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UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF CALIFORNIA

Ashot Ohanyan
Petitioner-Plaintiff,

v.
Warden of California City Detention

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

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

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

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

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

Respondents-Defendants.

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

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER/ PRELIMINARY INJUNCTION AND RETURN TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION[1]

Pursuant to this Court's January 16, 2026 order, this reply addresses both Respondents' return to the Amended Petition for Writ of Habeas Corpus and their opposition to Petitioner's Motion for Temporary Restraining Order (ECF No. 15). Petitioner addressed the merits of his constitutional challenge comprehensively in his Amended Petition for Writ of Habeas Corpus and Brief in Support of Motion for Temporary Restraining Order. This reply addresses Respondents' arguments and highlights the critical points Respondents either ignore entirely or fundamentally mischaracterize. Most significantly, Respondents never address whether Mr. Ohanyan actually poses a flight risk or danger to the community—the only constitutionally legitimate purposes for civil immigration detention. Instead, they argue the statute permits mandatory detention and cite Supreme Court decisions rejecting *facial* challenges to detention statutes under different circumstances. But Petitioner brings an as-applied challenge to fourteen months of detention that serves no legitimate governmental purpose. The Supreme Court has explicitly preserved such challenges. *Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring).

Respondents also mischaracterize responsibility for Mr. Ohanyan's prolonged detention. DHS transferred Mr. Ohanyan twice—each time approximately one month before a scheduled merits hearing—directly causing those hearings to be cancelled. Their attempt to blame a single two-month continuance for fourteen months of detention ignores DHS's own actions that repeatedly disrupted the hearing process.

II. RESPONDENTS NEVER ADDRESS WHETHER MR. OHANYAN POSES FLIGHT RISK OR DANGER

Respondents devote considerable effort to arguing that § 1225(b)(1) facially permits mandatory detention. Opp. at 3-6. They never address the substance of Petitioner's claim: that after fourteen months, his continued detention violates substantive due process because he poses neither a flight risk nor a danger to the community. As Petitioner explained in his habeas brief

[1] Petitioner does not request a hearing.

(pp. 8-10), immigration detention must serve a legitimate governmental purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). The only constitutionally valid purposes for civil immigration detention are preventing flight and protecting the community from danger. When these rationales are absent, detention becomes impermissibly punitive. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the government's interests in preventing flight and danger). Respondents do not—because they cannot—argue that Mr. Ohanyan poses any danger or flight risk.

The record establishes that Petitioner has no criminal history. Brown Decl. ¶ 27. DHS itself has determined that detention is unnecessary for his similarly situated wife, also an Armenian asylum seeker, as evidenced by its decision to release Petitioner's wife within three days. Brown Decl. ¶ 6. Petitioner has diligently pursued his asylum claim by timely filing his application, appearing at every hearing, and requesting only a single continuance to obtain a document from Armenia. Brown Decl. ¶¶ 9–12. His asylum claim is bona fide: he passed a credible fear interview and therefore has a strong incentive to remain in the United States to attend his asylum hearing. Brown Decl. ¶¶ 5, 7; *see Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023). Finally, Petitioner has strong community ties, including his wife's presence in the United States, his thirty years of service as a Christian pastor, and substantial community support in Los Angeles. Brown Decl. ¶¶ 6, 26; Letters of Recommendation.

Respondents' reliance on *Demore* and *Jennings v. Rodriguez* misses the mark. Those cases addressed facial challenges—whether the statutes themselves are unconstitutional. Petitioner brings an as-applied challenge—whether his fourteen-month detention under these specific circumstances violates due process. The Supreme Court has explicitly preserved such challenges. In *Demore*, Justice Kennedy's controlling concurrence warned: "Were there to be an unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become necessary then to inquire whether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." 538 U.S. at

532-33 (Kennedy, J., concurring). The Court reiterated this in *Nielsen*: "Our decision today... does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it." 586 U.S. at 420.

After fourteen months of detention caused primarily by DHS transfers, with no individualized assessment of flight risk or danger, and no end in sight, this Court must "inquire whether the detention is...to incarcerate for other reasons." That is precisely Petitioner's claim, fully developed in his habeas brief (pp. 7-12).

Respondents argue Mr. Ohanyan has no protected liberty interest because he is an arriving alien who has never been paroled. Opp. at 8. This position is constitutionally untenable and would permit indefinite detention without any limits whatsoever. The Due Process Clause protects "all persons" in the United States, including noncitizens "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Respondents' argument— that arriving aliens have zero constitutional protections—contradicts this fundamental principle.

Moreover, their position makes no sense. Mr. Ohanyan's wife entered with him under identical circumstances. She was released in three days. Under Respondents' logic, she has a liberty interest (because released) but he does not (because not released)—even though the only difference is DHS's arbitrary initial custody decision. The Constitution does not permit such results.

III. DHS TRANSFERS CAUSED THE PROLONGED DETENTION

Respondents attempt to shift blame to Petitioner's "own continuance request" and "immigration judges' unavailability." Opp. at 7, 10. This ignores the central fact: DHS transferred Mr. Ohanyan twice, each time approximately one month before a scheduled merits hearing, directly causing those hearings to be cancelled. As detailed in Petitioner's briefs (TRO Motion at 10-11; Habeas Petition at 6-8), the pattern is clear:

- June 2025: DHS transferred Mr. Ohanyan to Mesa Verde one month before his July 24 hearing and his hearing was then cancelled.

- September 2025: DHS transferred Mr. Ohanyan to California City one month before his November 3 hearing and his hearing was then cancelled.

Each transfer required a new immigration judge to review the entire record, causing multiple master calendar hearings and months of delay.

Respondents emphasize Mr. Ohanyan's single two-month continuance. Opp. at 7, 10. First, Mr. Ohanyan did not request two months, that date was the court's choice. Nevertheless, this cannot justify fourteen months of detention. Even accepting Respondents' characterization, Mr. Ohanyan has been detained for six additional months beyond that continuance. That additional year results from DHS transfers and court delays, not from Mr. Ohanyan. The Supreme Court in *Demore* noted a noncitizen's continuance as one factor among many, 538 U.S. at 530-31, but *Demore* involved far shorter detention. Moreover, courts do not count continuances against noncitizens when obtained in good faith to prepare their case. *See* Pet. Habeas Brief at 16-17 (citing cases). Here, the continuance was for a supporting document from Armenia—entirely reasonable preparation for an asylum claim. S

Respondents argue delays from immigration judge unavailability are beyond DHS control. Opp. at 7, 10. This misses the point. EOIR is part of DOJ, another executive branch agency. In addition, several judges that were hearing cases on the detained dockets in California, such as IJ Alison Daw, have been fired by the DOJ, causing the very problem that has impacted Mr. Ohanyan's case. *See* Raj Mathai, *Immigration Judges in Concord Among Those Fired Under Trump Administration*, NBC Bay Area (Jan. 16, 2026), https://www.nbcbayarea.com/news/local/concord-immigration-judges-fired-trump/3951432 ("In Sacramento, Immigration Judge Alison Daw was also fired, according to multiple sources."); Deepa Fernandes, *Trump Administration to Shutter an Immigration Court, Adding to Judges' Backlog*, NPR (Jan. 13, 2026), https://www.npr.org/2026/01/13/g-s1-105679/san-francisco-immigration-court-closure ("In total, the Trump administration fired nearly 100 judges in 2025…The result is that courts across the country are starting 2026 with fewer than half the judges from a year ago as judges were fired."); Gustavo Solis, *Former Judges Say Mass Firings*

Could Undermine Immigration Court System, KPBS (Oct. 1, 2025), https://www.kpbs.org/news/politics/2025/10/01/former-judges-say-mass-firings-could-undermine-immigration-court-system (describing other court firings in the Sacramento Immigration Court). The government cannot create and perpetuate systemic dysfunction in its own immigration courts, then use that dysfunction to justify indefinite detention of asylum seekers like Mr. Ohanyan. Systemic delays within the immigration court system cannot justify indefinite detention without individualized assessment. If immigration courts cannot provide timely hearings, the remedy is release or a bond hearing—not indefinite detention based on government administrative failures.

IV. "DEFINITE TERMINATION POINT" IS ILLUSORY

Respondents argue Mr. Ohanyan's detention has a "definite termination point" because he has a hearing scheduled for March 5, 2026. Opp. at 5-6, 10. The record belies this claim. Mr. Ohanyan has had three previous merits hearings scheduled-July 24, November 3, and December 8, 2025—that were all cancelled or reset. The March 5 date is his fifth scheduled hearing. The December 8 hearing was cancelled just four days before it was scheduled due to judge unavailability. Brown Decl. ¶ 20.

When a purported "definite termination point" repeatedly recedes into the future, detention becomes functionally indefinite. Mr. Ohanyan has been hearing-ready since late May 2025—eight months ago. The government's promise that "this time" the hearing will occur rings hollow after three cancellations.

Respondents cite *Keo v. Warden*, 2025 WL 1029392 (E.D. Cal. Apr. 7, 2025). Opp. at 5, 7. *Keo* is inapposite. The petitioner in *Keo* was detained under § 1226(c) based on convictions for conspiracy to commit home invasion robbery, attempted home invasion robbery, shooting at an occupied dwelling, and firearms offenses—receiving a sentence of over 31 years. *Keo*, 2025 WL 1029392, at *1. The court emphasized he was a "violent criminal non-citizen alien" whose detention served legitimate purposes of preventing danger and ensuring appearance. *Id.* at *6. Mr. Ohanyan, in stark contrast, has no criminal history whatsoever. Brown Decl. ¶ 27. He is an

asylum seeker whose wife—who entered with him under identical circumstances—was released within three days. Id. ¶ 6. The governmental interests that justified detention in Keo (preventing violence, protecting community) simply do not exist here.

In addition, in *Keo* the court emphasized that the petitioner's 22-month detention resulted from his "taking full advantage of his right to contest his removal," including "multiple custody reviews, applications for relief from removal and for asylum, and appeals," *Id.* at *6. The court found "no 'unreasonableness' in the length of removal proceedings that is directly attributable to the government." *Id.* Mr. Ohanyan, in contrast, only asked for one short continuance to allow time to receive a supporting document from Armenia. Brown Decl. ¶ 12.

Finally, the *Keo* court explicitly declined to apply "any 'multi-part, judge-made 'reasonableness' balancing test'" and focused solely on whether detention had a definite termination point. *Id.* at *4. The court did not address—because the petitioner apparently did not raise—an as-applied substantive due process challenge based on the absence of flight risk or danger. As explained above and in Petitioner's briefs, Mr. Ohanyan's primary claim is substantive due process: detention without legitimate governmental purpose violates the Fifth Amendment regardless of procedures provided. *Zadvydas*, 533 U.S. at 690; *Hernandez*, 872 F.3d at 994. Keo simply did not address this argument.

V. RESPONDENTS' LEGAL FRAMEWORKS DO NOT CHANGE THE RESULT

Respondents argue at length about *Mathews v. Eldridge* and *Lopez v. Garland* tests. Opp. at 8-10. But Petitioner's primary claim is substantive due process—detention without legitimate governmental purpose. As Petitioner explained (Habeas Brief at 8-9), when detention serves neither to prevent flight nor protect against danger, it violates substantive due process regardless of procedures provided. Petitioner addressed both tests comprehensively in his habeas brief (pp. 11-16). Respondents' opposition confirms Petitioner prevails under either framework.

Respondents concede Mr. Ohanyan's interest in "freedom from prolonged detention" is "unquestionably substantial." Opp. at 8. Their attempt to minimize this based on "no liberty interest" fails for reasons stated above.

After fourteen months with zero individualized assessment of flight risk or danger, the risk of erroneous deprivation is extremely high. Respondents confuse the asylum merits determination with the detention determination. The question is whether he should be detained *while* his asylum case pends—which depends on flight risk and danger, not asylum merits.

The government's generalized interest in immigration enforcement does not outweigh Mr. Ohanyan's specific circumstances after fourteen months. Amended Habeas Brief at 15.

Fourteen months is substantial (Respondents concede it "is less than" sixteen months found to favor petitioner in *Abdul-Samed*, Opp. at 10—a meaningless distinction). Future detention is uncertain given the pattern of cancelled hearings and ICE transfers. Delays are primarily DHS's fault (transfers). Opp. at 10.

VI. CONDITIONS EVIDENCE IRREPARABLE HARM, NOT SEPARATE CLAIM

Respondents argue conditions complaints must be brought in civil rights actions, not habeas. Opp. at 9. Petitioner is not seeking damages for conditions—he seeks release from unlawful detention. The deteriorating conditions (sleep deprivation, declining health, mental anguish) demonstrate irreparable harm supporting emergency relief under *Winter*. This evidence is entirely proper for the Court's consideration on the TRO/preliminary injunction factors. *See* TRO Brief at 12-13.

VII. CONCLUSION

Respondents do not dispute that Mr. Ohanyan has no criminal history, that his wife was released within three days, that he has diligently pursued his asylum claim, or that DHS transfers directly caused hearing cancellations. They cannot, because they have no evidence he poses flight risk or danger. Instead, Respondents rely on statutory authority to detain and Supreme Court decisions upholding detention statutes facially. But after fourteen months caused by DHSs own transfers and DOJ hearing resets, with no individualized assessment and no end in sight, Mr. Ohanyan's continued detention violates the Fifth Amendment.

For the reasons stated in Petitioner's briefs and this reply, the Court should grant the Petition for Writ of Habeas Corpus and the Motion for Temporary Restraining Order, ordering

Petitioner's immediate release from custody.

Dated: January 20, 2026

Respectfully submitted,

/s/ Jacqueline Marie Brown
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