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

12 ALPEREN TEZCAN,

13 Petitioner,

14 v.

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

24 Respondents.

CIVIL CASE NO.: '26CV0077 JLS VET

**Petition for Writ  
of  
Habeas Corpus**

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

25  
26  
27 <sup>1</sup> Federal Defenders of San Diego, Inc., is filing the instant petition with  
28 provisional appointment under Chief Judge Order No. 134. Mr. Tezcan's financial  
eligibility for representation is included in a sworn statement attached to this  
petition.

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1 **I. Introduction**

2 At twenty years old, Alperen Tezcan fled religious persecution in Turkey.  
3 This July, an immigration judge granted him withholding of removal from  
4 Turkey, finding it more likely than not that his “life or freedom would be  
5 threatened” if he were deported there. 8 U.S.C. § 1231(b)(3); *see Al-Harbi v. INS*,  
6 242 F.3d 882, 888–89 (9th Cir. 2001) (noting the standard for withholding of  
7 removal); Exhibit B (immigration judge order).

8 In the five months and two weeks since, ICE has kept Mr. Tezcan detained  
9 at the Otay Mesa Detention Center, apparently searching for a third country to  
10 deport him to. Exhibit A, Declaration of Mr. Tezcan, ¶ 6. Mr. Tezcan has never  
11 been told where. When he asks for information, ICE gives him none. He explains,  
12 “They just tell me I have to wait.” *Id.*

13 That is no surprise. For people granted withholding of removal,  
14 “alternative-country removal is rare.” *Johnson v. Guzman-Chavez*, 594 U.S. 523,  
15 537 (2021). Between September 2023 and June 2025, ICE successfully removed  
16 only eight people total who had received withholding or CAT relief to third  
17 countries. Exhibit F. Between 2020 and 2023, it removed five. *Id.*

18 Because Mr. Tezcan’s post-order detention is not even “presumptively  
19 reasonable” as of January 25, because even before then Mr. Tezcan can rebut that  
20 presumption and prove outright “there is no significant likelihood of [his] removal  
21 in the reasonably foreseeable future,” and because the government cannot rebut  
22 either showing, this Court should grant the petition and order him released.  
23 *Zadvydas v. Davis*, 533 U.S. 678 (2001).

24 District courts around the country have done the same in recent months, as  
25 ICE now appears to be holding immigrants granted withholding of removal for  
26 lengthy periods. *See, e.g., Grischenko v. Noem*, No. 25-cv-3514-JES-JLB, 2025  
27 WL 3675070, \*2 (S.D. Cal. Dec. 17, 2025) (granting habeas petition because ICE  
28 requested third-country removal “on six occasions, to no avail,” for Russian

1 citizen detained for six months with withholding of removal); *De la Rosa Guarin*  
2 *v. LaRose*, 2025 WL 3440689, No. 25-cv-8085-DMS-VET (S.D. Cal. Dec. 1,  
3 2025) (granting TRO because ICE’s requests for third-country removal remained  
4 “pending” after six months of detention for Spanish citizen with withholding of  
5 removal); *CMS v. Oddo*, No. 25-cv-216, 2025 WL 3442697 (W.D. Pa. Dec. 1,  
6 2025) (granting habeas petition on same grounds for Mexican citizen detained for  
7 ten months with withholding of removal); *Gharakhan v. Noem*, No. 25-cv-2879-  
8 DMS-AHG, 2025 WL 3097933 (S.D. Cal. Nov. 5, 2025) (granting TRO on same  
9 grounds for Iranian citizen detained eight months with withholding of removal);  
10 *see also Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387 (D.N.J. 2025) (granting  
11 habeas petition on same grounds for Mexican citizen with withholding of removal  
12 detained 90 days, released, and then re-detained for another two months);  
13 *Villanueva v. Tate*, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 2774610 (S.D. Tex. 2025)  
14 (granting habeas petition on same grounds for Mexican citizen with withholding  
15 of removal detained fewer than six months); *Zavvar v. Scott*, No. cv-25-2104-  
16 TDC, 2025 WL 2592543 (D. Md. Sept. 8, 2025) (granting habeas petition on  
17 same grounds for Iranian citizen with withholding of removal detained fewer than  
18 six months total); *Puertas-Mendoza v. Bondi*, No. SA-25-CA-890-XR, 2025 WL  
19 3142089 (W.D. Tex. Oct. 22, 2025) (granting habeas petition on same grounds for  
20 Mexican citizen with withholding of removal detained fewer than six months  
21 total); *Gomez-Simeon v. Bondi*, No., 2025 WL 3470872 (W.D. Tex. Nov. 24,  
22 2025) (granting habeas petition on same grounds for Honduran citizen with  
23 withholding of removal detained for a month after revocation of his supervision).

24 Further, in the unlikely event ICE does identify a third country, it will not  
25 provide Mr. Tezcan with due process. ICE’s current third-country removal policy  
26 “contravenes Ninth Circuit law.” *Nguyen v. Scott*, \_\_\_ F. Supp. 3d \_\_\_, No. 25-CV-  
27 1398, 2025 WL 2419288, \*19 (W.D. Wash. Aug. 21, 2025). This Court should  
28 thus also enjoin the Respondents to adhere to basic requirements of notice and an

1 opportunity to be heard before removing Mr. Tezcan to a third country in which  
2 he could be persecuted or tortured—or, even more likely, deported from that  
3 country back to Turkey, where it is more likely than not that he will be persecuted  
4 or tortured.

5 **II. Statement of facts and legal background.**

6 **A. Mr. Tezcan comes to the U.S. from Turkey and is granted  
7 withholding of removal in July, yet remains detained.**

8 Alperen Tezcan was born in Erzurum, Turkey, in 2004. Exhibit A ¶ 1; *see*  
9 *also* Exhibit C at 1 (declaration from immigration proceedings). His parents are  
10 citizens of Turkey. Exhibit A ¶ 4. He has never lived any place other than Turkey.  
11 *Id.* He does not have immigration status in any other country. *Id.*

12 In 2024, Mr. Tezcan fled Turkey after a series of beatings and constant  
13 threats of persecution. Exhibit A ¶ 2; *see* Exhibit C (describing his experiences in  
14 significant detail). He came to the U.S. border on December 2, 2024, and has been  
15 detained since. Exhibit A ¶ 2. He is currently at the Otay Mesa Detention Center.  
16 *Id.*

17 On July 25, 2025, an immigration judge ordered Mr. Tezcan removed to  
18 Turkey. Exhibit B. However, because Mr. Tezcan faces persecution there, the  
19 immigration judge also granted him statutory withholding of removal from  
20 Turkey. *Id.* Mr. Tezcan waived his right to appeal, and so his removal order  
21 immediately became final. *Id.* at 4; Exhibit A ¶ 3; *see* 8 C.F.R. § 1241.1(c).

22 First, ICE apparently planned to deport Mr. Tezcan to Turkey. Exhibit A  
23 ¶ 5. Then, when it realized its mistake, it sent him to the Otay Mesa Detention  
24 Center, where he has gotten no more news about where he might be sent, and  
25 when. *Id.* ¶¶ 6–7. Mr. Tezcan explains,

26 In September, I was with a group of people about to be deported to  
27 Turkey. I told an ICE officer that was a mistake because I cannot be  
28 deported to Turkey. The officer checked my order, confirmed I  
cannot be deported to Turkey, and then sent me here to San Diego.

1 Since I've been in San Diego, I have not been able to meet with an  
2 ICE officer. On my tablet, the ICE officers just write that they are  
3 searching for third countries. Nobody has told me which ones. They  
4 just tell me I have to wait. I do not have any reason to think any  
5 country other than Turkey would accept me, because I do not have  
6 ties to any country other than Turkey.

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

10 Exhibit A ¶¶5–7.

11 **B. Third-country removals for noncitizens granted withholding of  
12 removal are rare, but as of July 2025, third-country removals  
13 can happen with no or little notice and result in noncitizens'  
14 return to their countries of origin.**

15 There are three main forms of relief available to noncitizens who will be  
16 persecuted if they are returned to their home country: asylum, withholding of  
17 removal, and Convention Against Torture (“CAT”) relief.

18 There are more restrictions on asylum. *See* 8 U.S.C. § 1158(a)(2); *see also*,  
19 *e.g.*, US. Citizenship and Immigration Services, *Asylum, Court Order on*  
20 *Circumvention of Lawful Pathways Final Rule* (updated Nov. 7, 2025) (noting  
21 limitations on asylum to those who entered outside a port of entry between May  
22 2023 and May 2025, among other limitations).<sup>2</sup> There are fewer restrictions on  
23 eligibility for withholding of removal. *see* 8 U.S.C. § 1231(b)(3)(B)(iii).

24 However, an applicant for withholding of removal must show a higher likelihood  
25 of persecution than what an asylum applicant must demonstrate—specifically,  
26 that it is “more likely than not that he or she would be persecuted on account of  
27 race, religion, nationality, membership in a particular social group, or political  
28 opinion upon removal to that country.” 8 C.F.R. § 1208.16(b)(2); *see INS v.*  
*Stevic*, 467 U.S. 407, 429–30 (1984).

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<sup>2</sup> Available at <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum>.

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

7 When an immigration judge grants withholding relief, she issues a removal  
8 order and simultaneously issues an order withholding removal with respect to the  
9 country the person demonstrated a risk of persecution. *See Guzman-Chavez*, 594  
10 U.S. at 535–38. While ICE is authorized to remove that person granted  
11 withholding to an alternative countries, the removal statute specifies restrictive  
12 criteria for identifying appropriate countries. *See* 8 U.S.C. § 1231(b); 8 C.F.R.  
13 § 1208.16(f). Further, “foreign governments ‘routinely deny’ requests to receive  
14 people who lack a connection to the would-be receiving country.” *Puertas-*  
15 *Mendoza*, 2025 WL 3142089 at \*3. “The reason so few people are deported to  
16 third countries is because,” while “customary international law holds that a  
17 country has a duty to accept the return of its nationals,” usually, “countries have  
18 no incentive to accept non-citizens.” Exhibit D at 7.

19 If ICE identifies an appropriate third country of removal, the noncitizen  
20 must then have notice and an opportunity to seek relief from removal to that new  
21 country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would  
22 face persecution or other mistreatment in the country designated under  
23 § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1);  
24 withholding of removal, § 1231(b)(3)(A); [and] relief under an international  
25 agreement prohibiting torture.”); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.  
26 1999) (holding that “last minute” designation of alternative country without  
27 meaningful opportunity to apply for protection “violate[s] a basic tenet of  
28 constitutional due process”).

1 As a result of these restrictions and procedures, very few people who  
2 receive withholding of removal are deported to a third country. Between  
3 September 2023 and June 2025, ICE removed a total of eight people granted  
4 withholding or other CAT relief to alternative countries. Exhibit F (ICE removal  
5 data).<sup>3</sup> Between fiscal years 2020 and 2023, a total of five people granted  
6 withholding or other CAT relief were removed to alternative countries. *Id.*

7 That said, this summer, ICE began removing more immigrants it could not  
8 previously remove to third countries, which then have overwhelmingly removed  
9 those people back to their countries of origin. ICE implemented new policies to  
10 do so. On July 9, 2025, ICE rescinded previous guidance meant to give  
11 immigrants a “‘meaningful opportunity’ to assert claims for protection under the  
12 Convention Against Torture before initiating removal to a third country.” Exhibit  
13 G (July 9, 2025, ICE third-country removal guidance).

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

18 If a country fails to credibly promise not to persecute or torture releasees,  
19 ICE may remove immigrants with only 24 hours’ notice. “In exigent  
20

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21 <sup>3</sup> The data in Exhibit F 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 F 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 circumstances,” a removal may take place in six hours, “as long as the alien is  
2 provided reasonably means and opportunity to speak with an attorney prior to the  
3 removal.” *Id.*

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

9 Under this policy, the United States has deported several dozen noncitizens  
10 to prisons and military camps in Rwanda, Eswatini, South Sudan, and Ghana.  
11 Those who have not been returned to their home countries are still detained, in  
12 countries to which they have never been, without charge. Nokukhanya Musi &  
13 Gerald Imray, *10 more deportees from the US arrive in the African nation of*  
14 *Eswatini*, Associated Press (Oct. 6, 2025)<sup>4</sup>; see also Gerald Imray, *A Cuban man*  
15 *deported by the US to Africa is on a hunger strike in prison, his lawyer says*,  
16 Associated Press (Oct. 23, 2025)<sup>5</sup>; Frank Chothia, *Eswatini confirms receiving*  
17 *\$5.1m from the US for accepting deportees*, BBC (Nov. 18, 2025)<sup>6</sup>; Nick  
18 Alexandra, *The Toll of Trump’s African Deportation Agreements*, New Lines  
19 Magazine (Dec. 10, 2025)<sup>7</sup>.

### 20 **III. This Court has jurisdiction.**

21 This Court has jurisdiction to consider Mr. Tezcan’s claim of unlawful  
22 detention and unlawful third-country removal under 28 U.S.C. § 2241.

23 \_\_\_\_\_  
24 <sup>4</sup> Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

25 <sup>5</sup> Available at <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

26 <sup>6</sup> Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

27 <sup>7</sup> Available at <https://newlinesmag.com/reportage/the-toll-of-trumps-african-deportation-agreements/>.

1 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips  
2 this Court of jurisdiction, “has been repeatedly ‘rejected as implausible’ by the  
3 Supreme Court.” *Soryadvongsa v. Noem*, No. 25-cv-2663-AGS, 2025 WL  
4 316821, \*1 (S.D. Cal. Nov. 8, 2025) (quoting *Department of Homeland Sec. v.*  
5 *Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). The government’s argument  
6 “would eliminate judicial review of immigration [detainees’] claims of unlawful  
7 detention . . . inconsistent with *Jennings v. Rodriguez* and the history of judicial  
8 review of the detention of noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*,  
9 No. 25-cv-2422-RBM, 2025 WL 2898977, \*3 (S.D. Cal. Oct. 10, 2025)  
10 (collecting cases agreeing on this jurisdictional point).

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

14 **IV. Claim 1: Mr. Tezcan’s detention violates *Zadvydas* and 8 U.S.C. § 1231.**

15 **A. The statute renders detention mandatory for three months after**  
16 **removal is ordered, and allowable after six months after removal**  
17 **is ordered only if there is a significant likelihood of removal in**  
18 **the reasonably foreseeable future.**

19 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
20 a problem affecting people like Mr. Tezcan: What happens when immigration  
21 detainees are ordered removed, but cannot be?

22 Federal law requires ICE to detain an immigrant during the “removal  
23 period.” This period typically spans the first 90 days after the immigrant is  
24 ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that, detention becomes  
25 discretionary. *Id.* § 1231(a)(6).

26 Ordinarily, this scheme would not lead to excessive detention, as removal  
27 happens within days or weeks. But some detainees cannot be removed quickly.  
28 There are many reasons why this may be. Perhaps their removal “simply  
require[s] more time for processing,” or they are “ordered removed to countries

1 with whom the United States does not have a repatriation agreement,” or their  
2 countries “refuse to take them,” or they are “effectively ‘stateless’ because of their  
3 race and/or place of birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir.  
4 2001). In these and other circumstances, detained immigrants can find themselves  
5 trapped in detention for months, years, decades, or even the rest of their lives.

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

10 *Zadvydas* held that detention is “presumptively reasonable” for six months.  
11 *Id.* at 701. After six months, courts use a burden-shifting framework to decide  
12 whether detention remains authorized. The petitioner must identify a “good reason  
13 to believe that there is no significant likelihood of removal in the reasonably  
14 foreseeable future.” *Id.* If he does so, the burden shifts to “the Government [to]  
15 respond with evidence sufficient to rebut that showing.” *Id.*

16 Further, *Zadvydas*’s six-month presumptively reasonable period is “just  
17 that—a presumption,” which can be rebutted with evidence. *Trinh v. Homan*, 333  
18 F. Supp. 3d 984, 994 (C.D. Cal. 2018). *Zadvydas* unequivocally held that ““once  
19 removal is no longer reasonably foreseeable, continued detention is no longer  
20 authorized.”” *Puertas-Mendoza*, 2025 WL 3142089, at \*2. “If there comes a point  
21 during the six-month period at which it is ‘no longer reasonably foreseeable’ that  
22 a person will actually be removed, then detention ‘is no longer authorized,’” and  
23 the petitioner must be released. *Cruz Medina v. Noem*, 794 F. Supp. 3d 365, 376  
24 (D. Md. 2025) (quoting *Zadvydas*, 533 U.S. at 699–700).

25 “At no point did the *Zadvydas* Court preclude a noncitizen from  
26 challenging their detention before the end of the presumptively reasonable six-  
27 month period.” *Trinh*, 466 F. Supp. 3d at 1092. Instead, *Zadvydas* analogized to  
28 the “similar” rule in *County of Riverside v. McLaughlin*, 500 U.S. 44, 56–58

1 (1991), in which the Court “adopt[ed] [a] presumption, based on lower court  
2 estimate of time needed to process arrestee, that 48-hour delay in probable-cause  
3 hearing after arrest is reasonable, hence constitutionally permissible.” *Zadvydas*,  
4 533 U.S. at 701 (describing *Riverside*). *Riverside*’s 48-hour rule “is a rebuttable  
5 presumption.” *Cesar*, 542 F. Supp. 2d at 904. It stands to reason that “the  
6 *Zadvydas* presumption, like the *Riverside* presumption, is rebuttable.” *Munoz-*  
7 *Saucedo*, 789 F. Supp. 3d at 397.

8 **B. Mr. Tezcan’s detention is not even “presumptively reasonable”**  
9 **as of January 25, 2026.**

10 The six-month presumption lasts for “six months after a final order of  
11 removal—that is, three months after the statutory removal period has ended.” *Ma*,  
12 257 F.3d at 1102 n.5; *see* 8 U.S.C. § 1231(a)(1)(B) (definition of the statutory  
13 removal period). Mr. Tezcan’s order of removal was entered and became final on  
14 the same day, July 25, 2025. *See* Exhibit B. The presumption thus concludes on  
15 January 25, 2026, at which point the government must put forward evidence to  
16 meet the *Zadvydas* standard.

17 Even if this Court were to decide this petition before January 25, however,  
18 Mr. Tezcan can rebut the resumption and prove outright that there is no  
19 significant likelihood he will be removed to a third country in the reasonably  
20 foreseeable future.

21 **C. Mr. Tezcan’s personal experience and ICE’s historical**  
22 **experience provide good reason to believe—and prove outright—**  
23 **that he will not be removed in the reasonably foreseeable future.**

24 The *Zadvydas* standard can be broken down into two parts relevant here:

25 “**Significant likelihood of removal.**” This component focuses on *whether*  
26 Mr. Tezcan will likely be removed: Continued detention is permissible only if it is  
27 “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533 U.S.  
28 at 701. This inquiry targets “not only the *existence* of untapped possibilities, but  
also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F.

1 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added).

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

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

11 If the Court has “no idea of when it might reasonably expect [Petitioner] to  
12 be repatriated, this Court certainly cannot conclude that his removal is likely to  
13 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*  
14 *v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3 (S.D. Miss. July  
15 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss.  
16 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.  
17 2019)). Thus, even if this Court concludes that Mr. Tezcan “would *eventually*  
18 receive” a travel document, he can still meet his burden by giving good reason to  
19 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at \*2  
20 (E.D. Mich. Nov. 14, 2016).

21 Mr. Tezcan more than meets the three parts of this standard, regardless of  
22 whether the six months have passed, and so regardless of whether the burden of  
23 proof rests with him or with the government.

24 *First*, the IJ’s withholding of removal order prohibits Mr. Tezcan’s removal  
25 to his home country of Turkey, “which is the only country to which he has a claim  
26 to citizenship or legal immigration status.” *Villanueva*, 2025 WL 2774610 at \*10;  
27 *see* Exhibit B, Exhibit A ¶ 3. “This substantially increases the difficulty of  
28 removing him.” *Munoz-Saucedo*, 789 F. Supp. 3d at 398.

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

7 Mr. Tezcan’s individual circumstances strongly suggest that he will not be  
8 among the handful of people granted withholding of removal the U.S. removes to  
9 a third country. He is a twenty-one-year-old Turkish citizen, who was born in  
10 Turkey and who has only ever lived in Turkey. Exhibit A ¶ 4. His parents were  
11 citizens only of Turkey. *Id.* He does not have immigration status in any other  
12 country. *Id.*

13 *Second*, ICE has not made any progress in removing Mr. Tezcan in the last  
14 five months and counting. ICE has never met with him to discuss third-country  
15 removal. Exhibit A ¶ 6. When he asks for updates from ICE officers on his  
16 “tablet, the ICE officers just write that they are searching for third countries.” *Id.*  
17 He has never learned which particular countries ICE is considering. *Id.* “ICE has  
18 never asked [him] to fill out any paperwork to be removed to a third country.” *Id.*  
19 ¶ 7. And he has “never had an interview or a phone call with the consulate of any  
20 third country.” *Id.* That is likely because he “do[es] not have ties to any country  
21 other than Turkey.” *Id.* ¶ 6.

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

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1 not instill confidence that it will be able to secure [CAT] Petitioner’s removal in  
2 the reasonably foreseeable future”).

3 Even if ICE were making efforts behind the scenes, so far, none have borne  
4 fruit. The third-country removal process has not progressed even to the point that  
5 ICE has identified a country to which Mr. Tezcan can apply or be removed to.  
6 Exhibit A ¶¶ 5–6. That matters, because *Zadvydas* itself made clear that good  
7 faith efforts do not themselves show that removal is significantly likely. The  
8 petitioner in *Zadvydas* appealed a “Fifth Circuit h[olding] [that] [the petitioner’s]  
9 continued detention [was] lawful as long as good faith efforts to effectuate  
10 deportation continue and [the petitioner] failed to show that deportation will prove  
11 impossible.” 533 U.S. at 702 (cleaned up). The Supreme Court reversed, finding  
12 that the Fifth Circuit’s good-faith-efforts standard “demand[ed] more than our  
13 reading of the statute can bear.” *Id.*

14 Thus, “under *Zadvydas*, the reasonableness of Petitioner's detention does  
15 not turn on the degree of the government's good faith efforts. Indeed, the  
16 *Zadvydas* court explicitly rejected such a standard. Rather, the reasonableness of  
17 Petitioner's detention turns on whether and to what extent the government's efforts  
18 are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL  
19 78984, at \*5 (W.D.N.Y. Jan. 2, 2019).

20 Here, then, it is possible that ICE is making “travel document requests,”  
21 *Gilali v. Warden of McHenry Cnty. Jail*, No. 19-CV-837, 2019 WL 5191251, at  
22 \*5 (E.D. Wis. Oct. 15, 2019)—though no evidence of that has filtered through to  
23 Mr. Tezcan. But mere efforts would be “insufficient” to defeat Mr. Tezcan’s  
24 showing that his removal is not likely. *Id.* That would be “merely an assertion of  
25 good-faith efforts to secure removal; it does not make removal likely in the  
26 reasonably foreseeable future.” *Id.*; *see also Zavvar*, 2025 WL 2592543, at \*7  
27 (finding the presumption rebutted, despite outstanding third-country requests to  
28

1 Australia and Romania, because of “[t]he lack of any sign that Australia or  
2 Romania is actively considering accepting [the petitioner]”).

3 *Third*, even if ICE could eventually remove Mr. Tezcan to a third country,  
4 in light of Mr. Tezcan’s statutory and international right to seek protection from  
5 persecution and chain refoulement, there is no reason to think his removal could  
6 happen in the reasonably foreseeable future. Even if ICE received travel  
7 documents for a third country, Mr. Tezcan “would be entitled to seek fear-based  
8 relief from removal to that country, which would require additional, lengthy  
9 proceedings.” *Munoz-Saucedo*, 789 F. Supp. 3d at 399; *accord Villanueva*, 2025  
10 WL 2774610, at \*10 (“[A]ny efforts to remove Villanueva to a third country  
11 would likely be delayed by proceedings contesting his removal to the third  
12 country finally identified.”).

13 Mr. Tezcan would be particularly entitled to seek protection from removal  
14 because many noncitizens removed to third countries in the past year have then  
15 been returned to their home countries. *See, e.g., Nick Alexandra, supra* at page 7  
16 n.7. For Mr. Tezcan, a third-country removal could very well result in “chain  
17 refoulement,” in which he is deported to a third country that would proceed to  
18 deport him to his home country of persecution. *See Inter-American Commission*  
19 *on Human Rights, IACHR and United Nations Experts: States Must Protect the*  
20 *Rights of Persons in Human Mobility* (Sept. 18, 2025);<sup>8</sup> *see also United Nations*  
21 *Committee Against Torture, General comment No. 4 on the implementation of*  
22 *article 3 of the Convention in the context of article 22*, at section II (12) (Sept. 4,  
23 2028) (“the person at risk [of torture] should never be deported to another State  
24 from which the person may subsequently face deportation to a third State in  
25 which there are substantial grounds for believing that the person would be in  
26

27 \_\_\_\_\_  
28 <sup>8</sup> Available at [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2025/190.asp&utm\\_term=class-dc](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2025/190.asp&utm_term=class-dc)

1 danger of being subjected to torture”).<sup>9</sup>

2 For all of these reasons, Mr. Tezcan has shown good reason to believe—  
3 and, in the alternative, proven outright—that his removal is not significantly  
4 likely in the reasonably foreseeable future. This Court should grant the petition.

5 **V. Claim 2: ICE must provide adequate notice and an opportunity to be**  
6 **heard before removing Mr. Tezcan to a third country.**

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

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

14 As noted, U.S. law enshrines mandatory protections against dangerous and  
15 life-threatening removal decisions through the withholding of removal statute and  
16 implementations of the Convention Against Torture. *See* 8 U.S.C.  
17 § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822  
18 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18,  
19 1208.16-1208.18 (CAT).

20 Further, the third country removal statute involves a “four-stage inquiry set  
21 forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash.  
22 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d  
23 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a  
24 noncitizen designates “one country to which the noncitizen wants to be removed.”  
25 *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or  
26 that country does not accept them, then “the IJ may at step two designate a  
27 country of which the noncitizen is a subject, national, or citizen.” *Id.* at 1007. If

28 <sup>9</sup> Available at [https://www.ohchr.org/sites/default/files/Documents/HRBodies/CAT/CAT-C-GC-4\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/CAT/CAT-C-GC-4_EN.pdf).

1 “no country satisfies” that requirement, the step three allows designation and  
2 removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The  
3 government can proceed to the fourth stage—removal to “another country”—only  
4 if it determines it is “impracticable, inadvisable, or impossible to remove the alien  
5 to each country described” in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

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

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

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

28

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

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

12 The policies in the currently effective July 6, 2025, memo do not adhere to  
13 these requirements. The operative memo “contravenes Ninth Circuit law.” *Nguyen*  
14 *v. Scott*, \_\_ F. Supp. 3d \_\_, No. 25-CV-1398, 2025 WL 2419288, \*19 (W.D.  
15 Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes  
16 Ninth Circuit law on the process due to noncitizens in detail); *see also Azzo v.*  
17 *Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, \*6–\*8 (S.D. Cal. Dec. 10,  
2025) (same).

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

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

1 Practically speaking, there is not nearly enough time for a detained person to  
2 assess their risk in the third country and martial evidence to support any credible  
3 fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may  
4 know nothing about a third country, like Eswatini or South Sudan, when they are  
5 scheduled for removal there.

6 If given the opportunity to investigate conditions, immigrants would find  
7 credible reasons to fear persecution or torture—like patterns of deporting those  
8 deportees back to their home countries, keeping deportees indefinitely and  
9 without charge in solitary confinement, or extreme instability raising a high  
10 likelihood of death—in many of the third countries that have agreed to removal of  
11 thus far.

12 Immigrants may also have ample reason to challenge DHS’s determination  
13 under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has  
14 connections is “impracticable, inadvisable, or impossible to remove the alien to.”  
15 DHS must consider whether to remove him there before proceeding to the final  
16 step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59  
17 (explaining this process).

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

25 **VI. This Court must hold an evidentiary hearing on any disputed facts.**

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

1 **VII. Prayer for relief**

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

- 3 1. Order and enjoin Respondents to immediately release Petitioner from  
4 custody;
- 5 2. Enjoin Respondents from re-detaining Petitioner without first  
6 following all applicable statutory and regulatory procedures;
- 7 3. Enjoin Respondents from removing Petitioner unless they provide  
8 the following process:
- 9 a. written notice to both Petitioner and Petitioner’s counsel in a  
10 language Petitioner can understand;
- 11 b. a meaningful opportunity, and a minimum of ten days, to raise  
12 a fear-based claim for CAT protection prior to removal;
- 13 c. if Petitioner is found to have demonstrated “reasonable fear”  
14 of removal to the country, Respondents must move to reopen  
15 Petitioner’s immigration proceedings;
- 16 d. if Petitioner is not found to have demonstrated a “reasonable  
17 fear” of removal to the country, a meaningful opportunity, and  
18 a minimum of fifteen days, for the Petitioner to seek reopening  
19 of his immigration proceedings.
- 20 4. Order all other relief that the Court deems just and proper.

21  
22 Respectfully submitted,

23  
24 Dated: January 6, 2026

25 s/ Jessie Agatstein  
26 Federal Defenders of San Diego, Inc.  
27 Attorneys for Mr. Tezcan  
28 Email: jessie\_agatstein@fd.org

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**Proof of Service**

I, the undersigned, will cause the attached Petition for 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: January 6, 2026

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. Tezcan.<sup>1</sup>

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

12 ALPEREN TEZCAN,

13 Petitioner,

14 v.

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

24 Respondents.

Civil Case No.:

**Declaration of Alperen Tezcan  
in support of petition for writ of  
habeas corpus**


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

25 I, Alperen Tezcan, declare the following is true and correct under penalty of  
26 perjury:

- 27 1. My name is Alperen Tezcan. I do not have any money saved. I don't  
28 own a car or anything else. I am twenty-one. When I left my country  
I was twenty. I have been detained for one year and two weeks. I

<sup>1</sup> Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Tezcan's financial eligibility for representation is included in this sworn statement.

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- cannot afford an attorney.
2. My A-number is  I came to the United States border from Turkey. I was fleeing persecution because of my religion and politics. I have been in ICE detention since December 2, 2024. I am currently detained at the Otay Mesa Detention Center.
  3. The immigration judge ordered me removed to Turkey on July 25, 2025. The immigration judge also granted me withholding of removal from Turkey on that same date. I did not appeal.
  4. I am not a citizen or national of any country other than Turkey. I have never lived anyplace other than Turkey. My mother and my father are citizens of Turkey. I do not have immigration status in any other country. I was born in Erzurum, Turkey. I do not know of any reason why a country other than Turkey would accept me for removal. The only country I have ties to is Turkey.
  5. In September, I was with a group of people about to be deported to Turkey. I told an ICE officer that was a mistake because I cannot be deported to Turkey. The officer checked my order, confirmed I cannot be deported to Turkey, and then sent me here to San Diego.
  6. Since I've been in San Diego, I have not been able to meet with an ICE officer. On my tablet, the ICE officers just write that they are searching for third countries. Nobody has told me which ones. They just tell me I have to wait. I do not have any reason to think any country other than Turkey would accept me, because I do not have ties to any country other than Turkey.
  7. ICE has never asked me to fill out any paperwork to be removed to a third country. I have never had an interview or a phone call with the consulate of any third country.

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I declare under penalty of perjury that the foregoing is true and correct,  
executed on this date, 12.17.2025, in San Diego, California.

A. E. [Signature]  
Declarant

# Exhibit B



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

Respondent Name:

TEZCAN, ALPEREN

To:

Oguz, Dorukhan Korkut  
1990 N California Blvd Fl 8  
Ste 38  
Walnut Creek, CA 94596

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

07/25/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 07/25/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

**I. Removability**

The immigration court found Respondent  removable  inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(6)(A)(i); 212(a)(7)(A)(i)(I)

The immigration court found Respondent  not removable  not inadmissible under the following Section(s) of the Act:

**II. Applications for Relief**

Respondent's application for:

**A. Asylum/Withholding/Convention Against Torture**

- Asylum was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under INA § 241(b)(3) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Deferral of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Special Rule Cancellation of Removal under INA § 240A(b)(2) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

C. Waiver

- A waiver under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

D. Adjustment of Status

- Adjustment of Status under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

E. Other

**III. Voluntary Departure**

- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  denied.
- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
  - Further information regarding voluntary departure has been added to the record.
  - Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- the presumptive civil monetary penalty amount of \$3,000.00 USD
- \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief <sup>of 34</sup> under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

#### IV. Removal

- Respondent was ordered removed to Turkey
- In the alternative, Respondent was ordered removed to
- Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

#### V. Other

- Proceedings were  dismissed  terminated with prejudice  
 terminated without prejudice  administratively closed.
- Respondent's status was rescinded under INA § 246.
- Other:



Immigration Judge: SAMEIT, MARK 07/25/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved

Appeal Due:

### Certificate of Service

This document was served:

Via:  M ] Mail |  P ] Personal Service |  E ] Electronic Service |  U ] Address Unavailable

To:  Noncitizen |  Noncitizen c/o custodial officer |  E ] Noncitizen's atty/rep. |  E ] DHS

Respondent Name : TEZCAN, ALPEREN | A-Number : 

Riders:

Date: 07/25/2025 By: Rosa Rodriguez, Court Staff

# Exhibit D



## 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.<sup>1</sup> They can also apply for their spouse and children to join them in the United States.<sup>2</sup>

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.<sup>3</sup> 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.”<sup>4</sup> This definition was incorporated into U.S. immigration law in the Refugee Act of 1980.<sup>5</sup>

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.<sup>6</sup>

### 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.<sup>7</sup> Asylees may also be eligible for certain government programs, such as Medicaid or Refugee Medical Assistance.<sup>8</sup>

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.”<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

### **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.<sup>13</sup>

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.”<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup>

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.<sup>19</sup>

### **How Does Someone Win Humanitarian Protection?**

An asylum seeker has the burden of proving that he or she meets the definition of a refugee.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> This means that there must be a greater than 50 percent chance of persecution.<sup>23</sup> As a result, winning withholding of removal is generally harder than winning asylum, because the burden on the applicant is five times higher.

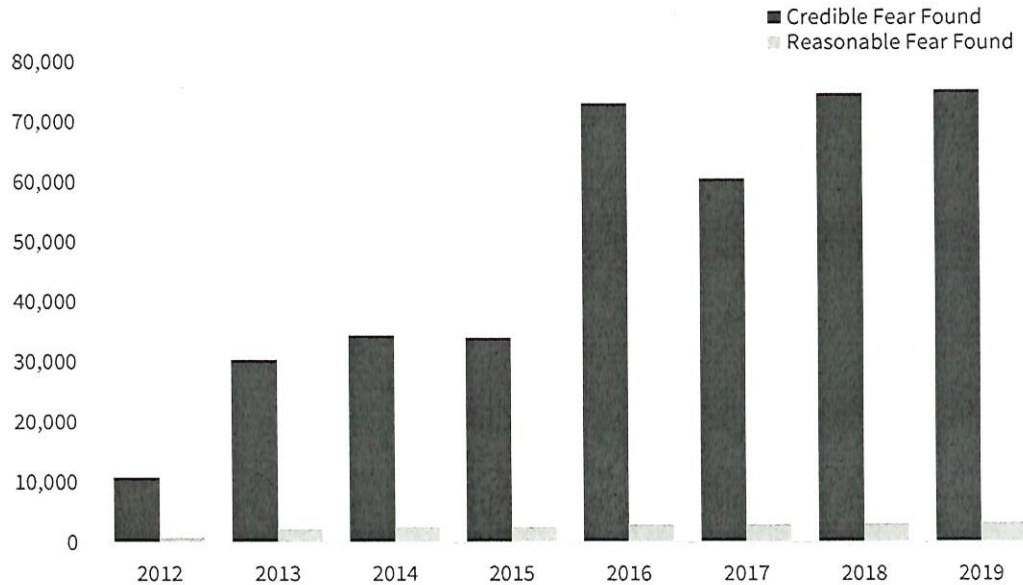
### **How Common are Withholding-Only Proceedings?**

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.<sup>24</sup> In total, more than 213,000 people applied for asylum in Fiscal Year (FY) 2019.<sup>25</sup>

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.

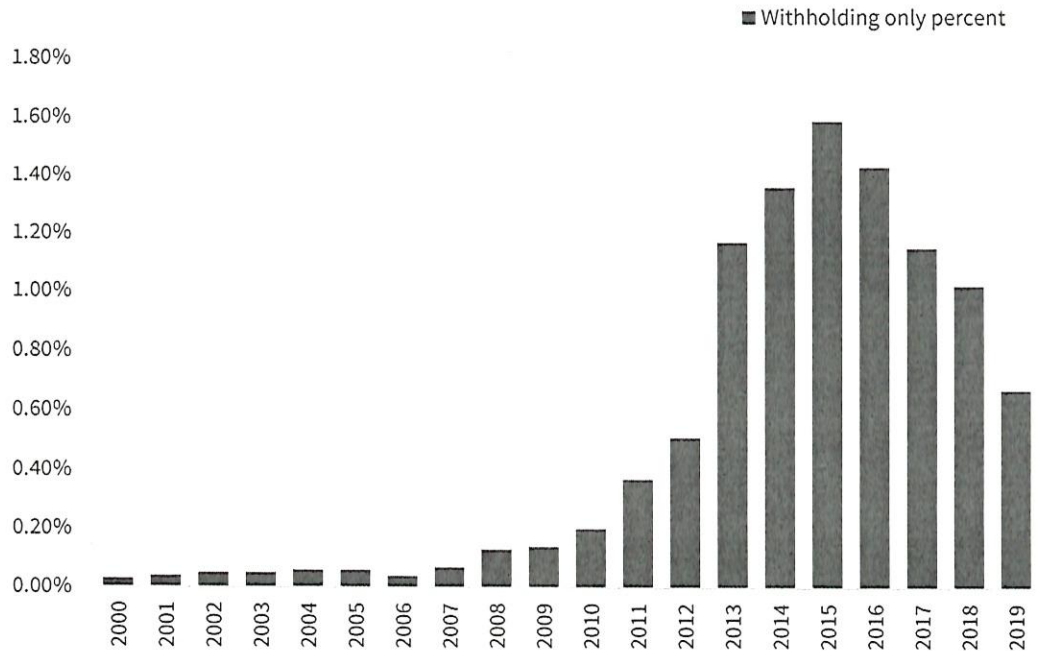
**Figure 1** Number of Individuals Passing Credible Fear and Reasonable Fear Interviews



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.<sup>26</sup> 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.<sup>27</sup> The Supreme Court is set to decide this issue in 2021.<sup>28</sup>

## 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.<sup>29</sup> 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.<sup>30</sup>

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.<sup>31</sup> 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.<sup>32</sup>

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.<sup>33</sup>

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.<sup>34</sup> This includes hundreds of individuals placed in withholding-only proceedings who win protection every year.<sup>35</sup> 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.<sup>36</sup> 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.<sup>37</sup> In June 2020, a federal court in Washington, DC struck down that ban as unlawful.<sup>38</sup>

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.<sup>39</sup>

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.<sup>40</sup> 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.”<sup>41</sup>

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.<sup>42</sup>

### **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.<sup>43</sup> 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.<sup>44</sup>

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](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&eld=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/NJIC\\_Comment\\_Asylum\\_Public\\_Health\\_NPRM.pdf](https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2020-08/NJIC_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 E**



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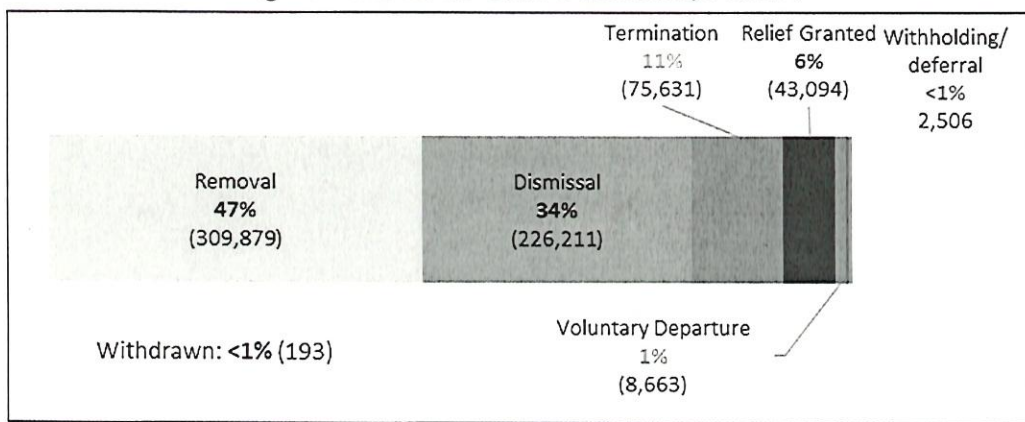
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it is more likely than not that he/she would face torture. These protections provide no path to U.S. lawful permanent resident (LPR) status and permit DHS to remove the respondent to a third country.

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.

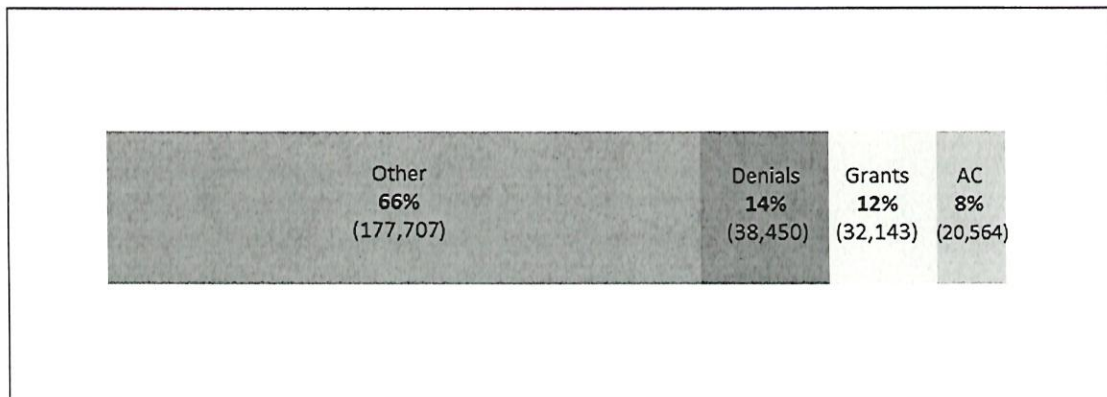
During removal proceedings, respondents may apply for asylum as a form of relief from removal; these *defensive* asylum applications are adjudicated by IJs. In addition, IJs adjudicate applications during asylum-only proceedings for individuals who may be removed without being placed in removal proceedings, 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.

## Author Information

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## Disclaimer

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# Exhibit F

Departed Date	Departure Country	Birth Country	Citizenship Country	Case Category	Final Order Yes/No	Final Order Date
<b>5C - Relief Granted - Withholding of Deportation / Removal</b>						
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	TAJKISTAN	TAJKISTAN	TAJKISTAN	[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
<b>5C - Relief Granted - Withholding of Deportation / Removal</b>						
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	6/11/2025
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	Birth Country	Citizenship Country
12/16/2019	EL SALVADOR	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/23/2019	EL SALVADOR
1/2/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	7/17/2018	MEXICO
2/6/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	2/6/2020	MEXICO
4/2/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/4/2013	MEXICO
3/26/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	3/26/2020	ECUADOR
5/14/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	5/14/2020	MEXICO
5/25/2020	HONDURAS	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/14/2020	HONDURAS
10/13/2020	CHINA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	12/18/2012	CHINA
10/16/2020	EL SALVADOR	[5C] Relief Granted - Withholding of Deportation / Removal	YES	10/5/2020	EL SALVADOR
10/20/2020	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/24/2019	MEXICO
1/14/2021	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	5/9/2017	MEXICO
1/20/2021	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	8/28/2015	MEXICO
3/23/2021	LEBANON	[5C] Relief Granted - Withholding of Deportation / Removal	YES	4/22/2002	LEBANON
2/10/2022	CANADA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	2/7/2002	CUBA
6/11/2022	CANADA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	3/24/2014	ITALY
2/20/2023	INDONESIA	[5C] Relief Granted - Withholding of Deportation / Removal	YES	1/30/2012	INDONESIA
6/11/2023	MEXICO	[5C] Relief Granted - Withholding of Deportation / Removal	YES	9/29/2010	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	4/17/2019	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	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/12/2023	COLOMBIA	COLOMBIA
2/6/2023	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	12/28/2022	COLOMBIA	COLOMBIA
2/13/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/7/2023	MEXICO	MEXICO
2/20/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	2/20/2023	MEXICO	MEXICO
2/24/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	1/13/2023	MEXICO	MEXICO
3/8/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/8/2023	MEXICO	MEXICO
4/6/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	3/23/2023	MEXICO	MEXICO
4/29/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/7/2023	MEXICO	MEXICO
5/22/2023	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	4/18/2023	COLOMBIA	COLOMBIA
6/1/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/25/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
7/12/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	7/12/2023	MEXICO	MEXICO
8/24/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/24/2023	MEXICO	MEXICO
9/5/2023	MEXICO	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	5/22/2023	MEXICO	MEXICO
9/7/2023	COLOMBIA	[5D] Final Order of Deportation / Removal - Deferred Action Granted	YES	8/16/2023	COLOMBIA	COLOMBIA

# Exhibit G

CASE NO. PX 25-951  
IDENTIFICATION: JUL 10 2025  
ADMITTED: JUL 10 2025

To All ICE Employees  
July 9, 2025

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

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On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related to 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