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

10
11 AVETIK ARUTYUNOVICH
12 MOSKOVYAN,

Petitioner,

13
14 v.

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16 KRISTI NOEM, Secretary of the
Department of Homeland Security, et al.,

17
18 Respondents.

Case No.: 25-cv-03537-RBM-AHG

**RESPONSE IN OPPOSITION TO
PETITIONER'S HABEAS PETITION
AND APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

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21 **I. INTRODUCTION**

22 Petitioner has filed a habeas petition and a motion for temporary restraining
23 order. As the petition and motion assert the same claims and relief, Respondents respond
24 to both herein for the sake of judicial efficiency.¹ For the reasons set forth below,
25 Respondents ask the Court to deny the habeas petition and request for interim relief.

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27 ¹ Undersigned counsel will be on pre-scheduled leave from December 19, 2025, through
28 January 2, 2026. To ensure the Court receives a timely response from the government
in this case, undersigned counsel files the instant brief.

1 **II. BACKGROUND**

2 Petitioner was born on  1967, in the former Union of Soviet Socialist
3 Republics (USSR), in what is now Armenia. *See* Declaration of Jason Cole (“Cole
4 Decl.”) at ¶ 4. He lawfully entered the United States on July 19, 1988, and later became
5 a lawful permanent resident. *See id.* at ¶ 5.

6 About seven years later, Petitioner was convicted of a federal money laundering
7 conspiracy offense, and on August 19, 2013, was ordered to pay restitution and
8 sentenced to 76 months in prison. *See id.* at ¶ 8; ECF No. 1 at 2. On April 9, 2019,
9 Petitioner was transferred to Immigration and Enforcement Customs (ICE) custody and
10 placed in removal proceedings based on his criminal conviction. *See* Cole Decl. at ¶ 9.
11 On May 31, 2019, an Immigration Judge (IJ) ordered Petitioner removed to Armenia.
12 *See id.* at ¶ 10; Exh. 1. On January 23, 2020, Petitioner was released from ICE custody
13 on an Order of Supervision because ICE was unable to obtain a travel document from
14 the Armenian government at that time. *See* Cole Decl. at ¶ 11.

15 On October 15, 2025, Petitioner attempted to enter a military base while dropping
16 off a passenger as a rideshare driver and was subsequently apprehended by ICE and
17 detained at the Otay Mesa Detention Center based on his final order of removal. *See id.*
18 at ¶ 12. Petitioner was served with a Notice of Revocation of Release on October 16,
19 2025. *See* Exh. 2. The notice erroneously states that he was granted withholding of
20 removal to Armenia. *See* Exh. 2; Cole Decl. at ¶ 13. Petitioner was not provided with
21 an informal interview to respond to the revocation of his release. *See* Cole Decl. at ¶ 13.

22 Since Petitioner’s detention, ICE has worked as expeditiously as possible to
23 execute his removal to Armenia, and removal efforts remain ongoing. *See id.* at ¶ 14. If
24 ICE is unable to obtain a travel document from the Armenian government, it will seek
25 to identify a third country where Petitioner may be removed. *See id.* at ¶¶ 14–17.

26 **III. ARGUMENT**

27 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
28 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered

1 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
2 (2022). The INA provides that an alien ordered removed must be detained for 90 days
3 pending the government’s efforts to secure the alien’s removal through negotiations
4 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
5 detain” the alien during the 90-day removal period under subsection (a)(1)).

6 Section 1231(a)(6) “authorizes further detention if the Government fails to
7 remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
8 The statute, however, is limited to “a period reasonably necessary to bring about the
9 alien’s removal from the United States” and “does not permit indefinite detention.” *Id.*
10 at 689. The Supreme Court has held that a six-month period of post-removal detention
11 constitutes a “presumptively reasonable period of detention.” *Id.* at 701. Release is not
12 mandated after the expiration of the six-month period unless “there is no significant
13 likelihood of removal in the reasonably foreseeable future.” *Id.*

14 Here, ICE has re-detained Petitioner to execute his final order of removal to
15 Armenia. *See* Exh. 1. Respondents clarify that contrary to Petitioner’s assertion and the
16 erroneous Notice of Revocation of Release with which he was served, the IJ did not
17 grant Petitioner withholding of removal. *Compare* ECF No. 1 at 35, ¶ 8; Exh. 2, *with*
18 Exh. 1 (IJ leaving unchecked the box for granting withholding of removal).² Moreover,
19 the record reflects that Petitioner did not file a Form I-589, Application for Asylum and
20 for Withholding of Removal, for the IJ to consider. *See* Cole Decl. at ¶ 10. Indeed, in
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23 ² Respondents maintain that the record contains conclusive evidence that Petitioner was
24 not granted withholding of removal by the IJ. Here, the IJ issued an oral order that was
25 memorialized in a summary decision. *See* Exh. 1; 8 C.F.R. §§ 1240.9, 1240.12. A
26 transcript of an oral order is only generated when the order is appealed, for the Board
27 of Immigration Appeals’ review of the decision. *See* EOIR, Immigration Court Practice
28 Manual, <https://www.justice.gov/eoir/reference-materials/ic/chapter-4/10>. Because
neither Petitioner nor the Department of Homeland Security appealed the IJ’s May 31,
2019 decision, there was no transcript of the decision created. Undersigned counsel,
however, has listened to the electronic recording of the IJ’s hearing and decision can
confirm that the IJ did not grant Petitioner withholding of removal on May 31, 2019.

1 his prior habeas petition, Petitioner made no allegation that he was granted withholding
2 of removal. *See* Exh. 3 at ¶¶ 16–18 (prior petition alleging indefinite detention while
3 ICE enforces his removal order to Armenia and Petitioner complying with those
4 removal efforts).

5 Since Petitioner’s re-detention on October 15, 2025, ICE has worked to
6 coordinate his removal. *See* Cole Decl. at ¶ 14. To that end, on October 28, 2025, local
7 Enforcement and Removal Operations (ERO) “requested guidance from ERO’s
8 Removal and International Operations (RIO) to obtain a travel from the Armenian
9 government for former USSR citizens.” *Id.* at ¶ 15. “On December 17, 2025, ERO
10 submitted a request for a travel document to the Armenian government.” *Id.* at ¶ 16.
11 The request for Petitioner’s travel document remains pending. *See id.* ICE attests that it
12 is working as expeditiously as possible. *See id.* at ¶ 14. Removal efforts remain ongoing,
13 and if ICE does not obtain his travel document from the Armenian government, it will
14 seek to identify a third country that will accept him for resettlement. *See id.* at ¶¶ 14,
15 17; *see also* 8 U.S.C. § 1231(b)(2)(C) (allowing for third country removal where the
16 petitioner’s country of designation is not willing to accept him); § 1231(b)(2)(E)
17 (allowing third country resettlement where removal to the country designated in the
18 final order is “impracticable, inadvisable, or impossible.”).

19 As to Petitioner’s regulatory violation claims, Petitioner was not provided an
20 accurate Notice of Revocation of Release or provided an informal interview regarding
21 the reason for the revocation of his release. *See* Cole Decl. at ¶ 13.

22 Petitioner also suggests that once a third country is identified, ICE will
23 immediately deport him there without adequate notice and an opportunity to be heard.
24 *See* ECF No. 1 at 24. ICE attests, however, that once a third country is identified, it
25 “will provide Petitioner with written notice, and if Petitioner claims a fear of removal
26 to the identified country, he will be referred to an asylum officer for processing of the
27 fear-based claims.” Cole Decl. at ¶ 19. The evidence further shows that ICE will
28 generally wait at least 24 hours following the notice of third country removal before

1 executing it, and under no circumstances would removal be executed in less time than
2 that without the noncitizen being provided “reasonable means and opportunity to speak
3 with an attorney prior to removal.” *Id.* at ¶ 18. Thus, Petitioner’s concern that he will
4 not receive adequate notice and an opportunity to be heard prior to his third country
5 removal is not borne out by the evidence in this case.

6 **IV. CONCLUSION**

7 For the reasons stated herein, Respondents respectfully request that the Court
8 deny the habeas petition.

9 DATED: December 18, 2025

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13 Attorneys for Respondents
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