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11 Counsel for Petitioner
12 Artak Ovsepien

13 UNITED STATES DISTRICT COURT FOR THE
14 CENTRAL DISTRICT OF CALIFORNIA

15 Artak Ovsepien, Alien # 

16 Petitioner,
17 v.

Case No. 5:25-cv-01937

18 PAMELA BONDI, in her official capacity as
19 Attorney General,

20 KRISTI NOEM, in her official capacity as
21 Secretary of the Department of Homeland
22 Security,

23 U.S. DEPARTMENT OF HOMELAND
24 SECURITY,

25 F. SEMAIA, in his official capacity as Warden of
26 Adelanto Detention Facility,

27 ERNESTO SANTACRUZ, JR., in his official
28 capacity as Acting ICE Field Office Director,
Respondents.

VERIFIED PETITION FOR
HABEAS CORPUS AND
COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF

IMMIGRATION HABEAS
CASE

- 1
2 1. Artka Ovsepien (Petitioner), by and through his undersigned counsel, hereby
3 files this petition for a writ of habeas corpus challenging the unlawful
4 revocation of his release on an order of supervision (OSUP) and his
5 continued detention without belief that his removal from the United States is
6 reasonably foreseeable.
7
- 8 2. Petitioner entered the United States on or about September 12, 1995, at the
9 age of fourteen years old, and was granted asylum on December 9, 1995.
10 Petitioner was subsequently accorded lawful permanent residence status.
11
- 12 3. Petitioner is married to Marion Manukian, and they have two children: Mark
13 Ovsepien (14 years old) and Tiffany Ovsepien (age 19). Petitioner's sister,
14 Liliana Ovsepien, is a lawful permanent resident. His other sister, Izabella
15 Hovsepyan, is a U.S. citizen. His father, Arshak Ovsepien, is a lawful
16 permanent resident, and his mother, Tsovinar Ovsepien, is a U.S. citizen.
17
- 18 4. On June 5, 2017, Petitioner was convicted of a violation of 18 U.S.C. § 1349,
19 1347 (conspiracy to commit health care fraud) and related crimes. An
20 amended judgment and commitment order was issued on February 13, 2024.
21 He was ordered to pay more than \$9,000,000 in restitution and to serve a
22 total of 156 months in prison, followed by three years of supervised release.
23
- 24 5. Petitioner was subsequently detained by ICE and ordered removed on June
25 18, 2024.
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- 1 6. In approximately July 2024, Petitioner sent a letter to the consulate of the
2 United Kingdom, requesting the issuance of a travel document. He received
3 no response.
4
- 5 7. On August 2, 2024, the Consulate General of Armenia responded to
6 correspondence from ICE, informing them that Petitioner is not a citizen of
7 Armenia. On information and belief, around the same time (August 2024),
8 Russia and Turkey also rejected requests to issue a travel document to
9 Petitioner.
10
- 11 8. On October 29, 2024, Petitioner was released from ICE custody on an
12 OSUP. Petitioner complied with the requirements of his OSUP and incurred
13 no additional criminal violations.
14
- 15 9. On June 9, 2025, Petitioner was re-detained by ICE officials. ICE officials
16 called Petitioner to their office to replace or repair an allegedly faulty GPS
17 tracking device. On information and belief, there was no malfunction of
18 Petitioner's GPS device, and the alleged malfunction was a pretext to re-
19 arrest Petitioner.
20
- 21 10. On information and belief, ICE officials did not provide Petitioner with any
22 notice for the reasons they were revoking his release, nor did they provide
23 him with the opportunity to present evidence as to why he should remain at
24 liberty. Rather, the officers simply informed him that he was being arrested
25 because of a "new administration, new rules."
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1 11. Petitioner suffers from Post-Traumatic Stress Disorder (PTSD) since 2014
2 and has been prescribed Zyprexa and Trazodone. He also suffers from high
3 cholesterol, peripheral neuropathy resulting from a gunshot wound, nerve
4 pain, hearing loss, high blood pressure, and gastro-esophageal reflux disease
5 (GERD).
6

7
8 12. During his first ICE custody in 2024, he was prescribed an albuterol inhaler,
9 amlodipine (a medication for high blood pressure), gabapentin (a medication
10 for nerve pain), and rosuvastatin (a medication to treat high cholesterol).
11

12 13. Since being re-detained by ICE, Petitioner has been without his required
13 medication. He has seen a doctor twice and has been provided with seven
14 “cough and cold” pills only. Prior to his detention, he was taking daily
15 medication for high blood pressure, as well as Trazadone and Zyprexa as
16 needed to manage his PTSD symptoms. Petitioner’s re-detention has
17 triggered increased symptoms of his PTSD, and Petitioner’s ability to
18 participate in the removal process has been adversely impacted by ICE’s
19 failure to provide him with the appropriate medication.
20
21

22 14. Since being re-detained, Petitioner has sent letters to the consulates of the
23 United Kingdom, Italy, and France, requesting the issuance of a travel
24 document. To date, he has received no response to any of this
25 correspondence.
26
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28 15. Since the breakup of the Soviet Union, Petitioner has been stateless.

1 16. On information and belief, DHS has no particularized evidence that
2 Petitioner can be removed to any country.
3

4 17. On information and belief, Petitioner has not received an individualized
5 hearing before a neutral decisionmaker to assess whether his recent re-
6 detention is warranted due to danger or flight risk.
7

8 **PARTIES**
9

10 18. Petitioner Artak Ovsepien is a stateless individual born in the former Soviet
11 Union, and a former lawful permanent resident of the United States, who is
12 currently in the custody of the Department of Homeland Security,
13 Immigration and Customs Enforcement (DHS or ICE) at the Adelanto
14 Detention Center in Adelanto, California.
15

16 19. Respondent Pamela Bondi, the Attorney General, is the highest-ranking
17 official within the Department of Justice (DOJ). Respondent Bondi has
18 responsibility for the administration and enforcement of the immigration
19 laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act
20 (INA) has not been amended to reflect the designation of the Secretary of
21 the DHS as the administrator and enforcer of immigration laws, Respondent
22 Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102
23 gives her authority over immigration law.
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28 20. Respondent Kristi Noem, the Secretary of the DHS, is the highest-ranking

1 official within the DHS. Respondent Noem, by and through her agency for
2 the DHS, is responsible for the implementation of the INA, and for ensuring
3 compliance with applicable federal law. She is also responsible for the
4 detention of non-citizens by ICE. Respondent Noem is sued in her official
5 capacity as an agent of the government of the United States.
6
7

8 21. The DHS is the agency responsible for detaining non-citizens, including
9 Petitioner.
10

11 22. Respondent F. Semaia is the warden at Adelanto Detention Facility. He
12 oversees Petitioner's place of custody.
13

14 23. Respondent Ernesto Santacruz, Jr. is the Acting Field Office Director of the
15 Los Angeles office of Immigration and Customs Enforcement. He oversees
16 the custody of all Immigration and Customs Enforcement detainees at the
17 Adelanto Detention Facility. Respondent Santacruz is sued in his official
18 capacity as an agent of the government of the United States.
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21 **JURISDICTION AND VENUE**

22 24. This Court has jurisdiction over the present action pursuant to 28 U.S.C.
23 § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the
24 Administrative Procedure Act (APA); habeas jurisdiction pursuant to 28
25 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the
26 Suspension Clause); and the common law. This action arises under the Due
27
28

1 Process Clause of the Fifth Amendment of the U.S. Constitution and the
2 INA. This Court may grant relief under the habeas corpus statutes, 28
3 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et
4 seq., and the All-Writs Act, 28 U.S.C. § 1651.
5

6
7 25. Federal district courts have jurisdiction to hear habeas claims by
8 noncitizens challenging the lawfulness or constitutionality of DHS conduct.
9 Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See*
10 *e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
11

12 26. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are
13 agencies of the United States or officers or employees thereof acting in their
14 official capacity or under color of legal authority; Petitioner is in the
15 custody of the Los Angeles Field Office of Immigration and Customs
16 Enforcement and the warden of the Adelanto Detention Center, both of
17 which are in the jurisdiction of the Central District of California; and there
18 is no real property involved in this action.
19
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21

22 **LEGAL BACKGROUND**

23 27. 8 U.S.C. § 1231(a) governs the detention of individuals who have been
24 ordered removed. The statute directs ICE to detain such individuals for 90
25 days while carrying out a removal order. *See* 8 U.S.C. § 1231(a)(2). This
26 90-day removal period begins when the removal order becomes final.
27
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1 Absent an applicable exception, if ICE cannot remove a person within the
2 90-day removal period, they are released from custody subject to
3 supervision. 8 U.S.C. § 1231(a)(3).
4

5 28.8 U.S.C. § 1231(a)(6) permits detention beyond the normal 90-day removal
6 period, but even these exceptions do not authorize indefinite detention. *See*
7 *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (limiting ICE's detention
8 authority to a period "reasonably necessary" to carry out removal and
9 deeming detention impermissible when removal is not "reasonably
10 foreseeable").
11
12

13 29. The regulations permit release of a non-citizen subject to a removal order
14 after the 90-day removal period has elapsed if ICE determines that the non-
15 citizen "would not pose a danger to the public or a risk of flight, without
16 regard to the likelihood of the [non-citizen's] removal in the reasonably
17 foreseeable future." 8 C.F.R. § 241.13(b)(1). These released individuals are
18 typically subject to an OSUP, as Petitioner was prior to being re-detained.
19
20
21 *See* 8 C.F.R. § 241.4(j); 8 C.F.R. § 241.13(h).
22

23 30. ICE may withdraw its approval for the release of a non-citizen if it can
24 effectual the individual's removal from the United States "in the reasonably
25 foreseeable future" or if the individual fails to comply with the conditions of
26 release. 8 C.F.R. § 241.13(h)(4). ICE may only revoke a non-citizen's
27 release if "there is a significant likelihood that the [non-citizen] may be
28

1 removed in the reasonably foreseeable future.” *Id.* at § 241.13(i)(2). “Upon
2 revocation, the [non-citizen] will be notified of the reasons for revocation of
3 his [] release.” *Id.* at § 241.13(i)(3).
4

5 31. Section 504 of the Rehabilitation Act provides that no “qualified individual
6 with a disability” be “excluded from the participation in, be denied the
7 benefits of, or be subjected to discrimination under any program or activity
8 receiving Federal financial assistance or under any program or activity
9 conducted by any Executive agency.” 29 U.S.C. § 794(a); *see also* 6 C.F.R.
10 § 15.30 (prohibiting discrimination by DHS).
11
12

13 32. “To state a *prima facie* case under Section 504, [Petitioner must demonstrate
14 that: (1) they are qualified individuals with a disability, as defined in the
15 Americans with Disabilities Act [], (2) they are otherwise qualified for the
16 benefit or services sought; (3) that they were denied the benefit or services
17 solely by reason of their handicap; and (4) the program providing the benefit
18 or services receives federal financial assistance.” *Franco-Gonzalez v.*
19
20
21 *Holder*, 767 F.Supp.2d 1034, 1051-52 (C.D. Ca. 2010).
22

23 33. A “disability” is defined as either: (A) a physical or mental impairment that
24 substantially limits one or more of the major life activities of such individual,
25 (B) a record of such an impairment, or (C) being regarded as having such an
26 impairment. *See* 42 U.S.C. § 12102(1).
27
28

1 34. Respondents may remove a non-citizen to a third country (i.e., a country in
2 which the non-citizen does not hold citizenship) if removal to their country
3 of citizenship is impractical, inadvisable or impossible. *See* 8 U.S.C.
4 § 1231(b)(2)(E)(ii). However, DHS is barred from removing a non-citizen to
5 a country where the non-citizen's life or freedom would be threatened
6 because of five protected grounds. *Id.* at § 1231(b)(3)(A). In addition, DHS
7 is barred from deporting a non-citizen to a country where they face a threat
8 of torture. *See* 8 C.F.R. §§ 208.16-208.18.
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12 **FIRST CAUSE OF ACTION**

13 **UNLAWFUL REVOCATION OF RELEASE**

14
15 35. Petitioner re-alleges and incorporates each allegation contained in
16 paragraphs 1-34.

17
18 36. Petitioner was previously detained by ICE and released because his removal
19 could not be effectuated. If he complies with the conditions of this OSUP,
20 Respondents have the authority to revoke his release only if there is a
21 significant likelihood that they can remove him in the reasonably foreseeable
22 future. *See* 8 C.F.R. § 241.13(i)(2).
23

24 37. Respondents revoked Petitioner's release without evidence that he can be
25 repatriated deported to any other country. Indeed, at the time of his
26 detention, ICE had not even decided which country it would attempt to
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1 deport Petitioner to, let alone whether such deportation could be effectuated
2 in the reasonably foreseeable future.

3
4 38. Respondents' actions are arbitrary, capricious, an abuse of discretion, and
5 contrary to law. 5 U.S.C. § 706(a)(2)(A). Petitioner is entitled to immediate
6 release on an OSUP.
7

8 **SECOND CAUSE OF ACTION**

9
10 **VIOLATION OF PROCEDURES FOR REVOCATION OF RELEASE**

11 39. Petitioner re-alleges and incorporates each allegation contained in
12 paragraphs 1-34.
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14 40. The governing regulations require Respondents to notify Petitioner of the
15 reason for his re-detention. 8 C.F.R. § 241.13(i)(3). Respondents have not
16 complied with this obligation, nor have they yet provided him with an initial
17 interview at which he can respond to the purported reasons for revocation.
18 *Cf. id.* As such, Petitioner is entitled to immediate release on OSUP until
19 ICE can provide the minimal process required by the regulation.
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THIRD CAUSE OF ACTION

**UNLAWFUL DETENTION WHERE REMOVAL IS NOT
REASONABLY FORESEEABLE**

41. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-34.

42. Post-removal order detention violated 8 U.S.C. § 1231(a)(6) where removal is not significantly likely to occur in the reasonably foreseeable future. *See also Zadvydas v. Davis*, 533 U.S. 678 (2001).

43. Detention where removal is not reasonably foreseeable also violates due process.

44. Petitioner was already detained during the 90-day removal period, until ICE determined it could not effectuate removal and released him on an OSUP. Given that Petitioner is stateless and multiple countries have already rejected his request for travel documents, he has made an initial showing under *Zadvydas* that his removal is not significantly likely. *Id.* at 701. Respondents cannot rebut this showing, as they do not have any individualized evidence to believe that Petitioner's removal is reasonably foreseeable, as demonstrated by the statements of the arresting officer confirming that ICE had not yet even determined to which country it will try to deport Petitioner.

1 45. Petitioner's re-detention under these circumstances violates Section 1231
2 and the Due Process Clause under the U.S. Constitution.

3
4 46. Petitioner is entitled to immediate release on an OSUP.

5
6 **FOURTH CAUSE OF ACTION**

7 **UNLAWFUL DETENTION WITHOUT INDIVIDUALIZED**
8
9 **DETERMINATIONS OF DANGER OR FLIGHT RISK**

10 47. Petitioner re-alleges and incorporates each allegation contained in
11 paragraphs 1-34.

12
13 48. Detention violates Section 1231 and the Due Process Clause of the U.S.
14 Constitution unless it is reasonably related to the government's purpose of
15 preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690-
16 91.

17
18 49. Before being re-detained, Petitioner lived in the community for eight
19 months, in compliance with the terms of his OSUP. He returned to his
20 family and incurred no new criminal violations. Petitioner has received no
21 process to determine if his re-detention is warranted.

22
23 50. Petitioner is entitled to an individualized determination by impartial
24 adjudicators as to whether detention is justified based on danger or flight
25 risk.
26
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28

FIFTH CAUSE OF ACTION

VIOLATION OF SECTION 504 OF THE REHABILITATION ACT

51. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-34.

52. The Rehabilitation Act prevents the federal government from discriminating against individuals with disabilities in a manner that prevents the individuals from meaningfully participating in any activity conducted by an executive agency.

53. Petitioner's PTSD qualifies as a disability under the Rehabilitation Act. Respondents' failure to provide him with the necessary medication to treat his PTSD has affected his ability to participate in the removal process.

54. Petitioner is entitled to release from custody, in order to obtain proper treatment for his disability, and to facilitate his meaningful participation in the removal process.

SIXTH CAUSE OF ACTION

UNLAWFUL REMOVAL TO A THIRD COUNTRY

55. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-34.

1 56. Notwithstanding the statutory and regulatory prohibitions on removing non-
2 citizens to countries where they face potential persecution or torture, on
3 March 30, 2025, Respondent Noemi issued a memo entitled, "Guidance
4 Regarding Third Country Removals." This memo states that if the United
5 States has received "diplomatic assurances" from a third country that non-
6 citizens removed to that country will not be persecuted or tortured, DHS may
7 remove that non-citizen "without the need for further procedures." Exhibit
8 E.
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12 57. The procedure laid out in this memo violates the statutory and regulatory
13 provisions requiring Respondents to provide a non-citizen with a forum to
14 demonstrate an individualized risk of torture or persecution in a specific
15 country. The memo purports to rely on blanket assurances from third
16 countries that non-citizens generally will not be tortured or persecuted to
17 circumvent the obligation to determine if an individual non-citizen faces a
18 risk of torture or persecution.
19
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21 58. To the extent that Respondents are detaining Petitioner with the intent to
22 remove him to a third country without notice or the opportunity to
23 demonstrate that he is at a particularized risk of torture or persecution in that
24 third country, the detention is unlawful.
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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Respondents have violated Petitioner's rights;
3. Order Respondents to notify Petitioner of the reasons for the revocation of his release and provide Petitioner with a prompt interview as required by regulation;
4. Order Respondents to Release Petitioner from detention because they lack any individualized evidence that removal of Petitioner will occur in the reasonably foreseeable future;
5. Order Respondents to release Petitioner from detention absent an individualized determination by an impartial adjudicator that his detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release and/or supervision;
6. Order Respondents to release Petitioner from detention so that he may obtain appropriate medical care for his disability and accordingly participate in a meaningful way in the removal process;
7. Enjoin Respondents from revoking Petitioner's release unless they have individualized evidence that his removal is reasonably foreseeable;

- 1 8. Enjoin Respondents from revoking Petitioner's release without providing
- 2 him a determination by an impartial adjudicator that his detention is justified
- 3 based on danger or flight risk, which cannot be sufficiently addressed by
- 4 alternative conditions of release and/or supervision, at which hearing
- 5 Respondents will bear the burden of proof of demonstrating that Petitioner is
- 6 a flight risk or a danger to the community;
- 7
- 8
- 9 9. Enjoin Respondents from removing Petitioner to a third country without
- 10 sufficient notice and opportunity to demonstrate that he faces a specific risk
- 11 of torture or persecution in that third country;
- 12
- 13 10. Award Petitioner his costs and reasonable attorneys' fees in this action as
- 14 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on
- 15 any further basis justified under law;
- 16
- 17 11. Grant such further relief as the Court deems just and proper.
- 18

19 **RESPECTFULLY SUBMITTED this 28th day of July, 2025**

/s/ Sabrina Damast

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TABLE OF EXHIBITS

Exhibit A: Order of Supervision Documents

Exhibit B: Letter from Armenian Embassy

Exhibit C: Medical Records for Petitioner

Exhibit D: Proof of Family Ties

Exhibit E: “Guidance Regarding Third Country Removals,” (March 30, 2025)