

1 Jacqueline Marie Brown (Ca Bar No. 238537)
2 Director
3 Immigration & Deportation Defense Clinic
4 USF School Of Law
5 2130 Fulton Street
6 San Francisco, Ca 94117
7 (415) 422-6171 (Telephone)
8 Jmbrown@usfca.edu (email)
9 Attorney For Petitioner-Plaintiff

7 UNITED STATES DISTRICT COURT FOR
8 THE EASTERN DISTRICT OF CALIFORNIA

9 Ashot Ohanyan
10 Petitioner-Plaintiff,

11 v.

12 Warden of California City Detention

13 Minga WOFFORD, Field Office Director, Mesa
14 Verde, Office of Detention and Removal, U.S.
15 Immigrations and Customs Enforcement; U.S.
16 Department of Homeland Security;

17 Sergio ALBARRAN, Acting Field Office Director
18 of the San Francisco Immigration and Customs
19 Enforcement Office

20 Todd M. LYONS, Acting Director, Immigration
21 and Customs Enforcement, U.S. Department of
22 Homeland Security;

23 Kristi NOEM, in her Official Capacity, Secretary,
24 U.S. Department of Homeland Security; and

25 Pam BONDI, in her Official Capacity, Attorney
26 General of the United States;

27 Respondents-Defendants.
28

Case No. 1:25-cv-01661-TLN-SCR

**PETITIONER'S NOTICE OF
MOTION AND EX PARTE
MOTION FOR TEMPORARY
RESTRAINING ORDER**

**POINTS AND
AUTHORITIES IN
SUPPORT OF EX
PARTE MOTION FOR
TEMPORARY
RESTRAINING ORDER
AND MOTION FOR
PRELIMINARY
INJUNCTION**

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes;
Request for Declaratory and
Injunctive Relief

1 **NOTICE OF MOTION**

2 Petitioner Ashot Ohanyan applies to this Honorable Court for a temporary restraining
3 order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and
4 Customs Enforcement (ICE), and Pam Bondi, in her official capacity as the U.S. Attorney
5 General, (1) from continuing to detain him based on an unlawful action by ICE, (2) ordering his
6 immediate release from immigration detention; and (3) from re-arresting Ashot Ohanyan until he
7 is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the
8 Fifth Amendment, to determine whether circumstances have materially changed such that his re-
9 incarceration would be justified because there is clear and convincing evidence establishing that
10 he is a danger to the community or a flight risk.

11 This motion is made pursuant to Rule 65 of the Federal Rules of Civil Procedure and is
12 based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the
13 Declaration of Jacqueline Scott Corley filed concurrently herewith, the Amended Petition for Writ
14 of Habeas Corpus and Complaint for Declaratory and Injunctive Relief filed concurrently
15 herewith, and all files and records in this action.

16 Petitioner has provided notice of this ex parte motion to Assistant U.S. Attorney Lynn
17 Trinka Ernce, counsel for Respondents, on January 7, 2026.

18 If the Court deems oral argument necessary, Petitioner requests to appear by video.

19
20 Dated: January 12, 2026

Respectfully submitted,

21 /s/ Jacqueline Marie Brown

22 Jacqueline Marie Brown

23 Attorney for Petitioner-Plaintiff Ashot Ohanyan

1 **I. INTRODUCTION**

2 Ashot Ohanyan, a 55-year-old Armenian asylum seeker, has been detained by U.S.
3 Immigration and Customs Enforcement for over fourteen months without a merits hearing on
4 his asylum claim. His prolonged detention is not the result of case complexity or his own
5 delays—it is the direct consequence of ICE's repeated transfers between detention facilities and
6 the Immigration Court's multiple hearing cancellations and resets. Despite passing his credible
7 fear interview, filing a complete asylum application, and being ready for his merits hearing
8 since the end of May, 2025, Mr. Ohanyan remains indefinitely detained with no hearing date
9 that will actually occur.

10 Mr. Ohanyan's detention has now exceeded constitutional limits. He suffers daily from
11 deteriorating physical and mental health, including chronic pain, sleep deprivation, and
12 profound psychological distress. His wife, released within three days of their joint entry,
13 describes him as transformed—no longer the positive man she knew, but someone who is
14 frustrated, sad, and despondent.

15 The government has had ample time to adjudicate Mr. Ohanyan's asylum claim. Instead, its
16 own actions have prevented resolution. This Court's immediate intervention is necessary to halt
17 this ongoing constitutional violation. Petitioner respectfully requests that this Court issue a
18 Temporary Restraining Order either releasing Mr. Ohanyan from custody immediately or, in the
19 alternative, ordering a bond hearing within seven days where the government must justify his
20 continued detention.

21 **II. STATEMENT OF FACTS AND CASE**

22 The following facts are based on the Declaration of Jacqueline Maria Brown, as well as
23 documents and audio hearings from Mr. Ohanyan's immigration court case filed as Exhibits 2
24 and 3, and supporting letters of recommendation, filed as Exhibit 6, concurrently herewith and
25 are incorporated by reference.

26 **A. Mr. Ohanyan's Entry and Initial Detention**

1 On November 18, 2024, Mr. Ohanyan and his wife presented themselves at the San
2 Ysidro Port of Entry seeking asylum based on persecution Mr. Ohanyan suffered in Armenia
3 due to his political opinion. Exh. 1, *Brown Decl.* ¶ 5. They were immediately separated. *Id.* ¶ 6.
4 While his wife was released from ICE custody within three days, Mr. Ohanyan was transferred
5 to the South Texas ICE Processing Center, where he has remained in continuous detention for
6 over fourteen months. *Id.* ¶ 6.

7 Mr. Ohanyan passed his credible fear interview in December 2024. *Id.* ¶ 7. He received
8 a Notice to Appear (“NTA”) placing him in removal proceedings on December 17, 2024, with
9 his first master calendar hearing initially scheduled for February 26, 2025, later moved to
10 February 3, 2025. *Id.* ¶ 7.; Exh. 2, *Notice to Appear.*

11 **B. The Prolonged Detention: Government-Caused Delays**

12 Since February 2025, Mr. Ohanyan has attended only four preliminary master calendar
13 hearings despite being detained for over fourteen months. Exh. 1, ¶ 8. At his first hearing on
14 February 3, 2025, he pled to the allegations in his Notice to Appear with the assistance of
15 counsel and informed the court he would file an asylum application. *Id.* ¶ 9. The court set his
16 next hearing for March 11, 2025. *Id.*; Exh. 3, *Immigration Hearing Notices.*

17 Mr. Ohanyan timely filed his asylum application on March 7, 2025. *Id.* ¶ 10. At the
18 March 11, 2025 hearing, the immigration judge set his individual merits hearing for April 30,
19 2025. *Id.*; Exh. 3. Between April 3 and April 11, 2025, Mr. Ohanyan’s attorney filed all
20 supporting documents. Exh. 1. ¶ 11. On April 11, 2025, the court—on its own motion—reset
21 the hearing to May 15, 2025. *Id.*; Exh. 3.

22 On May 7, 2025, counsel requested the only continuance in this case because a
23 supporting document had not yet arrived from Armenia. *Id.* ¶ 12. The court granted the motion
24 and reset the hearing to July 24, 2025. *Id.* This was the sole continuance requested on Mr.
25 Ohanyan's behalf during fourteen months of detention. *Id.*

26 **C. The First Transfer: Pearsall to Mesa Verde**

1 Around June 20, 2025—approximately one month before his scheduled July 24, 2025
2 merits hearing—ICE transferred Mr. Ohanyan from the South Texas ICE Processing Center to
3 the Mesa Verde ICE Processing Center in California. *Id.* ¶ 13; Exh. 4, *ICE Notice of Alien*
4 *Address*. His case was transferred to the Adelanto Immigration Court. *Id.* This transfer
5 disrupted the hearing continuity before the immigration judge who had been managing his case
6 since February.

7 At a reset master calendar hearing on July 9, 2025 before a different immigration judge
8 in Adelanto, the judge stated she had not reviewed all the evidence in the record and set another
9 master calendar hearing for August 11, 2025 (later changed to August 12, 2025). *Id.* ¶ 14. At
10 the August 12, 2025 hearing, the court set yet another master calendar hearing for August 26,
11 2025. *Id.* ¶ 15; Exh. 3.

12 On August 20, 2025, Mr. Ohanyan had a preliminary bond hearing. Exh.1 ¶ 16. The
13 immigration judge found that Mr. Ohanyan was not likely eligible for bond due to his status as
14 an arriving alien, and counsel was advised to withdraw the bond application. *Id.*; Exh. 5,
15 *Immigration Judge Orders*. There is no indication in the record that ICE conducted any
16 individualized assessment of whether Mr. Ohanyan poses a flight risk or danger to the
17 community.

18 The August 26, 2025 hearing was reset to September 29, 2025. Exh. 1 ¶ 17; Exh. 3. On
19 September 3, 2025, Mr. Ohanyan’s attorney filed a motion requesting that the case be set for an
20 individual merits hearing, noting that Mr. Ohanyan “has been in custody for nine months now
21 and would be grateful for a hearing date.” Exh. 1 ¶ 18; Exh. 5 A new immigration judge
22 granted that motion and set the merits hearing for November 3, 2025. Exh. 1 ¶ 18; Exh.5.

23 **D. The Second Transfer: Mesa Verde to California City**

24 On September 29, 2025—just over one month before the scheduled November 3, 2025
25 merits hearing—ICE again transferred Mr. Ohanyan, this time to the California City ICE
26 Processing Center. Exh.1 ¶ 19. His case was also transferred to a different immigration court
27

1 and assigned to yet another immigration judge. *Id.* The merits hearing was reset to December 8,
2 2025. *Id.*

3 Four days before that December 8, 2025 hearing, on December 4, 2025, the court reset
4 Mr. Ohanyan's hearing once again—this time to March 5, 2026. *Id.* ¶ 20. Counsel is aware
5 from other clients and cases that the immigration judge assigned to Mr. Ohanyan's case was out
6 during December 2025. *Id.* ¶ 21.

7 Mr. Ohanyan has no faith that his March 5, 2026 hearing will actually occur or that he
8 will not be transferred yet again. *Id.* ¶ 22.

9 **E. The Harm of Prolonged Detention**

10 Mr. Ohanyan describes conditions at the California City ICE Processing Center as
11 “prison-like” and the worst he has experienced during his fourteen-month detention. *Id.* ¶ 23.
12 He must undergo “count” every three hours, with each count lasting one hour—a significant
13 deterioration from his previous facilities. *Id.* Outside time is not regularly scheduled, and there
14 is no access to books except the Bible. *Id.* As a Christian pastor, Mr. Ohanyan spends most of
15 his time reading his Bible. *Id.*

16 Phone calls are prohibitively expensive. *Id.* ¶ 24. Mr. Ohanyan and his wife speak for
17 ten minutes daily, but she cannot visit him. *Id.*

18 The detention has taken a severe toll on Mr. Ohanyan's physical health. The food is
19 barely edible and the water barely drinkable, causing problems with his colon and painful
20 constipation. *Id.* He now suffers daily back pain as a consequence. *Id.* He cannot sleep more
21 than three hours due to the constant counts and worry about his situation. *Id.* Both his eyesight
22 and hearing have deteriorated during detention. *Id.* When he requests medical attention, it takes
23 weeks to receive medication and two months to see a doctor. *Id.*

24 Mr. Ohanyan has repeatedly asked deportation officers about the possibility of release
25 on bond, understanding that ICE has the authority to release him even though the immigration
26 judge found him ineligible for bond as an arriving alien. *Id.* ¶ 25. They have told him they
27

1 cannot do anything and that he must wait for his court date. *Id.*

2 Mr. Ohanyan's wife describes her husband as a different man—unable to maintain his
3 normally positive outlook and mental state. *Id.* ¶ 26. She states he is now frustrated, sad, and
4 even despondent in their phone conversations. *Id.*

5 Mr. Ohanyan has no criminal history. *Id.* ¶ 27. [REDACTED]

6 [REDACTED]
7 [REDACTED] *Id.*

8 **III. LEGAL STANDARD**

9 A party seeking a temporary restraining order or preliminary injunction must establish:
10 (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of
11 preliminary relief; (3) that the balance of equities tips in the party's favor; and (4) that an
12 injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20
13 (2008). “The Ninth Circuit employs a ‘sliding scale’ approach to these factors: ‘a stronger
14 showing of one element may offset a weaker showing of another.’” *All. for the Wild Rockies v.*
15 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). Under this approach, “‘serious questions going to
16 the merits’ and a hardship balance that tips sharply toward the plaintiff can support issuance of
17 an injunction, assuming the other two elements of the *Winter* test are also met.” *Id.* at 1135.

18 A temporary restraining order should be issued if “immediate and irreparable injury,
19 loss, or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ.
20 P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a
21 preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters &*
22 *Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974).

23 **IV. ARGUMENT**

24 **A. Petitioner Is Likely to Succeed on the Merits**

25 Mr. Ohanyan’s fourteen-month detention without a merits hearing violates the Due
26 Process Clause of the Fifth Amendment. The government’s detention authority, even over
27

1 arriving aliens, is not unlimited and must serve a legitimate governmental purpose. Prolonged
2 detention without meaningful review—particularly when caused by the government's own
3 actions and unsupported by evidence of flight risk or danger—violates constitutional protections
4 against arbitrary deprivation of liberty.

5 1. The Fifth Amendment Imposes Limits on Prolonged Detention of Arriving
6 Aliens

7 The Due Process Clause applies to “all ‘persons’ within the United States, including
8 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
9 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “The touchstone of due process is protection of the
10 individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558
11 (1974), including “the exercise of power without any reasonable justification in the service of a
12 legitimate government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).
13 “Freedom from imprisonment—from government custody, detention, or other forms of physical
14 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.
15 While the Court in *Zadvydas* addressed post-removal-order detention and acknowledged that
16 different considerations apply to arriving aliens, the fundamental principle remains: indefinite
17 detention without adequate procedural protections raises “serious constitutional concerns.” *Id.* at
18 682, 690.

19 The government’s detention authority, even over arriving aliens, must be exercised
20 reasonably and cannot become indefinite. *See Demore v. Kim*, 538 U.S. 510, 531 (2003)
21 (Kennedy, J., concurring) (emphasizing that detention authority is cabined by the “assumption
22 that the detention will be brief” and expressing concern about detention that becomes
23 “unreasonable or unjustified”). As the Ninth Circuit has recognized, “the Due Process Clause of
24 the Fifth Amendment prohibits the government from detaining a person for a prolonged period
25 without providing him a hearing before a neutral decisionmaker to determine whether his
26 continued detention is justified.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1138 (9th Cir. 2013).

1 To comply with substantive due process, the government's deprivation of an individual's
2 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is
3 "civil, not criminal," and "nonpunitive in purpose and effect," must be justified by either
4 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994
5 ("[T]he government has no legitimate interest in detaining individuals who have been determined
6 not to be a danger to the community and whose appearance at future immigration proceedings
7 can be reasonably ensured by a lesser bond or alternative conditions."). When these rationales
8 are absent, immigration detention serves no legitimate government purpose and becomes
9 impermissibly punitive, violating a person's substantive due process rights. *See Jackson v.*
10 *Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the
11 government's interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-
12 CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after
13 finding petitioner may "succeed on his Fifth Amendment claim if he demonstrates *either* that the
14 government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him").

15
16 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
17 detention, including so-called "mandatory" detention. *Demore v. Kim*, 538 U.S. 510, 532-33
18 (2003) (Kennedy, J., concurring) ("Were there to be an unreasonable delay by the INS in
19 pursuing and completing deportation proceedings, it could become necessary then to inquire
20 whether the detention is not to facilitate deportation, or to protect against risk of flight or
21 dangerousness, but to incarcerate for other reasons."); *Nielsen v. Preap*, 586 U.S. 392, 420
22 (2019) ("Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied
23 challenges—that is, constitutional challenges to applications of the statute as we have now read
24 it.").

25 2. Mr. Ohanyan Is Neither a Flight Risk Nor a Danger to the Community

26 Mr. Ohanyan, who has no criminal history and who is diligently pursuing his asylum
27

1 case with the assistance of counsel, is neither a danger nor a flight risk. Therefore, his detention
2 is both punitive and not justified by a legitimate purpose, violating his substantive due process
3 rights. First, because Mr. Ohanyan has no criminal history, there is no credible argument that he
4 is a danger to the community. *See* Exh. 1, Brown Decl. ¶ 27. He reports only an arbitrary arrest
5 and detention by the Armenian government due to his political opinion—the very persecution
6 from which he seeks asylum. *Id.*

7 Second, as to flight risk, the question is whether custody is reasonably necessary to
8 secure a person's appearance at immigration court hearings. *See Hernandez*, 872 F.3d at 990-91.
9 Mr. Ohanyan has demonstrated his commitment to pursuing his asylum case through fourteen
10 months of detention. He timely filed his asylum application and supporting documents, attended
11 every scheduled hearing, and requested only one continuance for a document from Armenia.
12 Exh. 1, Brown Decl. ¶¶ 9-12. His wife—who entered with him and faces identical immigration
13 proceedings—was released within three days and has maintained contact with him throughout
14 his detention. *Id.* ¶ 6, 24.

15 Moreover, Mr. Ohanyan has a bona fide asylum claim and a strong desire to remain in
16 the United States to pursue that relief, further mitigating any risk of flight. *See Padilla v. U.S.*
17 *Immigr. and Customs Enft.*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there
18 is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and
19 desire to remain in the United States). Mr. Ohanyan passed his credible fear interview and has
20 been ready for his merits hearing since March 2025. *See* Exh. 1, Brown Decl. ¶¶ 7, 10. His
21 wife, with whom he came to the United States, is separately in proceedings with her own
22 asylum application. *Id.* ¶ 6. Considering they are a family, they could have been placed into
23 removal proceedings together.

24 In sum, nothing in the record suggests Mr. Ohanyan is either a danger or a flight risk.
25 The immigration judge found him categorically ineligible for bond as an arriving alien, but no
26 neutral adjudicator has conducted an individualized assessment of whether he actually poses a
27

1 flight risk or danger based on his specific circumstances. *See id.* ¶ 16. ICE officers have told
2 him they cannot consider his release, leaving him with no avenue for review of his detention. *Id.*
3 ¶ 25.

4 3. Fourteen Months of Detention Without Individualized Review Is
5 Unreasonable and Unconstitutional

6 Mr. Ohanyan's detention has far exceeded any reasonable period. He has been detained
7 for over fourteen months—not because his case is complex, not because he has caused
8 excessive delays, but because ICE has repeatedly transferred him between facilities and
9 immigration courts have repeatedly cancelled and reset his hearings.

10 The timeline demonstrates both the unreasonableness of the detention and the absence of
11 any legitimate justification:

- 12 • March 2025: Mr. Ohanyan filed his complete asylum application and was ready for a
13 merits hearing. His hearing was set for April 30, 2025.
- 14 • April-May 2025: The court reset the hearing on its own motion, then granted the only
15 continuance requested by Mr. Ohanyan's counsel (for a document from Armenia),
16 resetting to July 24, 2025.
- 17 • June 2025: ICE transferred Mr. Ohanyan to Mesa Verde approximately one month
18 before his scheduled July hearing, disrupting case continuity and requiring a new
19 judge to review the record.
- 20 • July-August 2025: The new judge held multiple master calendar hearings and finally
21 set a new merits hearing for November 3, 2025.
- 22 • September 2025: ICE transferred Mr. Ohanyan again—this time to California City—
23 approximately one month before the November 3 hearing, once again disrupting case
24 continuity. The hearing was reset to December 8, 2025.
- 25 • December 2025: Four days before the December 8 hearing, the court reset to March
26 5, 2026, apparently because the assigned judge was unavailable.

1 This pattern reveals that Mr. Ohanyan’s prolonged detention is not the result of necessary case
2 processing time or any concern about flight risk or dangerousness. It is the direct consequence
3 of ICE’s transfer decisions and the immigration courts’ inability to maintain hearing schedules.
4 Mr. Ohanyan has been ready for his merits hearing since March 2025—ten months ago. Every
5 time a hearing approaches, either ICE transfers him or the court cancels.

6 4. The Government’s Actions Have Prevented Resolution and Transformed
7 Detention Into Punishment

8 The government cannot defend prolonged detention by pointing to delays it has itself
9 created. ICE’s decision to transfer Mr. Ohanyan twice—each time approximately one month
10 before a scheduled merits hearing—directly caused the cancellation and resetting of those
11 hearings. These were not emergency transfers based on facility capacity or security concerns;
12 they were routine transfers that disrupted the very process that could end Mr. Ohanyan’s
13 detention.

14 When detention extends for fourteen months due to government-caused delays, with no
15 individualized assessment of flight risk or danger, and no end in sight, it ceases to serve the
16 legitimate civil purposes of ensuring court appearances and protecting the community. Instead,
17 it becomes “detention for other reasons”—the very concern Justice Kennedy articulated in
18 *Demore*. 538 U.S. at 532-33. At this point, Mr. Ohanyan’s detention has become impermissibly
19 punitive.

20 While 8 U.S.C. § 1226(e) limits immigration judges’ authority to conduct bond hearings
21 for arriving aliens, it does not authorize indefinite detention without any individualized
22 assessment. Courts in this district and across the Ninth Circuit have recognized that prolonged
23 mandatory detention of arriving aliens without bond hearings raises serious constitutional
24 questions. *See, e.g., Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 694-95 (D. Ariz. 2018)
25 (finding due process violation where arriving aliens were detained for prolonged periods
26 without bond hearings). The constitutional avoidance canon counsels reading detention statutes
27

1 to include temporal limits and procedural safeguards necessary to avoid due process violations.
2 See *Zadvydas*, 533 U.S. at 689-90. Here, Mr. Ohanyan’s nearly fourteen-month detention—
3 caused by government transfers and court cancellations, with no end in sight and no
4 individualized finding of flight risk or dangerousness—has crossed the constitutional threshold.

5 **B. Petitioner Will Suffer Irreparable Harm Absent Immediate Relief**

6 “[T]he loss of First Amendment freedoms, for even minimal periods of time,
7 unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976)
8 (plurality opinion). The same principle applies with even greater force to physical liberty
9 itself—“the core of the liberty protected by the Due Process Clause.” *Zadvydas*, 533 U.S. at
10 690. Detainees in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d
11 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail
12 awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts
13 family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); accord
14 *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover,
15 the Ninth Circuit has recognized in “concrete terms the irreparable harms imposed on anyone
16 subject to immigration detention” including “subpar medical and psychiatric care in ICE
17 detention facilities, the economic burdens imposed on detainees and their families as a result of
18 detention, and the collateral harms to children of detainees whose parents are detained.”
19 *Hernandez*, 872 F.3d at 995. The government itself has documented alarmingly poor conditions
20 in ICE detention centers. See, e.g., DHS, Office of Inspector General (OIG), *Summary of*
21 *Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023* (2024)
22 (reporting violations of environmental health and safety standards; staffing shortages affecting
23 the level of care detainees received for suicide watch, and detainees being held in administrative
24 segregation in unauthorized restraints, without being allowed time outside their cell, and with no
25 documentation that they were provided health care or three meals a day).¹

26 ¹ Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf> (last accessed Feb. 6,
27 2024).

1 Mr. Ohanyan suffers ongoing, irreparable harm with each additional day of unlawful
2 detention. He cannot sleep more than three hours per night due to the prison-like conditions and
3 constant anxiety. *See* Exh.1, Brown Decl. ¶ 24. His physical health has deteriorated—he suffers
4 chronic pain, constipation, and reports declining eyesight and hearing. *Id.* His mental state has
5 transformed from positive to despondent. *Id.* ¶ 26. He is separated from his wife, who was
6 released within three days of their joint entry, and can speak with her for only ten minutes daily
7 at prohibitive cost. *Id.* ¶ 24. This harm continues and compounds each day. Unlike monetary
8 damages, lost liberty cannot be restored. *See Rodriguez*, 715 F.3d at 1139 (“The loss of
9 freedom—in this case, for months or years—is indisputably irreparable.”).

10 Critically, the irreparable harm here is not speculative or based on Mr. Ohanyan's
11 individual characteristics alone—it flows directly from the constitutional violation itself. The
12 government is depriving Mr. Ohanyan of liberty without the process due, and that deprivation
13 causes ongoing, irreparable injury that increases with each passing day.

14 The fact that Mr. Ohanyan’s March 5, 2026 hearing may also be cancelled or that ICE
15 may transfer him again only heightens the urgency. Based on the established pattern, there is no
16 reason to believe this detention will end absent court intervention.

17 **C. The Balance of Equities Tips Sharply in Petitioner’s Favor**

18 Mr. Ohanyan has already been detained for close to fourteen months. He has no criminal
19 history. Exh. 1, Brown Decl. ¶ 27. He has a wife in the United States who was released within
20 days of their joint entry. *Id.* ¶ 6. He seeks only what the Constitution guarantees: a hearing before
21 a neutral adjudicator at which the government must justify his continued detention with evidence
22 that he poses a flight risk or danger to the community.

23 The government’s interest in detaining Mr. Ohanyan must be weighed against the
24 constitutional violation occurring daily. The government cannot point to case complexity or Mr.
25 Ohanyan’s conduct as justification—he filed his asylum application promptly, requested only one
26

1 continuance for a document from Armenia, and has been ready for a merits hearing since late
2 May 2025. The delays are overwhelmingly the product of ICE transfers and court cancellations.

3 The government cannot suffer harm from an injunction that prevents it from engaging in
4 an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot
5 reasonably assert that it is harmed in any legally cognizable sense by being enjoined from
6 constitutional violations.”). Therefore, the government cannot allege harm arising from a
7 temporary restraining order or preliminary injunction ordering it to comply with the Constitution.

8 Further, any burden imposed by requiring the ICE to release Mr. Ohanyan from unlawful
9 custody and refrain from re-arrest unless and until he is provided a hearing before a neutral is
10 both *de minimis* and clearly outweighed by the substantial harm he will suffer as if he is detained.
11 *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s interest lies on the side of
12 affording fair procedures to all persons, even though the expenditure of governmental funds is
13 required.”).

14 The alternative—allowing this unconstitutional detention to continue for additional
15 months while awaiting the March 5, 2026 hearing (which may itself be cancelled)—cannot be
16 squared with constitutional protections. The balance of equities tips decisively in Mr. Ohanyan’s
17 favor.

18 **D. The Public Interest Favors Granting the TRO**

19 “It is always in the public interest to prevent the violation of a party’s constitutional
20 rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (citing *Sammartano v. First*
21 *Judicial District Court*, 303 F.3d 959 (9th Cir.2002)) (internal quotation marks omitted). The
22 public has a profound interest in ensuring that the government does not detain individuals
23 indefinitely without meaningful process. Prolonged detention without individualized justification
24 undermines confidence in the immigration system and in the government’s adherence to
25 constitutional limits on its power.

26 Moreover, the public interest is not served by continuing to detain individuals who pose
27

1 neither flight risk nor danger to the community. Mr. Ohanyan has no criminal history and family
2 ties in the United States. His wife—who entered with him and faces identical immigration
3 proceedings—was released within three days. He has practiced as a Christian pastor for 30 years
4 and also has community support in the Los Angeles area where his wife resides. See Exh. 6,
5 Letters of Recommendation. There is no public safety justification for Mr. Ohanyan’s continued
6 detention.

7 The balance of equities and the public interest undoubtedly favor granting this temporary
8 restraining order.

9
10 **VI. CONCLUSION**

11 Mr. Ohanyan has been detained for close to fourteen months without a merits hearing on
12 his asylum claim. His prolonged detention is not the result of case complexity or his own delays—
13 it is the direct consequence of ICE transfers and court cancellations that have repeatedly disrupted
14 the hearing process. He suffers daily physical and mental harm from this unconstitutional
15 detention. The Constitution does not permit the government to detain individuals indefinitely
16 without meaningful process, even arriving aliens seeking asylum. Mr. Ohanyan is entitled to
17 immediate release or, at a minimum, a bond hearing within seven days at which the government
18 must justify his continued detention.

19 For these reasons, Petitioner respectfully requests that this Court issue a Temporary
20 Restraining Order and Preliminary Injunction: (1) Ordering Respondents to immediately release
21 Petitioner A-Ohanyan from custody; (2) refrain from re-arresting him unless and until he is
22 afforded a hearing before a neutral adjudicator on whether a change in custody is justified by clear
23 and convincing evidence that he is a danger to the community or a flight risk; and (3) granting
24 such other and further relief as the Court deems just and proper.

25 Respectfully submitted this 12th day of January, 2026.

1 By counsel,
2 s/ Jacqueline M. Brown
3 Jacqueline M. Brown.

4 Attorney for the Plaintiff
5 CASBN: 238537
6 2130 Fulton Street
7 San Francisco, CA 94117
8 415-422-6171
9 jmbrown@usfca.edu

10
11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on January 12, 2026, I electronically filed the foregoing document
13 and accompanying proposed order with the Clerk of the Court using the CM/ECF system. I
14 further certify that I will mail Defendant United States of America a copy of this document and
15 the accompanying proposed order via certified, first-class mail.

16 Dated: Jan. 12, 2026

17 s/ Jacqueline M. Brown
18 Jacqueline M. Brown.

19 Attorney for the Plaintiff
20 CASBN: 238537
21 2130 Fulton Street
22 San Francisco, CA 94117
23 415-422-6171
24 jmbrown@usfca.edu