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

9 ZURAB MODREKILADZE,
10
11 Plaintiff,

12 vs.

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

Respondents.

Case No.: '26CV0271 JES DEB

Agency Number: 


PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING
REQUESTED

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INTRODUCTION

1. Zurab MODREKILADZE,  is a 40-year-old man from Tbilisi, Georgia. He has been an ardent supporter of western democracy in Georgia and has been persecuted as a result. He believed he could no longer live in Georgia and he made his way to the United States. On 10/20/2023 he entered the United States and presented himself to the authorities.

2. He entered the United States on 20 October, 2023. He was detained for approximately 15 days in Arizona. He was then moved to Mississippi for about three months, then moved again to Louisiana for about three months. During this time, he was found to have a credible fear of persecution if returned to Georgia. It was also determined that he was not a danger to the community and not a flight risk and was paroled into the United States. He was paroled into the United States on May 17, 2024. *See Exhibit A.*

3. Mr. Modrekiladze 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 two years he has lived here he has established himself financially as well. He filed his I-589 application for Asylum on June 4, 2024.

1 4. On October 27, 2025, Mr. Modrekiladze was driving a box truck,
2 headed to Camp Pendleton Marine Base, for his employer to make deliveries on
3 the base. When he realized where he was going, he pulled to the side of the road
4 and contacted his employer, worried about entering the base. His employer assured
5 him that the company had spoken with the base officials and he had permission to
6 bring the deliveries on to the base. When he arrived to guard booth he explained
7 that his employer had called ahead and that he was authorized to bring the truck
8 onto the base. The officer there looked at his driver's license and asked if he had a
9 green card. Since he did not have one he asked him to pull over to the side of the
10 road.
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15 5. The guard explained that his supervisor needed to come speak to
16 him and told him he had to stay in the truck and wait. He asked several times if he
17 was free to go. He was told he could not leave. He presented proof of his work
18 authorization and his pending asylum application. No base personal ever explained
19 what law he had violated that allowed them to hold him their prisoner. They simply
20 asserted that since he didn't have a green card he had to wait. After some time, a
21 supervisor arrived and interviewed him. The supervisor then took his picture and
22 his fingerprints. He was told once again that he must wait. He asked again why he
23 was being detained. He was simply told to wait. At some point military personnel
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1 put a lock on the truck tire and began to move the cargo from the truck.

2 Approximately three hours later, ICE officers arrived. He was put into handcuffs
3 and told he were being sent to detention. He asked again why he was being
4 detained. He was not told why he was arrested. He was not told what law he had
5 violated. He was not advised of his Miranda rights. With no cause and no
6 explanation and no warrant he was put in the ICE vehicle and transferred to the
7 ICE facility in downtown San Diego. He was then transferred to the Otay Mesa
8 facility.
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12 6. One of the benefits that petitioner enjoyed with parole has been his
13 ability to work, to go to school and to more actively participate in his asylum
14 application process. Suddenly, with no notice, no neutral determination that there
15 has been a change in circumstances, Respondents seek to revoke Mr. Modrekiladze
16 parole and force him to remain in custody for the duration of his application
17 process. Respondents do so based not on Mr. Modrekiladze' personal
18 circumstances but because of Respondents' interpretation of President Trump's
19 whim and categorical determination that, the Fifth Amendment notwithstanding,
20 noncitizens 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. Modrekiladze 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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6 VENUE

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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

16 REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243


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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).
4

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**

9 17. Zurab Modrekiladze (“Petitioner”) is a 40-year-old citizen of
10 Georgia . He is currently a resident of San Diego, California,
11 and is present within the state of California as of the time of the filing of this
12 petition.
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15 18. Respondent Christopher Larose is the Warden of the Otay Mesa
16 Detention Center and is a legal custodian of Petitioner.
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18 19. Respondent Daniel A. Brightman is the Field Office Director for
19 the San Diego Field Office, Immigration and Customs Enforcement and Removal
20 Operations (“ICE”). The San Diego Field Office is responsible for local custody
21 decisions relating to non-citizens charged with being removable from the United
22 States, including the arrest, detention, and custody status of non- citizens. The San
23 Diego Field Office’s area of responsibility includes San Diego, California and the
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1 Otay Mesa Detention Center. Respondent Daniel A. Brightman is a legal custodian
2 of Petitioner.
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4 20. Respondent Todd Lyons is the acting director of U.S. Immigration
5 and Customs Enforcement, and he has authority over the actions of respondent
6 Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of
7
8 Petitioner.

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10 21. Respondent Kristi Noem is the Secretary of the Department of
11 Homeland Security (DHS) and has authority over the actions of all other DHS
12 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
13 legal custodian of Petitioner and is charged with faithfully administering the
14 immigration laws of the United States.
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16
17 22. Respondent Pamela Bondi is the Attorney General of the United
18 States, and as such has authority over the Department of Justice and is charged
19 with faithfully administering the immigration laws of the United States.
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21 23. Respondent U.S. Immigration Customs Enforcement is the federal
22 agency responsible for custody decisions relating to non-citizens charged with
23 being removable from the United States, including the arrest, detention, and
24 custody status of non-citizens.
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1 28. The Refugee Act established the right to apply for asylum in the
2 United States and defines the standards for granting asylum. It is codified in
3 various sections of the INA.
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5 29. The INA gives the Attorney General or the Secretary of Homeland
6 Security discretion to grant asylum to noncitizens who satisfy the definition of
7 “refugee.” Under that definition, individuals generally are eligible for asylum if
8 they have experienced past persecution or have a well-founded fear of future
9 persecution on account of race, religion, nationality, membership in a particular
10 social group, or political opinion and if they are unable or unwilling to return to
11 and avail themselves of the protection of their homeland because of that
12 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
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16 30. Although a grant of asylum may be discretionary, the right to
17 apply for asylum is not. The Refugee Act broadly affords a right to apply for
18 asylum to any noncitizen “who is physically present in the United States or who
19 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
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22 31. Because of the life-or-death stakes, the statutory right to apply for
23 asylum is robust. The right necessarily includes the right to counsel, at no expense
24 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
25 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
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1 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
2 to present evidence to establish eligibility.).
3

4 32. Noncitizens seeking asylum are guaranteed Due Process under the
5 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
6 (1993).
7


8 33. Noncitizens who are applicants for asylum are entitled to a full
9 hearing in immigration court before they can be removed from the United States. 8
10 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
11 appellate review before the Board of Immigration Appeals of removal orders
12 entered against them and judicial review in federal court upon a petition for
13 review. 8 U.S.C. § 1252(a) *et seq.*
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16 34. Immigration detention is a form of civil confinement that
17 “constitutes a significant deprivation of liberty that requires due process
18 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
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21 35. Immigration detention should not be used as a punishment and
22 should only be used when, under an individualized determination, a noncitizen is a
23 flight risk because they are unlikely to appear for immigration court or a danger to
24 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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1 36. Parole must be terminated upon written notice after an
2 individualized determination that the humanitarian purposes no longer apply. 8
3 C.F.R. § 212.5(e)(2)(i).
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7 **FACTUAL BACKGROUND**

8 37. Petitioner is a citizen of Georgia. He was born  in
9 Tbilisi, Georgia and is currently a citizen of Georgia.
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11 38. Petitioner was repeatedly persecuted in Georgia. He was
12 repeatedly assaulted and his life threatened for participation in political rights
13 rallies.
14

15 39. On May 17, 2024, Petitioner was paroled into the United States to
16 seek asylum. This release was based on the individualized facts in his case
17 determined during interviews with the officers that were overseeing him
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19 40. He was also issued an NTA and placed in 240 removal
20 proceedings.
21

22 41. He has attended all scheduled hearings in connection with his
23 removal proceedings.
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25 42. On information and belief, Petitioner continues to meet all the
26 requirements of his parole.
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1 43. Petitioner applied for asylum on June 4, 2024.

2 44. Respondents issued work authorization to Petitioner pursuant to 8
3 C.F.R. § 274a.12(c)(08).
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5 45. On October 27, 2025, Mr. Modrekiladze was making a scheduled
6 delivery to Camp Pendleton Marine Base. When he arrived at the entry gate the
7 gate guard asked him if he had a green card. When he said he did not he was told
8 to pull to the side. Mr. Modrekiladze complied. Subsequently a supervisor arrived.
9 The supervisor took his picture and his fingerprints. He asked several times if he
10 could leave and the Camp Pendleton authorities refused. A lock was placed on the
11 wheel of the truck. Mr. Modrekiladze produced copies of his documents and his
12 work authorization proving that he was legally here in the United States and the
13 officers had no reason to detain him. He was held their prisoner for a total of 3
14 hours.
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19 46. Eventually ICE officers arrived and the Military Police handed
20 him over to the ICE officers who then put him in their vehicle, and transported him
21 to their downtown San Diego holding area. He was never given a written notice
22 that his parole was being terminated. He was not given any particularized reason
23 for why he was being placed into detention. He was never presented with a warrant
24 for his arrest. He was never given any Miranda warnings. He was eventually
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1 transported to Otay Mesa Detention Center. Mr. Modrekiladze must now continue
2 his asylum application process while in detention.
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4 47. Mr. Modrekiladze was never presented with a warrant for his
5 arrest. The ICE agents did not provide him any process. The ICE agents did not
6 offer him any opportunity to be heard prior to arresting and detaining him.
7

8 48. On January 20, 2025, President Donald Trump issued several
9 executive actions relating to immigration, including “Protecting the American
10 People Against Invasion,” an executive order (EO) setting out a series of interior
11 immigration enforcement actions. The Trump administration, through this and
12 other actions, has outlined sweeping, executive branch-led changes to immigration
13 enforcement policy, establishing a formal framework for mass deportation. The
14 “Protecting the American People Against Invasion” EO instructs the DHS
15 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
16 prioritize civil immigration enforcement procedures including through the use of
17 mass detention.
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22 49. On information and belief, Respondents are detaining Petitioner
23 regardless of the individual facts and circumstances of his case.
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1 50. On information and belief, Respondents are using the immigration
2 detention system as a means to punish individuals for asserting rights under the
3 Refugee Act.
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5 51. On information and belief, Petitioner has no criminal history.
6

7 **CLAIMS FOR RELIEF**

8 **COUNT ONE**

9 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
10

11 **Not in Accordance with Law and in Excess of Statutory Authority**

12 **Unlawful Detention**

13
14 52. Petitioner restates and realleges all paragraphs as if fully set forth
15 here.

16
17 53. Under the APA, a court shall “hold unlawful and set aside agency
18 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

19
20 54. An action is an abuse of discretion if the agency “entirely failed to
21 consider an important aspect of the problem, offered an explanation for its decision
22 that runs counter to the evidence before the agency, or is so implausible that it
23 could not be ascribed to a difference in view or the product of agency expertise.”

24
25 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)

1 (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
2 463 U.S. 29, 43 (1983)).
3

4 55. To survive an APA challenge, the agency must articulate “a
5 satisfactory explanation” for its action, “including a rational connection between
6 the facts found and the choice made.” *Dep't of Com. v. New York*, 139 S. Ct. 2551,
7 2569 (2019) (citation omitted).
8

9 56. By categorically revoking Petitioner’s parole and transferring him
10 to Otay Mesa Detention Center without consideration of his individualized facts
11 and circumstances, Respondents have violated the APA.
12

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

5 Violation of Fifth Amendment Right to Due Process

6 Procedural Due Process

7
8 61. Petitioner restates and realleges all paragraphs as if fully set forth
9 here.
10

11 62. The Due Process Clause of the Fifth Amendment to the U.S.
12 Constitution prohibits the federal government from depriving any person of “life,
13 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due
14 process protects “all ‘persons’ within the United States, including [non-citizens],
15 whether their presence here is lawful, unlawful, temporary, or permanent.”
16 *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.
17

18
19 63. Due process requires that government action be rational and non-
20 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
21

22 64. While the government has discretion to detain individuals under 8
23 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
24 discretion is not “unlimited” and must comport with constitutional due process. *See*
25 *Zadvydas*, 533 U.S. at 698.
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1 68. The Fourth Amendment requires that arrests entail a neutral,
2 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
3 (1975). That neutral, judicial determination can occur either before the arrest in the
4 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
5 cause determination. *Id.* Arrest and detention of a person, including of a
6 noncitizen, absent a neutral judicial determination of probable cause violates the
7 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*
8 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
9 hours of detention, which includes weekends, unless there is a bona fide
10 emergency or other extraordinary circumstances. *Id.*

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

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

1 (4) Declare that Petitioner’s warrantless arrest and detention
2 constitutes an unreasonable and unlawful seizure in violation of the Fourth
3 Amendment;
4

5 (5) Issue a Writ of Habeas Corpus ordering Respondents to release
6 Petitioner from custody;
7

8 (6) Issue an Order prohibiting the Respondents from transferring
9 Petitioner from the district without the court’s approval;
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11 (7) Issue and Order prohibiting the Respondents from enrolling the
12 Petitioner in any Alternative to Detention program, specifically barring them from
13 requiring an ankle monitor;
14

15 (8) Grant any further relief this Court deems just and proper.

16 Dated: January 16, 2026

17 */s/ Brian J. McGoldrick*
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