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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 OVANES GAZAYAN,
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14 Petitioner,

15 v.

16 PAMELA BONDI, et al.
17

18 Respondents.
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No. 5:25-cv-02599-SRM-DTB

**RESPONDENTS' SUR-REPLY BRIEF
IN OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER [Dkt. no. 2]**

Hon. Serena R. Murillo
United States

RESPONDENTS' SUR-REPLY BRIEF

Pursuant to the Court's order [Dkt. no. 9], the Respondents respectfully submit this sur-reply brief, addressing new issues raised in Petitioner's reply brief [Dkt. no. 8] (the "TRO Reply") as well as submitting new supplemental authority.

To begin with that supplemental authority, attached as Exhibit A is an order denying a TRO that the Hon. Judge André Birotte Jr. issued on October 3, 2025 in *Jose Angel Morales Sanchez v. Pam Bondi, et al.*, 5:25-cv-02530-AB-DTB [Dkt. no. 12]. This intervening decision supports Respondents' position that a TRO barring any transfer to other detention districts is not proper, consistent with the reasoning on that same point set forth by Judge Staton in the authority attached to Respondents' opposition papers. Judge Birotte's decision further explains why, as here, granting a bar on removal to a third country is inappropriate given evidence that the government was attempting to remove the Petitioner to their home country, and the lack of contrary evidence sufficient to prove that they were instead actually being removed to a third country.

This sur-reply will thus focus on the remaining item of requested relief: Petitioner's claim that under the *Zadvydas* standard "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The Ninth Circuit has explained that the *Zadvydas* language requires an alien to show that "he is stuck in a 'removable-but-unremovable limbo,' as the petitioners in *Zadvydas* were[;]" that is, the alien must show he "is unremovable because the destination country will not accept him or his removal is barred by our own laws." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

Here, Petitioner contend he is in such removable-but-unremovable limbo because Armenia has not yet recognized him as a citizen, and therefore he cannot be removed to Armenia. The TRO Reply argues that back in May of 2004, ICE attempted to secure travel documents from the Consulate General of Armenia, but was unable to do so. *See* TRO Reply, p. 3, *citing* Dkt. no. 2, Exh. A. Petitioner argues that an Immigration Judge had issued his removal order in February of 2004, and therefore his total period of post-

1 removal order detention under *Zadvydas* began accruing as of that date. There does not
2 appear to be any evidence in the record of when that period of prior detention ended,
3 however, so from Petitioner's moving papers it seems to be unknown how long he was
4 detained after the February 2004 removal order.

5 If it were assumed—against the record—that he was detained for a period over six
6 months, sufficient to shift the burden, he does not show that he is not currently
7 removable to Armenia. A denial letter dated May 12, 2004 did not find that he was not
8 an Armenian citizen but just cited “the absence of a relevant record that can prove Mr.
9 Gazazyan's Armenian citizenship.” [Dkt. 1-1]. Petitioner submits what seems to be his
10 own application from September 12, 2017 [Dkt. 1-2], but that contains almost no
11 supporting information or documentation, and there is no indication of any ruling on it.

12 Attached as Exhibit B is a copy of Petitioner's birth certificate, along with its
13 translation, which clearly indicates that he was born in Armenia. The government
14 believes this should be sufficient to warrant his recognition. The record in this
15 proceeding does not indicate that it was previously submitted to the Armenian
16 government.

17 The TRO Reply submits a copy of a declaration by Petitioner's counsel [Dkt. 8-1],
18 relating her understanding of Armenian law, based on her conversation with Consul
19 General for Armenia. There are several problems with the Declaration on that point,
20 starting with its lack of foundation and hearsay status, rendering it inadmissible.

21 In any event, the declaration contends that on July 31 and September 10, 2025,
22 Petitioner's counsel was informed by the Consul General that a certificate of return
23 cannot be issued to an individual who is not an Armenian citizen. *Id.*, ¶¶ 6-7. Petitioner's
24 counsel was informed that Armenian nationals (including those born in Armenia when it
25 was part of the USSR) are not automatically recognized as Armenian citizens, and that
26 the process to adjudicate an application can take months. *Id.*, ¶ 8. That does not by itself
27 meet the demanding *Zadvydas* standard.
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1 In sum, Petitioner has not demonstrated that he cannot be removed to Armenia in
2 the foreseeable future. Courts properly deny *Zadvydas* claims under such circumstances
3 and find that a “habeas petitioner’s assertion as to the unforeseeability of removal,
4 supported only by the mere passage of time, [is] insufficient to meet the petitioner’s
5 burden to demonstrate no significant likelihood of removal under the Supreme Court’s
6 holding in *Zadvydas*.” *Muthalib v. Kelly*, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19,
7 2017) (collecting cases). “This is particularly so where the only impediment to removal
8 is the issuance of the appropriate travel document.” *Id.* (citing *Nasr v. Larocca*, 2016
9 WL 3710200 (C.D. Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL
10 3704675 (C.D. Cal. July 11, 2016)). That Petitioner does not yet have a specific date of
11 anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F.
12 3d 1222, 1233 (9th Cir. 2008).

13 Finally, Petitioner contends that his OSUP should not have been revoked, but he
14 fails to make an evidentiary showing of that, nor demonstrate how it would entitle him to
15 release as a preliminary remedy. In seeking the extraordinary remedy of a TRO, that
16 does not carry his burden.

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18 Dated: October 6, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 865 words, which complies with the word limit of L.R. 11-6.1.

Dated: October 6, 2025

/s/ Daniel A. Beck
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