

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Suren Ordoian)	
)	
Petitioner,)	Case No.
v.)	
)	
TODD M. LYONS, <i>in his official capacity</i>)	PETITION FOR WRIT OF HABEAS
as Acting Director, Immigration and)	CORPUS AND COMPLAINT FOR
Customs Enforcement, U.S. Department of)	DECLARATORY AND INJUNCTIVE
Homeland Security;)	RELIEF
)	
JOEL GARCIA, <i>in his official capacity</i> as)	
Field Office Director of the ICE El Paso)	
Field Office of Enforcement and Removal)	
Operations, U.S. Immigrations and Customs)	
Enforcement; U.S. Department of Homeland)	
Security;)	
)	
KRISTI NOEM, <i>in her official capacity</i> as)	
Secretary, U.S. Department of Homeland)	
Security; and)	
)	
PAMELA JO BONDI, <i>in her official</i>)	
<i>capacity</i> as Attorney General of the United)	
States;)	
)	
DORA CASTRO, <i>in her official capacity</i> as)	
Warden of the Otero County Processing)	
Center.)	
)	
Respondents.)	
_____)	

INTRODUCTION

1. This case challenges the unlawful detention of Suren Ordoian (“Petitioner”) who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at Otero County Processing Center located at 26 McGregor Range, Chaparral, New Mexico 88081. Petitioner is neither a flight risk nor a danger to the community. But on June 20, 2025, ICE

detained him without notice, opportunity to be heard, and without a pre-deprivation hearing.

2. On December 9, 2022, ICE determined that Petitioner was neither a flight risk nor a danger to the community when it granted parole and release to him and his family. Since that time, Petitioner fully complied with all parole conditions by timely applying for asylum in the United States, obtaining proper employment authorization, notifying the Immigration Court of any change of address, and remaining attentive to all notices of hearing issued by the Immigration Court.
3. Without any change in circumstances—either in Petitioner’s case or personal situation—Respondents detained Petitioner during his routine ICE check-ins. To date, Respondents have not disclosed whether the arrest was supported by a warrant or the legal basis for Petitioner’s detention. Petitioner was the only member of his family detained, leaving his wife and two minor daughters alone.
4. Petitioner asks the Court to accept jurisdiction over this action, declare that Petitioner’s arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment, and issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 ordering Petitioner’s immediate release.

CUSTODY

5. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Otero County Processing Center. He is therefore in “‘custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

6. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas.”).

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

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

10. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained at Otero Country Processing Center located at 26 McGregor Range Road, Chaparral, NM 88081.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. Here, Petitioner has no administrative remedies to exhaust.
12. The NTA names Petitioner “arriving alien.” By regulation, immigration judges lack jurisdiction to redetermine the custody of arriving aliens via a bond hearing. 8 C.F.R. § 1003.19(h)(2)(i)(B). As such, Petitioner’s continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge.
13. Therefore, a writ of habeas corpus is the sole avenue to vindicate his constitutional rights and restore his liberty.

PARTIES



14. Petitioner is from Armenia and has resided in the U.S. since December 9, 2022. He is currently detained at the Otero Processing Center in Chaparral, New Mexico.
15. Respondent Joel Garcia is sued in his official capacity as Field Office Director, El Paso Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent Joel Garcia is the legal custodian of Petitioner.
16. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
17. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner’s ultimate legal custodian.
18. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
19. Dora Castro is the warden of the Otero County Processing Center a private facility

that contracts with ICE to detain non-citizens. She is responsible for overseeing Otero's administration and management. Ms. Castro is Petitioner's immediate custodian. She is sued in her official capacity.

FACTUAL BACKGROUND

20. Petitioner is a native and citizen of Armenia. On December 9, 2022, Petitioner, his spouse, and two minor children, presented themselves at the San Ysidro Port of Entry in California. At that time, the Department of Homeland Security ("DHS") issued Petitioner a Form I-862, NTA charging him with inadmissibility pursuant to § 212 (a)(7)(A)(i)(I) of the Immigration and Nationality Act ("INA") for being "an immigrant not in possession of [valid immigration and travel documents]." The NTA ordered Petitioner to appear before an Immigration Judge at the Immigration Court in Van Nuys, CA on October 18, 2023. *See Exhibit A: Notice to Appear.*
21. DHS paroled Petitioner into the United States pursuant to 8 U.S.C. § 1182 (d)(5)(A) to seek asylum for him and his family. Petitioner and his family received a Form I-94, indicating that Petitioner's class of admission is "DT" with a validity period of one year. Petitioner's Form I-94 number is 149257323A2. Petitioner and his family appeared to their immigration court hearings at the non-detained docket and complied with all ICE reporting requirements.
22. On March 1, 2023, Petitioner timely filed an asylum application with the Los Angeles Immigration Court. Following Petitioner's detention, his case was severed from his family's case and placed on the detained docket. On August 22, 2025, Immigration Judge Jacinto Palomino denied Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). *See Exhibit B:*

Order of the Immigration Judge. Petitioner, through counsel, timely appealed to the Board of Immigration Appeals (BIA). That appeal remains pending. *See Exhibit C: Board of Immigration Appeals Receipt Notice*.

23. Prior to Petitioner's current detention, he resided in Glendale, CA, with his wife, Kristine Torosian, and their two children,  and . Petitioner maintained steady employment, a valid employment authorization through 2028, and diligently filed his taxes. Petitioner is involved in his church, a loving husband, and a dedicated father to his two children. *See Exhibit D: Letter from Fr. Khajag Shahbazyan, Parish Priest, St. Leon Armenian Cathedral*. Petitioner forged strong ties within his religious community.
24. Petitioner is the sole breadwinner for his family. His wife does not work outside of the home. Removing Petitioner from his family without notice—and without any changed circumstances since he was released on parole on December 9, 2022—violates his due process rights. Upon information and belief, at no time following Petitioner's arrest did ICE explain why he was being detained, despite his release in 2022 and his pending asylum application before the Immigration Court in Los Angeles. Until now, Petitioner has not been afforded the opportunity to demonstrate that he is neither a danger to the community nor a flight risk.
25. Petitioner appeared to all of his immigration court hearings and complied with all terms of his parole, including timely applying for asylum and obtaining valid work authorization. Petitioner does not have any prior negative immigration history and no criminal history. There is no indication that he is a danger to the community or a flight risk that justifies his continued detention.

LEGAL STANDARD

26. The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration-related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). The Fifth Amendment guarantees that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
27. The Due Process Clause generally “requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). “Even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty.” *Pinchi v. Noem*, No. 25-cv-5632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 25, 2025) (citations omitted). Although the initial decision to detain or release an individual may be within the government's discretion, “the government's decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if [they] fail[] to live up to the ... conditions [of release].’ ” *Id.* (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). “Thus, even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released

from custody she has a protected liberty interest in remaining out of custody.” *Pinchi*, 2025 WL 2084921, at *3 (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022)).

28. The INA “establishes the framework governing noncitizens’ entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). “Noncitizens who arrive at a port of entry without a visa or other entry document, like Petitioner, are deemed ‘inadmissible’ under 8 U.S.C. § 1182(a)(7)” due to their lack of entry documents. *Id.* at 1132 & n.7 (noting that “[d]epending on the circumstances, other categories of inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens without proper documentation”). Once a noncitizen is deemed inadmissible, “the immigration officer must order the noncitizen’s removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). The government may place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

29. Section 1225(b)(2)(A) provides that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). However, “**applicants for admission may be temporarily released on parole [into**

the United States] ‘for urgent humanitarian reasons or significant public benefit,’” as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined “on a case-by-case basis.” 8 U.S.C. § 1182(d)(5)(A). Then, **“when the purpose of the parole has been served,”** § 1182(d)(5)(A) provides that “the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

30. Here, the purpose of Petitioner’s parole has not been accomplished. Petitioner and his family fled from Armenia and Russia after being persecuted by both the Armenian and Russian government. Petitioner and his family entered the United States at a port of entry to seek asylum. At that time, Petitioner was granted parole pursuant to 8 U.S.C. § 1182(D)(5)(A), which provides for parole into the United States “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). He timely filed an application for asylum with the Los Angeles Immigration Court. When Petitioner was recently arrested and detained, Petitioner was still seeking asylum. Presently, Petitioner’s appeal remains pending before the BIA. There is nothing in Petitioner’s case that establishes that the “humanitarian reason or public benefit” that justified Petitioner’s parole no longer applies. Notice and individualized determination is still required even if the Respondents claim that Petitioner’s return to custody is automatic. Respondents themselves acknowledged that he was not a danger/flight risk in 2022 and he complied with the parole terms and conditions for

over two years.

COUNT I

VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS

1. Petitioner restates and realleges all paragraphs as if fully set forth here.
2. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.
3. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citation omitted). The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *see also Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (per curiam) ("It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993))). Thus, noncitizens, such as Petitioner, are entitled to its protections. *See id.*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18, 2023). The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).
4. To determine whether detention violates procedural due process, courts apply the *Mathews v. Eldridge* three-part balancing test. 424 U.S. 319 (1976). Courts consider: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional

procedural safeguards; and (3) the Government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner’s release.

5. The first *Mathews* factor weighs heavily in Petitioner’s favor because he has a profound liberty interest in freedom from physical detention. Substantive due process protects individuals from government action that interferes with individuals’ fundamental rights. *See Abdi v. Wray*, 942 F.3d 1019, 1027 (10th Cir. 2019). “[T]he interest in being free from physical detention” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). In fact, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, Petitioner entered the United States at a port of entry, and Respondents granted Petitioner parole into the United States, determining that Petitioner was not a flight risk or danger. Respondent has now detained Petitioner for over seven months, and there is no dispute that Petitioner has a significant private interest in avoiding continued detention, as one of the “most elemental of liberty interests” is to be free from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The Court may also consider Petitioner’s conditions of confinement, i.e., “whether a detainee is held in conditions indistinguishable from criminal incarceration.” *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Here, Petitioner has a wife and two children, and an employment authorization document, allowing him to lawfully work in the United States. Petitioner is

“experiencing [many of] the deprivations of incarceration, including loss of contact with his family and community, loss of income, . . . lack of privacy, and, most fundamentally, the lack of freedom of movement.” *See Günaydin*, 784 F. Supp. 3d at 1187. Petitioner has lost the opportunity to support his wife and two minor children.

6. The second *Mathews* factor also weighs in Petitioner’s favor because, absent an individualized determination regarding the revocation of parole, arrest, and continued detention, there is a substantial risk that Petitioner will be erroneously deprived of his liberty—particularly where he is neither a danger to the community nor a flight risk. The risk of erroneous deprivation is exceptionally high. Petitioner has deep community and family ties in the United States. Due process requires that Petitioner be afforded an opportunity to submit evidence relevant to whether he poses a danger to the community or a flight risk that justifies re-detention, whether the purpose of parole has been satisfied, and whether humanitarian or significant public benefit grounds continue to support parole in his specific case.
7. Under the third *Mathews* factor, Respondents have a legitimate interest in ensuring noncitizens’ appearance at removal proceedings and preventing harms to the community. *See Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *12 (D. Mass. Sep. 9, 2025). Here, there is nothing in Petitioner’s record that suggests that he poses a flight risk or danger to his community. On the contrary, Petitioner and his family have been an asset to their community in Glendale. Respondents cannot in good faith show that they have a significant interest in Petitioner’s continued detention. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. Furthermore, the

“fiscal and administrative burdens” of releasing the Petitioner under supervision are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35. Moreover, continuing to enforce Petitioner’s detention would impose more costs to Respondents, as they would be required to continue funding and overseeing Petitioner’s detention. *Sampiao v. Hyde*, 2025 WL 2607924, at *12.

8. Balancing the *Mathews* factors demonstrates that Petitioner’s continued detention violates his Fifth Amendment due process rights, and he should be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- 1) Assume jurisdiction over this matter;
- 2) Order that Petitioner not be transferred outside of this District of New Mexico or removal from the United States during the pendency of this action;
- 3) Pursuant to 28 U.S.C. § 2243, issue an order to show cause ordering Respondents to show cause why his Petition should not be granted within three days;
- 4) Declare that Petitioner’s detention is unlawful;
- 5) Issue a writ of habeas corpus and order Petitioner’s immediate release from ICE custody;
- 6) Grant him any further relief this Court deems just and proper.

Respectfully Submitted,

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Date: January 29, 2026

Counsel for Petitioner

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

I represent the Petitioner, Suren Ordoian, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 29th day of January 2026.

/s/Brenda M. Villalpando
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Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on January 29, 2026, I filed this Petition for Writ of Habeas Corpus using the CM/ECF system. I will furthermore mail a copy by USPS Certified Priority Mail with Return Receipts to the following:

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Respectfully submitted,

/s/Brenda M. Villalpando
Brenda M. Villalpando

Counsel for Petitioner