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

12 FRUNZIK SARGSYAN,
13
14 Petitioner,

15 v.

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.

CIVIL CASE NO.: '25CV3857 JLS JLB

**Petition for Writ
of
Habeas Corpus**

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

27 ¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment
28 under Chief Judge Order No. 134. Mr. Sargsyan's financial eligibility for
representation is included in a sworn statement attached to this petition.

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1 **I. Introduction**

2 Frunzik Sargsyan came to the United States from Armenia seeking asylum.
3 After being detained for two and a half years, on January 21, 2025, Mr. Sargsyan
4 received withholding of removal from Armenia. ICE released him on an order of
5 supervision. He complied with that order and went to his check-ins.

6 Mr. Sargsyan was re-arrested on October 12, 2025. Bureaucratic confusion
7 followed. ICE kept Mr. Sargsyan detained and filed a new case. It did not realize
8 Mr. Sargsyan's case had already been fully resolved. That new case was
9 dismissed on December 17. But even still, Mr. Sargsyan has stayed detained at
10 Otay Mesa.

11 Mr. Sargsyan's continued detention violates his statutory and regulatory
12 rights, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment.

13 This habeas petition raises the following three claims:

14 **(1) Regulatory and due process violations:** Mr. Sargsyan must be released
15 because ICE's failure to follow its own regulations—about timely notifying
16 noncitizens of the actual reasons for re-detention, about promptly providing a
17 meaningful opportunity to be heard following re-detention, and about the limited
18 reasons ICE can invoke to re-detain someone who is complying with their
19 conditions of release—repeatedly violated due process. *See, e.g., Nguyen v. Noem*,
20 No. 25-cv-2791-BAS, ECF No. 12 (S.D. Cal. Nov. 7, 2025); *Nguyen v. Noem*,
21 No. 25-cv-2792-LL, ECF No. 10 (S.D. Cal. Nov. 6, 2025); *Ghafouri v. Noem*, 25-
22 cv-2675-RBM, ECF No. 11 (S.D. Cal. Nov. 4, 2025); *Tran v. Noem*, No. 25-cv-
23 2391-BTM, 2025 WL 3005347 (S.D. Cal. Oct. 27, 2025); *Bui v. Warden*, No. 25-
24 cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Truong v. Noem*, No. 25-cv-
25 2597-JES, 2025 WL 2988357 (S.D. Cal. Oct. 22, 2025); *Thai v. Noem*, No. 25-cv-
26 2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025); *Constantinovici v. Bondi*,
27 ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10,
28 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3-*5

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

8 **(2) *Zadvydas* violations:** Mr. Sargsyan must also be released under
9 *Zadvydas* because—having proved unable to remove him to a third country for
10 the last eleven months—the government cannot show that there is a “significant
11 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at
12 701. *See, e.g., Gharakhan v. Noem*, No. 25-cv-2879-DMS, ECF No. 11 (S.D. Cal.
13 Nov. 5, 2025); *Ho v. Noem*, No. 25-cv-2453-BAS, ECF No. 11 (S.D. Cal. Oct. 20,
14 2025); *Conchas-Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct.
15 6, 2025); *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept.
16 25, 2025) (granting habeas petitions or TROs releasing noncitizens under
17 *Zadvydas*); *see also Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387 (D.N.J.
18 2025) (granting habeas petition on same grounds for Mexican citizen with
19 withholding of removal detained 90 days, released, and then re-detained for
20 another two months); *Villanueva v. Tate*, ___ F. Supp. 3d ___, 2025 WL 2774610
21 (S.D. Tex. 2025) (granting habeas petition on same grounds for Mexican citizen
22 with withholding of removal detained fewer than six months); *Zavvar v. Scott*,
23 No. cv-25-2104-TDC, 2025 WL 2592543 (D. Md. Sept. 8, 2025) (granting habeas
24 petition on same grounds for Iranian citizen with withholding of removal detained
25 fewer than six months total); *Puertas-Mendoza v. Bondi*, No. SA-25-CA-890-XR,
26 2025 WL 3142089 (W.D. Tex. Oct. 22, 2025) (granting habeas petition on same
27 grounds for Mexican citizen with withholding of removal detained fewer than six
28 months total); *Gomez-Simeon v. Bondi*, No., 2025 WL 3470872 (W.D. Tex. Nov.

1 24, 2025) (granting habeas petition on same grounds for Honduran citizen with
2 withholding of removal detained for a month after revocation of his supervision).

3 **(3) Third-country removal statutory and due process violations:** In the
4 unlikely event ICE does identify a third country, it will not provide Mr. Sargsyan
5 with due process. ICE’s operative third-country removal policy “contravenes
6 Ninth Circuit law.” *Nguyen v. Scott*, __ F. Supp. 3d __, No. 25-CV-1398, 2025
7 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025). This Court should thus also
8 enjoin the Respondents to adhere to basic requirements of notice and an
9 opportunity to be heard before removing Mr. Sargsyan to a third country in which
10 he could be persecuted or tortured.

11 **II. Statement of facts**

12 **A. Mr. Sargsyan comes to the U.S. from Armenia, is granted**
13 **withholding of removal, and is released on an order of**
14 **supervision for nine months before being re-detained.**

15 Mr. Sargsyan was born and raised in Armenia. Exhibit A, Declaration of
16 Frunzik Sargsyan, ¶ 10. He came to the United States border with his mother and
17 brother in February 2020. *Id.* ¶ 2. They were released together and lived in the
18 United States for the next two and a half years. *Id.*

19 In July 2022, Mr. Sargsyan was arrested by ICE and re-detained. *Id.* ¶ 3. On
20 January 21, 2025, Mr. Sargsyan was ordered removed to Armenia. *Id.* ¶ 3.
21 However, because Mr. Sargsyan faces persecution there, the immigration judge
22 also granted him withholding of removal from Armenia. *Id.*

23 Two days later, ICE released Mr. Sargsyan on an order of supervision. *See*
24 Exhibit B (order of supervision excerpts). Mr. Sargsyan checked in with ICE
25 without incident. *See* Exhibit A ¶ 4; Exhibit B.

26 Nine months after he received withholding of removal relief, on October
27 12, 2025, Mr. Sargsyan was arrested by Border Patrol in San Diego. Exhibit A
28 ¶ 5. Five days later, on October 17, 2025, Mr. Sargsyan received a “Notice of
Revocation of Release.” Exhibit C; Exhibit A ¶ 6. It states in part:

1 This letter is to inform you that your order of supervision has been
2 revoked and you will be detained in the custody of U.S. Immigration
3 and Customs Enforcement (ICE) at this time. This decision has been
4 made based on a review of your official alien file and a
5 determination that there are changed circumstances in your case.

6 ICE has determined that you can be expeditiously removed from the
7 United States pursuant to the outstanding order of removal against
8 you. NC was granted CAT and Withholding of Removal pursuant to
9 INA 241(b)(3) on 01/21/2025.

10 Based on the above, and pursuant to 8 C.F.R. § 241.4 / 8 C.F.R.
11 § 241.13, you are to remain in ICE custody at this time. You will be
12 promptly afforded an informal interview at which you will be given
13 an opportunity to respond to the reasons for the revocation.

14 Exhibit C. However, Mr. Sargsyan “never had an interview with ICE where [he]
15 could explain what was going on.” Exhibit A ¶ 6.

16 In November 2025, ICE filed a new immigration case, with a new notice to
17 appear before an immigration judge. *Id.* ¶ 7. Apparently upon realizing
18 Mr. Sargsyan already had been through this process, ICE later moved to dismiss.
19 *Id.* ¶ 8. On December 17, 2025, an immigration judge dismissed the case,
20 explaining, “Respondent was previously granted withholding of removal.” Exhibit
21 D (IJ order on motion to dismiss).

22 Even though the case has been dismissed, Mr. Sargsyan is still detained at
23 the Otay Mesa Detention Center. He notes, “I do not understand why I am still
24 detained. No one has told me clearly why I am still detained after the case was
25 dismissed.” Exhibit A, ¶ 9.

26 But perhaps ICE has decided to hold him on his prior order of removal and
27 seek his removal to a third country. “An ICE officer on a tablet mentioned [his]
28 case may be transferred for consideration of third-country removal.” *Id.*

**B. Third-country removals for noncitizens granted withholding of
removal are rare, but as of July 2025, third-country removals
can happen with no or little notice.**

There are three main forms of relief available to noncitizens who will be
persecuted if they are returned to their home country: asylum, withholding of

1 removal, and Convention Against Torture (“CAT”) relief.

2 There are more restrictions on asylum, *see* 8 U.S.C. § 1158(a)(2), and
3 fewer restrictions on eligibility for withholding of removal, *see* 8 U.S.C.
4 § 1231(b)(3)(B)(iii). However, an applicant for withholding of removal must
5 show a higher likelihood of persecution than what an asylum applicant must
6 demonstrate—specifically, that it is “more likely than not that he or she would be
7 persecuted on account of race, religion, nationality, membership in a particular
8 social group, or political opinion upon removal to that country.” 8 C.F.R.
9 § 1208.16(b)(2); *see INS v. Stevic*, 467 U.S. 407, 429–30 (1984).

10 About 1,000 people won withholding of removal each year between 2010
11 and 2018. *See* Exhibit E at 6 (American Immigration Council & National
12 Immigrant Justice Center, *The Difference Between Asylum and Withholding of*
13 *Removal* (Oct. 2020)). In fiscal year 2024, about 2,500 people won withholding or
14 deferral of removal. *See* Exhibit F at 2 (Congressional Research Service, *FY2024*
15 *Immigration Court Data: Case Outcomes* (Feb. 3, 2025)).

16 When an immigration judge grants withholding relief, she issues a removal
17 order and simultaneously issues an order withholding removal with respect to the
18 country the person demonstrated a risk of persecution. *See Guzman-Chavez*, 594
19 U.S. at 535–38. While ICE is authorized to remove that person granted
20 withholding to an alternative countries, the removal statute specifies restrictive
21 criteria for identifying appropriate countries. *See* 8 U.S.C. § 1231(b); 8 C.F.R.
22 § 1208.16(f). Further, “foreign governments ‘routinely deny’ requests to receive
23 people who lack a connection to the would-be receiving country.” *Puertas-*
24 *Mendoza*, 2025 WL 3142089 at *3. “The reason so few people are deported to
25 third countries is because,” while “customary international law holds that a
26 country has a duty to accept the return of its nationals,” usually, “countries have
27 no incentive to accept non-citizens.” Exhibit E at 7.

28

1 If ICE identifies an appropriate third country of removal, the noncitizen
2 must then have notice and an opportunity to seek relief from removal to that new
3 country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would
4 face persecution or other mistreatment in the country designated under
5 § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1);
6 withholding of removal, § 1231(b)(3)(A); [and] relief under an international
7 agreement prohibiting torture.”); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.
8 1999) (holding that “last minute” designation of alternative country without
9 meaningful opportunity to apply for protection “violate[s] a basic tenet of
10 constitutional due process”).

11 As a result of these restrictions and procedures, very few people who
12 receive withholding of removal are deported to a third country. Between
13 September 2023 and June 2025, ICE removed a total of eight people granted
14 withholding or other CAT relief to alternative countries. Exhibit G (ICE removal
15 data).² Between fiscal years 2020 and 2023, a total of five people granted
16 withholding or other CAT relief were removed to alternative countries. *Id.*

17 That said, this summer, ICE began removing more immigrants it could not
18 previously remove to third countries. It implemented new policies to do so. On
19 July 9, 2025, ICE rescinded previous guidance meant to give immigrants a
20

21 ² The data in Exhibit G are collected from the Deportation Data Project, which
22 “collects and posts public, anonymized U.S. government immigration
23 enforcement datasets,” “primarily [obtained] through Freedom of Information Act
24 requests.” For the complete raw data, one can visit
25 <https://deportationdata.org/data/ice>, select “Removals,” and filter for each
26 removal classified as “[5C] Relief Granted – Withholding of Deportation /
27 Removal” or “[5D] Final Order of Deportation / Removal – Deferred Action
28 Granted.” The chart attached as Exhibit G highlights all such cases in which the
noncitizen was removed to a country other than their country of origin. The
remaining unhighlighted noncitizens either won withholding or CAT relief with
respect to a third country that was not their country of origin, including dual
citizens; had withholding or CAT relief terminated; or agreed to return to their
country of origin despite a grant of withholding or CAT relief.

1 “‘meaningful opportunity’ to assert claims for protection under the Convention
2 Against Torture before initiating removal to a third country.” Exhibit H (July 9,
3 2025, ICE third-country removal guidance).

4 Now, ICE may remove any immigrant to a third country without any
5 notice. It may do so if, in the sole view of the State Department, the United States
6 has received “credible” “assurances” from that country that deportees will not be
7 persecuted or tortured. *Id.* at 1.

8 If a country fails to credibly promise not to persecute or torture releasees,
9 ICE may remove immigrants with only 24 hours’ notice. “In exigent
10 circumstances,” a removal may take place in six hours, “as long as the alien is
11 provided reasonably means and opportunity to speak with an attorney prior to the
12 removal.” *Id.*

13 Under this policy, ICE “will not affirmatively ask whether the alien is
14 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the
15 noncitizen “does not affirmatively state a fear of persecution or torture if removed
16 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]
17 may proceed with removal to the country identified on the notice.” *Id.* at 2.

18 Under this policy, the United States has deported several dozen noncitizens
19 to prisons and military camps in Rwanda, Eswatini, South Sudan, and Ghana.
20 Many are still detained to this day, in countries to which they have never been,
21 without charge. Nokukhanya Musi & Gerald Imray, *10 more deportees from the*
22 *US arrive in the African nation of Eswatini*, Associated Press (Oct. 6, 2025)³; *see*
23 *also* Gerald Imray, *A Cuban man deported by the US to Africa is on a hunger*
24 *strike in prison, his lawyer says*, Associated Press (Oct. 23, 2025)⁴; Frank
25

26 ³ Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

27 ⁴ Available at <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

1 Chothia, *Eswatini confirms receiving \$5.1m from the US for accepting deportees*,
2 BBC (Nov. 18, 2025).⁵ Others have been returned to their home countries, even
3 though they had received orders protecting them against their return under the
4 Convention Against Torture. *See* Third Country Deportation Watch, *Ghana*,
5 Refugees International & Human Rights First (Dec. 5, 2025).⁶

6 **III. This Court has jurisdiction.**

7 This Court has jurisdiction to consider Mr. Sargsyan’s claim of unlawful
8 detention and unlawful third-country removal under 28 U.S.C. § 2241 while he is
9 in detention at the Otay Mesa Detention Center.

10 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips
11 this Court of jurisdiction, “has been repeatedly ‘rejected as implausible’ by the
12 Supreme Court.” *Soryadvongsa v. Noem*, No. 25-cv-2663-AGS, 2025 WL
13 3126821, *1 (S.D. Cal. Nov. 8, 2025) (quoting *Department of Homeland Sec. v.*
14 *Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). The government’s argument
15 “would eliminate judicial review of immigration [detainees’] claims of unlawful
16 detention . . . inconsistent with *Jennings v. Rodriguez* and the history of judicial
17 review of the detention of noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*,
18 No. 25-cv-2422-RBM, 2025 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025)
19 (collecting cases agreeing on this jurisdictional point).

20 Further, this Court has jurisdiction to consider and resolve constitutional
21 questions of the process due to those threatened with removal in habeas
22 proceedings. *See AARP v. Trump*, 605 U.S. 91, 94–99 (2025) (*per curiam*).

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⁵ Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

28 ⁶ Available at <https://www.thirdcountrydeportationwatch.org/ghana>.

1 **IV. Legal analysis.**

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

3 First, it should order Mr. Sargsyan’s immediate release. ICE failed to
4 follow its own regulations requiring notification at re-detention, notification of the
5 *specific reasons* a noncitizen is being re-detained, a chance to promptly and
6 meaningfully contest the reasons for a re-detention decision, and mandating
7 noncitizens in Mr. Sargsyan’s position only be re-detained upon a proper
8 determination that “there is a significant likelihood that the [noncitizen] may be
9 removed in the reasonably foreseeable future.” 8 C.F.R. §§ 241.13(i)(2); *see also*
10 241.4(l). Further, *Zadvydas v. Davis* holds that immigration statutes do not
11 authorize the government to detain immigrants like Mr. Sargsyan, whose removal
12 period has ended, and for whom there is “no significant likelihood of removal in
13 the reasonably foreseeable future.” 533 U.S. 678, 701 (2001).

14 Second, this Court should enjoin the Respondents to adhere to basic
15 requirements of notice and an opportunity to be heard before removing
16 Mr. Sargsyan to a third country in which he could be persecuted or tortured. If the
17 government is truly seeking to deport Mr. Sargsyan to an unidentified third
18 country, there are extremely detailed statutory criteria it must follow. Its current
19 policy of giving noncitizens between zero and 24 hours’ notice of which country
20 it intends to deport them to is insufficient as a regulatory, statutory, and due
21 process matter.

22 **V. Claim 1: ICE failed to comply with its own regulations while re-**
23 **detaining Mr. Sargsyan, violating his rights under applicable**
24 **regulations and due process.**

25 Two regulations establish the process due to someone who is re-detained in
26 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to
27 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping
28 framework to persons released upon good reason to believe that they will not be
removed in the reasonably foreseeable future, as Mr. Sargsyan was. *See Azzo v.*

1 *Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, *5–*6 (S.D. Cal. Dec. 10,
2 2025) (explaining this regulatory scheme); *Rokhfirooz*, No. 25-CV-2053-RSH-
3 VET, 2025 WL 2646165 at *2 (same).

4 These regulations establish important substantive limitations before a
5 noncitizen’s re-detention. Officials are allowed to “return [the person] to custody”
6 only when the person “violate[d] any of the conditions of release,” 8 C.F.R.
7 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official
8 “determines that there is a significant likelihood that the alien may be removed in
9 the reasonably foreseeable future,” and makes that finding “on account of
10 changed circumstances,” § 241.13(i)(2). Section “241.13(i)(2) requires that this
11 determination is made before the removable alien has had his release revoked.”
12 *Nguyen v. Noem*, No. 25-cv-2792-LL-VET, 2025 WL 3101979, *2 (S.D. Cal.
13 Nov. 6, 2025) (quoting *Tran v. Noem*, No. 25-CV-2391-BTM-BLM, 2025 WL
14 3005347, *2 (S.D. Cal. Oct. 27, 2025)).

15 No matter the reason for re-detention, the re-detained person is also entitled
16 to certain procedural protections during and after re-detention.

17 First, “[u]pon revocation,’ the noncitizen ‘will be notified of the reasons
18 for revocation of his or her release or parole.’” *Phan v. Noem*, No. 25-cv-2422-
19 RBM-MSB, 2025 WL 2898977, *3, *4 (S.D. Cal. Oct. 10, 2025) (quoting
20 §§ 241.4(l)(1), 241.13(i)(3)). A noncitizen must receive “adequate notice of the
21 basis for the revocation decision such that he c[an] meaningfully respond at the
22 post-detention informal interview.” *Rasakhamdee v. Noem*, No. 25-cv-2817-
23 RBM, ECF No. 10 at 7 (S.D. Cal. Nov. 6, 2025) (quoting *Diaz v. Wofford*, No.
24 25-cv-1079-JLT, 2025 WL 2581575, *8 (E.D. Cal. Sept. 5, 2025)).

25 Second, the person “‘will be afforded an initial informal interview promptly
26 after his or her return’ to be given ‘an opportunity to respond to the reasons for
27 revocation stated in the notification.’” 8 C.F.R. §§ 241.13(i)(3), 241.4(l)(1).
28 “[P]romptly,” commonly understood, “means ‘[q]uickly; without delay’ or ‘[a]s

1 soon as practicable.” *Soryadvongsa*, 2025 WL 3126821 at *3 (quoting *Promptly*,
2 Black’s Law Dictionary (12th ed. 2024)). “The chance to advocate for release
3 must ordinarily come within days of a criminal arrest. Surely, it must happen at
4 least that quickly in the more constitutionally protected civil-arrest arena, too.” *Id.*

5 Third, in the case of someone released under § 241.13(i), the regulations
6 also explicitly require the interviewer to allow the re-detained person to “submit
7 any evidence or information that he or she believes shows there is no significant
8 likelihood he or she be removed in the reasonably foreseeable future, or that he or
9 she has not violated the order of supervision.” § 241.13(i)(3).

10 ICE is required to follow its own regulations. *United States ex rel. Accardi*
11 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); see *Alcaraz v. INS*, 384 F.3d 1150,
12 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
13 abide by certain internal policies is well-established.”). A court may review a re-
14 detention decision for compliance with the regulations, and “where ICE fails to
15 follow its own regulations in revoking release, the detention is unlawful and the
16 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
17 (collecting cases); accord *Phan*, 2025 WL 2898977 at *5.

18 ICE followed none of its substantive or procedural regulatory prerequisites
19 to re-detention or continued detention here.

20 First, ICE does not have a proper reason to re-detain Mr. Sargsyan: there is
21 no reason to think that there is “a significant likelihood that [he] may be removed
22 in the reasonably foreseeable future,” § 241.13(i)(2), and he has not “violate[d]
23 any of the conditions of release,” § 241.13(i)(1). There is no reason to think that,
24 having been unable to remove Mr. Sargsyan to an unidentified third country since
25 January 2025, ICE is likely to do so in the reasonably foreseeable future.

26 Second, ICE did not notify Mr. Sargsyan of the “reasons” for his re-
27 detention “upon revocation” of release. See 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3).
28 He was re-detained on October 12, 2025. Exhibit A ¶ 5. ICE provided its first

1 notification of why it was re-detaining him five days later, on October 17, 2025.
2 *See* Exhibit C (Notice of Revocation). This was not “upon revocation.” 8 C.F.R.
3 §§ 241.4(l)(1), 241.13(i)(3).

4 Nor did this notification include sufficient information—actual “reasons”—
5 explaining why his detention was being revoked. “Simply to say that
6 circumstances had changed or there was a significant likelihood of removal in the
7 foreseeable future is not enough.” *Sarail A. v. Bondi*, __ F. Supp. 3d __, 2025 WL
8 2533673, *10 (D. Minn. 2025). “Petitioner must be told *what* circumstances had
9 changed or *why* there was now a significant likelihood of removal in order to
10 meaningfully respond to the reasons and submit evidence in opposition.” *Id.* The
11 notice here included no information about what had changed or why. It simply
12 said “ICE has determined that you can be expeditiously removed from the United
13 States pursuant to the outstanding order of removal against you.” Exhibit C.

14 Third, Mr. Sargsyan has not received the informal interview required by
15 regulation. §§ 241.13(i)(2); 241.4(l)(1). If he were to receive one now, such an
16 interview would by no definition be a “prompt[.]” one, as required by regulation.
17 *Id.*

18 Fourth, Mr. Sargsyan has not been afforded a meaningful opportunity to
19 respond to the reasons for revocation or submit evidence rebutting his re-
20 detention. §§ 241.13(i)(2); 241.4(l)(1); *see* Exhibit A ¶ 6.

21 Numerous courts have released re-detained immigrants after finding that
22 ICE failed to comply with some or all of the applicable regulations this summer
23 and fall. *See, e.g., Villanueva v. Tate*, __ F. Supp. 3d __, 2025 WL 2774610 (S.D.
24 Tex. Sept. 26, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y.
25 2025); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7–9
26 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL
27 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-
28 00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v.*

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

15 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
16 the applicable regulations, that revocation has no effect, and [Mr. Sargsyan] is
17 entitled to his release (subject to the same Order of Supervision that governed his
18 most recent release).” *Liu*, 2025 WL 1696526, at *3.

19 **VI. Claim 2: Mr. Sargsyan’s detention violates *Zadvydas* and 8 U.S.C.**
20 **§ 1231.**

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

27 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
28 a problem affecting people like Mr. Sargsyan: Federal law requires ICE to detain
an immigrant during the “removal period,” which typically spans the first 90 days
after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-
day removal period expires, detention becomes discretionary—ICE may detain

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

15 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
16 detain an immigrant for six months after his or her removal order becomes final.
17 After those six months have passed, the immigrant must be released unless his or
18 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
19 months have passed, the petitioner must only make a prima facie case for relief—
20 there is “good reason to believe that there is no significant likelihood of removal
21 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
22 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

23 Further, even before the six months have passed, the immigrant must still
24 be released if he *rebut*s the presumption that his 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 Mr. Sargsyan can make all the threshold showings needed to shift the burden to
28 the government.

1 **B. Mr. Sargsyan’s six-month grace period expired this July.**

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

9 Mr. Sargsyan’s order of removal was entered on January 21, 2025. Exhibit
10 A ¶ 3; Exhibit C. His *Zadvydas* grace period expired three months after the
11 removal period ended, in July 2025. The six-month period ended then.

12 **C. Mr. Sargsyan’s experience and ICE’s historical experience**
13 **provide good reason to believe that he will not likely be removed**
14 **in the reasonably foreseeable future.**

15 This Court uses a burden-shifting framework to evaluate Mr. Sargsyan’s
16 *Zadvydas* claim. At the first stage of the framework, Mr. Sargsyan must
17 “provide[] good reason to believe that there is no significant likelihood of removal
18 in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard
19 can be broken down into three parts.

20 **“Good reason to believe.”** The “good reason to believe” standard is a
21 relatively forgiving one. “A petitioner need not establish that there exists no
22 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
23 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
24 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
25 foreseeable, significant likelihood of removal or show that his detention is

26 ⁷ Those dates are, specifically, (1) “[t]he date the order of removal becomes
27 administratively final;” (2) “[i]f the removal order is judicially reviewed and if a
28 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.*

1 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
2 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
3 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
4 Petitioners need only give a “good reason”—not prove anything to a certainty.

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

11 In other words, even if “there remains *some* possibility of removal,” a
12 petitioner can still meet its burden if there is good reason to believe that
13 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
14 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

15 **“In the reasonably foreseeable future.”** This component of the test
16 focuses on when Mr. Sargsyan will likely be removed: Continued detention is
17 permissible only if removal is likely to happen “in the reasonably foreseeable
18 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
19 removal efforts.

20 If the Court has “no idea of when it might reasonably expect [Petitioner] to
21 be repatriated, this Court certainly cannot conclude that his removal is likely to
22 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*
23 *v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July
24 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss.
25 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.
26 2019)). Thus, even if this Court concludes that Mr. Sargsyan “would *eventually*
27 receive” a travel document, he can still meet his burden by giving good reason to
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1 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2
2 (E.D. Mich. Nov. 14, 2016).

3 Mr. Sargsyan satisfies this standard for three reasons.

4 *First*, the IJ’s withholding of removal order prohibits Mr. Sargsyan’s
5 removal to his home country of Armenia, “which is the only country to which he
6 has a claim to citizenship or legal immigration status.” *Villanueva*, 2025 WL
7 2774610, at *10; *see* Exhibit C, Exhibit A ¶ 3. “This substantially increases the
8 difficulty of removing him.” *Munoz-Saucedo*, 789 F. Supp. 3d at 398.

9 Historical data back this difficulty of removal up. In the four and a half
10 years between 2020 and mid-2025, ICE was able to successfully remove 13
11 people who had been granted withholding to a third country. Exhibit G. Given
12 that about 2,500 people received a grant of withholding of removal in fiscal year
13 2024 *alone*, that indicates ICE has a very small percentage chance of success
14 overall. Exhibit F.

15 Mr. Sargsyan’s individual circumstances strongly suggest that he will not
16 be among the handful of people granted withholding of removal the U.S. removes
17 to a third country. He is an Armenian citizen, who was born in Armenia and who
18 has only ever lived in Armenia and the United States. Exhibit A ¶ 10. His parents
19 are citizens only of Armenia. *Id.* He does not have immigration status in any other
20 country. *Id.*

21 *Second*, ICE has not made any progress in removing Mr. Sargsyan in the
22 last eleven months since his removal order became final. ICE has never met with
23 him to discuss third-country removal, including when he was on release this
24 whole past year. Exhibit A ¶¶ 11–13. He has never learned which particular
25 countries ICE is considering, so he has “never been able to give information about
26 why another country would or would not work.” *Id.* ¶ 11. “ICE has never asked
27 [him] to fill out any paperwork to be removed to a third country.” *Id.* ¶ 12. And he
28 has “never had an interview or a phone call with the consulate of any third

1 country.” *Id.* Regardless, “The only country [he] ha[s] ties to is Armenia.” *Id.*
2 ¶ 10.

3 Given that third country removal is already exceedingly unlikely, a “lack of
4 effort only reinforces the conclusion that the Petitioner’s removal is not likely to
5 occur in the reasonably foreseeable future.” *Kacanic v. Elwood*, No. CIV.A. 02-
6 8019, 2002 WL 31520362, at *5 (E.D. Pa. Nov. 8, 2002); *see also Conchas-*
7 *Valdez v. Casey*, 25-cv-2469-DMS, Dkt. 9, at 6 (S.D. Cal. Oct. 6, 2025) (granting
8 a petition in part because “the Government’s minimal work on [the] case . . . [did]
9 not instill confidence that it will be able to secure [CAT] Petitioner’s removal in
10 the reasonably foreseeable future”).

11 Even if ICE were making efforts behind the scenes, so far, none have borne
12 fruit. The third-country removal process has not progressed even to the point that
13 ICE has identified a country to which Mr. Sargsyan can apply or be removed to.
14 Exhibit A ¶¶ 11–13. Nor has he been asked to call or interview with any
15 consulate, including while he was on supervision. *Id.*

16 That matters, because *Zadvydas* itself made clear that good faith efforts do
17 not themselves show that removal is significantly likely. The petitioner in
18 *Zadvydas* appealed a “Fifth Circuit h[olding] [that] [the petitioner’s] continued
19 detention [was] lawful as long as good faith efforts to effectuate deportation
20 continue and [the petitioner] failed to show that deportation will prove
21 impossible.” 533 U.S. at 702 (cleaned up). The Supreme Court reversed, finding
22 that the Fifth Circuit’s good-faith-efforts standard “demand[ed] more than our
23 reading of the statute can bear.” *Id.*

24 Thus, “under *Zadvydas*, the reasonableness of Petitioner’s detention does
25 not turn on the degree of the government’s good faith efforts. Indeed, the
26 *Zadvydas* court explicitly rejected such a standard. Rather, the reasonableness of
27 Petitioner’s detention turns on whether and to what extent the government’s efforts
28

1 are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL
2 78984, at *5 (W.D.N.Y. Jan. 2, 2019).

3 Here, then, it is possible that ICE is making “travel document requests,”
4 *Gilali v. Warden of McHenry Cnty. Jail*, No. 19-CV-837, 2019 WL 5191251, at
5 *5 (E.D. Wis. Oct. 15, 2019)—though no evidence of that has filtered through to
6 Mr. Sargsyan. But mere efforts would be “insufficient” to defeat his showing that
7 removal is not likely. *Id.* That would be “merely an assertion of good-faith efforts
8 to secure removal; it does not make removal likely in the reasonably foreseeable
9 future.” *Id.*; *see also Zavvar*, 2025 WL 2592543, at *7 (finding the presumption
10 rebutted, despite outstanding third-country requests to Australia and Romania,
11 because of “[t]he lack of any sign that Australia or Romania is actively
12 considering accepting [the petitioner]”).

13 *Third*, even if ICE could eventually remove Mr. Sargsyan to a third
14 country, there is no reason to think that that will happen in the reasonably
15 foreseeable future. The difficulty of third-country removal suggests that ICE will
16 not quickly prove successful. And even if ICE received travel documents for a
17 third country, Mr. Sargsyan “would be entitled to seek fear-based relief from
18 removal to that country, which would require additional, lengthy proceedings.”
19 *Munoz-Saucedo*, 789 F. Supp. 3d at 399; *accord Villanueva*, 2025 WL 2774610,
20 at *10 (“[A]ny efforts to remove Villanueva to a third country would likely be
21 delayed by proceedings contesting his removal to the third country finally
22 identified.”).

23 For all of these reasons, Mr. Sargsyan has shown good reason to believe his
24 removal is not significantly likely in the reasonably foreseeable future. Indeed, in
25 light of this information, the government cannot rebut this showing, and this
26 Court should grant the petition.

1 **VII. Claim 3: ICE must provide adequate notice and an opportunity to be**
2 **heard before removing Mr. Sargsyan to a third country.**

3 In addition to unlawfully detaining him, ICE’s policies threaten
4 Mr. Sargsyan’s unlikely, but potentially immediate, removal to an unidentified
5 third country without adequate notice and an opportunity to be heard. These
6 policies violate the Fifth Amendment, the Convention Against Torture, and
7 implementing regulations.

8 **A. Legal background: Due process requires notice and an**
9 **opportunity to be heard before deportation to third countries.**

10 As noted, U.S. law enshrines mandatory protections against dangerous and
11 life-threatening removal decisions through the withholding of removal statute and
12 implementations of the Convention Against Torture. *See* 8 U.S.C.
13 § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822
14 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18,
15 1208.16-1208.18 (CAT).

16 Further, the third country removal statute involves a “four-stage inquiry set
17 forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash.
18 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d
19 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a
20 noncitizen designates “one country to which the noncitizen wants to be removed.”
21 *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or
22 that country does not accept them, then “the IJ may at step two designate a
23 country of which the noncitizen is a subject, national, or citizen.” *Id.* at 1007. If
24 “no country satisfies” that requirement, the step three allows designation and
25 removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The
26 government can proceed to the fourth stage—removal to “another country”—only
27 if it determines it is “impracticable, inadvisable, or impossible to remove the alien
28 to each country described” in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

1 When pursuing a third-country removal subject to all the above constraints,
2 the government must provide notice of the third country removal and an
3 opportunity to respond. Due process requires “written notice of the country being
4 designated” and “the statutory basis for the designation, i.e., the applicable
5 subsection of § 1231(b)(2).” *Aden*, 409 F. Supp. 3d at 1019.

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

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

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

1 a meaningful chance to determine whether and why they have a credible fear.

2 **B. The July 6, 2025 memo’s removal policies violate the Fifth**
3 **Amendment, 8 U.S.C. § 1231, the Convention Against Torture,**
4 **and implementing regulations.**

5 The policies in the currently effective July 6, 2025 memo do not adhere to
6 these requirements. The operative memo “contravenes Ninth Circuit law.” *Nguyen*
7 *v. Scott*, __ F. Supp. 3d __, No. 25-CV-1398, 2025 WL 2419288, *19 (W.D.
8 Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes
9 Ninth Circuit law on the process due to noncitizens in detail); *see also Van Tran*
10 *v. Noem*, 2025 WL 2770623, No 25-cv-2334-JES-MSB (S.D. Cal. Sept. 29, 2025)
11 (granting temporary restraining order preventing a noncitizen’s deportation to a
12 third country pending litigation in light of due process problems); *Nguyen Tran v.*
13 *Noem*, No. 25-cv-2391-BTM-BLM, ECF No. 6 (S.D. Cal. Sept. 18, 2025) (same).

14 First, under the policy, ICE need not give immigrants *any* notice or *any*
15 opportunity to be heard before removing them to a country that—in the State
16 Department’s estimation—has provided “credible” “assurances” against
17 persecution and torture. Exhibit H. By depriving immigrants of any chance to
18 challenge the State Department’s view, this policy violates “[t]he essence of due
19 process,” “the requirement that a person in jeopardy of serious loss be given
20 notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*,
21 424 U.S. 319, 348 (1976) (cleaned up).

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

1 If given the opportunity to investigate conditions, immigrants would find
2 credible reasons to fear persecution or torture—like patterns of deporting third-
3 country deportees back to their home countries despite CAT orders preventing
4 that refoulement, patterns of keeping deportees indefinitely and without charge in
5 solitary confinement, and extreme instability raising a high likelihood of death—
6 in many of the third countries that have agreed to removal of 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 DHS must consider whether to remove him there before proceeding to the final
11 step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59
12 (explaining this process).

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

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

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

24 **IX. Prayer for relief**

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

- 26 1. Order and enjoin Respondents to immediately release Petitioner from
27 custody on the same conditions as previously contained in his order
28 of supervision;

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Proof of Service

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.

Dated: December 31, 2025

s/ Jessie Agatstein
Jessie Agatstein

Exhibit A

1 **Jessie Agatstein**
2 Cal. Bar No. 319817
3 **Federal Defenders of San Diego, Inc.**
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 jessie_agatstein@fd.org
9 Attorneys for Mr. Sargsyan¹

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

11 FRUNZIK SARGSYAN,

12 Petitioner,

13 v.

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

23 Respondents.

Civil Case No.:

**Declaration of Frunzik Sargsyan
in support of petition for writ of
habeas corpus**

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

24
25
26
27 ¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment
28 under Chief Judge Order No. 134. Mr. Sargsyan's financial eligibility for
representation is included in this sworn statement.

1 I, Frunzik Sargsyan, declare the following is true and correct under penalty
2 of perjury:

- 3 1. My name is Frunzik Sargsyan. I have about a couple hundred dollars
4 in a checking account. I am unemployed. I cannot afford an attorney.
- 5 2. My A-number is  I came to the United States border
6 from Armenia with my mom and my brother in February 2020. We
7 were released together.
- 8 3. In July 2022, ICE arrested me. I was detained from then until I was
9 ordered removed to Armenia, and granted withholding of removal
10 from Armenia, on January 21, 2025. ICE released me on an order of
11 supervision two days later, on January 23, 2025.
- 12 4. I checked in with ICE this May as scheduled. I was told I wouldn't
13 have to check in again for the next year. I didn't have any issues on
14 supervision.
- 15 5. On October 12, 2025, Border Patrol arrested me in San Diego.
- 16 6. On October 17, 2025, ICE gave me a piece of paper telling me my
17 supervision was being revoked. The paper did not explain why. The
18 paper said I would have an informal interview, but I never did. I
19 never had an interview with ICE where I could explain what was
20 going on.
- 21 7. In November 2025, ICE filed a new immigration case against me in
22 front of an immigration judge. It didn't make sense, because I'd
23 already been ordered removed and granted withholding of removal.
- 24 8. ICE later decided to dismiss my case and moved to dismiss. On
25 December 17, 2025, the immigration judge dismissed ICE's case
26 against me because I had already been granted withholding of
27 removal.
- 28 9. I do not understand why I am still detained. No one has told me

1 clearly why I am still detained after the case was dismissed. An ICE
2 officer on a tablet mentioned my case may be transferred for
3 consideration of third-country removal.

4 10. I am not a citizen or national of any country other than Armenia. I
5 have never lived anyplace other than the United States and Armenia.
6 My mother and father are citizens of Armenia. I do not have
7 immigration status in any other country. I was born in Yerevan,
8 Armenia. I do not know of any reason why a country other than
9 Armenia would accept me for removal. The only country I have ties
10 to is Armenia.

11 11. No one from ICE has ever named a particular third country, so I
12 have never been able to give information about why a third country
13 would or would not work for me.

14 12. ICE has never asked me to fill out any paperwork to be removed to a
15 third country. I have never had an interview or a phone call with the
16 consulate of any third country.

17 13. When I was out on release this year, no one in ICE ever contacted me
18 about a third country, including at my check in.

19 14. I am afraid of being removed to many of the third countries I've
20 heard about in the news because many of them are deporting people
21 back to their home countries. I am at risk of persecution in Armenia.

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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.



Declarant
Franzik Sargsyan.

Exhibit B

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (ADDENDUM)

File No.: 

Name: SARGSYAN, FRUNZIK

Date: January 23, 2025

- That you do not associate with know gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Supervision.
- That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into Service custody and you being criminally prosecuted.
- Other:

x 
Alien's Signature

Exhibit C

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
880 Front ST
San Diego, CA, 92101



U.S. Immigration
and Customs
Enforcement

Sargsyan Frunzik
c/o Immigration and Customs Enforcement
San Diego Field Office

A: 

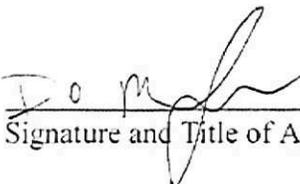
Notice of Revocation of Release

This letter is to inform you that your order of supervision has been revoked, and you will be detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your official alien file and a determination that there are changed circumstances in your case.

ICE has determined that you can be expeditiously removed from the United States pursuant to the outstanding order of removal against you. NC was granted CAT and Withholding of Removal pursuant to INA 241(b)(3) on 01/21/2025.

Based on the above, and pursuant to 8 C.F.R. § 241.4 / 8 C.F.R. § 241.13, you are to remain in ICE custody at this time. You will promptly be afforded an informal interview at which you will be given an opportunity to respond to the reasons for the revocation. You may submit any evidence or information you wish to be reviewed in support of your release. If you are not released after the informal interview, you will receive notification of a new review, which will occur within approximately three months of the date of this notice.

You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 U.S.C. Section 1253(a).



Signature and Title of Authorized Official

10/17/25
Date

Exhibit D



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:
SARGSYAN, FRUNZIK
To:
Ani A. Petrosyan, Esq.
PO BOX 590
GLENDALE, CA 91209

A-Number:
~~XXXXXXXXXX~~
Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
12/17/2025

ORDER ON MOTION TO DISMISS

The Respondent the Department of Homeland Security the parties jointly has/have filed a motion to dismiss these proceedings under 8 CFR 1239.2(c). The moving party has given notice of the motion to the non-moving party and the court has provided the non-moving party with an opportunity to respond. The motion is opposed unopposed.

After considering the facts and circumstances, the immigration court orders that the motion to dismiss is:

Granted without prejudice
 Denied

Further explanation:

Respondent was previously granted withholding of removal.

IT IS SO ORDERED.

Immigration Judge: ROBINSON, EUGENE 12/17/2025

Certificate of Service

This document was served:
Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : SARGSYAN, FRUNZIK | A-Number : ~~XXXXXXXXXX~~
Riders:
Date: 12/17/2025 By: GARCIA III, ROBERTO, Court Staff

Exhibit E



The Difference Between Asylum and Withholding of Removal

For generations, the United States has adhered to a basic promise that no person may be deported to a country where they will face persecution. Under laws passed to fulfill this promise, every year tens of thousands of people ask the United States for protection. Most of those people apply for asylum. Those that win asylum can apply to live in the United States permanently and gain a path to citizenship.¹ They can also apply for their spouse and children to join them in the United States.²

But not everyone can apply for asylum. For individuals who are afraid of persecution in their home country but ineligible for asylum, an alternate path to protection exists, one that is harder to win and offers fewer benefits: withholding of removal.³ This fact sheet provides an overview of withholding of removal, including the basics of seeking protection in the United States, eligibility requirements, the application process, and data on applicants.

What is Asylum?

Asylum is a form of protection granted to foreign nationals already in the United States or arriving at the border who meet the international law definition of a “refugee.” The United Nations 1951 Convention and 1967 Protocol define a refugee as a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁴ This definition was incorporated into U.S. immigration law in the Refugee Act of 1980.⁵

As a signatory to the 1967 Protocol, and through U.S. immigration law, the United States has legal obligations to provide protection to those who qualify as refugees. The Refugee Act established two paths to obtain refugee status—either from abroad as a resettled refugee or in the United States as an asylum seeker.⁶

What is the Difference Between Asylum and Withholding of Removal?

A person granted asylum is protected from being returned to his or her home country, is eligible to apply for authorization to work in the United States, may apply for a Social Security card, may request permission to travel overseas, and can petition to bring family members to the United States.⁷ Asylees may also be eligible for certain government programs, such as Medicaid or Refugee Medical Assistance.⁸

Asylum is technically a discretionary benefit, and certain individuals by law are not eligible for asylum. For example, individuals who have previously been deported and then reentered the United States, or who did not apply for asylum within one year of arriving in the United States, are barred from applying for asylum. Individuals who have been banned from asylum are instead eligible in most cases for “withholding of removal.”⁹

As in the case of asylum, a person who is granted withholding of removal is protected from being returned to his or her home country and receives the right to remain in the United States and work legally. But at the end of the court process, an immigration judge enters a deportation order and then tells the government they cannot execute that order. That is, the “removal” to a person’s home country is “withheld.” However, the government is still allowed to deport that person to a different country if the other country agrees to accept them.¹⁰

Withholding of removal provides a form of protection that is less certain than asylum, leaving its recipients in a sort of limbo. A person who is granted withholding of removal may never leave the United States without executing that removal order, cannot petition to bring family members to the United States, and does not gain a path to citizenship. And unlike asylum, when a family seeks withholding of removal together a judge may grant protection to the parent while denying it to the children, leading to family separation.

Withholding of removal also does not offer permanent protection or a path to permanent residence. If conditions improve in a person’s home country, the government can revoke withholding of removal and again seek the person’s deportation. This can occur even years after a person is granted protection.

Some individuals, including those who were convicted of “particularly serious crimes,” are not eligible for withholding of removal.¹¹ These individuals are limited to applying for relief under the Convention Against Torture, a protection that is harder to win than withholding of removal and that offers even fewer benefits.¹²

How Does a Person Apply for Withholding of Removal?

Unlike asylum, which can be granted by asylum officers working for U.S. Citizenship and Immigration Services (USCIS), withholding of removal may only be granted by an immigration judge working in the immigration court system.¹³

Individuals may be put into immigration court in multiple ways, such as through an unsuccessful asylum application, apprehension inside the country by U.S. Immigration and Customs Enforcement (ICE), or apprehension by U.S. Customs and Border Protection (CBP) at or near the border.

When individuals who have previously been ordered deported are apprehended after reentering the United States, the law permits the earlier removal order to be “reinstated.”¹⁴ Where someone with a prior removal order who fears persecution is encountered by ICE or CBP, he or she is not eligible for full removal proceedings in immigration court, but the individual may seek withholding of removal.¹⁵

When someone expresses a fear of persecution to an immigration officer who is considering reinstating a prior order of removal, the officer is required to first refer the individual to an asylum officer.¹⁶ Individuals who can demonstrate to the asylum officer that they have a “reasonable fear” of persecution in their home country are sent to immigration court for a special form of removal proceedings.¹⁷ These proceedings are known as “withholding-only” proceedings, because the only protection that individuals may seek is withholding of removal or protection under the Convention Against Torture.¹⁸

Once an individual is in the immigration court process, either in withholding-only proceedings or in the standard removal proceeding, they must file an application with the immigration court requesting humanitarian protection in the form of asylum (if eligible) and withholding of removal.¹⁹

How Does Someone Win Humanitarian Protection?

An asylum seeker has the burden of proving that he or she meets the definition of a refugee.²⁰ Asylum seekers often provide substantial evidence to demonstrate that they have been persecuted in the past, or that they have a “well-founded fear” of future persecution in their home country, which the Supreme Court has defined as a 10 percent chance that the person would be persecuted on account of a protected ground if they were to be deported.²¹ A person’s own testimony is usually critical to his or her asylum determination.

Individuals who apply for withholding of removal are held to a higher standard than people seeking asylum. Instead of having to prove that their fear of persecution is “well-founded,” people seeking withholding must demonstrate it is “more likely than not” that they would be persecuted in their home country if forced to return there, unless they can prove that they have suffered persecution on account of a protected ground in the past.²² This means that there must be a greater than 50 percent chance of persecution.²³ As a result, winning withholding of removal is generally harder than winning asylum, because the burden on the applicant is five times higher.

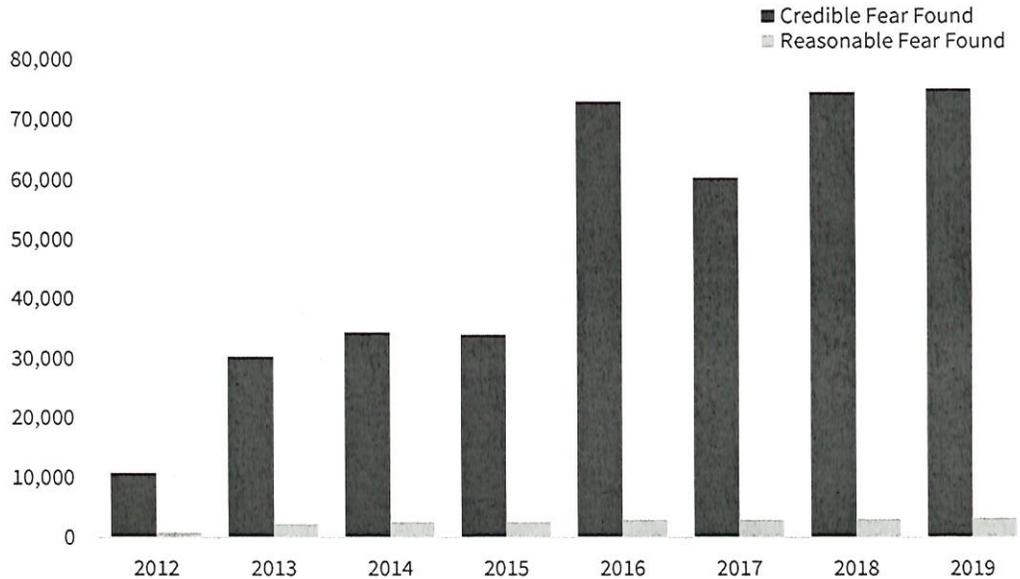
How Common are Withholding-Only Proceedings?

In the context of all asylum-seekers, withholding-only proceedings remain a relatively small subset of asylum-based cases referred to immigration court. In recent years, between 70,000 and 80,000 asylum seekers have been referred to immigration court annually through the credible fear process.²⁴ In total, more than 213,000 people applied for asylum in Fiscal Year (FY) 2019.²⁵

The most common way that individuals are placed into withholding-only proceedings is through an interview at the border with an asylum officer. Individuals without prior orders of deportation who can demonstrate that they have a “credible fear” of persecution in their home country are sent to normal removal proceedings where they may apply for asylum. Individuals who have previously been ordered deported are ineligible for asylum and have a higher burden to meet. If they manage to demonstrate to the asylum officer that they have a “reasonable fear” of persecution in their home country, they are sent to withholding-only removal proceedings where they may apply for withholding of removal, but not asylum.

Since FY 2012, the number of individuals found to have a credible fear of persecution has increased from 10,838 to 75,252 (see Figure 2). At the same time, the number of individuals found to have a reasonable fear of persecution and sent to withholding-only removal proceedings has only increased from 916 to 3,306. Thus, despite a very large increase in the number of asylum seekers at the border over the past decade, withholding-only proceedings remain relatively rare.

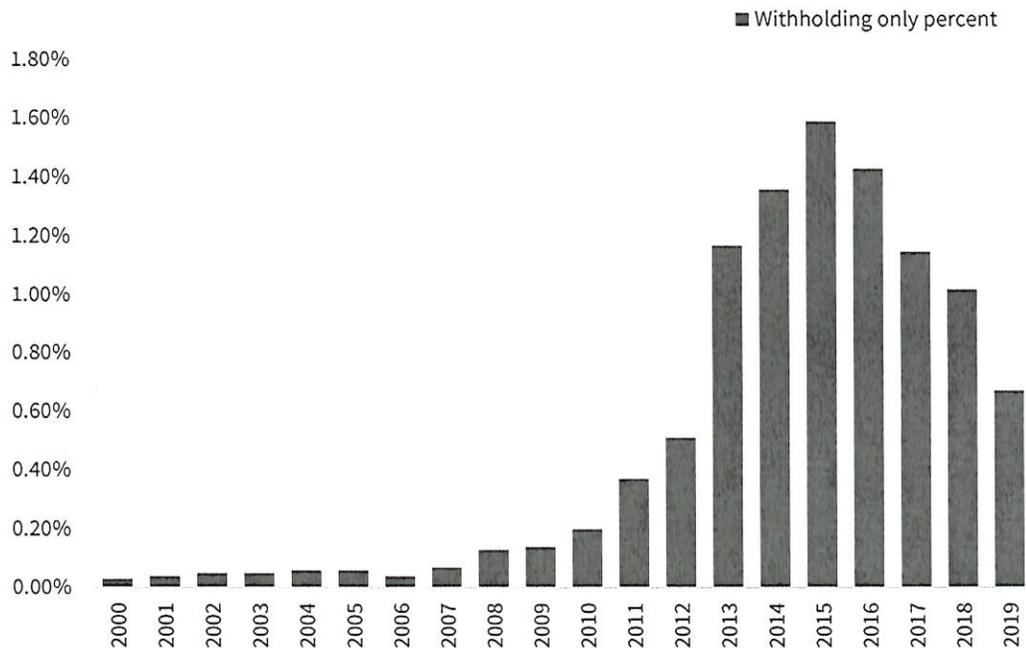
Figure 1 Number of Individuals Passing Credible Fear and Reasonable Fear Interviews



Source: USCIS Credible Fear and Reasonable Fear Workload Reports, FY2012-2019.

From FY 2014 to FY 2019, a little more than 3,000 withholding-only proceedings were begun each year, an amount which has largely stayed the same since FY 2014. At the same time, the number of new removal proceedings begun each year has routinely exceeded 200,000.²⁶ While the number of withholding-only proceedings has remained relatively stable, the number of removal proceedings filed in immigration court continues to rise. In FY 2019, 543,997 cases were filed in immigration court, of which 3,652 (0.6%) were withholding-only proceedings.

Figure 2 Withholding-Only Proceedings as a Percent of All Cases Filed in Immigration Court



Source: Executive Office for Immigration Review: Statistics Yearbooks, FY 2010-2018, <https://www.justice.gov/eoir/statistical-year-book>; data on file with author for FY2019.

Are People in Withholding-Only Proceedings Eligible for Release on Bond?

Most individuals who are placed in withholding-only proceedings are held in ICE detention throughout the entire process of seeking protection and are not given the opportunity to ask a judge for release. ICE takes the legal position that people in withholding-only proceedings are not eligible for bond and must be held in “mandatory detention.” This means that some people are held for months or years in detention even if ICE or an immigration judge would normally have released them.

However, in some locations, federal courts have ruled that individuals in withholding-only proceedings are eligible for release on bond. In the jurisdiction of the Second Circuit Court of Appeals (New York, Connecticut, and Vermont) and the Fourth Circuit Court of Appeals (Maryland, North Carolina, South Carolina, Virginia, and West Virginia), immigrants in withholding-only proceedings may ask an immigration judge for release on bond.²⁷ The Supreme Court is set to decide this issue in 2021.²⁸

How Difficult is it to Win Withholding of Removal?

Withholding of removal is a difficult protection to win. In most years, few people win withholding of removal, due in part to structural obstacles unrelated to the merits of the claim. Individuals in withholding-only proceedings also have a high bar to winning relief, made worse by the fact that individuals in withholding-only proceedings are generally held in detention during proceedings.

Detention significantly impedes the ability of immigrants to obtain counsel and win their cases. A 2016 study revealed that just 14 percent of individuals held in detention managed to hire counsel, compared to 66 percent of individuals whose cases proceeded outside of detention.²⁹ Those who managed to obtain a lawyer while detained were able to win relief in 21 percent of cases, compared to just 2 percent of those who did not obtain a lawyer.³⁰

Access to counsel also plays a significant role in whether individuals in detention file for protection, including withholding of removal. In 2016, just 3 percent of detained immigrants without lawyers filed for a form of relief from removal, compared to 32 percent of represented immigrants in detention.³¹ When detained individuals without lawyers managed to apply for relief, they were able to win relief just 23 percent of the time, compared to 49 percent of the time for those who had lawyers.³²

As a result, the fact of detention itself can be the reason that many people in withholding-only proceedings are denied protection or abandon or withdraw their application.

Winning withholding of removal has also gotten more difficult in recent years. A suite of anti-asylum policies and decisions passed by the Trump administration, discussed below, together with the expansion of the detention system inside the United States over the past decade, have been responsible for declining asylum and withholding grant rates.³³

Despite these obstacles, from FY 2010 to FY 2018 more than 1,000 people won withholding of removal each year, peaking at 1,746 grants in FY 2018.³⁴ This includes hundreds of individuals placed in withholding-only proceedings who win protection every year.³⁵ Unfortunately, a significant number of individuals who seek withholding of removal abandon their cases, likely due to the inability to proceed with an application for relief from within detention.

How Have Administrative Changes Affected the Availability of Withholding of Removal?

The Trump administration has enacted policies severely curtailing asylum rights, some of which have forced people to seek withholding of removal rather than asylum.³⁶ A 2019 transit ban, for example, barred from asylum eligibility anyone who traveled through a third country without seeking status, forcing people to apply for withholding of removal instead.³⁷ In June 2020, a federal court in Washington, DC struck down that ban as unlawful.³⁸

Other policies and decisions enacted by the Trump administration have made winning asylum and withholding of removal more difficult. These include restrictions on asylum for victims of domestic violence, new requirements for immigration judges to rapidly process claims for asylum-seeking families, and the hiring

of immigration judges and Board of Immigration Appeals members with records of anti-immigrant animus and hardline positions against asylum seekers.³⁹

New regulations proposed in 2020 would continue to restrict access to asylum and withholding-of-removal protections in violation of U.S. and international law, including proposed changes to the asylum system which would impose widespread new bans on asylum that could strip asylum eligibility from hundreds of thousands of people.⁴⁰ The Trump administration has gone so far as to invoke the threat of COVID-19 in a proposed regulation that would bar asylum seekers from both asylum *and* withholding of removal, declaring that any person who passed through a country where a contagious disease is present is a “danger to the security of the United States.”⁴¹

Despite these challenges, individuals continue to apply for, and win, both asylum and withholding of removal. In FY 2019, 18,824 individuals were granted asylum or withholding of removal, the most in over a decade.⁴²

How Often Are People Granted Withholding of Removal Deported to Third Countries?

Despite the possibility that individuals granted withholding of removal could be deported to a third country, ICE rarely exercises that ability. Data acquired through the Freedom of Information Act reveals that in FY 2017, just 21 people in total granted withholding of removal were deported to a third country. That is just 1.6 percent of the 1,274 people granted withholding of removal that year.

The reason so few people are deported to third countries is because countries have no incentive to accept non-citizens. By contrast, customary international law holds that a country has a duty to accept the return of its nationals.⁴³ The data provided did not clarify which of those 21 people were dual citizens or had some form of permanent immigration status in another country. It is likely that at least some of them fell into one of these two categories.⁴⁴

This data shows that despite the possibility of deportation to a third country, those granted withholding of removal are generally able to remain in the United States without being deported. Only ICE initiating the process of formally revoking their withholding of removal would threaten their ability to remain in the United States.

Endnotes

1. 8 U.S.C. § 1159(b).
2. 8 U.S.C. § 1158(b)(3).
3. See generally 8 U.S.C. § 1231(b).
4. U.N. General Assembly (U.N.G.A.), Convention Relating to the Status of Refugees, § 1(A)(2), U.N. Treaty Series (Vol. 189), at 137 (July 28, 1951), available at <http://www.refworld.org/docid/3be01b964.html>; U.N.G.A., Protocol Relating to the Status of Refugees, U.N. Treaty Series (Vol. 606), at 267, (January 31, 1967), available at <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=3ae6b3ae4>.
5. Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102, codified at 8 U.S.C. § 1101(a)(42).
6. 8 U.S.C. §§ 1157-1158. This fact sheet does not describe the law or process for gaining refugee status abroad.
7. See 8 U.S.C. § 1158(c).
8. See, e.g., Administration for Children & Families, "Asylee Eligibility for Assistance and Services," July 12, 2012, <https://www.acf.hhs.gov/orr/resource/asylee-eligibility-for-assistance-and-services>.
9. See 8 U.S.C. § 1231(b)(3)(A).
10. *Id.*; 8 U.S.C. § 1231(b)(2).
11. 8 U.S.C. § 1231(b)(3)(B).
12. 8 C.F.R. §§ 208.16(c); 208.18(a).
13. 8 C.F.R. § 208.16(a) ("An asylum officer shall not decide whether the exclusion, deportation, or removal of an alien to a country where the alien's life or freedom would be threatened must be withheld").
14. 8 U.S.C. § 1231(a)(5); 8 C.F.R. 241.8(a).
15. 8 U.S.C. § 1231(a)(5); 8 C.F.R. 208.2(c)(2)(i) (immigration judge has jurisdiction over withholding-only cases where the individual has a reinstated order of removal);
16. 8 C.F.R. § 241.8(e).
17. 8 C.F.R. § 208.31.
18. *Id.*; 8 C.F.R. §§ 208.31(e) (requiring asylum officer to refer case to IJ); 1208.31(e) (same); 241.8(e) (same); 1241.8(e) (same); 208.2(c)(2) (IJ jurisdiction in referred cases); 1208.16 (withholding-only hearings before IJ).
19. U.S. Citizenship and Immigration Services, "I-589, Application for Asylum and for Withholding of Removal," last modified August 25, 2020, <https://www.uscis.gov/i-589>.
20. 8 U.S.C. § 1158(b)(1)(B)(i).
21. See 8 U.S.C. § 1158(b)(1)(A) (declaring that a person may be granted asylum if they fit the definition of a "refugee" in 8 U.S.C. § 1101(a)(42)).
22. See 8 C.F.R. § 208.16(b)(1)(iii), (b)(2).
23. See, e.g., *Yousif v. Lynch*, 796 F.3d 622, 629 (6th Cir. 2015); *Wakkary v. Holder*, 558 F.3d 1049, 1065 (9th Cir. 2009).
24. See Department of Homeland Security, "Credible Fear Cases Completed and Referrals for Credible Fear Interview," <https://www.dhs.gov/immigration-statistics/readingroom/RFA/credible-fear-cases-interview> (last updated July 24, 2020).
25. Executive Office for Immigration Review, *Total Asylum Applications* (July 14, 2020), <https://www.justice.gov/eoir/page/file/1106366/download>.
26. Executive Office for Immigration Review, "New Cases and Total Completions," July 14, 2020, <https://www.justice.gov/eoir/page/file/1060841/download>.
27. *Guzman Chavez v. Hott*, 940 F.3d 867 (4th Cir. 2019), cert. granted sub nom. *Albence v. Guzman Chavez*, 207 L. Ed. 2d 1050 (June 15, 2020), *Guerra v. Shanahan*, 831 F.3d 59 (2d Cir. 2016); but see *Padilla-Ramirez v. Bible*, 882 F.3d 826, 835-36 (9th Cir. 2017) (adopting ICE's position that individuals in reinstatement detention are detained mandatorily), cert. denied sub nom. *Padilla-Ramirez v. Culley*, 139 S. Ct. 411, 202 L. Ed. 2d 312 (2018); *Guerrero-Sanchez v. Warden York Cty. Prison*, 905 F.3d 208, 219 (3d Cir. 2018) (same); *Martinez v. Larose*, 968 F.3d 555, 564 (6th Cir. 2020) (same).
28. See *Albence v. Guzman Chavez*, Case No. 19-897 (cert granted June 15, 2020).
29. American Immigration Council, Ingrid Eagly & Steven Shafer, *Access to Counsel in Immigration Court*, September 2016, at 5, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.
30. *Id.* at 19.

31. *Id.* at 20.
32. *Id.* at 21.
33. See American Immigration Council, *Policies Affecting Asylum Seekers at the Border*, January 29, 2020, <https://www.americanimmigrationcouncil.org/research/policies-affecting-asylum-seekers-border>; TRAC, "Asylum Decisions and Denials Jump in 2018," November 29, 2018, <https://trac.syr.edu/immigration/reports/539/>.
34. Executive Office for Immigration Review: Statistics Yearbooks, FY 2010-2018, <https://www.justice.gov/eoir/statistical-year-book>.
35. Data produced via the Freedom of Information Act, on file with author.
36. See generally American Immigration Council, *Policies Affecting Asylum Seekers at the Border*, January 29, 2020, <https://www.americanimmigrationcouncil.org/research/policies-affecting-asylum-seekers-border>.
37. Department of Homeland Security, *Asylum Eligibility and Procedural Modifications*, 84 Fed. Reg. 33829 (July 16, 2019).
38. In June 2020, the U.S. District Court for the District of Columbia struck down the third-country transit asylum ban, immediately halting its implementation. See *Capital Area Immigrants' Rights Coal. v. Trump*, --- F. Supp. 3d ---, No. CV 19-2117 (TJK), 2020 WL 3542481 (D.D.C. June 30, 2020).
39. Royce Murray, "Asylum Seekers Fleeing Domestic Violence and Gangs Now Face Even Higher Hurdles to Protection," Immigration Impact, June 13, 2018, <https://immigrationimpact.com/2018/06/13/asylum-seekers-domestic-violence-gangs-hurdles-protection/#.X3XgpWhKhjE>; Sarah Pierce, "As the Trump Administration Seeks to Remove Families, Due-Process Questions over Rocket Dockets Abound," July 2019, <https://www.migrationpolicy.org/news/due-process-questions-rocket-dockets-family-migrants>; "Ex-FAIR Research Director Among 46 New Immigration Judges," *Law360*, July 20, 2020, <https://www.law360.com/articles/1293543/ex-fair-research-director-among-46-new-immigration-judges>; Noah Lanard, "The Trump Administration's Court-Packing Scheme Fills Immigration Appeals Board With Hardliners," *Mother Jones*, August 29, 2019, <https://www.motherjones.com/politics/2019/08/the-trump-administration-has-packed-the-immigration-appeals-board-with-hardliners/>.
40. See Nat'l Immigrant Justice Ctr., "Trump Eviscerates U.S. Asylum System in Proposed Rule," June 11, 2020, <https://immigrantjustice.org/press-releases/trump-eviscerates-us-asylum-system-proposed-rule?eType=EmailBlastContent&eId=ec9d7004-4d2f-406c-8bfb-28fcb931980>; see also Aaron Reichlin-Melnick, "What You Need to Know About Trump's Proposal to Eliminate the US Asylum System," Immigration Impact, June 11, 2020, <https://immigrationimpact.com/2020/06/11/end-asylum-trump/#.X3d2U2hKiUk>; Human Rights First, "Human Rights First Condemns Rule that Seeks to Re-Write Refugee Laws Eliminate Asylum," June 11, 2020, <https://www.humanrightsfirst.org/press-release/human-rights-first-condemns-rule-seeks-re-write-refugee-laws-eliminate-asylum>.
41. See Nat'l Immigrant Justice Ctr., "Comment In opposition to Security Bars and Processing; Docket No: USCIS 2020-0013, A.G. Order No. 4747-2020; RIN 1615-AC57," August 10, 2020, https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2020-08/NIJC_Comment_Asylum_Public_Health_NPRM.pdf.
42. Executive Office for Immigration Review, "Asylum Decision Rates," July 14, 2020, <https://www.justice.gov/eoir/page/file/1248491/download>.
43. See Lessing, *Das Recht der Staatsangehörigkeit und die Aberkennung der Staatsangehörigkeit zu Straf- und Sicherungszwecken*, XII *Bibliotheca Visseriana* 117, 110, 139, 148 (1937); Clemens Hufmann, *Duty to Receive Nationals?*, 24 *FORDHAM L. REV.* 235, 256-57 (1955).
44. See, e.g., *Matter of Salim*, 18 I&N. Dec. 311, 317 (BIA 1982) (granting withholding of removal as to Afghanistan only, while ordering removal to both Afghanistan and Pakistan).

Exhibit F



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INSIGHT

FY2024 Immigration Court Data: Case Outcomes

February 3, 2025

Immigration courts within the U.S. Department of Justice's Executive Office for Immigration Review (EOIR) adjudicate formal removal proceedings for foreign nationals whom the Department of Homeland Security (DHS) has charged with an immigration violation under the Immigration and Nationality Act (INA). During removal proceedings, immigration judges (IJs) determine whether such individuals (*respondents*) are subject to removal from the United States; and if so, whether they qualify for relief or protection from removal for which they have applied (e.g., asylum and withholding of removal). Respondents who fail to appear for their hearings are ordered removed in absentia.

This Insight reviews immigration court outcomes for FY2024, including removal proceedings decisions, in absentia removal orders, and asylum application decisions. Another CRS Insight describes FY2024 caseload data, including case receipts and the pending cases backlog.

Removal Case Decisions

Possible outcomes for removal proceedings are the following:

- **Removal order:** The IJ orders the respondent to be removed.
- **Dismissal:** The IJ grants a party's motion to dismiss proceedings (including as a matter of DHS prosecutorial discretion) under specified conditions.
- **Termination:** The IJ may terminate cases under certain circumstances, such as when DHS's charge cannot be sustained or the respondent has obtained U.S. citizenship or a lawful immigration status.
- **Relief granted:** The IJ grants the respondent a form of relief from removal, such as asylum (described below) or, less commonly, cancellation of removal.
- **Voluntary departure:** The IJ grants the respondent's request to leave the United States during a specific timeframe at his/her own expense without being ordered removed.
- **Withholding or deferral of removal:** The IJ issues a removal order but grants protection under the INA or the United Nations Convention Against Torture, respectively, from return to a country where the respondent's life or freedom would be threatened or where

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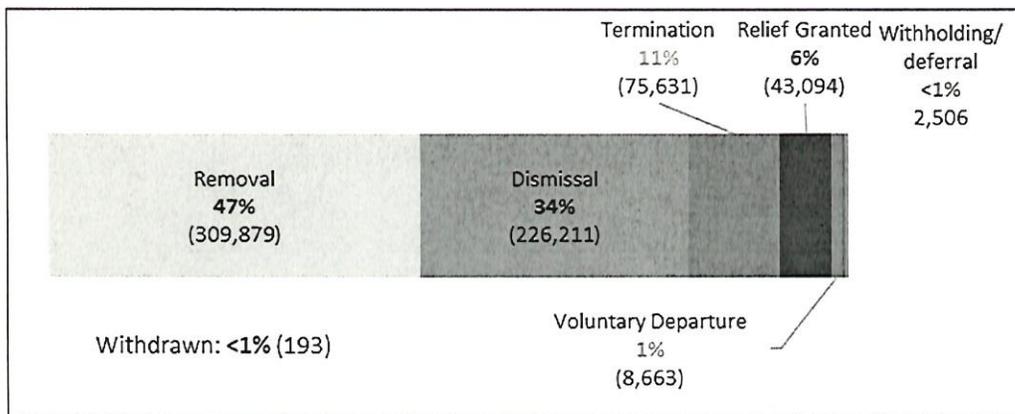
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it is more likely than not that he/she would face torture. These protections provide no path to U.S. lawful permanent resident (LPR) status and permit DHS to remove the respondent to a third country.

In FY2024, EOIR issued 666,177 initial case decisions (parties may file an appeal). The most common decision was issuance of a removal order (47%), followed by dismissals and terminations (collectively, 45%). Such outcomes may reflect DHS’s use of prosecutorial discretion to dismiss nonpriority cases; they may also capture other circumstances, such as when the respondent, since the initiation of proceedings, has obtained a lawful status or humanitarian protection from removal.

Approximately 6% of decisions were grants of relief (such as asylum); less than 1% were grants of withholding or deferral of removal. Voluntary departure represented 1% of outcomes.

Figure 1. Removal Case Outcomes, FY2024



Source: EOIR, “FY2024 Decision Outcomes,” Adjudication Statistics, October 10, 2024.

Notes: N = 666,177. Figure includes outcomes for removal proceedings and deportation and exclusion proceedings, the precursor to removal proceedings.

In Absentia Removal Orders

Individuals who fail to appear for any of their hearings must be ordered removed in absentia by the IJ if DHS presents “clear, unequivocal, and convincing evidence” that notice of the hearing was provided to the respondent and the respondent is removable. The removal order may be rescinded if the respondent demonstrates the failure to appear occurred because of exceptional circumstances (e.g., serious illness), not receiving notice, or being in federal or state custody.

Among the 309,879 removal orders issued in FY2024 (**Figure 1**), 222,223 were in absentia removal orders. How to measure the rate at which respondents fail to appear for their hearings has been subject to debate. EOIR publishes rates that are the number of in absentia removal orders divided by the number of initial case completions in a given year. Some argue this method fails to account for the large volume of pending removal cases (3.6 million at the end of FY2024) (i.e., that EOIR’s rate fails to account for court appearances by individuals whose cases have not yet been adjudicated).

Asylum Decisions

Individuals may qualify for asylum if they demonstrate persecution or a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group. Persons granted asylum, and their spouses and minor children, may remain in the United States and are authorized to work. After one year of physical presence in the United States, they may apply to adjust to LPR status.

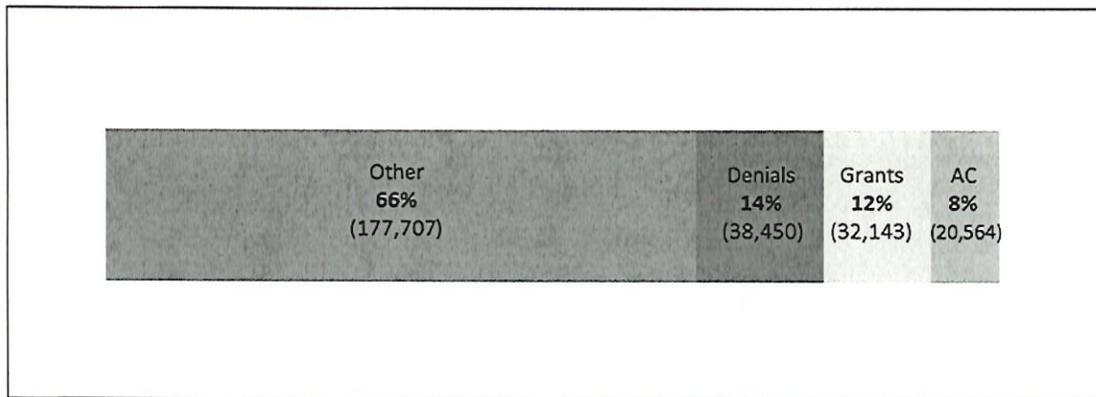
During removal proceedings, respondents may apply for asylum as a form of relief from removal; these *defensive* asylum applications are adjudicated by IJs. In addition, IJs adjudicate applications during asylum-only proceedings for individuals who may be removed without being placed in removal proceedings, including crewmembers, stowaways, and individuals who entered under the Visa Waiver Program.

Otherwise, individuals who are physically present in the United States and not in removal proceedings, regardless of their immigration status, may apply for *affirmative* asylum with DHS’s U.S. Citizenship and Immigration Services (USCIS). If a USCIS asylum officer determines an applicant is ineligible for asylum and appears to be inadmissible or deportable, the officer refers the application to EOIR. Therefore, EOIR’s asylum outcomes include decisions on both defensive asylum applications initially filed in immigration court and affirmative referrals.

EOIR’s FY2024 asylum application outcomes included asylum granted; asylum denied; applications that were abandoned, not adjudicated, and withdrawn (collectively, “Other” in **Figure 2**); and cases that were administratively closed. Administratively closed cases are temporarily removed from the docket (e.g., cases that were deemed nonpriority cases during that fiscal year, cases in which the respondent pursues an application for relief outside immigration court) until they are recalendared. EOIR does not consider administrative closures to be case completions.

In FY2024, EOIR reported 268,864 asylum decisions (**Figure 2**). About two-thirds (66%) were “Other” outcomes. These may reflect terminated and dismissed removal cases, as described above. Individuals whose cases are dismissed or terminated may pursue an affirmative asylum application with USCIS. Outcomes also included denials (14%), grants (12%), and administratively closed cases (8%).

Figure 2. Asylum Outcomes, FY2024



Source: EOIR, “Asylum Decision Rates,” Adjudication Statistics, October 10, 2024.

Notes: N = 268,864. Figure includes removal, deportation, exclusion, and asylum-only proceedings. AC = administratively closed cases.

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Exhibit G

Departed Date	Departure Country	Birth Country	Citizenship Country	Case Category	Final Order Yes No	Final Order Date
5C - Relief Granted - Withholding of Deportation / Removal						
01/02/2025	CANADA	KENYA	KENYA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	11/19/2013
09/25/2023	CANADA	SUDAN	SUDAN	[5C] Relief Granted - Withholding of Deportation / Removal	YES	3/6/2008
02/23/2025	PERU	PERU	PERU	[5C] Relief Granted - Withholding of Deportation / Removal	YES	11/15/2017
11/23/2023	CANADA	SUDAN	SUDAN	[5C] Relief Granted - Withholding of Deportation / Removal	YES	7/3/2019
08/05/2024	TAJIKISTAN	TAJIKISTAN	TAJIKISTAN	[5C] Relief Granted - Withholding of Deportation / Removal	YES	9/27/2013
07/13/2025	TURKIYE	BELARUS	BELARUS	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/18/2025
03/30/2025	POLAND	USSR	ARMENIA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/7/2005
09/11/2024	ERITREA	SUDAN	ERITREA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/7/2016
5C - Relief Granted - Withholding of Deportation / Removal						
10/02/2023	CHILE	CHILE	CHILE	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/31/2023
10/24/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/23/2024
09/07/2023	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/16/2023
12/27/2023	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/8/2023
04/15/2025	SOUTH KOREA	SOUTH KOREA	SOUTH KOREA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/25/2025
08/20/2024	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/1/2024
11/18/2024	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/31/2024
10/30/2024	GUATEMALA	GUATEMALA	GUATEMALA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/8/2024
03/06/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/6/2025
03/14/2025	CHINA, PEOPLES R	CHINA, PEOPLES R	CHINA, PEOPLES R	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/14/2025
03/13/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/13/2024
12/27/2023	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/14/2023
05/16/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/15/2024
05/01/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/4/2022
07/04/2025	HONDURAS	HONDURAS	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/13/2021
09/16/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/12/2024
05/23/2025	BRAZIL	BRAZIL	BRAZIL	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/29/2025
07/02/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/1/2024
06/25/2025	CHINA, PEOPLES R	CHINA, PEOPLES R	CHINA, PEOPLES R	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/1/2025
02/07/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/5/2025
01/31/2024	CHINA, PEOPLES R	CHINA, PEOPLES R	CHINA, PEOPLES R	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/21/2022
11/22/2023	HONDURAS	HONDURAS	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/11/2023
02/21/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/19/2025
02/15/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/30/2025
06/04/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/30/2025

06/21/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/13/2025
07/09/2025	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/19/2025
06/11/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/10/2025
03/13/2024	ECUADOR	ECUADOR	ECUADOR	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/11/2002
07/16/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/24/2024
04/30/2024	HONDURAS	HONDURAS	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/4/2023
06/16/2025	NICARAGUA	NICARAGUA	NICARAGUA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/4/2025
07/18/2025	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	NO	
02/21/2025	EL SALVADOR	EL SALVADOR	EL SALVADOR	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/26/2018
11/11/2024	COLOMBIA	COLOMBIA	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/23/2024
04/22/2025	PERU	PERU	PERU	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/4/2025
09/05/2023	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/22/2023
12/07/2023	PERU	PERU	PERU	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/20/2023
04/03/2025	RWANDA	IRAQ	IRAQ	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/29/2023
01/05/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/17/2022
03/03/2025	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/12/2023
04/29/2025	ECUADOR	ECUADOR	ECUADOR	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/8/2025
06/23/2025	EL SALVADOR	EL SALVADOR	EL SALVADOR	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/21/1990
12/07/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/5/2024
06/10/2025	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/28/2025
12/05/2024	COSTA RICA	COSTA RICA	COSTA RICA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/31/2024
01/05/2025	MEXICO	IRAN	IRAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/9/2018
05/01/2025	KAZAKHSTAN	KAZAKHSTAN	KAZAKHSTAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/2/2025
01/25/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/25/2024
10/01/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/24/2024
12/27/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/19/2024
04/30/2025	HONDURAS	HONDURAS	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/20/2025
06/21/2024	MEXICO	MEXICO	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/21/2024

Departure Date		Departure Country	Case Category	Final C Final Order Dat Birth Country		Citizenship Country
5C - Relief Granted - Withholding of Removal/Deportation						
12/16/2019	EL SALVADOR	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/23/2019	EL SALVADOR	EL SALVADOR
1/2/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	7/17/2018	MEXICO	MEXICO
2/6/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	2/6/2020	MEXICO	MEXICO
4/2/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/4/2013	MEXICO	MEXICO
3/26/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	3/26/2020	ECUADOR	ECUADOR
5/14/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	5/14/2020	MEXICO	MEXICO
5/25/2020	HONDURAS	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/14/2020	HONDURAS	HONDURAS
10/13/2020	CHINA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	12/18/2012	CHINA	CHINA
10/16/2020	EL SALVADOR	[5C] Relief Granted - Withholding of Deportation / Removal	YES	10/5/2020	EL SALVADOR	EL SALVADOR
10/20/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/24/2019	MEXICO	MEXICO
1/14/2021	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	5/9/2017	MEXICO	MEXICO
1/20/2021	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	8/28/2015	MEXICO	MEXICO
3/23/2021	LEBANON	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/22/2002	LEBANON	LEBANON
2/10/2022	CANADA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	2/7/2002	CUBA	CUBA
6/1/2022	CANADA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	3/24/2014	ITALY	ITALY
2/20/2023	INDONESIA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/30/2012	INDONESIA	INDONESIA
6/1/2023	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	9/29/2010	MEXICO	MEXICO

5D - Final Order of Deportation / Removal - Deferred Action Granted						
10/4/2019	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/19/2013	MEXICO	MEXICO
10/8/2019	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/8/2019	MEXICO	MEXICO
10/16/2019	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/28/2018	MEXICO	MEXICO
10/17/2019	ARGENTINA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/23/2019	ARGENTINA	ARGENTINA
10/24/2019	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/23/2019	MEXICO	MEXICO
10/25/2019	POLAND	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/1/2019	POLAND	POLAND
11/4/2019	SPAIN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/25/2019	DOMINICAN REPUBLIC	SPAIN
11/14/2019	JAPAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/21/2019	JAPAN	JAPAN
11/19/2019	PANAMA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/27/2019	PANAMA	PANAMA
12/1/2019	GUATEMALA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/20/2019	GUATEMALA	GUATEMALA
12/10/2019	NIGERIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/17/2019	NIGER	NIGERIA
12/29/2019	TUNISIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/6/2019	TUNISIA	TUNISIA
1/10/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/10/2020	EL SALVADOR	EL SALVADOR
1/10/2020	TRINIDAD AND TOBAGO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/3/2019	TRINIDAD AND TOBAGO	TRINIDAD AND TOBAGO
2/7/2020	GUATEMALA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/3/2020	GUATEMALA	GUATEMALA
2/19/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/18/2020	MEXICO	MEXICO
3/17/2020	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/17/2020	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
3/26/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/26/2020	CHINA	CHINA
4/21/2020	JAMAICA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/31/2020	JAMAICA	JAMAICA
5/14/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/11/2020	MEXICO	MEXICO
5/22/2020	PHILIPPINES	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/15/1999	PHILIPPINES	PHILIPPINES
6/9/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/4/2020	MEXICO	MEXICO

9/2/2020	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/1/2020	COLOMBIA	COLOMBIA
9/3/2020	BULGARIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/13/2020	BULGARIA	BULGARIA
9/9/2020	COSTA RICA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/30/2020	COSTA RICA	COSTA RICA
9/29/2020	LIBERIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/13/2020	LIBERIA	LIBERIA
10/20/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/20/2020	MEXICO	MEXICO
10/20/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/16/2020	MEXICO	MEXICO
10/28/2020	KYRGYZSTAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/21/2014	KYRGYZSTAN	KYRGYZSTAN
10/30/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/29/2020	MEXICO	MEXICO
11/2/2020	PHILIPPINES	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/21/2020	PHILIPPINES	PHILIPPINES
11/7/2020	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/1/2020	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
11/16/2020	PAKISTAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/9/2020	PAKISTAN	PAKISTAN
11/25/2020	NICARAGUA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/2/2020	NICARAGUA	NICARAGUA
12/15/2020	GUATEMALA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	9/30/2020	GUATEMALA	GUATEMALA
12/22/2020	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/17/2020	MEXICO	MEXICO
3/15/2021	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/5/2020	MEXICO	MEXICO
3/30/2021	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/20/2019	MEXICO	MEXICO
4/6/2021	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/27/2020	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
7/7/2021	MEXICO	[16] Reinstated Final Order	YES	3/7/2019	MEXICO	MEXICO
7/22/2021	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/21/2021	MEXICO	MEXICO
8/5/2021	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/27/2019	HONDURAS	HONDURAS
9/2/2021	KYRGYZSTAN	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/6/2020	KYRGYZSTAN	KYRGYZSTAN
9/7/2021	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/27/2019	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
9/21/2021	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/10/2021	MEXICO	MEXICO
9/23/2021	INDONESIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/19/2009	INDONESIA	INDONESIA
9/24/2021	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/27/2017	MEXICO	MEXICO
10/28/2021	INDIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/16/2020	INDIA	INDIA
1/31/2022	SOUTH KOREA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/26/2020	SOUTH KOREA	SOUTH KOREA
2/2/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/26/2022	MEXICO	MEXICO
3/22/2022	BOSNIA-HERZEGOVINA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/22/2022	BOSNIA-HERZEGOVINA	BOSNIA-HERZEGOVINA
3/31/2022	JAMAICA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/18/2022	JAMAICA	JAMAICA
4/14/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/11/2022	MEXICO	MEXICO
5/5/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/5/2022	MEXICO	MEXICO
5/11/2022	EL SALVADOR	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/13/1986	EL SALVADOR	EL SALVADOR
6/23/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/22/2022	MEXICO	MEXICO
7/5/2022	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/6/2022	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
8/2/2022	DOMINICAN REPUBLIC	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	6/6/2022	DOMINICAN REPUBLIC	DOMINICAN REPUBLIC
9/29/2022	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/15/2022	COLOMBIA	COLOMBIA
10/6/2022	PHILIPPINES	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/30/2022	PHILIPPINES	PHILIPPINES
10/13/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/29/2018	MEXICO	MEXICO
11/30/2022	SOUTH AFRICA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/15/2020	SOUTH AFRICA	SOUTH AFRICA
12/6/2022	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	11/16/2015	MEXICO	MEXICO
12/15/2022	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	10/27/2022	COLOMBIA	COLOMBIA
1/27/2023	HONDURAS	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/12/2023	HONDURAS	HONDURAS

2/1/2023	COLOMBIA	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/12/2023	COLOMBIA	COLOMBIA
2/6/2023	COLOMBIA	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/28/2022	COLOMBIA	COLOMBIA
2/13/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/7/2023	MEXICO	MEXICO
2/20/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/20/2023	MEXICO	MEXICO
2/24/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/13/2023	MEXICO	MEXICO
3/8/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/8/2023	MEXICO	MEXICO
4/6/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/23/2023	MEXICO	MEXICO
4/29/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/7/2023	MEXICO	MEXICO
5/22/2023	COLOMBIA	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/18/2023	COLOMBIA	COLOMBIA
6/1/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/25/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
8/24/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/24/2023	MEXICO	MEXICO
9/5/2023	MEXICO	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/22/2023	MEXICO	MEXICO
9/7/2023	COLOMBIA	[SD] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/16/2023	COLOMBIA	COLOMBIA

Exhibit H

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