

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.

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 2 Enforcement could not remove him to either
Palestine or Jordan. Id. at 6–7. Petitioner has 3 complied with all conditions of supervision since
2004.

Id. at 7. On June 16, 2025, ICE 4 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 6 own
regulations regarding re-detaining a person following a period of release, 7 8 C.F.R. §§ 241.4(l),

241.13(i), violating his due process rights; (2) his detention violates 8 the statute authorizing detention, 8 U.S.C. § 1231, and *Zadvydas v. Davis*, 533 U.S. 678 9 (2001), which holds that certain immigrants must be released if there is ‘no significant 10 likelihood of removal in the reasonably foreseeable future’”; and (3) ICE may not remove 11 Petitioner to a third country without adequate notice and an opportunity to be heard 12 pursuant to the Fifth Amendment’s Due Process Clause, the Convention Against Torture, 13 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. 16 § 3006A(a)(2)(B), which allows a district court to provide counsel for any financially 17 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 19 court must evaluate the likelihood of success on the merits as well as the ability of the 20 petitioner to articulate his claims pro se in light of the complexity of the legal issues 21 involved.” *Weygant 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 23 attorney and does not have the legal education or training to litigate a habeas petition 24 involving immigration laws. ECF No. 1-2 ¶¶ 18–19; ECF No. 2 at 3. Federal Defenders of 25 San Diego, Inc. assisted Petitioner with his Petition and motions and is ready and able to 26 represent him.

ECF No. 2 at 1 & n.1, 2; ECF No. 1 at 1 n.1. Having carefully considered 27 the arguments raised in Petitioner’s Motion and Petition, the Court finds it appropriate to 28 appoint counsel in this case pursuant to 18 U.S.C. § 3006A(a)(2)(B).

Accordingly, the 1 Court GRANTS Petitioner’s Motion and APPOINTS Federal Defenders of San Diego, 2 Inc. to represent him. 3 II. BRIEFING SCHEDULE 4 Petitioner’s Petition and Motion for Temporary Restraining Order both seek to 5 reinstate Petitioner’s release on supervision and to prohibit the government from removing 6 him to a third country without an opportunity to file a motion to reopen with an immigration 7 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 9 for TRO. Additionally, the Court finds it necessary to order a limited stay pursuant to the 10 All Writs Act, 28 U.S.C. § 1651, to preserve the status quo until the Court can provide a 11 reasoned decision, in order to avoid any potential jurisdictional problems if Petitioner is 12 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 14 authority under the All Writs Act to maintain their jurisdiction over pending immigration 15 matters by preserving the status quo.” (collecting cases)). 16 Accordingly, the Court ORDERS the following: 17 1. Respondents shall file any response to the Petition and Motion for TRO by 18 November 13, 2025 at 4:30 p.m.

19 2. Petitioner may file a reply by November 17, 2025 at 4:30 p.m. 20 3. Following briefing, the Court will notify the parties if a hearing is warranted. 21 Otherwise, the Court will take the matter under submission pursuant to Local Civil Rule 22 7.1(d)(1). 23 4. Respondents, their agents, employees, successors, attorneys, and all persons 24 acting in active concert or participation with them are hereby ENJOINED from removing 25 26 27 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 28 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