



VIA PRIORITY MAIL AND EMAIL

January 3, 2024

Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528-0485
ogc@hq.dhs.gov

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Mailstop 5900
Washington, DC 20536
OPLAServiceIntake@ice.dhs.gov
OPLA-DCLD-TortClaims@ice.dhs.gov

RE: Claim for Damages

Hamad Moshen Thabit Saad Sayad

To Whom It May Concern:

We represent Hamad Moshen Thabit Saad Sayad. Mr. Sayad is seeking damages under the Federal Torts Claim Act (FTCA) against ICE. Please find enclosed the FTCA claim; the Form 95 Claim for Damage, Injury or Death; and Mr. Sayad's claim authorization statement.

Sincerely, .

Khaled Alrabe
Amber Qureshi
National Immigration Project
1200 18th Street NW, Suite 700
Washington, DC 20036

1. Federal Agency

Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528-0485
ogc@hq.dhs.gov

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Mailstop 5900
Washington, DC 20536
OPLAServiceIntake@ice.dhs.gov
OPLA-DCLD-TortClaims@ice.dhs.gov

2. Name and address of claimant

Hamad Moshen Thabit Saad Sayad
625 Pinebrook Dr.
Chesterfield, MO 63017-5913

3. Type of employment

Civilian

4. Date of Birth

Dec. 5, 1993 (note: U.S. Immigration and Customs Enforcement records state an incorrect date of birth for Complainant of January 2, 1996)

5. Marital Status

Single

6. Date and Day of Accident

Jan. 18, 2022 to May 6, 2022

7. Time (A.M. or P.M.)

Various

8. Basis of Claim and 10. Personal Injury

Factual Basis of Claim

Hamad Moshen Thabit Saad Sayad (“Sayad”) is a Yemeni citizen who fled Houthi persecution in January 2020. He entered the United States in December of 2020 and was in ICE detention until May 6, 2022. While his applications for asylum and Temporary Protected Status were pending,

Sayad was detained in La Palma Correctional Center (LPCC), a facility owned by CoreCivic and under contract with Immigration and Customs Enforcement (ICE).

During Sayad's detention, CoreCivic and/or ICE officials discriminated against Sayad because of his religion and then retaliated against him for protesting religious discrimination by changing his detainee status and taking away important religious items. When Sayad went on hunger strike to protest this discriminatory treatment, ICE and/or LPCC officials pressured and lied to him to get him to eat, and they failed to follow best medical practices. Most disturbingly, LPCC medical staff attempted a medically unindicated and highly traumatic insertion of a nasogastric tube. The attempt caused lasting damage to Sayad.

A. LPCC and/or ICE officials discriminated against Sayad due to his religion, failed to take steps to rectify discrimination by another detained individual, and retaliated against Sayad when he protested against this treatment

Over the course of his detention, Sayad's custody status and classification within detention were changed several times without warning or consistent explanation, leading to significant confusion and distress for Sayad and impeding his counsel's ability to advocate for him. ICE's actions were in retaliation against Sayad's religious expression and impeded his ability to practice his faith.

On January 8, 2021, Sayad received a notice of custody redetermination that indicated he would be released. Five days later, however, Sayad received a second notice indicating that he would *not* be released—but the second notice contained no explanation for the decision. That same month, medical staff at LPCC noted Sayad's distress. Sayad remained in detention for the next year with no indication of when he would be released, but he continued to work with attorneys to secure a legal status.

For much of his detention at LPCC, Sayad was housed in the "Charlie" pod. An observant Muslim, Sayad prayed five times a day, as required by his faith, during his detention. On January 18, 2022, Sayad's cellmate reportedly complained that Sayad's fajr prayer, an early-morning mandatory prayer for many observant Muslims, was bothering him. CoreCivic Officer Glass berated Sayad, asking if he had to pray and read the Quran "every day." Officer Glass refused his request to move to a different cell so that he would not bother anyone.

The following day, January 19, Officer Glass told Sayad to gather his belongings and took him to a laundry room, where Sayad was made to change into a different color uniform. In the laundry room, Officer Glass told Sayad to sign papers which were in English and which Sayad did not understand. Officer Glass denied Sayad an interpreter and refused to give him copies of the

papers to show his lawyer. Sayad refused to sign the papers. He still does not know what those papers stated.

After Sayad changed uniforms and refused to sign the papers, he was taken to the medical unit, where he remained until he was transferred out of LPCC. It was this movement, which Sayad believed to be due to anti-Arab and anti-Muslim discrimination, that caused Sayad to go on hunger strike, which began on or around January 19.

ICE and LPCC's explanation for Sayad's placement in the medical unit has varied across time and depending on who is asking and who is explaining. It is unclear what explanation Sayad was given at any point, and if any explanation was given, whether an interpreter was used.

At least three times in January 2022, LPCC medical staff noted in charts that Sayad was in the medical unit for security rather than medical reasons. However, in early February 2022, ICE asserted that Sayad was on "cohort status" due to a COVID-19 exposure, at the end of which (January 31, 2022) he tested positive for COVID-19. While a positive COVID-19 test is noted in Sayad's medical records, Sayad was never provided with a test result and disputes that he had COVID-19.

Once Sayad's counsel found out about Sayad's change in security status, however, ICE's story changed. In March 2022, ICE asserted in court filings that Sayad's entire housing pod was placed on "cohort status" and that all detainees were to remain in normal housing during this period. ICE further asserted that, separately, Sayad's security status changed from "low class" to "high class"—and because there was no housing for high-class detainees at LPCC, Sayad had to be housed in the medical unit.

When Sayad's counsel sought an explanation of why his security status changed, ICE deportation officer Christopher N. Miller sent her an email saying that Sayad's security status changed in July 2021, but ICE and/or LPCC officers "missed" the reclassification and only took action on it when they rediscovered it on January 19, 2022—the same day the above-mentioned incident between Sayad, his cellmate, and Officer Glass took place.

In sum: according to ICE, in the same week, Sayad's original housing pod was placed on cohort status, Sayad had a conflict with an officer over prayers, and Sayad's security status was supposedly reclassified. At no point did ICE and/or LPCC officials explain to Sayad or his counsel what "high class custody" meant, what its effects were, why Sayad had been reclassified, or how Sayad could challenge his classification.

During Sayad's hunger strike and the rest of his detention at LPCC, officials continually impeded Sayad's religious practice by refusing him daily showers, which prevented him from

conducting ablution necessary for daily prayers. On at least one occasion, on February 1, 2022, the water was turned off in Sayad's cell due to his hunger strike, and officials replaced it with a cup and bowl of water.

Sayad's reclassification, transfer to the medical unit, and inability to practice his faith has caused him significant distress and, in turn, ongoing physical harm. Because he believes his status change and transfer was due to anti-Arab and anti-Muslim discrimination, Sayad began a hunger strike. Since his ultimate release from detention, he has spoken with a stammer and has experienced symptoms of trauma.

B. ICE and/or LPCC officials failed to provide appropriate medical care to Sayad and failed to follow a medically appropriate refeeding plan.

On or around January 19, 2022, Sayad began a hunger strike as a result of the discrimination he faced in detention. Throughout his hunger strike, ICE and/or LPCC officials coerced Sayad to eat, subjected him to unconsented to medical procedures, and failed to provide consistent interpretation.

During Sayad's hunger strike, ICE and/or LPCC officials lied to him to get him to eat. On January 23, 2022, Sayad ate a meal because an official told him that he could go back to regular housing, but he was made to stay in the medical unit thereafter.

On February 17, ICE and/or LPCC officials removed Sayad's personal items, including shampoo, body cream, coffee and sugar, mirror, headphones, and an Arabic-English dictionary. Officials told Sayad he could have them back when he ended his hunger strike. Sayad received his books back when his attorney intervened, but he never recovered his other items.

During his hunger strike, Sayad was subject to extensive medical monitoring and intervention. However, he was unable to understand what was happening to him because ICE and/or LPCC officials frequently denied him an interpreter. On some occasions, a phone interpreter was used. On other occasions, officials wrongly insisted that Sayad understood English and refused to allow interpretation. On at least one occasion, a medical staff member used Google Translate to communicate with Sayad.

Sayad has consistently asserted, and conversations with him confirm, that he speaks only basic English and did not understand conversations well enough to proceed without an interpreter. Officials at LPCC had every reason to believe that Sayad was in need of an interpreter and was frequently confused, yet they consistently chose to interpret his confusion as noncompliance.

ICE and/or LPCC officials also subjected Sayad to unwanted medical procedures. In court filings, ICE asserted that Sayad consistently refused to allow IV treatment. Sayad, however, asserts that he complied with IV treatment and medical monitoring except for one occasion, likely February 25, when he tried to remove an IV because of pain and anxiety. Sayad was subsequently handcuffed and forced to receive the IV.

On February 18, ICE procured a temporary restraining order from the United States District Court for the District of Arizona (Case No. 2:22-cv-00270-DLR) to administer involuntary hydration and medical examinations “through competent medical personnel.” On February 22, the court amended its order to allow involuntary nutrition through nasogastric tube, again through competent medical personnel.

By March 12, Sayad became willing to eat and had started drinking liquid meals including Boost nutritional supplement. An LPCC medical staff member noted that Sayad had broken his hunger strike on March 12.

Dr. William Weber, an expert for Sayad, noted in court filings that refeeding after a period of starvation must be gradual and under the care of an expert such as a dietitian, preferably in a hospital setting. Refeeding cannot necessarily be imposed with specific time constraints: medical staff must be compassionate and work with a patient to reintroduce food. Moreover, solid foods should be reintroduced in small amounts, not suddenly. More worryingly, eating too much too quickly after starvation can cause refeeding syndrome, a metabolic disturbance that can cause death.

Contrary to best medical practices, LPCC staff pressured Sayad to eat more food and more quickly than his condition would allow. Dr. David Robertson, Chief Medical Officer at LPCC, noted in charts at least twice that Sayad was to be given “ONE HOUR” to finish his meals, stating “this is reasonable” but not explaining why. Medical records indicate that staff “repeatedly” told Sayad to keep drinking, and they frequently reminded him of the court order and that he might be force-fed. Furthermore, staff attempted to reintroduce entirely solid meals within four days of Sayad breaking his hunger strike, when a liquid diet was both medically appropriate and preferable to Sayad. Sayad was hospitalized only briefly during this period, and no refeeding took place under a dietitian’s care.

Despite or because of this pressure, and despite ongoing pain, Sayad continued to eat. But when Sayad could not eat the exact types of foods that medical staff wanted him to eat, and as quickly and as much as medical staff wanted, staff perceived Sayad antagonistically and sought to punish him.

C. Medical staff made five medically unnecessary attempts to insert a nasogastric tube into Sayad, causing intense pain, ongoing neurological damage, and ongoing psychological trauma.

On March 16, 2022, ICE and/or LPCC medical staff attempted to insert a nasogastric tube to force-feed Sayad. This medically unnecessary procedure was highly traumatic and caused ongoing physical and emotional injuries.

There was no medical reason to attempt a nasogastric tube placement. ICE asserted in its own court filings that the agency wanted to force feed Sayad to avoid *imminent* death by starvation, and indeed initially withdrew its request for court-ordered force-feeding because Sayad was “sufficiently stable.” The agency reinstated its request a few weeks later, asserting that while involuntary nutrition was not “immediately necessary,” it would become so in the coming days.

Sayad was by no means in danger of starving to death on March 16. He had been eating and gaining weight in the preceding days and ate a pureed breakfast that morning. Yet LPCC medical staff, particularly Dr. David Robertson, started to use the court order as leverage to get Sayad to eat more quickly than he was able. On March 15, Robertson noted in a chart that the “court order grants medical staff permission to place a NG tube if [Sayad] does not eat the small meals and fluids offered”—misinterpreting the court order which granted permission to force-feed Sayad if he was in immediate danger of starvation.

Around lunchtime on March 16, medical staff told Sayad he would have to start eating solid foods, and they brought him a meal of rice, beans, and chicken. Staff members including Robertson pressured Sayad to eat quickly, despite his requests for more time. At one point, Robinson hit a table and told Sayad that medical staff would use the court order to force feed him. Robinson then left the room.

Two hours later, Sayad still could not eat the solid food, and medical staff refused him the use of an interpreter to explain that he was willing to drink liquid meals. Security guards and more medical staff entered the room and started to film the interaction. Medical staff continued to ask Sayad if he would eat, and Sayad continued to ask for an interpreter.

At this point, the camera was turned off, and Sayad was held down. Medical staff attempted to insert a nasogastric tube up Sayad’s nose, three times on the left nostril and twice on the right. Each attempt caused significant bleeding. When an attempt failed, medical staff would pull the tube out quickly, causing unbearable pain.

After the fifth attempt, one of the officers present said they needed to stop inserting the tube because the officer believed Sayad was having a stroke. A nurse asked Sayad if he would eat,

and he nodded. Staff brought him rice, which he was able to swallow with water. The camera was turned back on, and staff members spoke with him and had him sign documents before he ate more. In the days following the tube insertion attempt, Sayad was not examined for neurological damage despite his counsel's requests to ICE and motions to the court that this happen.

A nasogastric tube insertion was entirely unnecessary to save Sayad from starvation, because Sayad had been eating voluntarily for several days. Moreover, because a nasogastric tube only delivers liquid food, it did nothing to help Sayad transition to solid foods. Dr. Weber found it "disturbing" and "shocking" that the procedure was poorly documented in medical records afterwards, and that Sayad was not given an interpreter during the procedure.

Dr. Weber has noted that nasogastric tube insertion is an extremely painful procedure even when done voluntarily, causing gagging and coughing. In Sayad's case, the insertion attempt caused far greater injuries. In addition to the bleeding, since the insertion attempt, Sayad has been unable to extend the fingers of his right hand. This may have been caused by neurological damage from the restraints used during the attempt. Since his release, Sayad has attended some physical therapy sessions, which have been extremely painful. Doctors have also recommended an operation on his elbow to restore nerve function, and the prospect of going into surgery distresses him.

Sayad has also experienced intense trauma from the procedure and from his treatment in the medical unit, which manifests in severe emotional disturbance, memory problems, and a stammer. Sayad has not been able to speak in the same way he did before his detention and hunger strike. He is now being medicated for his anxiety because of these incidents. He has spoken very little to his family since his release from detention, because he does not want to worry them with how he looks and speaks. This means he cannot talk to his mother, who is in poor health.

Legal Basis of Claim

This conduct constitutes, at a minimum, the torts of false imprisonment, abuse of process, intentional infliction of emotional distress, negligence, negligent infliction of emotional distress, and medical malpractice, assault and battery, medical malpractice, conversion, and religious discrimination. The claims are described in more detail below. Hence, Sayad now seeks monetary damages of \$1,500,000, pursuant to the Federal Tort Claims Act.

Sayad is submitting these claims without the benefit of formal discovery. He reserves the right to amend or supplement these claims. Please provide confirmation of receipt of this filing and contact information for the attorney who will be handling this matter as soon as possible.

A. False Imprisonment

ICE falsely imprisoned Sayad by unlawfully placing him in solitary confinement in the medical unit of LaPalma Correctional Center without a legal basis. ICE changed Sayad's status without warning, explanation, or an opportunity to challenge it. Sayad was both aware of his new confinement and was harmed by it.

B. Abuse of Process

ICE engaged in abuse of process by willfully and improperly using a TRO to force-feed Sayad, without medical necessity and without competent medical personnel.

C. Intentional Infliction of Emotional Distress

ICE's conduct in discriminating against Sayad for his religion, changing his security status, improperly placing him in the medical unit, pressuring and lying to him to get him to eat, taking away his personal items, and restraining and force feeding him was extreme and outrageous. ICE's actions caused Sayad severe emotional distress. ICE officials knew their actions were substantially certain to cause Sayad emotional distress.

D. Negligence, Negligent Infliction of Emotional Distress, and Medical Malpractice

ICE has a special and heightened duty of care towards individuals in its custody. ICE had a duty to explain Sayad's security status change or place Sayad back into normal housing after the danger posed by COVID-19 ended. ICE also had a duty to provide competent medical care during and after Sayad's hunger strike. ICE acted outrageously and breached its legal duties, causing Sayad ongoing physical injuries and severe emotional distress.

E. Assault and Battery

ICE intentionally restrained and force-fed Sayad and administered unwanted medical treatment. This harmful and offensive contact went over and above the involuntary medical care allowed by the TRO. This conduct caused ongoing physical and emotional injuries.

F. Medical Malpractice

Medical providers—including nurses, physician's assistants, and doctors—contravened medical best practice when restraining and force-feeding Sayad, and by failing to provide him with a proper diet following his hunger strike. The providers failed to exercise the degree of care, skill, and learning expected of a reasonable, prudent healthcare provider acting under similar

circumstances. This failure was a proximate cause of Sayad's ongoing physical and emotional nerve injuries, including hand contracture.

G. Conversion

By taking away Sayad's personal items and failing to return almost all of them, ICE and/or LPCC officials intentionally exercised dominion or control over Sayad's chattel. This exercise seriously interfered with Sayad's rights, as Sayad could no longer use these personal items.

H. Religious discrimination

By refusing to accommodate Sayad's religious practices, refusing to move him to a different cell, then moving him to the medical unit entirely, ICE and/or LPCC officials as government actors substantially burdened Sayad's exercise of religion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Khaled Alrabe', with a stylized flourish at the end.

Khaled Alrabe
Amber Qureshi
National Immigration Project
1200 18th Street NW, Suite 700
Washington, DC 20036

Exhibits in Support of Claim Under the Federal Tort Claims Act

A. Authorization for claim from Hamad Sayad.

B. Form 95, claim for damages.