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UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

ARTEM VASKANYAN,

Petitioner,

v.

James Janecka, Warden, Adelanto ICE Processing Center, Thomas Giles, Los Angeles ICE Field Office Director, Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement, Kristi Noem, Secretary of the U.S. Department of Homeland Security; Pamela Bondi; Attorney General of the United States.

Respondents.

Case No. 5:25-CV-01475-CAS-AS

Motion for Temporary Restraining Order

PETITIONER'S NOTICE OF MOTION FOR A TEMPORARY RESTRAINING ORDER

Moving Party:	Petitioner
Place:	Hon. Magistrate Judge Alka Sagar Roybal Federal Building and United States Courthouse, 255 E. Temple St., Courtroom 540 Los Angeles, CA 90012 ***Undersigned counsel requests permission to appear by Zoom ***
Relief Sought:	Pursuant to Fed. R. Civ. P. 65(b), Petitioner respectfully moves the Court for a temporary restraining order pending adjudication of his Petition for a Writ of Habeas Corpus.
Papers Submitted in Support:	Memorandum of Points and Authorities; Declaration of Irene C. Freidel (Freidel Decl. II) dated June 17, 2025; Declaration of Irene C. Freidel (Freidel Decl. I) dated June 13, 2024.

Respectfully submitted,

/s/ Irene C. Freidel
Counsel for Petitioner

June 17, 2025

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

ARTEM VASKANYAN,

Petitioner,

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James Janecka, Warden, Adelanto ICE Processing Center, Thomas Giles, Los Angeles ICE Field Office Director, Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement, Kristi Noem, Secretary of the U.S. Department of Homeland Security; Pamela Bondi; Attorney General of the United States.

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PETITIONER'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING ORDER

I. PRELIMINARY STATEMENT

Petitioner Artem Vaskanyan ("Petitioner") respectfully moves this Court for a temporary restraining order pending the Court's adjudication of his Petition for a Writ of Habeas Corpus. Specifically, Petitioner requests the Court to order Respondents to maintain the status quo by (1) not transferring Petitioner to an ICE facility outside of this judicial district so that the Court is not divested of jurisdiction over the Petition; and (2) refraining from removing Petitioner to a third country without notice and an opportunity to be heard.

Petitioner is stateless. He came to the United States as a child as a refugee from

the Soviet Republic of Azerbaijan, a country that no longer exists. He received a final order of removal from the Boston Immigration Court on April 26, 2012. The order designated Russia, and in the alternative Azerbaijan, as the countries of removal. Since 2012, and even prior to 2012, Petitioner has repeatedly made efforts, and has cooperated with ICE, to obtain a travel document from either country. Between 2011 and 2025, Petitioner submitted three identical travel document applications to Azerbaijan,[1] and as far back as 2014, Petitioner received confirmation that Russia did not recognize him as a citizen. Despite confirming that Petitioner cannot be removed to either Azerbaijan or Russia, ICE has continued to detain Petitioner for more than six months and refuses to release him on an Order of Supervision despite the substantial evidence that Petitioner is neither a danger nor a flight risk.

In the last six months, ICE has held Petitioner in three different detention facilities in three different states, transferring him arbitrarily and without notice to Petitioner or counsel. Each time ICE moves Petitioner, he is subject to a new judicial district and a new ICE Field Office, which then asks Petitioner to submit the same travel document applications that he previously submitted at his prior detention facility. The transfers do nothing but prolong Petitioner's now unconstitutional detention and interfere with his access to counsel and right to seek habeas relief.

While Petitioner was detained in New York, and only *after* the six months of post-removal detention had passed, ICE required Petitioner to apply for citizenship from Armenia for the first time. One month later, and after ICE transferred Petitioner again, this time to Adelanto, ICE asked Petitioner to re-submit his application for Armenia –

[1] *See* Exhibits B, D, and F to Second Declaration of Irene C. Freidel dated June 17, 2025 ("Freidel Decl. II").

continuing its pattern of transferring Petitioner to a new ICE Field Office and requesting duplicative travel document applications either out of disorganization or to justify Petitioner's prolonged detention. Petitioner has no claim to citizenship from Armenia. While he is ethnically Armenian, he has never lived in or visited Armenia, his grandparents and parents did not live in Armenia, he has no family in Armenia, and he does not speak Armenian. Importantly, he has no documents, as required by Armenia, to prove his Armenian descent.

The Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001) mandates Petitioner's release from further imprisonment. Respondents cannot show that there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. That Respondents may be waiting for an answer on Petitioner's now twice-submitted citizenship application from Armenia is not sufficient to meet this standard, when Respondents delayed in asking for the application until after the six month post-removal period expired, and Petitioner has no documented claim to Armenian citizenship.

Because Petitioner is likely to succeed on his Petition, as well as to avoid the significant irreparable harm Petitioner would suffer if Respondents transfer him outside of this district or remove him to a third country not designated by the Immigration Court, Petitioner requests that the Court issue an order restraining Respondents from transferring or removing Petitioner to a third country while his Petition is pending.

II. NOTICE TO RESPONDENTS

Undersigned counsel Irene C. Freidel first contacted the U.S. Attorney's Office for the Central District of California to meet and confer regarding this Motion on Thursday, June 12, 2025. On June 13, 2025, Ms. Freidel met by phone with Assistant

U.S. Attorney Jill Casselman to discuss Petitioner's status and the issues raised in this Motion. Counsel agreed that Respondents would have 48 hours, excluding weekends and holidays, to respond to this Motion once filed, and that Petitioner would not be transferred in that time period.

III. FACTUAL BACKGROUND

Petitioner Artem Vaskanyan is a 45-year-old man who was born in the Soviet Republic of Azerbaijan. He is ethnically Armenian and, due to ethnic cleansing of Armenians by Azerbaijan, he was forced to flee Azerbaijan as a child in approximately 1986. He was ultimately granted refugee status in the United States along with his mother and brother and arrived here in approximately 1993.

When he was nineteen years old, Petitioner was arrested for participating in a home invasion in Massachusetts, and he was convicted in December 2001. Petitioner made one bad decision as a teenager, and he has been imprisoned ever since. Yet, while in criminal custody, Petitioner grew up. He obtained a bachelor's degree from Boston University, learned multiple languages, completed numerous classes and certificates, published books of poetry, and impressed numerous people with his good character. *See* Exhibits A-N to Freidel Decl. I.

In September 2024, the Massachusetts Superior Court determined that Petitioner's sentence violated the Massachusetts Constitution, and he had over-served his prison sentence by nine years for a non-homicide case in which was not the principal actor. *See* Exhibit B to Freidel Decl. I dated June 12, 2025. He had also accrued five years of "good time" based on exemplary behavior *Id.* He was released from criminal custody in November 2024.

While he was in criminal custody, Petitioner appeared *pro se* before an Immigration Judge in the Boston Immigration Court and was ordered removed on April 26, 2012. *See* Order of Removal attached as Exhibit A to Second Declaration of Irene C. Freidel in Support of Motion

for Temporary Restraining Order dated June 16, 2025 ("Freidel Decl. II"). Even before he was ordered removed by the Immigration Court, Petitioner began working to get travel documents so that he could be released from custody as early as possible. *See* Exhibit B to Freidel Decl. II (application for travel document or passport submitted to Azerbaijan in 2011).

In 2014, Petitioner received a statement from Russia that Russia would not confirm Petitioner's citizenship. Freidel Decl. I at T. Petitioner also continued to engage in numerous communications with the government of the Republic of Azerbaijan, which has steadfastly refused to recognize Petitioner as a citizen. *See* Exhibit S to Freidel Decl. I. Knowing that Azerbaijan would not accept Petitioner, since it was at war with Armenia and was engaged in ethnic cleansing against Armenians, in 2017, Petitioner notified both the federal court and Immigration Court that he could not be removed to either Russia or Azerbaijan. *See* Exhibit C to Freidel Decl. II.

On November 22, 2024, Petitioner was released from criminal custody and transferred to Respondents' custody. Before his release from criminal custody but while in temporary ICE custody, on November 12, 2024, Petitioner again applied for a travel document and passport from Azerbaijan. Exhibit D to Freidel Decl. II; *see also* Exhibit S to Freidel Decl. I at para. 12. He then followed up with Azerbaijan by calling their Consulate and Embassy. *See* Exhibit S to Freidel Decl. I. The undersigned counsel also provided information to respond to questions by the Azerbaijan government. *See* Exhibit U to Freidel Decl. I.

ICE initially held Petitioner at the Donald W. Wyatt Detention Facility in Central Falls, Rhode Island. While there, Petitioner continued to cooperate with Respondents, and undersigned counsel, Ms. Freidel, submitted an attorney appearance on Petitioner's behalf with ICE in December 2024. *See* Exhibit E to Freidel Decl. II. In early February 2025, ICE conducted a 90-day custody review of Petitioner, after Petitioner submitted a substantial record of documents

showing that he was stateless and neither a danger to the community nor a flight risk. On February 10, 2025, ICE issued a decision denying Petitioner's release stating that he was both a danger and a flight risk. *See* Exhibit V to Freidel Decl. I.

In early February 2025, Respondents, without notice to counsel or Petitioner, transferred Petitioner to the Buffalo Federal Detention Facility in Batavia, NY. While there, ICE in Batavia, NY – now a new Field Office in charge of Petitioner's case -- asked Petitioner again to submit the same duplicative travel document and passport application to Azerbaijan as he had in 2011 and in November 2024 to the Boston Field Office. He did so on February 19, 2025. *See* Exhibit F to Freidel Decl. II. At no point was Azerbaijan going to issue a travel document to Petitioner, since he was never a citizen of the post-Soviet Republic of Azerbaijan, and he is ethnically Armenian, which people the Azerbaijani government has sought to eradicate.

Petitioner retained counsel in New York to file a Petition for a Writ of Habeas Corpus in the U.S. District Court for the Western District of New York. *See* Vaskanyan v. Kurzdorfer, et al., Case No. 1:25-cv-00295-JLS (W.D.N.Y.) Because the petition was filed when Petitioner had not yet spent 180 days in ICE custody, the District Court dismissed it. In early May 2025, ICE conducted a 180-day custody review and conducted an interview of Petitioner while he was still in New York. ICE has never served a decision of the custody review on Petitioner or his counsel. After his 180-day custody review, and while he was still in New York, ICE asked Petitioner for the first time to complete a citizenship application for Armenia, which he did.

On June 10, 2025, again without notice to counsel, ICE transferred Petitioner to the Adelanto ICE Processing Center in Adelanto, CA. Petitioner is now subject to a third ICE Field Office – this time Los Angeles. Within several days of his arrival, ICE asked Petitioner to complete another citizenship application for Armenia – the same document ICE had already asked him to complete in New York more than one month ago.

Petitioner has now been in Respondents' custody for seven months, and ICE has notice from both Russia and Azerbaijan that they will not recognize Petitioner as a citizen. Armenia is not a country designated as a country of removal in Petitioner's order of removal, and Petitioner has no documented claim to citizenship in Armenia.

IV. ARGUMENT

A. Standard for Granting A Temporary Restraining Order

The standards for granting a TRO and a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure are identical. A party seeking a preliminary injunction "must establish that it is likely to succeed on the merits, that it is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in its favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The last two factors merge when the government is a party. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). When considering whether to grant this "extraordinary remedy, ... courts must balance the competing claims of injury and consider the effect of granting or withholding the requested relief, paying particular regard to the public consequences." *Winter*, 555 U.S. at 24. *See also AFL-CIO v. Trump*, Case No. 25-cv-03698-SI, 2025 WL 1482511, -- F. Supp.3d – (N.D. Cal. May 22, 2025) (injunction granted).

Under the Ninth Circuit's "serious questions" standard, a party is entitled to a preliminary injunction if it demonstrates (1) serious questions going to the merits, (2) a likelihood of irreparable injury, (3) a balance of hardships that tips sharply towards the plaintiff, and (4) the injunction is in the public interest. *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024) (citing *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011) ("[T]he 'serious questions'

version of the sliding scale test for preliminary injunctions remains viable after [*Winter*].")) (citing *Cottrell*, 632 F.3d at 1135). As to the first factor, the serious questions standard is "a lesser showing than likelihood of success on the merits." *Id.* (citing *All. for the Wild Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017)).

A temporary restraining order "prohibits a party from taking action" and preserves the *status quo ante litem*, which refers to the "last uncontested status which preceded the pending controversy." *Id.* at 1191. *See Shilling v. United States*, No. 25-CV-241-BHS, 2025 WL 926866, at *11 (W.D. Wash. Mar. 27, 2025) (granting preliminary injunction).

Here, Petitioner meets both the irreparable harm and likelihood of success prongs and the requested relief is not overly burdensome on Respondents. Accordingly, Petitioner merits issuance of a TRO.

B. Petitioner Is Likely To Succeed On The Merits Of His Petition

Petitioner's ongoing detention violates Petitioner's Fifth Amendment right to due process and the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6). Petitioner is likely to succeed on the merits of his Petition as he is stateless, and his continued detention beyond six months is unconstitutional. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

In *Zadvydas*, the Supreme Court explained that

> [w]hen an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the Government ordinarily secures the alien's removal during a subsequent 90–day statutory "removal period," during which time the alien normally is held in custody.

Id. at 682. The 90-day removal period is set out in 8 U.S.C. § 1231(a)(1)(A) ("when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a

period of 90 days"). The statute authorizes the further detention of the noncitizen if the government – as here – fails to remove him during the first 90 days.

> An alien ordered removed [1] who is inadmissible ... [2] [or] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision ....

8 U.S.C. § 1231(a)(6).

Related regulations contain a process by which ICE reviews the noncitizen's detention during the removal period. 8 C.F.R. § 241.4(c)(1), (h), (k)(1)(i). First, upon the expiration of the 90-day removal period, ICE will conduct a review to decide whether to continue to detain the noncitizen further or release under supervision. If ICE decides to continue detention, ICE will review the case again after the expiration of an additional 90-days. 8 C.F.R. § 241.4(k)(2)(ii). At that time, ICE will consider records and may conduct an interview of the noncitizen to decide whether to continue to detain the noncitizen or release under supervision. § 241.4(i). In making its decision, ICE is to consider information including the noncitizen's disciplinary record, criminal record, mental health reports, evidence of rehabilitation, history of flight, prior immigration history, and favorable factors such as family ties. § 241.4(f). To authorize release, ICE must find that the noncitizen is not likely to be violent, to pose a threat to the community, to flee if released, or to violate the conditions of release. § 241.4(e). In addition, the noncitizen must demonstrate "to the satisfaction of the Attorney General" that he will pose no danger or risk of flight. § 241.4(d)(1). *Zadvydas*, 533 U.S. at 683-84.

In reviewing the post-removal-period detention statute, 8 U.S.C. § 1231(a)(6), the Supreme Court concluded that the statute contains an "implicit limitation." *Id.* at 689. Specifically, the Court stated, "[i]n our view, the statute, read in light of the Constitution's

demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention." *Id.* This is so because a "statute permitting indefinite detention of an alien would raise a serious constitutional problem" because "[t]he Fifth Amendment's Due Process Clause forbids the Government to 'depriv[e]' any 'person … of … liberty … without due process of law.'" *Id.* at 690. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of liberty that Clause protects." *Id.*[2] *See also id.* at 693 ("the Due Process Clause protects an alien subject to a final order of deportation ….").

Whether a noncitizen's detention is "within, or beyond, a period reasonably necessary to secure removal" determines whether the detention is statutorily lawful. *Zadvydas*, 533 U.S. at 699. The Supreme Court directs that the habeas court

> must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances, and the alien may no doubt be returned to custody upon a violation of those conditions. See *supra,* at 2501 (citing 8 U.S.C. §§ 1231(a)(3), 1253 (1994 ed., Supp. V); 8 C.F.R. § 241.5 (2001)). And if removal is reasonably foreseeable, the habeas court should consider the risk of the alien's committing further crimes as a factor potentially justifying confinement within that reasonable removal period. See *supra,* at 2499.

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[2] Significantly, the Court noted that immigration detention is "civil, not criminal, and we assume that they are nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690. "[W]e have upheld preventive detention based on dangerousness only when limited to specially dangerous individuals and subject to strong procedural protections." *Id.* at 690-91. To detain someone potentially indefinitely on dangerousness grounds, there must be some other "special circumstance, such as mental illness, that helps create the danger." *Id.* at 691.

Id. at 699-70. Accordingly, even if the removal is reasonably foreseeable following the expiration of the removal period, the habeas court may order the noncitizen's release under supervision pending the removal. If the noncitizen provides good reason to believe that "there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701. "And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Id.*

In this case, there is no "significant likelihood of [Petitioner's] removal in the reasonably foreseeable future." First, Petitioner was ordered removed to Russia and, in the alternative, Azerbaijan. *See* Exhibit A to Freidel Decl. II. Both countries have stated that they will not accept Petitioner. *See* Exhibit T to Freidel Decl. I (Russia) and Exhibit W (Azerbaijan). Petitioner never had legal status in Russia, and Petitioner only lived in the Soviet Republic of Azerbaijan, leaving before the Soviet Union collapsed. He was never a citizen of the post-Soviet Republic of Azerbaijan. Further, Petitioner left Azerbaijan due to the country's genocide of ethnic Armenians, which continues today. Accordingly, Petitioner is stateless.

Since Petitioner has now been detained beyond the 180-day post-removal period, the government must respond with evidence sufficient to rebut Petitioner's showing, and sufficient to establish that Petitioner's removal is reasonably foreseeable. They cannot do so. Following the expiration of Petitioner's six-month post-removal period, and while Petitioner was detained at the Buffalo Federal Detention Center, in Buffalo, NY, ICE asked Petitioner to apply for citizenship to Armenia. As he has cooperated with all of ICE's requests for assistance in obtaining travel documents, Petitioner completed the Armenian citizenship application to the best of his ability. *Approximately one month later*, after ICE transferred Petitioner to Adelanto, CA without notice, ICE asked Petitioner to complete the same Armenian citizenship form again. Petitioner does not

believe he can establish a claim of citizenship in Armenia, based on the information and documentation requested. While ICE has not shared with the undersigned counsel the document that it has asked Petitioner to now complete twice, it appears that Armenia requires an individual who is "ethnic Armenian by descent" to produce one or more documents to establish identity and Armenian descent *See* https://www.mfa.am/en/citizenship/. Petitioner does not have the required documents.

Petitioner was born in Baku, Azerbaijan,[3] and his family left Azerbaijan as refugees and were not able to keep or maintain their records. Petitioner has been incarcerated since he was a teenager and his records are lost. Moreover, upon information and belief, Petitioner's immediate family – parents or grandparents – did not live in Armenia. Accordingly, there is currently no reason to believe that Armenian will provide Petitioner with citizenship, and certainly not enough reason to believe that it will do so in the near future such that Petitioner's removal is "reasonably foreseeable."

Perhaps more important, ICE should not be able to string Petitioner along, have him complete duplicate applications a month apart, and keep him detained while ICE takes its time deciding what to do next. Ostensibly, after Armenia declines to grant Petitioner citizenship, ICE could require Petitioner to apply to another country and another country, until his detention becomes indefinite. The Supreme Court has made clear that detention that exceeds the post-removal-period – as Petitioner's now has – is unconstitutional unless the government can provide proof that there is "a significant likelihood of removal in the foreseeable future." 533 U.S. at 701. That Petitioner is ethnically Armenian is not proof that Armenia will issue a travel document for Petitioner in the reasonably foreseeable future. ICE has had since 2012, when Petitioner was

[3] *See* Exhibit G to Freidel Decl. II.

ordered removed, to pursue this option, and at a minimum since it took custody of Petitioner in November 2024. It should not be permitted to drag its feet by transferring Petitioner around the country and requiring him to submit duplicate applications after each transfer while violating Petitioner's constitutional right to Due Process.[4]

Petitioner should be ordered released on supervision. He has provided extensive proof that he is not a danger to the community having served 24 years in criminal custody for a non-homicide case, which occurred when he was a teenager, and he was not the principal actor. Petitioner over-served nine years on his sentence, and accrued a full five years of good time based on exemplary behavior. The Massachusetts Superior Court ordered Petitioner released from custody in November 2024, finding that he was not a danger to the public. Petitioner used his time in prison to receive a university education, write books, learn languages, study courses, and many people vouch for his good character. *See* Exhibits A-N, Freidel Decl. I.

In addition, Petitioner is not a flight risk. His US citizen mother and brother are waiting to receive him at their home in Springfield, MA. Exhibits O & P, Freidel Decl. I. Petitioner has been incarcerated for more than 24 years. There is nowhere he wants to go but home, and he does not have the life skills to know how to live on his own. He has never had or used a cell phone or a debit card. He is eager to begin his life as a responsible adult outside of the prison walls and he will have support doing so.

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[4] In addition, Congress has carefully specified the procedures by which noncitizens may be removed. The INA leaves little doubt that its procedures must apply to every noncitizen, unless otherwise specified by the statute. "Unless otherwise specified in this chapter," the INA's comprehensive scheme provides "the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States." 8 U.S.C. § 1229a(a)(3); *see also United States v. Tinoso*, 327 F.3d 864, 867 (9th Cir. 2003) ("Deportation and removal must be achieved through the procedures provided in the INA."). Indeed, Congress intended for the INA to "supersede all previous laws with regard to deportability." S. Rep. No. 82-1137, at 30 (Jan. 29, 1952).

In *Zadvydas*, the Supreme Court held that this post-removal statute does not authorize indefinite detention by the government because such detention "would raise serious constitutional concerns…." 533 U.S. at 682. The Court construed the statute as containing an "implicit 'reasonable time' limitation … subject to federal-court review." *Id.* The reasonable time limitation on Petitioner's detention has expired, and he now should be ordered released.

C. Petitioner Will Suffer Irreparable Harm If He Is Transferred Again Before This Court Adjudicates His Petition Or If He Is Removed To A Third Country Without Notice.

In the absence of a TRO, Petitioner is at risk of transfer outside of this judicial district or removal to an undesignated third country without notice and an opportunity to be heard. Either of these events would cause Petitioner irreparable harm, Petitioner satisfies this test.

1. Transfer outside of this judicial district will cause Petitioner irreparable harm

Petitioner's allegations of constitutional violations – namely his Due Process right not to be subject to indefinite detention -- permits a *per se* finding of irreparable harm. The "deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). *See Elrod v. Burns*, 427 U.S. 347, 373 (1976) (public employees discharged from employment due to partisan political affiliation incurred the loss of First Amendment freedoms that "unquestionably constitute[d] irreparable injury"). *See also Assoc. Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity*, 950 F.2d 1401, 1412 (9th Cir. 1991) (alleged constitutional infringement often alone constitutes irreparable harm). *See also Shilling*, No. 25-CV-241-BHS, 2025 WL 926866, at *25.

Any transfer of Petitioner outside of this judicial district before the Court adjudicates his Petition will divest this Court of jurisdiction over the Petition. *See Trump v. J.G.G.*, 604 U.S. ----,

145 S. Ct. 1003, 1005-1006 (2025) ("For 'core habeas petition,' 'jurisdiction lies in only one district: the district of confinement'") (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). If that occurs, Petitioner will be forced to find and retain new counsel and re-file a habeas petition for the third time. The result will interfere with Petitioner's right to have his Petition adjudicated by this Court and it will further prolong Petitioner's already unconstitutional detention. That alone satisfies the necessary showing of irreparable injury. "[I]t is always in the public interest to prevent the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002. *See also Conn. Dep't of Envtl. Prot. V. O.S.H.A.*, 356 F.3d 226, 231 (2d Cir. 2004) ("[W]e have held that the alleged violation of a constitutional right triggers a finding of irreparable injury.") (internal citations and quotation marks omitted); *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) ("[An] alleged violation of a constitutional right . . . triggers a finding of irreparable harm.")

Second, but for an order of the Court barring Petitioner's transfer while the Petition is pending, there is a substantial chance that Petitioner will be transferred again – as he is currently in his third ICE facility since his detention began in November 2024 – and he cannot be returned to the position he previously occupied. Every day that Petitioner's now unconstitutional detention is prolonged is a day of Petitioner's life in prison, deprived of freedom, that he can never get back. Moreover, each time Petitioner is transferred, his case is moved to a new ICE Field Office that requires the repeated submission of the same documents that Petitioner already provided to the prior Field Office thus further unfairly prolonging Petitioner's detention. For all of these reasons, Respondents should be restrained from transferring Petitioner again while this Petition is pending.

2. Respondents' removal of Petitioner to a third country without notice will cause Petitioner irreparable harm

When the government may not remove a noncitizen to any country identified in their order of removal, the government may still remove the individual to any "country whose government will accept the alien into that country." 8 U.S.C. § 1231(b)(2)(E)(vii) ("third country removals"). However, a specific carve-out in the statute prohibits removal to countries where the noncitizen would face persecution or torture. 8 U.S.C. § 1231(b)(3)(A). Similarly, Congress codified protections established by the Convention Against Torture such that a noncitizen may not be removed to any country where they would be tortured. *See* 28 C.F.R. § 200.1; 8 C.F.R. 208.16-18, 1208.16-18. "In other words, third-country removals are subject to the same mandatory protections that exist in removal or withholding-only proceedings." *D.V.D.*, 2025 WL 1142968, * 3.

Following World War II, Congress consolidated U.S. immigration laws into a single text under the Immigration and Nationality Act of 1952 ("INA"). The INA, and its subsequent amendments, provide a comprehensive system of procedures that the government must follow before removing a noncitizen from the United States. *See* 8 U.S.C. § 1229a(a)(3) (INA provides "sole and exclusive procedure" for determining whether noncitizen may be removed). As part of that reform and other subsequent amendments, Congress prescribed safeguards for noncitizens seeking protection from persecution and torture. These protections codify the humanitarian framework adopted by the United Nations in response to the humanitarian failures of World War II. *See INS v. Cardoza-Fonseca*, 480 U.S. 421, 439-40 (1987); *Aliyev v. Mukasey*, 549 F.3d 111, 118 n.8 (2d Cir. 2008) ("It is no accident that many of our asylum laws sprang forth as a result of events in 1930s Europe.").

Protections under the Convention Against Torture ("CAT") specifically prohibit returning noncitizens to a country where it is more likely than not that they would face torture.

See Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA") § 2242(a), Pub. L. No. 105-207, Div. G. Title XXI, 112 Stat. 2681 (codified at 8 U.S.C. § 1231 note); 8 C.F.R. § 1208.16-.18. Thus, under Congressionally enacted immigration laws, Petitioner has the right to seek protection from torture before being removed to a third country. *See, e.g.*, 8 U.S.C. §§ 1158, 1231(b)(3), 1231 note.

In *Trump v. J.G.G.*, 604 U.S. ----, 145 S. Ct. 1003, 1005-06 (2025), the Supreme Court recently confirmed, in the context of pending removals of Venezuelans under the Alien Enemies Act, that:

> "It is well established that the Fifth Amendment entitles aliens to due process of law" in the context of removal proceedings. *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L.Ed.2d 1 (1993). So, the detainees are entitled to notice and opportunity to be heard "appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950). More specifically, in this context, AEA detainees must receive notice after the date of this order that they are subject to removal under the Act. The notice must be afforded within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs.

Accordingly, notice must be afforded a noncitizen before they are removed to an undesignated third country. *Trump v. J.G.G.*, *id.*; *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (Sotomayor, J., concurring) (explaining that the Government has an "obligation to provide [the plaintiff who was subject to an order of removal] ... notice and an opportunity to be heard" and ensure compliance with its "obligations under [CAT]" prior to removal); *see also Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding that "last minute designation" of removal country during formal proceedings "violated a basic tenet of constitutional due process: that individuals whose rights are being determined are entitled to notice of the issues to be adjudicated, so that they will

have the opportunity to prepare and present relevant arguments and evidence"); *Kossov v. INS*, 132 F.3d 405 (7th Cir. 1998) (due-process violation to order deportation to Russia after a claim of asylum as to Latvia where uncounseled noncitizen was provided insufficient notice of Russia possibility); *D.V.D.*, 2025 WL 1142968, at *20.

To ensure that the government does not continue to remove noncitizens to third countries without notice and an opportunity to be heard on fear-based claims, without due process, the U.S. District Court for the District of Massachusetts issued the following class-wide injunction:

> All removals to third countries, *i.e.*, removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen's order of removal, *see* 8 U.S.C. § 1231(b)(1)(C), must be preceded by written notice to both the non-citizen and the non-citizen's counsel in a language the non-citizen can understand. Dkt. 64 at 46–47. Following notice, the individual must be given a meaningful opportunity, **and a minimum of ten days**, to raise a fear-based claim for CAT protection prior to removal. *See id.* If the non-citizen demonstrates "reasonable fear" of removal to the third country, Defendants must move to reopen the non-citizen's immigration proceedings. *Id.* If the non-citizen is not found to have demonstrated a "reasonable fear" of removal to the third country, Defendants must provide a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening of their immigration proceedings. *Id.*
>
> This Preliminary Injunction applies to the Defendants, including the Department of Homeland Security, as well as their officers, agents, servants, employees, attorneys, any person acting in concert, and any person with notice of the Preliminary Injunction. Fed. R. Civ. P. 65(d)(2); *see also* Dkts. 86, 91. Accordingly, no Defendant may avoid their duty to follow the Preliminary Injunction by involving or ceding responsibility to any other person. *See* Dkt. 86.

D.V.D. v. U.S. Dep't. of Homeland Sec., No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (Order on Remedy for Violation of Preliminary Injunction), *reconsideration denied sub nom. D.V.D v. U.S. Dep't. of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1495517 (D. Mass. May 26, 2025). As this decision is currently being appealed

by the government to the U.S. Supreme Court, Petitioner requests that he be protected by a TRO here providing the same notice requirement.

This restraint is crucial in light of the government's recent efforts to remove noncitizens without notice to countries including Libya and South Sudan, *see id.,* as well as El Salvador. *See J.G.G.*, 2025 WL 1024097, at *5 (Sotomayor, J., dissenting) ("[I]nmates in Salvadoran prisons are 'highly likely to face immediate and intentional life-threatening harm at the hands of state actors.'"); *see also D.B.U. v. Trump*, --- F. Supp. 3d ----, 2025 WL 1163530, *13 (D. Colo. Apr. 22, 2025), *stay denied*, 2025 WL 1233583 (10th Cir. Apr. 29, 2025) ("Absent a TRO, Petitioner faces the risk of being deported—perhaps wrongfully deported—under the Act and Proclamation in violation of their constitutional rights.").

While Respondents are currently attempting to obtain a travel document for Petitioner to be removed to Armenia, an undesignated third country, there is no reason to believe that after Armenia, they will attempt -- without notice -- to put Petitioner on a plane to any number of other countries that may accept him. This easily constitutes irreparable harm. *See Baptiste v. Kennealy*, 490 F. Supp. 3d 353, 381 (D. Mass. 2020) ("A finding of irreparable harm . . . most often exists where a party has no adequate remedy at law." (citations omitted)); *D.V.D. v. U.S. Dep't. of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1142968, at *23 (D. Mass. Apr. 18, 2025) ("It is undoubtedly '"irreparable injury to reduce to a shell game the basic lifeline of due process before an unprecedented and potentially irreversible removal occurs."' (citing *J.G.G.*, 2025 WL 914682, at *30 (Millett, J., concurring))); *Antonio v. Garland*, 38 F.4th 524, 527 (6th Cir. 2022) (irreparable harm where petitioner faced likely torture if removed *Huisha-Huisha v. Mayorkas*, 560 F. Supp. 3d 146, 172 (D.D.C. 2021) (irreparable harm where plaintiffs "face the threat of removal prior to receiving any of the protections the immigration laws provide"), *aff'd in part and rev'd in part*, 27

F.4th 718, 733 (D.C Cir. 2022); *see also J.G.G.*, 2025 WL 890401, at *16 ("[T]he risk of torture, beatings, and even death clearly and unequivocally supports a finding of irreparable harm").

If Petitioner is removed unlawfully and without notice, he may never be returned. *See J.G.G.*, 145 S. Ct. at 1101 (Sotomayor, J., dissenting) (noting government's position that "even when it makes a mistake, it cannot retrieve individuals from the Salvadoran prisons to which it has sent them"); *Abrego Garcia v. Noem*, No. 25-1404, 2025 WL 1135112, at *2 (4th Cir. Apr. 17, 2025) ("both the United States and the El Salvadoran governments disclaim any authority and/or responsibility to return" unlawfully removed noncitizen); *Arguelles v. U.S. Att'y Gen.*, 661 F. App'x 694, 716 (11th Cir. Nov. 23, 2016) ("[I]n *Nken*[*v. Holder*, 556 U.S. 418 (2009)], the Supreme Court told us removal from the United States [after entry of a removal order] is not categorically irreparable because removed petitioners 'who prevail [in a petition for review] can be afforded effective relief by facilitation of their return.' 556 U.S. 418, 435. But . . . it is implicit in this rule that removal *does* constitute irreparable harm when facilitation of a removed petitioner's return will *not* be possible." (emphasis in original)); *D.V.D.*, 2025 WL 1453640, at *23 (D. Mass. May 21, 2025) ("The irreparable harm factor likewise weighs in Plaintiffs' favor. Here, the threatened harm is clear and simple: persecution, torture, and death. It is hard to imagine harm more irreparable."). Until the Petition is finally adjudicated, Petitioner's transfer or removal to a third country without notice should be restrained.

D. The Balance of Equities and Public Interest Weigh Decidedly In Favor of a Temporary Restraining Order

The balance of equities and public interest merge in cases against the government. *See Nken v. Holder*, 556 U.S. 418, 436 (2009). Here, the balance favors Petitioner. The

public has a critical interest in preventing wrongful removals, especially where it could mean a lifetime sentence in a notorious foreign prison. *See Nken*, 556 U.S. at 436; *see also D.V.D.*, 2025 WL 1142968, at *23 (where "the Court has found it likely that these deportations have or will be wrongfully executed and that there has at least been no opportunity for Plaintiffs to demonstrate the substantial harms they might face[, t]he Court finds that these circumstances countervail the public's normal and meaningful 'interest in prompt execution.'" (quoting *Nken*, 556 U.S. at 436)).

The potential injury to Petitioner if a restraining order is not issued is profound. As to transfer, Petitioner's constitutional right to be free of unlawful detention weighs heavily in the public interest. The same is true for his potential removal to a third country without notice where he could suffer torture. "[T]here is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Nken*, 556 U.S. at 436. The public's interest in promptly executing removal orders (*id.*) is outweighed here where Respondents have continued to hold Petitioner beyond the constitutional removal period of six months, and they have been on notice of his removal order since 2012.

Petitioner does not contest Respondents' ability to prosecute criminal offenses, detain noncitizens, and remove noncitizens under the immigration laws. Here, the likelihood of Petitioner's success on the merits, combined with the established constitutional framework that requires the government to proceed lawfully when effectuating removal, strongly tips the balance of equities in Petitioner's favor. As one district court recently found,

> the Court finds that injunctive relief as ordered below would serve the public interest, because "[t]here is generally no public interest in the perpetuation of unlawful agency action. To the contrary, there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *See League of Women Voters of United States v.*

> *Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (internal quotation marks and citations omitted).

AFL-CIO v. Trump, 2025 WL 1482511, at *27. Respondents similarly cannot show here how the government's interests overcome irreparable injury to Petitioner.

V. THE COURT SHOULD NOT REQUIRE PETITIONER TO PROVIDE SECURITY

The Court should not require a bond under Fed. R. Civ. P. 65. Rule 65(c) permits a court to grant preliminary injunctive relief "only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Despite the seemingly mandatory language, "Rule 65(c) invests the district court 'with discretion as to the amount of security required, *if any.*'" *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir.2003) (quoting *Barahona–Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir.1999)). In particular, "[t]he district court may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct." *Id. Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009). Here, there is no realistic likelihood of harm to Respondents if the Court grants the requested TRO, and it would pose a significant hardship on Petitioner who has been incarcerated for more than twenty-four years and is represented by *pro bono* counsel. The Court should exercise its discretion and waive the requirement to post a bond under Rule 65(c).

VI. CONCLUSION

For all the foregoing reasons, Petitioner Artem Vaskanyan respectfully requests that the Court grant a TRO preventing Respondents from transferring him or removing him to a third country without notice while this Petition is pending.

Dated: June 17, 2025 Respectfully submitted,

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