

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

EDMUND GRIGORIAN,

A# 

Plaintiff / Petitioner,

Case No. _____

v.

PAMELA BONDI, United States Attorney General;
HAYDEN O'BYRNE, U.S. Attorney for Southern
District of Florida, **GARRETT J. RIPA**, Acting
Executive Associate Field Officer Director for the
ICE Miami Office of Enforcement and Removal
Operations; **JUAN AGUDELO**, Acting Field
Officer Director of the ICE Miami Field Office and
Officer in Charge, Krome Service Processing Center,
Miami, Florida; **TODD LYONS**, Acting Director of
the United States Immigration and Customs
Enforcement; and **KRISTI NOEM**, Secretary of the
United States of Department of Homeland Security.

Defendants/ Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS AND EMERGENCY MOTION FOR
IMMEDIATE TEMPORARY RESTRAINING ORDER**

INTRODUCTION

1. Petitioner, Edmund Grigorian ("Mr. Grigorian"), is a national of Iran who has resided in the United States for the past forty-six (46) years alongside his U.S. citizen family members. Mr. Grigorian's late Father and late Sister were United States Citizens, and he is the only living relative and caretaker for his elderly and severely ill, U.S. citizen mother.

2. On July 28, 2011, Mr. Grigorian was granted Deferral of Removal under Article 3 of the Convention Against Torture ("CAT") pursuant to 8 C.F.R. § 208.17(a), thereby deferring

the execution of his removal order to Iran based on a finding that he is more likely than not to be tortured if returned because he is Armenian, Christian, Americanized, and the son of a member of Rastakhiz, a monarchist group in Iran. In the order of the immigration judge, no third country was listed as an alternative to Mr. Grigorian's removal as required under 8 C.F.R. § 1240.10(f). In fact, the immigration judge specifically crossed out the words "or in the alternative to" when indicating the country of removal is Iran.

3. To date, in the fourteen (14) years subsequent to the decision, DHS has failed to identify or propose a viable third country alternative for removal—particularly one where Mr. Grigorian would be protected from detection and torture by the Iranian government, its affiliates, or the government of the third country. More specifically, no third country has been provided to Mr. Grigorian or his counsel prior to his unlawful detention by Immigration and Customs Enforcement ("ICE"), nor was Mr. Grigorian provided any assurances he would not be tortured in a third country nor provided an opportunity to present or contradict any such assurances. The likelihood of Mr. Grigorian being tortured has only increased, particularly given the recent bombings and attacks of Iran.

4. On June 23, 2025, Mr. Grigorian appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his ongoing protection under the Convention Against Torture and his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Krome Service North Processing Center.

5. In detaining Mr. Grigorian, ICE violated his due process in failing to comply with the statutory requirements required to revoke an Order of Supervision outlined in 8 C.F.R. § 241.4(l)(2). Mr. Grigorian has never violated the terms of his supervision, and the conditions

supporting Mr. Grigorian's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

6. In light of there being no change in circumstances or third country designation that assures Mr. Grigorian will not be tortured, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention violates the fundamental constitutional protections of due process and those protections established in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that the government may not detain individuals indefinitely where removal is not reasonably foreseeable. Given Mr. Grigorian's ongoing CAT protection and the lack of any identified removal destination, his detention is both arbitrary and unlawful.

7. Since receiving protection under CAT, Mr. Grigorian has religiously complied with all requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization, has consistently paid his taxes, and is the sole caretaker and provider for his elderly U.S. citizen mother, Anahid Grigorian ("Ms. Grigorian" or "Mother"), who suffers from severe medical issues.

CUSTODY

4. Petitioner satisfies the "in custody" requirement for habeas review because he is currently being physically detained by ICE-ERO at the Krome North Service Processing Center.

JURISDICTION

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1331 (federal question) and the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction

to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas corpus* claims by aliens challenging “the constitutionality of the entire statutory scheme under the Fifth Amendment.”¹ This case arises under the United States Constitution; the Immigration and Nationality Act (“INA”), 8 U.S.C. §§1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. §1651.

6. Furthermore, 28 U.S.C. § 2241 authorizes district courts to grant writs of habeas corpus to individuals “in custody in violation of the Constitution or laws or treaties of the United States.” federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) within this judicial district, satisfying the “in custody” requirement at the time of filing. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

5. This Court further has jurisdiction under Article I, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

¹ *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review “collateral challenges to unconstitutional practices and policies” used by Respondents in reaching their decision. *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 896 (1991).

6. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioner is not challenging the validity of the final order of removal, but rather the legality of detention in the absence of a foreseeable removal and in violation of due process under the Fifth Amendment. See *Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

VENUE

10. Venue is proper because Petitioners' detention and removal proceedings have all occurred in the Southern District of Florida. 28 U.S.C. § 1391(e)(1)(B). Venue is also proper because Petitioner resides in Miami, Florida, which is in the Southern District of Florida, and Mr. Grigorian is detained in ICE custody in the Southern District of Florida. 28 U.S.C. § 1391(e)(1)(C) and 28 U.S.C. § 2241(d).

PARTIES

11. Petitioner Edmund Grigorian is a citizen of Iran who is currently detained indefinitely at the Krome North Service Processing Center. He was granted protection under the Convention Against Torture on July 28, 2011, and was taken into custody indefinitely in violation of due process on June 23, 2025.

12. Respondent Pamela Bondi is the Attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible with proper enforcement of federal immigration law. She is sued in her official capacity.

13. Respondent Hayden O'Byrne is the U.S. Attorney for Southern District of Florida. He is the chief federal law enforcement officer in the district. He is sued in his official capacity.

14. Respondent Garrett J. Ripa is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). In this capacity, he has jurisdiction over Petitioner and is a legal custodian of Petitioner. Mr. Ripa is sued in his official capacity.

15. Respondent Juan Agudelo is the Acting Field Office Director for the Miami Field Office of U.S. Immigration and Customs Enforcement (“ICE”). Mr. Agudelo is responsible for effectuating Petitioners’ removal from the United States and is their immediate custodian. He is sued in his official capacity.

16. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). In this capacity, he has responsibility for the enforcement of the immigration laws, including detention and removal. As such, he is a legal custodian of Petitioner. Mr. Lyons is sued in his official capacity.

17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), the arm of the U.S. government responsible for enforcement of immigration laws. ICE is a subdivision of DHS. Ms. Noem is the ultimate legal custodian of Petitioner. Ms. Noem is sued in her official capacity.

FACTUAL AND PROCEDURAL HISTORY

18. Mr. Grigorian is a citizen and national of Iran who first fled to the United States on B-2 status with his family on February 25, 1979 at the age of eight (8). See **Exhibit A** for Mr. Grigorian’s immigration documentation. Mr. Grigorian and his family fled Iran due to severe past persecution and a well-founded fear of future persecution based on religion, nationality, political opinion, and membership in a particular social group. Mr. Grigorian is of Armenian descent, Christian, and his Father was an avid supporter for the Shah of Iran, a monarchist group that opposes its current political leadership.

19. Due to these factors, Mr. Grigorian’s family suffered relentless and violent persecution, including attacks on their home, a vicious stabbing that left his father permanently scarred, physical assaults on his mother, and the deliberate destruction of his father’s business by

extremist forces. Given the likelihood of future persecution if returned to Iran, Mr. Gregorian and his family were granted asylum on May 5, 1982. **See Exhibit A.**

20. On September 13, 2002, Mr. Grigorian's immigration status was adjusted to that of Lawful Permanent Resident (LPR) as of September 12, 2001, based on his previously granted asylum. **See Exhibit A.**

21. On January 27, 2010, the Department of Homeland Security filed a Notice to Appear alleging Mr. Grigorian was removable from the United States based on a conviction for fraud from 2007. Mr. Grigorian filed an application for withholding of removal under Article 3 of the Convention Against Torture alleging as the foundation of relief the same information included in the previously granted Asylum application, as well as additional grounds. **See Exhibit A.**

22. In the CAT proceedings, the immigration judge took testimony from Mr. Grigorian, expert professor of the Middle East Study Center Charles MacDonald, and Mr. Grigorian's Father as to past persecution and likelihood of future persecution. The immigration judge concluded "based upon a review of the record as a whole, that given the fact that [Mr. Grigorian] is a member of an ethnic and religious minority, and that his father engaged in anti-clerical activities prior to [Mr. Grigorian's] departure from Iran, and his residence in the United States for 32 years, coupled with anti-American feelings in Iran, would more likely than not result in the infliction of torture, as that term is defined in the regulations and case law." **See Exhibit B.**

23. The immigration judge issued his Order executed on July 18, 2011 finding Mr. Grigorian was eligible for protection under the Convention Against Torture as he is more likely than not to be tortured by the Iranian government should he be removed to Iran, especially now given that Mr. Grigorian was so Americanized. The immigration judge specifically ordered Mr. Grigorian removed to **Iran** and that his removal is deferred under Article 3 of the Convention

Against Torture. **See Exhibit B.** The immigration judge crossed out “or in the alternative to” when indicating the country of removal is Iran and did not list any alternative third countries, knowing that given the extremist nature of the Iranian government and its worldwide expansion, Mr. Grigorian would not be safe in any other third country.

24. From July 18, 2011, to June 23, 2025, during the entire period of his release, and for just under fourteen (14) years, Mr. Grigorian fully complied with the terms set by ICE. He consistently attended all scheduled appointments under his Order of Supervision, maintained steady employment with a valid Employment Authorization Document (EAD), paid his taxes, and remained law-abiding throughout. Mr. Grigorian is also the sole caregiver for his elderly U.S. citizen mother, who suffers from serious medical conditions. He is not a danger to society and he does not pose a flight risk.

25. Despite this, Mr. Grigorian was detained by ICE at his Order of Supervision appointment on June 23, 2025. Mr. Grigorian was not informed as to the reason his Order of Supervision was being revoked. Revocation of Mr. Grigorian’s Order of Supervision was without cause and he was not provided with an opportunity to review and oppose the arbitrary revocation of his Order of Supervision, against his due process rights.

26. Mr. Grigorian has not violated the terms of his Order of Supervision and the conditions of Iran have not changed so as to undermine the basis of Mr. Grigorian’s protection under CAT and warrant his detention.

27. Conditions in Iran have not improved so as to merit any future termination of Mr. Grigorian’s CAT grant. In fact, the relationship between the U.S. and Iran, as has been widely reported on international news, has only gotten worse and has even resulted in the U.S. bombing

of Iran. Therefore, there is no foreseeable way that Mr. Grigorian could be removed to Iran without removal resulting in torture.

28. Neither ICE nor DHS has established or provided notice of any third country where he would free from the risk of torture. To detain Mr. Grigorian indefinitely without any previous identification of a third country, a hearing on that third country, a change in country conditions, or a violation of his Order of Supervision is an arbitrary and unlawful detention that violates Mr. Grigorian's constitutional rights.

29. Mr. Grigorian is being held at the Krome North Service Processing Center with no significant or lawful likelihood of removal in the reasonably foreseeable future, and continued detention violates his constitutional protections.

STATEMENT OF LAW

30. The Due Process Clause of the Fifth Amendment states that "[n]o person shall be ... deprived of life, liberty, or property without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lie at the heart of the liberty that [the Due Process] Clause protects."² This applies to everyone in this country, including aliens.³

31. Pursuant to 8 C.F.R. § 241.4(l)(1), ICE may revoke an Order of Supervision only if the individual violates conditions of release or if the conditions supporting release no longer exist. Similarly, under 8 C.F.R. § 241.13(i)—which governs release in prolonged detention

² *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001).

³ *Id.* at 693 ("[T]he Due Process clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful [or] unlawful"); *Reno v. Florida*, 507 U.S. 292, 306 (1993) ("the Fifth Amendment entitles aliens to due process of law in deportation proceedings").

cases—a previously released individual may only be re-detained based on new evidence or a material change in circumstances, such as the identification of a viable removal destination.

32. Furthermore, ICE must document the basis for revocation and provide procedural safeguards. As stated in 8 C.F.R. § 241.4(l)(1) “Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond and the reasons for revocation stated in the revocation.” DHS has failed to comply with this notification requirement.

33. Arbitrary or unexplained revocation—especially without identifying a third country for removal—violates both agency regulations and due process protections under the Fifth Amendment. See *Castaneda v. Souza*, 810 F.3d 15, 43 (1st Cir. 2015) (en banc) (recognizing liberty interest in avoiding arbitrary immigration detention); *Diouf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011) (recognizing procedural due process rights in prolonged detention under § 241).

34. Mr. Grigorian was suddenly and without explanation detained after years of full compliance with his Order of Supervision. There was no notice of alleged violations, no opportunity to rebut the government’s reasoning, and no indication that any viable removal country had been identified. The revocation of his Order of Supervision and/or his subsequent detention without formal revocation of his Order of Supervision was therefore unreasonable, arbitrary, and unconstitutional.

35. Furthermore, an individual granted Deferral of Removal under the Convention Against Torture (CAT) under 8 C.F.R. § 208.17(a) cannot lawfully be removed to the country to which their removal is deferred. In such cases, the government may not indefinitely detain the

individual without identifying an alternative country for removal and establishing that removal is significantly likely in the reasonably foreseeable future.

8. Additionally, pursuant to 8 C.F.R. § 1240.10(f), the immigration judge must identify for the record a country, or countries in the alternative, to which a respondent may be removed if the designated country will not accept them. Here, the immigration judge did not identify *any other* country to which Mr. Grigorian could reasonably be removed without being subject to torture. This is because there is no third country alternative to which Mr. Grigorian can be removed without being subject to torture. The silence of the immigration judge in his order is no mistake and should not be taken as error or construed in any other manner. It was an intentional omission, as evidenced by the immigration judge crossing out the words “or in the alternative to” when indicating the country of removal is Iran, as there is not third country alternative. Mr. Grigorian will only be safe in the United States.

36. In *Zadvydas*, the Supreme Court held that detention beyond 180 days after a final order of removal is presumptively unreasonable where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. The Court extended this protection to all noncitizens ordered removed, regardless of inadmissibility. See *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

37. Here, Petitioner’s deferral of removal to Iran remains in effect, and the immigration judge did not designate a third country for removal. No alternative country has been identified by the government because no acceptable, alternative country can be identified. DHS has failed to reopen Mr. Grigorian’s CAT proceedings and has failed to obtain a new order of removal with a proper third country designated. ICE and DHS have failed to provide Mr. Grigorian or his counsel with any advance notice of a third country of removal and has failed to provide Mr. Grigorian and

his counsel with the requisite due process to ensure he is not tortured in any third country that he is potentially removed to. This is a stark violation of Mr. Grigorian's constitutional protections under the Fifth Amendment and Mr. Grigorian's rights to due process. Mr. Grigorian is entitled to notice and the opportunity to be heard as to his CAT claim as it relates to any alternative country of removal.⁴

38. Moreover, it has been more than 180 days since Mr. Grigorian was ordered removed and thus, his continued detention violates the constitutional limits established in *Zadvydas*.

39. Due process under the Fifth Amendment requires reasonable notice and an opportunity to be heard. Before Mr. Grigorian can be removed to any third country, such a hearing must occur. The right to be heard before being condemned to suffer grievous loss of any kind is a principle basic to society. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Mr. Grigorian has been in the United States for over forty-six (46) years. Any removal from the United States would result in Mr. Grigorian's torture and/or death as was already determined by an immigration judge. To now detain Mr. Grigorian and attempt to deport him to an unknown and unidentified third country where it has not been determined that Mr. Grigorian will be safe is arbitrary, unlawful, and a violation of Mr. Grigorian's constitutional and human rights.

IRREPARABLE INJURY

40. Petitioner is suffering and will continue to suffer irreparable injury from his unreasonable and arbitrary detention. Every day that he is held in violation of his due process rights, he suffers further injury which is irreparable.

⁴ The Supreme Court's recent decision in *Dep't of Homeland Sec. v. D.V.D.*, 602 U.S. (2025) (granting stay) does not preclude individual petitions for habeas, it merely precludes the universal injunction on the matter.

41. Mr. Grigorian is at risk of losing his lawful employment at a job that he has held for eleven (11) years. His United States Citizen Mother is suffering extreme hardship and injury from the arbitrary detention of her son. Following Mr. Grigorian's father's death and his sister's untimely death, he is the only caretaker for his United States Citizen Mother, who suffers from significant medical ailments.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

42. Petitioner is being held in detention in violation of the law. He is entitled to immediate release. He has exhausted all available administrative remedies and there are no further administrative remedies available to him.

EMERGENCY MOTION FOR IMMEDIATE TEMPORARY RESTRAINING ORDER

10. Under Federal Rule of Civil Procedure 65, a court may issue a Temporary Restraining Order ("TRO") preventing Respondents from removing or transferring the Petitioner outside of the jurisdiction pending resolution of the Petition for Writ of Habeas Corpus where the movant demonstrates (1) a likelihood of success on the merits; (2) a likelihood of irreparable injury in the absence of preliminary relief; (3) that the balance of equities tips in the movant's favor; and (4) that an injunction serves the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Fed. R. Civ. P. 65(b)(1)*.

11. Mr. Grigorian has demonstrated a substantial likelihood of success on the merits of his habeas petition, as he is unlawfully detained without adequate notice or opportunity to challenge removal, in violation of his constitutional rights to due process and effective assistance of counsel.

12. Without a TRO, Mr. Grigorian faces imminent removal from the jurisdiction, which would effectively moot his habeas petition and deny him the opportunity to seek judicial review.

Such removal constitutes irreparable harm. See *Winter*, 555 U.S. at 22 (recognizing irreparable injury as “the single most important prerequisite for the issuance of a preliminary injunction”).

13. Furthermore, Mr. Grigorian has a constitutional and statutory right to counsel his choice. 8 U.S.C § 1362; *Baires v INS*, 856 F2d 89,91n.2 (9th Cir. 1988) (“We have consistently emphasized the critical role of counsel in deportation proceedings [and] have characterized the alien’s right to counsel of choice as ‘fundamental’ and have warned INS not to treat it casually.”) Mr. Grigorian has a longstanding history with the Undersigned, who is uniquely positioned to represent him effectively due to this extensive relationship. Transferring Mr. Grigorian outside of this jurisdiction would infringe upon his constitutional rights to effective assistance of counsel and due process.

14. The balance of equities clearly favors Petitioner. The minor inconvenience to Respondents of maintaining custody pending adjudication is outweighed by the harm Petitioner would suffer if removed without due process.

15. The public interest is served by upholding constitutional protections, ensuring due process, and maintaining judicial review of executive detention and removal decisions. See *Munaf*, 553 U.S. at 693.

REQUEST FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court grant the following relief:

- a. Order the Petitioner be released from custody immediately;
- b. Grant the Petitioner’s temporary restraining order preventing him from being removed from the jurisdiction;

- c. Order the government to provide Petitioner with notice and a hearing where he can confront and oppose removal to any alternative third country that agrees to accept him, if one is identified;
- d. Grant an award of attorneys' fees and costs;
- e. Grant such other relief as this Court deems just and appropriate.

Dated: June 27, 2025

Respectfully submitted,

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I hereby certify that on this 27th day of June, 2025, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all supporting documents by electronic filing (PACER) upon the following individuals:

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