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9 A# 

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 MAHMOD SEYAM,  
13 Petitioner,

14 v.

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

24 Respondents.

CIVIL CASE NO.:

**'25CV3850 LL SBC**

**Petition for Writ  
of  
Habeas Corpus**

**[28 U.S.C. § 2241]**

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1 INTRODUCTION

2 Mahmod Seyam is stateless. Though he was born in Egypt, his parents were  
3 both Palestinian, disqualifying him from Egyptian citizenship. He has no  
4 citizenship in any other country, either. So after he was ordered removed in 2024,  
5 ICE had nowhere to send him. He was released on an order of supervision on July  
6 7, 2024. He remained on supervision for the next 15 months, complying perfectly  
7 with all conditions.

8 Nevertheless, ICE detained him on October 6, 2025. No one told him why  
9 he was being re-detained, and no one gave him a chance to contest his  
10 redetention. A month later, ICE made a halfhearted effort at notice, telling him  
11 revocation was based on “a review of your official alien file” and unspecified  
12 “changed circumstances.” Just like in 2024, ICE’s removal efforts in 2025 have  
13 not borne fruit. Worse yet, if ICE were able to remove him, they could do so with  
14 no notice, six hours’ notice, or 24 hours’ notice, depending on the circumstances.

15 Mr. Seyam must be released. ICE gave him no timely notice or opportunity  
16 to contest re-detention, violating their own regulations. “[T]here is no significant  
17 likelihood of removal in the reasonably foreseeable future,” meaning that  
18 Mr. Seyam’s detention is not statutorily authorized. *Zadvydas v. Davis*, 533 U.S.  
19 678 (2001). And if—despite all evidence to the contrary—ICE is able to remove  
20 him to a third country, ICE threatens to do so in violation of the Fifth Amendment’s  
21 Due Process Clause. This Court should grant this petition on all three grounds.

22 STATEMENT OF FACTS

23 **I. Mr. Seyam, a stateless Palestinian, spent over a year performing**  
24 **perfectly on an order of supervision.**

25 Mr. Seyam is stateless. Exh. A at ¶ 1. He was born in Egypt. But because  
26 both of his parents are Palestinian, he did not attain Egyptian citizenship. *Id.* He  
27 therefore is not a citizen of any country. *Id.*

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1 Mr. Seyam came to the United States on October 13, 2023. Exh. A at ¶ 2.  
2 After serving a six-month sentence in Texas for illegal entry, he was ordered  
3 removed on May 31, 2024. *Id.* at ¶ 3. ICE then tried for a month to remove him.  
4 *Id.* at ¶¶ 4–5. Initially, ICE tried to get Mr. Seyam to sign documents saying he  
5 was Egyptian. But Mr. Seyam knew that that would be a lie. He was sure that he  
6 was not Egyptian, because he had certified documents from Egypt showing that  
7 he was born in Egypt to Palestinian parents. *Id.* at ¶ 4. Egypt did not agree to  
8 accept him for removal, and he was released on an order of supervision on July 7,  
9 2024. *Id.* at ¶ 5.

10 He performed perfectly on supervision for over a year. *Id.* at ¶¶ 2, 6.  
11 Nevertheless, on October 6, 2025, ICE re-detained Mr. Seyam at his check in. *id.*  
12 at ¶ 6. No one gave him any written or oral notice of why he was being arrested.  
13 *Id.* No one gave him a chance to explain why his release should not be revoked.  
14 *Id.* No one explained what changed to make his removal more likely. *Id.*

15 On October 30—24 days after arrest—ICE gave Mr. Seyam a Notice of  
16 Revocation of Release. *Id.* at ¶ 7. It said that his release was being revoked “based  
17 on a review of your official alien file and a determination that there are changed  
18 circumstances in your case.” *Id.* It did not say what those changed circumstances  
19 were. *Id.* To this day, Mr. Seyam has never gotten a chance to contest his re-  
20 detention. *Id.* at ¶ 8.

21 Nor has he seen much indication of efforts to remove him. ICE told him  
22 that they were going to call Israel and ask Israel to take him. *Id.* at ¶ 9. But  
23 Mr. Seyam has now waited in detention for almost three months, with no news  
24 that Israel has agreed to issue a travel document. *Id.*

25 **II. The government is carrying out deportations to third countries without**  
26 **providing sufficient notice and opportunity to be heard.**

27 The evidence therefore shows that ICE cannot remove Mr. Seyam to a third  
28 country in the reasonably foreseeable future. But should something unexpectedly

1 change, and ICE does succeed in removing Mr. Seyam to a third country, he is in  
2 grave danger of removal without due process.

3 The Trump administration reportedly has negotiated with at least 58  
4 countries to accept deportees from other nations. Edward Wong et al, *Inside the*  
5 *Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25,  
6 2025. On June 25, 2025, the New York Times reported that seven countries—  
7 Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—  
8 had agreed to accept deportees who are not their own citizens. *Id.* Since then, ICE  
9 has carried out highly publicized third country deportations to South Sudan and  
10 Eswatini.

11 The Administration has reportedly negotiated with countries to have many  
12 of these deportees imprisoned in prisons, camps, or other facilities. The  
13 government paid El Salvador about \$5 million to imprison more than 200  
14 deported Venezuelans in a maximum-security prison notorious for gross human  
15 rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica  
16 took in hundreds of deportees from countries in Africa and Central Asia and  
17 imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa  
18 Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*,  
19 BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one  
20 pre-1995 Vietnamese refugee, to South Sudan. *See Wong, supra.* On July 15, ICE  
21 deported five men to the tiny African nation of Eswatini, including one man from  
22 Vietnam, where they are reportedly being held in solitary confinement. Gerald  
23 Imray, *3 Deported by US held in African Prison Despite Completing Sentences,*  
24 *Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human  
25 rights abuses or instability. For instance, conditions in South Sudan are so  
26 extreme that the U.S. State Department website warns Americans not to travel  
27 there, and if they do, to prepare their will, make funeral arrangements, and appoint  
28 a hostage-taker negotiator first. *See Wong, supra.*

1 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national  
2 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*  
3 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at \*1, 3 (D.  
4 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional  
5 requirements before removing an individual to a third country. *U.S. Dep't of*  
6 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025  
7 WL 1832186 (U.S. July 3, 2025).<sup>1</sup> On July 9, 2025, ICE rescinded previous  
8 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims  
9 for protection under the Convention Against Torture (CAT) before initiating  
10 removal to a third country” like the ones just described. Exh. B.

11 Under the new guidance, ICE may remove any immigrant to a third country  
12 “without the need for further procedures,” as long as—in the view of the State  
13 Department—the United States has received “credible” “assurances” from that  
14 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails  
15 to credibly promise not to persecute or torture releasees, ICE may still remove  
16 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’  
17 notice. But “[i]n exigent circumstances,” a removal may take place in as little as  
18 six hours, “as long as the alien is provided reasonably means and opportunity to  
19 speak with an attorney prior to the removal.” *Id.*

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23 <sup>1</sup> Though the Supreme Court’s order was unreasoned, the dissent noted that the  
24 government had sought a stay based on procedural arguments applicable only to  
25 class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)  
26 (Sotomayor, J., dissenting). Thus, “even if the Government [was] correct that  
27 classwide relief was impermissible” in *D.V.D.*, Respondents still “remain[]  
28 obligated to comply with orders enjoining [their] conduct with respect to individual  
plaintiffs” like Mr. Seyam. *Id.* Thus, the Supreme Court’s decision does not  
override courts’ authority to grant individual injunctive relief. See *Nguyen v. Scott*,  
No. 2:25-CV-01398, 2025 WL 2419288, at \*20–23 (W.D. Wash. Aug. 21, 2025).



1 **I. Count 1: ICE failed to comply with its own regulations before re-**  
2 **detaining Mr. Seyam, violating his rights under the Fifth Amendment**  
3 **and the Administrative Procedures Act.**

4 The Department of Homeland Security has enacted a series of regulations to  
5 protect the due process rights of someone who, like Mr. Seyam, is re-detained  
6 following a period of release. Title 8 C.F.R. § 241.4(l) applies to re-detention  
7 generally, while 8 C.F.R. § 241.13(i) applies to persons released after providing  
8 good reason to believe that they will not be removed in the reasonably foreseeable  
9 future, *see Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165,  
10 at \*2 (S.D. Cal. Sept. 15, 2025), as Mr. Seyam was.

11 ICE is required to follow its own regulations. *United States ex rel. Accardi*  
12 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150, 1162  
13 (9th Cir. 2004) (“The legal proposition that agencies may be required to abide by  
14 certain internal policies is well-established.”). A court may review a re-detention  
15 decision for compliance with the regulations. *See Phan v. Beccerra*, No. 2:25-CV-  
16 01757, 2025 WL 1993735, at \*3 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, No.  
17 25-cv-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025) (citing *Kong*  
18 *v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)). Many judges in this district  
19 have granted habeas petitions or temporary restraining orders when ICE failed to  
20 follow 8 C.F.R. §§ 241.4(l), 241.13(i). *See, e.g., Constantinovici v. Bondi*, 2025  
21 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v.*  
22 *Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Phan*  
23 *v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct.  
24 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept.  
25 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, \*3 (S.D.  
26 Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D.  
27 Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF  
28

1 No. 12 (S.D. Cal. Oct. 9, 2025).<sup>2</sup>

2 Here, ICE violated § 241.13 in at least four respects.<sup>3</sup>

3 First, ICE did not comply with § 241.13(i)'s informal interview requirement.  
4 No matter the reason for re-detention, the re-detained person is entitled to "an initial  
5 informal interview promptly," during which they "will be notified of the reasons  
6 for revocation." *Id.* §§ 241.4(l)(1), 241.13(i)(3). The interviewer must "afford[] the  
7 [person] an opportunity to respond to the reasons for revocation," allowing them to  
8 "submit any evidence or information" relevant to re-detention and evaluating "any  
9 contested facts." *Id.* But Mr. Seyam has yet to receive the interview required by  
10 regulation. Exh. A at ¶ 8. Any interview conducted now would not be prompt. *See,*  
11 *e.g., M.S.L. v. Bostock*, Civ. No. 6:25-cv-01204-AA, 2025 WL 2430267, at \*11 (D.  
12 Or. Aug. 21, 2025) (27-day delay not prompt); *Yang v. Kaiser*, No. 2:25-cv-02205-  
13 DAD-AC (HC), 2025 WL 2791778, at \*5 (E.D. Cal. Aug. 20, 2025) (two-month  
14 delay not prompt); *Soryadvongsa v. Noem*, 24-cv-2663-AGS-DDL, 2025 WL  
15 3126821, at \*1 (S.D. Cal. Nov. 8, 2025) (29-day delay not prompt). That alone is  
16 enough to grant the petition.

17 Second, ICE did not comply with § 241.13(i)'s requirement that, "upon  
18 revocation," the re-detained person be "notified of the reasons for revocation." As  
19

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20  
21 <sup>2</sup> Courts in other districts have done the same. *Ceesay v. Kurzdorfer*, 781 F. Supp.  
22 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y.  
23 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017); *Zhu v. Genalo*,  
24 No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at \*7–9 (S.D.N.Y. Aug. 26, 2025);  
25 *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at \*10–12 (D. Or.  
26 Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2491782,  
27 at \*2–3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP,  
28 2025 WL 1993771, at \*4 (E.D. Cal. July 16, 2025); *Liu*, 2025 WL 1696526, at \*2;  
*M.Q. v. United States*, 2025 WL 965810, at \*3, \*5 n.1 (S.D.N.Y. Mar. 31, 2025).

<sup>3</sup> Some of these violations also constitute § 241.4(l) violations, but because § 241.13(i) is more comprehensive, Mr. Seyam focuses his arguments on that regulation.

1 Judge Moskowitz recently explained, the regulation’s text and due process require  
2 that the notice be written. *Tran v. Noem*, 25-cv-2391-BTM, Dkt. 16, at 5–6 (S.D.  
3 Cal. Oct. 27, 2025). Here, Mr. Seyam did not receive any notice—written or  
4 otherwise—upon his revocation on October 6, 2025. Exh. A at ¶ 6. He did not get  
5 a Notice of Revocation until October 30, twenty-four days after revocation. *Id.* at  
6 ¶ 7. That untimely notice does not comply with the regulations, either.

7 Third, the untimely notice is far too vague to “notif[y] [Mr. Nguyen] of the  
8 reasons for revocation of his [] release.” 8 C.F.R. § 241.13(i)(2). The notice simply  
9 says that the decision was made based on a review of Mr. Nguyen’s file and  
10 changed circumstances, “without any explanation” of why the file supported  
11 revocation or what the changed circumstances were. *Sarail A. v. Bondi*, No. 25-CV-  
12 2144 (ECT/JFD), 2025 WL 2533673, at \*3 (D. Minn. Sept. 3, 2025). “This bare-  
13 bones explanation does not contain reasons for the revocation of Petitioner’s  
14 release, thus it does not satisfy the ‘the due-process notification requirement of §  
15 241.13(i)(3).’” *Anh Nguyen v. Noem*, 25-CV-2792-LL, Dkt. 10 at 4 (S.D. Cal. Nov.  
16 6, 2025) (quoting *Tran v. Noem*, No. 25-cv-2391-BTM-BLM, 2025 WL 3005347,  
17 at \*2 (S.D. Cal. Oct. 27, 2025)).

18 Fourth, ICE did not revoke Mr. Seyam’s release for a permissible reason. He  
19 was not returned to custody because of a conditions violation. Exh. A at ¶¶ 2, 6.  
20 And there are no changed circumstances that justify re-detaining him. Mr. Seyam  
21 could not be removed in 2024 because he was stateless, hence why ICE released  
22 him. *Id.* at ¶¶ 1, 4. Absent any evidence for “why obtaining a travel document is  
23 more likely this time around[,] Respondents’ intent to eventually complete a travel  
24 document request for Petitioner” to Israel “does not constitute a changed  
25 circumstance.” *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771,  
26 at \*4 (E.D. Cal. July 16, 2025) (citing *Liu v. Carter*, No. 25-3036-JWL, 2025 WL  
27 1696526, at \*2 (D. Kan. June 17, 2025)). Indeed, there is no indication that ICE  
28 even made a pre-arrest determination that changed circumstances made

1 Mr. Seyam’s removal likely. If the government is unable to produce “any  
2 documented determination, made prior to Petitioner's arrest,” that any of the  
3 prerequisites to re-detention were met, then Mr. Seyam must be released on those  
4 grounds, too. *Rokhfirooz v. Larose*, 2025 WL 2646165, at \*3 (S.D. Cal. Sept. 15,  
5 2025).

6 “[B]ecause officials did not properly revoke petitioner's release pursuant to  
7 the applicable regulations, that revocation has no effect, and [Mr. Seyam] is entitled  
8 to his release (subject to the same Order of Supervision that governed his most  
9 recent release).” *Liu*, 2025 WL 1696526, at \*3.

10 **II. Count 2: Mr. Seyam’s detention violates *Zadvydas* and 8 U.S.C. § 1231.**

11 **A. Legal background**

12 Mr. Seyam’s indefinite detention also violates the statute authorizing  
13 detention, 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the  
14 Supreme Court considered a problem affecting people like Mr. Seyam. Federal  
15 law requires ICE to detain an immigrant during the “removal period,” which  
16 typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C.  
17 § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes  
18 discretionary—ICE may detain the migrant while continuing to try to remove  
19 them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive  
20 detention, as removal happens within days or weeks. But some detainees cannot  
21 be removed quickly. Perhaps their removal “simply require[s] more time for  
22 processing,” or they are “ordered removed to countries with whom the United  
23 States does not have a repatriation agreement,” or their countries “refuse to take  
24 them,” or they are “effectively ‘stateless’ because of their race and/or place of  
25 birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and  
26 other circumstances, detained immigrants can find themselves trapped in  
27 detention for months, years, decades, or even the rest of their lives.  
28

1 If federal law were understood to allow for “indefinite, perhaps permanent,  
2 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at  
3 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by  
4 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

5 As an initial matter, *Zadvydas* held that detention is “presumptively  
6 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period  
7 for effectuating removals.

8 Following the six-month grace period, courts must use a burden-shifting  
9 framework to decide whether detention remains authorized. First, the petitioner  
10 must make a prima facie case for relief: He must prove that there is “good reason  
11 to believe that there is no significant likelihood of removal in the reasonably  
12 foreseeable future.” *Id.*

13 If he does so, the burden shifts to “the Government [to] respond with  
14 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of  
15 proof rests with the government: The government must prove that there is a  
16 “significant likelihood of removal in the reasonably foreseeable future,” or the  
17 immigrant must be released. *Id.*

18  
19 **A. The six-month grace period expired in 2012.**

20 As an initial matter, the six-month grace period has long since ended. The  
21 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,  
22 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*  
23 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Seyam was ordered  
24 removed on May 31, 2024. Exh. A at ¶ 3. Accordingly, his 90-day removal period  
25 began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period thus expired  
26 three months after the removal period ended, in November 2024. Thus, the  
27 threshold requirement is met. Even if it somehow were not met, Mr. Seyam would  
28 still be able to rebut the presumption that his detention remains reasonable, given

1 that ICE tried and failed to remove him over his four cumulative months in ICE  
2 custody and 15 months on release. *See Zavvar v. Scott*, No. CV 25-2104-TDC,  
3 2025 WL 2592543, at \*4 (D. Md. Sept. 8, 2025) (collecting cases). Either way,  
4 Mr. Seyam can proceed with his *Zadvydas* claim.

5  
6 **B. There is good reason to believe that there is no significant**  
7 **likelihood of Mr. Seyam removal in the reasonably foreseeable**  
8 **future.**

9 Because the six-month grace period has passed, this Court must evaluate  
10 Mr. Seyam’s *Zadvydas* claim using the burden-shifting framework. At the first  
11 stage of the framework, there must be “good reason to believe that there is no  
12 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,  
13 533 U.S. at 701. This standard can be broken down into three parts.

14 “**Good reason to believe.**” The “good reason to believe” standard is a  
15 relatively forgiving one. “A petitioner need not establish that there exists no  
16 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
17 10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
18 believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
19 foreseeable, significant likelihood of removal or show that his detention is  
20 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
21 2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
22 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
23 Petitioners need only give a “good reason”—not prove anything to a certainty.

24 “**No significant likelihood of removal.**” This component focuses on  
25 whether Mr. Seyam will likely be removed: Continued detention is permissible  
26 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.  
27 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of  
28 untapped possibilities, but also [the] probability of *success* in such possibilities.”  
*Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis

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

5 “**In the reasonably foreseeable future.**” This component of the test  
6 focuses on when Mr. Seyam will likely be removed: Continued detention is  
7 permissible only if removal is likely to happen “in the reasonably foreseeable  
8 future.” *Zadvydass*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
9 removal efforts. If the Court has “no idea of when it might reasonably expect  
10 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal  
11 is likely to occur—or even that it might occur—in the reasonably foreseeable  
12 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3  
13 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL  
14 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d  
15 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Seyam  
16 “would *eventually* receive” a travel document, he can still meet his burden by  
17 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,  
18 2016 WL 6679830, at \*2 (E.D. Mich. Nov. 14, 2016).

19 Mr. Seyam readily satisfies the above standards for three reasons. *First*, ICE  
20 tried and failed to remove him when he was first ordered removed in May 2024.  
21 ICE could not remove him over the 15 months that he was living in the community  
22 on an order of supervision. And ICE still has not obtained a travel document for  
23 him during his near-three months of detention in 2025. That track record strongly  
24 suggests that ICE will not be able to remove him now.

25 *Second*, there is an obvious explanation for ICE’s inability to remove him:  
26 Mr. Seyam is stateless. People who are “effectively ‘stateless’ because of their . . .  
27 place of birth” are notoriously difficult to remove. *Kim Ho Ma v. Ashcroft*, 257 F.3d  
28 1095, 1104 (9th Cir. 2001).

1 That’s because “alternative-country removal is rare.” *Johnson v. Guzman-*  
2 *Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show  
3 that “ICE removed . . . only *five* non-citizens granted withholding or CAT relief to  
4 alternative countries.” *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J.  
5 2025) (emphasis original). In fiscal year 2017, there were at most 21 people of the  
6 thousands with withholding of removal deported to *any* country; that number  
7 includes dual citizens who only received withholding from one of their two other  
8 countries of origin. See American Immigration Council & National Immigrant  
9 Justice Center, *The Difference Between Asylum and Withholding of Removal*, 7  
10 (Oct. 2020)<sup>4</sup> (cited in *Guzman-Chavez*, 594 U.S. at 537). That means that “less than  
11 two percent of those granted withholding of removal were deported to a third  
12 country.” *Puertas-Mendoza*, 2025 WL 3142089 at \*3 (citing American  
13 Immigration Council & National Immigrant Justice Center, *supra*).

14 “[T]hat is not simply a matter of United States policy—foreign governments  
15 ‘routinely deny’ requests to receive people who lack a connection to the would-be  
16 receiving country.” *Puertas-Mendoza*, 2025 WL 3142089 at \*3. “The reason so few  
17 people are deported to third countries is because,” while “customary international  
18 law holds that a country has a duty to accept the return of its nationals,” usually,  
19 “countries have no incentive to accept non-citizens.” American Immigration  
20 Council & National Immigrant Justice Center, *supra*, at 7.

21 Because third country removal is exceedingly rare, and ICE has not been able  
22 to remove Mr. Seyam to a third country for the last 19 months, Mr. Seyam has met  
23 his initial burden. Thus, unless the government can prove a “significant likelihood  
24 of removal in the reasonably foreseeable future,” Mr. Seyam must be released.  
25 *Zadvydas*, 533 U.S. at 701.

26  
27 <sup>4</sup>Available at [https://www.americanimmigrationcouncil.org/wp-](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)  
28 [content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-r](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)  
[emoval.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)

1 **III. Count 3: ICE may not remove Mr. Seyam to a third country without**  
2 **adequate notice and an opportunity to be heard.**

3 There is therefore no current likelihood that Mr. Seyam will be removed to a  
4 third country. But ICE has indicated to Mr. Seyam that they would do so if they  
5 could, Exh. A at ¶ 9, and in this rapidly evolving removal landscape, something  
6 unforeseen could suddenly change to make that feasible. ICE’s “credible threat of  
7 enforcement” of this third-country removal plan is sufficient to make this claim  
8 justiciable, even ICE does not have any current feasible plan to remove Mr. Seyam  
9 to a third country. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 156–57,  
10 161 (2014) (finding standing, even though the politician seeking enforcement of an  
11 unconstitutional law was no longer running for office). And if ICE did suddenly  
12 prove able to remove Mr. Seyam to a third country, it would do so under a policy  
13 that violates the Fifth Amendment, the Convention Against Torture, and  
14 implementing regulations.

15 **A. Legal background**

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

25 Similarly, Congress codified protections enshrined in the CAT prohibiting  
26 the government from removing a person to a country where they would be tortured.  
27 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of  
28

1 the United States not to expel, extradite, or otherwise effect the involuntary return  
2 of any person to a country in which there are substantial grounds for believing the  
3 person would be in danger of being subjected to torture, regardless of whether the  
4 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*  
5 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

6 To comport with the requirements of due process, the government must  
7 provide notice of the third country removal and an opportunity to respond. Due  
8 process requires “written notice of the country being designated” and “the statutory  
9 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*  
10 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*  
11 *Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1 (D.  
12 Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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

22 If the noncitizen claims fear, measures must be taken to ensure that the  
23 noncitizen can seek asylum, withholding, and relief under CAT before an  
24 immigration judge in reopened removal proceedings. The amount and type of  
25 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and  
26 circumstances, he would have a reasonable opportunity to raise and pursue his  
27 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009  
28 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132

1 F.3d 405, 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at \*1 (requiring the  
2 government to move to reopen the noncitizen’s immigration proceedings if the  
3 individual demonstrates “reasonable fear” and to provide “a meaningful  
4 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening  
5 of their immigration proceedings” if the noncitizen is found to not have  
6 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice  
7 and time for a respondent to file a motion to reopen and seek relief).

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

15 **B. The June 6, 2025 memo’s removal policies violate the Fifth**  
16 **Amendment, 8 U.S.C. § 1231, the Conviction Against Torture, and**  
17 **Implementing Regulations.**

18 The policies in the June 6, 2025 memo do not adhere to these requirements.  
19 First, under the policy, ICE need not give immigrants *any* notice or hearing before  
20 removing them to a country that—in the State Department’s estimation—has  
21 provided “credible” “assurances” against persecution and torture. Exh. B. By  
22 depriving immigrants of any chance to challenge the State Department’s view, this  
23 policy violates “[t]he essence of due process,” “the requirement that a person in  
24 jeopardy of serious loss be given notice of the case against him and opportunity to  
25 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

26 Second, even when the government has obtained no credible assurances  
27 against persecution and torture, the government can still remove the person with  
28 between 6 and 24 hours’ notice, depending on the circumstances. Exh. B.

1 Practically speaking, there is not nearly enough time for a detained person to assess  
2 their risk in the third country and martial evidence to support any credible fear—let  
3 alone a chance to file a motion to reopen with an IJ. An immigrant may know  
4 nothing about a third country, like Eswatini or South Sudan, when they are  
5 scheduled for removal there. Yet if given the opportunity to investigate conditions,  
6 immigrants would find credible reasons to fear persecution or torture—like patterns  
7 of keeping deportees indefinitely and without charge in solitary confinement or  
8 extreme instability raising a high likelihood of death—in many of the third  
9 countries that have agreed to removal thus far. Due process requires an adequate  
10 chance to identify and raise these threats to health and life. This Court must prohibit  
11 the government from removing Mr. Seyam without these due process safeguards.

12 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

13 Resolution of a prolonged-detention habeas petition may require an  
14 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr.  
15 Seyam hereby requests such a hearing on any material, disputed facts.

16 **V. Prayer for relief**

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

- 18 1. Order Respondents to immediately release Petitioner from custody;
- 19 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
20 § 1231(a)(6) unless and until Respondents obtain a travel document for  
21 his removal;
- 22 3. Enjoin Respondents from removing Petitioner unless they provide the  
23 following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV  
24 25-10676-BEM, 2025 WL 1453640, at \*1 (D. Mass. May 21, 2025):
  - 25 a. written notice to both Petitioner and Petitioner's counsel in a  
26 language Petitioner can understand;
  - 27 b. a meaningful opportunity, and a minimum of ten days, to raise a  
28 fear-based claim for CAT protection prior to removal;

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c. if Petitioner is found to have demonstrated “reasonable fear” of removal to the country, Respondents must move to reopen Petitioner’s immigration proceedings;

d. if Petitioner is not found to have demonstrated a “reasonable fear” of removal to the country, a meaningful opportunity, and a minimum of fifteen days, for the Petitioner to seek reopening of his immigration proceedings.

4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: December 31, 2025

*s/ Katie Hurrelbrink*

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**KATIE HURRELBRINK**  
Federal Defenders of San Diego, Inc.  
Email: [Katie\\_Hurrelbrink@fd.org](mailto:Katie_Hurrelbrink@fd.org)

**PROOF OF SERVICE**

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I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: December 31, 2025 /s/ Katie Hurrelbrink  
Katie Hurrelbrink

# Exhibit A

1 **Katie Hurrelbrink**  
2 Federal Defenders of San Diego, Inc.  
3 225 Broadway, Suite 900  
4 San Diego, California 92101-5030  
5 Telephone: (619) 234-8467  
6 Facsimile: (619) 687-2666  
7 katie\_hurrelbrink@fd.org

8 Attorneys for Mr. Seyam

9 A# 

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 MAHMUD SEYAM,  
13  
14 Petitioner,

CIVIL CASE NO.:

15 v.

**First Declaration  
of  
Mahmod Seyam**

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

25 Respondents.

26 I, Mahmod Seyam, declare:

- 27 1. My name is Mahmod Seyam. My mother and father are Palestinian. I was  
28 born in Egypt. But because I was born to two Palestinian parents, I did not  
become an Egyptian citizen. As a result, I am not a citizen of any country. I  
am stateless.

- 1 2. I came to the United States on October 13, 2023. I was convicted of illegal  
2 entry (8 U.S.C. § 1325) and got a six-month sentence in Texas. I have no  
3 other criminal history in any country.
- 4  
5 3. ICE said that they were going to try to remove me without having me see a  
6 judge. I refused to sign and said I wanted to see a judge. Nevertheless, my  
7 paperwork says that I was ordered removed on May 31, 2024.
- 8  
9 4. ICE also tried to get me to sign documents saying that I was Egyptian. I told  
10 an ICE officer that I was not Egyptian. If I had signed that paper, I would  
11 have been lying. Instead, I am Palestinian. I showed the ICE officer proof  
12 that I was not an Egyptian citizen, in the form of certified documents from  
13 Egypt saying that my parents were Palestinian and not Egyptian. As far as I  
14 know, Egypt has not agreed to accept me for removal.
- 15  
16  
17 5. ICE kept me in immigration custody until July 7, 2024 and then released me  
18 on an order of supervision.
- 19  
20 6. I was on an order of supervision between July 7, 2024 and October 6, 2025.  
21 I always checked in as scheduled with ICE. On October 6, 2025, I went in  
22 for my check-in, and I was arrested. No one told me why I was being arrested.  
23 I never got any chance to explain why my release should not be revoked. No  
24 one explained what changed to make my removal more likely.
- 25  
26  
27 7. On October 30, 2025, I got a Notice of Revocation of Release from ICE. It  
28 says that my release is being revoked “based on a review of your official

1 alien file and a determination that there are changed circumstances in your  
2 case.” It does not say what those changed circumstances are.  
3

4 8. To this day, ICE has never given me a chance to explain why my release  
5 should not be revoked.

6 9. Now, ICE says that they are going to call Israel and ask Israel to take me.  
7 That’s all I’ve been told about ICE’s efforts to remove me.  
8

9 10.I have no savings. I have no house or car or any other assets. I get paid \$5  
10 per week for my job at Otay Mesa Detention Center. Other than that, I have  
11 no income. A friend on the outside sends me a little money for commissary.  
12 I do not think that I can afford a lawyer.  
13

14 11.I speak Spanish. A Spanish interpreter read me every line of this declaration  
15 in Spanish, and I confirmed that it was true and correct.  
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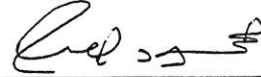
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I declare under penalty of perjury that the foregoing is true and correct,  
executed on this date, 12 - 30 - 25, in San Diego, California.



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**MAHMUD SEYAM**  
Declarant

# Exhibit B

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)**

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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