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11 Counsel for Petitioner
12 Ovanes Gazazyan

13 UNITED STATES DISTRICT COURT FOR THE
14 CENTRAL DISTRICT OF CALIFORNIA

15 Ovanes Gazazyan, A 

16 Petitioner,
17 v.

Case No. 5:25-cv-02599

18 PAMELA BONDI, in her official capacity as
19 Attorney General,

20 KRISTI NOEM, in her official capacity as
21 Secretary of the Department of Homeland
22 Security,

23 U.S. DEPARTMENT OF HOMELAND
24 SECURITY,

25 F. SEMAIA, in his official capacity as Warden of
26 Adelanto Detention Facility,

27 ERNESTO SANTACRUZ, JR., in his official
28 capacity as Acting ICE Field Office Director,
Respondents.

VERIFIED PETITION FOR
HABEAS CORPUS AND
COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF

IMMIGRATION HABEAS
CASE

- 1
2 1. Ovanes Gazazyan (Petitioner), by and through his undersigned counsel,
3 hereby files this petition for a writ of habeas corpus challenging the unlawful
4 revocation of his release on an order of supervision (OSUP) and his
5 continued detention without belief that his removal from the United States is
6 reasonably foreseeable.
7
- 8 2. Petitioner is a citizen of the former Soviet Union. On February 3, 1994, he
9 was paroled into the United States, and on November 18, 1997, he adjusted
10 his status to lawful permanent residence. On November 13, 2002, he was
11 convicted of violating of the California Penal Code section 487(d) (grand
12 theft auto) and sentenced to 16 months in prison.¹ On February 3, 2004, he
13 was ordered removed.
14
- 15 3. On May 12, 2004, the Consulate General of Armenia responded to
16 correspondence from ICE, informing them that Petitioner is not a citizen of
17 Armenia, and declining to issue travel documents. *See* Exhibit A (filed with
18 habeas petition). On information and belief, on or about September 17,
19 2007, ICE officials placed Petitioner on an OSUP. He reported periodically
20 to them, as required. In 2017, ICE officials directed Petitioner to file another
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28 ¹ Petitioner has other criminal history. However, the grand theft auto conviction is the only one cited in the Notice to Appear as a ground of deportability.

1 application for travel documents with the Armenian consulate. *See* Exhibit
2 B. He did so, but he never received any response from the consulate.

3
4 4. On November 12, 2024, the Superior Court of California, County of Los
5 Angeles, vacated Respondent's conviction for grand theft under California
6 Penal Code section 1473.7(a)(1).² *See* Exhibit C. The motion was brought
7 based on the Court's failure to advise him of the mandatory immigration
8 consequences that attached to his plea. Approximately two months later, he
9 filed a motion to reopen his removal proceedings, which was denied by an
10 Immigration Judge. He filed a timely appeal to the Board of Immigration
11 Appeals, which remains pending. *See* Exhibit D.

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14 5. Petitioner is married to a U.S. citizen, has four U.S.-citizen children, a U.S.-
15 citizen mother, and three U.S.-citizen siblings. *See* Exhibit E. Prior to his
16 detention, he was employed as a plumber and provided financial support to
17 his family.

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19
20 6. Petitioner attended his scheduled ICE check in on August 4, 2025. At that
21 time, he was advised to return on February 4, 2026. *See* Exhibit F.

22 However, on September 24, 2025, ICE issued another notice, directly
23 Petitioner to attend a case review meeting on October 8, 2025. *See* Exhibit
24 G. On September 30, 2025, ISAP officials contacted Petitioner and told him
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² Petitioner also obtained vacatur in four other criminal cases.

1 to report in that day. He reported to ICE officials in downtown Los Angeles
2 and was detained at that time. He is now being housed at the Adelanto
3 Detention Facility.
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- 9 7. On information and belief, prior to his detention, Petitioner was given no
10 notice of ICE's intention to re-detain him, and he was not provided with any
11 information about why his OSUP was presumably revoked.
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- 13 8. On information and belief, ICE had no particularized evidence that
14 Petitioner could be deported to any country at the time they detained him,
15 and continue to have no particularized evidence that Petitioner can be
16 removed at this time.
17
- 18 9. On information and belief, Petitioner has not received an individualized
19 hearing before a neutral decisionmaker to assess whether his recent re-
20 detention is warranted due to danger or flight risk.
21
22

23 **PARTIES**

- 24 10. Petitioner Ovanes Gazazyan is a citizen of the former Soviet Union, who is
25 currently in the custody of ICE in Adelanto, California.
26
- 27 11. Respondent Pamela Bondi, the Attorney General, is the highest-ranking
28 official within the Department of Justice (DOJ). Respondent Bondi has

1 responsibility for the administration and enforcement of the immigration
2 laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act
3 (INA) has not been amended to reflect the designation of the Secretary of
4 the Department of Homeland Security (DHS) as the administrator and
5 enforcer of immigration laws, Respondent Bondi is sued in her official
6 capacity to the extent that 8 U.S.C. § 1102 gives her authority over
7 immigration law.
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10
11 12. Respondent Kristi Noem, the Secretary of the DHS, is the highest-ranking
12 official within the DHS. Respondent Noem, by and through her agency for
13 the DHS, is responsible for the implementation of the INA, and for ensuring
14 compliance with applicable federal law. She is also responsible for the
15 detention of non-citizens by ICE. Respondent Noem is sued in her official
16 capacity as an agent of the government of the United States.
17

18
19 13. The DHS is the agency responsible for detaining non-citizens, including
20 Petitioner.
21

22 14. Respondent Ernesto Santacruz, Jr. is the Acting Field Office Director of the
23 Los Angeles office of Immigration and Customs Enforcement. He oversees
24 the custody of all Immigration and Customs Enforcement detainees in both
25 Los Angeles and Adelanto. Respondent Santacruz is sued in his official
26 capacity as an agent of the government of the United States.
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JURISDICTION AND VENUE

15. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Administrative Procedure Act (APA); habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

16. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

17. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the Los Angeles Field Office of Immigration and Customs Enforcement at the Adelanto Detention Center, which is in the jurisdiction of the Central District of California; and there is no real property involved in

1 this action.

2
3 **LEGAL BACKGROUND**

4 18. 8 U.S.C. § 1231(a) governs the detention of individuals who have been
5 ordered removed. The statute directs ICE to detain such individuals for 90
6 days while carrying out a removal order. *See* 8 U.S.C. § 1231(a)(2). This
7 90-day removal period begins when the removal order becomes final.
8 Absent an applicable exception, if ICE cannot remove a person within the
9 90-day removal period, they are released from custody subject to
10 supervision. 8 U.S.C. § 1231(a)(3).
11

12
13 19. 8 U.S.C. § 1231(a)(6) permits detention beyond the normal 90-day removal
14 period, but even these exceptions do not authorize indefinite detention. *See*
15 *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (limiting ICE's detention
16 authority to a period "reasonably necessary" to carry out removal and
17 deeming detention impermissible when removal is not "reasonably
18 foreseeable").
19
20

21 20. The regulations permit release of a non-citizen subject to a removal order
22 after the 90-day removal period has elapsed if ICE determines that the non-
23 citizen "would not pose a danger to the public or a risk of flight, without
24 regard to the likelihood of the [non-citizen's] removal in the reasonably
25 foreseeable future." 8 C.F.R. § 241.13(b)(1). These released individuals are
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28

1 typically subject to an OSUP, as Petitioner has been for the last 22 years.

2 *See* 8 C.F.R. § 241.4(j); 8 C.F.R. § 241.13(h).

3
4 21. ICE may withdraw its approval for the release of a non-citizen if it can
5 effectual the individual's removal from the United States "in the reasonably
6 foreseeable future" or if the individual fails to comply with the conditions of
7 release. 8 C.F.R. § 241.13(h)(4). ICE may only revoke a non-citizen's
8 release if "there is a significant likelihood that the [non-citizen] may be
9 removed in the reasonably foreseeable future." *Id.* at § 241.13(i)(2). "Upon
10 revocation, the [non-citizen] will be notified of the reasons for revocation of
11 his [] release." *Id.* at § 241.13(i)(3).

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14 22. Respondents may remove a non-citizen to a third country (i.e., a country in
15 which the non-citizen does not hold citizenship) if removal to their country
16 of citizenship is impractical, inadvisable or impossible. *See* 8 U.S.C.
17 § 1231(b)(2)(E)(ii). However, DHS is barred from removing a non-citizen to
18 a country where the non-citizen's life or freedom would be threatened
19 because of five protected grounds. *Id.* at § 1231(b)(3)(A). In addition, DHS
20 is barred from deporting a non-citizen to a country where they face a threat
21 of torture. *See* 8 C.F.R. §§ 208.16-208.18.

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25 **FIRST CAUSE OF ACTION**

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27 **UNLAWFUL REVOCATION OF RELEASE**

1 23. Petitioner re-alleges and incorporates each allegation contained in
2 paragraphs 1-22.

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4 24. Petitioner was previously detained by ICE and released because his removal
5 could not be effectuated. If he has complied with the conditions of this
6 OSUP, Respondents have the authority to revoke his release only if there is a
7 significant likelihood that they can remove him in the reasonably foreseeable
8 future. *See* 8 C.F.R. § 241.13(i)(2).
9

10 25. Respondents revoked Petitioner's release without evidence that he could be
11 deported to any country.
12

13 26. Respondents' actions are arbitrary, capricious, an abuse of discretion, and
14 contrary to law. 5 U.S.C. § 706(a)(2)(A). Petitioner is entitled to immediate
15 release on an OSUP.
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18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF PROCEDURES FOR REVOCATION OF RELEASE**
20

21 27. Petitioner re-alleges and incorporates each allegation contained in
22 paragraphs 1-22.

23 28. The governing regulations require Respondents to notify Petitioner of the
24 reason for his re-detention. 8 C.F.R. § 241.13(i)(3). Respondents have not
25 complied with this obligation, nor have they yet provided him with an initial
26 interview at which he can respond to the purported reasons from revocation.
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1 *Cf. id.* As such, Petitioner is entitled to immediate release on OSUP until
2 ICE can provide the minimal process required by the regulation.
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11 **THIRD CAUSE OF ACTION**

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13 **UNLAWFUL DETENTION WHERE REMOVAL IS NOT**
14 **REASONABLY FORESEEABLE**
15

16 29. Petitioner re-alleges and incorporates each allegation contained in
17 paragraphs 1-22.
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19 30. Post-removal order detention violated 8 U.S.C. § 1231(a)(6) where removal
20 is not significantly likely to occur in the reasonably foreseeable future. *See*
21 *also Zadvydas v. Davis*, 533 U.S. 678 (2001).
22

23 31. Detention where removal is not reasonably foreseeable also violates due
24 process.
25

26 32. Petitioner was already detained during the 90-day removal period, until ICE
27 determined it could not effectuate removal and released him on an OSUP.
28 Given that Petitioner remains stateless more than 20 years later, Petitioner

1 has made an initial showing under *Zadvydas* that his removal is not
2 significantly likely. *Id.* at 701. Respondents cannot rebut this showing, as
3 they do not have any individualized evidence to believe that Petitioner's
4 removal is reasonably foreseeable.
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6 33. Petitioner's re-detention under these circumstances violates Section 1231
7 and the Due Process Clause under the U.S. Constitution.
8

9 34. Petitioner is entitled to immediate release on an OSUP.
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11 **FOURTH CAUSE OF ACTION**

12 **UNLAWFUL DETENTION WITHOUT INDIVIDUALIZED**
13 **DETERMINATIONS OF DANGER OR FLIGHT RISK**
14

15 35. Petitioner re-alleges and incorporates each allegation contained in
16 paragraphs 1-22.
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18 36. Detention violates Section 1231 and the Due Process Clause of the U.S.
19 Constitution unless it is reasonably related to the government's purpose of
20 preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690-
21 91.
22

23 37. Before being re-detained, Petitioner lived in the community for more than
24 20 years. During that time, he married, raised four children, and was
25 gainfully employed. Petitioner has received no process to determine if his
26 re-detention is warranted.
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1 38. Petitioner is entitled to an individualized determination by impartial
2 adjudicators as to whether detention is justified based on danger or flight
3 risk.
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11 **FIFTH CAUSE OF ACTION**

12 **UNLAWFUL REMOVAL TO A THIRD COUNTRY**

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14 39. Petitioner re-alleges and incorporates each allegation contained in
15 paragraphs 1-22.
16

17 40. Notwithstanding the statutory and regulatory prohibitions on removing non-
18 citizens to countries where they face potential persecution or torture, on
19 March 30, 2025, Respondent Noemi issued a memo entitled, "Guidance
20 Regarding Third Country Removals." This memo states that if the United
21 States has received "diplomatic assurances" from a third country that non-
22 citizens removed to that country will not be persecuted or tortured, DHS may
23 remove that non-citizen "without the need for further procedures." Exhibit
24 H.
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1 41. The procedure laid out in this memo violates the statutory and regulatory
2 provisions requiring Respondents to provide a non-citizen with a forum to
3 demonstrate an individualized risk of torture or persecution in a specific
4 country. The memo purports to rely on blanket assurances from third
5 countries that non-citizens generally will not be tortured or persecuted to
6 circumvent the obligation to determine if an individual non-citizen faces a
7 risk of torture or persecution.
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10 42. To the extent that Respondents are detaining Petitioner with the intent to
11 remove him to a third country without notice or the opportunity to
12 demonstrate that he is at a particularized risk of torture or persecution in that
13 third country, the detention is unlawful.
14
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16 **PRAYER FOR RELIEF**

17
18 WHEREFORE, Petitioner respectfully requests that this Court grant the
19 following relief:

- 20 1. Assume jurisdiction over this matter;
21
22 2. Declare that Respondents have violated Petitioner's rights;
23
24 3. Order Respondents to immediately release Petitioner on an OSUP;
25
26 4. Order Respondents to Release Petitioner from detention because they lack
27 any individualized evidence that removal of Petitioner will occur in the
28 reasonably foreseeable future;

- 1 5. Order Respondents to release Petitioner from detention absent an
2 individualized determination by an impartial adjudicator that his detention is
3 justified based on danger or flight risk, which cannot be sufficiently
4 addressed by alternative conditions of release and/or supervision;
5
- 6 6. Enjoin Respondents from revoking Petitioner's release unless they have
7 individualized evidence that his removal is reasonably foreseeable;
8
- 9 7. Enjoin Respondents from revoking Petitioner's release without providing
10 him a determination by an impartial adjudicator that his detention is justified
11 based on danger or flight risk, which cannot be sufficiently addressed by
12 alternative conditions of release and/or supervision, at which hearing
13 Respondents will bear the burden of proof of demonstrating that Petitioner is
14 a flight risk or a danger to the community;
15
- 16 8. Enjoin Respondents from re-detaining Petitioner without first notifying him
17 of the reasons for the revocation of his release, providing him with an
18 opportunity to rebut those reasons, and providing him with a prompt
19 interview as required by regulation;
20
- 21 9. Enjoin Respondents from removing Petitioner to a third country without
22 sufficient notice and opportunity to demonstrate that he faces a specific risk
23 of torture or persecution in that third country;
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1 10. Award Petitioner his costs and reasonable attorneys' fees in this action as
2 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on
3 any further basis justified under law;
4

5 11. Grant such further relief as the Court deems just and proper.
6

7 **RESPECTFULLY SUBMITTED this 1st day of October, 2025**

/s/ Sabrina Damast

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18 **TABLE OF EXHIBITS**

19 **Exhibit A:** Letter from the Armenian Consulate (dated May 12, 2024)

20 **Exhibit B:** Application for Travel Documents (dated September 12, 2017)

21 **Exhibit C:** Vacatur Order

22 **Exhibit D:** Receipt for BIA Appeal

23 **Exhibit E:** Proof of Family Ties

24 **Exhibit F:** OSUP

25 **Exhibit G:** Notice of Case Review Appointment

26 **Exhibit H:** "Guidance Regarding Third Country Removals," (March 30,
27 2025)
28