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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ARMINE MKRTCHYAN, an individual, Case No.: '25CV0133 TWR DDL

11
12 Petitioner,

13 v.

14
15 GREGORY J. ARCHAMBEAULT, San
16 Diego Field Office Director for
17 Enforcement and Removal Operations,
18 U.S. Immigration and Customs
19 Enforcement; JAMES R. MCHENRY III,
20 Acting U.S. Attorney General; DOE 1,
Secretary of the U.S. Department of
Homeland Security; and DOES 2-5,
inclusive,

21 Respondents.
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**PETITIONER ARMINE
MKRTCHYAN'S PETITION FOR A
WRIT OF HABEAS CORPUS UNDER
8 U.S.C. § 1252(e)(2) AND 28 U.S.C. §
2241; FOR AN EMERGENCY STAY
OF REMOVAL; and FOR ORDER TO
SHOW CAUSE; and
REQUEST FOR AN EVIDENTIARY
HEARING**

Law Office of Judith L. Wood
201 South Santa Fe Avenue, Suite 101
Los Angeles, CA 90012

1 Petitioner ARMINE MKRTCHYAN ("Petitioner"), A-Number [REDACTED],
2 by and through her attorneys hereby petition the Court for a Writ of Habeas Corpus
3 pursuant to 8 U.S.C. § 1252(e)(2) and 28 U.S.C. § 2241 for an Order requiring the
4 U.S. Department of Homeland Security ("DHS" or "Defendant") to Show Cause no
5 later than 14 days why Petitioner should not be released from the custody of the
6 U.S. Department of Homeland Security and permitted to wait inside of the United
7 States for adjudication of her intended Form I-589 Application for Asylum and
8 Withholding of Removal.
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11 Petitioner has been detained by the Department of Homeland Security
12 (DHS), Immigration and Customs Enforcement (ICE) branch at the Otay Mesa
13 Detention Center in Otay Mesa, California since approximately October 26, 2024.
14

16 Petitioner alleges she underwent a credible fear interview by an asylum
17 officer resulting in a negative finding after the asylum officer failed to elicit
18 information regarding her profession as a journalist and the persecution that
19 ensured after publication of her article in the newspaper and on social media. The
20 asylum officer failed to ask appropriate follow-up questions preventing Petitioner
21 from fully articulating the bases of her asylum claim. The asylum officer failed to
22 ask Petitioner about the specific threats she received, including the language used
23 and the context in which they were made. The asylum officer failed to explore the
24 relationship between the threats and harm she suffered and her work as a journalist,
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1 including the specific articles she wrote and the topics she covered. The asylum
2 officer's failure to allow Petitioner a fair opportunity to develop critical information
3 prevented her from doing so and was clearly prejudicial.

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5 The negative credible fear finding was reviewed by an Immigration Judge
6 who affirmed the asylum officer's finding, due to the officer's failure to allow
7 Petitioner to develop the record.

8
9 Petitioner filed a motion to reconsider the asylum officer's negative finding
10 based on new evidence consisting of two newspaper articles, a medical report,
11 notices of questioning by the Government of Armenia, along with her journalist
12 credential, which all served to provide critical corroboration of her well-founded
13 fear of persecution. Furthermore, Petitioner's motion for reconsideration included
14 new evidence that arose *after the credible fear interview* showing that figures
15 associated with the Armenian government were still pursuing her.

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17
18 Nevertheless, the asylum officer ignored or failed to consider the critical
19 evidence.

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21 The Immigration Judge's failure to consider Petitioner's evidence was
22 unlawful and unjust. Furthermore, Petitioner is not a flight risk or a danger to the
23 community. She has no disqualifying criminal record.

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25 Petitioner's difficulties began back in Armenia when she, a credentialed
26 journalist, began writing articles regarding government corruption, especially in
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1 connection with former presidents of Armenia and continuing public figures,
2 Robert Kocharyan and Serzh Sargsyan. On February 11, 2019, Petitioner was
3 pushed and fell to the ground by a group of assailants who told her that she would
4 pay with her life if she continued publishing similar articles. The assailants also
5 vandalized her car and brutally assaulted her brother, who has suffered permanent
6 injury. On September 3, 2021, a group of assailants again assaulted Petitioner,
7 called her names, cursed at her, and again threatened her with death if she
8 continued writing similar articles. On October 13 or 14, 2022, the assailants found
9 Petitioner in hiding. They kicked and punched her in the head, leaving her severely
10 injured. They also left notes on the doors of family members, telling them she
11 would never have a peaceful life.

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Petitioner has continued receiving threatening notes, including one left for
her at her hotel in Milan, Italy, in 2024. Furthermore, on December 6, 2024, the
Special Investigative Committee of the Republic of Armenia sent Petitioner formal
notice of accusations that she “violated the Criminal Code of the Republic of
Armenia through her actions, and these actions contain the elements of a crime for
which criminal prosecution should be initiated and she should be held criminally
responsible.”

Petitioner has exhausted all alternatives to relief, so she must rely on this
Habeas Corpus petition in order to obtain justice and remedy her unjust and

1 unlawful detention and imminent removal. Because Petitioner's continued
2 detention is not justified under the Constitution or the Immigration and Nationality
3 Act (INA), Petitioner petitions this honorable court for relief.

4
5 **CUSTODY**

6 1. Petitioner is in the physical custody of the Field Office Director for
7 Enforcement and Removal Operations (ERO), U.S. Immigration and Customs
8 Enforcement (ICE), the Department of Homeland Security (DHS), at the Otay
9 Mesa Detention Center in Otay Mesa, California.

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11 **JURISDICTION**

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13 2. This action arises under the Constitution of the United States, the
14 Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by
15 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
16 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under
17 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension
18 Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of
19 authority of the United States and such custody is in violation of the U.S.
20 Constitution, laws, or treaties of the United States.

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23 3. This Court has jurisdiction to hear a limited-scope habeas corpus
24 petition of a Respondent subject to an order of expedited order of removal pursuant
25 to 8 U.S.C. § 1252(e)(2)(B), because Petitioner challenges "whether the petitioner
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1 was ordered removed” under 8 U.S.C. § 1225(b)(1). The scope of review under §
2 1252(e)(2)(B) encompasses claims that a purported expedited removal order was
3 invalid on its face or was not lawfully issued due to some procedural defect. *See*
4 *Thuraissigiam v. U.S. DHS*, 917 F.3d 1097, 1100 (9th Cir. 2019); *cf. Dugdale v.*
5 *U.S. CBP*, 88 F.Supp.3d 1, 4, 6 (D.D.C. 2015), *aff’d sub. Nom. Dugdale v. Lynch*,
6 672 F.App’x 35 (D.C. Cir. 2016).
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9 4. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All
10 Writs Act, 28 U.S.C. § 1651.

11 **VENUE**

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13 5. The Southern District of California is the proper venue for this action
14 pursuant to 28 U.S.C. § 1391(e)(2) because it is the district in which Petitioner is
15 being held in custody by U.S. Department of Homeland Security, at Otay Mesa
16 Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154.
17

18 **PARTIES**

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20 6. Petitioner Armine Mkrtchyan, A-Number 249-098-294, is a national
21 and citizen of Armenia, who arrived at the U.S. border to claim asylum,
22 withholding of removal, and protection under the U.N. Convention Against
23 Torture. Petitioner is detained by Respondents pursuant to 8 U.S.C. § 1231, which
24 permits DHS to detain aliens, such as Petitioner, pending the outcome of removal
25 proceedings.
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1 7. Petitioner is in the custody of Respondent Gregory J. Archambeault,
2 San Diego Field Office Director for Enforcement and Removal Operations (ERO),
3 U.S. Immigration and Customs Enforcement (ICE).

4 8. ICE is an agency within the U.S. Department of Homeland Security
5 (“DHS”) under the leadership of Respondent Secretary DOE 1, whose name is not
6 currently known as the position is temporarily vacant.
7

8 9. Respondent James R. McHenry III, as acting Attorney General of the
9 United States, continues to exercise unique power over the affairs of noncitizens,
10 particularly with regard to apprehension, detention, and removal. *See* 8 U.S.C. §
11 1103(a)(1); 8 U.S.C. § 1222(a); 8 U.S.C. §§ 1226(a) and (c); 8 U.S.C. §§
12 1231(a)(2) and (6).
13

14 10. The true names and capacities of Respondents sued herein as DOES 1
15 through 5, inclusive, are unknown to Petitioner who therefore sues these
16 Respondents by such fictitious names. Petitioner will seek leave of Court to amend
17 this Petition when said true names and capacities have been ascertained.
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19 11. Petitioner is informed and believes, and on that basis alleges, that at all
20 times, each of the Respondents, including the fictitiously named Respondents, were
21 and are the agent, employee, employer, joint venturer, representative, alter ego,
22 and/or partner of one or more of the remaining Respondents and were, in
23 performing the acts alleged, acting within the scope of such relationship and/or in
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1 some other way responsible for the acts of one or more of the other Respondents.

2 **STANDING**

3 12. Petitioner has been injured by being wrongfully and unlawfully held in
4 the custody of U.S. Department of Homeland Security and subjected to danger of
5 removal from the United States to Armenia, the country where she faces
6 persecution, and is thus “adversely affected or aggrieved by agency action.”
7 Therefore, the APA affords her standing and a right of review in this Court. 5
8 U.S.C. § 702.
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10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 13. Petitioner exhausted her administrative remedies before the U.S.
12 Department of Homeland Security and U.S. Department of Justice by (1) requesting
13 review by an Immigration Judge of the asylum officer’s negative credible fear
14 finding; and (2) filing a motion for reconsideration of the asylum officer’s negative
15 credible fear finding, which was denied.
16

17 **FACTS AND PROCEDURAL HISTORY**

18 14. Petitioner is a native and citizen of Armenia.

19 15. Petitioner has been held in the custody of U.S. Immigration &
20 Customs Enforcement at Otay Mesa Detention Center, in San Diego, California,
21 since her entry on October 26, 2024.
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23 16. On November 22, 2024, Petitioner received a negative credible fear
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1 determination from an asylum officer. However, the asylum officer failed to elicit
2 information regarding Petitioner's profession as a journalist and the persecution
3 that ensued after publication of her article in the newspaper and on social media.
4 The asylum officer failed to ask follow-up questions preventing Petitioner from
5 fully articulating the bases of her asylum claim. The asylum officer failed to ask
6 Petitioner about the specific threats she received, including the language used and
7 the context in which they were made. The asylum officer failed to explore the
8 relationship between the threats and harm she suffered and her work as a journalist,
9 including the specific articles she wrote and the topics she covered. (*See* CFI
10 Record, **Exhibit 1.**)

14 17. On December 10, 2024, an Immigration Judge reviewed and affirmed
15 the asylum officer's finding. (*See* Order of the Immigration Judge, **Exhibit 2.**)

16 18. The IJ's decision cannot be appealed.

17 19. On or around December 20, 2024, Petitioner submitted a letter to
18 USCIS-Los Angeles Asylum Office requesting reconsideration of the asylum
19 officer's credible fear decision based on the failure to fairly question Petitioner and
20 new evidence. (Motion for Reconsideration, **Exhibit 3.**)

21 20. On December 23, 2024, Petitioner received a response denying
22 reconsideration and refusing to consider the new evidence. (Email from USCIS,
23 **Exhibit 4.**)

1 21. Respondent is subject to a removal order and at imminent risk of
2 removal to Armenia, the country of persecution. (Removal Order, **Exhibit 5**.)

3 **COUNT ONE**

4 **CONSTITUTIONAL CLAIM**

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6 22. Petitioner hereby incorporates in full by reference paragraphs 1
7 through 21 above.

8
9 23. Petitioner's continued detention violates her rights to substantive and
10 procedural due process guaranteed by the Fifth Amendment to the U.S.
11 Constitution.

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13 24. Because the Petitioner has been denied the opportunity to have her
14 case adjudicated fairly and impartially, Petitioner has been injured, and her Sixth
15 Amendment constitutional rights have also been violated.

16
17 25. Here, Respondents deprived Petitioner of her right to due process by
18 (1) failing to interview her for her asylum claim in a fair, reasonable, adequate
19 manner; and by (2) refusing to consider critical evidence supporting Petitioner's
20 asylum claim, presented in a reasonable and timely manner.

21
22 26. As a result, Petitioner has been put at imminent risk of removal to
23 Armenia, the country of persecution. Petitioner does not have a remaining right to
24 appeal the matter and will be removed if relief is not granted by this Court.

25 **PRAYER FOR RELIEF**

1 WHEREFORE, Petitioner ARMINE MKRTCHYAN prays that this Honorable
2 Court grant the following relief:

- 3 1. Grant the writ of habeas corpus;
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- 5 2. Issue an emergency stay of all measures being taken or that may be
6 taken to remove Petitioner from the United States, pending this
7 Court's adjudication of this matter;
- 8
- 9 3. Issue an Order requiring the U.S. Department of Homeland Security to
10 Show Cause no later than 14 days why Petitioner should not be
11 immediately released from custody into the United States, to await
12 adjudication of her claims for asylum and withholding of removal;
- 13
- 14 4. Declare Petitioner a prevailing party and award to her attorney's fees
15 and costs and EAJA fees as the position of the United States in this
16 litigation is not substantially justified; and
- 17
- 18 5. Award any other relief that this Court deems reasonable and proper.
- 19

20 Respectfully submitted,

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22 DATED: January 21, 2025

LAW OFFICE OF JUDITH L. WOOD

23
24
25 By: 
26 _____
27
28

Attorneys for Petitioner

Law Office of Judith L. Wood
201 South Santa Fe Avenue, Suite 101
Los Angeles, CA 90012

REQUEST FOR EVIDENTIARY HEARING

Petitioner ARMINE MKRTCHYAN respectfully requests an evidentiary hearing to determine the facts set forth in Paragraphs 1-26 of this petition. Petitioner requests that her testimony be accepted via remote means and requests an Armenian-language interpreter for that purpose. Petitioner also intends to present documentary evidence and requests the opportunity to examine Respondents' persons most knowledgeable regarding Petitioner's detention.

DATED: January 21, 2025

LAW OFFICE OF JUDITH L. WOOD

By: 

Attorneys for Plaintiff

CERTIFICATION

This petition cannot be verified by ARMINE MKRTCHYAN because she is in DHS custody. Consequently, the undersigned counsel for Petitioner hereby verifies that the information in this petition is true and correct to the best of my knowledge and belief.

SWORN under penalty of perjury this date of January 21, 2025, at Los Angeles, California.



Steven K. Ridgill
Declarant

LIST OF EXHIBITS TO PETITION

Exhibit Description	Page
1. Credible Fear Interview Record	15-45
2. USCIS Automated Case Information	46-49
3. Request for Reconsideration, 12/20/2024	50-158
4. USCIS Response, 12/23/2024	159
5. Removal Order, 12/02/2024	160-162

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