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

12 AMIN ESMAEILI,

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.: '26CV0203 GPC MSB

**Petition for Writ  
of  
Habeas Corpus**

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

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

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1 **I. Introduction**

2 Amin Esmaeili’s family came to the United States from Iran in 2006, when  
3 he was fourteen years old. In 2018, Mr. Esmaeili was ordered removed to Iran and  
4 released on an order of supervision. Last January, Mr. Esmaeili was arrested by  
5 Customs and Border Patrol. He has been in immigration custody at the Otay Mesa  
6 Detention Center ever since.

7 Mr. Esmaeili has been told over the past year he could be deported to  
8 “Panama, Honduras, El Salvador, and Guatemala,” as well as “Turkey” and  
9 “Germany.” Exhibit A, Declaration of Amin Esmaeili, ¶ 7. Now, one year into his  
10 immigration re-detention, he is still stuck. He has still never been given a chance  
11 to contest his re-detention, as required under ICE regulations. 8 C.F.R.  
12 §§ 241.13(i)(3), 241.4(l). He has now been held longer than the maximum six  
13 months allowed under ICE regulation for those who violate their conditions of  
14 release. 8 C.F.R. § 241.13(i)(1). And, under current policy, ICE intends to deport  
15 him to a third country without him first having adequate time to investigate and, if  
16 needed, raise with a court, the possibility of persecution in that that third country.

17 Mr. Esmaeili’s continued detention violates his statutory and regulatory  
18 rights, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment. This  
19 habeas petition raises the following three claims:

20 **(1) Regulatory and due process violations:** Mr. Esmaeili must be released  
21 because ICE’s failure to follow its own regulations—about notifying noncitizens  
22 of the reason for re-detention, about providing a meaningful opportunity to be  
23 heard following re-detention, and about the maximum duration of detention for a  
24 noncitizen’s violation of a condition of release—has repeatedly violated due  
25 process. *See, e.g., Bui v. Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal.  
26 Oct. 23, 2025); *Thai v. Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal.  
27 Oct. 17, 2025); *Constantinovici v. Bondi*, \_\_ F. Supp. 3d \_\_, 2025 WL 2898985,  
28 No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL

1 2898977, No. 25-cv-2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct. 10, 2025); *Truong*  
2 *v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025);  
3 *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal.  
4 Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal.  
5 Sept. 30, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165  
6 (S.D. Cal. Sept. 15, 2025) (all either granting temporary restraining orders  
7 releasing noncitizens, or granting habeas petitions outright, due to ICE regulatory  
8 violations during recent re-detentions of released noncitizens previously ordered  
9 removed under 8 C.F.R. §§ 241.13(i), 241.4(l)).

10 **(2) *Zadvydas* violations:** Mr. Esmaeili must also be released under  
11 *Zadvydas* because—having proved unable to remove him for the last seven and a  
12 half years—the government cannot show that there is a “significant likelihood of  
13 removal in the reasonably foreseeable future.” *Id.* at 701. *See, e.g., Conchas-*  
14 *Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025);  
15 *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025)  
16 (granting habeas petitions releasing noncitizens due to *Zadvydas* violations).

17 **(3) *Third-country removal statutory and due process violations:*** In the  
18 unlikely event ICE does identify a third country, it will not provide Mr. Esmaeili  
19 with due process. ICE’s operative third-country removal policy “contravenes  
20 Ninth Circuit law.” *Nguyen v. Scott*, 796 F. Supp. 3d 703, 728 (W.D. Wash.  
21 2025). This Court should thus also enjoin the Respondents to adhere to basic  
22 requirements of notice and an opportunity to be heard before removing  
23 Mr. Esmaeili to a third country in which he could be persecuted or tortured.

1 **II. Statement of Facts**

2 **A. Mr. Esmaeili comes to the United States, is ordered removed in**  
3 **2018, and is re-detained by ICE in January 2025.**

4 Mr. Esmaeili was born in Iran. Exhibit A, Declaration of Amin Esmaeili,  
5 ¶ 9. In 2006, when he was a teenager, he came to the United States with his  
6 mother and brothers. *Id.* ¶ 2.

7 In May 2018, Mr. Esmaeili was ordered removed to Iran and, as best as he  
8 can remember, given relief from removal to Iran under the Convention Against  
9 Torture. *Id.* ¶ 3. Because he could not be deported to Iran, he was released on an  
10 order of supervision under 8 C.F.R. § 241.13.

11 On January 7, 2025, Mr. Esmaeili was arrested by Customs and Border  
12 Protection. Exhibit A ¶ 4. Initially, an ICE officer informed him he would be held  
13 at the Otay Mesa Detention Center for a few weeks and then released. *Id.* At the  
14 end of January 2025, “ICE officers told [Mr. Esmaeili] they would hold [him]  
15 longer to look for a third country to deport [him] to.” *Id.* ¶ 5.

16 Over the last year, Mr. Esmaeili, explains,  
17 ICE officers have told me they’re trying to deport me to Panama,  
18 Honduras, El Salvador, and Guatemala. When none of those worked,  
19 around April, another deportation officer told me about Turkey. But  
20 that didn’t work either. He later said that Germany denied me and so  
21 did other countries.

22 I keep asking the ICE officers on my tablet what is going on with  
23 my case. They just tell me they’re working on it, and to wait and to  
24 be patient.

25 *Id.* ¶¶ 7–8.

26 As far as Mr. Esmaeili is aware, he has “never had a chance to fight the  
27 revocation of [his] supervision with ICE” over the last year. *Id.* ¶ 6. He does not  
28 remember ICE ever giving him “written notice for why [his] supervision was  
revoked, or how long [he] will be held for the revocation of [his] supervision.” *Id.*

1           **B. It is extremely challenging to deport people to Iran even when it**  
2           **is not in the midst of a political crisis.**

3           The United States has not had normalized relations with Iran since the  
4 Islamic Revolution of 1979. *See generally* Council on Foreign Relations, *1953–*  
5 *2025: U.S. Relations With Iran.*<sup>2</sup> It currently lacks diplomatic and consular  
6 relations. U.S. Department of State, Bureau of Consular Affairs, *Iran Travel*  
7 *Advisory*, March 31, 2025.<sup>3</sup>

8           As President Trump found last year when banning the entry of Iranian  
9 nationals into the United States, Iran “has historically failed to accept back its  
10 removable nationals.” Presidential Proclamation, *Restricting the Entry of Foreign*  
11 *Nationals to Protect the United States from Foreign Terrorists and Other*  
12 *National Security and Public Safety Threats*, June 4, 2025<sup>4</sup>; accord Presidential  
13 Proclamation, *Restricting and Limiting the Entry of Foreign Nationals to Protect*  
14 *the Security of the United States*, Dec. 16, 2025.<sup>5</sup>

15           Iran has long been among the top fifteen most uncooperative countries the  
16 United States faces when seeking to repatriate immigrants it has ordered deported,  
17 alongside other countries like Cuba. *See* Exhibit D at 30 (Office of Inspector  
18 General, Department of Homeland Security, *ICE Faces Barriers in Timely*  
19 *Repatriation of Detained Aliens*, March 11, 2019); Exhibit E at 3, 7  
20 (Memorandum from ICE ERO, November 2024).

21 \_\_\_\_\_  
22 <sup>2</sup> Available at <https://www.cfr.org/timeline/us-relations-iran-1953-2025>.

23 <sup>3</sup> Available at  
24 <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/iran-travel-advisory.html>

25 <sup>4</sup> Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
26 [actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
27 [states-from-foreign-terrorists-and-other-national-security-and-public-safety-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
28 [threats/](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/).

27 <sup>5</sup> Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)  
28 [actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)  
[the-security-of-the-united-states/](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/).

1 Iran is also currently in the midst of significant political upheaval. For the  
2 last few weeks, there have been deadly protests throughout the country, resulting  
3 in the government cutting off cellphone and Internet service for the last week.  
4 Erika Solomon *et al.*, ‘*Shoot to Kill*’: *Accounts of Brutal Crackdown Emerge from*  
5 *Iran*, N.Y. Times (Jan. 13, 2026).<sup>6</sup> Today, President Trump announced that he has  
6 “cancelled ‘all meetings’ with Iranian officials,” and that “‘help is on the way.’”  
7 Ali Harb & Edna Mohamed, *Iran protests live: Trump tells Iranians ‘keep*  
8 *protesting, help on the way*’, Al Jazeera (Jan. 13, 2026).<sup>7</sup>

9 **C. Third-country removals for noncitizens granted removal relief**  
10 **are rare, but as of July 2025, third-country removals can happen**  
11 **with no or little notice.**

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

15 There are more restrictions on asylum, *see* 8 U.S.C. § 1158(a)(2), and  
16 fewer restrictions on eligibility for withholding of removal and CAT relief, *see*  
17 8 U.S.C. § 1231(b)(3)(B)(iii). However, an applicant for withholding of removal  
18 and CAT relief must show a higher likelihood of persecution than what an asylum  
19 applicant must demonstrate—specifically, that it is “more likely than not that he  
20 or she would be persecuted on account of race, religion, nationality, membership  
21 in a particular social group, or political opinion upon removal to that country.”  
22 8 C.F.R. § 1208.16(b)(2); *see INS v. Stevic*, 467 U.S. 407, 429–30 (1984).

23 When an immigration judge grants withholding or CAT relief, she issues a  
24 removal order and simultaneously issues an order withholding removal with  
25 respect to the country the person demonstrated a risk of persecution. *See Guzman-*

26 <sup>6</sup> Available at <https://www.nytimes.com/2026/01/13/world/middleeast/iran-protester-deaths.html>.

27 <sup>7</sup> Available at <https://www.aljazeera.com/news/liveblog/2026/1/13/iran-protests-live-tehran-says-its-prepared-for-any-move-by-trump>.

1 *Chavez*, 594 U.S. at 535–38. While ICE is authorized to remove that person to an  
2 alternative countries, the removal statute specifies restrictive criteria for  
3 identifying appropriate countries. *See* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f).  
4 Further, “foreign governments ‘routinely deny’ requests to receive people who  
5 lack a connection to the would-be receiving country.” *Puertas-Mendoza*, 2025  
6 WL 3142089 at \*3. “The reason so few people are deported to third countries is  
7 because,” while “customary international law holds that a country has a duty to  
8 accept the return of its nationals,” usually, “countries have no incentive to accept  
9 non-citizens.” Exhibit B at 7 (American Immigration Council & National  
10 Immigrant Justice Center, *The Difference Between Asylum and Withholding of*  
11 *Removal* (Oct. 2020)).

12 If ICE identifies an appropriate third country of removal, the noncitizen  
13 must then have notice and an opportunity to seek relief from removal to that new  
14 country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would  
15 face persecution or other mistreatment in the country designated under  
16 § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1);  
17 withholding of removal, § 1231(b)(3)(A); [and] relief under an international  
18 agreement prohibiting torture.”); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.  
19 1999) (holding that “last minute” designation of alternative country without  
20 meaningful opportunity to apply for protection “violate[s] a basic tenet of  
21 constitutional due process”).

22 As a result of these restrictions and procedures, very few people who  
23 receive withholding of removal or CAT relief are deported to a third country.  
24 Between September 2023 and June 2025, ICE removed a total of eight people  
25 granted withholding or other CAT relief to alternative countries. Exhibit C (ICE  
26 removal data).<sup>8</sup> Between fiscal years 2020 and 2023, a total of five people granted

27 \_\_\_\_\_  
28 <sup>8</sup> The data in Exhibit C are collected from the Deportation Data Project, which  
“collects and posts public, anonymized U.S. government immigration

1 withholding or other CAT relief were removed to alternative countries. *Id.*

2 That said, this summer, ICE began removing more immigrants it could not  
3 previously remove to third countries. It implemented new policies to do so. On  
4 July 9, 2025, ICE rescinded previous guidance meant to give immigrants a  
5 “‘meaningful opportunity’ to assert claims for protection under the Convention  
6 Against Torture before initiating removal to a third country.” Exhibit D (July 9,  
7 2025, ICE third-country removal guidance).

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

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

17 Under this policy, ICE “will not affirmatively ask whether the alien is  
18 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the  
19 noncitizen “does not affirmatively state a fear of persecution or torture if removed  
20

21  
22 \_\_\_\_\_  
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 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]  
2 may proceed with removal to the country identified on the notice.” *Id.* at 2.

3 Under this policy, the United States has deported several dozen noncitizens  
4 to prisons and military camps in Rwanda, Eswatini, South Sudan, and Ghana.  
5 Many are still detained to this day, in countries to which they have never been,  
6 without charge. Nokukhanya Musi & Gerald Imray, *10 more deportees from the*  
7 *US arrive in the African nation of Eswatini*, Associated Press (Oct. 6, 2025)<sup>9</sup>; *see*  
8 *also* Gerald Imray, *A Cuban man deported by the US to Africa is on a hunger*  
9 *strike in prison, his lawyer says*, Associated Press (Oct. 23, 2025)<sup>10</sup>; Frank  
10 Chothia, *Eswatini confirms receiving \$5.1m from the US for accepting deportees*,  
11 BBC (Nov. 18, 2025)<sup>11</sup>.

12 **III. This Court has jurisdiction.**

13 This Court has jurisdiction to consider Mr. Esmaili’s claims of unlawful  
14 detention and unlawful third-country removal under 28 U.S.C. § 2241.

15 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips  
16 this Court of jurisdiction, lacks merit. Its argument “would eliminate judicial  
17 review of immigration [detainees’] claims of unlawful detention . . . inconsistent  
18 with *Jennings v. Rodriguez* and the history of judicial review of the detention of  
19 noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*, No. 25-cv-2422-RBM, 2025  
20 WL 2898977, \*3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this  
21 jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL  
22 2800037, \*2 (S.D. Cal. Sept. 30, 2025).

23  
24  
25 \_\_\_\_\_  
26 <sup>9</sup> Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

27 <sup>10</sup> Available at <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

28 <sup>11</sup> Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

1 **IV. Legal Analysis.**

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

3 First, it should order Mr. Esmaeili’s immediate release. ICE failed to follow  
4 its own regulations requiring notification at re-detention, a chance to promptly  
5 contest a re-detention decision, and mandating at most six months of detention for  
6 a violation of supervision conditions. 8 C.F.R. §§ 241.13(i), 241.4(l). Further,  
7 *Zadvydas v. Davis* holds that immigration statutes do not authorize the  
8 government to detain immigrants like Mr. Esmaeili, who has been in custody for  
9 more than six months, and for whom there is “no significant likelihood of removal  
10 in the reasonably foreseeable future.” 533 U.S. 678, 701 (2001).

11 Second, this Court should enjoin the Respondents from removing  
12 Mr. Esmaeili to a third country without first providing notice and a sufficient  
13 opportunity to be heard before an immigration judge. Its current policy of giving  
14 noncitizens between zero and 24 hours’ notice of which country it intends to  
15 deport them to is insufficient as a regulatory, statutory, and due process matter.

16 **V. Claim 1: ICE failed to comply with its own regulations while re-**  
17 **detaining Mr. Esmaeili, violating his rights under applicable**  
18 **regulations and due process.**

19 Two regulations establish the process due to someone who is re-detained in  
20 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to  
21 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping  
22 framework to persons released upon good reason to believe that they will not be  
23 removed in the reasonably foreseeable future, as Mr. Esmaeili was. *See Phan v.*  
24 *Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct.  
25 10, 2025) (explaining this regulatory framework and granting a habeas petition for  
26 ICE’s failure to follow these regulations for a refugee of Vietnam who entered the  
27 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL  
28 2646165 at \*2 (same as to an Iranian national).

1           These regulations permit an official to “return [the person] to custody”  
2 when the person “violate[d] any of the conditions of release,” 8 C.F.R.  
3 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official  
4 “determines that there is a significant likelihood that the alien may be removed in  
5 the reasonably foreseeable future,” and makes that finding “on account of  
6 changed circumstances,” § 241.13(i)(2).

7           No matter the reason for re-detention, the re-detained person is entitled to  
8 certain procedural protections. For one, “[u]pon revocation,’ the noncitizen ‘will  
9 be notified of the reasons for revocation of his or her release.’” *Phan*, 2025 WL  
10 2898977 at \*3, \*4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the person  
11 “‘will be afforded an initial informal interview promptly after his or her return’ to  
12 be given ‘an opportunity to respond to the reasons for revocation stated in the  
13 notification.’” *Id.*

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

19           ICE is required to follow its own regulations. *United States ex rel. Accardi*  
20 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,  
21 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to  
22 abide by certain internal policies is well-established.”). A court may review a re-  
23 detention decision for compliance with the regulations, and “where ICE fails to  
24 follow its own regulations in revoking release, the detention is unlawful and the  
25 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at \*4  
26 (collecting cases); *accord Phan*, 2025 WL 2898977 at \*5.

27           ICE followed none of its regulatory prerequisites to re-detention or  
28 continued detention here.

1 First, ICE did not notify Mr. Esmaeili of the reasons for his re-detention  
2 “upon revocation” of his release. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). He  
3 was re-detained on January 7, 2025. Exhibit A ¶ 4. He had recently been arrested  
4 by CBP. *Id.* When ICE arrested him, he explains, “an ICE officer told [him] they  
5 would hold [him] and then release [him] after a couple of weeks,” but that was all.  
6 *Id.* Several weeks later, “ICE officers told [him] they would hold [him] for longer  
7 to look for a third country to deport [him] to.” *Id.* ¶ 5. But ICE has “never given  
8 [him] a written notice for why [his] supervision was revoked, or how long [he]  
9 will be held for the revocation.” *Id.* ¶ 6.

10 Second, because Mr. Esmaeili has not been notified why he has been re-  
11 detained, he is unable to know if ICE’s reason for re-detaining him were proper.  
12 8 C.F.R. §§ 241.13(i)(1), (2); 241.4(l)(1), (2).

13 Third, Mr. Esmaeili has never received the informal interview required by  
14 regulation. §§ 241.13(i)(2); 241.4(l)(1).

15 Fourth, Mr. Esmaeili has not been afforded a meaningful opportunity to  
16 respond to the reasons for revocation or submit evidence rebutting his re-  
17 detention. §§ 241.13(i)(2); 241.4(l)(1); *see* Exhibit A ¶ 6. No one from ICE has  
18 ever invited him to contest his detention. *Id.*

19 Fifth, and finally, if Mr. Esmaeili was in fact detained for a violation of his  
20 conditions of release, he has now been detained for longer than the maximum “six  
21 months” authorized “to effect [his] removal, if possible, and to effect the  
22 conditions under which [he] had been released.” 8 C.F.R. § 241.13(i)(1).

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

1 2430267, at \*10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-  
2 00182-MJT, 2025 WL 2491782, at \*2–3 (E.D. Tex. July 18, 2025); *Hoac v.*  
3 *Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at \*4 (E.D. Cal. July  
4 16, 2025); *Liu v. Carter*, 2025 WL 1696526, \*2 (D. Kan. June 17, 2025); *M.Q. v.*  
5 *United States*, 2025 WL 965810, at \*3, \*5 n.1 (S.D.N.Y. Mar. 31, 2025); *Bui v.*  
6 *Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v.*  
7 *Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025);  
8 *Constantinovici v. Bondi*, \_\_ F. Supp. 3d \_\_, 2025 WL 2898985, No. 25-cv-2405-  
9 RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-  
10 2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-  
11 02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*,  
12 No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*,  
13 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v.*  
14 *Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, \*3 (S.D. Cal. Sept. 29, 2025);  
15 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.  
16 15, 2025).

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

21 **VI. Claim 2: Mr. Esmaeili’s detention violates *Zadvydas* and 8 U.S.C.**  
22 **§ 1231.**

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

26 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
27 a problem affecting people like Mr. Esmaeili: Federal law requires ICE to detain  
28 an immigrant during the “removal period,” which typically spans the first 90 days

1 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-  
2 day removal period expires, detention becomes discretionary—ICE may detain  
3 the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily,  
4 this scheme would not lead to excessive detention, as removal happens within  
5 days or weeks. But some detainees cannot be removed quickly. Perhaps their  
6 removal “simply require[s] more time for processing,” or they are “ordered  
7 removed to countries with whom the United States does not have a repatriation  
8 agreement,” or their countries “refuse to take them,” or they are “effectively  
9 ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v. Ashcroft*,  
10 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained  
11 immigrants can find themselves trapped in detention for months, years, decades,  
12 or even the rest of their lives. If federal law were understood to allow for  
13 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional  
14 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the  
15 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.  
16 *Id.* at 689.

17 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to  
18 detain an immigrant for six months after his or her removal order becomes final.  
19 After those six months have passed, the immigrant must be released unless his or  
20 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six  
21 months have passed, the petitioner must only make a prima facie case for relief—  
22 there is “good reason to believe that there is no significant likelihood of removal  
23 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the  
24 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*<sup>12</sup>  
25 Mr. Esmaeili can make all the threshold showings needed to shift the burden to

26 \_\_\_\_\_  
27 <sup>12</sup> Further, even before the six months have passed, the immigrant must still be  
28 released if he *rebut*s the presumption that his detention is reasonable. *See, e.g., Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases on rebutting the *Zadvydas* presumption before six months have passed).

1 the government.

2 **B. Mr. Esmaeili’s six-month grace period expired in November**  
3 **2018, and regardless, he has now been in custody for twelve**  
4 **months.**

5 The six-month grace period has long since ended. The *Zadvydas* grace  
6 period is linked to the date the final order of removal is issued. It lasts for “six  
7 months after a final order of removal—that is, three months after the statutory  
8 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th  
9 Cir. 2001). Indeed, the statute defining the beginning of the removal period is  
10 linked to the latest of three dates, all of which relevant here are tied to when the  
11 removal order is issued. 8 U.S.C. § 1231(a)(1)(B).<sup>13</sup>

12 Mr. Esmaeili’s order of removal was entered in May 2018. Exhibit A ¶ 3.<sup>14</sup>  
13 His *Zadvydas* grace period three months after the removal period ended, in  
14 November 2018. *See, e.g., Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-  
15 4108(EP), \*2–\*3.

16 Regardless, Mr. Esmaeili has been detained for twelve months and  
17 counting, since January 7 of last year. The *Zadvydas* grace period has expired.

18 **C. Mr. Esmaeili’s experience provides good reason to believe that**  
19 **he will not likely be removed in the reasonably foreseeable**  
20 **future.**

21 This Court uses a burden-shifting framework to evaluate Mr. Esmaeili  
22 *Zadvydas* claim. At the first stage of the framework, Mr. Esmaeili must “provide[]  
23 good reason to believe that there is no significant likelihood of removal in the  
24 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard can be  
25 broken down into three parts.

26 <sup>13</sup> Those dates are, specifically, (1) “[t]he date the order of removal becomes  
27 administratively final;” (2) “[i]f the removal order is judicially reviewed and if a  
28 court orders a stay of the removal of the alien, the date of the court’s final order;”  
or (3) “[i]f the alien is detained or confined (except under an immigration  
process), the date the alien is released from detention or confinement.” *Id.*

<sup>14</sup> *See also* EOIR, *Automated Case Information*, <https://acis.eoir.justice.gov/en/>.

1           **“Good reason to believe.”** The “good reason to believe” standard is a  
2 relatively forgiving one. “A petitioner need not establish that there exists no  
3 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
4 10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
5 believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
6 foreseeable, significant likelihood of removal or show that his detention is  
7 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
8 2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
9 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
10 Petitioners need only give a “good reason”—not prove anything to a certainty.

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

17           In other words, even if “there remains *some* possibility of removal,” a  
18 petitioner can still meet its burden if there is good reason to believe that  
19 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-  
20 8019, 2002 WL 31520362, at \*4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

21           **“In the reasonably foreseeable future.”** This component of the test  
22 focuses on when Mr. Esmaeili will likely be removed: Continued detention is  
23 permissible only if removal is likely to happen “in the reasonably foreseeable  
24 future.” *Zadvydass*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
25 removal efforts.

26           If the Court has “no idea of when it might reasonably expect [Petitioner] to  
27 be repatriated, this Court certainly cannot conclude that his removal is likely to  
28 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*

1 v. *Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3 (S.D. Miss. July  
2 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss.  
3 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.  
4 2019)). Thus, even if this Court concludes that Mr. Esmaeili “would *eventually*  
5 receive” a travel document, he can still meet his burden by giving good reason to  
6 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at \*2  
7 (E.D. Mich. Nov. 14, 2016).

8 Mr. Esmaeili satisfies this standard for three reasons.

9 First, Mr. Esmaeili’s own experience bears this out. ICE has now had seven  
10 and a half years to deport him. It has also had the last year of his tenure in custody  
11 to focus its efforts to deport him. Exhibit A ¶¶ 4–7. Yet ICE has proved unable to  
12 remove him.

13 Second, the government has tried and failed to deport him to at least a half-  
14 dozen countries over the past year. Exhibit A ¶ 7. These circumstances are not the  
15 makings of someone who has a significant likelihood of being removed in the  
16 reasonably foreseeable future. *See, e.g., Zavvar v. Scott*, No. 25-2104-TDC, 2025  
17 WL 2592543, \*3–\*8 (D. Md. Sept. 8, 2025) (granting habeas petition as to a re-  
18 detained Iranian national in a similar position as Mr. Esmaeili under *Zadvydas*).

19 Thus, Mr. Esmaeili has met his initial burden, and the burden shifts to the  
20 government. Unless the government can prove a “significant likelihood of  
21 removal in the reasonably foreseeable future,” Mr. Esmaeili must be released.  
22 *Zadvydas*, 533 U.S. at 701.

23 **D. *Zadvydas* unambiguously prohibits this Court from denying**  
24 **Mr. Esmaeili’s petition because of his criminal history.**

25 *Zadvydas* squarely holds that danger or flight are not grounds for detaining  
26 an immigrant when there is no reasonable likelihood of removal in the reasonably  
27 foreseeable future. 533 U.S. at 684–91.

28

1           The two petitioners in *Zadvydas* both had significant criminal history.  
2 Mr. Zadvydas himself had “a long criminal record, involving drug crimes,  
3 attempted robbery, attempted burglary, and theft,” as well as “a history of flight,  
4 from both criminal and deportation proceedings.” *Id.* at 684. The other petitioner,  
5 Kim Ho Ma, was “involved in a gang-related shooting [and] convicted of  
6 manslaughter.” *Id.* at 685. The government argued that both men could be  
7 detained regardless of their likelihood of removal, because they posed too great a  
8 risk of danger or flight. *Id.* at 690–91.

9           The Supreme Court rejected that argument. The Court appreciated the  
10 seriousness of the government’s concerns. *Id.* at 691. But the Court found that the  
11 immigrant’s liberty interests were weightier. *Id.* The Court had never  
12 countenanced “potentially permanent” “civil confinement,” based only on the  
13 government’s belief that the person would misbehave in the future. *Id.*

14           The Court also noted that the government was free to use the many tools at  
15 its disposal to mitigate risk: “[O]f course, the alien’s release may and should be  
16 conditioned on any of the various forms of supervised release that are appropriate  
17 in the circumstances, and the alien may no doubt be returned to custody upon a  
18 violation of those conditions.” *Id.* at 700. The Ninth Circuit later elaborated, “All  
19 aliens ordered released must comply with the stringent supervision requirements  
20 set out in 8 U.S.C. § 1231(a)(3). [They] will have to appear before an immigration  
21 officer periodically, answer certain questions, submit to medical or psychiatric  
22 testing as necessary, and accept reasonable restrictions on [their] conduct and  
23 activities, including severe travel limitations. More important, if [they] engage[ ]  
24 in any criminal activity during this time, including violation of [their] supervisory  
25 release conditions, [they] can be detained and incarcerated as part of the normal  
26 criminal process.” *Ma*, 257 F.3d at 1115.

27           Respondents must release Mr. Esmaeili, but of course they may do so  
28 subject to his supervision conditions.

1 **VII. Claim 3: ICE may not remove Mr. Esmaeili to a third country without**  
2 **adequate notice and an opportunity to be heard.**

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

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

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

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

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

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

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

23           “[L]ast minute” notice of the country of removal will not suffice,  
24 *Andriasian*, 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th  
25 Cir. 2016). For good reason: To have a meaningful opportunity to apply for fear-  
26 based protection from removal, immigrants must have time to prepare and present  
27 relevant arguments and evidence. Telling a person where they may be sent,  
28

1 without giving them a chance to look into country conditions, does not give them  
2 a meaningful chance to determine whether and why they have a credible fear.

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

6 The policies in the currently effective July 6, 2025 memo do not adhere to  
7 these requirements. The operative memo “contravenes Ninth Circuit law.” *Nguyen*  
8 *v. Scott*, \_\_ F. Supp. 3d \_\_, No. 25-CV-1398, 2025 WL 2419288, \*19 (W.D.  
9 Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes  
10 Ninth Circuit law on the process due to noncitizens in detail).

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

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

27 If given the opportunity to investigate conditions, immigrants would find  
28 credible reasons to fear persecution or torture—like patterns of sending deportees  
back to their home countries regardless of their risk of persecution or torture

1 there, patterns of keeping deportees indefinitely and without charge in solitary  
2 confinement, or extreme instability raising a high likelihood of death—in many of  
3 the third countries that have agreed to removal of thus far.

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

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

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

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

21 **IX. Prayer for relief**

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

- 23 1. Order and enjoin Respondents to immediately release Petitioner from  
24 custody;
- 25 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
26 § 1231(a)(6) unless and until Respondents obtain a travel document  
27 for his removal;

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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](mailto:USACAS.Habeas2241@usdoj.gov) when I receive the court-stamped copy.

Dated: January 13, 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  
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9 Attorneys for Mr. Esmaeili<sup>1</sup>

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

12 AMIN ESMAEILI,

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 Amin Esmaeili in  
support of petition for writ of  
habeas corpus**

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

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

1 I declare the following is true and correct under penalty of perjury:

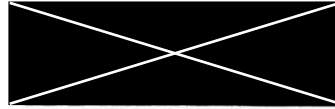
- 2 1. My name is Amin Esmaeili. I was homeless and didn't have any money  
3 saved when I was arrested. I don't own a car or have any assets. I  
4 cannot afford an attorney.
- 5 2. My A-number is  I came to the United States from Iran  
6 with my mom and my brothers when I was fourteen in 2006.
- 7 3. I was ordered removed to Iran and I think given some kind of CAT  
8 relief from removal to Iran in May 2018. I was released on an order of  
9 supervision also in May 2018.
- 10 4. On January 7, 2025, CBP arrested me. Later an ICE officer told me they  
11 would hold me and then release me after a couple of weeks.
- 12 5. In late January, ICE officers told me they would hold me for longer to  
13 look for a third country to deport me to.
- 14 6. I don't think ICE has ever given me a written notice for why my  
15 supervision was revoked, or how long I will be held for the revocation  
16 of my supervision. I have never had a chance to fight the revocation of  
17 my supervision with ICE.
- 18 7. Over the last year, ICE officers have told me they're trying to deport me  
19 to Panama, Honduras, El Salvador, and Guatemala. When none of those  
20 worked, around April, another deportation officer told me about  
21 Turkey. But that didn't work either. He later said that Germany denied  
22 me and so did the other countries.
- 23 8. I keep asking the ICE officers on my tablet what is going on with my  
24 case. They just tell me they're working on it, and to wait and to be  
25 patient.
- 26 9. I am not a citizen or national of any country other than Iran. I have  
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never lived anyplace other than the United States and Iran. My mother and father are citizens of the United States. I do not have immigration status in any other country. I was born in Iran. I do not know of any reason why a country other than Iran would accept me for removal. The only countries I have ties to are the United States and Iran.

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I declare under penalty of perjury that the foregoing is true and correct,  
executed on this date, 1-8-2026, in San Diego, California.



Declarant

*Amin Esmaeili*