UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

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

The Honorable
Judge Gerald J. Pappert

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITIONER'S WRIT OF HABEAS CORPUS AND MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

For over 16 months—498 days—Petitioner Andranik Grigoryan ("Mr. Grigoryan") has been confined to prison-like conditions at Moshannon Valley Processing Center ("Moshannon") and the Federal Detention Center, Philadelphia ("FDC"), without any review of his custody by a neutral arbiter.[1] Meanwhile, his immigration case was remanded to the Immigration Judge ("IJ") on March 31, 2025, essentially putting him right back where he was when he last appeared before the IJ in September 2024. On April 16, 2025, Mr. Grigoryan appeared before the IJ once more; though he was not granted relief, he reserved appeal through his immigration counsel. He is now facing a second round of appeals at the Board of Immigration Appeals ("BIA") and a potential appeal to the Third Circuit.

Despite Mr. Grigoryan having lost nearly 500 days of liberty, Respondents seek to characterize Mr. Grigoryan's situation as par for the course, minimizing the ongoing constitutional violation that he is experiencing. Respondents mischaracterize the relevant analysis under *German Santos* and throw up numerous red herrings, while failing to meaningfully engage with the substance of Mr. Grigoryan's claims. Given the irreparable harm that he is experiencing in the custody of U.S. Immigration and Customs Enforcement ("ICE") custody, this Court should grant Mr. Grigoryan preliminary relief by requiring Respondents to immediately release him and not re-detain him during the pendency of his petition. Alternatively, this Court should proceed to expeditiously adjudicate and grant Mr. Grigoryan's habeas petition and order Respondents to provide Mr. Grigoryan with a constitutionally adequate bond hearing.

[1] Mr. Grigoryan was originally detained at Moshannon from December 2023 to February 2025. He was then transferred to FDC, which is where he was detained at the time of filing the instant habeas petition. On April 11, 2025, he was transferred back to Moshannon, where he is detained as of the date of this filing.

ARGUMENT

I. Respondents Misrepresents the *German Santos* Factors to Artificially Tip the Scales in Their Own Favor.

Respondents fail to meaningfully engage with the relevant facts pursuant to the analysis required under *German Santos v. Warden Pike Cnty. Correctional Facility*, 965 F.3d 203 (3d Cir. 2020), and thus come to the entirely wrong conclusion. At least three, if not all four, factors weigh in clear favor of Mr. Grigoryan, and the Respondents' argument to the contrary is misplaced. Mr. Grigoryan briefly responds to Respondents' inaccurate understanding of *German Santos* below, and reincorporates the information contained in his original Petition. ECF No. 1 at ¶¶ 35–43.[2]

A. Mr. Grigoryan's Detention of Sixteen Months Is Clearly Unreasonable Under Well-Established Caselaw.

Mr. Grigoryan's detention—498 days and counting—is unreasonable, despite Respondents' cherry-picking cases and distortion of *German Santos*. As an initial matter, while the *German Santos* Court indeed did not establish a "bright-line threshold" for when detention becomes unreasonable, the Third Circuit did look to various benchmark timelines to assess reasonableness. *See* ECF No. 22, Resp. Opp., at 9 (citing *German Santos*, 965 F.3d at 211). For example, the Third Circuit noted that Mr. German Santos's detention "[wa]s five times longer than the six months [in] *Demore*" and "more than double the six-month-to-one-year period that

[2] Respondents acknowledge that *German Santos* is binding Third Circuit precedent and establishes the right to bring as-applied constitutional challenges to prolonged detention under 8 U.S.C. § 1226(c). ECF No. 22 at 9. However, Respondents also note two out-of-circuit decisions—one of which is also unpublished—that disagree with that holding. *Id.* at 9 n.2. Insofar as Respondents insinuate that those decisions have any binding relevance to Mr. Grigoryan's case, that is inaccurate. To the extent that Respondents are attempting to imply that *German Santos* is somehow an outlier case, that is also incorrect. *See Black v. Decker*, 103 F.4th 133, 150–51 (2d Cir. 2024) (allowing for as-applied constitutional challenges to prolonged detention under 8 U.S.C. § 1226(c) and applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework for determining eligibility for a bond hearing); *Reid v. Donelan*, 17 F. 4th 1 (1st Cir. 2021) (individual analysis is needed for habeas claims under 8 U.S.C. § 1226(c), but declining to set forth a factored test).

triggered a bond hearing in *Chavez-Alvarez*" and that the length of his detention "weigh[ed] strongly" in his favor. *German Santos*, 965 F.3d at 212 (citing *Demore v. Kim*, 538 U.S. 510, 530–31 (2003); *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 477 (3d Cir. 2015)). While the Third Circuit also noted that Mr. German Santos's detention was rapidly approaching the 35-month detention period that it had found unreasonable in *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 226, 235 (3d Cir. 2011), the court did not in any way imply that specific length of time was dispositive or that petitioners would have to wait for any specific duration to challenge their detention. *Id.*

Respondents accurately state that courts have varied in deciding what length of detention qualifies as unreasonable, ECF No. 22 at 10–11, but then ignore all of the cases that Mr. Grigoryan cited, from both the Western and Middle Districts of Pennsylvania, finding detentions between 10 and 18 months to be unreasonable. *See* ECF No. 1 at ¶ 29 (citing *e.g.*, *Abioye v. Oddo*, 704 F. Supp. 3d 625, 631 (W.D. Pa. 2023) (18 months); *Rivas v. Oddo*, No. 3:22-cv-223, 2023 WL 4361140 at *2 (W.D. Pa. June 27, 2023) (15 months); *Malede v. Lowe*, No. 1:22-cv-01031, 2022 WL 3084304, at *5 (M.D. Pa. Aug. 3, 2022) (18 months); In the last few months alone, the Western District of Pennsylvania has reiterated that detentions with similar timelines weighed in favor of the petitioner. *See A.L. v. Oddo*, No. 3:24-cv-00302, 2025 WL 352471 at *4 (W.D. Pa. Jan. 6, 2025) (10 months was unreasonable); *Akhmadjanov v. Oddo*, No. 3:25-cv-00035, 2025 WL 660663 at *7 (W.D. Pa. Feb. 28, 2025) (17 months was unreasonable).

While not acknowledging these cases—or indeed citing any cases from the Western District of Pennsylvania—Respondents cite to various cases from the Middle District of

Pennsylvania[3] where detentions of between 13 and 18 months were not found to be unreasonable.[4] ECF No. 22 at 10–11. However, the majority of the cases that Respondents cited either involve durations of detention shorter than Mr. Grigoryan's, or were decided before *German Santos*, which is now binding precedent in this Circuit. As such, there is a wide range of cases decided post-*German Santos* that affirm that detentions of durations comparable to Mr. Grigoryan's became unreasonably prolonged—meaning this factor weighs in favor of Mr. Grigoryan.

B. Mr. Grigoryan's Detention Is Likely to Continue Indefinitely, as He Faces a Second BIA Appeal.

Respondents similarly focus on the wrong points when considering the second *German Santos* factor, hypothesizing that Mr. Grigoryan's detention "may end soon." ECF No. 22 at 11. While Respondents accurately describe the law regarding habeas claims brought under 8 U.S.C. § 1231, ECF No. 22 at 12–13, the facts as currently before this Court reflect that Mr. Grigoryan's case continues to be governed by 8 U.S.C. § 1226(c), and any conjecture regarding alternate grounds for habeas remains simply that: conjecture.

Mr. Grigoryan's case was remanded by the BIA on March 31, 2025, placing him back at the starting line of his immigration proceedings. ECF No. 22, #8/Resp. Ex. H, BIA Opinion; *see*

[3] Respondents also cite to two out-of-circuit cases, which are not binding on this Court. *See* ECF No. 22 at 11 n.3 (citing a case from the Western District of New York and the District of New Jersey). Insofar as this Court is persuaded by the holdings of out-of-circuit courts, Mr. Grigoryan notes that many other courts have found detentions of up to 16 months to be unreasonable. *See e.g. Martinez v. Hott*, 527 F. Supp. 3d 824, 836 (E.D. Va. 2021) (16 months); *Mansaray v. Perry*, No. 21-cv-1044, 2021 WL 2315415 (D. Md. June 6, 2021) (13 months); *Hylton v. Decker*, 502 F. Supp. 3d 848 (S.D.N.Y. 2020) (14 months); *Alvarado v. Garland*, 608 F. Supp.3d 32 (W.D.N.Y. Jun. 17, 2022) (13 months); *J.N.C.G. v. Warden, Stewart Detention Center*, No. 4:20-cv-62, 2020 WL 5046870 (M.D. Ga. Aug. 26, 2020) (16 months).

[4] Respondents also cite *Espinosa-Almonte v. Sabol*, No. 12-cv-2514, 2013 WL 3894861 (M.D. Pa. July 26, 2013), which is facially inapposite, as that petitioner's 21-month detention was found unreasonable because petitioner requested multiple continuances, while Mr. Grigoryan has not requested continuances of his proceedings. *See* ECF No. 22 at 11 n.3.

Toussaint v. Garland, No. 21-cv-10904, 2022 WL 2354547 at *6 (S.D.N.Y. June 30, 2022) ("While there is no indication that the Government or the Immigration Court acted in anything but good faith, it remains the case that [after a BIA remand] the clock has been reset on the process due to circumstances that cannot be fairly attributed to Petitioner."). As the record reflects, Mr. Grigoryan had a hearing with an Immigration Judge on April 16, 2025, for the IJ to assess his eligibility for immigration relief for the second time, and this after already enduring 16 months of ICE detention. Though the IJ denied Mr. Grigoryan relief—which she had granted previously—Mr. Grigoryan has reserved appeal of that decision to the BIA. Ex. H, IJ's Second Decision, Dated April 16, 2025, at 9. As Respondents note, appeals to the BIA take months, ECF No. 22 at 14, and indeed recent staffing changes at the BIA could result in even longer adjudication times.[5] *See Elyardo v. Lechleitner*, No. 1:23-cv-01089, 2023 WL 8259252 at *3 (M.D. Pa. Nov. 29, 2023) ("The likelihood of continued detention also weighs in favor of habeas corpus relief. Elyardo's underlying immigration case has been remanded by the BIA for further proceedings by an immigration judge and is scheduled for a hearing before an immigration judge on February 1, 2024."); *Akhmadjanov*, No. 3:25-cv-00035, 2025 WL 660663 at *7–8 (finding this factor weighed in favor of the petitioner when the "issue of asylum is currently on remand from the BIA, and the process could extend for several months, as either party may appeal the IJ's subsequent ruling once again to the BIA and, ultimately, the Court of Appeals."). In the event that the BIA denies Mr.

[5] Recently, 13 of 25 members of the BIA were terminated, bringing the number of permanent BIA members to 15. *See* Letter to Attorney General Bondi (Mar. 28, 2025), available at https://www.bennet.senate.gov/wp-content/uploads/2025/04/letter-on-immigration-judges.pdf; *Reducing the Size of the Board of Immigration Appeals* Interim Final Rule (Apr. 14, 2025), available at https://www.federalregister.gov/documents/2025/04/14/2025-06294/reducing-the-size-of-the-board-of-immigration-appeals#:~:text=SUMMARY%3A,the%20Board%20to%2015%20members. This downsizing comes at a time when the BIA faced a backlog of 112,952 cases at the end of FY 2024. See EOIR Adjudication Statistics (Oct. 10, 2024) available at https://www.justice.gov/eoir/media/1344981/dl?inline.

Grigoryan's appeal, Mr. Grigoryan is entitled to seek judicial review at the Third Circuit, a process that takes an average of 9.7 months.[6] The fact that Mr. Grigoryan's case is ongoing and could continue for many more months is exactly the reason why the second factor clearly weighs in favor of Mr. Grigoryan and is not "unclear."

C. Mr. Grigoryan Has Not Caused Delay in His Immigration Proceedings.

The third *German Santos* factor either favors Mr. Grigoryan or is, at worst, neutral. Courts have nearly unanimously found that the third factor favors neither side in the absence of bad faith delays by either party. *See, e.g., Clarke v. Doll*, 481 F. Supp. 3d 394, 397–98 (M.D. Pa. 2020). Yet detention "can still grow unreasonable *even if the Government handles removal proceedings reasonably*." *German Santos*, 965 F.3d at 211 (emphasis added); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (limiting indefinite detention to ensure it remains "nonpunitive in purpose *and effect.*") (emphasis added). Respondents concede that any short briefing delay on Mr. Grigoryan's part at the BIA should not be held against him, ECF No. 22 at 15, and thus this factor does not weigh against him.

D. Mr. Grigoryan Has Experienced Conditions at Both Moshannon and FDC That Are Not Meaningfully Different Than Criminal Punishment.

Finally, Respondents seek to make a distinction without a difference regarding the conditions of confinement that Mr. Grigoryan has endured at Moshannon and FDC. Respondents repeatedly allege that conditions of Mr. Grigoryan's confinement are "not punitive," ECF No. 22 at 15–18, but the relevant inquiry is not whether Mr. Grigoryan's conditions of confinement are themselves inherently punitive or unconstitutional. Rather, it is whether they are "meaningfully

[6] *See* U.S. Court of Appeals – Judicial Caseload Profile, pg. 2 (Dec. 31, 2024), available at https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_appprofile1231.2024.pdf (noting that the median time from filing a notice of appeal to disposition as of December 31, 2024 was 9.7 months).

different" from criminal punishment. *See German Santos*, 965 F.3d at 211. For example, in *Michelin*, the Western District of Pennsylvania found that Moshannon "is indistinguishable from a federal or state prison" and found the fourth factor weighed in favor of the noncitizen, without a finding that the conditions were inherently punitive or unconstitutional. *Michelin v. Oddo*, No. 3:23-cv-22, 2023 WL 5044929 at *1 n.2 (W.D. Pa. Aug. 8, 2023).

Regarding Mr. Grigoryan's detention at FDC, it is immaterial that immigration detainees are segregated from individuals detained due to ongoing criminal proceedings. *See* ECF No. 22 at 15–16. Instead, the relevant data points are that immigration detainees at FDC are "treated just like any other person that would go to a federal prison," ECF No. 1 at ¶ 39, wearing prison uniforms, being subjected to lockdowns, and being held in a detention center operated by the federal Bureau of Prisons ("BOP"). *See* ECF No. 1-3, Ex. A, Mr. Grigoryan's Declaration at ¶ 25. Respondents do not argue that the infrastructure is meaningfully different for immigration detainees at FDC than for those in criminal custody, nor could they plausibly do so. The presence of, among other things, common areas, phones, and access to email services cannot be said to transform the conditions at FDC into ones that are meaningfully different than criminal custody—the BOP regularly provides these items to criminal detainees, as evidenced by the fact that those exact facilities have been used to house non-immigration detainees before FDC began contracting with ICE.[7] *See* ECF No. 22 at 16–17. Further, the insinuation that the presence of a designated ICE hotline and the provision of rubber shoes (generic versions of "Crocs") "meaningfully" alters the conditions of confinement for immigration detainees at FDC verges on ridiculous. *See* i*d.* at 6, 17.

[7] *See* https://www.bop.gov/inmates/communications.jsp#:~:text=We%20extend%20telephone%20privileges%20to,criminal%20or%20other%20inappropriate%20purposes (last accessed April 16, 2025) (showing that BOP inmates have access to phones and email services at BOP facilities); *see also* ECF No. 1 at ¶ 39 (detailing the new contract between ICE and BOP).

Furthermore, while Mr. Grigoryan was housed in a cell that had capacity for two people at FDC, the presence of a roommate, which Respondents purport in their brief, ECF No. 22 at 17, was sporadic; rather, as a "permanent" resident at FDC, Mr. Grigoryan was assigned to a cell and then had cellmates who were there for at most a few days at a time before being transferred out. Ex. I, Mr. Grigoryan's Supplemental Declaration at ¶¶ 5–8. Between these transfer waves, Mr. Grigoryan was alone in his cell. *Id.* at ¶¶ 7–8. This time alone included periods of lockdown, such as during the week of March 24–28, 2025, when Mr. Grigoryan was subjected to lockdown for at least four days without a cellmate. *Id.* at ¶ 9. And while his cell was equipped with an emergency button, as Respondents note, the button in Mr. Grigoryan's cell did not work. *Id.* at ¶ 8. This meant that if Mr. Grigoryan had a seizure at night, at a time when he had no roommate, there would be no one to shout for help or alert the FDC staff that Mr. Grigoryan was having a medical emergency. *Id.* While Mr. Grigoryan was detained at FDC, he was additionally subjected to seven days of solitary confinement—a hallmark of criminal punishment—including at least four days on which he did not have access to his twice-daily epilepsy medication. *Id.* at ¶¶ 10–13.

Regarding the conditions at Moshannon, Respondents do not substantively engage with the judicial decisions already finding conditions at Moshannon to not be meaningfully different from criminal punishment. *See e.g. Rivas*, 2023 WL 4361140 at *2 (finding that ICE detention at Moshannon resembles criminal custody); *Akhmadjanov*, No. 3:25-cv-00035, 2025 WL 660663 at *9 (noting that the petitioner had been subjected to carceral conditions such as solitary confinement and inadequate medical care). Nor do Respondents address the other evidence in Mr. Grigoryan's Petition regarding the abysmal conditions at Moshannon, including the unsafe use of force, lack of language access, use of solitary confinement and lock-ins, and use of chemical agents against people in mental health crises. *See* ECF No. 1 at ¶ 42. These conditions clearly exceed the label of

"inherent . . . loss of freedom of choice and privacy" that Respondents attach to Mr. Grigoryan's experiences and the conditions he has endured for the last 16 months. *See* ECF No. 22 at 18. Given the evidence in the record, this factor unequivocally weighs in favor of Mr. Grigoryan.

II. Mr. Grigoryan is Entitled to Preliminary Injunctive Relief in the Form of Immediate Release.

In the brief in support of his Motion for Preliminary Injunction, Mr. Grigoryan cited the Third Circuit's decisions in *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986), and *Landano v. Rafferty*, 970 F.2d 1230 (3d Cir. 1992) in support of the proposition that his serious medical issues constitute "exceptional circumstances" justifying his immediate release. ECF No. 3-1, Pet. Memorandum in Support of Motion, at 11–12. Respondents erroneously attempt to limit the scope of those decisions because those cases "involved prisoners, not immigration detainees." ECF No. 22 at 23. However, other federal district courts within the Third Circuit have repeatedly invoked the "extraordinary circumstances" standard from the *Lucas* and *Landano* decisions in the context of immigration habeas petitions. For example, the District of New Jersey noted that "[r]ecent decisions, including a decision by this Court, have applied this standard to determine whether extraordinary circumstances exist in the context of the COVID-19 pandemic to grant bail to immigration habeas petitioners." *Asmed B. v. Decker*, 460 F. Supp. 3d 519, 529 (D.N.J. 2020); *see also Kolawole O.T. v. Ahrendt*, 466 F. Supp. 3d 457, 472 (D.N.J. 2020) (citing *Lucas*, 790 F.2d at 366–67 as having "not[ed] that extraordinary circumstances may be established where an inmate is extremely ill" and "find[ing] that totality of the circumstances here and particularly Petitioner's deteriorating mental health during this global health crisis and his own recent mental health crisis warrant the extraordinary remedy of release on bail, and make bail necessary, to make the habeas remedy effective.").

The Middle District of Pennsylvania has also "appl[ied] these settled principles" from the *Lucas* and *Landano* decisions in immigration habeas cases, "consistent with our constitutional obligations in habeas corpus litigation." *Leslie v. Holder*, 865 F. Supp. 2d 627, 635 (M.D. Pa. 2012); *see also Ahad v. Lowe*, 235 F. Supp. 3d 676, 689 (M.D. Pa. 2017) ("[I]n the absence of action by immigration officials it is evident that this court retains the legal authority to conduct bond proceedings in this matter."). Just as these other district courts have already applied the well-established legal standards from the *Lucas* and *Landano* decisions in the immigration habeas context, this Court should do so as well, given the extraordinary circumstances of the serious and ongoing threats to Mr. Grigoryan's health while he is detained by Respondents.

Similarly, Respondents attempt to disclaim the reach of the *Lucas* and *Landano* decisions by claiming that "it is dubious that their logic extends to the immigration context given [8 U.S.C.] § 1226(e)'s prohibition on judicial review." ECF No. 22 at 23. This contention is entirely without merit, as the Supreme Court has held that, "where a provision precluding review is claimed to bar habeas review, the Court has required a particularly clear statement that such is Congress' intent," and here, "Section 1226(e) contains no explicit provision barring habeas review." *See Demore*, 538 U.S. at 517. Similarly, the Third Circuit has explained that "Section 1226(e) provides that . . . [n]o court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole." *Borbot v. Warden Hudson Cnty. Corr. Facility*, 906 F.3d 274, 279 (3d Cir. 2018). Yet that court also clarified that, to the extent that a noncitizen "does not challenge a particular action or decision, but rather the statutory framework that permits his detention without bail . . . § 1226(e) does not deprive the District Court or this Court of jurisdiction over [the] petition." *Id.* Likewise, 8 U.S.C.

§ 1226(e) presents no barrier to this court's clear jurisdiction over Mr. Grigoryan's request for immediate release in the context of this habeas petition.

In addition to misstating the relevant legal standards for preliminary relief, Respondents fail to address all the substantive arguments Mr. Grigoryan raised in support of his request for preliminary injunctive relief. Respondents do not acknowledge or address the fact that every day that Mr. Grigoryan is detained in violation of the Constitution is a per se form of irreparable harm that weighs in favor of preliminary relief. *See* ECF No. 3-1 at 6–7 (citing *e.g. Susquehanna Valley All. v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 245 (3d Cir. 1980)). Furthermore, Respondents minimize the medical harm that Mr. Grigoryan has experienced in the last 16 months and over-rely on Mr. Grigoryan's criminal history—which is irrelevant to his eligibility for habeas relief or immediate release. ECF No. 22 at 24–25.

Regarding Mr. Grigoryan's medical condition, Respondents seemingly argue that the occurrence of six seizures, as opposed to seven, is somehow indicative of adequate medical care. ECF No. 22 at 19. Given the inherently dangerous nature of having seizures—risking falls, aspirating on vomit, hitting one's head, permanent brain injury, or even death—this distinction becomes immaterial. *See* ECF No. 1-3, Ex. A at ¶ 22. Additionally, as Respondents acknowledge, medication at FDC's "pill line" was not distributed at the regular, twelve-hour intervals as prescribed for Levetiracetam. *See* ECF No. 22 at 20 (noting that the "pill line" occurred daily at 8:00 am and 4:00 pm).[8] At Moshannon, there is also significant variation as to when medication

[8] Insofar as Mr. Cassano posits that the "exact spacing" has no impact on Levetiracetam, *see* ECF No. 22, #10/Resp. Ex. 3. Cassano Declaration at ¶ 19, the record indicates he is wholly unqualified to make that assertion. Mr. Cassano's title is a "Health Service Administrator," and he does not indicate any medical or pharmaceutical training that qualifies him to comment on Levetiracetam's requirements. Therefore, Mr. Cassano's theorizing regarding the timing of Levetiracetam should be disregarded by this Court.

is disbursed; since being transferred back to Moshannon, Mr. Grigoryan has not been allowed to self-carry his medication and medication comes at inconsistent times in the morning and evening. *See* Ex. I at ¶¶ 15–16 (noting that medication is disbursed anywhere from 6:30 – 9:00 am and again from 6:30 – 9:00 pm, though some "pill lines" have occurred as late as 10:00 pm).

Mr. Grigoryan has indeed repeatedly declined to stay at the Moshannon medical unit after a seizure, but not because he does not wish to be treated as Respondents purport. *See* ECF No. 22 at 20–21. Instead, he does not wish to be isolated in a medical unit cell that is kept at frigid temperatures directly after significant medical events. *See* Ex. I at ¶ 18. Similarly, while he has refused blood tests in the past, he has done so primarily in dread of the sub-par quality of the medical care provided at Moshannon. *Id.* at ¶ 17 (noting that blood tests are often done poorly, resulting in pain and bruising).

Finally, Respondents claim that the public interest would not be served by granting preliminary relief due to Mr. Grigoryan's criminal history, despite the fact that he has never served time for any violent crimes and his last crime—apart from the nonviolent, financial crime that rendered him removable from the U.S.—occurred nearly 15 years ago. *See* ECF No. 22 at 2–3, 25. The presence of a criminal record, though, does not change the fact that Mr. Grigoryan is being deprived of his constitutional right to liberty from unreasonable civil detention, and "[i]t goes without saying, however, that a deprivation of a constitutional right is contrary to the public interest and the harm to others . . ., although substantial, does not outweigh such a denial." *Reilly v. City of Harrisburg*, 336 F.3d 451, 472 (M.D. Pa. 2018), *aff'd*, 790 F. App'x. 468 (3d Cir. 2019).

Mr. Grigoryan should not be forced to wait until it is too late and he has already experienced catastrophic, irreversible medical harm; he has met his burden of showing exceptional circumstances related to his urgent medical needs, justifying his immediate release pending

resolution of the petition. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) ("[I]t would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them" and noting that "the Courts of Appeals have plainly recognized that a remedy for unsafe conditions need not await a tragic event."). Especially given the availability of conditions of release, such as check-in appointments with ICE or an ankle monitor,[9] there is no burden on Respondents if Mr. Grigoryan were to be released at this stage of his proceedings.[10]

CONCLUSION

For the foregoing reasons, Mr. Grigoryan respectfully requests that this Court:

1. Issue a preliminary injunction requiring Respondents to release Petitioner and enjoining them from continuing to detain Petitioner during the pendency of this petition; and/or
2. Order Petitioner released from Respondents' custody pursuant to the Court's inherent authority as described *Lucas v. Hadden*; and/or
3. Alternatively, grant Petitioner the relief requested in his Petition for Writ of Habeas Corpus, ECF No. 1 at 19–20.
4. Grant Petitioner such other, further and additional relief as the Court deems just and appropriate.

[9] If this Court orders immediate release pending the adjudication of Mr. Grigoryan's habeas petition, this Court can set any conditions it deems appropriate "that will reasonably ensure both the safety of the community" and "appearance at future immigration proceedings." *Leslie*, 865 F. Supp. 2d at 641–42.

[10] Insofar as Respondents claim Mr. Grigoryan is a flight risk and danger to the community, *see* ECF No. 22 at 25, those are the relevant inquiries for a bond hearing and do not weigh on his eligibility for habeas relief in the form of a bond hearing. Should this Court order a bond hearing before an IJ, that IJ would assess for dangerousness and flight risk. *See e.g. Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (noting nine relevant factors for assessing flight risk, none of which are a noncitizen's removability).

Dated: April 18, 2025

Respectfully submitted,

/s/ Ellyn Elizabeth Jameson
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Pro bono counsel for Mr. Grigoryan

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petitioner's Reply to Respondents' Opposition to Petitioner's Writ Of Habeas Corpus And Motion For Preliminary Injunction and all attachments using the CM/ECF system. Copies were served via CM/ECF on all counsel of record.

Dated: April 18, 2025

Respectfully submitted,

/s/ Peter Alfredson
Peter Alfredson

Pro bono counsel for Mr. Grigoryan

Exhibit H

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELIZABETH IMMIGRATION COURT

Respondent Name:
GRIGORYAN, ANDRANIK

To:
Usher, Mikhail
1022 Avenue P
2nd Fl, Usher Law Group
BROOKLYN, NY 11223

A-Number:
[redacted]
Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
04/16/2025

☐ Unable to forward - no address provided.

☑ Attached is a copy of the **decision of the Immigration Judge.** This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA § 242.

☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review.** This is a final order. No appeal is available.

☐ Other:

Date: 04/16/2025



Immigration Judge: MULLICAN, LEILA 04/16/2025

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Respondent Name : GRIGORYAN, ANDRANIK | A-Number : [redacted]

Riders:

Date: 04/16/2025 By: HERNANDEZ, RUBY, Court Staff

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELIZABETH IMMIGRATION COURT

Respondent Name:
GRIGORYAN, ANDRANIK

To:
Usher, Mikhail
1022 Avenue P
2nd Fl, Usher Law Group
BROOKLYN, NY 11223

A-Number:
[redacted]

Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
04/16/2025

ORDER OF THE IMMIGRATION JUDGE

☑ This is a summary of the oral decision entered on 04/16/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☑ removable ☐ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 237(a)(2)(A)(iii).

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

☑ Asylum was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Withholding of Removal under the Convention Against Torture was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Deferral of Removal under the Convention Against Torture was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.

☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a $ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.

☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:

☐ Further information regarding voluntary departure has been added to the record.

☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

☐ the presumptive civil monetary penalty amount of $3,000.00 USD

☐ $ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

☑ Respondent was ordered removed to UZBEKISTAN

☐ In the alternative, Respondent was ordered removed to

☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

> If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

☐ Proceedings were ☐ dismissed ☐ terminated with prejudice ☐ terminated without prejudice ☐ administratively closed.

☐ Respondent's status was rescinded under INA § 246.

☑ Other:

> Standard Language Addendum: CAT Protection
> The following statements of law are hereby incorporated into the Immigration Judge's oral decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with any law cited in the oral

decision itself.

I. Credibility & Corroboration

An applicant for withholding of removal or protection under the Convention Against Torture ("CAT") bears the evidentiary burden of proof and persuasion in connection with his or her application. INA § 241(b)(3); 8 C.F.R. § 1240.8(d). Under the REAL ID Act, after considering "the totality of the evidence, and all relevant factors," the Court may base a credibility determination on: the demeanor, candor, or responsiveness of the applicant or witness; the inherent plausibility of the account; the consistency between oral and written statements; the internal consistency of such statements; the consistency of such statements with other evidence of record; and any inaccuracy or falsehood in such statements, "without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim." INA § 240(c)(4)(C); see generally Lin v. Att'y Gen., 543 F.3d 114, 126-27 (3d Cir. 2008)

Testimony that is credible, persuasive, and "refers to specific facts sufficient to demonstrate that the applicant is a refugee" may be sufficient to meet this burden of proof absent corroboration. INA § INA § 240(c)(4)(B); see also 8 C.F.R. §§ 1208.16(b), 1208.16(c)(2). In determining whether the applicant has met his or her burden of proof, the Court "may weigh the credible testimony along with other evidence of record." INA § 240(c)(4)(B). Where the Court determines that the applicant should "provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence." INA § 240(c)(4)(C).

The failure of an applicant to testify credibly, however, is not necessarily fatal to a withholding claim, where the country condition reports can corroborate a noncitizen's claim that he or she will be subjected to torture upon her return to the country of removal, which may be enough to sustain his or her burden of proof under CAT. Zubeda v. Ashcroft, 333 F.3d 463, 476 (3d. Cir. 2003) (holding that a petitioner's adverse credibility finding for purposes of asylum and withholding of removal does not defeat her ability to meet her burden under CAT).

II. Convention Against Torture Protection

The Convention Against Torture and its implementing regulations provide that no person shall be removed to a country where it is "more likely than not" that such person will be subject to torture. 8 C.F.R. §§ 1208.16(c)(2). "Torture" is "an extreme form of cruel and inhuman treatment," defined, in part, as the intentional infliction of severe pain or suffering by, or at the instigation of, or with the consent or acquiescence of a public official. 8 C.F.R. §§ 1208.18(a)(1)-(2); see Auguste v. Ridge, 395 F.3d 123, 151 (3d Cir. 2005) (citing Matter of J-E-, 23 I&N Dec. 291, 297 (BIA 2002)); see also 8 C.F.R. § 208.18(a)(1). An applicant must also establish the likelihood that he or she will be subjected to torturous acts inflicted by or at the instigation of or with the consent or acquiescence of a public official or a person acting in an official capacity. 8 C.F.R. § 1208.18(a)(1); Silva-Rengifo v. Att'y Gen., 473 F.3d 58 (3d Cir.

2007); Matter of S-V-, 22 I&N Dec. 1306 (BIA 2000); Matter of Y-L-,23 I&N Dec. 270 (AG 2002).

In assessing whether the applicant has satisfied the burden of proof, courts must consider all evidence relevant to the possibility of future torture, including evidence that the applicant has suffered torture in the past; evidence that the applicant could relocate to a part of the country of removal where he is not likely to be tortured; evidence of gross, flagrant or mass violations of human rights within the country of removal; and other relevant information on country conditions. 8 C.F.R. § 1208.16(c)(3); see also Guzman Orellana v. Att'y Gen., 956 F.3d 171, 182 (3d Cir. 2020) (quoting Quinteros v. Att'y Gen., 945 F.3d 772, 786 (3d Cir. 2019); Pieschacon-Villegas v. Att'y Gen., 671 F.3d 303, 313 (3d Cir. 2011). Reports of generalized brutality within a country do not necessarily show that a particular person would be in danger of being subjected to torture upon his or her return to that country. Zubeda v. Ashcroft, 333 F.3d 463, 478 (3d Cir. 2003). Specific grounds must exist to indicate that the applicant will be personally at risk of torture. Sevoian v. Ashcroft, 290 F.3d 166 (3d Cir. 2002); Valdiviezo-Galdamez v. Att'y Gen., 663 F.3d 582, 592 (3d Cir. 2011).

A. Likelihood of Future Torture

The likelihood of future torture is a mixed question of law and fact. Kaplun v. Att'y Gen., 602 F.3d 260, 271 (3d Cir. 2010). Courts must examine two distinct parts: 1) what is likely to happen to the respondent if removed; and 2) does what is likely to happen amount to the legal definition of torture?" Kaplun v. Att'y Gen., 602 F.3d 260, 271 (3d Cir. 2010); Quinteros v. Atty Gen., 945 F.3d 772,786 (3d Cir. 2019) (citing Myrie v. Att'y Gen., 855 F.3d at 516). The first question is factual, and courts must make a finding of fact as to what exactly would happen to an applicant upon his or her return. Kaplun v. Att'y Gen., 602 F.3d at 271. The second question is legal, and courts must determine whether what is likely to happen to the applicant upon his or her return amounts to torture. Torture is a term of art, and whether imprisonment, beating, and extortion are severe enough to rise to the level of torture is a legal question. Id.

Nonetheless, if the court determines that the applicant has failed to demonstrate the second prong, in that the harm he or she would suffer does not amount to the legal definition of torture, there is no need to make a factual finding as to the first prong. Green v. Att'y Gen., 694 F.3d 503, 508 (3d Cir. 2012) (citing INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (stating that "[a]s a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach")).

B. Government Acquiescence/Willful Blindness

The determination of "whether likely government conduct equates to acquiescence is a mixed question of law and fact." Kaplun v. Att'y Gen., 602 F.3d 260 (3d Cir. 2010); see also Myrie v. Att'y Gen., 855 F.3d 509, 517 (3d Cir. 2017). The Immigration Judge must conduct a two-step analysis: first, the Immigration Judge must make a factual finding as to how public officials will likely act in response to the harm the petitioner fears. Myrie v. Att'y Gen., 855

F.3d 509, 517 (3d Cir. 2017). Next, the Immigration Judge must apply the legal standard for acquiescence to determine whether this response establishes that a public official was 'aware[] of [the torturous] activity' and subsequently breaches his or her 'legal responsibility to intervene to prevent such activity.'" Myrie v. Att'y Gen., 855 F.3d 509, 517 (3d Cir. 2017) (citing 8 C.F.R. § 1208.18(a)(7)).

To qualify under the Convention Against Torture, the torturous conduct must be inflicted or approved by a public official who is acting "in an official capacity," that is, "under color of law." Matter of O-F-A-S-, 28 I&N Dec. 35, 39 (AG 2020) (vacating and remanding Matter of O-F-A-S-, 27 I&N Dec. 709 (BIA 2019)); Matter of J-G-R-, 28 I&N Dec. 733 (BIA 2023). Acts are performed "under the color of law" when the actor misuses power possessed by virtue of law, which is made possible only because the actor was clothed with the authority of law. Matter of O-F-A-S-, 28 I&N Dec. 35, 39 (AG 2020) (citing Nat'l Collegiate Athletic Ass'n v. Tarkanian, 488 U.S. 179, 191 (1988)); Matter of J-G-R-, 28 I&N Dec. 733 (BIA 2023) (finding that "the key consideration in determining if an official's torturous conduct was undertaken 'in an official capacity' for purposes of CAT eligibility is whether the official was able to engage in the conduct because of his or her government position, or whether the official could have done so without connection to the government"). This use of power includes using official authority to fulfill personal objectives. Matter of O-F-A-S-, 28 I&N Dec. at 41. Determination of whether an official's conduct is under the color of law is a "fact-intensive inquiry" that depends on whether the official's conduct is "fairly attributable to the State." Id. at 40–41 (AG 2020) (citations omitted); Matter of J-G-R-, 28 I&N Dec. at 733. In making factual findings regarding the official's conduct, the Immigration Judge should assess both direct and circumstantial evidence. Id. at 738 (BIA 2023). The Immigration Judge should also consider the following factors: (1) whether the official's government connections provided access to the victim, revealed his or her whereabouts, or provided other identifying information; (2) whether the official was on duty and/or in uniform at the time he or she engaged in the torturous conduct; (3) whether other officials cooperated or facilitated the conduct; and (4) whether the offending official threatened to retaliate through official channels if the victim reported the conduct to authorities. Id. The test makes no distinction between high- and low-level officials and does not categorically exclude corrupt, low-level officials if they are acting under color of law. Matter of O-F-A-S-, 28 I&N Dec. at 40. As a general matter, the Attorney General has discouraged use of the term "rogue official," so as not to create confusion over the proper standard. Id. at 38.

Courts must also consider circumstantial evidence of willful blindness, as it may establish the government's acquiescence to future torture. Myrie v. Att'y Gen., 855 F.3d 509, 517 (3d Cir. 2017) (remanding to the BIA for consideration of circumstantial evidence, such as sworn letters, a letter from the Panamanian Public Safety Department, and an affidavit from a former girlfriend which indicated that the Panamanian government had not taken steps

to protect the petitioner or his family, that his family continued to receive threats, and that one incident had been reported to the police). A government's opposition to or inability to control a group does not bar a showing of acquiescence to torture. See, e.g., Guzman Orellana v. Att'y Gen., 956 F.3d 182 (3d Cir. 2020) ("[T]he government of El Salvador had recognized that witnesses to crimes need protection and has enacted a program to protect witnesses during the investigation and trial of a case. Unfortunately, this program has apparently been limited to protection during trial and has even then been ineffective and underfunded. Witnesses are still threatened and attacked. It is clear that this program is not sufficient to provide the protection to [the petitioner] required to satisfy the CAT."); Quinteros v. Att'y Gen. No. 18-3750, 2019 WL 6871620 (3d Cir. Dec. 17, 2019); Myrie v. Att'y Gen., 855 F.3d 509, 518 (3d Cir. 2017) (noting that evidence of the government's active engagement against the group the petitioner fears, and the petitioner's failure to report a recent physical attack to the police, do not preclude the petitioner from establishing that the government was willfully blind); Pieschacon-Villegas v. Att'y Gen., 671 F.3d 303, 311 (3d Cir. 2011) (remanding to the BIA for consideration of Third Circuit precedent "that an applicant can establish governmental acquiescence even if the government opposes the paramilitary organization that is engaged in torturous acts").



Immigration Judge: MULLICAN, LEILA 04/16/2025

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved

Appeal Due: 05/16/2025

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Respondent Name : GRIGORYAN, ANDRANIK | A-Number : [redacted]

Riders:

Date: 04/16/2025 By: HERNANDEZ, RUBY, Court Staff

Exhibit I

SUPPLEMENTAL DECLARATION OF ANDRANIK GRIGORYAN

I, Andranik Grigoryan, declare under the penalty of perjury that the following is true and correct to the best of my ability:

1. My name is Andranik Grigoryan. I was born in Uzbekistan and I am currently 38 years old.
2. I am currently detained in Immigration and Customs Enforcement ("ICE") custody at the Moshannon Valley Processing Center ("Moshannon") in Philipsburg, Pennsylvania. I had also been detained at Moshannon before, from December 2023 to February 2025. I was then detained at the Federal Detention Center, Philadelphia ("FDC") for two months before being transferred back to Moshannon on April 11, 2025.
3. I incorporate my declaration filed with my Petition for Writ of Habeas Corpus which was dated March 12, 2025 as if fully set forth herein.

Conditions at FDC

4. I was detained at FDC for two months, from February to April 2025. While I was there, I was detained in 3-North, the part of the building for noncitizens detained by ICE. We were mostly kept segregated from non-ICE detainees, but across the hall was 3-South, which I think housed women.
5. The part of FDC for ICE detainees (3-North) had about 60 small cells, each one could hold 2 people. There were about 50 people who were considered "permanent" residents, like me. We were each assigned to our own cells.
6. There are also groups of people who are brought to FDC and detained only for a few days. I don't know where they are all transferred to after they come to FDC, but they came in groups, filled up 3-North to about 90 or 120 people and then got transferred out after a few days.
7. When these groups come in, I got assigned a cellmate. But they were only there short-term and there was usually a gap between groups of arrivals, so I was alone in my cell for days at a time. For example, someone might arrive and become my cellmate for maybe 4 days, but then he would get transferred out and I would be alone for another few days before another short-term cellmate arrived.
8. I got nervous when I didn't have a cellmate, because I was worried that if I were to have a seizure, no one would know. There are no cameras in the FDC cells and the emergency button in my cell didn't work, so if I had a seizure at nighttime on a night where I was alone in the cell, no one would know. I was worried that if that happened, no one would find me until it was too late and I hurt myself by swallowing my tongue or choking. If I had a cellmate, I hoped that he would hear me if I had a seizure and would yell for help, but even with a cellmate I worried he wouldn't wake up if I had a seizure at nighttime.
9. At FDC, we were also forced to be on lockdown when other parts of the facility went into lockdown. Usually, they were for several hours when the criminal detainees were doing count, but several times we were on lockdown for a long time. For example, we were on

lockdown for 4 straight days during the week of March 24–28, 2025. During that time, I was alone in my cell for the whole 4 days because it was between rounds of arrivals and cellmates. Previously, we had another lockdown for approximately 24 hours.

10. On April 4, 2025, I got into an argument with my assigned cellmate. He and I got frustrated with one another and a third man was trying to get my cellmate to calm down. The FDC officers came in and took us all to the segregated housing unit ("SHU") which is solitary confinement.

11. I was put in the SHU in the afternoon on Friday, April 4, 2025, and I was kept in the SHU for the next 7 days until I was transferred back to Moshannon in the morning of Friday, April 11, 2025.

12. When I was put in the SHU, the staff told me that all my belongings, including my epilepsy medication, were being packed up and would be taken to the medical office to be sorted. I don't know when that happened, but I did not receive my epilepsy medication until Wednesday, April 9, 2025, so I went approximately 5 days without taking any of my epilepsy medication.

13. When the staff finally brought me my medication on April 9, 2025, it was a new pill bottle that said my prescription had been filled on Sunday, April 6, 2025, so I think that means they got my prescription filled on Sunday, but did not deliver it to me in the SHU until Wednesday. Once I received it, I was able to start taking it again at the right, 12-hour intervals until I was transferred back to Moshannon.

Return to Moshannon

14. On Friday, April 11, 2025, ICE transferred me from FDC back to Moshannon. I was told I was transferred back because FDC didn't have the capacity to let me appear on video for my immigration court hearing on April 16, 2025.

15. Since arriving back at Moshannon, I have been detained in pod A-1. I have not been allowed to self-carry my epilepsy medication here, even though I was allowed to self-carry a 7-day supply of my medication at FDC.

16. Now that I am back at Moshannon, the staff crush and float my medication twice a day during pill lines. However, like I experienced before at Moshannon and also at FDC, they do not come at the same time every day, which makes me nervous, because my prescription is supposed to be taken every 12 hours. For example, the pill line can occur anywhere between 6:30 – 9:30 am and again from 6:30 – 9:30 pm. A few times, if there are delays, pill line didn't happen until even later, like 10:00 pm. So depending on the schedule, I could get my medicine only 9 hours apart instead of 12 or I could have to wait 15 hours between doses.

17. All my seizures in ICE custody occurred at Moshannon, and the care afterwards was not good. The nurses are really bad at taking blood, they would poke and poke and poke me until I was bruised, so after some of my seizures, I refused to have my blood drawn.

18. Similarly, they wanted me to stay in the medical unit after my seizures sometimes, but if you stay overnight in the medical unit, you stay in small cells that are basically the same as the ones used for solitary confinement for discipline. You're alone in the cells if you stay overnight, and the air conditioning blows really hard so it's very cold. I stayed there a few times, but after some of my seizures, I didn't want to stay alone and cold in the medical unit. I wanted to be back around people and where it's warmer, so I opted to return to the pods instead of staying in the medical unit.

I, Amelia Dagen, Amica Center for Immigrant Rights, affirm that Andranik Grigoryan authorized me to sign this declaration on his behalf. Due to the urgency of the situation, I have not been able to visit Mr. Grigoryan in person to obtain his signature. I spoke with Mr. Grigoryan by phone, documented his statement, and drafted this declaration accordingly. At 10:00 AM on April 17, 2025, I read the declaration back to Mr. Grigoryan word for word to confirm its accuracy, and Mr. Grigoryan affirmed that it was accurate.

Executed this 17th day of April, 2025 in Washington, DC.

/s/ Amelia Dagen

Amelia Dagen

Amica Center for Immigrant Rights