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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.,  
14 Respondents.  
15

CASE NO. 1:25-CV-01728-JLT-SAB (HC)

**RESPONDENTS' MOTION TO DISMISS  
AND RESPONSE TO AMENDED PETITION  
FOR WRIT OF HABEAS CORPUS**

16 **I. INTRODUCTION**

17 Petitioner Arman Nersisyan's amended petition for a writ of habeas corpus (ECF 21) should be  
18 dismissed. Respondents incorporate by reference their prior motion to dismiss and response to the  
19 original habeas petition (ECF 8) and provide the following further response to the new claims raised in  
20 the amended petition.

21 **II. ARGUMENT**

22 The Petition should be dismissed because each of Petitioner's claims for relief fails, as explained  
23 below.

24 **A. Petitioner's substantive due process claim fails (First Claim).**

25 Petitioner argues his detention violates substantive due process "as it bears no 'reasonable  
26 relation' to any legitimate government purpose." ECF 21, at 13-14. This claim fails because Petitioner  
27 does not cite any authority that supports his argument. The only case he cites, *Zadvydas v. Davis*, 533  
28 U.S. 678 (2001), did not recognize a substantive due process right, but rather a procedural due process

1 right to be free from “indefinite, perhaps permanent” detention without sufficient procedural protections.  
2 *Id.* at 692.

3 Moreover, Petitioner’s claim that his detention bears no “reasonable relation” to any legitimate  
4 government purpose is foreclosed by *Demore v. Kim*, 538 U.S. 510 (2003). In *Demore*, the Supreme  
5 Court recognized that it has long held that “the Government may constitutionally detain deportable  
6 aliens during the limited period necessary for their removal proceedings.” 538 U.S. at 526 (describing  
7 this conclusion as the Court’s “longstanding view”). In *Demore*, the Court upheld the constitutionality  
8 of a mandatory detention provision—8 U.S.C. § 1226(c), which mandates the detention during removal  
9 proceedings of aliens who have been convicted of an aggravated felony. *Id.* at 513. In reaching this  
10 holding, the Court explained that “[i]n the exercise of its broad power over naturalization and  
11 immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” *Id.* at  
12 521. The Court noted that, for over a century, it has “recognized detention during deportation  
13 proceedings as a constitutionally valid aspect of the deportation process” because “deportation  
14 proceedings ‘would be vain if those accused could not be held in custody pending the inquiry into their  
15 true character.’” *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)).

16 **B. Petitioner’s procedural due process claim fails (Second Claim).**

17 Petitioner’s procedural due process claim (ECF 21, at 14-15) fails for the reasons set forth in  
18 Respondents’ motion to dismiss the original petition. *See* ECF 8, at 4-5. Notably, Petitioner has been  
19 detained for less than six months and does not even claim that his detention has become “prolonged.”  
20 *Compare Jennings v. Rodriguez*, 583 U.S. 281, 303–04 (2018) (rejecting the argument that “prolonged”  
21 detention of more than six months without a bond hearing is per se illegal under the canon of  
22 constitutional avoidance); *see also Aleksei C. v. Warden*, No. 1:25-CV-01321-CDB (HC), 2026 WL  
23 203037, at \*5 (E.D. Cal. Jan. 27, 2026) (recognizing that detention exceeding six months without a bond  
24 hearing is not per se unconstitutional).

25 **C. Petitioner’s Fourth Amendment claim fails (Third Claim).**

26 Petitioner next argues that his detention violates the Fourth Amendment on the theory that ICE  
27 re-arrested him based on the same probable cause as his original arrest. *See* ECF 21, at 16-17.  
28 However, Petitioner was not re-arrested based on the same probable cause. Rather, ICE revoked his

1 parole—which it has the statutory authority to do at any time and for any reason. *See* 8 U.S.C.  
2 § 1182(d)(5)(A); *see also* ECF 8, at 3-4 (discussing the lawfulness of ICE’s revocation of Petitioner’s  
3 parole). Petitioner cites no authority holding that revocation of parole under identical or similar  
4 circumstances violates the Fourth Amendment, and thus his Fourth Amendment claim fails.

5 **D. Petitioner’s Administrative Procedures Act claim fails (Fourth Claim).**

6 Petitioner next claims that his detention violates the Administrative Procedures Act, 5 U.S.C.  
7 § 706(2). *See* ECF 21, at 17-18. The basis for Petitioner’s claim is unclear and insufficiently developed  
8 for the Court to consider it. ‘Perfunctory and undeveloped arguments, and arguments that are  
9 unsupported by pertinent authority, are waived.’” *Alawi v. U.S. Citizenship & Immigr. Servs. (USCIS)*,  
10 No. 1:20-CV-608-JLT-SAB, 2022 WL 3578584, at \*7 n.7 (E.D. Cal. Aug. 19, 2022) (quoting *United*  
11 *States v. Berkowitz*, 927 F.2d 1376, 1384 (7th Cir. 1991)); *see also id.* (“Judges are not like pigs,  
12 hunting for truffles buried in briefs.”) (quoting *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir.  
13 1991)); *Petrovich v. Santoro*, No. 1:15-CV-1546-JDP (HC), 2019 WL 1405554, at \*11 (E.D. Cal. Mar.  
14 28, 2019) (finding a habeas claim waived because it was “undeveloped” and “this court will not  
15 construct arguments on behalf of petitioner”); *see id.* (collecting cases in support of the proposition that  
16 undeveloped arguments, supported only by unsupported assertions, are deemed waived).

17 To the extent Petitioner’s claim is based on an alleged violation of 8 C.F.R. § 241.13, based on  
18 his unexplained citation to that regulation, it is duplicative of his Ninth Claim for relief and fails for the  
19 reasons explained below.

20 **E. Petitioner’s First and Fifth Amendments claim fails (Fifth Claim).**

21 Petitioner claims his detention violates the guarantees in the First and Fifth Amendments to “the  
22 rights to access the courts and to petition for redress of grievances.” ECF 21, at 18-19. Petitioner does  
23 not cite any authority supporting this claim or explain how his immigration detention denies him access  
24 to the courts or the ability to petition the government for redress of grievances. To the contrary, like all  
25 detainees in immigration custody, Petitioner has fully participated, and will continue to be able to fully  
26 participate, in his immigration proceedings from custody. Moreover, Petitioner’s filing and ongoing  
27 litigation of this habeas petition through his attorneys shows he has not been denied access to the courts.

1       **F. Petitioner’s Sixth Claim under 8 U.S.C. § 1225(b)(1) fails.**

2       Petitioner next argues that his detention is not warranted under 8 U.S.C. § 1225(b)(1). *See* ECF  
3 21, at 19. This Court need not consider this claim, and it does not entitle Petitioner to any relief, because  
4 Petitioner is subject to mandatory detention under § 1225(b)(2), as explained below—not § 1225(b)(1).

5       **G. Petitioner’s Seventh Claim under 8 U.S.C. § 1225(b)(2) fails.**

6       Petitioner next argues that his detention is not warranted under 8 U.S.C. § 1225(b)(1). *See* ECF  
7 21, at 20-22. Petitioner entered the United States illegally and was placed into removal proceedings.  
8 Petitioner is thus an “applicant for admission” who is subject to mandatory detention by ICE under 8  
9 U.S.C. § 1225(b)(2). *Buenrostro-Mendez v. Bondi*, 166 F.4<sup>th</sup> 494, 498 (5th Cir. 2026); *see also Cortes*  
10 *Alonzo v. Noem*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).<sup>1</sup>

11       Petitioner’s prior release in the discretion of DHS does not have the effect of having converted  
12 petitioner’s presence in the United States into an “admission.” An “alien who ‘arrives in the United  
13 States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for  
14 admission.’” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). As an applicant for admission,  
15 petitioner is subject to mandatory detention and thus ineligible for a bond hearing.

16       The Court should deny Petitioner’s Seventh Claim because his detention is mandated by statute.  
17 In the alternative, the Court should hold the matter in abeyance pending the Ninth Circuit’s resolution of  
18 *Rodriguez*, cited above, which may have precedential effect in this case.

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22       <sup>1</sup> There are several Ninth Circuit appeals currently pending on the issue presented in this case,  
23 with oral arguments having recently been heard in *Rodriguez v. Bostock*, No. 25-6842. *Benavides*  
24 *Carballo v. Andrews*, No. 25-6533 (from E.D. Cal. 1:25-cv-00978-KES-EPG), is most likely to address  
25 the question of due process in the context of re-detention. Two district courts within the Ninth Circuit  
26 have recently vacated or stayed the Department of Homeland Security’s July 8, 2025 “Interim Guidance  
27 Regarding Detention Authority for Applicants for Admission” — which takes the position that all  
28 applicants for admission within the meaning of 8 U.S.C. 1225(a) are subject to mandatory detention  
under 8 U.S.C. 1225(b) — as contrary to law under the Administrative Procedures Act. *Maldonado*  
*Bautista v. Noem*, No. 5:25-cv-01873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) (vacating the  
guidance); *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025)  
(staying the guidance within ICE’s San Francisco area of responsibility, an area that includes the Eastern  
District of California, pending final resolution of the APA claim). The government has appealed the  
*Maldonado Bautista* judgment to the Ninth Circuit (No. 25-7958), and the Ninth Circuit recently issued  
a temporary administrative stay of the district court’s order.

