

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Adbalkarim Al Khatib v. Noem

No. 25cv2978-LL-VET (S.D. Cal. Nov. 6, 2025) · No. 25cv2978-LL-VET · Decided November 6, 2025

SUMMARY

The United States District Court for the Southern District of California granted Abdalkarim Al Khatib’s motion to appoint counsel in his 28 U.S.C. § 2241 habeas proceeding concerning immigration detention and potential removal. The court appointed Federal Defenders of San Diego, Inc., set a briefing schedule for the habeas petition and motion for a temporary restraining order, and enjoined respondents from removing him from the United States or the district pending further order. The order was entered on November 6, 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Linda Lopez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 6, 2025
DOCKET	25cv2978-LL-VET
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 habeas petition challenging his immigration detention and potential removal to a third country, along with motions for appointment of counsel and a temporary restraining order. The court granted appointment of counsel, set a briefing schedule, and entered a limited stay and injunction preserving the status quo pending further order.
STANDARD OF REVIEW	For appointment of counsel in a habeas proceeding, the court evaluates the likelihood of success on the merits and the petitioner's ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	Unpublished district-court order; limited persuasive value and no merits determination of the habeas claims.
PARTIES	Quoc Abdalkarim Al Khatib v. Kristi Noem, Secretary of the Department of Homeland Security, Pamela Jo Bondi, 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

TOPICS

immigration detention

federal habeas corpus

injunctions

removal proceedings

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PRACTICE AREAS

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remedies

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QUESTIONS PRESENTED

1. Whether appointment of counsel was warranted under 18 U.S.C. § 3006A(a)(2)(B) in light of the complexity of the immigration habeas claims, petitioner's limited English proficiency, inability to afford counsel, and asserted inability to litigate pro se.
2. Whether the court should issue interim relief under the All Writs Act to preserve the status quo and prevent petitioner's removal while the court considers the habeas petition and motion for a temporary restraining order.
3. What briefing schedule should govern respondents' response to the habeas petition and motion for a temporary restraining order.

HOLDINGS

1. The court may appoint counsel for a financially eligible habeas petitioner when the interests of justice so require, and appointment was appropriate because petitioner had limited English proficiency, lacked legal training and financial resources, and faced complex immigration-law issues.
2. The court may issue a limited stay and injunction under the All Writs Act to preserve the status quo and protect its ability to decide a pending immigration matter; respondents were enjoined from removing petitioner from the United States or the Southern District of California pending further order.

KEY QUOTATIONS

“In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” (at 2)

“Respondents, their agents, employees, successors, attorneys, and all persons acting in active concert or participation with them are hereby ENJOINED from removing Petitioner from the United States or this district pending further order of the Court, to maintain the status quo to allow the Court to provide a reasoned decision.” (at 3-4)

FACTUAL BACKGROUND

Petitioner is a Palestinian national who was born in the West Bank, moved to the United States in 1996, and obtained lawful permanent resident status. After a 2002 domestic-violence conviction, he was ordered removed on July 29, 2004, but was released on supervision when the government could not remove him to Palestine or Jordan. He allegedly complied with all conditions of supervision until ICE arrested and detained him at a scheduled check-in on June 16, 2025. His petition challenges the legality and duration of detention and seeks protection from removal to a third country without adequate notice and an opportunity to be heard.

PROCEDURAL HISTORY

Petitioner was detained by Immigration and Customs Enforcement after being arrested at a scheduled check-in while subject to an order of supervision. He filed this habeas action and related motions in the Southern District of California. The court resolved the motion for appointment of counsel and issued interim case-management and jurisdiction-preserving relief, while deferring merits determination on the habeas petition and temporary restraining order.

DISPOSITION

other

CASES CITED

- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)
- Zadvydas v. Davis, 533 U.S. 678 (2001)
- E-C-R- v. Noem, No. 3:25-CV-1230-SI, 2025 WL 2300543, at *1 & n.1 (D. Or. July 16, 2025)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 ADBALKARIM AL KHATIB, Case No.: 25cv2978-LL-VET 12 Petitioner,
13 v. (1) ORDER GRANTING PETITIONER’S MOTION TO 14 KRISTI NOEM, Secretary of
the APPOINT COUNSEL Department of Homeland Security; 15 [ECF No. 2] PAMELA JO
BONDI, Attorney General; 16 TODD M. LYONS, Acting Director, (2) ORDER SETTING
BRIEFING Immigration and Customs Enforcement; 17 SCHEDULE JESUS ROCHA, Acting
Field Office 18 Director, San Diego Field Office; CHRISTOPHER LAROSE, Warden at 19 Otay
Mesa Detention Center, 20 Respondents.

21 22 23 Pending before the Court are Petitioner Quoc Abdalkarim Al Khatib’s Petition for 24
Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 [ECF No. 1], Motion for Temporary 25
Restraining Order [ECF No. 3], and Motion for Appointment of Counsel [ECF No. 2]. 26
Petitioner is a Palestinian, born in the West Bank in 1975, who moved to the United 27 States in
1996 and obtained a green card.

ECF No. 1 at 5–6. In 2002, he was convicted of 28 a domestic violence offense, and on July 29,
2004, he was ordered removed. Id. at 6. He 1 was detained and then released on an order of

supervision after Immigration and Customs Enforcement could not remove him to either Palestine or Jordan. Id. at 6–7. Petitioner has complied with all conditions of supervision since 2004.

Id. at 7. On June 16, 2025, ICE arrested him at a scheduled ICE check-in and detained him. Id. at 8. 5 Petitioner alleges the following claims for relief: (1) ICE failed to comply with its own regulations regarding re-detaining a person following a period of release, 8 C.F.R. §§ 241.4(l), 241.13(i), violating his due process rights; (2) his detention violates the statute authorizing detention, 8 U.S.C. § 1231, and *Zadvydas v. Davis*, 533 U.S. 678 (2001), which holds that certain immigrants must be released if there is ‘no significant likelihood of removal in the reasonably foreseeable future’; and (3) ICE may not remove Petitioner to a third country without adequate notice and an opportunity to be heard pursuant to the Fifth Amendment’s Due Process Clause, the Convention Against Torture, and implementing regulations.

Id. at 13–27. 14 I. MOTION FOR APPOINTMENT OF COUNSEL 15 Petitioner moves for appointment of counsel pursuant to 18 U.S.C. § 3006A(a)(2)(B), which allows a district court to provide counsel for any financially eligible person seeking habeas relief under § 2241 when “the interests of justice so require.” 18 ECF No. 2 at 3. “In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir.

1983). 22 Petitioner, who is not fluent in English, attests that he cannot afford to hire an attorney and does not have the legal education or training to litigate a habeas petition involving immigration laws. ECF No. 1-2 ¶¶ 18–19; ECF No. 2 at 3. Federal Defenders of San Diego, Inc. assisted Petitioner with his Petition and motions and is ready and able to represent him.

ECF No. 2 at 1 & n.1, 2; ECF No. 1 at 1 n.1. Having carefully considered the arguments raised in Petitioner’s Motion and Petition, the Court finds it appropriate to appoint counsel in this case pursuant to 18 U.S.C. § 3006A(a)(2)(B).

Accordingly, the Court GRANTS Petitioner’s Motion and APPOINTS Federal Defenders of San Diego, Inc. to represent him. 3 II. BRIEFING SCHEDULE 4 Petitioner’s Petition and Motion for Temporary Restraining Order both seek to reinstate Petitioner’s release on supervision and to prohibit the government from removing him to a third country without an opportunity to file a motion to reopen with an immigration judge.

ECF Nos. 3 at 3; 1 at 27–28. 8 The Court finds it appropriate to set a briefing schedule on the Petition and Motion for TRO. Additionally, the Court finds it necessary to order a limited stay pursuant to the All Writs Act, 28 U.S.C. § 1651, to preserve the status quo until the Court can provide a reasoned decision, in order to avoid any potential jurisdictional problems if Petitioner

is removed from this district.¹ See *E-C-R- v. Noem*, No. 3:25-CV-1230-SI, 2025 WL 13 2300543, at *1 & n.1 (D.

Or. July 16, 2025) (“Courts around the country exercise their authority under the All Writs Act to maintain their jurisdiction over pending immigration matters by preserving the status quo.” (collecting cases)). Accordingly, the Court ORDERS the following: 1. Respondents shall file any response to the Petition and Motion for TRO by November 13, 2025 at 4:30 p.m.

2. Petitioner may file a reply by November 17, 2025 at 4:30 p.m. 3. Following briefing, the Court will notify the parties if a hearing is warranted. Otherwise, the Court will take the matter under submission pursuant to Local Civil Rule 7.1(d)(1). 4. Respondents, their agents, employees, successors, attorneys, and all persons acting in active concert or participation with them are hereby ENJOINED from removing 1 Under the All Writs Act, “all courts established by an Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages 1 Petitioner from the United States or this district pending further order of the Court, 2 ||to maintain the status quo to allow the Court to provide a reasoned decision.

3 5. The Clerk of Court shall transmit a copy of this Order, the Petition [ECF 4 ||No. 1], and the Motion for Temporary Restraining Order [ECF No. 3] to the U.S. 5 || Attorney’s Office for the Southern District of California. 6 IT IS SO ORDERED. 7 || Dated: November 6, 2025 NO 9 Honorable Linda Lopez 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28