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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 THAT TOM NGIAM,

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary of the
15 Department of Homeland Security; et al.
16 Respondents.

Case No. 25-cv-03405-TWR-BLM

**PETITIONER'S RESPONSE TO
SUPPLEMENTAL BRIEF**

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1 **PETITIONER IS A CLASS MEMBER OF CHHOEUN SETTLEMENT**

2 1. Petitioner THAT TOM NGIAM (Mr. Ngiam) avers that he is a class member of the
3 *Chhoeun v. Marin*, C.D. Cal. Case No. 17-cv-01898-JWH-GJS because the government's
4 opposition to him being a class member is that he has violated criminal laws or conditions of his
5 release. (See Gov. Supplement Brief, page 4, par. 1-18).

6 2. All of Mr. Ngiam's convictions have been set aside and vacated as per his TRO.
7 Therefore, he has not violated any laws or his terms of OSUP.

8 3. The government does not state that Mr. Ngiam was, again, put on OSUP for more
9 than 10 years now and has not been rearrested.

10 4. Therefore, because all his criminal convictions have been vacated and dismissed
11 based on constitutional infirmities, the government cannot claim that he is not a member of the
12 Chhoeun Settlement.

13 **MR. NGIAM MUST BE AFFORDED DUE PROCESS UNDER CHHOEUN**

14 5. The Settlement has not been finalized in *Chhoeun* but the Orders issued are still
15 valid and the government must afford him his due process and the ability to try to have his case
16 reopened.

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18 **REQUIREMENTS OF 28 U.S.C. § 2243**

19 6. The government's own website states that Mr. Ngiam must have reasonable fear
20 interview. (See 8 CFR Part 208.31, 238(b), 241(a)(5)).

21 7. 8 CFR § 208.31 states as follows: "Reasonable fear of persecution or torture
22 determinations involving aliens ordered removed under section 238(b) of the Act and
23 aliens whose removal is reinstated under section 241(a)(5) of the Act.
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1 (a) Jurisdiction. This section shall apply to any alien ordered removed under section
2 238(b) of the Act or whose deportation, exclusion, or removal order is reinstated under
3 section 241(a)(5) of the Act who, in the course of the administrative removal or
4 reinstatement process, expresses a fear of returning to the country of removal. USCIS has
5 exclusive jurisdiction to make reasonable fear determinations, and EOIR has exclusive
6 jurisdiction to review such determinations.

7 8. (b) Initiation of reasonable fear determination process. Upon issuance of a Final
8 Administrative Removal Order under § 238.1 of this chapter, or notice under § 241.8(b)
9 of this chapter that an alien is subject to removal, an alien described in paragraph (a) of
10 this section shall be referred to an asylum officer for a reasonable fear determination. In
11 the absence of exceptional circumstances, this determination will be conducted within 10
12 days of the referral.

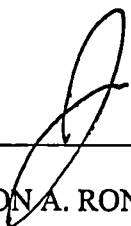
13 9. The U.S. Citizenship and Immigration Services website states that INA Sections
14 238(b) and 241(a)(5) of the Immigration and Nationality Act provide for streamlined removal
15 procedures that prohibit certain individuals from contesting removability before an Immigration
16 Judge and from seeking any relief from removal. Generally, however, such aliens may not be
17 removed to a country where they are more likely than not to be persecuted or tortured.

18 10. As such, if an individual ordered removed under either Section 238(b) or Section
19 241(a)(5) of the INA expresses a fear of return to the country to which he or she has been
20 ordered removed, the case must be referred to an asylum officer, who will determine whether the
21 individual has a reasonable fear of persecution or torture. Those who are found to have a
22 reasonable fear of persecution or torture are then given an opportunity to seek withholding of
23 removal or deferral of removal before an Immigration Judge. Those found not to have a
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1 reasonable fear of persecution or torture may request that an Immigration Judge review the
2 negative reasonable fear determination. If an individual does not request review by the
3 Immigration Judge or the Immigration Judge upholds the negative determination, the individual
4 may be removed from the United States. If the Immigration Judge reverses the negative
5 reasonable fear finding, the individual will be placed in proceedings before an Immigration
6 Judge for a determination on eligibility for withholding or deferral of removal only.¹

7 DATED: December 18, 2025

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JASON A. RONIS

¹ <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/reasonable-fear-screenings> accessed on December 18, 2025.