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VARDAN GUKASIAN

12
13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 VARDAN GUKASIAN, an individual,

16 Petitioner-Plaintiff,

17 v.

18 KRISTI NOEM, Acting Secretary of the
Department of Homeland Security; TODD
19 LYONS, Deputy Director and Senior Official
Performing the Duties of Director, U.S.
Immigration and Customs Enforcement;
20 KENNETH PORTER, Assistant Field Office
Director, U.S. Immigration and Customs
21 Enforcement and Removal Operations; SDDO
CLOYDE UMALI, Supervisory and Detention
22 Officer, Immigration and Customs Enforcement,
Enforcement and Removal Operations, Salt Lake
23 City Field Office, Las Vegas Sub-Office,
Detained Unit; TYLER ADAMS, Supervisory
24 and Detention Officer, Immigration and Customs
Enforcement, Enforcement and Removal
25 Operations, Salt Lake City Field Office, Las
Vegas Sub-Office, Detained Unit; and CAPTAIN
26 FRANK D'AMICO, Captain of Corrections,
Henderson Detention Center,

27 Respondents-Defendants.
28

Case No. 2:25-cv-01697

**SUPPLEMENTAL BRIEF IN RESPONSE TO
ORDER DIRECTING ADDITIONAL
BRIEFING (DKT. NO. 40)**

ARGUMENT

1. Plaintiff-Petitioner Vardan Gukasian, by and through his attorneys Reuven L. Cohen, Alyssa Bell, Daniel Natal, and Hardeep Sull, hereby submits this supplemental brief in response to the Court's order directing supplemental briefing on his Motion for Reconsideration. ("Order," Dkt. No. 40.)

2. The Court's Order asks Mr. Gukasian to answer three procedural questions about how this lawsuit should proceed: 1) how he would anticipate this case to proceed on his conditions-of-confinement claims; 2) why all his claims must be tried together; and (3) whether reviving his claims would require that the now-complete briefing on the habeas portion of his complaint/petition be supplemented or re-briefed. Mr. Gukasian addresses each in turn.

3. Were the Court to revive his conditions-of-confinement claims in this action, Mr. Gukasian envisions this case proceeding on two tracks: one track pertaining to his prolonged detention claim—governed by statutory habeas rules—and a second track pertaining to his conditions-of-confinement claims—governed by the Federal Rules of Civil Procedure ("FRCP").

4. At this stage, the first track of Mr. Gukasian's case is essentially complete. Full briefing has occurred on the issue of Mr. Gukasian's prolonged detention claim. If the Court believed further factual development were required, however, the Court has discretion to schedule an additional evidentiary hearing. If the Court scheduled such a hearing, that hearing could proceed independently of any case deadlines set in the second track of the case. Alternatively, the Court could combine a habeas evidentiary hearing with a trial on the merits of the civil rights-based conditions-of-confinement claims. *See Roman v. Wolf*, Case No. 5:20-cv-00768-TJH-PVC, Dkt. No. 96 at 1 (C.D. Cal. filed June 1, 2020) ("The Court will combine the evidentiary hearing on Petitioners' petition for a writ of habeas corpus with a court trial on Petitioners' claims for injunctive and declaratory relief.").

5. The second track of Mr. Gukasian's case—the track pertaining to his conditions-of-confinement claims—would proceed as a civil lawsuit. If Mr. Gukasian's motion for reconsideration were granted and his claims were revived, the Government would have fourteen days to file an answer or a responsive motion to the complaint. Fed. R. Civ. P. 12(a)(4). The parties, coordinated by counsel for Mr. Gukasian, would conduct a Rule 26(f) conference within 30 days of the Court's order reviving

1 his claims. Fed. R. Civ. P. 26(f). No later than fourteen days following their Rule 26(f) conference, the
 2 parties would submit a stipulated discovery plan and scheduling order compliant with Local Rule 26-
 3 1(b). Civ. L.R. 26-1(b). Discovery would proceed according to the scheduling order. Mr. Gukasian's
 4 civil claims would ultimately be decided following a bench trial before the Court.

5 6. To be clear, if his conditions-of-confinement claims were revived, Mr. Gukasian does not
 6 anticipate re-briefing his habeas-based prolonged detention claim. That claim is fully briefed. The
 7 Court may either rule on the papers or schedule an evidentiary hearing to resolve disputed issues of fact.
 8 As to the revived civil rights-based conditions-of-confinement claims, litigation would proceed as it
 9 would in any civil case.

10 7. Mr. Gukasian believes that the Court retains discretion to hear both types of claims in the
 11 same action—as affirmed in *Roman and Romero-Lorenzo v. Koehn*, 2021 WL 12299041, at *1 (D. Ariz.
 12 Feb. 19, 2021)—and that it maximizes judicial economy and efficiency to decide the claims together.
 13 While both *Roman* and *Romero-Lorenzo* revolved around an identical set of facts—the outbreak of
 14 COVID-19 at an immigration detention facility and a deficient set of policies failing to address its
 15 spread—neither case limited the discretion of district courts to manage matters before them in the most
 16 efficient manner.

17 8. In contrast, FRCP 42 permits courts to join matters that “involve a common question of
 18 law or fact.” Fed. R. Civ. P. 42(a). And the doctrine of claim preclusion *requires* courts to hear claims
 19 together in the same lawsuit if they share a “common nucleus of operative fact.” *See Mpoyo v. Litton*
 20 *Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005). Whether claims share a common nucleus of
 21 operative fact “depends on whether they are related to the same set of facts and whether they could
 22 conveniently be tried together.” *Id.*

23 9. Both sets of Mr. Gukasian's claims revolve around a common nucleus of fact: his
 24 detention. Both sets of claims are levied against the same defendants. And whether his claims
 25 challenge the duration or conditions of his confinement, they remain tethered to the fact of his
 26 confinement and overlapping factual issues abound.

27 10. Furthermore, there is nothing procedurally impracticable about maintaining a hybrid
 28 cause of action challenging both the fact of confinement and conditions of confinement. *See Roman*,

Case No. 5:20-cv-00768-TJH-PVC, Docket (C.D. Cal. filed Apr. 13, 2020); *see also* *Romero-Lorenzo*, Case No. 2:20-cv-00901-DJH, Docket (D. Ariz. filed May 8, 2020) (requiring joint Rule 26(f) report and proceeding with standard civil discovery following adjudication of habeas claims brought by plaintiffs). Even outside of the COVID-19 context, courts appear willing to conduct joint proceedings addressing both an immigration detainee's petition for habeas corpus and request for civil or declaratory relief. For example, in *Ortega v. Kaiser*, a case involving a hybrid petition-complaint that does not involve COVID-19 or social distancing policies, Judge Jon S. Tigar appears to be proceeding along the same lines as described above. Following the granting of the plaintiff's preliminary injunction, the parties in that case have now been ordered to file a joint case management statement, and appear to be proceeding with the matter as they would in a typical civil case.¹ *Ortega v. Kaiser*, Case No. 4:25-CV-05259-JST, Dkt. No. 24 (N.D. Cal. filed Sept. 26, 2025).

11. Procedurally combining both sets of Mr. Gukasian's claims is not only feasible, but preferable. Were the Court to dismiss Mr. Gukasian's claims, he would be forced to refile his petition-complaint as a standalone civil complaint in this District and serve all six Defendants via certified mail, yet again. Three of his undersigned counsel would have to reapply to appear pro hac vice, paying substantial fees for each appearance, and Mr. Gukasian would have to wait for each Defendant to notice their appearance in the separate matter. In contrast, proceeding with his conditions-of-confinement claims in this case allows the parties to begin the discovery process immediately and litigate their way to a final resolution.

12. If the Court does determine that it would be impracticable to combine both Mr. Gukasian's habeas claim and his conditions-of-confinement claim into one action, Mr. Gukasian respectfully requests that the Court dismiss his conditions-of-confinement claims without prejudice to his ability to refile them in this District. He also requests that, when the Court arrives at a final

¹ In the Northern District of California, a joint case management statement must include (among other things) a proposed discovery plan pursuant to Rule 26(f) and typical civil deadlines for the designation of experts, discovery, the hearing of dispositive motions, and a trial date. *See Standing Order for All Judges of the Northern District of California, Contents of Joint Case Management Statement* (Nov. 30, 2023), available at https://cand.uscourts.gov/sites/default/files/standing-orders/Standing_Order_All_Judges-11-30-2023.pdf.

1 judgment on his habeas claim, the Court make clear that the final judgment in this case does not
2 preclude Mr. Gukasian from pursuing his conditions-of-confinement claims in the separate matter.

3 **CONCLUSION**

4 13. For the foregoing reasons, Mr. Gukasian respectfully requests that this Court grant his
5 unopposed Motion for Reconsideration and permit him to litigate his conditions-of-confinement claims
6 alongside his habeas claims in this same suit. If the Court does elect to deny Mr. Gukasian's Motion for
7 Reconsideration, Mr. Gukasian asks that the Court again make clear that the dismissal is without
8 prejudice to Mr. Gukasian's ability to file the claims in a separate action or lawsuit. He also requests
9 that the Court make clear that any final judgment in this case does not preclude Mr. Gukasian from
10 pursuing his conditions-of-confinement claims in a separate action.

11
12 Dated: January 30, 2026

COHEN WILLIAMS LLP

13
14 By: /s/ Reuven L. Cohen

15 Reuven L. Cohen

16 Alyssa Bell

17 Daniel Natal

Attorneys for Vardan Gukasian

(Admitted Pro Hac Vice)

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19 Dated: January 30, 2026

SULL AND ASSOCIATES, PLLC

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21 By: /s/ Hardeep Sull

22 Hardeep Sull

23 Attorney for Vardan Gukasian
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