

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; BRIAN MCSHANE, in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Philadelphia Field Office; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and PAM BONDI, in her official capacity as Attorney General of the United States.

Respondents.

PETITION FOR A WRIT
OF HABEAS CORPUS

Case No.

PETITIONER'S MOTION FOR ORDER TO SHOW CAUSE AND PRELIMINARY
INJUNCTION AND TEMPORARY RESTRAINING ORDER

In light of Petitioner's prolonged immigration detention which threatens his liberty and physical health and safety, Petitioner respectfully moves this Court for a temporary restraining order or preliminary injunction requiring Respondents to release Petitioner and enjoining them continuing to detain Petitioner during the pendency of this petition, or alternatively to order Petitioner's release from Respondent's custody pursuant to this Court's inherent authority.

Counsel for Petitioner emailed a copy of this motion immediately upon filing to Gregory B. David, Chief of Civil Division with the U.S. Attorney for the Eastern District of Pennsylvania's Philadelphia Office, at Gregory.David@usdoj.gov, as well as USAPAE.USAttorney@usdoj.gov.

Dated: March 14, 2025

Respectfully submitted,

/s/ Ellyn Elizabeth Jameson

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Pending pro hac vice admission

Pro bono counsel for Mr. Grigoryan

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petitioner's Memorandum of Law in Support of Motion for Temporary Restraining Order or Preliminary Injunction, Immediate Release Pursuant to *Lucas v. Hadden*, and/or Order to Show Cause using the CM/ECF system. I or my co-counsel will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania and send true copies by USPS to the following individuals:

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Dated: March 14, 2025

Respectfully submitted,

/s/ Ellyn Elizabeth Jameson
Ellyn Jameson

Pro bono counsel for Mr. Grigoryan

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Respondents.

PETITION FOR A WRIT
OF HABEAS CORPUS

Case No.

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION,
IMMEDIATE RELEASE PURSUANT TO *LUCAS V. HADDEN*, AND/OR ORDER TO
SHOW CAUSE

PRELIMINARY STATEMENT

Petitioner Andranik Grigoryan (“Mr. Grigoryan” or “Petitioner”) is currently being held in civil immigration detention at a federal prison, where he is at risk of imminent injury or death due to Respondents’ failure to adequately treat his serious epilepsy, despite the fact that Mr. Grigoryan already won his immigration case. On September 20, 2024, an Immigration Judge (“IJ”) found that Mr. Grigoryan would likely be tortured in Uzbekistan because he is Armenian and Christian, and granted him protection from deportation in the form of deferral of removal under the Convention Against Torture (“CAT”). ECF No. 1, Petition at ¶ 19. But Immigration and Customs Enforcement (“ICE”) has refused to release Mr. Grigoryan from detention during the Government’s pending appeal of the IJ’s decision to the Board of Immigration Appeals (“BIA”). *Id.* at ¶¶ 20–21. As a result, Mr. Grigoryan has been put in an untenable position: he has been subjected to indefinite detention by ICE as they appeal his CAT grant, meaning that the only way for him to get out of detention is by withdrawing his claim and accepting deportation to Uzbekistan, a country where the IJ already found he faces an imminent risk of torture.

ICE’s decision to continue detaining Mr. Grigoryan not only violates his constitutional rights, but places Mr. Grigoryan, who has epilepsy and has experienced repeated seizures while in detention, in imminent danger of irreparable physical harm due to the dangerous and neglectful conditions and lack of adequate medical care that he faces at Federal Detention Center, Philadelphia (“FDC”). These grave threats to Mr. Grigoryan’s physical health and well-being demand immediate action from this Court.¹

¹ Undersigned counsel emailed a copy of this motion, immediately upon filing it, to Gregory B. David, Chief of Civil Division with the U.S. Attorney for the Eastern District of Pennsylvania’s Philadelphia Office, at Gregory.David@usdoj.gov, as well as USAPAE.USAttorney@usdoj.gov.

ARGUMENT

Because of the immediate threat to Mr. Grigoryan's health and safety, as well as his irreparable constitutional harm, this Court must act expeditiously to issue a temporary restraining order or preliminary injunction requiring Respondents to release Mr. Grigoryan and enjoining them from re-arresting him during the pendency of his habeas petition. Such emergent relief is proper because Mr. Grigoryan is likely to succeed on the merits of his underlying claims for habeas relief, he faces irreparable physical injury and ongoing constitutional harm, and the balance of interests weighs in favor of temporary restraints.

Alternatively, this Court should exercise its inherent authority under *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986), to immediately release Mr. Grigoryan from custody. The Court's invocation of this power is appropriate because Mr. Grigoryan has presented a "clear case for habeas relief" in his underlying petition, and the "exceptional circumstances" in his case warrant special treatment. *Id.* at 367.

Finally, the Court should order Respondents to show cause why Mr. Grigoryan's Petition should not be granted within three days. Mr. Grigoryan, who has been confined for a constitutionally unreasonable period in Respondents' custody, suffers an ongoing deprivation of his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

Providing a swift remedy to such unlawful government conduct is precisely the function of the Great Writ. Unreasonable delays vitiate that purpose. Consistent with Congress's intent, as expressed in 28 U.S.C. § 2243, that district courts expeditiously resolve habeas petitions, this Court should take steps to ensure a prompt disposition of Mr. Grigoryan's petition.

I. The Court Should Grant Preliminary Relief Requiring Respondents to Immediately Release Mr. Grigoryan and Not Re-Detain Him During the Pendency of This Petition.

In considering whether preliminary injunctive relief is appropriate, the court considers the following factors: (1) the likelihood of success on the merits, (2) whether a delay in adjudication is more likely than not to cause irreparable damage, (3) “the possibility of harm to other interested persons,” and (4) whether the “public interest” weigh in favor of preliminary relief. *Reilly v. City of Harrisburg*, 858 F.3d 173, 176, 179 (3d Cir. 2017) (quoting *Del. River Port Auth. v. Transamerican Trailer Transp., Inc.*, 501 F.2d. 917, 919–20 (3d Cir. 1974)). Consideration of a request for a temporary restraining order weighs the same factors. *See, e.g., Am. Tel. and Tel. Co. v. Winback and Conserve Program, Inc.*, 42 F.3d. 1421 (3d Cir. 1994); *Lozano v. City of Hazleton*, 459 F. Supp. 2d 332, 335 (M.D. Pa. 2006). Likelihood of success on the merits and risk of irreparable harm are threshold matters. *Reilly*, 858 F.3d at 179. Once they are proven, the court balances all four factors to determine whether to grant immediate relief. *Id.*

A. Mr. Grigoryan is Likely to Succeed on the Merits of His Petition for a Writ of Habeas Corpus.

A litigant seeking a temporary restraining order or a preliminary injunction need not prove his case as a prerequisite nor show that his success is assured. *Oburn v. Shapp*, 521 F.2d 142, 148 (3d Cir. 1975). Instead, a party need only demonstrate a “[p]rima facie case showing a reasonable probability that it will prevail.” *Id.*; *see also Reilly*, 858 F.3d at 179 (preliminary equitable relief requires a showing “significantly better than negligible” but not “more likely than not”). Moreover, “where factors of irreparable harm, interests of third parties and public considerations strongly favor the moving party, an injunction might be appropriate ‘even though plaintiffs did not demonstrate as strong a likelihood of ultimate success as would generally be required.’” *In re Arthur Treacher’s Franchisee Litigation*, 689 F.2d 1137, 1147 (3d Cir. 1982) (quoting *Constr.*

Ass'n of W. Pa. v. Kreps, 573 F.2d 811, 815 (3d Cir. 1978)); *see also Reilly*, 858 F.3d at 179 (“[T]he more net harm an injunction can prevent, the weaker the plaintiff’s claim on the merits can be while still supporting some preliminary relief.”) (quoting *Hoosier Energy Rural Elec. Coop., Inc. v. John Hancock Life Ins. Co.*, 582 F.3d 721, 725 (7th Cir. 2009)). This is so because the adjudicating court’s goal is “to minimize the probable harm to legally protected interests” during the pendency of litigation. *Kreps*, 573 F.2d at 815. Here, the strong merits of Mr. Grigoryan’s claims easily meet the requisite standard.

1. Mr. Grigoryan has a Reasonable Likelihood of Success in Demonstrating that His Fifteen-Month Long Confinement—Which is Likely to Continue for Many More Months, if Not Years—Without an Individualized Bond Hearing, Is Unconstitutionally Prolonged.

As an individual detained under 8 U.S.C. § 1226(c), Mr. Grigoryan has a due process right to a bond hearing when his immigration detention becomes unreasonably prolonged. As detailed in his Petition, *see* ECF No. 1, at ¶¶ 35–43, under the four-factor framework that the Third Circuit articulated in *German Santos*, Mr. Grigoryan’s now-15-month detention without a bond hearing has become unjustifiably prolonged. *See German Santos v. Warden Pike Cty. Corr. Fac.*, 965 F.3d 203, 206–08 (3d Cir. 2020). He is therefore entitled to a bond hearing at which the Government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary to fulfill the purposes of the detention statute. *Id.*

First, Mr. Grigoryan has been detained by ICE since December 7, 2023. ECF No. 1, at ¶ 36. This amounts to over 15 months of civil confinement—well beyond the six-month to one-year timeframe laid out in *Chavez-Alvarez* and reaffirmed in *German Santos*, and comparable to the duration at which the Western and Middle Districts of Pennsylvania have found that detention became unreasonably prolonged. *See* 965 F.3d at 211 (citing *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 469, 475–78 (3d Cir. 2015)); *Rivas v. Oddo*, No. 3:22-cv-223, 2023 WL

4361140 at *2 (W.D. Pa. June 27, 2023) (same finding regarding petitioner’s 15-month detention); *Maledo v. Lowe*, No. 1:22-CV-01031, 2022 WL 3084304, at *5 (M.D. Pa. Aug. 3, 2022) (18-month detention had become prolonged).

Second, Mr. Grigoryan’s detention is “unlikely to end soon,” absent intervention by this Court. *See German Santos*, 965 F.3d at 211; ECF No. 1, at ¶ 37. The Government appealed Mr. Grigoryan’s CAT relief grant to the BIA on October 18, 2024, and the appeal remains pending more than five months later. ECF No. 1-7, Ex. E, EOIR Case Status Info Page Showing DHS Appeal Is Still Pending, dated March 14, 2025. If the BIA grants the Government’s appeal and reverses the IJ’s grant, the BIA will either remand the case back to an IJ or will enter a final order that Mr. Grigoryan could then appeal to the Third Circuit. ECF No. 1, at ¶ 37. Otherwise, even if the BIA dismisses the Government’s appeal, the Government will likely then attempt to continue to detain Mr. Grigoryan through the pendency of the 90-day removal period under 8 U.S.C. § 1231(a)(2)(A), despite the fact that there is no indication that the Government holds any realistic possibility of facilitating Mr. Grigoryan’s removal to a third country. *Id.*

Third, Mr. Grigoryan has not caused any delay in his proceedings that would justify his prolonged detention. *Id.* at ¶ 38. Through counsel, Grigoryan has expeditiously pursued his claim for relief in immigration court in an attempt to avoid torture in Uzbekistan—a claim that an IJ agreed was meritorious. ECF No. 1-7, Ex. E, EOIR Case Status Info Page Showing DHS Appeal Is Still Pending, dated March 14, 2025. Indeed, the only reason Mr. Grigoryan was not already released after winning CAT last year was that the Government appealed the IJ’s grant to the BIA. *See* ECF No. 1-5, Ex. C, Immigration Judge’s Decision Granting Mr. Grigoryan Deferral of Removal Under the Convention Against Torture (“CAT”), dated September 20, 2024.

Fourth, Mr. Grigoryan can definitively establish that the conditions of his detention at FDC,

as well as previously at Moshannon, are utterly indistinguishable from punitive, criminal confinement. *See* ECF No. 1, at ¶¶ 39–42. FDC is quite literally a federal prison operated by the Bureau of Prisons, which agreed last month to house up to 125 noncitizens for ICE. *See* ECF No. 1-9, Ex. G, “Philadelphia’s Federal Detention Center will house ICE detainees,” *Philadelphia Inquirer* Article, dated February 21, 2025, at 2. An official with the union that represents FDC employees even recently told the Philadelphia Inquirer that immigration detainees at FDC “[wi]ll get treated just like any other person that would go to a federal prison.” *Id.* at 2, 4. At FDC, Mr. Grigoryan is forced to wear a prison uniform and confined to a small single-person cell for at least 16 hours a day, and often longer because of frequent facility-wide lockdowns. ECF No. 1-3, Ex. A, Declaration of Andranik Grigoryan, at ¶ 25. Most alarmingly, Mr. Grigoryan, who has epilepsy and has already experienced seven seizures while in ICE detention, has been deprived of adequate medical care, including staff at FDC repeatedly failing to provide him with doses of his required daily medication. *Id.* at ¶¶ 22–24. At Moshannon, Mr. Grigoryan was also detained in punitive conditions on confinement that cannot be meaningfully differentiated from criminal imprisonment, as the Western District of Pennsylvania has previously recognized. *See Rivas*, 2023 WL 4361140, at *2; ECF No. 1, at ¶¶ 41–42; ECF No. 1-3, Ex. A at ¶¶ 20, 23.

B. Mr. Grigoryan’s Prolonged and Unlawful Detention Creates a Clear Risk of Irreparable Harm, Including the Ongoing Violation of His Constitutional Rights and Ongoing Harm to His Physical Health.

“Irreparable injury” sufficient to justify emergent relief requires a showing of “significant risk that he or she will experience harm that cannot adequately be compensated.” *Adams v. Freedom Forge Corp.*, 204 F.3d 475, 484–85 (3d Cir. 2000). The central question is whether the threatened harm is such that it “cannot be redressed by a legal or an equitable remedy following a trial.” *Instant Air Freight Co. v. C.F. Air Freight, Inc.*, 882 F.2d 797, 801 (3d Cir. 1989). An

ongoing constitutional violation is a per se form of irreparable harm. *Susquehanna Valley All. v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 245 (3d Cir. 1980) (“[P]laintiffs’ . . . allegation of irreparable harm to their constitutional right to ‘life and liberty’ meets the irreparable harm standard.”). Indeed, where the movant establishes a prima facie constitutional claim, very likely “the other requirements for a preliminary injunction are satisfied.” *Stilp v. Contino*, 613 F.3d 405, 409 (3d Cir. 2010). Courts in this circuit have applied this principle in preliminarily enjoining constitutional violations. See *GJJM Enterprises, LLC, v. City of Atlantic City*, 293 F. Supp. 3d 509, 520–21 (D.N.J. 2017). Unlawful incarceration has been determined to constitute “a harm which cannot be redressed following a trial” and thus satisfies the irreparable-harm requirement. *Forchion v. Intensive Supervised Parole*, 240 F. Supp. 2d 302, 310 (D.N.J. 2003).

Under this circuit’s precedent, Mr. Grigoryan has established a prima facie violation of his constitutional rights to due process and liberty, rising to irreparable harm. See, e.g., *German Santos*, 965 F.3d at 206–08 (providing a framework for analyzing such challenges that includes duration of detention, “whether the detention is likely to continue,” “reasons for the delay,” and whether the noncitizen’s “conditions of confinement are ‘meaningfully different’ from criminal punishment.”). Here, Mr. Grigoryan is suffering from an ongoing denial of his procedural due process rights because of his unreasonably prolonged detention without an individualized bond hearing. He has been detained by Respondents for over 15 months without a bond hearing. At both FDC and Moshannon, he has been subjected to abysmal, punitive conditions of detention. See ECF No. 1, at ¶¶ 39–42. FDC, where Mr. Grigoryan is currently detained, is a federal prison operated by the BOP in which Mr. Grigoryan is detained for more than 16 hours a day in a small single-person cell. *Id.* at ¶ 39. Mr. Grigoryan is also forced to wear a prison uniform and has extremely limited phone access to communicate with his loved ones and attorneys. *Id.* at ¶ 40.

Most critically, at FDC, Mr. Grigoryan faces irreparable physical harm due to the medical neglect he has consistently experienced there, despite having epilepsy and enduring repeated seizures in ICE detention. Mr. Grigoryan has already seven seizures so far in ICE detention—one roughly every three months. *Id.* at ¶ 24. As documented in his medical records and declaration, during his seizures, Mr. Grigoryan experiences debilitating symptoms such as intense muscle spasms, spitting out water, swallowing his tongue, his eyes going back in his head, being unable to stand up, and losing consciousness. ECF No. 1-3, Ex. A at ¶¶ 21–22; ECF No. 1-8, Ex. F, Medical Records from Moshannon Documenting Mr. Grigoryan’s Seizures. In order to lower his risk of seizures, Mr. Grigoryan must take his medication twice a day, at very specific times. ECF No. 1-3, Ex. A at ¶ 22. Unfortunately, at FDC, the staff there have repeatedly failed to give him his medication at the required dose and time, because a staff member only stays on one end of the hallway to yell out people’s names and Mr. Grigoryan often cannot hear her to respond and receive his dose while locked in his cell. *Id.* at ¶ 24.

These risks are further compounded by the fact that Mr. Grigoryan is locked alone in his single-person cell for upwards of 16 hours a day. *Id.* One of Mr. Grigoryan’s greatest worries about being detained at FDC is that he will have a seizure, but no one will be around to notice and alert the staff quickly enough to request medical help for him. *Id.* At Moshannon, he at least benefitted multiple times from other people he was detained with having noticed when he was having a seizure and getting medical assistance immediately. *Id.* at ¶ 23. Mr. Grigoryan is terrified that he will experience his next seizure while detained in his cell, with no one to notice what has happened until it is far too late and he has suffered permanent neurological damage or death. *Id.* at ¶ 24. Mr. Grigoryan also desperately needs to see a neurologist but has not been able to do so in the more than 15 months that Respondents have detained him. *Id.* at ¶ 23.

Inflicting further indefinite detention on Mr. Grigoryan under the injurious conditions of detention he faces at FDC places him at risk of further mental harm and isolation. ICE—an agency which routinely fails to meet even its own detention performance standards, *see* ECF No. 1, at ¶ 42—has failed to protect Mr. Grigoryan and indeed has subjected him to cruel and inhumane treatment that has resulted in his deteriorating physical health, at both FDC and Moshannon.² Confined under harsh conditions for over 15 months, Mr. Grigoryan faces mounting harm, warranting this Court’s immediate action. *See Adams*, 204 F.3d. at 485; *U.S. Steelworkers of America, AFL-CIO v. Fort Pitt Steel Casting*, 598 F.2d 1273, 1282 (3d Cir. 1979); *Muhammad v. Dep’t of Corr.*, 645 F. Supp. 2d 299, 318 (D.N.J. 2008).

C. The Risk of Harm to Other Interested Parties if Mr. Grigoryan Is Immediately Released Is Minimal Compared to the Risk of Harm Should His Detention Drag on Indefinitely.

When a fundamental right like Mr. Grigoryan’s interest in his liberty is at stake, it weighs heavily against any harm posited by the opposing party. *See, e.g., Reilly v. City of Harrisburg*, 336 F.3d 451, 472 (M.D. Pa. 2018), *aff’d*, 790 F. App’x. 468 (3d Cir. 2019), *cert requested* (“It 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.”). This is particularly so where, as here, the burden on other interested parties is merely administrative. *See United States v. Berks County, Pa.*, 250 F. Supp. 2d 525, 541 (E.D. Pa. 2003) (finding that minimal administrative expenses were “far outweighed by the fundamental right at issue.”). ICE could simply release Mr. Grigoryan with an Order of Supervision, as the agency routinely does, and could re-detain him if the habeas petition is ultimately denied or he is ordered removed in his

² A recently filed CRCL complaint outlines the severe deficiencies in medical care at Moshannon: including delays in scheduling medical services and the use of chemical agents against individuals experiencing mental health crises. *See* ECF No. 1 at ¶ 42 n.4.

immigration proceedings. As such, the harm to the government in releasing Mr. Grigoryan during the pendency of the habeas petition is minimal, if existent at all. Here, the balance clearly tips in favor of Mr. Grigoryan, whose life, health, safety and liberty exponentially outweigh any potential burden on Respondents.

D. Mr. Grigoryan's Release Is in the Public Interest.

“If a plaintiff proves ‘both’ a likelihood of success on the merits and irreparable injury, it ‘almost always will be the case’ that the public interest favors preliminary relief.” *Issa v. School Dist. of Lancaster*, 847 F.3d 121, 143 (3d Cir. 2017) (quoting *Winback & Conserve Program, Inc.*, 42 F.3d at 1427 n.8). Here, Mr. Grigoryan has made a clear showing that he is likely to succeed on the merits of his habeas petition, and that he will suffer irreparable harm absent the issuance of a temporary restraining order. Moreover, “[i]n the absence of legitimate, countervailing concerns, the public interest clearly favors the protection of constitutional rights.” *Council of Alternative Pol. Parties v. Hooks*, 121 F.3d 876, 883–84 (3d Cir. 1997). No public interest is served by permitting the government to detain individuals like Mr. Grigoryan, who have serious physical health concerns, and who have already been granted relief by an Immigration Judge. The public interest thus lies in preventing Respondents from further violating Mr. Grigoryan’s due process rights. *See Osorio–Martinez v. Att’y Gen.*, 893 F.3d 153, 179 (3d Cir. 2018) (“[I]t is squarely in the public interest to enable individuals to partake of statutory and constitutional rights and meaningful judicial review[.]”) The public has an interest in preserving the right to petition for habeas review to remedy unlawful executive action as long as there is no detriment to the public. *See Kanivets v. Riley*, 268 F. Supp. 2d 460, 469 (E.D. Pa. Oct. 3, 2003) (citing *INS v. St. Cyr*, 533 U.S. 289 (2001)).

Mr. Grigoryan has no violent criminal history or any other adverse factors weighing against him, and he does not constitute either a danger to the community or a threat to national security. As an individual granted CAT relief by an Immigration Judge, upon release, Mr. Grigoryan is eligible to apply for work authorization in the U.S. Mr. Grigoryan aims for nothing besides living safely in the New York, providing for his mother, infant daughter, and partner, and practicing his Christian religion in freedom. *See* ECF No. 1-3, Ex. A at ¶¶ 28–31. His release is clearly in the public interest.

This Court should therefore find that the balance of equities and public interest weigh in favor of granting Mr. Grigoryan’s motion.

II. This Court May Also Grant Mr. Grigoryan’s Immediate Release Pursuant to *Lucas v. Hadden* Because His Petition Presents a Clear Case for Habeas Relief and the Harm to His Health and Safety Are Exceptional Circumstances.

This Court has the inherent authority to order Mr. Grigoryan’s immediate release during the pendency of his petition. *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986); *see also Ahad v. Lowe*, 235 F. Supp. 3d 676, 688–89 (M.D. Pa. 2017); *Leslie v. Holder*, 865 F. Supp. 2d 627, 634–35 (M.D. Pa. 2012) (applying federal courts’ authority to order release in the context of immigration habeas). Under the standard developed by various circuit courts and adopted by the Third Circuit in *Lucas*, admission to bail pending resolution of a habeas petition is appropriate where the “habeas petitioner (1) make[s] out a clear case for habeas relief on the law and facts, or (2) establish[es] that exceptional circumstances exist warranting special treatment, or both.” 790 F.2d at 367. The archetypical “exceptional circumstances” in bail applications pending habeas adjudication are failing health and significant medical needs. *See Leslie*, 865 F. Supp. 2d at 636, 639; *Lucas*, 790 F.2d at 367; *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992).

Here, exceptional circumstances justify Mr. Grigoryan's immediate release. As discussed *supra*, Mr. Grigoryan is highly likely to succeed on the merits of his habeas case. Furthermore, he is detained under conditions that severely threaten his physical health and well-being, given his epilepsy and repeated seizures while detained and inadequate medical care in ICE custody. *See supra*; *see also Johnson v. Wetzel*, 209 F. Supp. 3d 766, 781 (M.D. Pa. 2016) (finding irreparable harm where prisoner suffered "escalating symptoms of mental degradation."). Only immediate relief, in the form of release, will permit a habeas remedy to be effective in this case. *See Leslie*, 865 F. Supp. 2d at 639–40. Mr. Grigoryan is suffering ongoing medical distress and violation of his constitutional rights—these harms will continue if he remains indefinitely detained. As such, the Court should invoke its inherent power to order Mr. Grigoryan's immediate release from Respondents' custody.

III. To Prevent Irreparable Legal and Bodily Injury to Mr. Grigoryan, this Court Should Issue an Order to Show Cause Requiring Respondents to Answer This Claim on an Expedited Basis.

In light of the ongoing and imminent risk to Mr. Grigoryan's health and safety in Respondents' custody and the ongoing deprivation of his right to procedural and substantive due process, and statutory protections, the Court should follow the strict procedural deadlines of § 2243. Accordingly, the Court should forthwith issue a writ of habeas corpus or an order to show cause and order Respondents to make a return within three days. *See* 28 U.S.C. § 2243; *A.L. v. Oddo*, No. 3:24-cv-302 at 4 (W.D. Pa. Jan. 6, 2025) (giving respondents three days to respond to petitioner's petition for writ in similar circumstances).

A prompt order to show cause with an expeditious deadline is appropriate in this case, because any other procedure will cause Mr. Grigoryan further irreparable legal and bodily injury. *See* L. Civ. R. 65.1(a) (providing that an order to show cause is appropriate where the movant

makes “a clear and specific showing . . . why a procedure other than by notice of motion is necessary”). Each additional day that Mr. Grigoryan spends detained compounds the ongoing infringement upon his due process rights, a singularly acute legal injury. *See Smith v. Bennett*, 365 U.S. 708, 712 (1961) (describing “personal liberty” as “man’s greatest right”); *Zadvydas*, 533 U.S. at 690. Worse still, Mr. Grigoryan’s ongoing medical issues and imminent risk of another seizure, along with Respondents’ inability to provide safe detention conditions, gravely endanger his bodily integrity. Swift judicial intervention to prevent such harms is the very reason that the writ of habeas corpus exists and enjoys such reverence in American jurisprudence. *See Fay v. Noia*, 372 U.S. 391, 399–400 (1963). Only issuance of a prompt order to show cause will fulfill the Great Writ’s promise in this case.

CONCLUSION

For the foregoing reasons, Mr. Grigoryan respectfully moves this Court to:

- (1) Issue a temporary restraining order or preliminary injunction requiring Respondents to release Petitioner and enjoining them 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) Order Respondents to show cause why Petitioner’s Petition should not be expeditiously granted; and/or
- (4) Grant Petitioner such other, further and additional relief as the Court deems just and appropriate.

Dated: March 14, 2025

Respectfully submitted,

/s/ Ellyn Elizabeth Jameson

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I, undersigned counsel, hereby certify that on this date, I filed this Petitioner's Memorandum of Law in Support of Motion for Temporary Restraining Order or Preliminary Injunction, Immediate Release Pursuant to *Lucas v. Hadden*, and/or Order to Show Cause using the CM/ECF system. I or my co-counsel will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania and send true copies by USPS to the following individuals:

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Dated: March 14, 2025

Respectfully submitted,

/s/ Ellyn Elizabeth Jameson
Ellyn Jameson

Pro bono counsel for Mr. Grigoryan

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; BRIAN MCSHANE, in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Philadelphia Field Office; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and PAM BONDI, in her official capacity as Attorney General of the United States.

Respondents.

PETITION FOR A WRIT
OF HABEAS CORPUS

Case No.

PROPOSED ORDER TO SHOW CAUSE

Upon consideration of the Memorandum of Law, and the Petition for Writ of Habeas Corpus, pursuant to Rule 65 of the Federal Rules of Civil Procedure, IT IS HEREBY ORDERED that:

1. Respondents must file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus and preliminary injunction should not be granted by _____ ;
2. Petitioner shall have the opportunity to reply by _____ ;
3. Further relief as the Court may find appropriate;
4. Service of this Order shall be effected electronically by Petitioners on the United States Attorney for the Eastern District of Pennsylvania by _____ am/pm on _____ and shall be deemed good and sufficient service thereof.