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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

MANVEL ZAKINYAN )  
 )  
Petitioner, )  
 )  
v. )  
 )  
Warden, Otay Mesa Detention Center; )  
ACTING DIRECTOR of )  
San Diego Field Office, )  
U.S. Immigration and Customs Enforcement; )  
Secretary of the U.S. Department of )  
Homeland Security; and )  
Attorney General of the United States, )  
in their official capacities, )  
 )  
Respondents. )  
\_\_\_\_\_ )

Case No. '25CV3717 JLS MMP  
  
PETITION FOR WRIT OF  
HABEAS CORPUS  
  
ORAL ARGUMENT  
REQUESTED

INTRODUCTION

1. Petitioner Manvel Zakinyan is currently detained by DHS, Immigration and Customs Enforcement (“ICE”), at the Otay Mesa Detention Center in San Diego, California. He has remained in ICE custody for nearly one year as of December 2, 2025, without having received a bond hearing on the merits or an individualized custody determination by an Immigration Judge with jurisdiction.
2. On December 2, 2025, the Immigration Court in San Diego, California, conducted a custody redetermination hearing before Immigration Judge Guy G. Grande. Petitioner

appeared by video from Otay Mesa, represented by counsel, and DHS was represented by its Assistant Chief Counsel

3. At the outset of the hearing, the Immigration Judge admitted into evidence multiple exhibits submitted by both parties, including Petitioner's request for custody redetermination, supporting evidence regarding a U.S. citizen sponsor, financial documentation, Petitioner's valid passport, and DHS's Notice to Appear and Form I-213.
4. DHS argued that the Immigration Court lacked jurisdiction to conduct a custody redetermination solely because DHS classified Petitioner as an "arriving alien," asserting that jurisdiction was barred under 8 C.F.R. § 1003.19(h) and related authority.
5. During the hearing, the Immigration Judge acknowledged that DHS's own evidence reflected that Petitioner presented himself for inspection at the San Ysidro Port of Entry, applied for admission, and was subsequently found to have a positive credible fear of persecution and torture by an asylum officer
6. Counsel for Petitioner argued that continued mandatory detention without a bond hearing was unlawful, emphasized that Petitioner had no criminal history, posed no danger to the community, and was not a flight risk, and highlighted that Petitioner had a viable asylum claim and a U.S. citizen sponsor prepared to provide housing and support upon release.
7. Despite these undisputed facts, the Immigration Judge declined to consider any custody factors and ruled that he lacked jurisdiction as a matter of law based solely on DHS's "arriving alien" classification. The Immigration Judge expressly stated that,

because he believed he lacked jurisdiction, he could not evaluate danger, flight risk, or any individualized custody considerations

8. The Immigration Judge issued an oral decision finding that the court lacked jurisdiction to redetermine custody and advised Petitioner of his right to appeal the jurisdictional ruling to the Board of Immigration Appeals, setting a deadline of January 2, 2026.
9. As a result of this ruling, Petitioner remains detained without any bond hearing, notwithstanding DHS's concession that the expedited removal order was vacated, Petitioner's placement into § 240 removal proceedings, and the absence of any individualized custody determination by a neutral adjudicator.

#### **JURISDICTION**

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. Petitioner challenges the legality of his ongoing civil immigration detention and the absence of a lawful custody determination following the vacatur of his expedited removal order.
11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States. This Court also has jurisdiction under 28 U.S.C. § 1331 because Petitioner's claims arise under federal law, and under Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause), which guarantees the availability of habeas corpus review to test the legality of executive detention.

12. Petitioner does not seek review of a final order of removal, nor does he challenge the merits of any removal proceedings. Rather, Petitioner brings a pure detention challenge contesting DHS's statutory authority to detain him without a bond hearing and the constitutionality of his prolonged detention without an individualized custody determination. Accordingly, this Court's jurisdiction is not barred by 8 U.S.C. § 1252, and Petitioner's claims fall squarely within the traditional scope of habeas corpus review under 28 U.S.C. § 2241.
13. To the extent DHS contends that Petitioner remains subject to detention under 8 U.S.C. § 1225(b)(1), this Court has habeas jurisdiction to determine whether Petitioner is lawfully detained pursuant to that provision, including whether any expedited removal order remains valid and whether DHS has statutory authority to continue mandatory detention. Petitioner alleges, and the administrative record reflects, that the expedited removal order was vacated and that he was placed into removal proceedings under INA § 240, thereby eliminating any lawful basis for continued detention under § 1225(b).
14. This Court is further authorized to grant appropriate relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651(a), including declaratory and injunctive relief necessary to remedy ongoing unlawful detention and to enforce constitutional and statutory limitations on executive custody.

**VENUE**

15. Venue is proper in the United States District Court for the Southern District of California pursuant to 28 U.S.C. § 1391(e) because Petitioner is currently detained within this judicial district at the Otay Mesa Detention Center in San Diego, California, and the immediate custodian responsible for Petitioner's confinement is located within this District.
16. Venue is also proper because a substantial part of the events and omissions giving rise to this Petition occurred within this District, including Petitioner's detention, the custody redetermination hearing before the San Diego Immigration Court, and DHS's continued refusal to provide a bond hearing despite the absence of statutory authority for mandatory detention
17. The Southern District of California is the proper and most convenient forum for this action because the relevant custodial officials, records, and detention facility are located within this District, and because the Court has territorial jurisdiction over Petitioner's immediate custodian for purposes of habeas corpus relief.

**REQUIREMENTS OF 28 U.S.C. § 2243**

18. Under 28 U.S.C. § 2243, this Court is required to act promptly on a petition for a writ of habeas corpus. The statute mandates that the Court "forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted," unless it appears from the petition that the petitioner is not entitled to relief. Where, as here, the petition plausibly alleges ongoing unlawful detention, § 2243 requires immediate judicial review.

19. If the Court issues an Order to Show Cause, § 2243 further provides that the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243. These expedited timelines reflect Congress’s clear intent that habeas petitions challenging unlawful confinement receive swift and prioritized consideration, particularly where a petitioner remains in physical custody.
20. Courts have long recognized the central role of the habeas statute in protecting individuals from unlawful executive detention. The Supreme Court has described the writ of habeas corpus as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). This principle applies with equal force to civil immigration detention, where physical liberty is restrained by executive action.
21. Petitioner remains detained at the Otay Mesa Detention Center without a lawful custody determination, despite the vacatur of his expedited removal order and the Immigration Judge’s refusal to exercise bond jurisdiction. Each additional day of detention compounds the ongoing deprivation of liberty. Consistent with the mandatory directives of § 2243, prompt judicial intervention is required to prevent continued unlawful confinement and to ensure that habeas relief remains a meaningful safeguard rather than a delayed remedy.

**PARTIES**

22. Petitioner Manvel Zakinyan is a noncitizen in removal proceedings under INA § 240 and is currently civilly detained by the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), at the Otay Mesa Detention Center in San Diego, California. Petitioner is in the custody and under the direct control of Respondents and their agents.
23. Respondent Warden / Facility Director, Otay Mesa Detention Center, is sued in his or her official capacity. The Warden has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner for purposes of habeas corpus relief.
24. Respondent Field Office Director, ICE Enforcement and Removal Operations, San Diego Field Office, is sued in his or her official capacity. The Field Office Director is a legal custodian of Petitioner, exercises authority over Petitioner’s detention, and has the power to release Petitioner from ICE custody.
25. Respondent Secretary of the U.S. Department of Homeland Security is sued in his official capacity. In this capacity, the Secretary is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention. The Secretary is a legal custodian of Petitioner.
26. Respondent Attorney General of the United States is sued in his official capacity as the senior official of the U.S. Department of Justice. In that capacity, the Attorney General oversees the Executive Office for Immigration Review (“EOIR”), which

administers the immigration courts and the Board of Immigration Appeals, and is a legal custodian of Petitioner for purposes of this action.

**STATEMENT OF FACTS**

27. Petitioner Manvel Zakinyan is a noncitizen currently detained by the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), at the Otay Mesa Detention Center in San Diego, California. Petitioner has remained in ICE custody for nearly one year as of December 2, 2025, without ever receiving a bond hearing on the merits or an individualized custody determination.
28. Petitioner presented himself for inspection at the San Ysidro Port of Entry and applied for admission to the United States. DHS subsequently placed Petitioner into immigration custody and initiated expedited removal proceedings. An asylum officer later conducted a credible fear interview and issued a positive credible fear determination, finding that Petitioner established a credible fear of persecution and torture
29. Following the positive credible fear determination, DHS vacated the expedited removal order and issued a Notice to Appear, placing Petitioner into full removal proceedings under INA § 240. Despite the vacatur of the expedited removal order and Petitioner’s placement into § 240 proceedings, DHS continued to detain Petitioner and treated him as subject to mandatory detention without bond.
30. Petitioner, through counsel, timely filed a request for custody redetermination with the San Diego Immigration Court, seeking a bond hearing pursuant to the Immigration Judge’s authority to conduct individualized custody determinations. In support of that request, Petitioner submitted extensive evidence, including proof of

identity, documentation of a U.S. citizen sponsor, financial support, and evidence demonstrating that Petitioner posed no danger to the community and no risk of flight.

31. On December 2, 2025, the Immigration Court conducted a custody redetermination hearing before Immigration Judge Guy G. Grande. Petitioner appeared by video from the Otay Mesa Detention Center, represented by counsel, and DHS appeared through its Assistant Chief Counsel
32. At the outset of the hearing, the Immigration Judge admitted into evidence multiple exhibits, including Petitioner's custody redetermination request, sponsor and financial documentation, Petitioner's valid passport, and DHS's Notice to Appear and Form I-213.
33. Before making any independent legal findings, the Immigration Judge expressly asked DHS whether the Court had jurisdiction to conduct a custody redetermination in Petitioner's case. DHS responded that the Court lacked jurisdiction solely because DHS classified Petitioner as an "arriving alien," citing regulatory authority and asserting that custody jurisdiction was barred as a matter of law.
34. During the hearing, the Immigration Judge acknowledged that DHS's own evidence reflected that Petitioner applied for admission at the port of entry and received a positive credible fear determination, rather than entering without inspection. Nevertheless, DHS maintained its position that the Court lacked jurisdiction based entirely on its "arriving alien" designation.
35. Counsel for Petitioner argued that continued detention without a bond hearing was unlawful, emphasized that Petitioner had no criminal history, posed no danger, and was not a flight risk, and highlighted that Petitioner had a viable asylum claim and a

stable release plan supported by a U.S. citizen sponsor. Counsel further noted that Petitioner had already been detained for nearly a year.

36. Despite these undisputed facts, the Immigration Judge declined to conduct any individualized custody analysis. Instead, the Immigration Judge ruled that, by operation of law, he lacked jurisdiction to consider bond because Petitioner had been classified by DHS as an “arriving alien.” The Immigration Judge expressly stated that, because he believed he lacked jurisdiction, he could not evaluate flight risk, danger, or any other custody factors.
37. The Immigration Judge issued an oral decision finding that the Court lacked jurisdiction to redetermine custody and advised Petitioner of his right to appeal that jurisdictional ruling to the Board of Immigration Appeals, setting a deadline of January 2, 2026
38. As a direct result of the Immigration Judge’s jurisdictional refusal and DHS’s continued detention, Petitioner remains confined at the Otay Mesa Detention Center without any bond hearing, without an individualized custody determination, and without a lawful statutory basis for mandatory detention, despite the vacatur of his expedited removal order and his placement into § 240 removal proceedings.
39. Following the vacatur of the expedited removal order, DHS formally charged Petitioner in full removal proceedings under INA § 240 by issuing a Notice to Appear. Petitioner remains in those proceedings and has not yet completed a master calendar hearing, despite having been in ICE custody for nearly one year.
40. The prolonged duration of Petitioner’s detention is not attributable to any dilatory conduct by Petitioner. Rather, the progress of Petitioner’s removal proceedings has

been delayed due to administrative and court-related circumstances outside of Petitioner's control, including the unavailability of the originally assigned Immigration Judge.

41. On December 2, 2025, the Immigration Court conducted a hearing styled as a custody redetermination hearing. However, the Immigration Judge declined jurisdiction and refused to conduct any bond analysis, determining that he lacked authority to evaluate custody solely because DHS classified Petitioner as an "arriving alien." As a result, Petitioner did not receive a bond hearing on the merits, and the Immigration Judge did not consider danger, flight risk, conditions of release, or any other individualized custody factors.
42. Accordingly, despite having appeared at a custody redetermination hearing, Petitioner remains detained without any meaningful bond hearing or individualized custody determination.

### **LEGAL FRAMEWORK**

#### **A. Habeas Corpus Review of Immigration Detention**

43. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to review the legality of civil immigration detention. Habeas corpus is the proper vehicle to challenge the fact, duration, or conditions of confinement when a noncitizen is allegedly detained in violation of the Constitution or laws of the United States. A habeas petition may proceed even where removal proceedings remain ongoing, so long as the petitioner

does not seek review of a final order of removal and instead challenges only the lawfulness of detention.

44. Courts have consistently recognized that immigration detention, although civil in nature, implicates a fundamental liberty interest protected by the Fifth Amendment. As a result, detention must be authorized by statute and implemented in a manner consistent with due process.

#### **B. Statutory Authority Governing Immigration Detention**

45. The Immigration and Nationality Act provides distinct detention authorities, each with different custody consequences.

**a. INA § 235(b), 8 U.S.C. § 1225(b)**

Section 1225(b) governs certain noncitizens who are applicants for admission and who are subject to expedited removal. Detention under this provision is mandatory only while expedited removal proceedings remain in effect. Once an expedited removal order is vacated and the individual is placed into full removal proceedings, § 1225(b) no longer provides a valid basis for continued mandatory detention.

**b. INA § 240, 8 U.S.C. § 1229a**

Noncitizens charged under INA § 240 are placed into full removal proceedings before an Immigration Judge. Placement into § 240 proceedings signifies that expedited removal has ended and that the individual's case will be adjudicated through the regular immigration court process.

**c. INA § 236(a), 8 U.S.C. § 1226(a)**

Section 1226(a) authorizes DHS to detain or release noncitizens pending a decision on removal, and expressly permits release on bond or conditional parole. Under this provision, Immigration Judges have jurisdiction to conduct individualized custody redeterminations, including evaluation of danger to the community and risk of flight.

46. Detention under § 1226(a) is discretionary, not mandatory, and continued detention without access to a bond hearing raises serious statutory and constitutional concerns.

**C. Bond Hearings and Custody Redetermination**

47. Immigration Judges are authorized to conduct custody redetermination hearings where detention is governed by § 1226(a). At such hearings, the Immigration Judge must conduct an individualized custody analysis, considering factors such as danger to the community, flight risk, and conditions of release. A categorical denial of jurisdiction that prevents any custody analysis deprives the noncitizen of the statutory process Congress provided.

48. Where an Immigration Judge declines jurisdiction based solely on DHS's classification—without independent legal analysis—the resulting detention is not the product of a lawful custody determination.

#### **D. Fifth Amendment Due Process Principles**

49. Although immigration detention is civil, the Due Process Clause of the Fifth Amendment applies. Due process requires that detention bear a reasonable relationship to its purpose and that individuals receive meaningful procedural protections before being deprived of physical liberty.
50. Prolonged detention without an individualized custody determination, particularly where the noncitizen is not responsible for procedural delays, raises substantial due process concerns. Courts evaluate whether detention has become arbitrary or excessive, and whether the government has provided adequate procedural safeguards to justify continued confinement.

#### **E. Judicial Obligation to Independently Determine Custody Authority**

51. The determination of custody jurisdiction is a judicial function, not one that may be delegated to the detaining agency. Immigration Judges must independently assess whether statutory authority exists to detain a noncitizen without bond. Reliance solely on DHS's legal position or classification, without independent analysis, undermines the neutrality required by due process and risks unlawful deprivation of liberty.

**CLAIMS FOR RELIEF**

**COUNT ONE  
UNLAWFUL DETENTION  
(Lack of Statutory Authority – 28 U.S.C. § 2241)**

52. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
53. Petitioner is currently detained by DHS without a valid statutory basis for mandatory detention. DHS continues to detain Petitioner as an “arriving alien” subject to INA § 235(b), despite the fact that Petitioner’s expedited removal order was vacated and he was formally charged in full removal proceedings under INA § 240.
54. Once DHS vacated the expedited removal order and placed Petitioner into § 240 removal proceedings, INA § 235(b) ceased to provide any lawful basis for continued mandatory detention. At that point, Petitioner’s custody became governed, at most, by INA § 236(a), 8 U.S.C. § 1226(a), which expressly authorizes release on bond or conditional parole and confers jurisdiction on Immigration Judges to conduct individualized custody determinations.
55. Despite this statutory framework, DHS has continued to detain Petitioner without affording him a bond hearing on the merits. At the December 2, 2025 custody redetermination hearing, the Immigration Judge declined jurisdiction solely on the basis of DHS’s “arriving alien” classification and refused to conduct any custody analysis, including evaluation of danger, flight risk, or conditions of release.
56. The Immigration Judge’s refusal to exercise custody jurisdiction did not convert Petitioner’s detention into lawful mandatory detention. Rather, it resulted in continued detention without any statutory authorization, because no provision of the

INA permits indefinite detention without bond following vacatur of expedited removal and placement into § 240 proceedings.

57. DHS's continued detention of Petitioner without statutory authority is ultra vires, exceeds the scope of its lawful detention powers, and violates the Immigration and Nationality Act. Accordingly, Petitioner's detention is unlawful under 28 U.S.C. § 2241, and he is entitled to habeas relief.

**COUNT TWO**  
**FIFTH AMENDMENT DUE PROCESS**  
*(Prolonged Detention Without an Individualized Custody Determination)*

58. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

59. The Fifth Amendment's Due Process Clause protects individuals from arbitrary civil detention and guarantees that any deprivation of physical liberty occur only with adequate procedural safeguards. Immigration detention, although civil in nature, implicates a fundamental liberty interest.

60. Petitioner has been detained for nearly one year, despite having no criminal history, posing no danger to the community, and presenting no risk of flight. The length of Petitioner's detention has been compounded by administrative and court-related delays outside of his control, including delays in removal proceedings and the unavailability of the originally assigned Immigration Judge.

61. Although Petitioner appeared at a custody redetermination hearing on December 2, 2025, he did not receive a bond hearing on the merits. The Immigration Judge declined jurisdiction and expressly refused to consider any individualized custody

factors, resulting in continued detention by default, rather than by reasoned adjudication.

62. Prolonged detention without a meaningful opportunity to be heard before a neutral decision-maker violates due process. Detention that is not reasonably related to its purported purpose, and that persists without individualized justification, becomes arbitrary and excessive.
63. DHS's continued detention of Petitioner without an individualized custody determination, and without any opportunity for release on bond, violates the Due Process Clause of the Fifth Amendment. Habeas relief is therefore required to remedy the ongoing constitutional violation.

### **COUNT III**

#### **UNLAWFUL DETENTION BASED ON ERRONEOUS "ARRIVING ALIEN" CLASSIFICATION**

(Statutory and Regulatory Error – 28 U.S.C. § 2241)

64. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
65. Petitioner's continued detention is unlawful because it rests on an erroneous and legally unsupported classification of Petitioner as an "arriving alien" subject to mandatory detention under INA § 235(b), despite the fact that Petitioner's expedited removal order was vacated and he was formally charged in full removal proceedings under INA § 240.
66. The "arriving alien" designation does not itself confer detention authority. Detention authority must arise from a valid statutory provision, and once expedited removal

proceedings are terminated, INA § 235(b) no longer applies. At that point, detention—if authorized at all—is governed by INA § 236(a), 8 U.S.C. § 1226(a), which permits release on bond or conditional parole and requires an individualized custody determination.

67. DHS nevertheless continued to treat Petitioner as subject to mandatory detention based solely on its own classification, without identifying any statutory provision authorizing detention without bond following vacatur of expedited removal and placement into § 240 proceedings.
68. At the December 2, 2025 custody redetermination hearing, the Immigration Judge declined jurisdiction and refused to conduct any custody analysis based entirely on DHS’s “arriving alien” designation. The Immigration Judge adopted DHS’s position without conducting an independent statutory analysis to determine whether any lawful detention authority existed.
69. DHS’s reliance on an erroneous “arriving alien” classification, and the Immigration Judge’s acceptance of that classification without independent legal review, resulted in Petitioner’s continued detention without any valid statutory basis. No provision of the Immigration and Nationality Act authorizes indefinite or mandatory detention under these circumstances.
70. Detention predicated on a legally incorrect classification exceeds DHS’s statutory authority, is ultra vires, and violates the Immigration and Nationality Act. Because Petitioner is detained pursuant to an invalid legal premise, his continued confinement is unlawful under 28 U.S.C. § 2241, and habeas relief is warranted.

## COUNT IV

### FAILURE TO PROVIDE A MEANINGFUL CUSTODY HEARING

*(Procedural Due Process – Fifth Amendment)*

71. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
72. The Due Process Clause of the Fifth Amendment guarantees that a noncitizen subject to civil immigration detention is entitled to a meaningful opportunity to be heard before a neutral decision-maker prior to the deprivation of physical liberty, particularly where detention is discretionary rather than mandatory.
73. Although Petitioner appeared at a custody redetermination hearing on December 2, 2025, that proceeding did not constitute a meaningful bond hearing or an individualized custody determination. At the outset of the hearing, the Immigration Judge asked DHS whether the Court had jurisdiction to consider custody and thereafter adopted DHS's legal position without conducting an independent statutory or constitutional analysis.
74. As a result of this approach, the Immigration Judge declined jurisdiction categorically and expressly refused to evaluate any custody factors, including danger to the community, risk of flight, conditions of release, or alternatives to detention. No findings were made on the merits of detention, and no burden was placed on the government to justify continued confinement.

75. A proceeding in which the adjudicator declines to exercise authority and refuses to consider the relevant factors governing liberty cannot satisfy due process, even if it is styled as a custody hearing. Due process requires more than a formal appearance; it requires a substantive and neutral evaluation of whether continued detention is justified.
76. By deferring entirely to DHS's classification and legal position, and by declining to independently assess whether lawful detention authority existed, the Immigration Judge failed to provide the procedural safeguards required by the Fifth Amendment. Petitioner's continued detention therefore rests not on a reasoned adjudication, but on executive default.
77. The absence of a meaningful custody hearing has resulted in Petitioner's continued and prolonged detention without any individualized justification, in violation of procedural due process. Habeas relief is required to remedy this ongoing constitutional violation.

**PRAYER FOR RELIEF**

Wherefore, Petitioner Manvel Zakinyan through counsel respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241 and related authority;
- (2) Issue an Order to Show Cause, pursuant to 28 U.S.C. § 2243, directing Respondents to show cause within three (3) days, or within such time as the Court deems appropriate, why the Petition for Writ of Habeas Corpus should not be granted;
- (3) Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment, including but not limited to

detention without statutory authority, detention based on an erroneous “arriving alien” classification, and detention without a meaningful or individualized custody determination;

- (4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from ICE custody; or, in the alternative, to provide Petitioner with a prompt bond hearing before an Immigration Judge with jurisdiction, at which the government bears the burden of justifying continued detention and the Immigration Judge conducts a full individualized custody analysis;
- (5) Award Petitioner reasonable attorney’s fees and costs, including under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable provision of law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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*Counsel for Petitioner*

**Dated: December 22, 2025**

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am counsel for Petitioner Manvel Zakinyan in this action and submit this verification on his behalf. Pursuant to 28 U.S.C. § 2242, I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief, based on my review of the administrative record, hearing transcripts, and information provided by Petitioner.

I declare under penalty of perjury that the foregoing is true and correct

Dated this day 22<sup>nd</sup> day of December, 2025.

**Jacqueline M. Sale, Esq.**  
**Attorney for Petitioner**  
**EOIR: 00555942**

**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed the foregoing Petition for Writ of Habeas Corpus and all accompanying documents using the Court's CM/ECF system.

I further certify that a true and correct copy of the Petition and all attachments were served by United States Mail, Certified Mail, Return Receipt Requested, upon the following

**Warden / Facility Director**  
Otay Mesa Detention Center  
7488 Calzada de la Fuente  
San Diego, CA 92154

**Field Office Director**  
U.S. Immigration and Customs Enforcement  
Enforcement and Removal Operations  
San Diego Field Office  
880 Front Street, Suite 2246  
San Diego, CA 92101

**Secretary of Homeland Security**  
U.S. Department of Homeland Security  
c/o DHS Office of the General Counsel  
2707 Martin Luther King Jr. Ave, SE  
Washington, DC 20528-0485

**Attorney General of the United States**  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**United States Attorney**  
Southern District of California  
c/o Civil Process Clerk  
880 Front Street, Suite 6293  
San Diego, CA 92101

**Dated: December 22, 2025**

Respectfully submitted,  
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