


**FILED**

**JAN 23 2026**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

<p><b>NAHAPETYAN KHACHO,</b> A  <b>Petitioner,</b></p> <p style="text-align: center;">v.</p> <p><b>WARDEN OF THE CALIFORNIA CITY DETENTION FACILITY,</b> <b>Respondent.</b></p>
--

CLERK U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CASE No: 1:25-cv-01659-DJC-~~CSK~~ CLERK

**PETITIONER'S OPPOSITION TO  
RESPONDENT'S MOTION TO  
DISMISS PETITION FOR WRIT  
OF HABEAS CORPUS**

**I. INTRODUCTION**

Petitioner, Nahapetyan Khacho ("Petitioner"), respectfully submits this Opposition to Respondent's Motion To Dismiss. Respondent argues that Petitioner's detention is mandatory under 8 U.S.C. §1225(b) and that the Court should not intervene. However respondent's motion relies on outdated factual assertions-specifically that Petitioner's immigration proceedings would conclude on December 24, 2025. As of the date of this filing, the Immigration Court has again continued Petitioner's case to March 5, 2026. This continuance was not requested by Petitioner but was ordered by the Government/Court. By the time of that hearing Petitioner will have been detained for approximately 17 months.

While 8 U.S.C. §1225(b) provides for detention, the Due Process Clause of the Fifth Amendment forbids detention that becomes indefinite or unreasonably prolonged. Because the Delays since July 2025 are attributable to the Government/Court not the Petitioner-his continued detention without a bond hearing has become unconstitutional.

**II. CORRECTION ON FACTS AND TIMELINE**

Respondent's background section mischaracterizes the reasons for delay and omits critical recent developments. The accurate timeline is as follows:

1. **October 27, 2024:** Petitioner entered the United States at San Ysidro Port of Entry seeking asylum and was immediately detained.
2. **December 6, 2024:** Petitioner received a Positive Credible Fear determination. He immediately submitted a sponsor package for parole.
3. **February 26, 2025:** ICE denied parole via a boilerplate letter, despite Petitioner having a United States sponsor and no criminal record. Please find attached letter "NOTIFICATION DECLINIG TO GRANT PAROLE"
4. **January-June 2025 (Petitioner's Diligence):** Respondent emphasizes delays during this period. However, Petitioner faced significant barriers: he is detained, limited English-speaker and was indigent. Despite this, he attempted to find Pro Bono counsel, eventually hired an attorney, and when that relationship failed, retained new attorney by June 24, 2025. Moreover luck of logistic access added additional layer of complication for providing original supplemental documents from his home country.

5. July 15, 2025 - Present (Government Delays): Since July 15, 2025, Petitioner has been ready to proceed.

- The Individual Hearing was set for October 1, 2025.
- The Court/Government postponed it to December 8, 2025.
- The Court/Government postponed it to December 24, 2025.
- Most recently, the hearing was postponed again to March 5, 2026.

None of the delays from July 2025 to March 2026 were requested by Petitioner. At this time waiting for his Individual Hearing approximately 6 months.

### III. ARGUMENT

A) Petitioner's Detention has Become Unreasonably Prolonged.

Respondent argues that as an "arriving alien", Petitioner has no right to a bond hearing. Whilst, Federal Courts have consistently held that even mandatory detention statutes are subject to constitutional limitations. Detention cannot be indefinite or unreasonably prolonged. Petitioner has been detained since October 2024. If he waits until March 2026, he will have been in custody for nearly a year and a half. This duration far exceeds the "brief" period of detention intended for expedited removal.

B) The "Fault" for the Delay Lies with the Government.

Respondent's Motion attempts to blame Petitioner for early delays (finding counsel and submit supplemental documents). However, the current and ongoing detention now extending an additional 7 and half months from July 2025 to March 2026 is solely due to the Immigration Court's docketing issues. Petitioner should not be punished with continued incarceration because the Government is unable to provide him a timely trial.

C) Petitioner is Not a Flight Risk or Danger.

Petitioner has a sponsor in the United States ready to receive him and provide all necessary expenses and support him to rehabilitate in U.S.. He has no criminal history. He has a positive credibility finding. There is no legitimate government interest in spending taxpayer money to detain him for 17 more months when he poses no threat.

### IV. CONCLUSION

Respondent's Motion to Dismiss assumes that Petitioner's case is moving efficiently. It is not, each Government/Court delay last two and half months. It is stalled until March 2026, through no fault of the Petitioner.

For these reasons Petitioner respectfully requests that Court DENY Respondent's Motion to Dismiss and GRANT the Writ of Habeas Corpus, ordering Respondent to provide Petitioner with an individualized bond hearing or release him on parole.

Respectfully submitted,

NAHAPETYAN KHACHO

January 15, 2026

Sign:



San Francisco Field Office  
630 Sansome Street  
San Francisco, CA 94111

153

**U.S. Immigration  
and Customs  
Enforcement**

DATE: February 24, 2025

NAHAPETYAN, Khacho  
Golden State Annex  
c/o 611 Frontage Road  
McFarland, CA 93250In Reference to: NAHAPETYAN, Khacho A **NOTIFICATION DECLINING TO GRANT PAROLE**

Dear Mr. NAHAPETYAN,

This letter is to inform you that U.S. Immigration and Customs Enforcement (ICE) has decided not to parole you from detention at this time.

Section 235 of the Immigration and Nationality Act mandates the detention of arriving aliens who are placed in removal proceedings. Before an alien may be considered for discretionary release on parole the alien must first meet the statutory requirements for parole found at 8 CFR §212.5. Upon meeting the statutory requirements an alien may be considered for parole pursuant as a matter of discretion and on conditions set by the Field Office Director. The general discretionary parole provisions can be found in 8 CFR §212.5 (c). Under these laws and regulations parole may be granted only on a case-by-case basis for urgent humanitarian reasons or significant public benefit, provided the alien presents neither a security risk nor a risk of absconding. It is your burden to establish that you meet the statutory requirements for parole and that a favorable determination for parole should result once those criteria have been met.

Release from custody can be considered a condition of release on parole provided you meet the statutory requirements found in 8 CFR §212.5. Criteria for statutory requirements for parole apply to those aliens with serious medical conditions, pregnant women, juveniles, witnesses in proceedings being, or to be, conducted in the U.S. and those whose continued detention is not in the public interest.

I have carefully reviewed the humanitarian aspect of your request. I find no compelling or emergent conditions that apply to this case. I do not believe a grant of parole into the U.S. would be in the public interest. Therefore, in the exercise of my administrative discretion, your request for parole is hereby denied.

Sincerely,

T. Maldonado  
Assistant Field Office Director

**Notification of Parole Denial**  
**NAHAPETYAN, Khacho A#**



**PROOF OF SERVICE**

**(1) Personal Service (Officer to complete both (a) and (b) below.)**

(a) I R. MUNIZ, Deportation Officer,  
Name of ICE Officer Title

certify that I served NAHAPETYAN, Khacho with a copy of  
Name of detainee

this document at Golden State Annex on 2/26/25, at 1:41.  
Institution Date Time

(b) I certify that I served the custodian \_\_\_\_\_,  
Name of Official  
\_\_\_\_\_, at \_\_\_\_\_, on  
Title Institution  
\_\_\_\_\_ with a copy of this document.  
Date

OR

**(2) Service by certified mail, return receipt. (Attach copy of receipt)**

I \_\_\_\_\_, \_\_\_\_\_, certify  
Name of ICE Officer Title  
that I served \_\_\_\_\_ and the custodian \_\_\_\_\_,  
Name of detainee Name of Official  
with a copy of this document by certified mail at \_\_\_\_\_ on \_\_\_\_\_.  
Institution Date

Detainee Signature X h Date 2/26/25

- ( ) cc: Attorney of Record or Designated Representative
- ( ) cc: A-File

IN THE MATTER OF:  
NAHAPETYAN KHACHO

A 

Case No: 1:25-cv-01659-DJC-CSK

## PROOF OF SERVICE

I, Nahapetyan Khacho, Petitioner, certify that a copy of this PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS and any attachments were caused to be served to Respondent's attorney by U.S. Standard Mail to the address and on the date below.

ERIC GRANT

United States Attorney

CALVIN LEE

Assistant United States Attorney

2500 Tulare Street, Suite 4401,

Fresno, CA 93721

January 15, 2026

Sign:

