

*Fraihat v. ICE* // Sample Text for Attorneys Post-[MTE Order](#)

**Disclaimer:** This Template Does Not Constitute Legal Advice.

*Faour Abdallah Fraihat, et al v. U.S. Immigration and Customs Enforcement, et al,*  
Case No. 5:19-cv-01546-JGB-SHK (C.D. Cal. Oct. 7, 2020), ECF No. 240

Month, Day, 2020

[Address Block for Field Office Director]

Include: Name, Title, Address

[Address Block for Individual's Deportation Office if known]

Include: Name, Title, Address, Email

*Sent via [email or mailing address]*

**Re: Request for Custody Redetermination for [\[Name, A-Number pursuant to Fraihat\]](#)**

I respectfully submit this request for custody redetermination on behalf of [\[Individual Name, A Number\]](#) detained at [\[Facility Name\]](#).

This custody redetermination request is made based on the court's new order, dated October 7, 2020 in *Fraihat v. ICE*. The Court found significant evidence of ICE's noncompliance with the April 20, 2020 Preliminary Injunction. Specifically, the court stated that ICE has, "used inconsistent risk factor identification and custody review procedures." *Fraihat v. ICE*, Case No. 5:19-cv-01546-JGB-SHK, at 38 (C.D. Cal. Oct. 7, 2020), ECF No. 240.

ICE has an affirmative obligation to identify and track all detained individuals and therefore should already be on notice that [\[Individual Name\]](#) is a *Fraihat* sub-class member. *Fraihat v. ICE*, Case No. 5:19-cv-01546-JGB-SHK (C.D. Cal. Apr. 20, 2020), ECF No. 133.

Because of [\[Individual's Name\]](#) diagnosis of [\[list medical conditions or disabilities\]](#), [\[Individual's name\]](#) is a member of *Fraihat* class. [\[Note: if your client's Risk Factor includes a severe psychiatric illness, explain how that diagnosis interferes with their ability to participate in care, express symptoms, or otherwise puts them at risk, per the language of the 10/7/20 order\].](#) [\[Describe the medical conditions and add a few details on the medical treatment the individual has received in ICE care. For example: Mr. Y has diabetes. While detained, his diabetes has been uncontrolled. He has not received the proper diet and ICE fails to provide him his insulin consistently.\]](#) [\[Individual name\]](#), given their Risk Factors, faces an elevated risk of severe illness or death.

[\[Individual Name\]](#) is entitled to an individualized consideration for release. According to the Court Order, the presence of his/her/their Risk Factors and the current public health emergency must be treated as a **significant factor(s) weighing in favor of release**, and "detainees should

generally be released absent a **specific finding they would pose a danger to property or persons.**” *Id.* at 14.

[If the individual is NOT subject to 1226(c) or “Mandatory detention”:]

Per the court’s order, **only in rare cases** can ICE continue detaining a subclass member such as [Individual Name] because he/she is not subject to 1226(c) mandatory detention.

[If the individual IS subject to 1226(c) or “Mandatory detention”:]

As the court explained: “Detention under Section 1226(c) is still civil detention and detention **cannot be punitive, or deliberately indifferent.**” *Id.* at 15. As the court made clear, my client is still entitled to meaningful and individualized review for release and cannot be denied release based on their custody classification. If ICE denies release, they must provide a justification that is based in the individual’s status as a *Fraihat* subclass member. Here, **there is no adequate justification** for such a denial.

[Individual name] requires a safe environment where he/she can be isolated and received intensive medical treatment. When released, [Individual Name] will go to [Place where they will go] to be with their List Friend/Family Member/Sponsor at City, State.

I have included supporting documents which includes:

- Sponsorship information  
Medical Records highlighting the COVID-19 Risk Factors

For these reasons, ICE should release [Individual Name].

As required by the Court order: 1) I expect your response in writing within the next week, by [DATE] and 2) ICE must turn over this *Fraihat* request and your notice in response, to *Fraihat* Class Counsel.

[SIGNATURE]