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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 ARMAN NERSISYAN,
11 Petitioner,
12 v.
13 WARDEN OF CALIFORNIA CORRECTIONS
CENTER, et al.,¹
14 Respondents.
15

CASE NO. 1:25-CV-01728-JLT-SAB (HC)
**RESPONDENTS' MOTION TO DISMISS
AND RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

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17 **I. INTRODUCTION**

18 Petitioner Arman Nersisyan's petition for a writ of habeas corpus should be dismissed because
19 each of his two claims for relief fails as a matter of law. First, Petitioner claims that Respondents
20 violated 8 U.S.C. § 1357(a)(2) by arresting Petitioner without a warrant. *See* ECF 1, at 12-13. But
21 § 1357(a)(2) has no bearing on Petitioner's detention because the statute only applies to initial,
22 warrantless arrests. Petitioner was arrested based on a warrant. *See* Exhibit 1. And even if there were
23 no warrant, the decision to revoke Petitioner's parole does not implicate § 1357(a)(2) under controlling

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25 ¹ Respondents move to strike and to dismiss all unlawfully named officials under § 2241. A petitioner
26 seeking habeas corpus relief must name the officer having custody of him as the respondent to the
27 petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004). The proper respondent in
28 habeas cases "is the warden of the facility where the prisoner is being held, not the Attorney General or
some other remote supervisory official." *Padilla*, 542 U.S. at 435; *see also Doe v. Garland*, 109 F.4th
1188, 1197 (9th Cir. 2024) (holding that the warden of the private detention facility at which a non-
citizen alien was held was the proper § 2241 respondent). At the time of filing, Petitioner's custodian
was the facility administrator at the California Corrections Center, located in California City, California.

1 Ninth Circuit precedent. Finally, under 8 U.S.C. § 1226(e), courts are statutorily prohibited from
2 judicially reviewing the discretionary decision to re-detain a previously released alien. For each of these
3 reasons, Petitioner’s claim under § 1357(a)(2) fails.

4 Second, Petitioner claims that his arrest and/or detention violates due process. *See* ECF 1, at 13-
5 14. But Petitioner does not cite any relevant legal authority in support of his due process claim, and thus
6 the claim is too undeveloped to be intelligible or for this Court to consider it. Accordingly, Petitioner’s
7 due process claim should be deemed waived and also denied on the merits.

8 **II. BACKGROUND**

9 Petitioner was ordered removed on October 19, 2021, after an immigration judge (“IJ”) denied
10 his applications for asylum and withholding of removal, following an evidentiary hearing. *See* ECF 1-1,
11 at 4. Following a remand from the Board of Immigration Appeals (“BIA”), the IJ again denied
12 Petitioner’s applications for asylum, withholding of removal, and protection under the Convention
13 Against Torture, and ordered Petitioner removed, in a 16-page written opinion on October 12, 2022. *See*
14 ECF 1-1.

15 The BIA affirmed the IJ’s order of removal on December 13, 2024. ECF 1, ¶ 21.

16 Petitioner subsequently filed a Petition for Review with the Ninth Circuit on January 6, 2025,
17 which remains pending. *See* ECF 1, ¶ 22; ECF 1-2. Petitioner’s order of removal is stayed pending
18 decision by the Ninth Circuit. *See id.*

19 On October 30, 2025, a warrant was issued for Petitioner’s arrest by an immigration officer of
20 the U.S. Department of Homeland Security. *See* Exhibit 1.

21 **III. ARGUMENT**

22 The Petition should be dismissed because each of Petitioner’s two claims for relief—(1) for
23 warrantless arrest in violation of 8 U.S.C. § 1357(a)(2); and (2) for violation of his due process rights—
24 fails as a matter of law.

25 **A. Petitioner’s claim under 8 U.S.C. § 1357 fails.**

26 Petitioner argues his re-detention on October 30, 2025, violated 8 U.S.C. § 1357(a)(2). *See* ECF
27 1, at 12-13. However, this argument fails for several reasons.

1 First, § 1357(a)(2) applies only to *warrantless* arrests. See 8 U.S.C. § 1357(a)(2) (authorizing
2 arrest “without warrant” of an alien whom the officer has reason to believe is unlawfully present and
3 likely to escape before a warrant can be obtained). Here, Petitioner was arrested pursuant to a warrant.
4 See Exhibit 1 (warrant for Petitioner’s arrest dated October 30, 2025). Thus, Petitioner’s claim under
5 § 1357(a)(2) necessarily fails.

6 Second, even assuming *arguendo* that no new warrant had been issued on October 30, 2025, the
7 decision to revoke Petitioner’s parole and to re-detain him does not implicate § 1357(a)(2) under
8 controlling Ninth Circuit precedent. Petitioner was paroled into the United States on March 28, 2016,
9 pending adjudication of his asylum claim, pursuant to 8 U.S.C. § 1182(d)(5). See Exhibit 2.² Thus, any
10 re-detention was not an initial immigration arrest, but revocation of parole. See 8 U.S.C.
11 § 1182(d)(5)(A) (explaining that parole under this subsection “shall not be regarded as an admission of
12 the alien,” may be revoked at any time in the discretion of the Secretary of Homeland Security, and upon
13 revocation “the alien shall forthwith return or be returned to the custody from which he was paroled”).

14 The Ninth Circuit has explained that § 1357(a)(2) applies only to initial immigration arrests and
15 does not apply to revocations of bond or parole.³ *Bello-Reyes v. Gaynor*, 985 F.3d 696, 701 (9th Cir.
16 2021) (explaining that “[w]hile a probable cause requirement exists for *initial immigration arrests*”
17 under § 1357, “no equivalent benchmark exists where ICE is revoking bond rather than arresting in the
18 first instance” and such a decision to revoke bond “is completely discretionary”) (emphasis added).
19 Because § 1357 only applies to “initial immigration arrests” and not re-detention upon parole revocation
20 under binding Ninth Circuit case law, § 1357 cannot apply to Petitioner’s case.

21 Third, Petitioner’s claim for relief under § 1357 also fails because it is barred by 8 U.S.C.
22 § 1226(e). That statute provides: “The Attorney General’s discretionary judgment regarding the
23 application of this section shall not be subject to review. No court may set aside any action or decision
24 by the Attorney General under this section regarding the detention of any alien or the revocation or
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26 ² The class of admission code “DT” means the alien was granted parole under 8 U.S.C. § 1182(d)(5).

27 ³ Like a revocation of parole, a revocation of bond under 8 U.S.C. § 1226 is discretionary and is not a
28 new arrest but rather is “under the original warrant.” 8 U.S.C. § 1226(b); see also *Bello-Reyes*, 985 F.3d
at 701 n.7.

1 denial of bond or parole.” 8 U.S.C. § 1226(e). Under the plain language of this statute, Petitioner
2 cannot prevail on a claim under § 1357 challenging the discretionary decision to re-detain him.

3 **B. Petitioner’s due process claim fails.**

4 Petitioner’s second claim is that his detention violates due process. *See* ECF 1, at 13-14.
5 However, Petitioner’s due process claim also fails because it is undeveloped and lacks any citation to
6 relevant legal authority. The only legal authority Petitioner cites is in support of the generic proposition
7 that “noncitizens are entitled to due process” in immigration proceedings. *Id.* (citing *Zadvydas v. Davis*,
8 533 U.S. 678, 690 (2001)). But Petitioner does not cite any legal authority to establish what due process
9 requires in his case or how his arrest or detention violates due process. *See id.* Because Petitioner has
10 failed to develop his due process claim, or cite any relevant legal authority, it is waived. “Perfunctory
11 and undeveloped arguments, and arguments that are unsupported by pertinent authority, are waived.”
12 *Alawi v. U.S. Citizenship & Immigr. Servs. (USCIS)*, No. 1:20-CV-608-JLT-SAB, 2022 WL 3578584, at
13 *7 n.7 (E.D. Cal. Aug. 19, 2022) (quoting *United States v. Berkowitz*, 927 F.2d 1376, 1384 (7th Cir.
14 1991)); *see also id.* (“Judges are not like pigs, hunting for truffles buried in briefs.”) (quoting *United*
15 *States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991)); *Petrovich v. Santoro*, No. 1:15-CV-1546-JDP
16 (HC), 2019 WL 1405554, at *11 (E.D. Cal. Mar. 28, 2019) (finding a habeas claim waived because it
17 was “undeveloped” and “this court will not construct arguments on behalf of petitioner”); *see id.*
18 (collecting cases in support of the proposition that undeveloped arguments, supported only by
19 unsupported assertions, are deemed waived).

20 Even if Petitioner’s due process claim were sufficiently developed for the Court to consider it, it
21 should be denied on the merits. The Supreme Court has long held that “the Government may
22 constitutionally detain deportable aliens during the limited period necessary for their removal
23 proceedings.” *Demore v. Kim*, 538 U.S. 510, 526 (2003) (describing this conclusion as the Court’s
24 “longstanding view”). In *Demore*, the Court upheld the constitutionality of a mandatory detention
25 provision—8 U.S.C. § 1226(c), which mandates the detention during removal proceedings of aliens who
26 have been convicted of an aggravated felony. *Id.* at 513. In reaching this holding, the Court explained
27 that “[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes
28 rules that would be unacceptable if applied to citizens.” *Id.* at 521. The Court noted that, for over a

1 century, it has “recognized detention during deportation proceedings as a constitutionally valid aspect of
2 the deportation process” because “deportation proceedings ‘would be vain if those accused could not be
3 held in custody pending the inquiry into their true character.’” *Id.* at 523 (quoting *Wong Wing v. United*
4 *States*, 163 U.S. 228, 235 (1896)).

5 Based on this established principle, the Court in *Demore* reaffirmed that immigration detention
6 can be constitutional even in the absence of any showing that an individual detainee posed a flight risk
7 or a danger to the community. *See id.* at 523-27 (discussing *Carlson v. Landon*, 342 U.S. 524 (1952),
8 and concluding that detention was constitutional “even without any finding of flight risk” or
9 “individualized finding of likely future dangerousness” (quotation marks omitted)). In short, in *Demore*
10 “the Supreme Court recognized [that] there is little question that the civil detention of aliens during
11 removal proceedings can serve a legitimate government purpose, which is ‘preventing deportable ...
12 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if
13 ordered removed, the aliens will be successfully removed.’” *Prieto-Romero v. Clark*, 534 F.3d 1053,
14 1065 (9th Cir. 2008) (quoting *Demore*, 538 U.S. at 528).

15 Petitioner offers no reason why his detention pending removal is not constitutional in this case.
16 He has been detained a little more than two months. He has been ordered removed by an IJ following a
17 thorough hearing of his asylum and related claims. The BIA has affirmed that decision on appeal.
18 Petitioner’s due process claim seems to take issue primarily with the decision to return him to custody,
19 not with the basis for his ongoing detention pending removal.⁴ *See* ECF 1, at 13-14. In short, Petitioner
20 has offered no cogent argument for how his ongoing detention is in any way inconsistent with due
21 process, especially considering the Supreme Court’s longstanding recognition that detention pending
22 removal comports with due process.

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27 ⁴ Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Nowhere does Petitioner
28 challenge the statutory basis for his ongoing detention. His only challenges are his § 1357 challenge to
his “arrest” and his constitutional due process challenge.

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IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss Petitioner's habeas petition.

Dated: January 5, 2026

ERIC GRANT
United States Attorney

By: /s/ DAVID W. SPENCER
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