

1 Zachary Nightingale (California Bar # 184501)\*  
2 Lorena C. Castillo (California Bar # 349604)\*  
3 Van Der Hout LLP  
4 360 Post St., Suite 800  
5 San Francisco, CA 94108  
6 Telephone: (415) 981-3000  
7 Facsimile: (415) 981-3003  
8 [ndca@vblaw.com](mailto:ndca@vblaw.com)

9 *Attorneys for Petitioner-Plaintiff*  
10 Viengkone SIKEO

11 *\*admitted pro hac vice*

12 UNITED STATES DISTRICT COURT  
13 FOR THE DISTRICT OF ARIZONA

14 Viengkone SIKEO,

15 Petitioner-Plaintiff,

16 v.

17 John E. Cantu, Field Office Director,  
18 U.S. Immigration and Customs Enforcement,  
19 U.S. Department of Homeland Security;  
20 Kristi Noem, Secretary of U.S. Department of  
21 Homeland Security; and Pam Bondi,  
22 Attorney General of the United States,  
23 Warden, Florence Detention Center; in their  
24 official capacities;

25 Respondents-Defendants.

Case 2:25-cv-03191-SHD (CDB)

**PETITIONER'S EMERGENCY  
MOTION TO ENFORCE WRIT  
OF HABEAS CORPUS  
GRANTED SEPTEMBER 24,  
2025**

26  
27  
28 **Petitioner's Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

No. 2:25-cv-03191-SHD (CDB)

1 **I. INTRODUCTION**

2 Petitioner-Plaintiff, Mr. Viengkone Sikeo (“Petitioner” or “Mr. Sikeo”), through  
3 undersigned Counsel, respectfully submits this emergency motion to enforce this Court’s writ of  
4 habeas corpus from September 24, 2025, Dkt. 21. On November 7, 2025, Mr. Sikeo appeared for  
5 a check-in appointment as requested by ICE and was detained by Fresno Immigration and  
6 Customs Enforcement in violation of this Court’s orders.

7 A court has “inherent power to enforce its judgments[.]” *California Dep’t of Soc. Servs. v.*  
8 *Leavitt*, 523 F.3d 1025, 1033 (9th Cir. 2008). “[H]abeas courts are empowered to make an  
9 assessment concerning compliance with their mandates.” *Judulang*, 562 F. Supp. 2d at 1126–1127.  
10 This includes continuing jurisdiction to enforce an injunction. *United States v. Bryan*, No. CIV.  
11 2:04-2363 WBS, 2010 WL 4312866, at \*1 (E.D. Cal. Oct. 25, 2010) (quoting *Hangarter v. Paul*  
12 *Revere Life Ins. Co.*, 289 F.Supp.2d 1105, 1107 (N.D.Cal.2003)).

13 District courts in the Ninth Circuit and across the country regularly grant detained  
14 noncitizen habeas petitioners release under adequate conditions of supervision when the  
15 government fails to provide them with a hearing consistent with prior orders of the court. *See, e.g.,*  
16 *Mau*, 562 F. Supp. 2d 1107, 1119 (S.D. Cal. 2008) (ordering petitioner’s release when “the  
17 evidence before the IJ failed, as a matter of law, to prove flight risk or danger pursuant to the  
18 Court’s order”); *Sales*, No. 16-CV-01745-EDL, 2017 WL 6855827, at \*7 (ordering petitioner’s  
19 release under appropriate conditions of supervision when IJ failed to correctly apply clear and  
20 convincing standard in violation of court order); *Ramos*, 293 F. Supp. 3d 1021 at 1036 (granting  
21 motion to enforce and ordering release under appropriate conditions of supervision when  
22 government failed to meet clear and convincing burden); *Mathon v. Searls*, 623 F. Supp. 3d 203,  
23 218 (W.D.N.Y. 2022) (ordering petitioner released on conditions determined by the court when IJ  
24 failed to comply with the conditions contained in the Court’s order and did not provide petitioner  
25 with a constitutionally adequate bond hearing). *See also Swann v. Charlotte-Mecklenburg Bd. of*  
26 *Ed.*, 402 U.S. 1, 15 (1971) (“Once a right and a violation have been shown, the scope of a district  
27 court’s equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent

28 **Petitioner’s Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

Case No. 2:25-cv-03191-PHX-SHD (CDB)

1 in equitable remedies.”). This Court ordered release, and while Respondents initially followed that  
2 order by releasing Mr. Sikeo, they have now violated that order by re-detaining him in the exact  
3 same circumstances that he was in when ordered released, and thus in violation of that order.

4 Mr. Sikeo was released from ICE detention on September 24, 2025, based on this Court’s  
5 grant of writ of habeas corpus. Dkt 21, 22. Prior to this writ, Mr. Sikeo was detained by ICE on  
6 June 2025 during a yearly order of supervision (“OSUP”) check-in. Respondents’ then reasoning  
7 for re-detention was the execution of his removal order that was issued in July 2005. However,  
8 the Court found that the manner in which his OSUP was terminated was not lawful and also that  
9 his removal was not foreseeable due to a stay of removal in place. The Court ordered that Mr.  
10 Sikeo be “released from immigration detention custody immediately under the same conditions  
11 that existed before his re-detention.” Dkt. 21. Here, Mr. Sikeo’s conditions prior to his June 2025  
12 re-detention were yearly OSUP check-ins not detained.

13 At the time, the stay of removal had been issued by the Immigration Court in Eloy,  
14 Arizona, as Mr. Sikeo was litigating a motion to reopen before that court, on the basis that his  
15 underlying conviction that was the sole basis for his removal order is no longer a valid basis for  
16 removal based on Supreme Court precedent. Since Mr. Sikeo’s release, he has continued to  
17 litigate his case before Eloy Immigration Court, although that procedure has been riddled with  
18 severe administrative disorganization that has led to material harm for Mr. Sikeo. Attached as  
19 Exhibit B is a timeline of events regarding Mr. Sikeo’s immigration history. Specifically, the  
20 immigration court in that case first granted the motion to reopen on September 16, 2025, and then  
21 issued another order denying the motion to reopen on September 19, 2025 (but providing no  
22 reasoning or explanation) Exhibit C – Motion to Reopen court orders. Mr. Sikeo’s counsel was  
23 informed by the staff at the immigration court that the denial for Motion to Reopen on September  
24 19 was not based on the merits of the case but rather was meant as a procedural matter because  
25 the Immigration Court became aware that Mr. Sikeo’s had asked for the Court to hold adjudication  
26 of the motion to reopen until September 29, 2025 in order to provide additional relevant evidence.  
27 Out of abundance of caution, Mr. Sikeo filed his supplemental documents for the Motion to  
28 **Petitioner’s Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

Case No. 2:25-cv-03191-PHX-SHD (CDB)

1 Reopen, and requested that the Immigration Court either consider them as either supplement to  
2 the first motion to reopen (if the denial was not meant to deny the entire motion to reopen) or an  
3 entirely new motion to reopen all together (if the first motion to reopen was actually denied).  
4 Similarly, Mr. Sikeo filed another motion for stay of removal in case the immigration court did  
5 not consider the motion for stay previously granted as still in place due to the denial of the motion  
6 to reopen.

7 On October 23, 2025, the Immigration Court denied Mr. Sikeo's motion for stay only but  
8 did not adjudicate the motion to reopen. Exhibit D. The denial of the stay of removal referencing  
9 a pending motion to reopen or reconsider and thus it appears that the Immigration Judge does  
10 consider the motion to reopen (either the first or the second) to be pending before the immigration  
11 court still. Undersigned counsel has not received any information indicating that that motion to  
12 reopen has since been adjudicated, and thus believes it is still pending before the Immigration  
13 Court. Inquiries to the court staff have resulted in little information beyond the fact that the matter  
14 remains with the immigration judge.

15 Since Mr. Sikeo had an upcoming OSUP check-in before Fresno ICE, Mr. Sikeo, out of  
16 abundance of caution, filed a petition for writ of habeas corpus before the Eastern District of  
17 California (which has jurisdiction over the Fresno office) and a request for a TRO to request that  
18 the Judge order that Mr. Sikeo not be re-detained because his removal was still not foreseeable  
19 because his *travel permit previously granted is now expired* and there is no evidence a new valid  
20 one has been produced. *Sikeo v. Albarran* 1:25-cv-01505-KES-HBK.

21 On November 6, 2025, Judge Sherriff ordered stay of removal meant to preserve the status  
22 quo—stating that Mr. Sikeo cannot be removed from the United States pending adjudication of  
23 his preliminary injunction. Exhibit E. The judge also made it clear that this was to preserve the  
24 status quo. *Id.* The status quo, on November 7, 2025, was that Mr. Sikeo is in the United States  
25 and not detained pursuant to this Court's order of September 24, 2025.

26 On November 7, 2025, Mr. Sikeo appeared at the ICE office as requested by ICE, and the  
27 Fresno, CA, ICE detained Mr. Sikeo. No official reason was provided, although the office claimed  
28 **Petitioner's Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

Case No. 2:25-cv-03191-PHX-SHD (CDB)

1 that, because his Motion to Reopen was denied by the Immigration Court on September 19, 2025,  
2 that they are allowed to re-detain him. They did not provide any pre-deprivation hearing before  
3 this Court. ICE also did not explain how that order, which is clearly not the final decision  
4 regarding reopening his removal order, changes his legal situation, especially because ICE was  
5 informed of the stay or removal issued by the federal court the prior day. Undersigned counsel  
6 explained the administrative history before the immigration court and confirmed that the most  
7 recent motion to reopen is pending – she pointed to the language of the stay of removal denial  
8 confirming that it is related to a Motion to Reopen. Undersigned counsel asked, repeatedly, the  
9 justification for Mr. Sikeo’s re-detention. She referenced that this Court’s order granting release  
10 from detention had two legal basis, once of which was a grant of stay of removal that was based  
11 on a motion to reopen. Undersigned counsel provided Fresno ICE with evidence of the order from  
12 Eastern District of California Judge Sheriff granting the indefinite stay of removal. Fresno ICE  
13 could not provide any other justification for his re-detention. The lack of travel permit, regardless  
14 of a stay of removal, combined with no other justification for re-detention means that his removal  
15 is still unforeseeable per the Court’s findings.

16 Mr. Sikeo has not violated any of the conditions of his release, and in fact voluntarily  
17 appeared at the ICE office as requested. Fresno ICE never confirmed any other basis for re-  
18 detention other than referencing a denied motion to reopen. This is not relevant to his detention  
19 because (1) the motion to reopen was denied in a confusion procedural history (as it was not yet  
20 complete) and subsequently the complete motion to reopen was refiled and remains pending, and  
21 (2) there is another stay of removal from Judge Sheriff. Notably, had the motion to reopen been  
22 finally denied, the immigration court would have denied the stay request as moot because of no  
23 pending case.

24 Today, November 7, 2025, Fresno ICE refused to abide by this Court’s order for release,  
25 and subsequently detained him. The officer providing any explanation repeatedly referenced a  
26 denial of the motion to reopen, the denial of the stay of removal, and the fact that there is no  
27 “proof” for the motion to reopen. The ICE officer was aware that a federal judge, on November

28 **Petitioner’s Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

Case No. 2:25-cv-03191-PHX-SHD (CDB)

1 7, 2025, granted a stay of removal. Since there is no other justification for Mr. Sikeo's re-  
2 detention, Respondents are not abiding to this Court's very specific orders. There are no changed  
3 circumstances that would otherwise undermine or intervene to change this Court's order.  
4 Furthermore, this motion fundamentally different than Mr. Sikeo's motion to reopen before the  
5 Eastern District of California because in the latter we are asking for no re-detention without pre-  
6 deprivation rights, and in this motion we are asking for no detention and release right now.

7 This Court has the equitable power to order release and to enforce its own order. *Swann v.*  
8 *Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15 (1971) ("Once a right and a violation have been  
9 shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth  
10 and flexibility are inherent in equitable remedies."). Undersigned counsel has communicated with  
11 the U.S. attorney's office by email informing them of the intention to file this motion and will be  
12 emailing them a copy of the completed motion upon the filing of the motion with the Court.  
13 Undersigned counsel has also communicated verbally with the U.S. attorney's office in the Eastern  
14 District of California about this case informing them of the believed violation of this Court's order  
15 and the intention to file a remedy in court.

16 Therefore, Mr. Sikeo respectfully requests that this Court find Respondents to be in  
17 violation of this Court's order, and order that all Respondents abide by that order by immediately  
18 releasing Mr. Sikeo from ICE detention, and no re-detain him absence a showing to this Court of  
19 materially changed circumstances that justify the re-detention.

20  
21 Dated: November 7, 2025

Respectfully submitted,

22 /s/ Lorena Castillo

23 Lorena Castillo

24 Zachary Nightingale

25 Attorneys for Mr. Sikeo

26  
27  
28 **Petitioner's Emergency Motion To Enforce Writ Of Habeas Corpus Granted September  
24, 2025**

Case No. 2:25-cv-03191-PHX-SHD (CDB)