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

GEBREKIRSTOS GEBREYOHANS,

No.: 26-cv-2385-RSH-DEB

Petitioner,

v.

**Traverse in support of unopposed
petition for writ of habeas corpus**

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,

Respondents.

In their return, “Respondents acknowledge that Petitioner is entitled to be released from custody subject to conditions of supervision” under conditions set by ICE under “8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.13(h)(1).” ECF No. 8 at 2.

Respondents do not address or dispute Mr. Gebreyohans’s second claim in his petition regarding the process to which he is entitled if Respondents identify a third country to remove him to, which, under current policy, could happen suddenly and unexpectedly. *Id.*; *see* ECF No. 1 at 12–17. Mr. Gebreyohans

1 provided evidence that Respondents' current policy is to violate the Ninth Circuit
2 precedent regarding the notice and process he is due. *See* ECF No. 1, Exhibit G
3 (evidence that current policy is to "not affirmatively ask whether the alien is
4 afraid of being removed").

5 This Court should thus grant Mr. Gebreyohans's habeas petition and order
6 his requested relief, ECF No. 1 at 17:

- 7 1. Enjoin Respondents to immediately release Petitioner from custody
8 under conditions set by Respondents under 8 U.S.C. § 1231(a)(3);
- 9 2. Enjoin Respondents from re-detaining Petitioner without first
10 following all applicable statutory and regulatory procedures; and
- 11 3. Enjoin Respondents from removing Petitioner unless they provide
12 the following process:
 - 13 a. written notice to both Petitioner and Petitioner's counsel in a
14 language Petitioner can understand;
 - 15 b. a meaningful opportunity, and a minimum of ten days, to raise
16 a fear-based claim for CAT protection prior to removal;
 - 17 c. if Petitioner is found to have demonstrated "reasonable fear"
18 of removal to the country, Respondents must move to reopen
19 Petitioner's immigration proceedings;
 - 20 d. if Petitioner is not found to have demonstrated a "reasonable
21 fear" of removal to the country, a meaningful opportunity, and
22 a minimum of fifteen days, for the Petitioner to seek reopening
23 of his immigration proceedings.

24
25
26 Respectfully submitted,

27 Dated: April 22, 2026

s/ Jessie Agatstein
Federal Defenders of San Diego, Inc.

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