF Doc. 1, p. 25. Because the government had not sought to remove O. C. G. to Mexico, the Immigration Judge did not address his request for protection against removal there. ECF Doc. 8–4, at 1–2; ECF Doc., at 25.

Two days later, Immigration and Customs Enforcement escorted O. C. G. out of his cell and put him on a bus to Mexico. ECF Doc No. 8–4, at 2. On the way, they provided him with “oral notice that he would be removed to Mexico.” See ECF Doc. 106–1, p. 3 (Defendants’ Response to Requests for Admission). DHS did not issue a new order of removal designating Mexico, did not reopen the prior proceedings, and did not provide either O. C. G. or his lawyer with advance notice. *Id.*, at 3–4. Mexican authorities promptly deported O. C. G. back to Guatemala, where he went into hiding. ECF Doc. 1, at 5.

Along with three noncitizens who feared that they, too, would imminently be whisked off to a “third country” without notice, O. C. G. filed this putative class action under the Administrative Procedure Act (APA) against DHS, Secretary Noem, and Attorney General Bondi. Plaintiffs alleged that the Government’s apparent policy of removing noncitizens to a third country without notice or the opportunity to file a claim under the Convention violated the immigration laws, the regulations implementing the Convention, and the Fifth Amendment’s Due Process Clause. Among other things, plaintiffs sought temporary and permanent injunctive relief preventing their own removal and the removal of putative class members without adequate notice and a “meaningful opportunity” to present a claim under the Convention. *Id.*, at 37. Plaintiffs also requested that the Government return O. C. G. to the United States.

On March 28, 2025, the District Court entered a temporary restraining order (TRO) as to both the three individual plaintiffs who remained in the United States and a putative

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class of all individuals “subject to a final order of removal from the United States to a third country.” ECF Doc. 34, p. 2. The order prohibited the defendants from removing the plaintiffs and putative class members to a third country without “written notice of the third country” and “a meaningful opportunity . . . to submit an application” for relief under the Convention. *Ibid.*

C

On March 30, DHS issued a second guidance document, which contained a two-step process for executing third-country removals. If a country provides the United States with what DHS believes to be “credible” “assurances that aliens removed from the United States will not be persecuted or tortured,” then (the policy says) DHS may remove the noncitizen to that country without any process. See App. to Application for Stay of Injunction 54a–55a (App.) The Government says this policy permits DHS to change someone’s “deportation country to Honduras . . . at 6:00 a. m., put [them] on a plane, and fl[y them] to Honduras” 15 minutes later. ECF Doc. No. 74, p. 12 (Tr. Apr. 10, 2025).

In the absence of credible “assurances” from a foreign country, the policy provides, “DHS will first inform the alien of” her impending removal. App. 55a. Even so, the policy prohibits officers from providing the noncitizen with an affirmative opportunity to raise her fear of torture. Only one who “states a fear of removal” unprompted will be given a screening interview, which will take place “within 24 hours of referral.” *Ibid.* Those who cannot establish their eligibility for relief at the screening interview can apparently be deported immediately, without a chance to provide evidence or seek judicial review. See ECF Doc. 74, at 52–53.

Around the time it adopted this new policy, DHS arrested four putative class members covered by the TRO. As the Government admits, “DHS . . . typically arrests people to

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remove them.” ECF Doc. 101, p. 39 (Tr. Apr. 28, 2025). Indeed, DHS promptly transferred the four arrested class members to Guantanamo Bay. *Id.*, at 29.

Notwithstanding the TRO’s express prohibition on third-country removals without notice or process, on March 31, the Government placed all four class members held in Guantanamo Bay on a Department of Defense flight to El Salvador.¹

At a subsequent hearing, an attorney for the Government claimed DHS had not violated the TRO because the Department of Defense had conducted the removals. According to the agreement that governs the relationship between DHS and the Department of Defense at Guantanamo Bay, however, DHS “has legal custody” of noncitizens detained at Guantanamo Bay “and is responsible for the custody of detained aliens for administrative purposes related to immigration law violations.” ECF Doc. 99–1, p. 2. DHS also remains “responsible for the [noncitizens’] physical custody” at Guantanamo Bay, and for any immigration-related “transfers, releases, and removals.” *Id.*, at 3. By contrast, the Department of Defense merely provides security and logistical support consistent with DHS’s “guidance.” *Id.*, at 4.

The Government was unable to reconcile its representations to this evidence. Nor could it explain “[w]hat authority” the Department had “to effectuate a deportation.” ECF Doc. 101, at 37.

D

On April 18, the District Court granted the plaintiffs’ motion for class certification and for a preliminary injunction,

¹ Other class members may have been removed to El Salvador as well, but the Government declined to respond to four consecutive requests for information from class counsel seeking clarification. See ECF Doc. 101, at 27. This is presently the subject of discovery in the District Court. See ECF Doc. 88.

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holding that the plaintiffs had shown the Government's process for conducting third-party removals likely violated the Due Process Clause. The injunction requires the Government to provide noncitizens with written notice in advance of a third-country removal (as is statutorily required, see *infra*, at 15), along with a meaningful opportunity to raise a claim under the Convention. ECF Doc. 64, pp. 46–47.

On May 7, plaintiffs' counsel received news reports "announcing the imminent removal of . . . Laotian, Vietnamese, and Philippine class members . . . to Libya," again without notice or an opportunity to object. ECF Doc. 89, p. 2. Plaintiffs thus sought emergency relief from the district court. That same day, the court issued an order "clarif[ying]" its preliminary injunction so as to leave no doubt that "the allegedly imminent removals . . . would clearly violate" the preliminary injunction. ECF Doc. 91, pp. 1–2. That order narrowly averted the deportations.

Had the court not acted, 13 class members would have landed in Tripoli in the midst of violence caused by opposition to their arrival. Secretary of State Marco Rubio later averred in a sworn affidavit that "Libya's Government of National Unity (GNU) publicly rejected the use of Libyan territory for accepting deportees," as did "rival authorities based in Benghazi." App. 71a. Indeed (he explained) the "public reports of potential migration removals to Libya" had caused such unrest that "GNU-aligned forces took action against the two largest armed groups in the Libyan capital on May 12–13, sparking the most serious street fighting in Tripoli since 2022." *Ibid.* Contemporary news reports confirm these armed clashes. See, e.g., Armed Clashes Erupt in Libya's Tripoli After Reported Killing of Armed Group Leader, Reuters, May 12, 2025.

Less than two weeks later, plaintiffs' counsel received reports of plans for yet more unannounced third-country removals, this time to South Sudan. ECF Doc. 111. At an

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emergency hearing, Government lawyers confirmed that several class members were indeed *en route* to South Sudan after having received less than 24 hours' notice of their impending deportations. By the time of the hearing, "DHS believe[d] that the plane [could not] be turned around," but was unwilling to share its location. ECF Doc. 126, pp. 10, 17 (Tr. May 20, 2025). Attorneys for the government also could not confirm whether "the pilot of the plane and the staff onboard" were aware of the District Court's preliminary injunction prohibiting the removals. *Id.*, at 16–17.

More details emerged the next day. At approximately 5:45 on the evening of May 19, DHS provided six inmates of an immigration detention facility with a document indicating that they would be removed to South Sudan. See ECF Doc. 145, p. 11 (Tr. May 21, 2025). At 9:35 a.m. the next morning, DHS removed them from their cells and put them on a flight. *Id.*, at 16. Short of the noncitizens "yelling at any of the jailers that they were afraid to go to South Sudan" (as the District Court put it), *id.*, at 13, DHS did not offer the noncitizens an opportunity to assert a claim under the Convention.²

The District Court found that DHS had "unquestionably" violated its order. *Id.*, at 12. Nonetheless, at the Government's request, the court permitted the Government to provide the requisite process in South Sudan, and it did not order the class members' return to the United States. See *id.*, at 21, 86, 96.

Meanwhile, discovery proceeded on the status of O. C. G., the Guatemalan man with whom this case began. The Government had previously attested that, before O. C. G.'s removal, an officer had asked him whether he was afraid of

² Notably, days before the plaintiffs filed this suit, the administration "ordered the departure of non-emergency U. S. Government employees from South Sudan," due to risks posed by "armed conflict" and "fighting between various political and ethnic groups." Dept. of State, South Sudan Travel Advisory (Mar. 8, 2025).

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returning to Mexico, and O. C. G. had responded that he was not. On the eve of that officer's deposition, however, the Government submitted an "errata sheet" admitting the information had been false. See ECF Doc. 103–1, p. 2; ECF Doc. 105, pp. 2–3. Because O. C. G. had been removed to Mexico without notice or an opportunity to file a claim under the Convention, the District Court ordered the Government to facilitate his return. The Government eventually agreed to comply with that order. See ECF Doc. 143.

The Government has appealed the merits of the preliminary injunction to the First Circuit, where briefing is ongoing. Pending that appeal, it seeks permission to continue its practice of conducting third-country removals without notice. Both the District Court and the First Circuit denied that request. The Government now asks this Court for an emergency stay of the preliminary injunction.

II

This Court "will grant a stay pending appeal only under extraordinary circumstances," *Ruckelshaus v. Monsanto, Co.*, 463 U. S. 1315, 1316 (1983) (Blackmun, J., in chambers), especially where two lower courts have already denied such relief, *Packwood v. Senate Select Comm. on Ethics*, 510 U. S. 1319, 1320 (1994) (Rehnquist, C. J., in chambers). Ordinarily, the Court considers the likelihood of irreparable harm to the applicant absent emergency intervention, the applicant's likelihood of success on the merits of an appeal to this Court, and the equities. See *Hollingsworth v. Perry*, 558 U. S. 183, 190 (2010) (*per curiam*); see also *Nken v. Holder*, 556 U. S. 418, 434 (2009).

A

"[B]egin with the basic proposition that all orders and judgments of courts must be complied with promptly." *Maness v. Meyers*, 419 U. S. 449, 458 (1975). This Court often reiterates that "[a] stay is not a matter of right," but "an exercise of judicial discretion." *Scripps-Howard Radio, Inc.*

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v. *FCC*, 316 U. S. 4, 10 (1942); see also *Winter v. Natural Resources Defense Council, Inc.*, 555 U. S. 7, 24 (2008). That is so because stays are equitable remedies, which courts may (but need not) grant in order to resolve ongoing emergencies and “‘clear away all intermediate obstructions against complete justice.’” *Hipp v. Babin*, 19 How. 271, 274 (1857).

For centuries, courts have “close[d] the doors” of equity to those “tainted with inequitableness or bad faith relative to the matter in which [they] see[k] relief.” *Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.*, 324 U. S. 806, 814 (1945); see generally T. Anenson, Announcing the “Clean Hands” Doctrine, 51 U. C. D. L. Rev. 1827 (2018) (reviewing this doctrine’s long history). That principle, “rooted in the historical concept of [the] court of equity as a vehicle for affirmatively enforcing the requirements of conscience and good faith,” ensures that courts do not become “‘abettor[s] of inequity.’” *Precision Instrument*, 324 U. S., at 814.

Here, in violation of an unambiguous TRO, the Government flew four noncitizens to Guantanamo Bay, and from there deported them to El Salvador. Then, in violation of the very preliminary injunction from which it now seeks relief, the Government removed six class members to South Sudan with less than 16 hours’ notice and no opportunity to be heard. The Government’s assertion that these deportations could be reconciled with the injunction is wholly without merit. Notice at 5:45 p.m. for a 9:35 a.m. deportation, provided to a detainee without access to an attorney, plainly does not “‘affor[d]” that noncitizen with “‘a reasonable time”” to seek relief. *A. A. R. P. v. Trump*, 605 U. S. ___, ___ (2025) (*per curiam*) (slip op., at 4).

Even if the Government’s overnight notice had been adequate, moreover, DHS also did not provide the required “meaningful opportunity . . . to raise a fear of return” under the Convention. ECF Doc. 64, at 46. The affected class

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members lacked any opportunity to research South Sudan, to determine whether they would face risks of torture or death there, or to speak to anyone about their concerns. Instead, they were left in their cells overnight with no chance to raise a claim and deported the next morning.

The Government thus openly flouted two court orders, including the one from which it now seeks relief. Even if the orders in question had been mistaken, the Government had a duty to obey them until they were “reversed by orderly and proper proceedings.” *Maness*, 419 U. S., at 459 (quoting *United States v. Mine Workers*, 330 U. S. 258, 293 (1947)). That principle is a bedrock of the rule of law. The Government’s misconduct threatens it to its core.

So too does this Court’s decision to grant the Government equitable relief. This is not the first time the Court closes its eyes to noncompliance, nor, I fear, will it be the last. See *Trump v. J. G. G.*, 604 U. S. ____ (2025) (*per curiam*). Yet each time this Court rewards noncompliance with discretionary relief, it further erodes respect for courts and for the rule of law.

B

In light of the Government’s flagrantly unlawful conduct, today’s decision might suggest the Government faces extraordinary harms. Yet even that is not the case. Rather, following a recent trend, the Court appears to give no serious consideration to the irreparable harm factor. See, e.g., *id.*, at ____ (slip op., at ____); *SSA v. AFSCME*, 605 U. S. ____ (2025). Without a showing that a stay is necessary to avoid irreparable harm, however, this Court’s midstream intervention is inexcusable. See, e.g., *Hollingsworth*, 558 U. S., at 190.

Besides the facially absurd contention that the Executive is “irreparabl[y]” harmed any time a court orders it temporarily to refrain from doing something it would like to do, see Application for Stay of Injunction 37, the Government

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has identified no irreparable harm from the challenged preliminary injunction. Instead, the Government locates the source of its injury in the District Court's efforts to provide relief to the class members in South Sudan. *Id.*, at 37–39. That argument is misguided. First, the District Court's remedial orders are not properly before this Court because the Government has not appealed them, nor sought a stay pending a forthcoming appeal. Second, the court adopted the narrowest possible remedy, allowing the Government itself to choose whether it would return the class members to the United States or provide them with process where they are held. Finally, the Government is in every respect responsible for any resulting harms. Had it complied with the preliminary injunction, no followup orders would have been necessary, nor would the Government have faced a “sudden need . . . to detain criminal aliens” abroad. *Id.*, at 39. It does not face such “need” today, as it can return the noncitizens it wrongfully removed at any time. No litigant, not even the Government, may “satisfy the irreparable harm requirement if the harm complained of is self-inflicted.” 11A C. Wright, A. Miller, & E. Cooper, *Federal Practice and Procedure* §2948.1 (3d ed. 2013); *Bennett v. Isagenix Int'l, LLC*, 118 F. 4th 1120, 1129–1130 (CA9 2024).

For their part, the plaintiffs in this case face extraordinary harms from even a temporary grant of relief to the Government. *A. A. R. P. v. Trump*, 605 U. S., at ___ (slip op., at 4) (recognizing detainees' interests against removal are “particularly weighty”). The Government has made clear in word and deed that it feels itself unconstrained by law, free to deport anyone anywhere without notice or an opportunity to be heard. The episodes of noncompliance in this very case illustrate the risks. Thirteen noncitizens narrowly escaped being the target of extraordinary violence in Libya; O. C. G. spent months in hiding in Guatemala; others face release in South Sudan, which the State Department says is in the midst of “armed conflict” between

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“ethnic groups.” N. 2, *supra*. Only the District Court’s careful attention to this case prevented worse outcomes. Yet today the Court obstructs those proceedings, exposing thousands to the risk of torture or death.

III

On the merits of its appeal, the Government principally raises a bevy of jurisdictional objections. Given its conduct in these proceedings, the Government’s posture resembles that of the arsonist who calls 911 to report firefighters for violating a local noise ordinance. In any event, the Government has not established a likelihood of success on any of its arguments.

A

The Government points to six separate provisions that, it says, deprived the District Court of jurisdiction to hear this dispute. See Application for Stay of Injunction 4–6, 19–28.

The Government’s core objection is this: By way of a series of complicated immigration-law provisions, Congress sought to consolidate all of an individual’s objections to an order of removal into a single petition for review. See 8 U. S. C. §§1252(a)(4), (5), (b)(9), §1231 note. Ultimately, the Government says, the plaintiffs in this case object to their removal. So, they should bring their challenges in a petition for review of an order of removal. Yet the Government also claims that it need not issue or reopen any orders of removal before deporting someone to a third country. That is part of the problem plaintiffs seek to remedy: Without an applicable order of removal, they have no way to raise their claims under the Convention. In the end, then, the Government’s view is that the only way to challenge its refusal to provide orders of removal is to appeal those (nonexistent) orders. That is absurd. Nothing in the Government’s cited provisions bars the plaintiffs from bringing a challenge to

the Government's no-notice removals directly in federal district court.

Only one jurisdictional objection remains with any force. Under §1252(f)(1), “no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation” of certain provisions in the immigration laws, except on an individual basis. Section 1231(b), the provision governing third-country removals, is one of those provisions. As a consequence, courts may not grant “classwide injunctive relief” to enjoin the “operation” of §1231(b). *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U. S. 471, 481 (1999).

As an initial matter, §1252(f)(1) undisputedly does not affect the District Court's authority to grant relief to the individual plaintiffs here; it affects only the classwide injunction. Thus, even if the Government is correct that classwide relief was impermissible here, it plainly remains obligated to comply with orders enjoining its conduct with respect to individual plaintiffs.

As for the propriety of classwide relief, it is difficult to say whether the District Court's injunction enjoined the “operation” of §1231(b). Certainly, the Government is not enjoined from executing third-country removals. The court has only barred the Government from executing such removals without notice, pursuant to the DHS policy, which (the court found) deprives noncitizens of their statutory and due process rights. This Court has indicated that courts “may enjoin the unlawful operation” of laws “not specified in §1252(f)(1) even if that injunction has some collateral effect on the operation of a covered provision.” *Garland v. Aleman Gonzalez*, 596 U. S. 543, 553, n. 4 (2022) (emphasis deleted). So §1252(f)(1) would bar classwide relief here only if the Government's no-process policy were central to the “operation” of §1231(b) and not merely “collateral” to it. *Ibid.*, n. 4. At a minimum, that presents a difficult question this Court should not decide without briefing, argument, or

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time for reflection.

Even if the Government could establish that its enjoined actions (of providing no notice or process) are integral to the “operation” of §1231(b), that in turn would raise a “serious constitutional question.” *Webster v. Doe*, 486 U. S. 592, 603 (1988). That is because, as the Government reads it, §1252(f)(1) threatens to nullify plaintiffs’ procedural due process rights entirely. Recall that the Government claims it may remove noncitizens in the space of 15 minutes. See *supra*, at 4. Such noncitizens cannot practicably file individual lawsuits to vindicate their due process rights. After all, they will not know of the need to file a claim until they are on a bus or plane out of the country. Nor will their counsel, whom the Government refuses to notify. The Government can hardly expect every deportable noncitizen to file a pre-emptive lawsuit. Thus, if §1252(f)(1) precludes class-wide vindication of the right to notice and due process under these circumstances, then it effectively nullifies those rights.

Whether Congress can nullify a due process right by way of a jurisdiction-stripping provision is a difficult question. See *Webster*, 486 U. S., at 603 (citing *Bowen v. Michigan Academy of Family Physicians*, 476 U. S. 667, 681, n. 12 (1986)). The Government has not attempted to show that it is likely to succeed on that issue.

B

That leaves, finally, the merits of plaintiffs’ underlying APA and due process claims. Begin with the statutory and regulatory scheme governing removal. In the Government’s view, once a noncitizen has been found removable, she can effectively be removed anywhere at any time. That view would render meaningless the countless statutory and regulatory provisions providing for notice and a hearing. See, e.g., 8 U. S. C. §1229(a)(1) (“In removal proceedings under section 1229a . . . written notice . . . shall be given . . .

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to the alien or to the alien's counsel of record"); 8 CFR §1240.10(f) (2024) (in removal hearing, the Immigration Judge "shall . . . identify for the record a country, or countries in the alternative, to which the alien's removal may be made"); §241.8(e) (when a removal order is reinstated after a noncitizen illegally reenters the country, noncitizen who "expresses a fear of returning to the country *designated in that order*" must be given an interview (emphasis added)); 8 U. S. C. §§1228(b)(1)–(3) (noncitizens determined removable due to felony conviction must be given notice under §1229(a) and 14 days "to apply for judicial review"); 8 CFR §238.1(b)(2) (requiring notice to noncitizens removable due to felony convictions).

The Government asserts that it need only comply with these provisions once, for the first removal proceeding, and can disregard them afterwards. The consequence of that view is that what happens in removal proceedings simply does not matter. The Government could designate any location in its initial order, lose before the immigration judge, decline to appeal, and promptly thereafter deport the noncitizen to a country of the Government's choosing. Indeed, that is precisely what happened in O. C. G.'s case.

Where did the Government find the authority to disregard Congress's carefully calibrated scheme of immigration laws? It does not argue the third-country removal statute provides it. See Application for Stay of Injunction 13. Instead, the Government simply falls back on the Executive's implied authority in this field. Yet "the President must comply with legislation regulating or restricting the transfer of detainees" even in "wartime." *Kiyemba v. Obama*, 561 F. 3d 509, 517 (CA DC 2009) (Kavanaugh, J., concurring). It is a "cardinal principle of statutory construction," moreover, that statutes should be construed so that "no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. v. Andrews*, 534 U. S. 19, 31 (2001). Here the Government construes the statute's lack of "a particular

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process for carrying out” third-country removals, Application for Stay of Injunction 13, as conveying near-unlimited power to the Executive, rendering the remaining statutory scheme “void . . . or insignificant.” *TRW*, 534 U. S., at 31. To make this claim is to ignore the clear statutory command that notice and a hearing must be provided. See *supra*, at 15. The Government cannot show a likelihood of success on plaintiffs’ statutory and regulatory claims, nor can it defend the lawfulness of its no-notice removals.

Turning to the constitutional claim, this Court has repeatedly affirmed that “‘the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *J. G. G.*, 604 U. S., at ____ (slip op., at 3); *A. A. R. P.*, 605 U. S., at ____ (slip op., at 3). Due process includes reasonable notice and an opportunity to be heard. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314 (1950). Of course the Government cannot avoid its obligation to provide due process “in the context of removal proceedings,” *J. G. G.*, 604 U. S., at ____ (slip op., at 3), by skipping such proceedings entirely and simply whisking noncitizens off the street and onto busses or planes out of the country.

It is axiomatic, moreover, that when Congress enacts a statutory entitlement, basic procedural due process protections attach. *Mathews v. Eldridge*, 424 U. S. 319, 332 (1976). Congress expressly provided noncitizens with the right not to be removed to a country where they are likely to be tortured or killed. See 8 U. S. C. §1231 note. As this Court has explained, the “‘right to be heard before being condemned to suffer grievous loss of any kind . . . is a principle basic to our society.’” *Mathews*, 424 U. S., at 333 (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring)). Being deprived of the right not to be deported to a country likely to torture or kill you plainly counts. Thus, plaintiffs have a right to be heard.

The Government barely disputes these basic principles. Instead, it obfuscates the issue by asserting that some (perhaps “many”) members of the class should be treated as if they never entered the United States. Application for Stay of Injunction 33–34. Yet even if that were true as to some class members, it could show at most that the class might be too broadly defined, not that the Government is likely to succeed on the constitutional merits.

Similarly, the Government relies on precedent about the wartime transfer of detainees to assert that the Executive’s determination that “a country will not torture a person on his removal” is “conclusive.” *Id.*, at 29 (citing *Munaf v. Geren*, 553 U. S. 674 (2008) and *Kiyemba*, 561 F. 3d 509). Yet the immigration laws provide for judicial review of “factual challenges to” orders denying relief under the Convention, *Nasrallah v. Barr*, 590 U. S. 573, 581 (2020), so plainly the Executive’s determinations are not “conclusive” here. In any event, the plaintiffs in this case do not challenge any executive determination. There is no evidence in this case that the Government ever did determine that the countries it designated (Libya, El Salvador, and South Sudan) “w[ould] not torture” the plaintiffs. Application for Stay of Injunction 29. Plaintiffs merely seek access to notice and process, so that, in the event the Executive makes a determination in their case, they learn about it in time to seek an immigration judge’s review. The Fifth Amendment unambiguously guarantees that right.

* * *

The Due Process Clause represents “the principle that ours is a government of laws, not of men, and that we submit ourselves to rulers only if under rules.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 646 (1952) (Jackson, J., concurring). By rewarding lawlessness, the Court once again undermines that foundational principle. Apparently, the Court finds the idea that thousands will suffer

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violence in farflung locales more palatable than the remote possibility that a District Court exceeded its remedial powers when it ordered the Government to provide notice and process to which the plaintiffs are constitutionally and statutorily entitled. That use of discretion is as incomprehensible as it is inexcusable. Respectfully, but regretfully, I dissent.