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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 SEBAHATTIN GUL,

11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, Senior  
Warden, Otay Mesa Detention Center, San  
14 Diego, California, *et al.*,

15 Respondents.

Case No.: 25-cv-03690-AGS-DDL

**RESPONDENTS' RETURN IN  
TO HABEAS PETITION**

16 On July 8, 2025, the Department of Homeland Security (“DHS”) instituted a  
17 notice titled “Interim Guidance Regarding Detention Authority for Applicants for  
18 Admission” (the “Notice”) requiring, in general, that anyone arrested in the United  
19 States and charged with being inadmissible to be considered an “applicant for  
20 admission” under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under 8  
21 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

22 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.  
23 Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared  
24 the Notice unlawful under the Administrative Procedures Act but did not issue a final  
25 judgment. On December 18, 2025, however, the *Bautista* court entered final  
26 judgement. *Bautista*, ECF No. 94. Accordingly, Respondents acknowledge that  
27 Petitioner<sup>1</sup> is detained under 8 U.S.C. § 1226(a) and is entitled to an order from this  
28

<sup>1</sup> Petitioner was released from custody on March 2, 2024 on an Order of Release on

1 Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).<sup>2</sup>

2 To the extent Petitioner asserts claims under the Fourth Amendment<sup>3</sup>, he fails to  
3 explain why release is the remedy for such alleged violations. *United States v. Crews*,  
4 445 U.S. 463, 474 (1980) (noting, in the criminal context, that Fourth Amendment’s  
5 “exclusionary principle” “delimits what proof the Government may offer against the  
6 accused at trial, closing the courtroom door to evidence secured by official  
7 lawlessness,” but an individual “is not himself a suppressible ‘fruit’”); *Cruz v. Barr*,  
8 926 F.3d 1128, 1146 (9th Cir. 2019) (releasing petitioner on Fourth Amendment  
9 grounds because fruits of the regulatory violation were the only evidence of petitioner’s  
10 alienage).

11 Moreover, Fourth Amendment claims related to alienage “belong in front of an  
12 Immigration Judge, not a federal district court.” *See Marvan v. Slaughter*, No. CV 25-  
13 49-H-DLC, 2025 WL 1940043, at \*3 (D. Mont. July 15, 2025) (denying habeas petition  
14 challenging detention based on Fourth Amendment violations for lack of subject matter  
15 jurisdiction). Petitioner cannot simply “bypass the immigration courts and proceed  
16 directly to district court. Instead, [he] must exhaust the administrative process before  
17 [he] can access the federal courts.” *Id.* at \*4 (quoting *J.E.F.M.*, 837 F.3d at 1029). To  
18 the extent Petitioner desires to bring such claims, this district court does not have  
19 jurisdiction. Under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law and  
20 fact . . . arising from any action taken or proceeding brought to remove an alien from  
21 the United States under this subchapter shall be available only in judicial review of a  
22 final order under this section.” Further, judicial review of a final order is available only

23 \_\_\_\_\_  
24 Recognizance (OREC) under 8 U.S.C. § 1226(a). Exhibit 1 (I-213 Narrative) at 2. On  
25 November 18, 2025, he was arrested pursuant to a warrant. Exhibit 2 (Form I-200,  
26 Warrant for Arrest of Alien). The attached exhibits are true and correct copies, with  
27 redactions of personally identifiable information, of documents obtained from ICE  
28 counsel.

26 <sup>2</sup> To the extent the Court issues an order directing a bond hearing under 1226(a),  
27 considering current and forthcoming federal holidays, heavy caseloads, and staffing  
28 levels, Respondents respectfully request that such order provide the government 14 days  
from issuance to hold such bond hearing.

<sup>3</sup> Additionally, see Exhibit 2.

1 through “a petition for review filed with an appropriate court of appeals.” 8 U.S.C.  
2 § 1252(a)(5).

3 Respondents reserve the right to supplement this response in the event of a stay  
4 of enforcement of the *Bautista* final judgment, appellate relief, or a change in DHS  
5 policy.

6 DATED: December 30, 2025

Respectfully submitted,

7 ADAM GORDON  
8 United States Attorney

9 *s/ Lisa M. Hemann*  
10 LISA M. HEMANN  
11 Assistant United States Attorney  
12 Attorney for Respondents  
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# EXHIBIT 1

EARM

Logged In: ARHZGLXJ |

Person ID: [REDACTED] Sex: M DOB: [REDACTED] Current Age [REDACTED] COB: TURKE COC: TURKE

Subject ID: [REDACTED] Processing Disposition: **Notice to Appear Released (I-862)** ICE Non-Detained Portal Verified Account: No **RCA Look**

Case # [REDACTED] Case Category: [8B] Docket: **OTM - OTM DET 600-699 Lara-Ramirez**

Final Order of Removal: No Time in Custody: **41 days** Special Class:

Final Order Date: N/A Depart / Cleared Status: **ACTIVE**

Proceed With Removal: N/A

Days Final Order in Effect: N/A

**Current / Active Alerts**

In Custody

Z-Hold

**Gul, Sebahattin** [REDACTED]

### Encounter Details

**2 Encounter(s) linked to Person ID:** [REDACTED]

Ref#	Subject ID	A-Number	Last Name	First Name	COC	Historical Priority	DOB	Encountered on	Case	Case Category	
<input type="radio"/> 2	[REDACTED]	[REDACTED]	GUL	SEBAHATTIN	TURKE	No Priority	[REDACTED]	11/18/2025	[REDACTED]	8B	<a href="#">Unlink</a>
<input checked="" type="radio"/> 1	[REDACTED]	[REDACTED]	GUL	SEBAHATTIN	TURKE	No Priority	[REDACTED]	03/01/2024	[REDACTED]	8B	<a href="#">Unlink</a>

### Encounter Details

All information below may only be edited in EAGLE

#### Event / Incident Information

Event Number: [REDACTED] Operation: **N/A** Primary Agent: **N/A**

Event Occurred On: **03/01/2024** Site: **N/A** Assigned On:

Event Type: **Administrative Non-Criminal Individual** Landmark: **N/A** Event Supervisor: **N/A**

Program: **BP - Border Patrol** Assigned On:

#### Subject Information

FINS: [REDACTED] Historical Priority: **No Priority** Role: **I**

DNA Collection Device Number: [REDACTED] Criminal Type: **N/A** Role Comment: **N/A**

A-Number: [REDACTED] Agg Felon: **No Aggravated Felony Convictions** Processing Disposition: **Notice to Appear Released (I-862)**

Control Name: **GUL** Primary Citizenship: **TURKIYE** INS Status: **Inadmissible Alien**

First Name: **SEBAHATTIN** Stateless Type: **N/A** POE: **OTAY MESA, CA**

Middle Name: **N/A** Hair: **BLK** Entry Date: **03/01/2024**

Maiden: **N/A** Eyes: **BRO** Entry Class: **PWA Mexico**

Nickname: **N/A** Complexion: **MED** Apprehension Date: **2024-03-01 12:37:00.0**

Living?: **N/A** Race: **W** Warrant served by Warrant Service Officer (WSO)? **N/A**

Sex: **M** Origin: **N/A** Arrest Method: **Patrol Border**

Marital Status: **Single** Date of Birth: [REDACTED] Site: **CHU**

SSN: **N/A** Age: [REDACTED] Landmark: **37 - SAVAGE DAM TO PIPE CROSSING IN OTAY VALLEY**

Juvenile Verified: **N/A** Age at Encounter: [REDACTED] Arrest At/Near: **OTAY MESA, CA**

Occupation: **LABORER** Height: [REDACTED] Juvenile Status: **N/A**

TSC Log #: **N/A** Weight: [REDACTED]

NUIN #: **N/A** Speak/Understand English: **N/A**

SEN #: N/A  
 TECS Subject #: N/A  
 U.S. Veteran Status: N/A  
 Relationship to U.S. Veteran(s): N/A

of 5  
 Read/Write English: N/A  
 Primary Language: N/A  
 Family Members: N/A  
 Alien is the parent **and also** the primary caregiver of a minor within the United States: **No**  
 Related Minor(s): N/A  
 Alien is the legal guardian of a minor within the United States: **No**  
 Related Minor(s): N/A  
 Alien is involved in active parental/child welfare proceedings of children located within the United States: **No**  
 Related Minor(s): N/A

CBP Family Unit ID: N/A  
 CBP Separation Reason: N/A  
 Accompanying Family Member Relation: N/A  
 Accompanying Family Member Subject ID: N/A  
 Consequence Delivery System Selection: FIRA  
 ICE Family ID: N/A

## I-213 Narrative

### Narrative 1 : Created Date: 03/02/2024 03:33 AM

IMMIGRATION HISTORY: No Prior immigration history.

CRIMINAL HISTORY: No prior criminal history.

#### ENCOUNTER:

A Border Patrol agent encountered this subject in the San Diego, California, Border Patrol Sector's area of responsibility. It was determined that this subject had unlawfully entered the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States.

After determining that this subject illegally entered the United States, the subject was arrested and transported to a nearby Border Patrol facility for further processing using the E3/IDENT and IAFIS Systems.

#### IMMIGRATION/CRIMINAL VIOLATION:

The subject claims to be a citizen and national of TURKIYE without the necessary legal documents to enter, pass through, or to remain in the United States. The subject also admitted to illegally crossing the international boundary without being inspected by an immigration officer at a designated Port of Entry.

The subject stated that both parents are citizens of TURKIYE and no other country.

#### CONSULAR NOTIFICATION:

The subject was notified of their right to communicate with a Consular Officer from their country as per Article 36(1) (b) of the Vienna convention on Consular Relations. The subject indicated they understood this right but declined to speak with anyone at this time.

#### DISPOSITION:

The subject provided a valid / verified U.S. address and phone number.

The subject is being processed as NTA/OR due to lack of bed space.

The subject was served with DHS forms I-220A, I-862, I-286, and given a copy of agency form G-56, a list of free legal services, and the "Notice to Appear Tear Sheet."

The subject was informed, per agency for I-220A, that they must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review and / or surrender for removal from the United States if so ordered.

The subject was given a copy of form EOIR-33 and instructed that if their address and/or telephone number changes while awaiting or going through immigration proceedings, they are to file this form with the Department of Homeland Security within five (5) working days of that change.

The subject does not appear to be a threat to national security, border security, or public safety. The subject was released from the custody of the Department of Homeland Security (DHS) by "Order of Recognizance" (O.R.) pending their immigration hearing. This release was authorized through proper channels in accordance with San Diego Sector protocols.

# EXHIBIT 2

