

 ORIGINAL

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5 | Pro Se¹



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 | SARINEH GHARAKHAN.

11 || Petitioner,

12

13 KRISTI NOEM, Secretary of the
14 Department of Homeland Security,
15 PAMELA JO BONDI, Attorney General,
16 TODD M. LYONS, Acting Director,
17 Immigration and Customs Enforcement,
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center.

Respondents.

CIVIL CASE NO.: '25CV2879 DMS AHG

Petition for Writ
of
Habeas Corpus

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

¹ Ms. Gharakhan is filing this petition for a writ of habeas corpus with the assistance of the Federal Defenders of San Diego, Inc., who drafted the instant petition. That same counsel also assisted the petitioner in preparing and submitting her request for the appointment of counsel, which has been filed concurrently with this petition, and all other documents supporting the petition. Federal Defenders has consistently used this procedure in seeking appointment for immigration habeas cases. The Declaration of Jessie Agatstein in Support of Appointment Motion attaches case examples.

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1 **I. Introduction**

2 Sarineh Gharakhan's family fled Iran in the late 1980s and came to the
3 United States. They are Armenian Christian refugees, and they all got green cards.
4 In 2018, Ms. Gharakhan was ordered removed for a robbery conviction. Because
5 of her status as an Armenian Christian, she was granted withholding of removal to
6 Iran and released.

7 In February of this year, Ms. Gharakhan was arrested in Orange County and
8 released. She has been in immigration custody ever since. Now, eight months into
9 her immigration detention, Ms. Gharakhan still has no information as to which
10 country ICE intends to deport her, or how likely she'll get deported there. She has
11 still never been given a chance to contest her re-detention, as required under ICE
12 regulations. 8 C.F.R. §§ 241.13(i)(3), 241.4(l). She has now been held longer than
13 the maximum six months allowed under ICE regulation for those who violate
14 their conditions of release. 8 C.F.R. § 241.13(i)(1). And she is afraid that, under
15 current policy, ICE will deport her to a third country where she could be
16 persecuted without her first having adequate time to raise and prove that point.

17 Ms. Gharakhan's continued detention violates her statutory and regulatory
18 rights, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment. This
19 habeas petition raises the following three claims:

20 *(1) Regulatory and due process violations:* Ms. Gharakhan must be
21 released because ICE's failure to follow its own regulations—about notifying
22 noncitizens of the reason for re-detention, about providing a meaningful
23 opportunity to be heard following re-detention, and about the maximum duration
24 of detention for a noncitizen's violation of a condition of release—has repeatedly
25 violated due process. *See, e.g., Bui v. Warden*, No. 25-cv-2111-JES, ECF No. 18
26 (S.D. Cal. Oct. 23, 2025); *Thai v. Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12
27 (S.D. Cal. Oct. 17, 2025); *Constantinovici v. Bondi*, ___ F. Supp. 3d __, 2025 WL
28 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025

1 WL 2898977, No. 25-cv-2422-RBM-MSB, *3-*5 (S.D. Cal. Oct. 10, 2025);
2 *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025);
3 *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal.
4 Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal.
5 Sept. 30, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165
6 (S.D. Cal. Sept. 15, 2025) (all either granting temporary restraining orders
7 releasing noncitizens, or granting habeas petitions outright, due to ICE regulatory
8 violations during recent re-detentions of released noncitizens previously ordered
9 removed under 8 C.F.R. §§ 241.13(i), 241.4(l)).

10 (2) *Zadvydas* violations: Ms. Gharakhan must also be released under
11 *Zadvydas* because—having proved unable to remove her for the last seven
12 years—the government cannot show that there is a “significant likelihood of
13 removal in the reasonably foreseeable future.” *Id.* at 701. *See, e.g., Conchas-*
14 *Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025);
15 *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025)
16 (granting habeas petitions releasing noncitizens due to *Zadvydas* violations).

17 (3) *Third-country removal statutory and due process violations*: This Court
18 should enjoin ICE from removing Ms. Gharakhan to a third country not identified
19 by an immigration judge and not appropriate under the third-country removal
20 statute, 8 U.S.C. § 1231(b)(2)—and without providing an opportunity for her to
21 assert fear of persecution or torture before an immigration judge. *See, e.g.,*
22 *Rebenok v. Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025
23 WL 2770623 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6
24 (S.D. Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-
25 2502-JES, *4 (S.D. Cal. Oct. 9, 2025) (all either granting temporary restraining
26 orders or habeas petitions ordering the government to not remove petitioners to
27 third countries pending litigation or reopening of their immigration cases).
28

1 II. Statement of Facts

2 A. Ms. Gharakhan is ordered removed and released, and then
3 arrested at the Orange County jail this February after she is
4 released pretrial.

5 When Ms. Gharakhan was one years old, her family fled Iran. Exhibit A
6 (Declaration of Sarineh Gharakhan) ¶ 1. They traveled through Germany and
7 arrived in the United States in the late 1980s. *Id.* As Armenian Christian refugees,
8 they soon obtained green cards. *Id.* Ms. Gharakhan was later convicted of
9 robbery, and in 2018, she was ordered removed. *Id.* ¶ 2; *see also* Exhibit B (order
10 of removal).² She was also granted relief from removal to Iran, statutory
11 withholding of removal. *Id.* She was released the next day. Exhibit A ¶ 3.

12 Ms. Gharakhan checked in with ICE immediately upon her release in 2018,
13 but she forgot to check in the following year. *Id.*

14 In February 2025, Ms. Gharakhan was arrested in Orange County and
15 released pretrial directly into ICE custody. *Id.* ¶ 4. She has been in ICE custody at
16 the Otay Mesa Detention Center ever since. *Id.*

17 She remembers that, when ICE picked her up at the jail in Orange County,
18 an ICE officer told her that they had an immigration warrant for her new criminal
19 case; when she arrived in immigration custody, another officer told her she'd be
20 in immigration custody for six months. *Id.* ¶¶ 5–6. But, as she explains, “No one
21 has ever sat with me with my file and explained what’s going on.” *Id.* ¶ 5. “To the
22 best of my understanding, I have not had the chance to contest my re-detention,
23 and no one has told me what changed to make my removal more likely.” *Id.* ¶ 8.

24 Instead, while at Otay Mesa, Ms. Gharakhan messaged her ICE officers “a
25 lot.” *Id.* ¶ 6. About four months after she had been brought into ICE custody, an
26 officer came to talk to her in person. *Id.* She remembers him telling her “he had
27 submitted paperwork for [her] release and that it was out of his hands and it was

28 ² EOIR, *Automated Case Information*, <https://acis.eoir.justice.gov/en/>.

1 up to headquarters.” *Id.* The next month, in July, another ICE officer interviewed
2 her about a few narrow things that surprised her: “whether I was a terrorist, if I
3 had weapons, where I was going to go when I was released, how long I’ve been in
4 the States, and if I’ve ever travelled out of the States.” *Id.* ¶ 7. She said no to the
5 questions and explained her release plans, and that was the end of the interview.
6 *Id.*

7 In August, with Ms. Gharakhan now at six months in ICE custody, ICE
8 changed course. Rather than release Ms. Gharakhan, an officer informed her that
9 “he was trying to see what country they could send [her] to.” *Id.* ¶ 9. The officer
10 told her “they’re waiting for acceptance by a third country.” *Id.*

11 Several days ago, an ICE officer met with Ms. Gharakhan to give her
12 “notice that [she]’d have a 90-day custody review on October 31.” *Id.* ¶ 10. She
13 explains, “This is the first time someone has met with me to do a custody review.
14 The officer did not tell me why I am still detained here, if or why my order of
15 supervision was revoked, and what country ICE is trying to remove me to.” *Id.*

16 To this day, she explains, “ICE has never told me what country or countries
17 they are trying to remove me to.” *Id.* ¶ 11. “I’m worried about being persecuted
18 for my tattoos, my religion, and my gender. I have the words ‘Armenian Pride’
19 tattooed on my arms.” *Id.*

20 **B. The government is carrying out deportations to third countries
21 without providing sufficient notice and opportunity to be heard.**

22 Under Ms. Gharakhan’s removal order, ICE is allowed to seek third-
23 country removal. *Id.* That is because withholding of removal allows the
24 government to try to deport someone to a third country, so long as it follows the
25 proper statutory and constitutional procedure. *See Huang v. Ashcroft*, 390 F.3d
26 1118, 1121 n.2 (9th Cir. 2004). Until this year, it appears ICE did not actively
27 consider deporting Ms. Gharakhan to a third country.

28

1 But this year, ICE began removing immigrants to third countries under a
2 new policy. Under current ICE policy, an immigrant can now be removed to a
3 third country with no notice, 6 hours' notice, or 24 hours' notice, depending on
4 the circumstances. Exhibit C ("Third Country Removal Policy"). Many of these
5 countries are extremely dangerous. A number have subjected, and continue to
6 subject, immigrants to imprisonment without sentence or charge. *See generally*
7 Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass*
8 *Deportations*, N.Y. Times, June 25, 2025.³ Several have "promptly deported"
9 noncitizens to the very countries to which the United States had withheld removal
10 due to the risk of persecution, torture, or death." *Santamaria Orellana v. Baker*,
11 No. 25-1788-TDC, 2025 WL 2841886, *12 (D. Md. Oct.7, 2025).

12 In the last few months, ICE has carried out highly publicized third country
13 deportations to prisons in South Sudan, Eswatini, Ghana, and Rwanda.

14 Nokukhanya Musi & Gerald Imray, *10 more deportees from the US arrive in the*
15 *African nation of Eswatini*, Associated Press (Oct. 6, 2025).⁴ At least four men
16 deported to Eswatini in July have remained in a maximum-security prison there
17 for nearly three months without charge and without access to counsel; another six
18 men remain detained incommunicado in South Sudan, and another seven are
19 being held in an undisclosed facility in Rwanda. *Id.* Ghana has deported several
20 people to their countries of origin, for which those people held withholding-of-
21 removal orders. *Santamaria Orellana*, 2025 WL 2841886 at *12.

22 In February, Panama and Costa Rica imprisoned hundreds of deportees—
23 including Iranians—in hotels, a jungle camp, and a detention center. *Id.*; Vanessa
24 Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*,
25

26 ³ Available at <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html>.

27 ⁴ Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

1 BBC (Jun. 25, 2025); Human Rights Watch, *'Nobody Cared, Nobody Listened':*
2 *The US Expulsion of Third-Country Nationals to Panama*, Apr. 24, 2025 (quoting
3 an Iranian national deported to and imprisoned in Panama).⁵ The government paid
4 El Salvador about \$5 million to imprison more than 200 deported Venezuelans in
5 a maximum-security prison notorious for gross human rights abuses, known as
6 CECOT. *See* Wong et al., *supra*.

7 On July 9, 2025, ICE rescinded previous guidance meant to give
8 immigrants a ““meaningful opportunity” to assert claims for protection under the
9 Convention Against Torture (CAT) before initiating removal to a third country”
10 like the ones just described. Exhibit C. Instead, under new guidance, ICE may
11 remove any immigrant to a third country “without the need for further
12 procedures,” as long as—in the view of the State Department—the United States
13 has received “credible” “assurances” from that country that deportees will not be
14 persecuted or tortured. *Id.* at 1. If a country fails to credibly promise not to
15 persecute or torture releasees, ICE may still remove immigrants there with
16 minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’ notice. But “[i]n
17 exigent circumstances,” a removal may take place in as little as six hours, “as long
18 as the alien is provided reasonably means and opportunity to speak with an
19 attorney prior to the removal.” *Id.*

20 Upon serving notice, ICE “will not affirmatively ask whether the alien is
21 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the
22 noncitizen “does not affirmatively state a fear of persecution or torture if removed
23 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]
24 may proceed with removal to the country identified on the notice.” *Id.* at 2. If the
25 noncitizen “does affirmatively state a fear if removed to the country of removal”
26

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28 ⁵ Available at <https://www.hrw.org/report/2025/04/24/nobody-cared-nobody-listened/the-us-expulsion-of-third-country-nationals-to>.

1 then ICE will refer the case to U.S. Citizenship and Immigration Services
2 (“USCIS”) for a screening for eligibility for withholding of removal and
3 protection under the Convention Against Torture (“CAT”). *Id.* at 2. “USCIS will
4 generally screen within 24 hours.” *Id.* If USCIS determines that the noncitizen
5 does not meet the standard, the individual will be removed. *Id.* If USCIS
6 determines that the noncitizen has met the standard, then the policy directs ICE to
7 either move to reopen removal proceedings “for the sole purpose of determining
8 eligibility for [withholding of removal protection] and CAT” or designate another
9 country for removal. *Id.*

10 Under this policy, the United States has deported noncitizens to prisons and
11 military camps in Rwanda, Eswatini, South Sudan, and Ghana. Many are still
12 detained to this day, in countries to which they have never been, without charge.
13 *See Musi & Gerald Imray, supra.*

14 As of this August, Ms. Gharakhan was told by an officer “that he was
15 trying to see what country they could send [her] to.” Exhibit A ¶ 9. He explained
16 ICE was “waiting for acceptance by a third country.” *Id.*

17 **III. This Court has jurisdiction.**

18 This Court has jurisdiction to consider Ms. Gharakhan’s claims of unlawful
19 detention and unlawful third-country removal under 28 U.S.C. § 2241.
20

21 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips
22 this Court of jurisdiction, lacks merit. Its argument “would eliminate judicial
23 review of immigration [detainees’] claims of unlawful detention . . . inconsistent
24 with *Jennings v. Rodriguez* and the history of judicial review of the detention of
25 noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*, No. 25-cv-2422-RBM, 2025
26 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this
27 jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL
28 2800037, *2 (S.D. Cal. Sept. 30, 2025).

1 **IV. Legal Analysis.**

2 This Court should grant this petition and order two forms of relief.

3 First, it should order Ms. Gharakhan's immediate release. ICE failed to
4 follow its own regulations requiring notification at re-detention, a chance to
5 promptly contest a re-detention decision, and mandating at most six months of
6 detention for a violation of supervision conditions. 8 C.F.R. §§ 241.13(i),
7 241.4(l). And *Zadvydas v. Davis* holds that immigration statutes do not authorize
8 the government to detain immigrants like Ms. Gharakhan, who has been in
9 custody for more than six months, and for whom there is "no significant
10 likelihood of removal in the reasonably foreseeable future." 533 U.S. 678, 701
11 (2001).

12 Second, this Court should enjoin the Respondents from removing
13 Ms. Gharakhan to a third country without first providing notice and a sufficient
14 opportunity to be heard before an immigration judge. The government has never
15 informed Ms. Gharakhan to which country it intends to deport her—it is not clear
16 that it knows—but there are extremely detailed statutory criteria it must follow.
17 Its current policy of giving noncitizens between zero and 24 hours' notice of
18 which country it intends to deport them to is insufficient as a regulatory, statutory,
19 and due process matter.

20 **V. Claim 1: ICE failed to comply with its own regulations while re-
21 detaining Ms. Gharakhan, violating her rights under applicable
22 regulations and due process.**

23 Two regulations establish the process due to someone who is re-detained in
24 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to
25 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping
26 framework to persons released upon good reason to believe that they will not be
27 removed in the reasonably foreseeable future, as Ms. Gharakhan was. *See Phan v.
28 Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, *3-*5 (S.D. Cal. Oct.
10, 2025) (explaining this regulatory framework and granting a habeas petition for

1 ICE's failure to follow these regulations for a refugee of Vietnam who entered the
2 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL
3 2646165 at *2 (same as to an Iranian national).

4 These regulations permit an official to "return [the person] to custody"
5 when the person "violate[d] any of the conditions of release," 8 C.F.R.
6 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official
7 "determines that there is a significant likelihood that the alien may be removed in
8 the reasonably foreseeable future," and makes that finding "on account of
9 changed circumstances," § 241.13(i)(2).

10 No matter the reason for re-detention, the re-detained person is entitled to
11 certain procedural protections. For one, "[u]pon revocation,' the noncitizen 'will
12 be notified of the reasons for revocation of his or her release or parole.'" *Phan*,
13 2025 WL 2898977 at *3, *4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the
14 person "'will be afforded an initial informal interview promptly after his or her
15 return' to be given 'an opportunity to respond to the reasons for revocation stated
16 in the notification.'" *Id.*

17 In the case of someone released under § 241.13(i), the regulations also
18 explicitly require the interviewer to allow the re-detained person to "submit any
19 evidence or information that he or she believes shows there is no significant
20 likelihood he or she be removed in the reasonably foreseeable future, or that he or
21 she has not violated the order of supervision." § 241.13(i)(3).

22 ICE is required to follow its own regulations. *United States ex rel. Accardi*
23 v. *Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
24 1162 (9th Cir. 2004) ("The legal proposition that agencies may be required to
25 abide by certain internal policies is well-established."). A court may review a re-
26 detention decision for compliance with the regulations, and "where ICE fails to
27 follow its own regulations in revoking release, the detention is unlawful and the
28

1 petitioner's release must be ordered." *Rokhfirooz*, 2025 WL 2646165 at *4
2 (collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

3 ICE followed none of its regulatory prerequisites to re-detention or
4 continued detention here.

5 First, ICE did not sufficiently notify Ms. Gharakhan of the reasons for her
6 re-detention "upon revocation" of her release. *See* 8 C.F.R. §§ 241.4(l)(1),
7 241.13(i)(3). She was re-detained on February 23, 2025. Exh. A at ¶ 5. She had
8 recently been arrested but not charged in Orange County. *Id.* ¶ 4. When ICE
9 arrested her, she explains, "they said they had a warrant from immigration for my
10 new case," but that was all. *Id.* "No one has ever sat with [her] with [her] file and
11 explained what's going on." *Id.*

12 Second, because Ms. Gharakhan has not been notified why she has been re-
13 detained, she is unable to know if ICE's reason for re-detaining her was proper.
14 §§ 241.13(i)(1), (2); 241.4(l)(1), (2).

15 Third, Ms. Gharakhan has yet to receive the informal interview required by
16 regulation. §§ 241.13(i)(2); 241.4(l)(1).

17 Fourth, Ms. Gharakhan has not been afforded a meaningful opportunity to
18 respond to the reasons for revocation or submit evidence rebutting her re-
19 detention. §§ 241.13(i)(2); 241.4(l)(1); *see* Exhibit A ¶¶ 5–10. No one from ICE
20 has ever invited her to contest her detention. *Id.*

21 Fifth, and finally, if Ms. Gharakhan was in fact detained for a violation of
22 her conditions of release, she has now been detained for longer than the maximum
23 "six months" authorized "to effect [her] removal, if possible, and to effect the
24 conditions under which [she] had been released." § 241.13(i)(2).

25 Numerous courts have released re-detained immigrants after finding that
26 ICE failed to comply with some or all of the applicable regulations this summer
27 and fall. *See, e.g.*, *Villanueva v. Tate*, __ F. Supp. 3d __, 2025 WL 2774610 (S.D.
28 Tex. Sept. 26, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y.

1 2025); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7–9
2 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL
3 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-
4 00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v.*
5 *Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July
6 16, 2025); *Liu v. Carter*, 2025 WL 1696526, *2 (D. Kan. June 17, 2025); *M.Q. v.*
7 *United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025); *Bui v.*
8 *Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v.*
9 *Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025);
10 *Constantinovici v. Bondi*, __ F. Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-
11 RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-
12 2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-
13 02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*,
14 No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*,
15 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v.*
16 *Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025);
17 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.
18 15, 2025).

19 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
20 the applicable regulations, that revocation has no effect, and [Ms. Gharakhan] is
21 entitled to [her] release (subject to the same Order of Supervision that governed
22 [her] most recent release).” *Liu*, 2025 WL 1696526, at *3.

23 **VI. Claim 2: Ms. Gharakhan’s detention violates *Zadvydas* and 8 U.S.C.
24 § 1231.**

25 **A. Legal background:** The statute, as interpreted by *Zadvydas*,
26 renders detention mandatory for 90 days after removal is
27 ordered, presumptively acceptable for six months after removal
28 is ordered, and allowable after six months after removal is
ordered only if there is a significant likelihood of removal in the
reasonably foreseeable future.

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered

1 a problem affecting people like Ms. Gharakhan: Federal law requires ICE to
2 detain an immigrant during the “removal period,” which typically spans the first
3 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After
4 that 90-day removal period expires, detention becomes discretionary—ICE may
5 detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6).
6 Ordinarily, this scheme would not lead to excessive detention, as removal
7 happens within days or weeks. But some detainees cannot be removed quickly.
8 Perhaps their removal “simply require[s] more time for processing,” or they are
9 “ordered removed to countries with whom the United States does not have a
10 repatriation agreement,” or their countries “refuse to take them,” or they are
11 “effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v.*
12 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,
13 detained immigrants can find themselves trapped in detention for months, years,
14 decades, or even the rest of their lives. If federal law were understood to allow for
15 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
16 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
17 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
18 *Id.* at 689.

19 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
20 detain an immigrant for six months after his or her removal order becomes final.
21 After those six months have passed, the immigrant must be released unless his or
22 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
23 months have passed, the petitioner must only make a *prima facie* case for relief—
24 there is “good reason to believe that there is no significant likelihood of removal
25

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1 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
2 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*⁶
3 Ms. Gharakhan can make all the threshold showings needed to shift the burden to
4 the government.

5

6 **B. Ms. Gharakhan’s six-month grace period expired in April 2019,
and regardless, she has now been in custody for eight months.**

7 The six-month grace period has long since ended. The *Zadvydas* grace
8 period is linked to the date the final order of removal is issued. It lasts for “six
9 months after a final order of removal—that is, three months after the statutory
10 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
11 Cir. 2001). Indeed, the statute defining the beginning of the removal period is
12 linked to the latest of three dates, all of which relevant here are tied to when the
13 removal order is issued. 8 U.S.C. § 1231(a)(1)(B).⁷

14 Ms. Gharakhan’s order of removal was entered October 1, 2018. Exhibit A
15 ¶ 3.⁸ Her *Zadvydas* grace period three months after the removal period ended, on
16 April 1, 2019. *See, e.g., Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-
17 4108(EP), *2-*3.

18 Regardless, Ms. Gharakhan has been detained for eight months and
19 counting, since February 23 of this year. The *Zadvydas* grace period has expired.
20

21

22

23 ⁶ Further, even before the six months have passed, the immigrant must still be
24 released if she *rebuts* the presumption that her detention is reasonable. *See, e.g.,*
25 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases
26 on rebutting the *Zadvydas* presumption before six months have passed).

27 ⁷ Those dates are, specifically, (1) “[t]he date the order of removal becomes
28 administratively final;” (2) “[i]f the removal order is judicially reviewed and if a
court orders a stay of the removal of the alien, the date of the court’s final order;”
or (3) “[i]f the alien is detained or confined (except under an immigration
process), the date the alien is released from detention or confinement.” *Id.*

⁸ *See also* EOIR, *Automated Case Information*, <https://acis.eoir.justice.gov/en/>.

1 **C. Ms. Gharakhan's experience provides good reason to believe that**
2 **she will not likely be removed in the reasonably foreseeable**
3 **future.**

4 This Court uses a burden-shifting framework to evaluate Ms. Gharakhan
5 *Zadvydas* claim. At the first stage of the framework, Ms. Gharakhan must
6 “provide[] good reason to believe that there is no significant likelihood of removal
7 in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard
8 can be broken down into three parts.

9 **“Good reason to believe.”** The “good reason to believe” standard is a
10 relatively forgiving one. “A petitioner need not establish that there exists no
11 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
12 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
13 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
14 foreseeable, significant likelihood of removal or show that his detention is
15 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
16 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
17 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
18 Petitioners need only give a “good reason”—not prove anything to a certainty.

19 **“Significant likelihood of removal.”** This component focuses on whether
20 Ms. Gharakhan will likely be removed: Continued detention is permissible only if
21 it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533
22 U.S. at 701. This inquiry targets “not only the *existence* of untapped possibilities,
23 but also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F.
24 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added).

25 In other words, even if “there remains *some* possibility of removal,” a
26 petitioner can still meet its burden if there is good reason to believe that
27 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
28 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

1 **“In the reasonably foreseeable future.”** This component of the test
2 focuses on when Ms. Gharakhan will likely be removed: Continued detention is
3 permissible only if removal is likely to happen “in the reasonably foreseeable
4 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
5 removal efforts.

6 If the Court has “no idea of when it might reasonably expect [Petitioner] to
7 be repatriated, this Court certainly cannot conclude that his removal is likely to
8 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*
9 *v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July
10 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss.
11 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.
12 2019)). Thus, even if this Court concludes that Ms. Gharakhan “would *eventually*
13 receive” a travel document, she can still meet her burden by giving good reason to
14 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2
15 (E.D. Mich. Nov. 14, 2016).

16 Ms. Gharakhan satisfies this standard for two reasons.

17 First, Ms. Gharakhan’s own experience bears this out. ICE has now had
18 seven years to deport her. She has cooperated with ICE’s removal efforts
19 throughout that time. Exhibit A ¶ 12. Yet ICE has proved unable to remove her.

20 Second, the government has yet to even *identify* a third country to deport
21 her to. Exhibit A ¶ 9. It cannot deport her to Iran; an immigration judge has
22 determined she is at risk of persecution there and granted her withholding of
23 removal. Exhibit B. These circumstances are not the makings of someone who has
24 a significant likelihood of being removed in the reasonably foreseeable future.
25 *See, e.g., Zavvar v. Scott*, No. 25-2104-TDC, 2025 WL 2592543, *3-*8 (D. Md.
26 Sept. 8, 2025) (granting habeas petition as to a re-detained Iranian national in a
27 similar position as Ms. Gharakhan under *Zadvydas*).
28

1 Thus, Ms. Gharakhan has met her initial burden, and the burden shifts to
2 the government. Unless the government can prove a “significant likelihood of
3 removal in the reasonably foreseeable future,” Ms. Gharakhan must be released.
4 *Zadvydas*, 533 U.S. at 701.

5 **D. *Zadvydas* unambiguously prohibits this Court from denying Ms.
6 Gharakhan’s petition because of her criminal history.**

7 *Zadvydas* squarely holds that danger or flight are not grounds for detaining
8 an immigrant when there is no reasonable likelihood of removal in the reasonably
9 foreseeable future. 533 U.S. at 684–91.

10 The two petitioners in *Zadvydas* both had significant criminal history.
11 Mr. Zadvydas himself had “a long criminal record, involving drug crimes,
12 attempted robbery, attempted burglary, and theft,” as well as “a history of flight,
13 from both criminal and deportation proceedings.” *Id.* at 684. The other petitioner,
14 Kim Ho Ma, was “involved in a gang-related shooting [and] convicted of
15 manslaughter.” *Id.* at 685. The government argued that both men could be
16 detained regardless of their likelihood of removal, because they posed too great a
17 risk of danger or flight. *Id.* at 690–91.

18 The Supreme Court rejected that argument. The Court appreciated the
19 seriousness of the government’s concerns. *Id.* at 691. But the Court found that the
20 immigrant’s liberty interests were weightier. *Id.* The Court had never
21 countenanced “potentially permanent” “civil confinement,” based only on the
22 government’s belief that the person would misbehave in the future. *Id.*

23 The Court also noted that the government was free to use the many tools at
24 its disposal to mitigate risk: “[O]f course, the alien’s release may and should be
25 conditioned on any of the various forms of supervised release that are appropriate
26 in the circumstances, and the alien may no doubt be returned to custody upon a
27 violation of those conditions.” *Id.* at 700. The Ninth Circuit later elaborated, “All
28 aliens ordered released must comply with the stringent supervision requirements

1 set out in 8 U.S.C. § 1231(a)(3). [They] will have to appear before an immigration
2 officer periodically, answer certain questions, submit to medical or psychiatric
3 testing as necessary, and accept reasonable restrictions on [their] conduct and
4 activities, including severe travel limitations. More important, if [they] engage[]
5 in any criminal activity during this time, including violation of [their] supervisory
6 release conditions, [they] can be detained and incarcerated as part of the normal
7 criminal process." *Ma*, 257 F.3d at 1115.

8 Respondents must release Ms. Gharakhan, but of course they may do so
9 subject to appropriate supervision conditions.

10 **VII. Claim 3: ICE may not remove Ms. Gharakhan to a third country
11 without adequate notice and an opportunity to be heard.**

12 In addition to unlawfully detaining her, ICE's policies threaten Ms.
13 Gharakhan's removal to a third country without adequate notice and an
14 opportunity to be heard. These policies violate the Fifth Amendment, the
15 Convention Against Torture, and implementing regulations.

16 **A. Legal background: The Convention Against Torture, statutory
17 withholding of removal, and due process prohibit deportation to
18 third countries without meaningful notice and an opportunity to
be heard.**

19 U.S. law enshrines protections against dangerous and life-threatening
20 removal decisions. By statute, the government is prohibited from removing an
21 immigrant to any third country where they may be persecuted or tortured, a form
22 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).
23 The government "may not remove [a noncitizen] to a country if the Attorney
24 General decides that the [noncitizen's] life or freedom would be threatened in that
25 country because of the [noncitizen's] race, religion, nationality, membership in a
26 particular social group, or political opinion." *Id.*; *see also* 8 C.F.R. §§ 208.16,
27 1208.16. Withholding of removal is a mandatory protection.

28 Similarly, Congress codified protections enshrined in the CAT prohibiting

1 the government from removing a person to a country where they would be
2 tortured. *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be
3 the policy of the United States not to expel, extradite, or otherwise effect the
4 involuntary return of any person to a country in which there are substantial
5 grounds for believing the person would be in danger of being subjected to torture,
6 regardless of whether the person is physically present in the United States.”); 28
7 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also
8 mandatory.

9 Finally, the third country removal statute involves a “four-stage inquiry set
10 forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash.
11 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d
12 1154, 1156–59 (9th Cir. 2007) (explaining the stages). Because Ms. Gharakhan
13 has received relief from removal to her country of citizenship, her case picks up
14 on the third stage of the statute. That requires her removal to a third country be to,
15 as relevant in his case, “(i) The country from which the alien was admitted to the
16 United States”; “(ii) The country in which is located the foreign port from which
17 the alien left for the United States”; and “(iii) A country in which the alien resided
18 before the alien entered the country from which the alien entered the United
19 States.” 8 U.S.C. § 1321(b)(2)(E). The government can proceed to the fourth
20 stage—removal to “another country”—only if it determines it is “impracticable,
21 inadvisable, or impossible to remove the alien to each country described” in the
22 third stage. 8 U.S.C. § 1321(b)(2)(E)(vii).

23 When pursuing a third-country removal subject to all the above constraints,
24 the government must provide notice of the third country removal and an
25 opportunity to respond. Due process requires “written notice of the country being
26 designated” and “the statutory basis for the designation, i.e., the applicable
27 subsection of § 1231(b)(2).” *Aden*, 409 F. Supp. 3d at 1019; *see Andriasian v.*
28 *INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (laying out this requirement).

1 The government must also “ask the noncitizen whether he or she fears
2 persecution or harm upon removal to the designated country and memorialize in
3 writing the noncitizen’s response. This requirement ensures DHS will obtain the
4 necessary information from the noncitizen to comply with section 1231(b)(3) and
5 avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F. Supp.
6 3d at 1019. “Failing to notify individuals who are subject to deportation that they
7 have the right to apply for asylum in the United States and for withholding of
8 deportation to the country to which they will be deported violates both INS
9 regulations and the constitutional right to due process.” *Andriasiyan*, 180 F.3d at
10 1041.

11 If the noncitizen claims fear, measures must be taken to ensure that the
12 noncitizen can seek asylum, withholding, and relief under CAT before an
13 immigration judge in reopened removal proceedings. The amount and type of
14 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
15 circumstances, he would have a reasonable opportunity to raise and pursue his
16 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
17 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
18 F.3d 405, 408 (7th Cir. 1998)).

19 “[L]ast minute” notice of the country of removal will not suffice,
20 *Andriasiyan*, 180 F.3d at 1041; *accord* *Najjar v. Lunch*, 630 Fed. App’x 724 (9th
21 Cir. 2016), and for good reason: To have a meaningful opportunity to apply for
22 fear-based protection from removal, immigrants must have time to prepare and
23 present relevant arguments and evidence. Merely telling a person where they may
24 be sent, without giving them a chance to look into country conditions, does not
25 give them a meaningful chance to determine whether and why they have a
26 credible fear.!

27

28

1 **B. The June 6, 2025 memo's removal policies violate the Fifth**
2 **Amendment, 8 U.S.C. § 1231, the Conviction Against Torture,**
3 **and Implementing Regulations.**

4 The policies in the June 6, 2025 memo do not adhere to these requirements.

5 The memo "contravenes Ninth Circuit law." *Nguyen v. Scott*, __ F. Supp. 3d __,
6 No. 25-CV-1398, 2025 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025)
7 (explaining how the July 9, 2025 ICE memo contravenes Ninth Circuit law on the
8 process due to noncitizens in detail); *see also Van Tran v. Noem*, 2025 WL
9 2770623, No 25-cv-2334-JES-MSB (S.D. Cal. Sept. 29, 2025) (granting
10 temporary restraining order preventing a noncitizen's deportation to a third
11 country pending litigation in light of due process problems); *Nguyen Tran v.*
12 *Noem*, No. 25-cv-2391-BTM-BLM, ECF No. 6 (S.D. Cal. Sept. 18, 2025) (same).

13 First, under the policy, ICE need not give immigrants *any* notice or *any*
14 opportunity to be heard before removing them to a country that—in the State
15 Department's estimation—has provided "credible" "assurances" against
16 persecution and torture. Exhibit C. By depriving immigrants of any chance to
17 challenge the State Department's view, this policy violates "[t]he essence of due
18 process," "the requirement that a person in jeopardy of serious loss be given
19 notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*,
20 424 U.S. 319, 348 (1976) (cleaned up).

21 Second, even when the government has obtained no credible assurances
22 against persecution and torture, the government can still remove the person with
23 between 6 and 24 hours' notice, depending on the circumstances. Exhibit C.
24 Practically speaking, there is not nearly enough time for a detained person to
25 assess their risk in the third country and martial evidence to support any credible
26 fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may
27 know nothing about a third country, like Eswatini or South Sudan, when they are
28 scheduled for removal there.

1 Yet if given the opportunity to investigate conditions, immigrants would
2 find credible reasons to fear persecution or torture—like patterns of keeping
3 deportees indefinitely and without charge in solitary confinement, extreme
4 instability raising a high likelihood of death, or, in Ms. Gharakhan’s case, patterns
5 of persecution against Armenians or Christians—in many of the third countries
6 that have agreed to removal thus far.

7 Immigrants may also have ample reason to challenge DHS’s determination
8 under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has
9 connections is “impracticable, inadvisable, or impossible to remove the alien to.”
10 In Ms. Gharakhan’s case, she was “admitted to the United States,”
11 § 1231(b)(2)(E)(i), from Germany. Exhibit A ¶ 1. DHS must consider whether to
12 remove her there before proceeding to the final step of the third-country removal
13 statute. *See Hadera*, 494 F.3d at 1156–59 (explaining this process).

14 Due process requires an adequate chance to identify and raise these threats
15 to health and life. Because “[f]ailing to notify individuals who are subject to
16 deportation that they have the right to apply . . . for withholding of deportation to
17 the country to which they will be deported violates both INS regulations and the
18 constitutional right to due process,” *Adriasián*, 180 F.3d at 1041, this Court must
19 prohibit the government from removing Ms. Gharakhan without these due process
20 safeguards.

21 **VIII. This Court must hold an evidentiary hearing on any disputed facts.**

22 Resolution of a prolonged-detention habeas petition may require an
23 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).
24 Ms. Gharakhan hereby requests such a hearing on any material, disputed facts.
25

26 **IX. Prayer for relief**

27 For the foregoing reasons, Petitioner respectfully requests that this Court:
28

1. Order and enjoin Respondents to immediately release Petitioner from
2 custody;
3. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
4 § 1231(a)(6) unless and until Respondents obtain a travel document for
5 her removal;
6. Enjoin Respondents from re-detaining Petitioner without first following
7 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other
8 applicable statutory and regulatory procedures;
9. Enjoin Respondents from removing Petitioner unless they provide the
10 following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV
11 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025):
 - 12 a. written notice to both Petitioner and Petitioner's counsel in a
13 language Petitioner can understand;
 - 14 b. a meaningful opportunity, and a minimum of ten days, to raise a
15 fear-based claim for CAT protection prior to removal;
 - 16 c. if Petitioner is found to have demonstrated "reasonable fear" of
17 removal to the country, Respondents must move to reopen
18 Petitioner's immigration proceedings;
 - 19 d. if Petitioner is not found to have demonstrated a "reasonable fear"
20 of removal to the country, a meaningful opportunity, and a
21 minimum of fifteen days, for the Petitioner to seek reopening of
22 her immigration proceedings.
- 23 5. Order all other relief that the Court deems just and proper.

Conclusion

For those reasons, this Court should grant this habeas petition.

DATED: 10/22/2025

Respectfully submitted,

S.Ghoshalhor

SARINEH GHARAKHAN

Petitioner

Exhibit A

1 Sarineh Gharakhan
2 A: [REDACTED]
3 Otay Mesa Detention Center
4 P.O. Box 439049
5 San Diego, CA 92143-9049

6 Pro Se¹

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 SARINEH GHARAKHAN,
11 Petitioner,

12 v.
13 KRISTI NOEM, Secretary of the
14 Department of Homeland Security,
15 PAMELA JO BONDI, Attorney General,
16 TODD M. LYONS, Acting Director,
17 Immigration and Customs Enforcement,
18 JESUS ROCHA, Acting Field Office
19 Director, San Diego Field Office,
20 CHRISTOPHER LAROSE, Warden at
21 Otay Mesa Detention Center,

22 Respondents.

23 CIVIL CASE NO.:

24 Declaration of Sarineh Gharakhan
25 in support of petition for writ of
26 habeas corpus [28 U.S.C. § 2241]

27 I, Sarineh Gharakhan, declare the following is true and correct under penalty of
28 perjury:

1. My name is Sarineh Gharakhan. My family left Iran when I was one, and we travelled through Germany before we came to the United States as refugees in the late 1980s. We are Armenian Christians. We got green cards.

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1 2. In October 2018, I was ordered removed for a robbery conviction. I
2 was also granted relief from removal to Iran. I was given withholding from Iran
3 for being Armenian Christian.

4 3. After I was ordered removed in 2018, I was released the next day. I
5 was told to check in, and I did the first check in. I didn't check in the next date
6 because I forgot.

7 4. On February 21, 2025, I was arrested in Orange County. After I was
8 released on February 23, ICE picked me up at the facility. I have been in ICE
9 custody ever since in Otay Mesa.

10 5. When they picked me up, ICE said they had a warrant from
11 immigration for my new case. No one has ever sat with me with my file and
12 explained what's going on.

13 6. When ICE came through my pod in Otay Mesa, an ICE officer told
14 me I'd be here six months. I messaged the ICE officers a lot, and an officer came
15 through in-person finally about the messages on June 21, and he said he had
16 submitted paperwork for my release and that it was out of his hands and it was up
17 to headquarters. He didn't tell me anything else.

18 7. This July, an ICE officer interviewed me about whether I was a
19 terrorist, if I had weapons, where I was going to go when I was released, and how
20 long I've been in the States, and if I've ever travelled out of the States. I said no
21 and explained my release plans. That was it.

22 8. To the best of my understanding, I so far have not had the chance to
23 contest my re-detention, and no one has told me what changed to make my
24 removal more likely.

25 9. Around August 15, I asked for an update from an ICE officer, and
26 the officer responded that he was trying to see what country they could send me
27 to. I messaged the officer later, and they said they're waiting for acceptance by a
28 third country.

1 10. Yesterday, October 21, an ICE officer came to meet with me to give
2 me notice that I'd have a 90-day custody review on October 31. This is the first
3 time someone has met with me to do a custody review. The officer did not tell me
4 why I am still detained here, if or why my order of supervision was revoked, and
5 what country ICE is trying to remove me to.

6 11. ICE has never told me what country or countries they are trying to
7 remove me to. I'm worried about being persecuted for my tattoos, my religion,
8 and my gender. I have the words "Armenian Pride" tattooed on my arms.

9 12. I have never refused to do something that ICE asked me to do.

10 13. My parents are both U.S. citizens. My sister is a citizen. All my
11 aunts, uncles, and cousins are citizens. My partner and I have been together for 18
12 years and he is a citizen.

13 14. I don't have a bank account. I had a car financed under my name that
14 got repo'ed when I entered ICE custody. I don't have savings. I cannot afford an
15 attorney.

16 15. I have no legal training. I know nothing about immigration law. I
17 also do not have unrestricted access to the internet to look up the latest
18 information about ICE's policies toward people like me.

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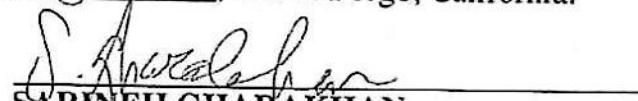
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1 I declare under penalty of perjury that the foregoing is true and correct,
2 executed on 10/22/2025, in San Diego, California.

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4 **SARINEH GHARAKHAN**
5 Declarant

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Exhibit B

IMMIGRATION COURT
10250 RANCHO RD., SUITE 201A
ADELANTO, CA 92301

In the Matter of

GHARAKHAN, SARINEH
Respondent

Case No.:

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 15/11/1985. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

The respondent was ordered removed from the United States to IRAN or in the alternative to _____.

Respondent's application for voluntary departure was denied and respondent was ordered removed to IRAN or in the alternative to _____.

Respondent's application for voluntary departure was granted until upon posting a bond in the amount of \$ _____ with an alternate order of removal to IRAN.

Respondent's application for:

Asylum was () granted (X) denied () withdrawn.
Withholding of removal was () granted () denied () withdrawn.
A Waiver under Section _____ was () granted () denied () withdrawn.
Cancellation of removal under section 240A(a) was () granted () denied () withdrawn.

Respondent's application for:

[] Respondent's application for [REDACTED] cancellation under section 240A(b)(1) was () granted () denied () withdrawn. If granted, it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[] Cancellation under section 240A(b) (2) was () granted () denied () withdrawn. If granted it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[] Adjustment of Status under Section [REDACTED] was () granted () denied () withdrawn. If granted it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[X] Respondent's application of (X) withholding of removal () deferral of removal under Article III of the Convention Against Torture was () granted () denied () withdrawn.

[] Respondent's status was rescinded under section 246.

[] Respondent is admitted to the United States as a _____ until _____.
[] As a condition of admission, respondent is to post a \$ _____ bond.

[] Respondent knowingly filed a frivolous asylum application after proper notice.

[] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

[] Proceedings were terminated.

[] Other: _____

Date: Oct 1, 2018

Appeal: Waived/Reserved

Appeal Due By:

MARIA BJORNERUD
Immigration Judge

Exhibit C

CASE NO. PX 25-951

IDENTIFICATION: JUL 10 2025

ADMITTED: JUL 10 2025

To All ICE Employees
July 9, 2025

Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)

On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will not affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
 - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.

- 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 may proceed with removal to the country identified on the notice. ERO should check all systems for motions as close in time as possible to removal.
- 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.
 - 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 for further proceedings. 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 ICE. In such cases, ERO will alert their local Office of the Principal Legal Advisor (OPLA) Field Location to 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 section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Notably, the Supreme Court's stay of removal does not alter any decisions issued by any other courts as to individual aliens regarding the process that must be provided before removing that alien to a third country.

Please direct any questions about this guidance to your OPLA field location.

Thank you for all you continue to do for the agency.

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

Attachments:

- U.S. Supreme Court Order
- Secretary Noem's Memorandum
- Notice of Removal

PROOF OF SERVICE

I, the undersigned, caused to be served the within Petition for Writ of Habeas Corpus by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney's Office, Southern District of California
Civil Division
Janet.Cabral@usdoj.gov

Date: October 24, 2025

/s/ Jessie Agatstein
Jessie Agatstein