IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDRANIK GRIGORYAN, Petitioner, v. JAMAL L. JAMISON, in his official capacity as Warden of Federal Detention Center, Philadelphia, *et al.*, Respondents.	Case No. 25-cv-1389 **PUBLIC/REDACTED BRIEF**

RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO PETITIONER'S MOTION FOR ORDER TO SHOW CAUSE AND PRELIMINARY INJUNCTION

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April 11, 2025

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INTRODUCTION

Andranik Grigoryan is an aggravated felon under the Immigration and Nationality Act, which means he is subject to mandatory detention under 8 U.S.C. § 1226(c) pending the outcome of his removal proceedings. He contends that his 16-month detention under § 1226(c) without a bond hearing violates his due-process rights and thus filed (1) this habeas proceeding seeking such a hearing (ECF No. 1); and (2) a motion for a preliminary injunction seeking his immediate release (ECF No. 3). But Grigoryan has not carried his burden to establish that his detention has become unreasonable under the Third Circuit's governing decision, *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020). As explained below, of the four factors that *German Santos* says to examine, two favor the Government (the length of detention and conditions of confinement); one is currently unclear (the likelihood of continued detention); and one is neutral (the reasons for any delay in the removal proceedings).

Grigoryan's due-process claim thus fails. To be sure, Grigoryan's continued detention under § 1226(c) could at some point in the future become unreasonable. But we are not there yet, and his removal proceedings may soon wrap up. Grigoryan's habeas petition (and motion for preliminary injunction) should thus be denied with leave to refile if it becomes necessary in the future.

FACTS AND PROCEDURAL HISTORY

I. Grigoryan's Criminal History

Grigoryan is subject to mandatory detention under § 1226(c) because he was convicted of an aggravated felony as that term is defined under the Immigration and Nationality Act. *See* 8 U.S.C. § 1101(a)(43)(M)(i); Decl. of David O'Neill (filed herewith)

(O'Neill Decl.) ¶ 6. On May 16, 2022, Grigoryan pleaded guilty in the United States District Court for the Central District of California to Possession of 15 or More Unauthorized Access Devices in violation of 18 U.S.C. § 1029(a)(3). O'Neill Decl. ¶ 5; Minutes of Change of Plea Hr'g, *United States v. Grigoryan*, No. 2:21-cr-86, ECF No. 87 (C.D. Cal. May 16, 2022). As described in the plea agreement, Grigoryan and an accomplice used approximately 77 gift cards re-encoded with bank account numbers to make cash withdrawals from several ATMs throughout greater Los Angeles in December 2020. Plea Agreement, *United States v. Grigoryan*, No. 2:21-cr-86, ECF No. 79 ¶¶ 2a, 10 (C.D. Cal. March 25, 2022). Grigoryan's conduct caused at least $58,820 in intended losses to the victims. *Id.* ¶ 10. What's more, when he was arrested in December 2020, he was on pretrial release after an earlier arrest for attempting to install an illegal bank-access device skimmer inside an ATM. Criminal Compl., *United States v. Adilov*, No. 21-mj-283, ECF No. 1 ¶ 7 (C.D. Cal. Jan. 19, 2021).

After pleading guilty, Grigoryan was sentenced to 16 months of imprisonment followed by three years of supervised release. J. & Order, *United States v. Grigoryan*, No. 2:21-cr-86, ECF No. 108 (C.D. Cal. Sept. 15, 2022). He was ordered to pay $27,320 in restitution. *Id.* Grigoryan was released from federal prison on December 7, 2023, and immediately taken into ICE custody under 8 U.S.C. § 1226(c). Pursuant to his plea agreement, Grigoryan's term of supervised release is ongoing—and has been during the entire period of his detention by ICE.

Although Grigoryan tries to frame his 2022 conviction as an uncharacteristic mistake (*see* Pet. (ECF No. 1) ¶ 17), Grigoryan actually has a lengthy criminal history. In May 2005, Grigoryan was arrested by the New York Police Department for forgery. O'Neill Decl. ¶ 8; *id.* Ex. A (Form I-213, Record of Deportable/Inadmissible Alien) at 3.

He was convicted and sentenced to 10 days of confinement. *Id.* Ex. A at 3. In June 2007, he was arrested for marijuana possession. *Id.* at 2. In August 2007, he was arrested for possession of a weapon. *Id.* Both of Grigoryan's 2007 arrests resulted in convictions, although neither appears to have resulted in any jail time. *Id.* In February 2009, Grigoryan was arrested and later convicted for driving under the influence of alcohol. *Id.* at 1. In November 2010, he was arrested for petit larceny, which again resulted in a conviction but no apparent jail time. *Id.* at 3.

II. Removal Proceedings and Appeal to the Board of Immigration Appeals

On December 7, 2023, Grigoryan was placed in removal proceedings by being issued a Notice to Appear based on his 2022 conviction. *Id.* Ex. D (Notice to Appear).

[redacted]

DHS appealed the IJ's decision to the Board of Immigration Appeals (BIA). *Id.* ¶ 33. The BIA set a November 27, 2024 deadline for the parties to file simultaneous briefs. *Id.* ¶ 34. DHS filed its brief on November 21, 2024, but Grigoryan's brief was

rejected by the BIA for a procedural deficiency. *Id.* ¶ 35. Grigoryan's counsel then tried to refile his brief, but the BIA rejected it again. *Id.* ¶ 36. Grigoryan's counsel then again filed the brief along with a motion for leave to file an untimely brief. *Id.* ¶ 37. The BIA ultimately accepted Grigoryan's brief on January 28, 2025. *Id.* ¶ 38.

[redacted] The IJ thereafter promptly scheduled a hearing, which is currently set for April 16, 2025, at 9:00 a.m. *Id.* Ex. I (EOIR Notice of Hearing).

III. Grigoryan's Detention

Grigoryan has been detained under 8 U.S.C. § 1226(c) for approximately 16 months. O'Neill Decl. ¶¶ 6, 14. This comprises the time during which his removal was being adjudicated as well as the time during which DHS's appeal was pending before the BIA. *Id.* ¶ 14. For most of his detention, Grigoryan has been housed at the Moshannon Valley Processing Center (Moshannon). *Id.* ¶ 15. After the IJ issued her decision concluding that Grigoryan is removable, ICE reviewed Grigoryan's custody status and—based on his criminal history—determined that he failed to establish that he would not pose a danger to the community if released. *Id.* Ex. G (Oct. 23, 2024 ICE Letter). ICE thus informed Grigoryan that it would continue his detention but would "re-evaluate [his] custody status" if the BIA dismissed the then-pending appeal. *Id.* at 1.

On February 6, 2025, the Department of Justice, Bureau of Prisons (BOP) and ICE entered into an interagency agreement under which immigration detainees would

be housed at certain BOP facilities across the United States, including the Federal Detention Center in Philadelphia (FDC Philadelphia). *See* BOP-ICE Agreement (ECF No. 1-10). Grigoryan was transferred to FDC Philadelphia in February 2025. O'Neill Decl. ¶ 43; Decl. of Kevin Cassano, Jr. (filed herewith) (Cassano Decl.) ¶ 16.

FDC Philadelphia currently houses approximately 1,100 individuals. Cassano Decl. ¶ 5. The majority of these are federal criminal pretrial detainees. *See id.* FDC Philadelphia is currently equipped to hold up to 126 immigration detainees. *Id.* ¶ 6. These individuals are all housed in a single unit within FDC Philadelphia: 3 North. *Id.* ¶ 7. None of the immigration detainees are housed with criminal pretrial detainees or inmates and the immigration detainees are entirely segregated from other detainees. *Id.*

The unit that houses immigration detainees has an outdoor space, computer terminals, televisions, exercise equipment, and public phones. *Id.* ¶¶ 8-9. The outdoor space includes a basketball court. *Id.* ¶ 8. Between 6:30 a.m. and 9:30 p.m., immigration detainees at FDC Philadelphia are generally able to move freely around the unit, including on the outdoor space and basketball court. *Id.* ¶ 8. The computer terminals allow detainees to email with family members or counsel. *Id.* In addition to the public phones, detainees also have access to free calls to counsel on unmonitored phone lines as well as a contact line to ICE for purposes of questions, complaints, language assistance, or requests to contact their respective consulates. *Id.* ¶ 9.

Immigration detainees at FDC Philadelphia are each assigned to two-bunk rooms. *Id.* ¶ 10. These rooms are equipped with medical alarm buttons to alert staff if a detainee has a medical episode and needs assistance. *Id.* ¶ 11. Typically, each immigration detainee also has a roommate. *Id.* ¶ 10. While at FDC Philadelphia, Grigoryan had a roommate. *Id.*

Since immigration detainees have been housed at FDC Philadelphia, BOP staff have endeavored to foster frequent communication with the immigration detainees to ascertain what changes, if any, the facility can make to better accommodate them. *Id.* ¶¶ 13-15. One early example of this process in action is BOP's agreement to purchase and supply immigration detainees with rubber slippers (generic brand "Crocs"), which they can use both during the day while walking around the unit and for showering. *Id.* ¶ 14. This is a privilege not afforded to other FDC Philadelphia detainees. *Id.* ¶ 15.

Grigoryan will be transferred back to Moshannon on April 11, 2025, in advance of his April 16 hearing before the IJ. O'Neill Decl. ¶ 48. But the conditions of confinement at Moshannon are not materially different from the conditions at FDC Philadelphia described above. *Id.* ¶ 45.

IV. Procedural History

On March 14, 2025, Grigoryan filed his Petition for Writ of Habeas Corpus (ECF No. 1) along with a Motion for Order to Show Cause and Preliminary Injunction and Temporary Restraining Order (ECF No. 3). The Court held a status conference with the parties on March 21, 2025. After this conference, the Court denied Grigoryan's Motion for Temporary Restraining Order as moot and set a briefing schedule for the Petition and the Motion for Preliminary Injunction. ECF. No. 13; *see also* ECF No. 20 (modifying briefing schedule).

LEGAL STANDARD

The burden is on the habeas petitioner to demonstrate that he is in custody in violation of the Constitution or laws or treaties of the United States to warrant relief. *See, e.g.*, *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011). Where, as here, the Supreme Court has found the statute at issue to be facially constitutional, *see Demore v. Kim*, 538

U.S. 510, 513-14 (2003), a petitioner must make a strong showing to demonstrate that the law is unconstitutional as applied to him, *see United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power."); *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 402 F. Supp. 251, 254 (E.D. Pa. 1975) ("[D]efendants here carry a heavy burden, for a strong presumption of validity attaches to an Act of Congress.").

Grigoryan has also moved for a preliminary injunction. "An injunction is a drastic and extraordinary remedy, which should not be granted as a matter of course." *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 165 (2010). Instead, injunctions "may only be awarded upon a clear showing that the [movant] is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). The movant must establish that (1) "he is likely to succeed on the merits" of his claim; (2) "he is likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in his favor"; and (4) an injunction is in the public interest. *Id.* at 20. The last two factors "merge when"—like here—"the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Crucially, on a motion for preliminary injunction, "[t]he movant[] must establish entitlement to relief by clear evidence." *Doe ex rel. Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 526 (3d Cir. 2018) (citing *Winter*, 555 U.S. at 22); *see also Del. State Sportsmen's Ass'n, Inc. v. Del. Dep't of Safety & Homeland Sec.*, 108 F.4th 194, 202 (3d Cir. 2024) ("Because 'a preliminary injunction is an extraordinary and drastic remedy,'

the movant bears the burden of making '*a clear showing*.'" (citation omitted)). "The failure to establish any element renders a preliminary injunction inappropriate." *Ferring Pharms, Inc. v. Watson Pharms., Inc.*, 765 F.3d 205, 210 (3d Cir. 2014) (cleaned up). And if injunctive relief is ultimately awarded, its terms must be "no broader than necessary to provide full relief to the aggrieved [movant]." *Benezet Consulting LLC v. Sec'y Commonwealth of Pennsylvania*, 26 F.4th 580, 584 (3d Cir. 2022) (quoting *Belitskus v. Pizzingrilli*, 343 F.3d 632, 649 (3d Cir. 2003)).

ARGUMENT

I. Grigoryan Is Not Entitled to a Bond Hearing

The Supreme Court has long recognized that the detention of noncitizens pending their removal is constitutional. *See, e.g.*, *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("We think it clear that detention or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens, would be valid.").[1] In *Demore*, the Supreme Court specifically rejected a facial challenge to 8 U.S.C. § 1226(c)—the statute at issue here—which mandates detaining certain criminal noncitizens pending their removal proceedings without an opportunity for release on bond. *See* 538 U.S. at 529-31. There, the Court observed that § 1226(c) is predicated on Congress's concern that certain "deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in

[1] *See also Demore*, 538 U.S.at 523 ("this Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process"); *Reno v. Flores*, 507 U.S. 292, 306 (1993) ("Congress has the authority to detain aliens suspected of entering the country illegally pending their deportation hearings."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of th[e] deportation procedure.").

large numbers"—which is why Congress mandated their categorical detention without bond. *Id.* at 513. And as the Court explained, that categorical judgment is constitutional. *Id.*; *see also Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 473 (3d Cir. 2015) ("The Supreme Court left no doubt that the Government's authority under section 1226(c) to detain aliens without an opportunity for bond complies with the Constitution." (citing *Demore*, 538 U.S. at 531)).

That said, the Third Circuit has held that noncitizens detained under § 1226(c) can still bring as-applied challenges to obtain a bond hearing if their detention has become "unreasonable." *German Santos*, 965 F.3d at 209-11.[2] Such a challenge requires assessing the reasonableness of the noncitizen's detention, which is a "highly fact-specific inquiry." *German Santos*, 965 F.3d at 210 (cleaned up). There are no "bright-line threshold[s]" for when detention becomes unreasonable, nor is there "a presumption of reasonableness or unreasonableness of any duration." *Id.* at 211. Instead, reasonableness is determined based on all relevant circumstances, including four "nonexhaustive" factors. *Id.* at 210-11. Those factors are (1) the duration of the detention; (2) whether the detention is likely to continue; (3) the reasons for any delay in the underlying removal proceedings; and (4) whether the conditions of the detention are "meaningfully different" from criminal punishment. *Id.* at 211.

Here, the circumstances and *German Santos* factors establish that Grigoryan's claim fails. As explained below, of the four *German Santos* factors, two favor the

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[2] *But see Banyee v. Garland*, 115 F.4th 928, 932-33 & n.3 (8th Cir. 2024) (disagreeing with *German Santos* and holding that a noncitizen may be detained "for as long as deportation proceedings are still '*pending*'"); *Wekesa v. U.S. Att'y*, No. 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022) (similar), *cert. denied*, 143 S. Ct. 2666 (2023).

Government (the length of detention and conditions of confinement); one is currently unclear (the likelihood of continued detention); and one is neutral (the reasons for any delay in the removal proceedings). No other circumstances render Grigoryan's detention unreasonable either. So his continued detention does not violate due process and his petition should be denied with leave to refile.

A. The Length of Grigoryan's Detention Is Not Unreasonable

Grigoryan has been detained under § 1226(c) since December 7, 2023—approximately 16 months. *See* Grigoryan Decl. (ECF No. 1-3) ¶ 14. He argues that this detention is unreasonable because it exceeds a "six-month to one-year timeframe" that he says was "laid out" by the Third Circuit. Pet. ¶ 36; *see also id.* ¶ 29. But that is wrong. As the Third Circuit explained in *German Santos*, there is no "bright-line threshold" or "presumption of reasonableness or unreasonableness *of any duration*." 965 F.3d at 210-11 (emphasis added).

Instead, the analysis requires a fact-specific assessment of whether the length of detention has become unreasonable. *Id.* at 210. But Grigoryan has not articulated any specific reason why the length of his detention has reached that point. He merely cites decisions from other cases and points to the length of detention found unreasonable there. *See, e.g.*, Pet. ¶¶ 29, 36. Given the fact-specific nature of the analysis, however, courts have logically reached different conclusions about what length of detention qualifies as unreasonable. And many courts have held that detention periods similar to, or longer than, Grigoryan's 16-month detention are reasonable.

For example, just weeks ago a district court in this Circuit held that a noncitizen's detention of "approximately 18 months" under § 1226(c) did "not weigh in favor of relief." *Appiah v. Lowe*, No. 24-cv-2222, 2025 WL 510974, at *4 (M.D. Pa. Feb. 14,

2025). Detention of 18 months was likewise deemed reasonable in *Crooks v. Lowe*, No. 18-cv-47, 2018 WL 6649945, at *2 (M.D. Pa. Dec. 19, 2018). Similarly, multiple courts have held 15 months of detention under § 1226(c) to be reasonable. *See, e.g.*, *Fernandez v. Lowe*, No. 17-cv-2301, 2018 WL 3584697, at *4-5 (M.D. Pa. July 26, 2018); *Coello-Udiel v. Doll*, No. 17-cv-1414, 2018 WL 2198720, at *3 (M.D. Pa. May 14, 2018). And similar decisions abound involving comparable lengths of detention.[3]

Grigoryan has not articulated any specific reason why the length of his detention has become unreasonable. And to the extent that decisions in other cases provide a benchmark, they show that Grigoryan's length of detention still falls within the bounds of reasonableness. The first and "most important" factor thus weighs in the Government's favor. *German Santos*, 965 F.3d at 211.

B. Grigoryan's Detention Under § 1226(c) May End Soon

Grigoryan's detention will likely continue, but that depends significantly on what happens next in his removal proceedings now that the BIA has remanded. Depending on

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[3] *See, e.g.*, *White v. Lowe*, No. 23-cv-1045, 2023 WL 6305790, at *2 (M.D. Pa. September 27, 2023) (detention of "approximately 15 months" under § 1226(c) held reasonable), *abrogated by White v. Warden Pike Cnty. Corr. Facility*, No. 23-2872, 2024 WL 4164269 (3d Cir. Sept. 12, 2024) (reversing because length of detention had reached 25 months by time of appeal); *McDougall v. Warden, Pike Cnty. Corr. Facility*, No. 23-cv-759, 2023 WL 6161038, at *2 (M.D. Pa. Sept. 21, 2023) (detention of "a little over 13 months" under § 1226(c) held reasonable); *Smith v. Garland*, 600 F. Supp. 3d 273, 278 (W.D.N.Y. 2022) (detention of "over seventeen months" under § 1226(c) held reasonable); *Saint Jacques v. Dep't of Homeland Sec.*, No. 21-cv-1144, 2021 WL 4494623, at *2 (M.D. Pa. Sept. 30, 2021) (detention of "a little less than 14 months" under § 1226(c) held reasonable); *Rosales v. Lowe*, No. 18-cv-1302, 2018 WL 6650304, at *3 (M.D. Pa. Dec. 19, 2018) (detention of 14 months under § 1226(c) held reasonable); *Carlos A. v. Green*, No. 18-cv-741, 2018 WL 3492150, at *5 (D.N.J. July 20, 2018) (detention of 13 months under § 1226(c) held reasonable); *Espinosa-Almonte v. Sabol*, No. 12-cv-2514, 2013 WL 3894861, at *10 (M.D. Pa. July 26, 2013) (detention of 21 months under § 1226(c) was not "unduly prolonged" or "excessive" given noncitizen's multiple requests for continuances in underlying removal proceeding).

what the IJ decides and whether either appeals that decision, Grigoryan's removal order may soon become administratively final. At that point, Grigoryan's detention would no longer be under § 1226(c) but would instead be governed by 8 U.S.C. § 1231. Section 1231 would provide independent authority for Grigoryan's continued detention, and it further specifies a timeline for Grigoryan's removal and any potential release from custody.

Under § 1231(a), the Secretary of Homeland Security[4] is required to remove a noncitizen within the "removal period," which initially lasts for 90 days and begins when the removal order becomes administratively final. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021) (summarizing the removal process under § 1231). Grigoryan conceded that he is removable (O'Neill Decl. Ex. E) and the only remaining issue for the IJ to decide based on the BIA's remand is [redacted]. And [redacted] may be decided soon; Grigoryan's next hearing before the IJ is scheduled for April 16. *Id.* Ex. I. The IJ previously decided [redacted] in an oral decision on the day of the hearing (*see* IJ Order (ECF No. 1-5)) and may thus do so again at the April 16 hearing. If the IJ [redacted] and Grigoryan does not appeal that decision to the BIA, his removal order would become administratively final 30 days later (once the time to appeal has lapsed). *See* 8 C.F.R. § 1241(c).

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[4] The statute reads "Attorney General," but Congress transferred responsibility for enforcing the Immigration and Nationality Act to the Secretary in 2002. *See Nielsen v. Preap*, 586 U.S. 392, 398 n.2 (2019) ("We replace 'Attorney General' with 'Secretary' because Congress has empowered the Secretary to enforce the Immigration and Nationality Act." (citations omitted)).

Grigoryan's detention would then shift to § 1231, which authorizes his detention for as long as "reasonably necessary to bring about [his] removal from the United States"—which is "presumptively six months." *Johnson*, 594 U.S. at 529 (citing *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001)). "After that point, if the alien 'provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,' the Government must either rebut that showing or release the alien." *Id.* (quoting *Zadvydas*, 533 U.S. at 701). And once the basis for Grigoryan's detention shifts to § 1231, this habeas proceeding would become moot. *See, e.g.*, *Ufele v. Holder*, 473 F. App'x 144, 146 (3d Cir. 2012) (holding that habeas challenge to noncitizen's detention under § 1226(c) was rendered moot when "the BIA's order became administratively final and [his] detention switched from § 1226 to § 1231"); *Rodney v. Mukasey*, 340 F. App'x 761, 764-65 (3d Cir. 2009) (same).[5]

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[5] *See also, e.g.*, *Maldonado-Velasquez v. Moniz*, No. 17-1918, 2018 WL 11444979, at *1 (1st Cir. Mar. 22, 2018) (same); *De La Teja v. United States*, 321 F.3d 1357, 1363 (11th Cir. 2003) (same); *Byfield v. Ashcroft*, 74 F. App'x 411 (5th Cir. 2003) (same); *Kevin A. M. v. Warden, Essex Cnty. Corr. Facility*, No. 21-cv-11212, 2021 WL 4772130, at *1 (D.N.J. Oct. 12, 2021) (same); *Alex B. K. K. v. Russo*, No. 21-cv-9187, 2021 WL 4704971, at *1 (D.N.J. Oct. 8, 2021) (same); *Fabian A. v. Dep't of Homeland Sec.*, No. 21-cv-1384, 2021 WL 3486905, at *1 (D.N.J. Aug. 9, 2021) (same); *Bah v. Doll*, No. 20-cv-1374, 2020 WL 7241327, at *2 (M.D. Pa. Dec. 9, 2020) (same); *Ngoy v. Doll*, No. 18-cv-1584, 2019 WL 3764636, at *3 (M.D. Pa. May 15, 2019) (same).

That said, regardless of how the IJ rules, one of the parties may seek to appeal the IJ's decision to the BIA.[6] In those scenarios, Grigoryan's removal order would remain non-final pending at least the outcome of the BIA appeal, which would likely take between three and six months based on the BIA's timetables. *See* 8 C.F.R. § 1003.1(e)(8). And Grigoryan's detention would continue under § 1226(c) during that time.

So the likelihood and extent of Grigoryan's continued detention under § 1226(c) turns significantly on the IJ's forthcoming decision and whether any party appeals that decision. And if no party appeals, Grigoryan's detention will shift to § 1231 in the coming weeks. The second *German Santos* factor is thus currently unclear.

C. The Reasons for Any Delay in Grigoryan's Removal Proceedings Do Not Render His Detention Unreasonable

The Government has not intentionally delayed or unreasonably prolonged Grigoryan's removal proceedings but has acted promptly throughout the process. It secured Grigoryan's removal order from the IJ without undue delay and timely appealed the IJ's [redacted]. The Government even filed its brief in the BIA appeal six days ahead of the November 27, 2024 deadline. And the hearing before the IJ on

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[6] If the IJ [redacted] and DHS *does not* appeal, Grigoryan's removal order would also become administratively final 30 days after the order and Grigoryan's detention would similarly shift to § 1231. [redacted]

remand was scheduled promptly after the BIA's decision was issued and will take place next week.

In contrast, Grigoryan did not file a compliant brief in the BIA appeal until six days after the deadline. Delays are often inevitable in immigration proceedings—which is why, "[a]bsent carelessness or bad faith," courts generally do not hold them against the parties. *German Santos*, 965 F.3d at 212. Grigoryan's delayed brief does not meet that standard, but this chronology confirms that any delay in Grigoryan's proceedings was not caused by the Government.

So the third *German Santos* factor is (at most) neutral and thus does not support the conclusion that Grigoryan's detention has become unreasonable.

D. Grigoryan's Conditions of Confinement Are Materially Different from Criminal Punishment

Grigoryan makes much of the fact that he was detained at FDC Philadelphia, but the conditions of his confinement are no different than those of most noncitizens detained pending removal. As detailed below, those conditions are materially distinguishable from criminal punishment. (And Grigoryan will be transferred from FDC Philadelphia back to Moshannon today or in the coming days.) The fourth factor thus favors the Government.

As a threshold matter, FDC Philadelphia does not generally house convicted prisoners but rather primarily houses pretrial detainees. *See* Cassano Decl. ¶ 5. Grigoryan's assertion that "the vast majority of the other people [at FDC Philadelphia] are serving criminal sentences," Grigoryan Decl. ¶ 25, is thus wrong. Indeed, the immigration detainees at FDC Philadelphia are housed in a separate unit—"3-North"—and are entirely segregated from the criminal detainees at all times. Cassano Decl. ¶ 7.

That strict segregation distinguishes Grigoryan's conditions of confinement from the conditions at issue in *German Santos* (where the noncitizen was "detained in prison alongside convicted criminals," 965 F.3d at 212-13), and *Chavez-Alvarez* (where the noncitizen was "held in detention at the York County Prison with those serving terms of imprisonment as a penalty for their crimes," 783 F.3d at 748). *See Yefri A. C. M. v. Tsoukaris*, No. 20-cv-13340, 2021 WL 457892, at *2 (D.N.J. Feb. 9, 2021) (noncitizen's detention "in a special unit within a county jail separate and apart from convicted prisoners and pre-trial detainees" was "meaningfully different from detention within a state prison such as that which was at issue in *Santos*").

The conditions of confinement in 3-North are also not punitive. Immigration detainees can move freely around the unit between 6:30 a.m. and 9:30 p.m. Cassano Decl. ¶ 8. That freedom further distinguishes Grigoryan's detention from the detention of the noncitizen in *German Santos*, who was "confined to his cell for twenty-three hours per day." 965 F.3d at 213. Immigration detainees also have access to a common area with seating, tables, and televisions for entertainment, as well as an outdoor space with a basketball court. Cassano Decl. ¶ 8. The unit is further equipped with exercise equipment and computer terminals with email access. *Id.* Immigration detainees further have access to public phones, non-monitored calls to communicate with counsel, and a hotline for ICE-related inquiries. *Id.*¶ 9. These conditions are more accommodating than in criminal detention facilities. *See Sydykov v. ICE*, No. 21-cv-575, 2021 WL 2222732, at *4 (M.D. Pa. June 2, 2021) (noncitizen's detention was "meaningfully different from criminal confinement" because he was "free to move about his unit for the majority of the day, where he is given access to television, books, and recreation

activities" and had "largely unfettered access to telephones during the free movement periods").

In terms of housing, all immigration detainees at FDC Philadelphia are assigned to two-bunk rooms and most detainees thus have a roommate. Cassano Decl. ¶ 10. The rooms are equipped with alarm buttons, which allow detainees to alert staff in case of an overnight emergency. *Id.* ¶ 11. Grigoryan claims that he was confined to a "small, one-person cell[]" for "at least 16 hours every day." Grigoryan Decl. ¶ 25. But that is not true. *See* Cassano Decl. ¶ 12 ("Neither Mr. Grigoryan nor any ICE detainee at [FDC Philadelphia] is confined to his room 16 hours a day."). As noted above, immigration detainees at FDC Philadelphia are free to move about the unit for most of the day. *Id.* ¶ 8. And the rooms are not "one-person cells"; they accommodate two people. *Id.* ¶ 10. Indeed, Grigoryan had a roommate at FDC Philadelphia, which ensured that he had someone else in his room in case of an overnight medical emergency. *Id.*

Since ICE began housing immigration detainees at FDC Philadelphia in February 2025, the staff at FDC Philadelphia have also actively solicited feedback from the detainees to improve their day-to-day. *Id.* ¶ 13. Based on that feedback, FDC Philadelphia now supplies immigration detainees with rubber slippers (a privilege not provided to criminal detainees) that are suitable for daily use as well as while showering. *Id.* ¶¶ 14-15. This level of engagement provides yet another distinction between Grigoryan's conditions of confinement at FDC Philadelphia and the conditions typically found in criminal detention settings.

Grigoryan has been or will soon be transferred back to Moshannon in anticipation of his April 16 hearing before the IJ. O'Neill Decl. ¶ 48. But the conditions of confinement at Moshannon are not materially different from the conditions at FDC

Philadelphia. *Id.* ¶ 45. Detainees at Moshannon are not restricted to their rooms during the day and are generally free to move around their "pods." *See id.* ¶¶ 18, 45. They also have access to board and card games, telephones, televisions, computer tablets, and an outdoor recreation space. *Id.* ¶¶ 18-20.[7]

"Loss of freedom of choice and privacy are inherent incidents of confinement." *Bell v. Wolfish*, 441 U.S. 520, 537 (1979). But "the fact that . . . detention interferes with [a] detainee's understandable desire to live as comfortably as possible and with as little restraint as possible during confinement does not convert the conditions or restrictions of detention into 'punishment.'" *Id.* While Grigoryan's detention necessarily restricts his freedom, the conditions of his confinement are materially different from those associated with criminal punishment. The fourth and final *German Santos* factor thus favors the Government.

E. No Other Circumstances Render Grigoryan's Detention Unreasonable

Nor are there any other circumstances that render Grigoryan's detention unreasonable. Although Grigoryan asserts (Pet ¶ 24) that his medical care has been inadequate, his medical records show that during the entire period of his detention, Grigoryan has consistently had regular access to medical, dental, and mental health treatment, along with access to a variety of medications. O'Neill Decl. ¶¶ 21, 23. [redacted]

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[7] Multiple courts have also held or suggested that the conditions at Moshannon are materially different from criminal punishment. *See, e.g.*, *Abioye v. Oddo*, 704 F. Supp. 3d 625, 632 (W.D. Pa. 2023); *Nyamekye v. Oddo*, No. 22-cv-240J, 2023 WL 9271844, at *5 (W.D. Pa. Mar. 28, 2023), *R&R adopted as modified*, 2023 WL 9271879 (W.D. Pa. May 4, 2023) (Haines, J.). But other decisions have come out the other way. *See, e.g.*, *Akhmadjanov v. Oddo*, No. 25-cv-35, 2025 WL 660663, at *5 (W.D. Pa. Feb. 28, 2025) (Haines, J.).

[redacted]

With regard to his history of seizures, Grigoryan makes several claims in his Petition and declaration that are contradicted by the medical records from his time at Moshannon and FDC Philadelphia.

First, while Grigoryan claims to have experienced seven seizure episodes while in ICE custody, Pet. ¶ 24, his medical records document six, [redacted]; Pet. Ex. F (ECF No. 1-8). [redacted]

Second, Grigoryan claims that he has not consistently received his seizure medication at the required times during the day while in ICE custody. Pet. ¶ 24. [redacted]

To the extent that Grigoryan has missed any doses of his medication while in ICE custody, this has been a result of his own actions rather than those of ICE or BOP. [redacted]

[redacted] That means he is free to take his medication at whatever interval he wants. Prior to this, Grigoryan was provided his medication daily at around 8 a.m. and 4 p.m. on "pill line." Cassano Decl. ¶ 20. At these times, medical staff would enter the unit and loudly call for all detainees who had prescribed medications. *Id.* These calls are loud; it is highly unlikely that any detainee would be unaware of the pill line. *Id.* While FDC staff may attempt to locate and encourage a detainee who does not initially respond, ultimately it is the responsibility of the detainees to take their medication. *Id.*

Third, Grigoryan's representation that he is "terrified" (Pet. ¶ 24) of experiencing another seizure based on lack of treatment is contradicted [redacted] Pet. Ex. F at 8 (Grigoryan refused to stay in the infirmary after June 26, 2024 suspected seizure episode and stated

"there is no reason for me to stay here. I have seizures ever couple of months."); [redacted] Pet. Ex. F. at 9-10 (noting that Grigoryan agreed to stay in the infirmary after suspected seizure episode on September 18, 2024, but flagging that "Patient seems unphased and states 'I have seizures every couple of months'"); [redacted] But Grigoryan's [redacted] disciplinary records document the use of home-made intoxicants while in ICE custody. O'Neill Decl. ¶ 28. [redacted] He was later found in possession of a suspected incendiary device and denied smoking. *Id.* Ex. C at 9-10. On September 16, 2024, he was observed drinking an intoxicant before he had a seizure. *Id.* Ex. C at 7. On January 11, 2025, after Grigoryan was observed in an inebriated state, ICE officers found two bottles of homemade intoxicants in his bunk. *Id.* Ex. C at 4-5.

* * *

The record establishes that Grigoryan's detention under § 1226(c) remains reasonable. That means he is not entitled to a bond hearing at this time and his habeas petition should be denied with leave to refile.

II. Grigoryan's Request for A Preliminary Injunction Directing His Release from Custody Should Be Denied

Grigoryan's motion for a preliminary injunction—in which he asks this Court to order his immediate release—should also be denied. As discussed above, Grigoryan's claim for relief fails as a matter of law, which means it cannot support a preliminary injunction. And even if it could, Grigoryan's motion falters for independent reasons as explained below.

1. This Court Cannot Order Grigoryan's Immediate Release.

Grigoryan's request for injunctive relief asks this Court to order his immediate release from custody. *See* ECF No. 3-1 at 13. But that remedy is not available here. The Immigration and Nationality Act instructs that "[n]o court may set aside any action or decision by the [Secretary of Homeland Security] under this section regarding the detention of any alien or the revocation or denial of bond or parole." 8 U.S.C. § 1226(e). Consistent with that unambiguous language, courts in this Circuit have repeatedly held that they lack the authority to order the release of a noncitizen subject to mandatory detention. *See, e.g.*, *Saint Jacques*, 2021 WL 4494623, at *2 ("the Court notes that it cannot grant Saint Jacques' requested relief of immediate release from custody"); *Nyamekye*, 2023 WL 9271844, at *2 (same). Rather, "[t]he only remedy for an alien challenging their mandatory detention is a bond hearing." *Davis v. Warden of Pike*

Cnty. Corr. Facility, No. 22-cv-20, 2022 WL 4391686, at *4 (M.D. Pa. Aug. 18, 2022), *R&R adopted,* 2022 WL 4389543 (M.D. Pa. Sept. 22, 2022).[8]

2. Grigoryan's Reliance on "Exceptional Circumstances" Is Unavailing.

Grigoryan argues that an order requiring his immediate release is independently authorized by *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986), and *Landano v. Rafferty*, 970 F.2d 1230 (3d Cir. 1992), because of "exceptional circumstances" in the form of Grigoryan's medical condition. ECF No. 3-1 at 11-12. But *Lucas* and *Landano* both involved prisoners, not immigration detainees—and it is dubious that their logic extends to the immigration context given § 1226(e)'s prohibition on judicial review.

Even if *Lucas* and *Landano* did apply, Grigoryan has not established that exceptional circumstances exist here necessitating his immediate release. As the Third Circuit explained in *Landano*, "a preliminary grant of bail is an exceptional form of relief in a habeas proceeding"—which is why "[v]ery few cases have presented [the] extraordinary circumstances" required to warrant that relief. 970 F.2d at 1239 (citations omitted). Although medical problems can qualify, *see id.*, they must be of an "immediate and impending catastrophic" nature, *Singleton v. Piazza*, No. 05-cv-6685, 2006 WL 2520581, at *2 (E.D. Pa. Aug. 25, 2006).

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[8] *Leslie v. Holder*, 865 F. Supp. 2d 627 (M.D. Pa. 2012) (cited by Grigoryan, ECF No. 3-1 at 11), is not to the contrary. Although the district court there concluded that it was authorized to conduct the bond hearing itself, 865 F. Supp. 2d at 633, the court did not issue the "immediate relief"—release without any bond hearing—that Grigoryan requests in his motion for preliminary injunction. *Leslie* also involved extreme circumstances, including a previous and "profoundly flawed" bond hearing conducted by an IJ, *id.* at 632, and a mandate by the Third Circuit that explicitly required the district court "to conduct an individualized bond hearing," *id.* at 634. (But neither the Third Circuit nor the district court considered § 1226(e)'s applicability.) Neither circumstance is present here.

Grigoryan's assertions about his epilepsy and allegedly inadequate medical care do not satisfy that demanding standard. As detailed above (at 18-21), Grigoryan has consistently received appropriate medical care during his detention under § 1226(c). [redacted] Although Grigoryan asserts that he is at risk of a seizure because he cannot take his medication 12 hours apart, Grigoryan Decl. ¶ 24, that is not accurate either. [redacted] That meant he was able to take his daily dosage at any interval of his choosing.

Grigoryan thus has not established that there are "immediate and impending catastrophic" medical concerns here that warrant immediate relief. *Singleton*, 2006 WL 2520581, at *2. Nor has he explained why they would justify his *immediate release* (as opposed to medical treatment). *See Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 333 (3d Cir. 2020) (district court erred by issuing injunction ordering noncitizens' immediate release without considering whether "anything short of immediate release can[] remedy their plight"); *Singleton*, 2006 WL 2520581, at *3.

3. The Public Interest Weighs Against Injunctive Relief.

Finally, the public interest supports denying injunctive relief here. As the Third Circuit has observed, § 1226(c) serves "an important public interest" by ensuring that noncitizens who pose a flight risk or danger to the public are kept off the street pending

the outcome of their removal proceedings. *Sylvain v. Att'y Gen. of U.S.*, 714 F.3d 150, 159 (3d Cir. 2013).

Grigoryan's immediate release would be inconsistent with that public interest. As noted above (at 1-3), Grigoryan has a significant criminal record and previously engaged in criminal conduct while on pretrial release. Indeed, ICE reviewed Grigoryan's continued detention under § 1226(c) on October 23, 2024, and determined that, based on his criminal history, he failed to establish that he would not pose a danger to the community if released. O'Neill Decl. Ex. G. And the fact that Grigoryan has conceded that he is removable—which will not be revisited during the remaining IJ proceedings—means that he is an increased flight risk. As the Supreme Court has observed, "[a]liens who have not been ordered removed are less likely to abscond because they have a chance of being found admissible." *Johnson*, 594 U.S. at 544. Conversely, a noncitizen "who has already been ordered removed has less to lose by fleeing while released on bond." *Coello-Udiel*, 2018 WL 2198720, at *4. Because Grigoryan's removability will not be affected by any further proceedings, his incentive to abscond is at its peak.

CONCLUSION

The record establishes that Grigoryan's detention under § 1226(c) remains reasonable, so he is not entitled to a bond hearing at this time. Nor has Grigoryan established that the extraordinary remedy of his immediate release is available or appropriate here. His habeas petition and motion for preliminary injunction should thus be denied with leave to refile.

Dated: April 11, 2025

Respectfully submitted,

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Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on this 11th day of April 2025, a true and correct copy of Respondents' Response to Petition for Writ of Habeas Corpus and Memorandum of Law in Opposition to Petitioner's Motion for Order to Show Cause and Preliminary Injunction was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

/s/ Gregory B. in den Berken
GREGORY B. IN DEN BERKEN

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDRANIK GRIGORYAN, *Plaintiff*, v. JAMAL L. JAMISON, in his official capacity as Warden of Federal Detention Center, Philadelphia, *et al.*, *Defendants*.	Civil Action No. 2:25-cv-01389

DECLARATION OF DAVID O'NEILL

I, David O'Neill declare:

1. I am an adult over the age of 18 and competent to give this declaration.

2. I am currently employed by the U.S. Department of Homeland Security (DHS), Enforcement and Removal Operations (ERO). I have worked for the ERO Philadelphia Field Office since August of 1996. I currently hold the position of Deputy Field Office Director (DFOD) and have held this position since May 2020.

3. As a DFOD, my duties include oversight over ERO Philadelphia's detained dockets and general custody management.

4. I have reviewed the Habeas Petition filed by Andranik Grigoryan in the above captioned action, as well as the supporting documents attached as exhibits thereto. I have further reviewed and am familiar with ICE's records of Grigorian's criminal history, medical and disciplinary records while in ICE custody, and records of his removal proceeding and subsequent appeal to the Board of Immigration Appeals (BIA). Relevant excerpts of these records are attached hereto, as specified below.

A. Grigoryan's Criminal History

5. On May 16, 2022, Grigoryan plead guilty in the United States District Court for the Central District of California, to Possession of 15 or More Unauthorized Access Devices, in violation of Title 18 United States Code Section 1029(a)(3).

6. Grigoryan is subject to mandatory detention pursuant to section 236(c) of the Immigration and Nationality Act (INA) because he was convicted of an aggravated felony, as defined under INA § 101(a)(43)(M)(i), relating to fraud or deceit in which the loss to the victim(s) exceeded $10,000.

7. Grigoryan's plea agreement expressly acknowledges the likelihood that his 2022 conviction would result in his removal from this country. *See* Plea Agreement for Defendant *Andranik Grigoryan, United States v. Grigoryan*, No. CR-21-00086-SVW-2, ECF No. 79 at ¶¶ 2a, 10 (C.D. Cal. March 25, 2022).

8. In May 2005, Grigoryan was arrested by the New York Police Department for forgery and was convicted and sentenced to 10 days confinement. Grigoryan's criminal history is reflected in his Form I-213, Record of Deportable/Inadmissible Alien, dated May 17, 2023. A copy is attached hereto as Exhibit A.

9. In June 2007, Grigoryan was arrested and subsequently convicted the same month for marijuana possession.

10. In August 2007, Grigoryan was arrested and subsequently convicted the same month for possession of a weapon.

11. In February 2009, Grigoryan was arrested and later convicted in April 2009 for driving under the influence of liquor.

12. In November 2010 he was arrested and later convicted for petit larceny.

B. Grigoryan's Detention in Moshannon

13. After Grigoryan was released from federal prison, he was immediately taken into ICE custody.

14. Grigoryan has been in custody of DHS for just over 16 months. This comprises the time during which his removal proceeding was being initially adjudicated, as well as the time during which DHS's appeal of the Immigration Judge's September 20, 2024 Order has been pending before the BIA.

15. Grigoryan was housed at the Moshannon Valley Processing Center ("Moshannon") between December 2023 and February 2025. He is expected to be transferred back to Moshannon on or around April 11, 2025.

16. Moshannon houses adult male and female ICE detainees of all classification levels, whose immigration cases are in various stages before ICE, the Executive Office for Immigration Review (EOIR), Board of Immigration Appeals (BIA), and/or a federal court. Male and female detainees are housed separately and have no interactions – no sight or sound - at all times. The maximum population at Moshannon is 1,878. As of April 9, 2025, MVPC has 1,518 detainees.

17. All the detainees at Moshannon are in administrative custody and are detained pursuant to the detention authorities under the INA.

18. Moshannon is comprised of four main housing units (A, B, C, and D) with each housing unit containing six pods configured in a dormitory style with bunk beds. Each pod holds between 72 and 78 individuals for a total of 456 detainees per unit. There is also a smaller unit (E) with 54 beds. Additionally, there are units for detainees in administrative or disciplinary segregation and detainees can also be housed in the infirmary in the medical unit. Each general population housing unit has several showers

and washbasins, as well as a dayroom area equipped with tables, chairs, televisions, telephones, and electronic tablets for the detainees use. Additionally, detainees have access to different games, including board and card games.

19. Within Moshannon, there are eight phones in each housing pod for a total of 192 phones in the main housing areas. Additionally, each pod has eight Talton tablets to be shared by the population within that pod. Talton tablets are utilized by ICE detainees to communicate with and ask questions of various facility and ICE staff, file a grievance, order commissary, and access various educational and gaming applications. For a fee, detainees may communicate with family and friends via email, engage in video visits, or download music and videos. Talton tablets are also utilized so detainees can receive non-confidential messages from individuals outside the facility.

20. Detainees housed in general population have access to outdoor recreation four hours per day, seven days a week.

21. [redacted]

22. [redacted]

23. [redacted]

24. [redacted]

25. [redacted].

26. [redacted].

27. [redacted]

28. While in ICE custody, Grigoryan was found in possession of intoxicants, which appear to have been produced with left-over food items in violation of facility rules. Additionally, he was observed visibly inebriated on several occasions. A copy of relevant excerpts of Grigoryan's disciplinary records are attached hereto as [redacted].

C. Grigoryan's Removal Proceedings

29. On December 7, 2023, Grigoryan was placed in removal proceedings before an Immigration Judge through the issuance of a Notice to Appear. A copy of the Notice to Appear, dated Dec. 4, 2023, is attached hereto as [redacted].

30. [redacted]

[redacted]

31. [redacted].

32. [redacted].

33. DHS timely appealed the Immigration Judge's decision to the BIA, arguing that Grigoryan's testimony was not credible due to inconsistencies between his testimony and written statement, and that he failed to meet his burden of proof.

34. The BIA set a November 27, 2023, deadline for the parties to file simultaneous briefs.

35. DHS submitted its brief consistent with this deadline, but Grigoryan's briefing was rejected, for no or improper proof of service.

36. Subsequently, when his counsel attempted to refile his brief, it was again rejected because no legal brief was attached.

37. Grigoryan's counsel then again filed the briefing along with a motion for leave.

38. The BIA did not ultimately accept Grigoryan's counsel's late filed brief until January 28, 2025.

39. Following the Immigration Judge's September 20, 2024 decision, ERO issued a "Decision to Continue Detention," which was served on Grigoryan on September 26, 2024. A copy is attached hereto as Exhibit G.

40. Prior to rendering this Decision, ERO conducted an individualized custody review and determined Grigoryan was not eligible for release, given his serious criminal history.

41. [redacted]

42. A hearing before the Immigration Judge is scheduled for April 16, 2025. A copy of the April 3, 2025 Notice of Internet-Based Hearing is attached hereto as Exhibit I.

D. Grigoryan' Transfer to FDC

43. On or around February 19, 2025, Grigoryan was transferred to the Federal Detention Center in Philadelphia ("FDC Philadelphia").

44. He was housed at FDC Philadelphia between February 19, 2025 and April 11, 2025, pursuant to an interagency agreement between the ICE and the Federal Bureau of Prisons ("BOP").

45. The conditions of Grigoryan's confinement at the FDC were not materially different from the conditions under which he was confined at Moshannon.

46. In addition to FDC staff, Deportation Officer ("DO") Richard Morel is assigned to the FDC. DO Morel is present at the FDC three days a week, from 1-4 p.m. DO Morel serves a liaison to the FDC, including with the FDC case managers, regarding the immigration detainees housed at the FDC.

47. DO Morel also works directly with the ICE detainees, addressing any immigration related questions, concerns, or comments. He meets with the ICE detainees three times a week. He will set up a "station," in his office at the FDC and address detainee questions on a first-come-first-served basis. He advised that the detainees create a line and await their turn to speak with him. DO Morel ensures he addresses the detainees concerns and will guide them without giving them legal advice. If the detainee raises a FDC related question, he will direct the inquiry to the detainee's case manager for handling.

48. On April 11, 2025, Grigoryan is expected to be transferred from FDC Philadelphia back to Moshannon. This transfer is necessary in light of the scheduled April 16, 2025 hearing before the Immigration Court. Moshannon has five courtrooms that are used for Webex based hearings that are held before the Immigration Court Monday through Friday. There are also 31 privacy booths in various locations within the facility. These booths are used for telephonic asylum hearings before U.S. Citizenship

and Immigration Services ("USCIS"), consular interviews, and Virtual Attorney Visitations.

49. FDC Philadelphia is not equipped to allow ICE Detainees to virtually attend proceedings before the Immigration Court. Moreover, pursuant to the interagency agreement between ICE and the BOP, asylum hearings, which would include withholding of removal and CAT claims, may not be conducted at the FDC. *See* BOP-ICE Agreement, § 4.D.3.f (ECF No. 1-10).

50. [redacted].

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Executed this __10__ day of _April____ 2025
Philadelphia, Pennsylvania

David O'Neill
Deputy Field Office Director

Exhibits A through I to the Declaration of David O'Neill, dated April 10, 2025

Filed Under Seal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDRANIK GRIGORYAN, *Plaintiff*, v. JAMAL L. JAMISON, in his official capacity as Warden of Federal Detention Center, Philadelphia, et al., *Defendants*.	Civil Action No. 2:25-cv-01389

DECLARATION OF KEVIN CASSANO

I, Kevin Cassano, declare:

1. I am an adult over the age of 18 and competent to give this declaration.

2. I am an employee of the United States Department of Justice ("DOJ"). I have worked for the Department since September 2012. I currently hold the position of Health Services Administrator. I have held this position since January 2019.

3. My duties as Health Services Administrator include the overall administrative management and operation of the health services department at the Federal Detention Center ("FDC") Philadelphia. In collaboration with the Clinical Director, I manage and direct the activities of our multi-disciplinary team of health care professionals who are responsible for the medical, dental, and allied health services to the inmate and detainee population.

4. I have reviewed the Habeas Petition filed by Andranik Grigoryan in the above captioned action, as well as the supporting documents attached as exhibits thereto. I have further reviewed the medical records maintained by FDC Philadelphia regarding Mr. Grigoryan. Excerpts of these records are attached hereto as Exhibit A.

5. FDC Philadelphia is a federal detention center that typically houses United States Marshal Service male pre-trial detainees, as well as inmates transferred from other facilities to testify or appear in the United States District Courts for the Eastern District of Pennsylvania, New Jersey and/or Delaware. The facility currently houses approximately 1100 individuals.

6. Pursuant to an Interagency Agreement between the United States Department of Justice, Federal Bureau of Prisons, and the U.S. Department of Homeland Security, Immigration and Customs Enforcement, FDC Philadelphia is equipped to house up to 126 ICE detainees.

7. In my role, I am familiar with the manner in which ICE detainees are housed at FDC Philadelphia. All ICE detainees who are placed at FDC Philadelphia are housed in a single unit: 3-North. No ICE detainees are held in any other units of the FDC, nor are ICE detainees housed with any criminal detainees.

8. Between the hours of 6:30am and 9:30pm, all ICE detainees are able to freely move around 3-North. Throughout the day, ICE detainees have access to an outside area, basketball court, computer terminals with email access, televisions, and exercise facility, all located within 3-North.

9. All ICE detainees have access to both social and lawyer visits during the day. All ICE detainees have access to public phones, as well as non-monitored lines to speak with counsel. They are also provided a hotline to ICE for purposes of questions, complaints or requests to contact their consulate. ICE detainees are not charged for calls to their lawyers or home consulate.

10. All ICE detainees at FDC are assigned to two-bunk rooms. Typically, each ICE detainee also has a roommate. While at FDC Philadelphia, Grigoryan was housed with another detainee.

11. These rooms are also equipped with medical alarm buttons to alert staff if a detainee has a medical episode and needs assistance, during the night.

12. Neither Mr. Grigoryan nor any ICE detainee at the FDC is confined to his room 16 hours a day.

13. Since ICE began housing detainees at FDC in late February 2025, FDC staff have endeavored to foster frequent commination with the ICE detainees, to ascertain what changes, if any, the facility can make in order to better accommodate their needs.

14. One early example of this process in action, is FDC's agreement to purchase and supply ICE detainees with rubber slippers (generic-brand "Crocs"), which the detainees can use both during the day while walking in the unit, and for showering.

15. This is a privilege not afforded to other FDC criminal detainees.

[redacted]



20. Medication provided to all ICE Detainees is typically dispensed via the "pill line" at approximately 8:00 am and 4:00 pm. At these times, medical staff enter the unit and loudly call for all detainees who had prescribed medications to come forward. These calls are loud; it is highly unlikely any detainee would be unaware that staff was present for the pill line. Medical staff are also in the unit for 20 minutes or more, at each pill line. While FDC staff may attempt to locate and encourage a detainee who does not initially respond, ultimately it is the responsibility of the detainees to take their medication.



[redacted]

23. I understand that Mr. Grigoryan will be transferred from FDC Philadelphia, to Moshannon Valley Processing Center, on or around April 11, 2025.

Pursuant to 28 U.S.C. 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of April 2025
FDC Philadelphia

Kevin Cassano, Jr.
Health Services Administrator

Exhibit A

to the Declaration of Kevin Cassano, dated April 10, 2025

Filed Under Seal