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DETAINED

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ROLAND TUMASOV, an individual,

Case No.: '25CV2704 AGS JLB

11 Petitioner,

PETITION FOR WRIT OF HABEAS
CORPUS (28 U.S.C. § 2241)

12 v.

[WITHHOLDING OF REMOVAL
GRANTED]

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14 DOE 1, Director of San Diego Field
15 Office, U.S. Immigration and Customs
16 Enforcement; TODD M. LYONS, Acting
17 Director, U.S. Immigration and Customs
18 Enforcement; KRISTI NOEM, Secretary,
19 U.S. Department of Homeland Security;
PAMELA BONDI, U.S. Attorney
General; and DOE 2, Warden of Otay
Mesa Detention Center,

Agency file no.: 

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21 Respondents.
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1 **TO THE HONORABLE COURT AND TO THE PARTIES AND THEIR**
2 **COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that Petitioner ROLAND TUMASOV
4 (“Petitioner”), A-Number , by and through his attorneys hereby
5 petitions the Court for a Writ of Habeas Corpus, pursuant to Art. I, § 9, cl. 2 of the
6 United States Constitution; 28 U.S.C. § 2241; 28 U.S.C. § 1331; and 28 U.S.C. §
7 1651; and 28 U.S.C. §§2201, 2202, and for a directive to Respondents to
8 immediately release Mr. Tumasov from his prolonged detention or, alternatively,
9 immediately provide a bond hearing within ten (10) days of issuance of the Court’s
10 writ.
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12 **INTRODUCTION**

13 1. Petitioner Roland Tumasov hereby petitions under 28 U.S.C. § 2241
14 for a writ of habeas corpus seeking release from his 372-day confinement at
15 Respondent’s Otay Mesa Detention Center in San Diego, California, because there
16 is "no significant likelihood of [his] removal in the reasonably foreseeable future,"
17 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the detention has been greatly
18 prolonged, Mr. Tumasov has now been granted withholding of removal, and he has
19 been recently diagnosed as suffering from Major Depressive Disorder, Generalized
20 Anxiety Disorder, and Post-Traumatic Stress Disorder. These last conditions
21 constitute substantial and material changed circumstances justifying relief.
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2. Respondents have detained Mr. Tumasov since October 3, 2024, that is for 372 days, and yet the continued detention of Mr. Tumasov serves no purpose and should be ended immediately on legal and humanitarian grounds.

CUSTODY

3. Petitioner is in the physical custody of Respondents. He is imprisoned at Otay Mesa Detention Center, an immigration detention facility owned and operated by Respondents 7488 Calzada de la Fuente, San Diego, CA 92154. Petitioner is under the direct control of Respondents and their agents..

JURISDICTION

4. 12. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. §§ 1331, 2241, 2242, and 2255; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, art I, § 9.

VENUE

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 2242 because Petitioner is detained in this District, his immediate physical custodian (the Warden of OMDC) is located here, and a substantial part of the events giving rise to the claims occurred here. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).

PARTIES

6. Petitioner, Roland Tumasov, is a noncitizen currently detained by

1 Respondents at Otay Mesa Detention Center in San Diego, California. He has been
2 in Respondent's custody since October 3, 2024.

3 7. Respondent DOE 1 is the Field Office Director responsible for the San
4 Diego, California Field Office of ICE with administrative jurisdiction over
5 Petitioner's immigration case. He is a legal custodian of Petitioner and is named in
6 his official capacity. Respondent DOE 1 is sued under said fictitious name given
7 the unavailability of public information regarding his or her identity. On
8 information and belief, DOE 1 is believed to be agent or employee of the other
9 Respondents. Upon discovery of the identity of Respondent DOE 1, Petitioner will
10 seek leave to amend this Petition to provide the correct name.

11 8. Respondent Todd M. Lyons is the Acting Director of U.S.
12 Immigration and Customs Enforcement (ICE). He is a legal custodian of Petitioner
13 and is named in his official capacity.

14 9. Respondent Kristi Noem is the Secretary of the United States
15 Department of Homeland Security (DHS). She is a legal custodian of Petitioner and
16 is named in her official capacity.

17 10. Respondent Pamela Jo Bondi is the Attorney General of the United
18 States Department of Justice. She is a legal custodian of Petitioner and is named in
19 her official capacity.

20 11. Respondent DOE 2 is the Warden of Otay Mesa Detention Center in

1 San Diego, California, where Petitioner is currently detained. He is a legal
2 custodian of Petitioner and is named in his official capacity. Respondent DOE 2 is
3 sued under said fictitious name given the unavailability of public information
4 regarding his or her identity. On information and belief, DOE 2 is believed to be
5 agent or employee of the other Respondents. Upon discovery of the identity of
6 Respondent DOE 2, Petitioner will seek leave to amend this Petition to provide the
7 correct name.

10 **STATEMENT OF FACTS**

11 **Background**

12. Mr. Tumasov was born in Armenia on [REDACTED] (R.
13 Tumasov Passport bio page, **Exhibit 1**.) In Armenia, Mr. Tumasov was beaten,
14 threatened, and threatened with death at the hands of his employer and his
15 employer's bodyguards. Mr. Tumasov's employers also threatened to physically
16 harm his parents if he ceased working for them. Mr. Tumasov's employer was
17 politically connected, and when Mr. Tumasov went to the police to complain, the
18 police verbally abused him and refused to help him, advising that Mr. Tumasov's
19 employer was too influential.

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23. On or around October 3, 2024, Mr. Tumasov attempted to present
24 himself for admission at the San Ysidro, California, port of entry and he was taken
25 into ICE custody. (NTA, **Exhibit 2**.)
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14. On October 24, 2024, Mr. Tumasov underwent a credible fear interview with an asylum officer. The asylum officer found Mr. Tumasov to be credible and gave him a positive finding. (NTA, Exhibit 2.)

15. Mr. Tumasov remained in Respondent's custody and was given permanent housing at Otay Mesa Detention Center, at 7488 Calzada de la Fuente, San Diego, CA 92154. (NTA, Exhibit 2.)

16. On February 28, 2025, Mr. Tumasov was married his childhood sweetheart, Ms. Ruzanna Nikoghosyan, a U.S. Citizen living in Southern California. (Marriage Certificate, **Exhibit 3**; R. Nikoghosyan Passport bio page, **Exhibit 4**.)

Irreparable Injury

17. On April 10, 2025, Ms. Nikoghosyan filed with USCIS a Form I-130 Petition for Alien Relative for her husband. (USCIS Receipt, **Exhibit 5**.) Ms. Nikoghosyan has twice requested an expedite of her petition but she has yet to receive an affirmative response.

18. On September 26, 2025, an Immigration Judge granting the relief of Withholding of Removal to Mr. Tumasov pursuant to INA § 241(b)(3). (Withholding Order, **Exhibit 6**.) Asylum was denied for the sole reason that the Securing the Border asylum bar was found to apply to Mr. Tumasov.

19. With the grant of Withholding of Removal Respondents are now

1 legally prohibited from doing so, and no arrangements have been made by
2 Respondents to remove Mr. Tumasov to a third-party country.

3 20. Mr. Tumasov has now been detained for 372 days at Otay Mesa
4 Detention Center.

5 21. Mr. Tumasov was recently diagnosed by a clinical psychologist with
6 conditions labeled as (1) Major Depressive Disorder, Recurrent and Severe without
7 Psychotic Features; (2) Generalized Anxiety Disorder; and (3) Post-Traumatic
8 Stress Disorder. (CV of Dr. Celina Marciano, **Exhibit 7**; Psychological Evaluation
9 of R. Tumasov, **Exhibit 8**.)

10 22. Mr. Tumasov's prolonged detention is grievously affecting his mental
11 health and is causing him undue mental and emotional anguish.

12 **Exhaustion of Administrative Remedies**

13 23. Petitioner is detained with an order of removal and granting of
14 withholding of removal pursuant to INA § 241(b)(3). Petitioner's right to appeal
15 has been waived. Moreover, Petitioner has received an order of the Immigration
16 Judge determining that no jurisdiction exists for the Immigration Judge to review
17 Respondent's custody determination. (Bond Order, **Exhibit 9**.)

18 24. Accordingly, Petitioner has no other avenue to challenge the legality
19 or conditions of his continued confinement apart from a petition for habeas corpus
20 challenging the "fact, duration, or conditions" of immigration detention. *Singh v.*
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1 *Holder*, 638 F.3d 1196, 1211–12 (9th Cir. 2011).

2 **LEGAL FRAMEWORK**

3 25. District courts retain jurisdiction under 28 U.S.C. § 2241 to consider
4 habeas challenges to immigration detention that are sufficiently independent of the
5 merits of the removal order. *See Singh v. Holder*, 638 F.3d 1196, 1211–1212 (9th
6 Cir. 2011); *cf. Jennings v. Rodriguez*, 583 U.S. 281 (2018). Furthermore, a writ of
7 habeas corpus is the proper avenue for prisoners to challenge the fact or duration of
8 their confinement. *See Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973) (a writ of
9 habeas corpus is the sole available federal remedy when a prisoner challenges “the
10 fact or duration of his confinement”).

11 26. To succeed on a habeas petition, a petitioner must generally show that
12 he is “in custody in violation of the Constitution or laws or treaties of the United
13 States . . .” 28 U.S.C. § 2241(c)(3).

14 27. Under *Zadvydas v. Davis*, 533 U.S. 678, 690–701 (2001), immigration
15 detention is limited in duration and purpose; it must bear a reasonable relation to
16 effectuating removal. Where removal is not reasonably foreseeable, detention
17 violates due process. Previously the Ninth Circuit had emphasized that prolonged
18 detention without individualized review raises grave due process concerns.
19 *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017). Conditions that expose
20 detainees to serious harm constitute unconstitutional punishment. *Helling v.*
21 *Hernandez*, 553 U.S. 544, 560 (2000).

1 *McKinney*, 509 U.S. 25, 33 (1993).

2 28. Whenever the government detains or incarcerates someone, it has an
3 affirmative duty to provide conditions of reasonable health and safety. As the
4 Supreme Court has explained, “when the State takes a person into its custody and
5 holds him there against his will, the Constitution imposes upon it a corresponding
6 duty to assume some responsibility for his safety and general well-being.”
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8 *DeShaney v. Winnebago County Dept. of Soc. Servs.*, 489 U.S. 189, 199-200
9 (1989). As a result, the government must provide those in its custody with “food,
10 clothing, shelter, medical care, and reasonable safety.” *Id.* at 200.

11 29. Conditions that pose an unreasonable risk of future harm violate the
12 Eighth Amendment’s prohibition against cruel and unusual punishment, even if that
13 harm has not yet come to pass. The Eighth Amendment requires that “inmates be
14 furnished with the basic human needs, one of which is ‘reasonable safety.’” *Helling*
15 v. *McKinney*, 509 U.S. 25, 33 (1993) (quoting *DeShaney*, 489 U.S. at 200).

16 Accordingly, “[i]t would be odd to deny an injunction to inmates who plainly
17 proved an unsafe, life-threatening condition in their prison on the ground that
18 nothing yet had happened to them.” *Id.*

19 30. Immigration detention is civil in nature and must not be punitive. The
20 U.S. Supreme Court has made clear in *Zadvydas v. Davis*, 533 U.S. 678, 690
21 (2001), that the government’s power to detain is limited by constitutional
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1 principles. When removal is not reasonably foreseeable, detention becomes
2 constitutionally suspect. The Ninth Circuit has applied this principle to make clear
3 that civil detainees, like the petitioner here, are entitled to conditions of
4 confinement that are superior to those of convicted prisoners and to those of
5 criminal pretrial detainees. *Jones v. Blanas*, 393 F.3d 918, 933-34 (9th Cir. 2004),
6 cert. denied, 546 U.S. 820 (2005).

7 31. Here, while Respondents were previously holding Mr. Tumasov
8 pending attempts to remove him to Armenia, Respondents are now legally
9 prohibited from doing so, and no arrangements have been made by Respondents to
10 remove Mr. Tumasov to a third-party country. Nevertheless, Respondents have
11 continued to detain Mr. Tumasov. As of the filing of this amended petition, Mr.
12 Tumasov has now been detained for 372 days at Otay Mesa Detention Center.

13 32. Mr. Tumasov's prolonged detention is grievously affecting his mental
14 health and is causing him undue mental and emotional anguish. This is exacerbated
15 by the fact that Mr. Tumasov was recently diagnosed by a clinical psychologist
16 with conditions labeled as (1) Major Depressive Disorder, Recurrent and Severe
17 without Psychotic Features; (2) Generalized Anxiety Disorder; and (3) Post-
18 Traumatic Stress Disorder.

19 33. Because Mr. Tumasov has now been granted Withholding of Removal,
20 and because Mr. Tumasov is married to a U.S. Citizen who is petitioning for a
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1 family-based visa for him, Mr. Tumasov should be released to await the
2 adjudication of his petition with his wife.

3 34. In short, for these reasons, Petitioner's continued detention violates the
4 Due Process Clause of the 5th Amendment and *Zavydas v. Davis*. Furthermore,
5 there are clear and weighty humanitarian factors justifying release.
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7 35. The instant petition does not merely challenge the conditions of
8 Petitioner's confinement, but takes the position that no remedy other than
9 immediate release is sufficient to address the harm that Petitioner continues to
10 suffer.
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12 **PRAYER FOR RELIEF**
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14 WHEREFORE, Petitioner Roland Tumasov respectfully requests that the Court
15 grant the following relief:
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17 1. Issue a Writ of Habeas Corpus and directive to Respondents to
18 immediately release Mr. Tumasov from his prolonged detention and permit him to
19 reside with his U.S. Citizen wife while he awaits further adjudication of his family-
20 based petition; or
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22 2. In the alternative, direct Respondents to provide Mr. Tumasov with a
23 bond hearing within ten (10) days of the date of issuance of the Court's Writ;
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25 3. Award Petitioner his costs and reasonable attorneys' fees in this action
26 under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and
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1 28 U.S.C. § 2412, and on any other legal and just grounds; and

2 4. Grant any other further relief as the Court may deem just and
3 appropriate.
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6 Respectfully submitted,

7 Dated this 10th day of October, 2025.
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9
10 /s/ [Steven K. Ridgill]
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Attorney for Petitioner

EXHIBITS

- 1 1. R. Tumasov's passport biographical page ;
- 2 2. Notice to Appear, excerpt;
- 3 3. Marriage Certificate;
- 4 4. R. Nikoghosyan passport biographical page;
- 5 5. USCIS Receipt (Form I-130);
- 6 6. Order Granting Withholding of Removal;
- 7 7. Curriculum Vitae of Dr. C. Marciano;
- 8 8. Psychological Evaluation by Dr. C. Marciano; and
- 9 9. Immigration Judge Bond Order.

CERTIFICATION

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3 This petition cannot be verified by ROLAND TUMASOV because he is in
4 DHS custody. Consequently, the undersigned counsel for Petitioner hereby verifies
5 that the information in this petition is true and correct to the best of my knowledge
6 and belief based on information provided by the Petitioner.
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9 SWORN under penalty of perjury this date of October 10, 2025, at Los
10 Angeles, California.
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12 */s/ [Steven K. Ridgill]*
13 Steven K. Ridgill, attorney for
14 Petitioner, Asghar Farsi
15 Declarant
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