ERIC GRANT
United States Attorney
LYNN TRINKA ERNCE
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ASHOT OHANYAN, Petitioner, v. WARDEN OF CALIFORNIA CITY DETENTION FACILITY, ET AL., Respondents.	CASE NO. 1:25-CV-01661-TLN-SCR **RETURN TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER/PRELIMINARY INJUNCTION**

I. INTRODUCTION

Petitioner, as an arriving alien who is present in the United States without admission or parole, is mandatorily detained during his removal and asylum proceedings under 8 U.S.C. § 1225(b)(1). As such, he is ineligible for a bond hearing, despite the length of his detention. Petitioner's detention is not indefinite as he asserts; his next immigration court hearing is set for March 5, 2026.

Respondents do not oppose conversion of petitioner's motion for temporary restraining order to a motion for preliminary injunction. Respondents respectfully request that the Court treat this opposition as their return to the habeas petition as well as their opposition to the motion for temporary restraining order. Respondents do not request a hearing.[1]

[1] Petitioner is not a member of the class certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal), because he was apprehended upon arrival and is detained under 8 U.S.C. § 1225(b)(1). *See* Exhibit 1, Petitioner's Form I-213. In *Maldonado Bautista*, the court certified the

II. BACKGROUND

Petitioner is a native and citizen of Armenia who arrived in the United States and applied for admission and asylum at the San Ysidro Port of Entry on or about November 18, 2024. *See* Exhibit 1 (attached),[2] ECF 13 at 4, ECF 13-3 at 3, ¶ 6. He was apprehended upon arrival and processed for expedited removal under Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act ("INA") because he did not possess or present "a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document." *See* Exhibit 1.

Petitioner was detained on November 18, 2024, the same day he entered the United States, pursuant to 8 U.S.C. §1225(b)(1). *See id.* After an asylum officer determined that petitioner had raised a credible fear of returning to Armenia, he was placed in standard removal proceedings under 8 U.S.C. § 1229a and charged in a Notice to Appear as inadmissible under 8 U.S.C. §1182(a)(7)(a)(i)(I) as an applicant for admission "not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document." *See* ECF 13-4 (Notice to Appear).

The merits hearing on petitioner's asylum application was set for May 15, 2025. ECF 13 at 4; ECF 13-7 at 5 (merits hearing pretrial order). One week before the merits hearing, petitioner requested a continuance. *Id.* at 4; ECF 13-7 at 15. The immigration judge granted petitioner's request and reset the merits hearing for two months later, on July 24, 2025. *Id.* at 4; ECF 13-7 at 10 (order granting continuance). Subsequently, petitioner was transferred to Mesa Verde, then to the California City Detention Facility, where he remains in custody. The merits hearing on petitioner's asylum application was scheduled for December 8, 2025, but, due to the immigration judge's unavailability, the immigration court continued the hearing to March 5, 2026. ECF 13 at 6.

---

following class: "All noncitizens in the United States without lawful status who (1) have entered the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v. Noem*, No. 5:25-cv-01873, 2025 WL 3713987, at *2 (C.D. Cal. Dec. 18, 2025).

[2] Respondents respectfully request that the Court take judicial notice of the attached Form I-213 pursuant to Federal Rule of Evidence 201(b)(2), because their contents "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." *See e.g., Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (taking judicial notice of documents in an alien's "A-file" on the basis that "they are official agency records"); *Da Cunha v. Freden*, 2025 WL 3280575, at *2 (W.D.N.Y. Nov. 25, 2025) (taking judicial notice of an alien's Form I-213).

III. LEGAL STANDARD

The standard for issuing a temporary restraining order is "substantially identical" to that for a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Preliminary injunctions are extraordinary remedies "never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). "[P]laintiffs seeking a preliminary injunction face a difficult task in proving that they are entitled to this extraordinary remedy." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation marks omitted). This burden is aptly described as "heavy." *Id.*

"A plaintiff seeking a preliminary injunction must show that: (1) []he is likely to succeed on the merits, (2) []he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in [his] favor, and (4) an injunction is in the public interest." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a plaintiff can show "serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third . . . factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

IV. DISCUSSION

A. Petitioner's Detention Is Mandated by Statute and Supreme Court Precedent

Petitioner's assertion that his prolonged detention without a hearing violates the Due Process Clause is foreclosed by statute and inconsistent with Supreme Court precedent. As an arriving noncitizen without a valid entry document, petitioner is subject to mandatory detention. If a noncitizen "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer the alien for a credible fear interview, as happened here. *Id.* § 1225(b)(1)(A)(ii). "Any alien subject to the procedures . . . shall be detained pending a final determination of credible fear of persecution, and if found not to have such a fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV).

Here, an asylum officer made a positive credible fear determination, and petitioner's asylum application remains pending, with the merits hearing set for March 5, 2026. An alien "with a credible fear of persecution … *shall be detained* for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). Mandatory detention may not be reconsidered by an immigration judge based on any alleged lack of danger or flight risk posed by the alien, as the relevant regulation

provides that an Immigration Judge may not redetermine the conditions of custody imposed by DHS on "[a]rriving aliens in removal proceedings" such as petitioner. 8 C.F.R. § 1003.19(h)(2)(i)(B). Petitioner is also subject to mandatory detention pursuant to *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), until his removal proceedings conclude.

Petitioner's detained status, despite its length, is therefore mandated by statute. "As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). The INA defines an applicant for admission as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival …) …." 8 U.S.C. § 1225(a)(1). The Supreme Court has explained that 8 U.S.C. § 1225(b)(1) "unequivocally mandate[s]" detention. *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018). Indeed, *Jennings* highlighted the express requirement of the statute, acknowledging that "[u]nlike the word 'may,' which implies discretion, the word 'shall' usually connotes a requirement." *Id.* (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 162, 171 (2016)). To that end, "[r]ead most naturally, § 1225(b)(1) … mandate[s] detention of applicants for admission until certain proceedings have concluded," which is when "immigration officers have finished 'consider[ing]' the asylum application." *Jennings*, 583 U.S. at 283, 287.

Applicants for admission, including those referred for removal proceedings under 8 U.S.C. § 1229a after establishing credible fear, are subject to detention under 8 U.S.C. § 1225(b)(1) and are not entitled to a bond hearing before an immigration judge. *Id.* § 1225(b)(1)(iii)(IV) ("Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed").

In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court rejected a facial challenge to a noncitizen's mandatory civil detention pending removal proceedings under a different statute, 8 U.S.C. § 1226(c). The Supreme Court determined that prolonged mandatory detention during civil removal proceedings is "constitutionally permissible." *Demore,* 538 U.S. at 530–31. While the Supreme Court recognized that mandatory detention normally lasts for a "limited period" of time, the Court held that mandatory detention could run for a longer period while still being constitutional, for example,

where, as in this case, the noncitizen had requested a continuance of his merits hearing. *Id.* at 531. By recognizing that mandatory detention pending removal proceedings properly may be prolonged, the Supreme Court rejected a rule of compelled detention hearing within a fixed time. *Id.*

Moreover, neither the Constitution nor federal statute provide for a bond hearing based on the length of detention. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court rejected the Ninth Circuit's interpretation that 8 U.S.C. § 1226(c)—another mandatory detention statute—included "an implicit 6–month time limit on the length of mandatory detention." 583 U.S. at 292–94, 298.

Following *Jennings*, this Court has repeatedly refused to identify a specific time after which a noncitizen's detention will be considered presumptively violative of due process. *See, e.g., Navarrete-Leiva v. U.S. Attorney General, et al.*, No. 1:24-cv-00938-SKO, 2024 WL 5111780 (E.D. Cal. Dec. 13, 2024) (rejecting petitioner's claim that the Constitution requires a bond hearing for continued detention during removal proceedings beyond six months); *Abdul-Samed v. Warden of the Golden State Annex Detention Facility*, No. 1:25-cv-00098, 2025 WL 2099343, at *5 (E.D. Cal. July 25, 2025) (declining to adopt a presumption of reasonableness or unreasonableness as to any period of detention). For example, in *Keo v. Warden of the Mesa Verde ICE Processing Center*, this Court assessed a purported due process violation by a petitioner held in mandatory detention under a different section of the INA, 8 U.S.C. § 1226(c), who had been detained for approximately 22 months. No. 1:24-CV-00919-HBK (HC), 2025 WL 1029392, at *4 (E.D. Cal. Apr. 7, 2025), *appeal dismissed sub nom. Keo v. Warden*, No. 25-3546, 2025 WL 2528945 (9th Cir. June 27, 2025). The Court rejected the argument, concluding that petitioner's continued detention without a bond hearing was constitutional under the mandatory detention statute, so long as his ongoing removal proceedings contemplated a "definite termination point" at the conclusion of those proceedings and his detention was not indefinite. *Id.* at *6–8 (internal quotations omitted) (citing *Jennings*, 583 U.S. 304; *Demore*, 538 U.S. at 527, 538) (". . . Petitioner's detention is not indefinite; there is a definite termination point at the conclusion of his ongoing legal challenges. There is no indication that the ongoing removal proceedings do not serve their intended purpose or are intended to incarcerate him for other reasons. Therefore, the Court finds no due process violation in Petitioner's continued detention under § 1226(c) without a bond hearing . . . ."). While mandatory detention here is under § 1225(b)(1), the same reasoning applies with equal force.

B. Petitioner's Continued Detention Does Not Violate Due Process.

The Fifth Amendment entitles noncitizens to due process of law, but the Ninth Circuit "interpret[s] the Due Process Clause consistent with longstanding precedent recognizing that the process due aliens must account for the government's countervailing interests in immigration enforcement—considerations that do not apply to U.S. citizens." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205–06 (9th Cir. 2022). The Supreme Court has "firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Demore*, 538 U.S. at 522. This is true because "any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government, which are core sovereign powers." *Id.* The Supreme Court has "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Id.* at 523.

The use of a multi-factor balancing test to analyze Petitioner's statutorily compelled detention during the pendency of his removal proceedings is unsupported by Supreme Court authority. The Supreme Court has not adopted a multi-factor balancing test for constitutional due process challenges to civil detention in removal proceedings. *See Dusenbery v. United States*, 534 U.S. 161, 168 (2002) ("(W]e have never viewed *Mathews* as announcing an all-embracing test for deciding due process claims"); *Demore*, 538 U.S. at 513; *Jennings*, 583 U.S. at 303–06; *Rodriguez Diaz*, 53 F.4th at 1214 (Bumatay, J. concurring) (stating "the Supreme Court has not relied on [*Mathews*] . . . and has recently backed away from multi-factorial 'grand unified theor[ies]' for resolving legal issues").

Nor is petitioner's detention indefinite. Unlike noncitizens detained under 8 U.S.C. § 1231(a)(6), where their detention could be "indefinite" and "potentially permanent," petitioner's detention under Section 1225(b)(1) has a definite termination point. *Demore*, 538 U.S. at 528–29 (2003) (citing *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001)); *Navarrete-Leiva*, 2024 WL 5111780, at *4. For this reason, Petitioner's reliance on *Zadvydas v. Davis*, 533 U.S. 678 (2001) is misplaced and has no application here, where petitioner's removal proceedings are still pending, with his next asylum hearing set for March 5, 2026. That petitioner "has no faith" that the March 5, 2026 hearing will occur, and his speculation that it could be cancelled or he could be transferred, does not make his detention indefinite.

Here, petitioner's detention period has been prolonged in part due to his own request for a continuance of his May 15, 2025 merits hearing, which was moved by two months to July 24, 2025. *See* ECF 13-7 at 10 (order granting petitioner's continuance request). The Supreme Court has found this fact to be noteworthy. *Denmore*, 538 U.S. at 530–31 ("Respondent was detained for somewhat longer than the average … but respondent himself has requested a continuance of his removal hearing"); *see also Navarrete-Leiva*, 2024 WL 5111780, at *4. Had petitioner not continued the merits hearing, his asylum application may have been decided in May 2025, before any transfer had occurred. Although petitioner was later transferred to Mesa Verde, then to California City, petitioner's chronology and supporting documents confirm that DHS did not request any continuances. *See* ECF 12 at 6-8, ECF 13 at 4-6. Instead, the immigration court reset the hearing on its own motions, while also holding multiple master calendar hearings and a preliminary bond hearing. *See id.* While the facility transfers may have had some effect on the hearing schedule, it appears that most of the delay is attributable to petitioner's own continuance request, and to the immigration judges' unavailability, over which DHS has no control. As petitioner notes, the latest continuance from December 8, 2025, to March 5, 2026, was due to the unavailability of the assigned immigration judge. ECF 13 at 6.

This Court should decline to engage in any of the various multi-factor balancing tests applied by some courts in the Ninth Circuit in analyzing a noncitizen's procedural due process rights. This Court properly rejected such tests in *Keo v. Warden of the Mesa Verde Ice Processing Center*, 2025 WL 1029392, at *7 (E.D. Cal. Apr. 7, 2025), when assessing a procedural due process claim by a petitioner held under mandatory detention under § 1226(c). As this Court held in *Keo*, "consistent with existing Supreme Court precedent," the "threshold question" in considering Petitioner's claim of "unreasonably prolonged detention" without a bond hearing was "whether Petitioner's continued detention serves the purported immigration purpose and has a definite termination point, as opposed to any 'balancing test' to determine whether procedural due process is due." *Id.* at *7.

Even if the Court applied a multi-factor balancing test to petitioner's detention without a bond hearing, neither of the most common tests would favor petitioner.

///

///

1. The *Mathews* Test Does Not Favor Petitioner.

The traditional test for assessing procedural due process claims set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), is a "flexible test that can and must account for the heightened governmental interest in the immigration detention context." *Rodriguez Diaz*, 53 F.4th at 1206. Under *Mathews*, the "identification of the specific dictates of due process generally requires consideration of three distinct factors": (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 334–35. Even if *Mathews* were applied here, petitioner's claim would fail.

a. The Private Interest That Will Be Affected

The first *Mathews* factor favors respondents. While a noncitizen's private interest in "freedom from prolonged detention" is "unquestionably substantial," *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011), *abrogated on other grounds as recognized by Rodriguez Diaz*, 53 F.4th at 1202, the same cannot be said for freedom from all detention itself. As noted, the Supreme Court and this Court have upheld mandatory detention during removal proceedings against due process challenges, even where removal proceedings are prolonged. *Demore,* 538 U.S. at 530-31; *Keo,* 2025 WL 1029392, at *8. Additionally, petitioner is an "arriving alien" who has not been admitted to the United States or paroled and has been mandatorily detained under § 1225(b)(1) since his arrival. He has spent no time in the United States outside of DHS custody. Thus, he does not have a protected liberty interest in his release. *See, e.g., Carballo v. Andrews, et al.,* No. 1:25-cv-00978-KES-EPG, 2025 WL 2381464, at *4 (E.D. Cal. Aug. 15, 2025) ("[T]he liberty interests of [an individual] who is re-arrested differ from the liberty interest of a detained person") (quoting *Guillermo M.R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025); *see also, e.g., Daley v. Andrews,* No. 1:25-cv-00922-KES-CDB (HC), 2026 WL 101840, at *10, 13 (E.D. Cal. Jan. 14, 2026) (recommending denial of habeas petition where petitioner had not been released from criminal or immigration custody since his arrest at the port of entry and therefore had no liberty interest entitling him to a hearing).

Weight is also given to the process petitioner received during his detention and to petitioner's own delays, which prolonged his detention. *Rodriguez Diaz*, 53 F.4th at 1206–07; *Demore*, 538 U.S. at 530–31. Petitioner promptly received a credible fear interview with an asylum officer within one month after arriving in the United States. ECF 13 at 4. He also had a preliminary bond hearing but withdrew his bond application. *See id.* at 5. Petitioner requested a continuance that delayed his hearing for two months. Had he not done so, his asylum application may well have resolved in May 2025, before he was transferred. And, while the facility transfers may have resulted in some additional delay, the immigration court held several calendar hearings, and the preliminary bond hearing. Any further delay appears to be attributable to the immigration judges' unavailability, over which DHS has no control. Petitioner does not contend that DHS requested any hearing continuances. *See Crooks v. Lowe*, 2018 WL 6649945, at *2 (M.D. Pa. Dec. 19, 2018) (detention not unconstitutional where "there is no indication in the record that the government improperly or unreasonably delayed the proceedings").

Petitioner's complaints regarding the conditions of detention do not change this analysis. "The appropriate remedy for such constitutional violations, if proven, would be a judicially mandated change in conditions and/or an award of damages, but not release from confinement." *Crawford v. Bell*, 599 F.2d 890, 891–92 (9th Cir. 1979) (stating that "the writ of habeas corpus is limited to attacks upon the legality or duration of confinement"). Such claims cannot be raised in a habeas petition, but must be brought, if at all, in a civil rights action. *Brown v. Blanckensee*, 857 F. App'x 289, 290 (9th Cir. 2021); *see also Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (noting that a habeas petition was not "the proper method of challenging 'conditions of . . . confinement'").

b. The Risk of an Erroneous Deprivation

Petitioner has not clearly shown that a hearing on his custody status would decrease the risk of him being erroneously deprived of his liberty. Petitioner is seeking asylum through his removal proceedings, and his next hearing is March 5, 2026. As with other noncitizens transferred from expedited removal to full removal proceedings after establishing a credible fear, petitioner is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 235.3(b)(2)(iii), (b)(4)(ii); *Matter of M-S-*, 27 I & N Dec. at 510.

Additionally, the opportunity to pursue his asylum application and be heard on the merits provides procedural protections to petitioner. *See Daley*, 2025 WL 101840, at *13 (citing *Rodriguez Diaz*, 53 F.4th at 1209-10). Thus, the risk of erroneous deprivation is low.

c. The Government's Interest

Finally, "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). And, "[t]hrough detention, the government likewise seeks to 'increas[e] the chance that, if ordered removed, the aliens will be successfully removed.'" *Id.* (quoting *Demore*, 538 U.S. at 528). In addition, "[t]he risk of a detainee absconding also inevitably escalates as the time for removal becomes more imminent." *Id.*

2. The *Lopez* Test Does Not Favor Petitioner.

This Court has periodically applied its own test, identified in *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). Where this Court has applied *Lopez*, it has reasoned that *Mathews* is "more suited to determining whether due process requires a second bond hearing." *Abdul-Samed*, 2025 WL 2099343, at *6. Under *Lopez*, the Court considers "the total length of detention to date, the likely duration of future detention, and the delays in removal proceedings caused by the petitioner and the government." *Id.* at 879.

Here, petitioner has been detained since November 2024, approximately fourteen months. This is less than the sixteen months the Court found in *Abdul-Samed* to favor the petitioner. 2025 WL 2099343, at *7; *see also Abduraimov v. Andrews*, No. 1:25-cv-00843-EPG-HC, 2025 WL 2912307, at *8 (E.D. Cal. Oct. 14, 2025) (finding that 24 months in custody favors petitioner). However, courts should not apply a bright-line test to the length of detention, consistent with Supreme Court precedent discussed above. The Court may consider that petitioner requested a continuance that caused two months of delay, and that his next hearing is set for March 3, 2026. His detention has a definite termination point and his detention is not indefinite.

Finally, as discussed above, some of the delay is attributable to petitioner's own continuance request and, most of the remaining delay was due to the immigration judges' own continuances, over which DHS has no control. DHS did not request any hearing continuances.

C. What Relief is Appropriate

As discussed, petitioner has failed to clearly show that he is entitled to release during his removal proceedings because he is subject to mandatory detention under § 1225(b)(1). But even if the Court determines that petitioner should receive a hearing regarding the propriety of his detention, the proper course is to order that such hearing occur—not immediate release from custody. *See Waldman Pub. Corp. v. Landoll, Inc.*, 43 F.3d 775, 785 (2d Cir. 1994) ("Injunctive relief should be narrowly tailored to fit specific legal violations."); *see also, e.g.*, *Javier Ceja Gonzalez v. Noem*, No. 25-02054, 2025 WL 2633187, at *6 (C.D. Cal. Aug. 13, 2025) (ordering the government to "release Petitioners or, in the alternative, provide each Petitioner with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven (7) days of this Order").

D. Petitioner has not shown he is likely to suffer irreparable harm

Although an alleged constitutional violation may alone constitute irreparable harm, that presumption does not apply where a plaintiff fails to demonstrate "a sufficient likelihood of success on the merits of [his or her] constitutional claims to warrant the grant of a preliminary injunction." *Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity*, 950 F.2d 1401, 1412 (9th Cir. 1991) (citing *Goldie's Bookstore v. Superior Court*, 739 F.2d 466, 472 (9th Cir. 1984)). As shown above, petitioner fails to show that he is being detained in violation of any constitutional, statutory, or other requirement. As discussed, moreover, immigration laws have long authorized officials to detain noncitizens pending removal to "assur[e] the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699; *see Demore*, 538 U.S. at 523 (removal is "a constitutionally valid aspect of the deportation process"); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure.").

E. Balance of the Equities and Public Interest Do Not Favor Release

It is well settled that the public interest in enforcement of the United States' immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant." (collecting cases)); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of

removal orders[.]"). This public interest outweighs petitioner's asserted private interest, if any. *See Daley*, 2026 WL 101840, at *10, 13 (petitioner who has not been released from custody since arrest at port of entry lacks protected liberty interest).

V. CONCLUSION

For the above reasons, Petitioner's motion for injunctive relief and amended habeas petition should be denied.

Dated: January 16, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney
By: */s/ Lynn Trinka Ernce*
LYNN TRINKA ERNCE
Assistant United States Attorney

EXHIBIT 1

U.S. Department of Homeland Security Subject ID : [redacted] **Record of Deportable/Inadmissible Alien**

Family Name (CAPS): OHANYAN, ASHOT	First	Middle	
Country of Citizenship: ARMENIA	Passport Number and Country of Issue: [redacted]		
U.S. Address			
Date, Place, Time, and Manner of Last Entry: 11/18/2024 20:12, SYS, A FOOT		Passenger Boarded at: See Narrative	
Number, Street, City, Province (State) and Country of Permanent Residence			
Date of Birth: [redacted] Age: 54	Date of Action: 11/19/2024	Location Code: SYS	
City, Province (State) and Country of Birth: YEREVAN, ARMENIA	AR [X]	Form : (Type and No.) Lifted ☐ Not Lifted ☐	
NIV Issuing Post and NIV Number	Social Security Account Name		
Date Visa Issued	Social Security Number		

Sex	Hair	Eyes	Cmplxn
M	BLK	BRO	OLV
Height: 68	Weight: 210	Occupation	
Scars and Marks			
F.B.I. Number: [redacted]	☐ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated		
Method of Location/Apprehension: ISP			
At/Near	Date/Hour: 11/18/2024 18:54		
By: JULIE VERDIN ZURITA			
Status at Entry	Status When Found		
Length of Time Illegally in U.S.			

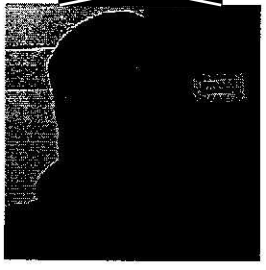
Immigration Record: NEGATIVE	Criminal Record
Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate)	Number and Nationality of Minor Children: None
Father's Name, Nationality, and Address, if Known: OHANYAN, ONIK NATIONALITY: ARMENIA	Mother's Present and Maiden Names, Nationality, and Address, if Known: NERSESYAN, GRETA NATIONALITY: ARMENIA

Monies Due/Property in U.S. Not in Immediate Possession: None Claimed	Fingerprinted? ☐ Yes ☐ No	Systems Checks: See Narrative	Charge Code Words(s): See Narrative
Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary / Hr	Employed from/to

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: [redacted]

Left Index fingerprint



Right Index fingerprint

Family Information

Father:OHANYAN, ONIK is a citizen of ARMENIA.
Mother:NERSESYAN, GRETA is a citizen of ARMENIA.
Spouse:Subject is not married.
Child:Subject does not have children or dependents.

Current Criminal Charges

11/19/2024 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212 ...(CONTINUED ON I-831)

JULIE VERDIN ZURITA

Alien has been advised of communication privileges _____ (Date/Initials) _____ (Signature and Title of Immigration Officer)

Distribution:

A-FILE

Received: (Subject and Documents) (Report of Interview)

Officer: JULIE VERDIN ZURITA

on: November 19, 2024 (time)

Disposition: Expedited Removal with Credible Fear

Examining Officer: ROJO, MELISSA

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name	File Number	Date
OHANYAN, ASHOT	[redacted]	11/19/2024

Current Administrative Charges

11/19/2024 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA

BOARDED AT

IN TRANSIT,

RECORDS CHECKED

ATS-P checked on 11/19/2024 with Negative result.TECS checked on 11/19/2024 with Negative result.NCIC checked on 11/19/2024 with Negative result.CIS checked on 11/19/2024 with Negative result.CLAIM checked on 11/19/2024 with Negative result.CCD checked on 11/19/2024 with Negative result.IAFIS checked on 11/19/2024 with Negative result.EARM checked on 11/19/2024 with Negative result.

Record of Deportable/Excludable Alien:

On November 18, 2024, at approximately 1712 hours, OHANYAN, Ashot (DOB: [redacted] COC: Armenia) arrived at the San Ysidro Port of Entry, in San Ysidro, Ca. OHANYAN, Ashot did not have a scheduled CBP One appointment or documents sufficient for lawful entry into the United States. OHANYAN, Ashot arrived via pedestrian vehicle Lanes and was apprehended past the international boundary line in the United States. OHANYAN, Ashot presented an Armenian passport. OHANYAN, Ashot does not have legal documentation to be in the United States and falls under the new processing proclamation for Securing the Border.

Immigration Violation(s): Negative.

Criminal History/IDENT/IAFIS: Negative.

Consular Notification: OHANYAN, Ashot was afforded the opportunity to make a consular notification.

Credible Fear Statement: As per the Securing the Border Proclamation, the subject manifested a fear of return or expressed an intention to apply for asylum or related protection, express a fear of persecution or torture, or expresses a fear of return to his or her country or country of removal.

Sworn Statement: As per the Securing the Border Proclamation, no sworn statement was taken from the subject before they were returned to Mexico.

Terrorist Links: OHANYAN, Ashot was queried, and record checks were completed. No links to terrorism or gang affiliation could be established at the time of apprehension.

Health: OHANYAN, Ashot appeared to be in good health and did not identify any medical concerns during the interview.

Disposition: OHANYAN, Ashot was processed under the Suspension Period for Expedited Removal under the Presidential Proclamation, Securing the Border, on November 18, 2024. OHANYAN, Ashot is inadmissible pursuant to the Presidents authority to suspend entry of certain classes of noncitizens under section 212(f) of the Immigration and Nationality Act (INA), 8 USC 1182(f).

OHANYAN, Ashot was processed for an Expedited Removal pursuant to Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act. OHANYAN, Ashot was provided a list of free legal

Signature	Title
JULIE VERDIN ZURITA	

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name	File Number	Date
OHANYAN, ASHOT	[redacted]	11/19/2024

services and a copy of the "Information About Credible Fear Interview Sheet." OHANYAN, Ashot was taken into DHS Custody pending credible fear interview before an asylum officer. OHANYAN, Ashot was processed during Suspension Period Operations under the Securing the Border Proclamation.

Other Identifying Numbers

ALIEN-[redacted]

Signature	Title
JULIE VERDIN ZURITA	