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DETAINED

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

10 ARMAN NERSISYAN, an individual,
11
12 **Petitioner,**

13 v.

14 TODD M. LYONS, Acting Director, U.S.
15 Immigration and Customs Enforcement;
16 MARCOS CHARLES, Acting Executive
17 Associate Director, Enforcement and
18 Removal Operations, U.S. Immigration
19 and Customs Enforcement; KRISTI
20 NOEM, Secretary, U.S. Department of
21 Homeland Security; PAMELA BONDI,
22 U.S. Attorney General; and DOE 1,
23 Warden of California City Corrections
24 Center,

25 **Respondents.**


Case No.: 1:25-cv-01728-JLT-SAB (HC)
[Assigned to the Hon. Jennifer L.
Thurston, U.S. District Judge; and to the
Hon. Stanley A. Boone, U.S. Magistrate
Judge]

**PETITIONER ARMAN
NERSISYAN'S OPPOSITION TO
RESPONDENTS' MOTION TO
DISMISS THE PETITION FOR WRIT
OF HABEAS CORPUS**

Agency file no.:



1 **TO THE HONORABLE COURT AND TO THE PARTIES AND THEIR**
2 **COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that Petitioner ARMAN NERSISYAN
4 (“Petitioner”), A-Number , by and through his attorneys hereby
5 responds to and opposes Respondents’ Motion to Dismiss and Response to the
6 Petition for Writ of Habeas Corpus as follows.
7

8 **ARGUMENT**

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10 **I. PETITIONER’S ARREST VIOLATED U.S.C. § 1357(a)(2) AND THE**
11 **MOTION MISSTATES THE STATUTE’S REACH**

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13 Respondents assert that § 1357(a)(2) does not apply because Petitioner was
14 allegedly arrested pursuant to a warrant. However, Respondents have not provided
15 a copy of that warrant to Petitioner or his counsel. Without a verified warrant—or
16 any contemporaneous notice provided at the time of arrest—this Court should view
17 Respondents’ post hoc reference to a warrant with skepticism. Petitioner asserts
18 that no warrant was presented to him, and that he was taken into custody at a
19 USCIS interview without explanation or documentation.
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22 Even if Respondents can now produce a document titled “warrant,” the
23 statutory and constitutional questions do not end there. Under § 1357(a)(2), ICE
24 may only make a warrantless arrest when (1) it has reason to believe a noncitizen is
25 unlawfully present and (2) the person is likely to escape before a warrant can be
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1 obtained. Both prongs require a contemporaneous, individualized determination,
2 which is absent here.

3 Moreover, the government argues that § 1357(a)(2) does not apply to re-
4 detention following parole revocation. This is incorrect for two reasons. First, ICE
5 failed to follow the procedures required to properly revoke parole under 8 U.S.C. §
6 1182(d)(5)—no notice was provided, no finding was made that parole should be
7 terminated, and no process was followed. Second, the Ninth Circuit has not held
8 that the procedural protections of § 1357 are entirely inapplicable in the context of
9 a re-arrest from parole, particularly when that arrest is functionally equivalent to an
10 initial seizure.
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14 Respondents rely heavily on *Bello-Reyes v. Gaynor*, 985 F.3d 696 (9th Cir.
15 2021), to argue that ICE need not provide probable cause or comply with § 1357
16 when revoking parole. But the rationale of *Bello-Reyes* should be read as pertaining
17 to bond revocation under § 1226, not a seizure at a USCIS interview absent any
18 contemporaneous justification. Even if parole was lawfully granted, its
19 termination—absent formal process or notice—cannot insulate ICE from review
20 when its actions violate statutory and constitutional norms. See *Singh v. Holder*,
21 638 F.3d 1196, 1211 (9th Cir. 2011).
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25 Finally, Respondents claim that judicial review is barred by 8 U.S.C. §
26 1226(e). But that provision limits review of “discretionary” judgments—not
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1 constitutional violations or compliance with statutory arrest authority. Courts retain
2 jurisdiction to determine whether ICE exceeded its statutory authority under §
3 1357. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Demore v. Kim*, 538
4 U.S. 510, 517 (2003) (review of legal questions preserved).

6 **II. PETITIONER’S DUE PROCESS CLAIM IS PROPERLY PLED AND**
7 **CONSTITUTIONALLY GROUNDED**

9 Respondents claim the due process argument is “undeveloped,” yet the
10 petition cites *Zadvydas v. Davis*, 533 U.S. 678 (2001), *Melendres v. Arpaio*, 695
11 F.3d 990 (9th Cir. 2012), and *Leiva-Perez v. Holder*, 640 F.3d 962 (9th Cir. 2011),
12 and alleges specific due process defects:

- 14 • No warrant or probable cause was presented;
- 15 • Petitioner was arrested during a USCIS interview without notice;
- 16 • ICE disregarded an active stay of removal by the Ninth Circuit;
- 17 • USCIS erroneously denied Petitioner’s I-485 based on that mistaken
18 belief;
- 19 • ICE interfered with adjudication of a bona fide marriage-based
20 application.

21 These facts are not “undeveloped”—they describe procedural violations that
22 go to the core of due process. Courts have held that even noncitizens facing
23 removal are entitled to fair procedures, notice, and an opportunity to be heard. See
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1 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Landon v. Plasencia*, 459 U.S. 21,
2 32 (1982).

3 Respondents invoke *Demore v. Kim*, but that case upheld mandatory
4 detention under § 1226(c) after conviction of an aggravated felony. Petitioner here
5 has no criminal history and is not detained under § 1226(c). The reasoning in
6 *Demore* is inapposite. Further, detention becomes unconstitutional when prolonged
7 without meaningful review or based on procedural errors, especially where ICE
8 disregards a judicial stay.
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11 This Court should reject Respondents' attempt to dismiss the due process
12 claim as "waived" and allow this issue to proceed to adjudication on the merits.
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14 **III. RESPONDENTS HAVE NOT SHOWN PETITIONER POSES A**
15 **DANGER TO THE COMMUNITY OR IS A FLIGHT RISK**
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17 Even assuming ICE had statutory authority to re-arrest Petitioner,
18 Respondents offer no evidence or allegation that Petitioner poses a danger to the
19 community or is a flight risk—critical factors in any constitutional analysis of civil
20 immigration detention.
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22 Petitioner has no criminal record. He has not absconded, failed to appear, or
23 otherwise demonstrated any intent to evade immigration proceedings. In fact, he
24 voluntarily appeared for his USCIS interview, demonstrating full compliance with
25 lawful process. The record shows that he is pursuing adjustment of status based on
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1 a marriage to a U.S. citizen, and that USCIS approved the underlying I-130
2 petition. Moreover, the Ninth Circuit has granted a stay of removal, and Petitioner
3 is actively participating in appellate proceedings. There is no basis—factual or
4 legal—for ICE to presume risk of flight or danger.
5

6 Petitioner has not been convicted of any crime and to be detained under §
7 1226(c). To the extent ICE asserts authority under § 1225(b)(2)(A), it still bears the
8 burden of demonstrating that detention is not arbitrary, excessive, or punitive. See
9 *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001) (detention must bear a
10 “reasonable relation to the purpose for which the individual was committed”).
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13 In *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017), the court held that
14 due process requires the government to make an individualized showing of danger
15 or flight risk to justify civil immigration detention, and to consider alternatives to
16 confinement. The government’s blanket assumption that a final removal order alone
17 justifies ongoing detention does not withstand constitutional scrutiny, especially
18 where that order is stayed.
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21 In short, Petitioner’s continued detention—without any showing of risk,
22 danger, or procedural justification—violates core constitutional principles of due
23 process and proportionality. His arrest and confinement are not merely
24 unauthorized under statute; they are arbitrary and punitive in effect.
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CONCLUSION

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2 For the foregoing reasons, the Court should deny Respondents' Motion to
3 Dismiss. Petitioner's habeas claims present valid statutory and constitutional
4 grounds for relief and should be permitted to proceed. Respondents have failed to
5 justify Petitioner's warrantless arrest, have not shown that parole was properly
6 revoked, and have made no showing that Petitioner poses any danger or flight risk.
7 The petition states a clear claim for unlawful detention under both 8 U.S.C. §
8 1357(a)(2) and the Due Process Clause.
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13 Respectfully submitted,

14 Dated January 21, 2026.
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16

17 /s/ [Steven Ridgill]
18 Steven Ridgill, SBN 338535
19 LAW OFFICE OF JUDITH L. WOOD
20 *Attorney for Petitioner*
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CERTIFICATE OF WORD COUNT

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The undersigned, counsel of record for Petitioner, certifies that the preceding
Opposition contains 1,107 words in compliance with L.R. 11-6.1.

Certified this date of January 21, 2026, at Los Angeles, California.

/s/ [Steven K. Ridgill]

Steven K. Ridgill, attorney for
Petitioner