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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ARMEN YERITSYAN,

Petitioner,

v.

Christopher J. LAROSE, Warden, Otay
Mesa Detention Center; Kristi NOEM,
Secretary of Homeland Security; Daniel
A BRIGHTMAN, Field Office Director,
San Diego Field Office, United States
Immigration and Customs
Enforcement; Todd M. LYONS, Acting
Director, United States Immigration
and Customs Enforcement; Pamela Jo
BONDI, Attorney General, in their
official capacities,

Respondents.

Case No.: '25CV3760 AGS BLM

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS**

Petitioner Armen Ashot Yeritsyan petitions this Court for a writ of habeas
corpus under 28 U.S.C. § § 2241 to remedy Respondents' detaining him
unlawfully, and states as follows:

1 INTRODUCTION

2 1. Petitioner Armen Ashot Yeritsyan is a 31-year-old Armenian man
3 detained at Otay Mesa Detention Center. He submits this habeas petition under
4 28 U.S.C. § 2241 for a judicial check on Respondents’ unlawful detention without
5 belief that his removal from the United States is reasonably foreseeable.

6 2. In August 2025, an immigration judge at the Otay Mesa Immigration
7 Court granted Petitioner Statutory Withholding of Removal as to Armenia, on
8 account of the persecution he suffered and will suffer in Armenia because of his
9 political activities. The Immigration Judge also ordered removal to Russia, finding
10 that Petitioner has Russian nationality, despite Petitioner presenting evidence to
11 the contrary.

12 3. Under the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S. 678
13 (2001), ICE may only detain individuals after the removal period if there is a
14 “reasonable foreseeability” of removal within a predictable timeframe. Here, ICE’s
15 own actions in being unable to secure travel documents from Russia or locate any
16 alternate countries willing to accept Petitioner demonstrate the absence of any
17 such reasonable foreseeability.

18 4. Absent review in this Court, no other neutral adjudicator will examine
19 Petitioner’s plight: Respondents will continue—unchecked—to detain him—
20 potentially indefinitely—unless or until they remove him to an as-yet-
21 undetermined country, despite *Zadvydas’s* and the regulatory requirements. He
22 thus urges this Court to review the lawfulness of his detention; declare that his
23 detention is unlawful; and order either his immediate release or that Respondents
24 provide him a bond hearing complying with the procedural requirements in *Singh*
25 *v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

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1 **CUSTODY**

2 5. Petitioner Armen Ashot Yeritsyan is currently in Respondents' legal
3 and physical custody. They are detaining him at the Otay Mesa Detention Center
4 in San Diego, California. He is under Respondents' and their agents' direct
5 control.

6 **JURISDICTION**

7 6. This Court has jurisdiction to consider this habeas petition complaint
8 under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth
9 Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I,
10 2.

11 **VENUE**

12 7. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C.
13 § 2242 because at least one Respondent is in this District, Petitioner is detained in
14 this District, Petitioner's immediate physical custodian is located in this District,
15 and a substantial part of the events giving rise to the claims in this action have
16 taken place in this District.

17 **PARTIES**

18 8. Petitioner Armen Ashot Yeritsyan is a citizen of Armenia. He fled that
19 country because he suffered past persecution and fears future persecution there
20 based on his political opinion. He arrived in the United States on December 2,
21 2024, and has been detained by Respondents ever since. He is currently detained
22 by the Respondents at the Otay Mesa Detention Center, an immigration detention
23 facility in San Diego, California, after an immigration judge at the Otay Mesa
24 Immigration Court granted him withholding of removal under 8 U.S.C. § 1231 as
25 to Armenia on August 19, 2025.

26 9. Respondent Christopher J. LaRose is the Senior Warden at the Otay
27 Mesa Detention Center, where Petitioner is being held. Respondent Larose is
28 Petitioner's immediate custodian. Petitioner sues him in his official capacity.

1 16. Petitioner, through counsel, filed his initial Form I-589 application for
2 asylum and withholding of removal with the Immigration Court on February 10,
3 2025, and later submitted an updated I-589 on July 29, 2025, with supporting
4 evidence and country-conditions documentation while he remained detained at
5 Otay Mesa.

6 17. During the proceedings, DHS asserted that Petitioner is a dual
7 national—“a native of Russia and a citizen of Armenia”—and argued under a
8 Board of Immigration Appeals decision, *Matter of B-R*, 26 I&N Dec. 119 (BIA
9 2013),¹ that he must establish eligibility for protection as to both Russia and
10 Armenia and that he could be ordered removed to Russia. In response, Petitioner,
11 through counsel, submitted evidence certifying that he did not obtain Russian
12 citizenship and is not considered a citizen of the Russian Federation.

13 18. On August 19, 2025, after Petitioner’s Individual Hearing, the
14 Immigration Judge granted withholding of removal as to Armenia but denied
15 withholding and Convention Against Torture protection as to Russia and ordered
16 him removed to Russia, designating Armenia only as an alternate country of
17 removal pursuant to *Matter of B-R*-, despite Petitioner’s evidence to the contrary.

18 19. Both Petitioner and DHS waived appeal, and as a result, the
19 Immigration Judge’s order of removal became administratively final.

20 20. Since the Immigration Judge granted withholding of removal to
21 Armenia, Petitioner has been reassigned to at least three different deportation
22 officers; his current officer is named Officer Blanco. Petitioner has met with an
23 ICE officer in person only once, while his removal proceedings were still pending,
24 and since then officers have told him to communicate exclusively through the an

25
26 ¹ In *Matter of B-R*-, 26 I&N Dec. 119 (BIA 2013), the BIA held that a person who has
27 more than one nationality must establish refugee status as to each country of nationality and is
28 ineligible for asylum if they fail to show a well-founded fear of persecution in at least one such
country. The decision further interpreted 8 U.S.C. § 1231(b)(2) to allow DHS to remove a dual
national to any country of which the person is a national (i.e., “a country” of nationality), not
only to a single, primary country of nationality.

1 iPad-based messaging system, where he submits written requests for custody and
2 removal updates.

3 21. Each time ICE assigns him a new officer, his prior message history
4 disappears from the tablet interface, forcing him to re-start his inquiries and
5 repeat his history and questions from the beginning.

6 22. When Petitioner sends written requests for updates through the tablet,
7 he consistently receives the same generic, automated response that ICE has sent
8 removal-related inquiries to several countries and is still waiting for responses.
9 These replies do not identify any specific countries contacted, do not relay any
10 concrete responses from foreign governments, and do not provide individualized
11 information about the status of his case.

12 23. ICE has never stated that Russia is willing to accept him and has
13 never specified which countries it is targeting for travel documents, despite the
14 immigration judge's order of removal to Russia with Armenia designated only in
15 the alternative.

16 24. Petitioner has repeatedly told ICE that he is willing to cooperate with
17 any removal-related procedures, including providing information or participating
18 in consular processes, but the only substantive response he receives is to "please
19 be patient."

20 25. ICE has never scheduled or conducted a 90-day post-order custody
21 review with Petitioner, has never notified him of any formal custody review
22 decision, and has never explained on the record why it continues to detain him
23 beyond the general statement that officers are working to establish contact with
24 third countries.

25 26. ICE officers have told Petitioner that they need additional time to
26 complete background and security checks, even though he already completed and
27 cleared biometrics and background vetting during his removal proceedings and
28

1 ICE has not identified any new or post-order information to justify continued
2 detention.

3 27. Petitioner has no criminal history in the United States or any other
4 country; the only detentions he reports are unlawful arrests and interrogations in
5 Armenia tied to his anti-government political activity, which formed part of the
6 basis for the Immigration Judge's grant of withholding of removal to Armenia.

7 **LEGAL FRAMEWORK**

8 28. Section 1231(a) of Title 8 governs the detention of individuals whom
9 immigration courts have ordered removed. The statute commands ICE to detain
10 these individuals for ninety days while it executes the removal order. *See* 8 U.S.C.
11 § 1231(a)(2). The ninety-day removal period starts the moment the removal
12 order becomes final. Absent an applicable exception, ICE must release the person
13 under supervision if it cannot complete removal within ninety days. *See* 8 U.S.C. §
14 1231(a)(3).

15 29. Subsection 1231(a)(6) authorizes ICE to extend detention beyond the
16 ninety-day period, yet it bars indefinite custody. *See Zadvydas v. Davis*, 533 U.S.
17 678, 689 (2001) (limiting ICE's authority to a period "reasonably necessary" to
18 carry out removal and prohibiting detention when removal is not "reasonably
19 foreseeable"); *see also Clark v. Martinez*, 543 U.S. 371, 377-78 (2005) (extending
20 the holding of *Zadvydas* to inadmissible aliens).

21 30. A "habeas court must [first] ask whether the detention in question
22 exceeds a period reasonably necessary to secure removal." *Id.* at 699. If the
23 individual's removal "is not reasonably foreseeable, the court should hold
24 continued detention unreasonable and no longer authorized by statute." *Id.* at
25 699-700.

26 31. In determining the length of a reasonable removal period, the Court
27 adopted a "presumptively reasonable period of detention" of six months. *Id.* at
28 701. After six months, the government bears the burden of disproving an alien's

1 “good reason to believe that there is no significant likelihood of removal in the
2 reasonably foreseeable future . . . with evidence sufficient to rebut that showing”
3 or else a Constitutional violation occurs. *Id.* Moreover, “for detention to remain
4 reasonable, as the period of prior postremoval confinement grows, what counts as
5 the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.*

6 32. The government must justify Petitioner’s continued confinement by
7 clear and convincing evidence. *See Juarez v. Choate*, No. 1:24-cv-00419-CNS,
8 2024 WL 1012912, at *8 (D. Colo. Mar. 8, 2024) (holding that “the government
9 will bear the burden to show by clear and convincing evidence that the continued
10 detention of a § 1231(a) detainee is justified). The government’s inability to rebut
11 Petitioner’s showing would signify that imminent removal is unlikely and that
12 Petitioner must be released from detention. *See Zadvydas*, 533 U.S. at 701 (“[A]n
13 alien may be held in confinement *until* it has been determined that there is no
14 significant likelihood of removal in the reasonably foreseeable future.”) (emphasis
15 added).

16 **CLAIMS FOR RELIEF**

17 **FIRST CAUSE OF ACTION**

18 **Violation of the Immigration and Nationality Act – 8 U.S.C. § 1231**

19 33. Petitioner realleges and incorporates by reference, as if fully set forth
20 herein, the allegations in paragraphs 1-32 above.

21 34. Petitioner is detained pursuant to the discretionary, post-removal-
22 period detention provision, Section 1231(a)(6), because more than ninety days of
23 detention have elapsed since his removal order became administratively final. *See*
24 8 U.S.C. § 1231(a)(1)(A) & (B); 8 C.F.R. § 1241.1.

25 35. Post-removal order detention violates 8 U.S.C. § 1231(a)(6) where
26 removal is not significantly likely to occur in the reasonably foreseeable future.
27 *Zadvydas*, 533 U.S. at 699-700.

1 41. As a remedy, this Court should conduct its own review of Petitioner's
2 custody or, at least, order ICE to review his custody under the standard
3 articulated under *Zadvydas* and promulgated in the regulations and ICE policy.
4 *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

5 **THIRD CAUSE OF ACTION**
6 **Violation of the Fifth Amendment Substantive Due Process**

7 42. Petitioner realleges and incorporates by reference, as if fully set forth
8 herein, the allegations in paragraphs 1-32 above.

9 43. The Supreme Court has long recognized that the Fifth and Fourteenth
10 Amendments refer to all "persons," not just "citizens." Aliens, even inadmissible or
11 removable aliens, must be afforded due process protection. *See Yick Wo v.*
12 *Hopkins*, 118 U.S. 356, 369 (1886) ("The Fourteenth Amendment to the
13 Constitution is not confined to the protection of citizens."). As stated by the Court,
14 the provisions of the Fourteenth Amendment "are universal in their application, to
15 all persons within the territorial jurisdiction, without regard to any differences of
16 race, of color, or of nationality" *Id.* (emphasis added).

17 44. The Supreme Court has held that "even one whose presence in this
18 country is unlawful, involuntary, or transitory is entitled to that constitutional
19 protection [of the Due Process Clauses of the Fifth and Fourteenth
20 Amendments]." *Mathews v. Diaz*, 426 U.S. 67, 75 n.7 (1976); *see also Plyler v.*
21 *Doe*, 457 U.S. 202, 210 (1982) ("Whatever his status under the immigration laws,
22 an alien is surely a 'person' in any ordinary sense of that term."); *Wong Wing v.*
23 *United States*, 163 U.S. 228, 238 (1896) ("Persons within the territory of the
24 United States . . . even aliens . . . [may not] . . . be deprived of life, liberty or
25 property without due process of law.").

26 45. As a result of the Immigration Judge's order granting him withholding
27 of removal as to Armenia, Petitioner may not be removed to Armenia, and the
28 government has not shown efforts to remove Petitioner to Russia, or otherwise

1 identified any country to which it seeks to remove Petitioner, much less taken
2 concrete steps toward effectuating removal to a third country.

3 46. Civil immigration detention violates due process if it is not reasonably
4 related to its statutory purpose. *See Zadvydas*, 533 U.S. at 690 (citing *Jackson v.*
5 *Indiana*, 406 U.S. 715 (1972)). While Respondents may have an interest in
6 detaining Petitioner to effectuate his removal, that interest does not justify
7 indefinite detention. Because Petitioner's removal is not reasonably foreseeable,
8 his detention no longer serves any legitimate purpose under the INA, the primary
9 statutory purpose of which is to ensure his imminent removal.

10 **PRAYER FOR RELIEF**

11 Petitioner asks this Court to grant the following relief:

- 12 1. Assume jurisdiction over this matter;
- 13 2. Order Respondents to show cause why the writ should not be granted
14 as to Petitioner within three days, and set a hearing on this Petition within five
15 days of the return, as required by 28 U.S.C. 2243;
- 16 3. Enjoin Respondents from transferring Petitioner out of the jurisdiction
17 during the pendency of the habeas petition;
- 18 4. Issue a writ of habeas corpus requiring that Respondents release
19 Petitioner from custody immediately;
- 20 5. Order Respondents to return all of Petitioner's belongings, including
21 his identification documents;
- 22 6. Enjoin Respondents from further detaining Petitioner without
23 providing notice to the Court and Petitioner's counsel, and a hearing at which
24 Respondents prove changed circumstances regarding his dangerousness or risk of
25 flight warrant his detention;
- 26 7. Declare that Petitioner's detention violates the Due Process Clause of
27 the Fifth Amendment and the INA;

1 8. Award reasonable attorneys' fees and costs under the Equal Access to
2 Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

3 9. Grant such further relief as this Court deems just and proper.

4 Dated: December 24, 2025

Respectfully submitted,

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7 By: /s/ Arwa J.Z. Kakavand
8 Arwa J.Z. Kakavand

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10 Attorney for Petitioner

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12 **TABLE OF EXHIBITS**

13
14 Exhibit 1: Immigration Judge Decision and Order, dated
15 Aug. 19, 2025

1 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT**
2 **TO 28 U.S.C. § 2242**

3 I, Arwa J.Z. Kakavand, do depose and state:

4 I represent Petitioner Armen Yeritsytan in these habeas corpus
5 proceedings. Petitioner is currently being held in detention at the Otay Mesa
6 Detention Center and is not able to appear in my office to sign this Verification. I
7 have reviewed the record of his detention and discussed this matter with him. I
8 verify that the information contained in the foregoing petition is true and correct
9 to the best of my knowledge and belief.

10
11 Dated: December 24, 2025

Respectfully submitted,

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14 By: /s/ Arwa J.Z. Kakavand
Arwa J.Z. Kakavand

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16 Attorney for Petitioner
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EXHIBIT 1

YERITSYAN, ARMEN

Standard Language Addendum: Asylum, Withholding, and Convention Against Torture

The following statements of law are hereby incorporated into the Immigration Judge's oral decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with any law cited in the oral decision itself.

Credibility

Applications for asylum, withholding of removal, and Convention Against Torture (CAT) relief made on or after May 11, 2005, are subject to the provisions of the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005). Under the REAL ID Act, a respondent can sustain their burden of proof through testimony alone, but only if the respondent satisfies the trier of fact that their testimony is credible. INA §§ 208(b)(1)(B)(iii), 241(b)(3)(C); *see Garland v. Dai*, 141 S. Ct. 1669, 1681 (2021) (noting that even if a respondent's testimony is credible, it may not be persuasive or sufficient to meet the burden of proof because credibility, persuasiveness, and legal sufficiency are separate requirements under the INA).

In making a credibility determination pursuant to the REAL ID Act, the Court must examine the totality of the circumstances, including the "demeanor, candor, [and] responsiveness of the [respondent] or witness, the inherent plausibility of the [respondent] or witness's account, consistency between the [respondent] or witness's written and oral statements, the internal consistency of each statement, and the consistency of statements with other evidence in the record," as well as any other relevant factors. *Shrestha v. Holder*, 590 F.3d 1034, 1040 (9th Cir. 2010).

The REAL ID Act permits the Court to make a credibility determination without regard to whether any inconsistency, inaccuracy, or falsehood goes to the heart of the respondent's claim. INA § 240(c)(4)(C). However, such broad standards "must be assessed under a rule of reason," and the Court may not base an adverse credibility finding on trivial inconsistencies. *Shrestha*, 590 F.3d at 1044.

Corroboration

A respondent's own testimony, without corroborating evidence, may be sufficient proof if that testimony is believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis for their fear of persecution. INA § 208(b)(1)(A)(ii). However, "[w]here the trier of fact determines that the [respondent] should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the [respondent] does not have the evidence and cannot reasonably obtain the evidence." INA § 208(b)(1)(B)(ii). In such situations, the Court must put the respondent on notice that they need to produce corroborative evidence and provide them with "an opportunity to either provide that corroboration or explain why [they] cannot do so." *Ren v. Holder*, 648 F.3d 1079, 1091-92 (9th Cir. 2011); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 516 (BIA 2015).

Asylum under INA § 208

As a preliminary matter, a respondent must prove by clear and convincing evidence that their asylum application was filed within one year of the date of their last arrival into the United States. INA § 208(a)(2)(B); 8 C.F.R. § 1208.4(a)(2). If the respondent files after the one-year deadline, they must show to the satisfaction of the Court that they qualify for an exception to the deadline. *Id.*

To qualify for asylum, a respondent must establish that they are a refugee as defined under INA § 101(a)(42). A refugee is a person who is “unable or unwilling” to return to their country of origin because of past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA §§ 101(a)(42)(A), 208(b)(1)(A). Under the REAL ID Act, a respondent must demonstrate that the protected ground was or would be “at least one central reason” for the claimed persecution. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212 (BIA 2007).

Establishing past persecution requires a respondent show an incident or incidents rising to the level of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion that were committed by the government or forces the government is unable or unwilling to control. *See Navas v. INS*, 217 F.3d 646, 655–56 (9th Cir. 2000); *see also* 8 C.F.R. § 1208.13(b)(1). Persecution is an “extreme concept” and does not encompass all treatment that society regards as unfair, unjust, or even unlawful or unconstitutional. *Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006). It is usually characterized as severe, sustained, and “marked by the infliction of suffering or harm . . . in a way regarded as offensive.” *Halim v. Holder*, 590 F.3d 971, 975 (9th Cir. 2009) (quoting *Li v. Ashcroft*, 356 F.3d 1153, 1158 (9th Cir. 2004) (en banc)). Various forms of physical violence constitute persecution, including rape, torture, assault, and beatings. *See, e.g., Chand v. INS*, 222 F.3d 1066, 1073 (9th Cir. 2000) (holding that “[p]hysical harm has consistently been treated as persecution”). To determine whether a respondent has suffered past persecution, the Court considers the cumulative effect of all the incidents of harm suffered. *Kumar v. Gonzales*, 439 F.3d 520, 527 (9th Cir. 2006).

If past persecution is established, a presumption arises that the respondent has a well-founded fear of future persecution based on their original claim. 8 C.F.R. § 1208.13(b)(1). DHS may rebut the presumption by showing, through a preponderance of the evidence, that the respondent’s fear is no longer well-founded due to a fundamental change in circumstances, or that the respondent could avoid future persecution by relocating to another part of the country and that it would be reasonable to expect them to do so. *Id.* If DHS successfully rebuts the presumption, the Court may nonetheless grant asylum to a victim of past persecution if they establish (1) compelling reasons for being unwilling or unable to return to the country arising out of the severity of the past persecution, or (2) a reasonable possibility that they may suffer other serious harm upon removal to that country. 8 C.F.R. § 1208.13(b)(1)(iii)(A)–(B).

A respondent unable to establish past persecution may nevertheless be entitled to relief if they have a well-founded fear of future persecution. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 430–31 (1987). A well-founded fear must be subjectively genuine and objectively reasonable. *Reyes-Guerrero v. INS*, 192 F.3d 1241, 1244 (9th Cir. 1999). A respondent satisfies the subjective component by credibly testifying that they genuinely fear persecution. *Duarte de Guinac v. INS*,

YERITSYAN, ARMEN

179 F.3d 1156, 1159 (9th Cir. 1999). The objective component is satisfied if a respondent “shows[s] a good reason to fear future persecution by adducing credible, direct, and specific evidence in the record of facts that would support a reasonable fear of persecution.” *Ladha v. INS*, 215 F.3d 889, 897 (9th Cir. 2000), *overruled on other grounds by Abebe v. Mukasey*, 554 F.3d 1203 (9th Cir. 2009). A respondent may meet their burden by establishing that there is a pattern or practice in their country of nationality, or if stateless, in their country of last habitual residence, of persecution of a group of persons similarly situated to the respondent on account of a protected ground. *See* 8 C.F.R. § 1208.13(b)(2)(iii).

Further, a respondent must establish that he/she is not statutorily barred from asylum. *See* INA §§ 208(b)(2) (listing mandatory bars relating to persecution of others, particularly serious crimes, serious nonpolitical crimes, aggravated felonies, and firm resettlement), 240(c)(4)(A).

Discretion

As a final matter, an applicant must merit a favorable exercise of discretion for a grant of asylum. INA § 208(b)(1) (“The Secretary of Homeland Security or the Attorney General *may* grant asylum to an alien”) (emphasis added); *see Matter of Pula*, 19 I&N Dec. 467, 474 (BIA 1987). The court must balance the applicant’s negative and positive equities to determine whether to exercise discretion favorably. *See Matter of Marin*, 16 I&N Dec. 581, 584 (BIA 1978) (outlining factors to consider when exercising discretion).

Withholding of Removal under INA § 241(b)(3)(A)

To establish eligibility for withholding of removal, a respondent must demonstrate that their life or freedom would be threatened in the country of removal for “a reason” described in INA § 241(b)(3)(A)—race, religion, nationality, membership in a particular social group, or political opinion. *Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017). The respondent may prove eligibility for withholding of removal either by establishing: (1) a presumption of future persecution based on past persecution, which DHS does not rebut, or (2) through an independent showing of a clear probability of future persecution. 8 C.F.R. § 1208.16(b)(1)–(2); *INS v. Stevic*, 467 U.S. 407, 429–30 (1984). The United States Supreme Court has interpreted “clear probability” of persecution to mean that it is “more likely than not” the respondent would be subject to persecution on account of a protected ground if returned to the proposed country of removal. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 429 (1987). Withholding of removal is not a discretionary form of relief. *See* INA § 241(b)(3)(A).

A respondent must also establish that they are not statutorily barred from withholding of removal. *See* INA § 241(b)(3)(B) (listing mandatory bars relating to Nazis, persecution of others, particularly serious crimes, serious nonpolitical crimes, and threat of danger to the security of the United States).

Convention Against Torture (CAT Withholding of Removal)

Pursuant to the Convention Against Torture, “[n]o State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that [they] would be in danger of being subjected to torture.” Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

YERITSYAN, ARMEN

Dec. 10, 1984, S. Treaty Doc. No. 100–20 (1988). A respondent applying for withholding of removal under the Convention Against Torture bears the burden of proving that it is “more likely than not that [they] would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2).

Torture is defined as the intentional infliction of severe physical or mental pain or suffering based on discrimination of any kind, or for the purpose of obtaining information or a confession, or to punish for an act or suspected act, or to intimidate or coerce any person or third party. 8 C.F.R. § 1208.18(a)(1); *Villegas v. Mukasey*, 523 F.3d 984, 988 (9th Cir. 2008) (construing the intent requirement under 8 C.F.R. § 1208.18(a)(5) to require a showing that the government actor “specifically intended” to torture the respondent by “inflict[ing] severe physical or mental pain or suffering”). “Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture.” 8 C.F.R. § 1208.18(a)(2). The pain and suffering associated with torture must be inflicted with the consent, acquiescence of, or at the instigation of a public official or other person acting in an official capacity. 8 C.F.R. § 1208.18(a)(1); *Matter of O-F-A-S-*, 28 I&N Dec. 35 (BIA 2020) (explaining what constitutes “acting in an official capacity”). A public official “acquiesces” in acts of torture by a private party when they are previously aware of activity constituting torture and breaches their legal responsibility to intervene to prevent such activity. 8 C.F.R. § 1208.18(a)(7); *Garcia-Milian v. Holder*, 755 F.3d 1026, 1034 (9th Cir. 2014). The Ninth Circuit Court of Appeals holds that the term “public official” includes police officers, even when they are off-duty, out of uniform, and/or acting in violation of official policy. *See, e.g., Macedo Templos v. Wilkinson*, 987 F.3d 877, 884 (9th Cir. 2021); *Barajas - Romero v. Lynch*, 846 F.3d 351, 362 (9th Cir. 2017).

In assessing whether it is more likely than not that a respondent will be tortured in the proposed country of removal, the Court may consider: (1) evidence of past torture inflicted upon the respondent; (2) evidence that the respondent could relocate to a part of the country of removal where they are not likely to be tortured; (3) evidence of gross, flagrant, or mass violations of human rights within the country of removal; and (4) other relevant information regarding conditions in the country of removal. 8 C.F.R. § 1208.16(c)(3); *see also Maldonado v. Lynch*, 786 F.3d 1155, 1162–64 (9th Cir. 2015) (en banc) (explaining that no one factor under 8 C.F.R. 1208.16(c)(3) is determinative). The credible testimony of a respondent may be sufficient without corroboration to sustain their burden under the Convention Against Torture, and evidence of country conditions “can play a decisive role in determining eligibility.” *Zhang v. Ashcroft*, 388 F.3d 713, 721 (9th Cir. 2004); 8 C.F.R. § 1208.16(c)(2). However, a respondent cannot meet their burden to establish eligibility for this form of relief by stringing together a series of suppositions. *Matter of J-F-F-*, 23 I&N Dec. 912, 917–18 (BIA 2006).

A respondent who falls under INA § 241(b)(3)(B) is not eligible for withholding of removal under the Convention Against Torture. 8 C.F.R. § 1208.16(c)(2).

Convention Against Torture (CAT Deferral)

There are no mandatory bars to a respondent seeking deferral of removal under the CAT. *See Lopez-Cardona v. Holder*, 662 F.3d 1110, 1113–14 (9th Cir. 2011). This form of relief is available to a respondent who demonstrates that it is more likely than not that they will be tortured

YERITSYAN, ARMEN


in the country of removal but is subject to the bars under INA § 241(b)(3)(B), rendering them ineligible for withholding of removal under the CAT. *See* 8 C.F.R. §§ 1208.16(d)(2), 1208.17.

YERITSYAN, ARMEN



Standard Language Addendum: Political Opinion

The following statements of law are hereby incorporated into the Immigration Judge’s oral decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with any law cited in the oral decision itself.

Persecution on Account of Political Opinion

A respondent must prove that they were or would be persecuted on account of a protected ground, including their actual or imputed political opinion. 8 C.F.R. § 1208.13(a)–(b). To establish past persecution on account of a political opinion, the respondent must satisfy two requirements. First, they must show that they held (or that persecutors believed they held) a political opinion. *Ahmed v. Keisler*, 504 F.3d 1183, 1192 (9th Cir. 2007). Second, they must show that the persecutors persecuted them on account of this political opinion. *Id.* The respondent may show persecution based upon an actual political opinion or an imputed political opinion. *See Parada v. Sessions*, 902 F.3d 901, 910 (9th Cir. 2018). When analyzing an imputed political opinion, the focus of inquiry shifts from the views of the victim to the views of the persecutor. *See id.* at 910–11. “[D]irect and indirect evidence, taken together, [can compel the conclusion] that the [respondent] was subjected to abuse because of ‘imputed political opinion.’” *Khudaverdyan v. Holder*, 778 F.3d 1101, 1106–07 (9th Cir. 2015). Political opinion encompasses more than electoral political and formal ideology, and what constitutes a political opinion should be considered within the context of the country in question. *See Ahmed*, 504 F.3d at 1192; *see also Rodriguez Tornes v. Garland*, 993 F.3d 743, 752 (9th Cir. 2021) (finding that feminism qualifies as a political opinion, and an applicant “need not espouse political theory” to hold a political opinion).

1. Asylum

To establish eligibility for asylum, a respondent must show that the political opinion is or was “at least one central reason” for past or future persecution. INA § 208(b)(1)(B)(i). “A central reason is a reason of primary importance to the persecutors, one that is essential to the [persecutors’] decision to act. A reason for harm is a central reason if the persecutor would not have harmed the respondent if such motive did not exist.” *Parussimova v. Mukasey*, 555 F.3d 734, 741 (9th Cir. 2009) (internal citation and quotations omitted); *see Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1062 (9th Cir. 2017) (en banc).

2. Withholding of Removal

To establish eligibility for withholding of removal, a respondent must demonstrate that the political opinion is or was “a reason” their life or freedom was or would be threatened in the country of removal. *Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017). Thus, the standard for a nexus between the past or feared harm and the persecutor’s motivation for withholding of removal is less stringent than the “at least one central reason” standard applied to asylum claims. *Id.*; *see Parussimova*, 555 F.3d at 741.

Whistleblowing

The United States Court of Appeals for the Ninth Circuit has held that whistle-blowing against government corruption is an expression of political opinion. *See Baghdasaryan v. Holder*, 592 F.3d 1018, 1024 (9th Cir. 2010). Official retaliation against a whistleblower possessing actual anti-corruption beliefs has long been recognized as persecution on account of political opinion. *See Khudaverdyan*, 778 F.3d at 1104 (citing *Baghdasaryan*, 592 F.3d at 1024).

YERITSYAN, ARMEN



However, a respondent need not be persecuted as an actual whistleblower to be eligible for asylum. The Ninth Circuit has explicitly held that “one form of imputed political opinion is *perceived* whistleblowing.” *Id.* (italics added) (explaining that “a [respondent] for asylum . . . may demonstrate persecution on account of a protected ground if she shows that the persecutor *thought* that the [respondent] was attempting to expose corruption in a governing institution and mistreated the [respondent] as a result, even if the [respondent] in fact had no such intention”). To analyze whether a respondent has established that they were persecuted based on an imputed anti-corruption political opinion, the Court applies the three-factor test for nexus set forth in *Matter of N-M-*, 25 I&N Dec. 526 (BIA 2011). *Singh v. Barr*, 935 F.3d 822, 824 (9th Cir. 2019) (per curium).

In making the nexus determination, the Court considers: (1) whether and to what extent the respondent engaged in activities that could be perceived as anticorruption beliefs; (2) direct or circumstantial evidence that the alleged persecutor was motivated by the respondent’s perceived or actual anticorruption beliefs; and (3) evidence regarding the pervasiveness of government corruption, as well as whether there are direct ties between the corrupt elements and higher level officials. *See N-M-*, 25 I&N Dec. at 532–33.



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:
YERITSYAN, ARMEN

To:
Gabriel Balayan, Esq.
620 N Brand Blvd
Suite 201
Glendale, CA 91203

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

08/19/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 08/19/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent removable inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(I).

The immigration court found Respondent not removable not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- Asylum was granted denied withdrawn with prejudice withdrawn without prejudice
- Withholding of Removal under INA § 241(b)(3) was granted denied withdrawn with prejudice withdrawn without prejudice
- Withholding of Removal under the Convention Against Torture was granted denied withdrawn with prejudice withdrawn without prejudice
- Deferral of Removal under the Convention Against Torture was granted denied withdrawn with prejudice withdrawn without prejudice
- Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was granted denied withdrawn with prejudice withdrawn without prejudice
- Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was granted denied withdrawn with prejudice withdrawn without prejudice
- Special Rule Cancellation of Removal under INA § 240A(b)(2) was granted denied withdrawn with prejudice withdrawn without prejudice

C. Waiver

- A waiver under INA § was granted denied withdrawn with prejudice withdrawn without prejudice

D. Adjustment of Status

- Adjustment of Status under INA § was granted denied withdrawn with prejudice withdrawn without prejudice

E. Other

See attached Standard Language Addendum for Asylum, Withholding, and Convention Against Torture, which is adopted and incorporated into this decision by reference.

III. Voluntary Departure

- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was denied.
- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
 - Further information regarding voluntary departure has been added to the record.
 - Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- the presumptive civil monetary penalty amount of \$3,000.00 USD
- \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

- Respondent was ordered removed to Russia.
- In the alternative, Respondent was ordered removed to Armenia.
- Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

- Proceedings were dismissed terminated with prejudice terminated without prejudice administratively closed.
- Respondent's status was rescinded under INA § 246.

Other:

Removal to Russia directed pursuant to Matter of B-R-, 26 I&N Dec. 119 (BIA 2013). CLP bar applies.



Immigration Judge: ROBINSON, EUGENE 08/19/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : YERITSYAN, ARMEN | A-Number : 

Riders:

Date: 08/19/2025 By: MARQUEZ, CLAUDIA, Court Staff