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

9 ARTAK NAZARYAN,
10 Plaintiff,

11 vs.

12 CHRISTOPHER LAROSE, warden of
13 Otay Mesa Detention Center
14 DANIEL A. BRIGHTMAN, San Diego
15 Field Office Director, Immigration and
16 Customs Enforcement and Removal
17 Operations ("ICE/ERO");
18 TODD LYONS, Acting Director of
19 Immigration Customs Enforcement
20 ("ICE");
21 KRISTI NOEM, Secretary of the
22 Department of Homeland Security
23 ("DHS");
24 PAMELA BONDI, Attorney General of
25 the United States,
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY;
28 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;
Respondents.

Case No.: '25CV3628 JLS MMP

Agency Number: A



PETITION FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING
REQUESTED

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INTRODUCTION

1. Artak Nazarian is an Armenian from Georgia. He grew up in Georgia where he suffered such persecution that he could no longer remain in Georgia safely. He was discriminated against in school, at work and every other social aspect of life in Georgia. When he was 19 years old he believed he could no longer live in Georgia and he made his way to the United States. He presented himself at the port of entry at San Ysidro, California. He presented his passport there as asked for asylum.

2. He entered the United States on October 29, 2015. He was detained in Aurora, Colorado where he presented he case in a credible feal interview. He was found to have a credible fear and was granted parole. *See* Exhibit A – I-830. He was paroled into the United States on December 31, 2015. *Id.*

3. Mr. Nazaryan began his life in the United States after he was released. He received work authorization, found a place to live and integrated himself into the local community. In the 10 years he has lived here he has established himself financially as well. He filed his I-589 application for Asylum on March 28, 2017.

4. On November 29, 2025, Mr. Nazaryan was driving south from Los Angeles to San Diego with his fiancé. They became hungry and found a Jersey

1 Mike's on their mobile app and decided to stop in for something to eat. The mobile
2 app did not indicate the restaurant was on Camp Pendleton. They followed the
3 map's instructions and found themselves at the guarded entry gate of Camp
4 Pendleton. When they arrived to guard booth they explained that they were trying
5 to go Jersey Mike's. The guard explained they could not enter the base without
6 proper ID. Mr. Nazaryan asked the guard if they could turn around and be on their
7 way. This was about 2:00 p.m. The officer there looked at his driver's license and
8 asked if he had a green card. Since he did not have one he asked him to pull over to
9 the side of the road.
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14 5. The guard explained that his supervisor needed to come speak to
15 him and told him he had to wait. He asked several times if he was free to go. He
16 was told he could not leave. He presented proof of his work authorization and his
17 pending asylum application. No base personnel ever explained what law he had
18 violated that allowed them to hold him their prisoner. They simply asserted that
19 since he didn't have a green card he had to wait. After about an hour a supervisor
20 arrived and interviewed him about his immigration status. He was told again that
21 he needed to wait. The supervisor then took his picture and his fingerprints. He
22 was told once again that he must wait. He asked again why he was being detained.
23 He was simply told to wait. At approximately 6:00 p.m. ICE officers arrived. He
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1 was escorted from his car to a small outbuilding. Upon entry to the building he was
2 put into handcuffs and told he was being sent to detention. He asked again why he
3 was being detained. He was not told why he was arrested. He was not told what
4 law he had violated. He was not advised of his Miranda rights. With no cause and
5 no explanation and no warrant he was put in the ICE vehicle and transferred to the
6 ICE facility in downtown San Diego. He was then transferred to the Otay Mesa
7 facility.

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11 6. One of the benefits that petitioner enjoyed with parole has been his
12 ability to work, to go to school and to more actively participate in his asylum
13 application process. Suddenly, with no notice, no neutral determination that there
14 has been a change in circumstances, Respondents seek to revoke Mr. Nazaryan
15 parole and force him to remain in custody for the duration of his application
16 process. Respondents do so based not on Mr. Nazaryan's personal circumstances
17 but because of Respondents' interpretation of President Trump's whim and
18 categorical determination that, the Fifth Amendment notwithstanding, noncitizens
19 are not entitled to due process.
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1 7. But Respondents cannot evade the law so easily. The U.S.
2 Constitution requires the Respondents provide at least the rights available to him
3 when he was granted parole and when he filed his application for asylum¹.
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5 8. Accordingly, to vindicate Petitioner's rights, this Court should grant
6 the instant petition for a writ of habeas corpus. Mr. Nazaryan asks this Court to
7 find that Respondents' attempt to detain him are arbitrary and capricious and in
8 violation of the law, and to immediately issue an order preventing his transfer out
9 of this district.
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12 JURISDICTION

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14 9. This action arises under the Constitution of the United States and
15 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
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17 10. This court has subject matter jurisdiction under 28 U.S.C. § 2241
18 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
19 United States Constitution (Suspension Clause).
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25 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
26 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens
27 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It
28 seems—it might say that, but if you're talking about that, then we'd have to have a million or 2
million or 3 million trials.").

1 11. This Court may grant relief under the habeas corpus statutes, 28
2 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
3 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
4 U.S.C. § 1252(e)(2).
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7 **VENUE**

8 12. Venue is proper because Petitioner is in Respondents' custody in
9 San Diego, California. Venue is further proper because a substantial part of the
10 events or omissions giving rise to Petitioner's claims occurred in this District,
11 where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
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14 13. For these same reasons, divisional venue is proper under Local
15 Rule HC.1

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17 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**


18 14. The Court must grant the petition for writ of habeas corpus or
19 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
20 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
21 must require Respondents to file a return "within three days unless for good cause
22 additional time, not exceeding twenty days, is allowed." *Id.*
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25 15. Courts have long recognized the significance of the habeas statute
26 in protecting individuals from unlawful detention. The Great Writ has been
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1 referred to as “perhaps the most important writ known to the constitutional law of
2 England, affording as it does a swift and imperative remedy in all cases of illegal
3 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

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5 16. Petitioner is “in custody” for the purpose of § 2241 because he is
6 arrested and detained by Respondents.
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8 **PARTIES**

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10 17. Artak Nazaryan (“Petitioner”) is a 29-year-old citizen of Georgia
11 born  He is currently a resident of San Diego, California, and is
12 present within the state of California as of the time of the filing of this petition.
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14 18. Respondent Christopher Larosse is the Warden of the Otay Mesa
15 Detention Center and is a legal custodian of Petitioner.
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17 19. Respondent Daniel A. Brightman is the Field Office Director for
18 the San Diego Field Office, Immigration and Customs Enforcement and Removal
19 Operations (“ICE”). The San Diego Field Office is responsible for local custody
20 decisions relating to non-citizens charged with being removable from the United
21 States, including the arrest, detention, and custody status of non- citizens. The San
22 Diego Field Office’s area of responsibility includes San Diego, California and the
23 Otay Mesa Detention Center. Respondent Sidney Aki is a legal custodian of
24
25 Petitioner.
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1 29. The INA gives the Attorney General or the Secretary of Homeland
2 Security discretion to grant asylum to noncitizens who satisfy the definition of
3 “refugee.” Under that definition, individuals generally are eligible for asylum if
4 they have experienced past persecution or have a well-founded fear of future
5 persecution on account of race, religion, nationality, membership in a particular
6 social group, or political opinion and if they are unable or unwilling to return to
7 and avail themselves of the protection of their homeland because of that
8 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
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11 30. Although a grant of asylum may be discretionary, the right to
12 apply for asylum is not. The Refugee Act broadly affords a right to apply for
13 asylum to any noncitizen “who is physically present in the United States or who
14 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
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18 31. Because of the life-or-death stakes, the statutory right to apply for
19 asylum is robust. The right necessarily includes the right to counsel, at no expense
20 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
21 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
22 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
23 to present evidence to establish eligibility.).
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1 32. Noncitizens seeking asylum are guaranteed Due Process under the
2 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
3 (1993).
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5 33. Noncitizens who are applicants for asylum are entitled to a full
6 hearing in immigration court before they can be removed from the United States. 8
7 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
8 appellate review before the Board of Immigration Appeals of removal orders
9 entered against them and judicial review in federal court upon a petition for
10 review. 8 U.S.C. § 1252(a) *et seq.*
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13 34. Immigration detention is a form of civil confinement that
14 “constitutes a significant deprivation of liberty that requires due process
15 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
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18 35. Immigration detention should not be used as a punishment and
19 should only be used when, under an individualized determination, a noncitizen is a
20 flight risk because they are unlikely to appear for immigration court or a danger to
21 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
22

23 36. Parole must be terminated upon written notice after an
24 individualized determination that the humanitarian purposes no longer apply. 8
25 C.F.R. § 212.5(e)(2)(i).
26
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FACTUAL BACKGROUND

37. Petitioner is an ethnic Armenian and citizen of Georgia. He was born  in Armenia and is currently a citizen of Georgia.

38. Petitioner was repeatedly persecuted in Georgia. He was repeatedly assaulted and his life threatened for participation in rights rallies and the rights of sexual minorities.

39. On December 31, 2015, Petitioner was paroled into the United States to seek asylum. This release was based on the individualized facts in his case determined during his credible fear interview, under 8 U.S.C. § 1182(d)(5).

40. He was also issued an NTA and placed in 240 removal proceedings.

41. He has attended all scheduled hearings in connection with his removal proceedings.

42. On information and belief, Petitioner continues to meet all the requirements of his parole.

43. Petitioner applied for asylum on March 28, 2017.

44. Respondents issued work authorization to Petitioner pursuant to 8 C.F.R. § 274a.12(c)(08).

1 45. On November 29, 2025, Mr. Nazaryan was attempting to make a
2 at a Jersey Mike's Restaurant. He did not realize the restaurant was on the marine
3 base and he ended up at the entry gate to Camp Pendleton. When he arrived at the
4 entry gate the gate guard did not allow him to turn around but asked him to pull to
5 the side. Mr. Nazaryan complied. Subsequently a supervisor arrived. She took his
6 ID and that of his passenger and held them against their will. He asked several
7 times if he could leave and the Camp Pendleton authorities refused. Mr. Nazaryan
8 produced copies of his documents and his work authorization proving that he was
9 legally here in the United States and the officers had no reason to detain him. He
10 was held their prisoner for a total of 4 hours.
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15 46. Eventually ICE officers arrived and the Military Police handed
16 him over to the ICE officers who then put him in their vehicle, and transported him
17 to their downtown San Diego holding area. He was never given a written notice
18 that his parole was being terminated. He was not given any particularized reason
19 for why he was being placed into detention. He was never presented with a warrant
20 for his arrest. He was never given any Miranda warnings. He was eventually
21 transported to Otay Mesa Detention Center. Mr. Nazaryan must now continue his
22 asylum application process while in detention.
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1 47. Mr. Nazaryan was never presented with a warrant for his arrest.

2 The ICE agents did not provide him any process. The ICE agents did not offer him
3 any opportunity to be heard prior to arresting and detaining him.
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5 48. On January 20, 2025, President Donald Trump issued several
6 executive actions relating to immigration, including “Protecting the American
7 People Against Invasion,” an executive order (EO) setting out a series of interior
8 immigration enforcement actions. The Trump administration, through this and
9 other actions, has outlined sweeping, executive branch-led changes to immigration
10 enforcement policy, establishing a formal framework for mass deportation. The
11 “Protecting the American People Against Invasion” EO instructs the DHS
12 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
13 prioritize civil immigration enforcement procedures including through the use of
14 mass detention.
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19 49. On information and belief, Respondents are detaining Petitioner
20 regardless of the individual facts and circumstances of his case.
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22 50. On information and belief, Respondents are using the immigration
23 detention system as a means to punish individuals for asserting rights under the
24 Refugee Act.
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26 51. On information and belief, Petitioner has no criminal history.
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CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority

Unlawful Detention

52. Petitioner restates and realleges all paragraphs as if fully set forth here.

53. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

54. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

55. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between

1 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
2 2569 (2019) (citation omitted).
3

4 56. By categorically revoking Petitioner’s parole and transferring him
5 to Otay Mesa Detention Center without consideration of his individualized facts
6 and circumstances, Respondents have violated the APA.
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8 57. Respondents have made no finding that Petitioner is a danger to
9 the community.
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11 58. Respondents have made no finding that Petitioner is a flight risk.

12 59. By detaining the Petitioner categorically, Respondents have
13 further abused their discretion because there have been no changes to his facts or
14 circumstances since the agency made its initial determination to parole him into the
15 United States that support detention.
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18 60. Respondents have already considered Petitioner’s facts and
19 circumstances and determined that he was not a flight risk or danger to the
20 community when they granted him parole. There have been no changes to the facts
21 that justify this revocation of his parole.
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23 **COUNT TWO**

24 **Violation of Fifth Amendment Right to Due Process**

25 **Procedural Due Process**

1 61. Petitioner restates and realleges all paragraphs as if fully set forth
2 here.

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4 62. The Due Process Clause of the Fifth Amendment to the U.S.
5 Constitution prohibits the federal government from depriving any person of “life,
6 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due
7 process protects “all ‘persons’ within the United States, including [non-citizens],
8 whether their presence here is lawful, unlawful, temporary, or permanent.”
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10 *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

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12 63. Due process requires that government action be rational and non-
13 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

14
15 64. While the government has discretion to detain individuals under 8
16 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
17 discretion is not “unlimited” and must comport with constitutional due process. *See*
18 *Zadvydas*, 533 U.S. at 698.

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21 65. Here, Respondents have chosen to revoke Petitioner’s parole in an
22 arbitrary manner and not based on a rational and individualized determination of
23 whether he is a safety or flight risk, in violation of due process. Because no
24 individualized custody determination has been made and no circumstances have
25 changed to make Petitioner a flight risk or a danger to the community,
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1 Respondents' revocation of Petitioner's release violates his right to procedural due
2 process.
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4 **COUNT THREE**

5 **Violation of the Fourth Amendment to the Constitution**

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7 66. Petitioner restates and realleges all paragraphs as if fully set forth
8 here.

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10 67. The Forth Amendment protects "[t]he right of the people to be
11 secure in their persons ... against unreasonable searches and seizures." U.S. Const.
12 Amend. IV. The Supreme Court has recognized that immigration arrests and
13 detentions are "seizures" within the meaning of the Fourth Amendment. *INS v*
14 *Lopez-Mendoza*, 468 U.S. 1032, 1044f (1984) (acknowledging that deportation
15 proceedings are civil, but the Fourth Amendment still applies to the "Seizure" of
16 the person.)
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19 68. The Fourth Amendment requires that arrests entail a neutral,
20 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
21 (1975). That neutral, judicial determination can occur either before the arrest in the
22 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
23 cause determination. *Id.* Arrest and detention of a person, including of a
24 noncitizen, absent a neutral judicial determination of probable cause violates the
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1 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*
2 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
3 hours of detention, which includes weekends, unless there is a bona fide
4 emergency or other extraordinary circumstances. *Id.*

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7 69. Congress enacted a strong preference that immigration arrests be
8 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The
9 Immigration and Nationality Act thus provides immigration officers with only
10 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

11
12 70. Mr. Nazaryan, at the moment of the arrest by Respondents, was
13 lawfully present based on the Respondents' prior grant of release and parole. He
14 did not receive any judicial determination of probable cause for his arrest or
15 continued detention by Respondents.

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18 71. The Government cannot salvage this seizure by invoking
19 generalized immigration enforcement interests. The Fourth Amendment's
20 reasonableness inquiry is fact-specific and demands individualized justification for
21 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,
22 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Nazaryan was granted
23 release from DHS custody in 2015 and did not pose any danger to any person in
24 the community at large.

1 (7) Issue and Order prohibiting the Respondents from enrolling the
2 Petitioner in any Alternative to Detention program, specifically barring them from
3 requiring an ankle monitor;
4

5 (8) Grant any further relief this Court deems just and proper.
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7 Dated: December 16, 2025.

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