Irene C. Freidel
(pro hac vice)
ifreidel@pairproject.org
Political Asylum/Immigration Representation (PAIR) Project
98 N. Washington Street, Suite 106
Boston, MA 02114
Tel: 617-947-6349
Fax: 617-742-9385

Stacy Tolchin (SBN 217431)
Stacy@tolchinimmigration.com
Megan Brewer (SBN 268248)
Megan@tolchinimmigration.com
Law offices of Stacy Tolchin
776 E. Green St., Suite 210
Pasadena, CA 91101
Tel: (213) 622-7450
Fax: (213) 622-7233

Counsel for Petitioner

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-MRA-AS

PETITIONER'S REPLY IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER

Petitioner Artem Vaskanyan ("Petitioner") respectfully submits this reply memorandum in support of his *Ex Parte* Application for a Temporary Restraining Order pending the Court's adjudication of his Petition for a Writ of Habeas Corpus. To Respondents, there is nothing wrong with, and they take no responsibility for, their delay in keeping Petitioner in custody despite that he is stateless and falls precisely within the category of noncitizens addressed by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), those who are in "removable-but-unremovable limbo."[1] In their Opposition, Respondents fail to address why they have dragged their feet by having Petitioner submit multiple, duplicate applications for travel documents, transferring Petitioner multiple times causing more delay, and only deciding to submit a citizenship application to Armenia *after* the presumptively reasonable 180-day removal period had lapsed. All the while, Petitioner has proven he is neither a flight risk nor a danger to the community and could be on supervised release. Under Respondents' approach to Petitioner's custody, Petitioner could be indefinitely detained, because Respondents could simply continue to transfer Petitioner around the country while casually seeking travel documents for Petitioner from any number of third countries.

Respondents' "shell game"[2] with Petitioner's life – moving him around the country without notice to him or his counsel, providing no decision on their 180-day custody review, issuing an arbitrary and capricious decision on their 90-day custody review, and attempting to find a third country to send Petitioner to only after his detention period has become presumptively unreasonable – violates Petitioner's right to due process. Until the Petition is finally adjudicated, any further transfer of Petitioner should be restrained so that this Court can

---

[1] *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008), cited in Respondents' Opposition at 5.

[2] *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).

provide the necessary guardrails that the government requires to ensure Petitioner's protection.

I. RESPONDENTS IGNORE, AND TAKE NO RESPONSIBILITY FOR, THE IRREPARABLE HARM THAT PETITIONER SUFFERS EVERY DAY THAT HE IS INCARCERATED BEYOND THE PRESUMPTIVELY REASONABLE REMOVAL PERIOD

The requested TRO is necessary to protect Petitioner from further delay and constitutional harm arising from his on-going presumptively unreasonable detention. The arguments offered by Respondents in their Opposition carry no weight. According to Respondents, Petitioner will suffer no irreparable harm without the TRO because (1) they claim the Court will retain jurisdiction over the habeas petition if they transfer Petitioner outside this District, and (2) they claim they will abide by the *D.V.D.* injunction and give notice of any third country transfers. Resp. Opp. at 9-10. Based on the law and the facts, the requested TRO is necessary to provide Petitioner with baseline protections and against further unreasonable delay in his post-removal custody.

A. Absent An Order From The Court Barring Petitioner's Transfer While The Petition Is Pending, There Is A High Likelihood That Respondents Will Transfer Petitioner And Then Argue That The Court Is Divested Of Jurisdiction

Respondents argue that a TRO is not necessary because the Court will not be divested of jurisdiction when they inevitably transfer Petitioner again. This is far from certain. Supreme Court case law strongly suggests that jurisdiction in a core habeas petition only lies with the district court where the petitioner is confined, and the government has argued just that in other habeas cases. They will certainly do so again if they are permitted to transfer Petitioner outside this judicial district. Because of the uncertainty in the law and the additional litigation and resources that would be required on this issue if a transfer occurs, prudential concerns counsel in favor of the TRO.

At the outset, there is no question that jurisdiction for a core-habeas petition, where the petitioner challenges unlawful detention, lies with the district court with jurisdiction over the petitioner's immediate custodian. *Rumsfeld v. Padilla,* 542 U.S. 426, 444 (2004) ("the district of confinement is *synonymous* with the district court that has territorial jurisdiction over the proper respondent") (emphasis in original). The Supreme Court clearly and recently reiterated this principle in *Trump v. J.G.G.*, 604 U.S. ----, 145 S. Ct. 1003, 1005-1006 (2025): "For a '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 Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) ("The *Padilla* district of confinement and immediate custodian rules are firmly entrenched in the law of this and other circuits."); *id.* at 1198 ("the only federal court that can properly entertain a habeas petition is one located in the 'district in which the applicant is held,' in other words, the district of confinement").[3] Upon Petitioner's transfer outside of this District, Supreme Court precedent strongly suggests that this Court will lose jurisdiction, because it will no longer be the "district of confinement."

Yet, despite the clear requirements as to where a habeas petition must be filed as set out in *Padilla*, there is ambiguity in the case law as to whether the Court would maintain jurisdiction following Petitioner's inevitable transfer. In *Ex Parte Endo*, 323 U.S. 283 (1944), the Supreme Court held that the original district court maintained jurisdiction over a habeas petitioner even though she had been transferred out-of-state, but there, the Court found that the petitioner's transfer was "not colored by any purpose to effectuate a removal in evasion of the habeas corpus proceedings" *and* the Acting Secretary of the Interior advised the Court that if a writ was issued

[3] In this case and only if Petitioner is not transferred, the only proper respondent arguably is James Janecka, Warden, Adelanto ICE Processing Center, because he as physical custody of Petitioner and can produce him before this Court if necessary.

"the corpus of the appellant will be produced and the court's order complied with in all respects." 232 U.S. at 305. The *Endo* court noted that the facts before it were different than in *United States ex rel. Innes v. Crystal*, 319 U.S. 755 (1943), where the relator challenged a judgment of court martial by habeas corpus. He was transferred from the custody of the army to a federal penitentiary in a different district and circuit while the case was on appeal. Since the sole respondent was the army commander, and "[o]nly an order directed to the warden of the penitentiary could effectuate his discharge," the case was moot since "the warden as well as the prisoner was outside the territorial jurisdiction of the District Court." *Endo*, 323 U.S. at 305.

While *Endo* has been cited more broadly to permit district courts to maintain jurisdiction over habeas petitions following the petitioner's transfer outside the district, *Endo* appears to support a narrower set of circumstances where (1) there was no evidence that the respondents had moved petitioner to evade the habeas proceedings, and (2) one of the existing respondents with legal control over the Petitioner, such as Respondent Noem or Bondi here, expressly agrees to produce Petitioner before this Court and comply with the Court's eventual order "in all respects." *Endo*, 323 U.S. at 304-05.

In *Singh*, where ICE transferred the petitioner from a facility in Washington State to the Stewart Detention Center in Georgia and then argued that the District Court for the W.D. District of Washington lost jurisdiction, the District Court held that it could maintain jurisdiction - applying *Endo* - but apparently found that its jurisdiction was limited to denying, not granting, the petition. The court stated that the government failed to submit evidence that "that no official remains within this court's jurisdiction with legal authority to effectuate petitioner's release." 2025 WL 746295, *8. Further, the court noted that other judges in the same district had concluded that "where a habeas petitioner has been transferred to another district after commencement of the action, notwithstanding any possible limitations on its ability to *grant*

habeas relief, th[e] Court retains jurisdiction to *deny* the relief." *Id.* (emphasis in original; omitting internal quotation) (citing cases).

The cases cited by Respondents in their Opposition do not support a conclusion that this Court would maintain jurisdiction over Petitioner's "jailer" if his confinement is moved out of state. Respondents' Opposition to Petitioner's *Ex Parte* Application ("Resp. Opp.") at 7. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973), is inapposite. The habeas petition there was not a "core" petition, challenging unlawful detention, but instead challenged a detainer against petitioner issued in a Kentucky state court that implicated confinement that would be imposed in the future. *Id.* at 485. *Endo* was clearly distinguished by the Supreme Court in *Padilla* from "core" habeas cases where the petitioner challenges physical confinement: in *Braden,* "the immediate custodian rule did not apply because *there was no* immediate physical custodian with respect to the 'custody' being challenged." 542 U.S. at 439.

Respondents also cite *Mujahid v. Daniels*, 413 F.3d 991, 994 (9th Cir. 2005), to support their assertion that this Court would retain jurisdiction after the transfer Petitioner out-of-state. In *Mujahid*, the government argued that the Court lost jurisdiction because the petitioner was no longer in confinement in the judicial district – as it will likely argue here if they transfer Petitioner. The Ninth Circuit found that the district court did maintain jurisdiction, but *Mujahid*, like *Braden*, is also inapposite, because there the petitioner had been released from confinement and was on supervisory release. 413 F.3d at 993-94.

There is little question that if Respondents are permitted to transfer Petitioner out of Adelanto while the Petition is pending, they *will* argue that the Court will not have jurisdiction over the new custodian – no longer Respondent Janecka, the warden of the Adelanto ICE Processing Facility -- to direct his or her production of Petitioner before the Court. The government has argued repeatedly and recently that when they transfer a habeas petitioner outside

of the original district of confinement, the district court loses jurisdiction over the petition. *See, e.g., Singh v. U.S. Immigration and Customs Enforcement Field Office Director*, Case No. 2:24-c-00705-RSL-TLF, 2025 WL 746295, *1 (W.D. Wash. Feb. 14, 2025) (ICE transferred petitioner from WA to GA and argued that the original district court lost jurisdiction); *Acosta v. J. Doerer*, C.A. No. 5:24-cv-01630-SPG-SSC, 2024 WL 4800878, *3 (C.D. Cal. Oct. 24, 2024) (Bureau of Prisons transferred habeas petitioner outside of judicial district and respondents argued that original district court lost jurisdiction); *cf. Y.G.H. v. Trump*, Case No. 1:25-CV-00435-KES-SKO, 2025 WL 1519250, *1 (E.D. Cal. May 27, 2025) (where habeas petition had been filed when petitioner's location was unknown, government argued against jurisdiction in district court where neither the immediate custodian nor the petitioner was located).

There is a high likelihood that, without a TRO, Respondents will transfer Petitioner again, and outside of this judicial district, before his Petition is adjudicated. To date, over the last seven months, ICE has already held Petitioner in Central Falls, Rhode Island, Buffalo, NY, and now Adelanto, CA. Notably, Respondents neither agree not to transfer Petitioner nor to accept this Court's jurisdiction after they do transfer Petitioner to the extent that the jurisdictional argument can be waived. *See, e.g., Lane v. United States*, C.A. No. 14-1731 (RDM), 2015 WL 6406398, *6 (D.D.C. Oct. 21, 2015) (finding in a habeas proceeding that "the territorial-jurisdiction rule is subject to waiver").

To avoid further litigation on the issue of jurisdiction, a no-transfer order is justified on prudential grounds. It would avoid future arguments, if Respondents do transfer Petitioner, as to where jurisdiction would properly lie and whether the Court could order Petitioner to be produced in this District; it also would avoid additional, potential habeas litigation. Without a TRO, Respondents will be free to forum-shop by, for example, transferring Petitioner to Texas, and the parties, including the undersigned *pro bono* counsel and the Court will then be required to spend

limited resources litigating the issue of jurisdiction, the motivations of Respondents in transferring Petitioner, and whether Respondents will honor any order issued by the Court. Since Respondents have already transferred Petitioner to three different facilities in three different states in the last seven months, it is reasonable to assume that the risk of Respondents transferring Petitioner again are significant. Petitioner respectfully requests that a no-transfer order issue.

Last, in their Opposition, Respondents identify no hardship if they are required to keep Petitioner within this District during the pendency of the Petition, and thus, they would not be prejudiced by a TRO preventing a transfer.

B. The Court Should Require Respondents To Provide Notice To Petitioner Prior To Removal To A Third Country.

Respondents argue that a TRO is not necessary to obligate them to provide advance notice to Petitioner of any removal to a third country. Resp. Opp. at 8. Petitioner appreciates that Respondents state that they will abide by the existing injunction issued by the U.S. District Court for the District of Massachusetts in *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), and provide him with the currently required notice prior to removal to a third country. However, a TRO is nonetheless necessary to ensure that notice is given to Petitioner. Despite their words and legal obligations, there is no reason to think that Respondents would not try to remove Petitioner to a third country without giving adequate or any notice. Once removed, Petitioner would have no remedy at law to obtain his return. This is plainly irreparable harm. *See, e.g., Baptiste v. Kennealy*, 490 F. Supp. 3d 353, 381 (D. Mass. 2020).

Indeed, despite issuance of the injunction in *D.V.D.*, the government has continued to make efforts to deport noncitizens to third countries without adequate notice, and the government is also actively attempting to get the *D.V.D.* injunction vacated through judicial review. *See, e.g.,*

https://immigrationlitigation.org/wp-content/uploads/2025/05/130-Mx-to-Reconsider-Orders-Redacted.pdf. For example, since the injunction was first issued in *D.V.D.* on April 18, 2025,[4] the government has tried to deport noncitizens to Libya and Saudi Arabia,[5] South Sudan,[6] and Guantanamo Bay (for the apparent purpose of eventual removal to El Salvador), all without the required notice.[7]

Importantly, this issue is not necessary simply to protect Petitioner from potential removal to Armenia. Respondents nowhere state in their Opposition that they would not try to remove Petitioner elsewhere, and Petitioner has a right to advance notice if the government chooses to send Petitioner to, for example, South Sudan. Respondents identify no hardship or prejudice they would suffer if the Court confirmed by TRO that no removal may take place without notice.

II. RESPONDENTS PROVIDE NO EVIDENCE THAT THERE IS A SIGNIFICANT LIKELIHOOD OF PETITIONER'S REMOVAL IN THE REASONABLY FORESEEABLE FUTURE; THE PETITION SHOULD BE GRANTED AND PETITIONER SHOULD BE RELEASED ON AN ORDER OF SUPERVISION.

Respondents offer nothing in their Opposition that changes the conclusion that their ongoing detention of Petitioner violates his Fifth Amendment right to due process and the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6). Respondents treat Petitioner's incarceration cavalierly, having detained him beyond the 180-day removal period despite clear evidence that he is stateless, and then only pursuing a citizenship application with Armenia *after*

---

[4] *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), *opinion clarified*, No. CV 25-10676-BEM, 2025 WL 1323697 (D. Mass. May 7, 2025), and *opinion clarified*, No. CV 25-10676-BEM, 2025 WL 1453640 (D. Mass. May 21, 2025), *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).

[5] *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1323697 (D. Mass. May 7, 2025) (Memorandum and Order On Plaintiffs' Motion For Emergency Relief)

[6] *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1449032 (D. Mass. May 20, 2025) (Order following emergency hearing).

[7] https://immigrationlitigation.org/wp-content/uploads/2025/04/81-Order-re-TRO-Violations-flights-and-individuals-CORRECTED.pdf

the 180-days had passed. Every day that Petitioner is detained by Respondents is a day of Petitioner's life that is lost. Yet, Respondents nowhere acknowledge Petitioner's constitutional right to be free from indefinite detention, or that they have now exceeded the presumptively reasonable constitutional limitation on Petitioner's continued custody.

Respondents argue that they have no obligation to release Petitioner at this time and that it is Petitioner's burden to prove that "there is no significant likelihood of removal in the reasonably foreseeable future." Resp. Opp. at 4-5. Petitioner has made that showing.[8] He relentlessly tried to get travel documents from Azerbaijan, after Russia did not recognize Petitioner's legal status there. Exhibit S to Freidel Decl. I; Exhibits B, D, F to Freidel Decl. II. Both Azerbaijan and Russia have confirmed that they will not be issuing travel documents, and Petitioner cannot be removed to either country. As discussed below, Petitioner has no claim to Armenian citizenship.

It is now Respondents' turn to show that there *is* a "significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701 ("[a]fter this 6-month period, once the alien 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") (emphasis added). Respondents argue that they have made that showing because Petitioner is ethnically Armenian, and they have submitted a citizenship application for Petitioner to Armenia. Resp. Opp. at 5; Suarez Decl. These facts *do not* establish a "significant likelihood" that Armenia will approve Petitioner's citizenship application, and Respondents offer no evidence to the contrary. Since ICE apparently has experience submitting citizenship applications to Armenia (Suarez Decl.), ICE should offer facts supporting their bare, conclusory statement that

[8] Respondents cite *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008), but it is inapposite as it applies to a different detention authority and there was no dispute that petitioner was "capable" of being removed to Mexico if his removal order became final and removal was not stayed. Resp. Opp. at 5.

there is a "significant likelihood of removal in the reasonably foreseeable future." It is not enough to simply repeat those words as a mantra to try and defeat a habeas petition without providing any evidence that actually support the conclusion.

In fact, it appears highly *unlikely* that Armenia will grant Petitioner citizenship status. According to the Armenian government's Office of the High Commissioner for Diaspora Affairs:

> Ethnic Armenians qualify for citizenship without having to meet any language or residency requirements. You should note, however, that **certain requirements have to be met to establish Armenian origin. Having an Armenian name or speaking Armenian fluently is not by itself sufficient. You will have to produce a document (birth certificate, passport or other official document) showing that you are (or your parent or grandparent or siblings are) an ethnic Armenian.** This can be a birth certificate or other identity document. For this, it is necessary that the submitted documents contain a note about the Armenian ethnicity (in certain countries, for example, in the birth certificate, family records, etc.). Please note that your birth certificate must be certified by an apostille (with the exception of those countries with which Armenia has an interstate agreement that does not require an apostille, for example, the Russian Federation, etc.) and its translation into Armenian must be notarized. Thus, the required documents (except passport) must be with apostille and notarized translation.
>
> The most common way to prove Armenian ethnicity is to show a baptism certificate issued by a church organization that confirms your Armenian ethnicity. It is important that the document be attested (legalized) by the Armenian embassy/consulate in the country where the document was issued.
>
> Thus, it is necessary to certify the baptism certificate and have a birth certificate with an apostille before submitting them to the appropriate authority.

See http://diaspora.gov.am/en/pages/119#:~:text=Ethnic%20Armenians%20qualify%20for%20citizenship,is%20not%20by%20itself%20sufficient. Petitioner has *no documentation* that would satisfy the Armenian government's requirements to prove Armenian descent. Petitioner was born in Baku, Azerbaijan, not Armenia. Exhibit G to Freidel Decl. II. If needed, Petitioner will provide sworn testimony that neither of his parents nor any of his grandparents were ever Armenian

citizens or lived in Armenia. Further, Petitioner has no documentation, such as birth certificates, passports, or baptism certificates stating that either of his parents or any of his grandparents were born in Armenia or were Armenian citizens. This does not mean that Petitioner is not ethnically Armenian. The Armenian diaspora includes over 7 million people in more than 100 countries largely due to the Armenian Genocide, which occurred more than 100 years ago and forced Armenians to flee across the globe. Moreover, not all Armenians historically lived in the territory that is now the country of Armenia. http://diaspora.gov.am/en/diasporas#:~:text=For%20centuries%20the%20Armenian%20nation,Albania. Accordingly, despite Petitioner's heritage, he does not have the evidence required by Armenia to establish his citizenship there.

Regardless, this issue could have been resolved six months ago, and saved Petitioner six additional months in custody. ICE could have submitted a citizenship application to Armenia in the first 90-days of Petitioner's detention, but it chose not to. Respondents should not be rewarded, at Petitioner's expense, for their lackadaisical approach to Petitioner's custody, which violates his Fifth Amendment right to Due Process by extending Petitioner's detention outside of the presumptively reasonable removal period for no good reason. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of liberty that [the Fifth Amendment's Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

Under the regulations, after 90 days, Respondents can exercise their discretion and release Petitioner on an order of supervision if they find that he is neither a flight risk nor a danger to the community, even while they continue to try and get travel documents for him. 8 U.S.C. § 1231(a)(6); *Zadvydas*, 533 U.S. at 683. Indeed, in making its decision, the regulations require ICE 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. All of these factors favor Petitioner's release from custody. Civil detention is nonpunitive, and these regulations provide procedural protections against punitive detention, yet Respondents have not rationally applied these protections to Petitioner.

In contrast to all of the evidence that Petitioner submitted in support of his release after 90 days consistent with what the regulations require, Respondents concluded that Petitioner was *both* a danger and flight risk. *See* Exhibit V to Freidel Decl. I (Decision to Continue Detention dated February 10, 2025). And after 180 days, Respondents have issued no custody decision at all. Respondents' conduct and decision-making is arbitrary and capricious. Petitioner is clearly not a danger; he committed one crime when he was a teenager; he is now 45-years old, served nine extra years in prison than was constitutional in Massachusetts and earned 5 years of good time for exemplary behavior. He submitted substantial evidence to ICE establishing his personal growth, rehabilitation, and good character. *See, e.g.,* Exhibits A-N to Freidel Decl. I. There is no contrary evidence. Thus, ICE's baseless conclusion that Petitioner is a danger is the definition of arbitrary and it deprives Petitioner of due process. Preventive detention based on dangerousness is only appropriate "when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. 690-91. Respondents cannot plausibly argue that Petitioner's current detention is preventive, yet Petitioner's continuing incarceration in abysmal conditions[9] is impermissibly punitive.

[9] Among many other things including lack of adequate food and medical care, filthy living conditions, and being forced to shower without a towel or toiletries, Petitioner reports that he has

Respondents' conclusion that Petitioner is a flight risk is equally arbitrary. Petitioner has only one place to go and it's home to his US citizen mother and brother in Springfield, MA. Exhibits O & P to Freidel Decl. I. Supervision is not meaningless; release on an order of supervision means that Petitioner would have to abide by the conditions of release or be redetained. After decades in prison, Petitioner has no desire or incentive to be redetained. He will abide by his conditions of release. *Zadvydas*, 533 U.S. at 699-70; *see also id.* at 696 ("The choice … is not between imprisonment and the alien 'living at large.' [] It is between imprisonment and supervision under release conditions that may not be violated.").

For all of these reasons, Petitioner is likely to succeed on the merits of his Petition as he is stateless and he has made a showing, which Respondents have not rebutted, that his removal is not "significantly likely in the reasonably foreseeable future." As such, Petitioner's continued detention beyond six months is unconstitutional. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

III. RESPONDENTS FAIL TO SHOW HOW THE EQUITIES AND PUBLIC INTEREST FAVOR THEM

Not surprisingly, Respondents argue that the equities and public interest weigh against Petitioner. Again, Respondents ignore Petitioner's constitutional right to be free from unreasonable detention, which is prolonged by Respondents' conduct in transferring Petitioner around the country and their potential effort, seemingly without restriction, to remove Petitioner to a third country without notice. While the public may have an interest in our government promptly executing removal orders (*Nken*), Respondents have done nothing "prompt" when it comes to Petitioner, and it has been established that Petitioner's removal order cannot be executed. There is no justification to continue to detain Petitioner under the procedural

---

had to sleep for months under fluorescent lights that cannot be turned off at night causing him extensive sleep deprivation.

protections outlined in *Zadvydas*, and yet, that is precisely what Respondents continue to do. They have given no assurance that they will not transfer Petitioner again or that they will release Petitioner on supervision if Armenia does not grant Petitioner citizenship, which it is unlikely to do.

Further, the public has no interest in unlawful agency action, such as Respondents' arbitrary decision to continue Petitioner's detention on the unfounded conclusions that he is a danger and a flight risk, or ICE's failure to adhere to controlling regulations with regard to its review of custody during the post-removal period. *See, e.g., AFL-CIO v. Trump,* 2025 WL 1482511, at *27. While Respondents assert that the TRO would "interfere with Respondents' enforcement of immigration laws" (Resp. Opp. at 10), they nowhere explain how that is so. Why is it necessary to hopscotch Petitioner around the country and hold him in a different facility every several months? What is inequitable about requiring Respondents to provide Petitioner with advance notice of any third country removal when it is already what the law requires? The equities do not favor arbitrary agency action; they favor the protection of constitutional rights and agency adherence to statutory, regulatory, and judicial requirements.

IV. 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 23, 2025

Respectfully submitted,

ARTEM VASKANYAN

By his counsel:

By: */s/ Irene C. Freidel*
Irene C. Freidel
(pro hac vice)
ifreidel@pairproject.org
Political Asylum/Immigration Representation (PAIR) Project
98 N. Washington Street, Ste 106
Boston, MA 02114
Tel: 617-742-9296 ext. 314
Fax: 617-742-9385

STACY TOLCHIN (SBN 217431)
Stacy@tolchinimmigration.com
MEGAN BREWER (SBN 268248)
Megan@tolchinimmigration.com
LAW OFFICES OF STACY TOLCHIN
776 E. Green St., Suite 210
Pasadena, CA 91101
Tel: (213) 622-7450
Fax: (213) 622-7233

Pro Bono Attorneys for Petitioner- Plaintiff