



**Summary Statement**

I Khacho Nahapetyan entered the United States at San Ysidro Port of Entry seeking asylum and was immediately apprehended and detained since October 27, 2024. After an interview before Asylum Officer, on December 6, 2024 I received a Positive Credible Fear determination and remain detained under 8 U.S.C. §1225(b). I am currently detained at California City Detention Facility, located at 22844 Virginia Blvd, California City, CA 93505.

While, 8 U.S.C. §1225(b) mandates detention of all arriving aliens into the United States, my detention now exceeds beyond a reasonable period of confinement. I have been detained for 15 months and assert claim to the constitution protections extended to me under *Zadvydas* and *Rodriguez*, where 6 months serves as a bright white line. Additionally in *Aleman*, the court found not to distinguish between post and preremoval non-citizens finding that both classes had liberty interests in remaining free from detention.

My continued prolonged detention in which I am unconstitutionally detained against the *Due Process Clause* of the United States 5th Amendment, deprives me of a judicial review of my detention before a neutral decision maker.

I am currently in ongoing immigration proceedings and no final order has been entered. My court proceedings have been changed on multiple occasions at the accord of Government/IJ, through no fault of my own and continuously prolong my detention up to 15 months. I have no criminal record, pose no risk to the community, I have a sponsor in the United States ready to receive me and provide all necessary expenses and support me to rehabilitate in United States, and have sought relief through Asylum and Withholding.

The DHS denied my parole request via a boilerplate letter, and Immigration Judges have denied my right to a bond hearing on grounds of 'No Jurisdiction' based on the mandatory detention of 8 U.S.C. §1225(b). However given that, the time of confinement now exceeds far beyond a reasonable period, the likelihood that my case will be delayed again given that the Government/Immigration Court is now continuously rescheduling court dates due to the high influx on immigration detainees and due to the lack of time on the docket or due to the reduction of Immigration Judges as witnessed by Los Angeles Times post on December 29, 2025, that more than a quarter of federal Immigration Judges in California have been reduced, and that detention at this moment of time remains indefinite, I assert Due Process Claims and my continued detention without a bond hearing before a **Neutral Decision Maker** violates the Due Process Clause of the 5th Amendment. Now I seek remedy for this matter in the District Court.

**Likelihood that I will succeed on Merits**

The Due Process Clause Of The Fifth Amendment provides that "No Person shall be ... deprived of life, liberty, or property without due process of law" *U.S Const. amend. V*. "Freedom from imprisonment - from government custody, detention or other forms of physical restraint - lies at the heart of liberty that [the Due Process] Clause protects" *Zadvydas 533 U.S at 690*

*Quoting Wong Wing v United States 163 U.S. 228, 238 16 S. Ct 977 41 l. Ed 140 (1896)*

"All persons within the territory of the United States are entitled to the protection" of the constitution.

All persons, aliens and citizens alike, are protected by the due process clause; *Jenning 138 S. Ct at 862* (Breyer J, dissenting (No one can claim nor since the time of slavery has anyone to my knowledge successfully claimed that persons held within the United States are totally without constitutional protections.)

Given that courts not only in this district but Nationwide have considered this issue, agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will at some point violate the right to due process. *see Martinez v Clark No: C18-1669-RAJ-MAT (2019)*, Similarly courts in this district have found that non-citizens detained under 8 U.S.C. §1225(b) may assert a constitutional right to due process. *see Morales-Flores v Lyons, No. 1:25-CV-01640-TLN-EFB, 2025 and Margaryan v Warden of California City Detention Facility, No. 1:25-CV-01582-EFB, 2026.*

"We have grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so. Arbitrary civil detention is not a feature of our American government. Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno 481 U.S 739, 755. 107 S.Ct 2095, 95 L.Ed.2d 697 (1987)*

"It is well established that the fifth amendment entitles aliens to due process of the law in deportation proceedings. " *DEMORE V KIM 583 U.S. 510, 523, 123 S CT. 1708, 155, L. Ed. 2d 724 (2003)*"

The Court found that whilst 8 U.S.C. §1225(b) mandates detention, prolonged detention without review violates Due Process." *AMADO V UNITED STATES DOJ 2025*

Whilst §1225(b)(2) congressional mandates detention throughout removal proceedings the period for this detention is not specified and congress did not intend that detention be indefinite and outside of reason. When detention becomes prolonged and unreasonable the Due Process Clause must be extended to non-citizens. In relative cases throughout history and the historic practices of congress, 6 months has always been refereed to as the 'bright white line' *see Rodriguez* and the point at which immigration detention becomes prolonged. Due Process has historically been extend to non-citizens at this point.

Given the long period of confinement that I have already been detained and that the Government has been unable to conclude removal proceedings it is unlikely that it will be able to do so in the near future. Even so if the Government is able to conclude removal proceedings in favor of removal, administrative remedies apply under which any order would not become final pending appeal before the BIA.

Taking the recent rulings of other courts as well as the historic rulings throughout higher courts, of non-citizens asserting claim of the Due Process Clause of the 5th Amendment, the judges have found in favor of the petitioners when detention becomes prolonged and indefinite. The likelihood of success in this matter is extremely high given prior rulings have found in favor of the petitioners.

### Irreparable Harm

"It is well established that the deprivation of the constitutional rights 'unquestionably constitutes irreparable injury' *Melendres V. Arpaio* 695 F.3d 990 'irreparable harms imposed on anyone subject to immigration detention including 'the economic burden imposed on detainees and their families as a result of detention' As per harms imposed on anyone subject to immigration detention, the psychological, physical and emotional well being constitutes harms.

I am a non punitive detainee, detained pending civil immigration proceedings in the California City Detention Facility, which until recently was a State prison housing criminal inmates. This detention facility is run under the same regiments that it previously did and houses non punitive detainees in the same conditions and hostility as criminal inmates.

The facilities strict regiments mean I am locked-down within my cell half of the day, without access of phone calls and loss of of "liberty". The facility lock-down us from 10 pm to 5 am and 4 times counts during day time at 7am, 11am, 3pm, 7pm, each of them lasts more than an hour. Moreover, Time Zones difference between California and Armenia is 12 hours adding another layer of difficulty to talk with my parents . The mental strain that this imposes is detrimental to my mental health. Causing me to become claustrophobic over time.

Furthermore the facility does not uphold a regular visitation schedule instead elects for a appointment only visitation policy, friends and family have called on numerous time to attempt to schedule and have essentially been given the run around with no one person having the correct knowledge, even when they arrive they were denied after 2 hours of drive and 2 hours of waiting. Visitations are non contact trough glass window tough we are punitive detainees. Additionally they struggle to reach anyone at the facility as the phone lines are unattended throughout most parts.

The financial strain that detention impose also extend to my friends and family who has financially supported me whilst detained through phone calls and commissary, the financial burden upon them also construes harm.

I am restricted to one hour of recreation time outside, unable to maintain a healthy diet, unable to maintain fitness, unable to maintain my basic hygiene, restricted to shaving twice a week in the presence of my cell mate.

My due process right is further violated as I am unable to adequately represent myself in legal proceedings having to share one computer with 80 detainees and one printer throughout the whole facility. This facility 'California City Detention Center' does not have the structure, polices, procedures and due process rights to detain immigration detainees. I am unable to print legal mail without waiting days even weeks for a printer. My simple request for an envelope is ignored for days delaying my matters before the District and Immigration courts. Each day that I am detained within the facility is a further violation of my due process right and liberty.

The mailing practice within the facility further violates the Due Process Clause, when receiving mail, incoming and outgoing mail is often held within the facility for days and on some occasions weeks due to the negligence of staff before it reaches detainees. Once I have received mail one month letter as evidenced by the stamp containing court deadline which I was unable to meet.

The access of library is extremely limited instead to go to the library the librarian come to our dorm once in fortnight with a few books, where I am unable to find books in my native tongue. Being restricted to order books from outside bookstores such as Amazon makes even difficult for me and for those who want to devote their time on studying.

Being detained I am unable to apply for any collage or university without proof of English proficiency, which I can only do by attending exam centers such as IELTS, TOEFL, ESL.

The medical practice provided within this facility are below reasonable, the negligence to human life and health is immoral, medical care is not administered after putting in a sick call for weeks due to the 'stretched' resources of the medical staff. Since September 2025, I have requested multiple times an eye test and still waiting for optometrist more than 5 months, without glasses my vision worsen every day. Single request for headache and flu pills lasts week or we are directed to by it from commissary shop.

The clear showing of lack of respect among the staff and detainees is evident. We are treated as punitive detainees, we are deprived of sleep through intentional door slamming by officers while sleeping. On one occasion I witnessed an accident a detainee whose finger was sliced off by an officer slamming the door shut on his finger during a routine count is a clear and evident showing of the negligence and lack of mutual respect within the facility.

**Interest to public harms**

When nomovant is the government the last two Winter factors 'merge' *Baird v Bonta 81 F.4th 1036,1040 (9th Cir. 2023)*

"It is always in the public interest to prevent the violation of a party's constitutional right" *Preminger v Principi 422 F.3d 815,826 (9th Cir 2005)* "Public interests concerns are implicated when a constitutional right has been violated because all citizens have a stake in upholding the constitution The public has a strong interest in upholding procedural protections against unlawful detention and the ninth circuit recognized that the costs to the public of immigration detentions are staggering" *Jorge M.F v. Wilkinson No 21-cv-01434-JST 2021 U.S.*

Upholding the constitution and the congressional intent of law and order is always in the interest of the public, All persons, aliens and citizens alike, are protected by the due process clause; *Jenning 138 S. Ct at 862* to allow the DHS to break the constitutional protections that congress provided is a violation upon all citizens and non-citizen alike.

Freedom from imprisonment from government custody detention or other forms of physical restraint is at the heart of the liberty that the due process clause protects. (*Zadvydas V David 533 U.S at 690*)

The governments sole interest in my detention lies in assuring attendance in removal proceedings and 'should' an order of removal be imposed it's ability to carry out such order. However the likelihood that any such order will be imposed in the near future given that court proceedings are being continuously postponed (last time from December 24, 2025 to March 5, 2026), are extremely unlikely and speculative. The cost towards the taxpayer for immigration detention is staggering especially at a time when the public faces extreme economical hardship, the government is able is retain the same security as confinement in a GPS locator at a much lower cost to the United States tax payer.

The government has already detained me for **15 months**. The governments interest in continued detention and the harms that it may face are minimal in comparison to the harms and interest to the public and the upholding of the due process clause.

Conclusion

In line with historical rulings in the matter of *Demore, Zydvas, Rodriguez, Aleman*, whilst these cases may differ in the fundamental matters, all these cases ruled that 6 months served as a white line period and detention beyond this period without definitive time lines were a violation of due process.

The period of time that I have been confined construes for irreparable harm, the Due Process Clause of the 5th Amendments extents to citizens and non-citizens alike and through historic practices and recent case rulings through clear and evident showing I assert claim of the Due Process Clause. The DHS refuses to hold a judicial review of my detention or to provide a bond hearing before a neutral decision maker in which the Immigration Judge can grant bond. This is a clear violation of the Due Process Clause of the constitution and I seek remedy from the District Court for this matter.

I seek an Ex Parte TRO granting my immediate release from custody pending a final decision on my immigration matters, or alternatively a bond hearing before a neutral decision maker in which the immigration judge has jurisdiction to grant bond and in which the government must show through clear and convincing evidence that I pose a danger to the safety of the public or a flight risk.

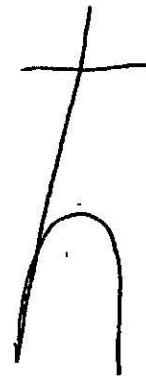
I plead before the Honorable Judge in this matter for a 'speedy' order into this matter to not further prolong the detention that I continue to suffer from.

Kind Regards

KHACHO NAHAPETYAN

January 29, 2026

Sign:

A handwritten signature in black ink, consisting of a vertical line that curves at the bottom into a large 'h' shape, with a horizontal crossbar at the top.