

A 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the

FILED

MAR 02 2025

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: UUN DEPUTY

SUREN PINACHYAN
Petitioner

v.
WARDEN, OTAY MESA DETENTION
CENTER, AND FIELD OFFICE DIRECTOR
ICE SAN DIEGO FIELD OFFICE
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. '26CV1335 JO JLB
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: SUREN PINACHYAN
(b) Other names you have used: NONE
2. Place of confinement.
(a) Name of institution: OTAY MESA DETENTION CENTER
(b) Address 1488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154
(c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:

4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6 Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
SAN DIEGO FIELD OFFICE OMDC SAN DIEGO, CALIFORNIA
(b) Docket number, case number, or opinion number: [REDACTED] (NO DOCKET NUMBER)
(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
CONTINUED POST-ORDER IMMIGRATION DETENTION UNDER 8 U.S.C. § 1231
FOLLOWING A GRANT OF WITHHOLDING OF REMOVAL AS TO RUSSIA
AND ARMENIA, WHERE REMOVAL IS NOT REASONABLY FORESEEABLE.
(d) Date of the decision or action: ONGOING DETENTION FOLLOWING FINAL ORDER DATED 13 NOV.
2025

Your Earlier Challenges of the Decision or Action

7 **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: ICE) SAN DIEGO FIELD OFFICE
POST-ORDER CUSTODY REVIEW (POCR)
(2) Date of filing: DECEMBER 5, 2025
(3) Docket number, case number, or opinion number: [REDACTED]
(4) Result: NO WRITTEN DECISION HAS BEEN ISSUED.
(5) Date of result: PENDING AS 23 FEBRUARY 2026
(6) Issues raised: CONTINUED POST-ORDER DETENTION UNDER
8 U.S.C. § 1231 AND WHETHER REMOVAL IS REASONABLY
FORESEEABLE

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

NO ADDITIONAL ADMINISTRATIVE REMEDIES ARE AVAILABLE
TO CHALLENGE CONTINUED DETENTION UNDER § 1231.

9.

Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

NO APPLICABLE.

10.

Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: JAN 12, 2025 / TRANSFERRED TO OMOLONJAN

(b) Date of the removal or reinstatement order: NOVEMBER 13, 2025

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

MOTION TO RECONSIDER Immigration court

(b) Name of the authority, agency, or court: _____

SAN DIEGO IMMIGRATION COURT

(c) Date of filing: 12 DECEMBER 2025

(d) Docket number, case number, or opinion number: _____

(e) Result: PENDING

(f) Date of result: PENDING (NO DECISION ISSUED AS OF 23 FEB. 2026)

(g) Issues raised: REQUEST FOR RECONSIDERATION OF THE IMMIGRATION JUDGE'S PRIOR DECISION IN WITHHOLDING-ONLY PROCEEDINGS

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Grounds for Your Challenge in This Petition

- 13 State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: CONTINUED IMMIGRATION DETENTION WHERE
REMOVAL IS NOT REASONABLY FORESEEABLE

(a) Supporting facts (Be brief. Do not cite cases or law.):

PETITIONER WAS GRANTED WITHHOLDING OF REMOVAL AS TO BOTH
RUSSIA AND ARMENIA. THE GOVERNMENT IS LOGICALLY BARRED FROM REMOVING
HIM TO EITHER COUNTRY. NO THIRD COUNTRY HAS BEEN IDENTIFIED. NO TRAVEL DOCUMENTS
HAVE BEEN REQUESTED OR ISSUED. PETITIONER HAS BEEN DETAINED
APPROXIMATELY FOURTEEN MONTHS.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: CONTINUED DETENTION WITHOUT A MEANINGFUL
CUSTODY REVIEW

(a) Supporting facts (Be brief. Do not cite cases or law.):

A 90-DAY POST-ORDER CUSTODY REVIEW WAS CONDUCTED
ON FEBRUARY 11, 2026. NO WRITTEN DECISION HAS BEEN
ISSUED. PETITIONER REMAINS DETAINED WITHOUT AN
INDIVIDUALIZED CUSTODY DETERMINATION.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: DETENTION IS EXCESSIVE AND PUNITIVE IN
NATURE.

(a) Supporting facts (Be brief. Do not cite cases or law.):

PETITIONER HAS NO CRIMINAL HISTORY. HE HAS STRONG
FAMILY TIES IN THE UNITED STATES, INCLUDING A SPOUSE WITH
PENDING IMMIGRATION PROCEEDINGS. DESPITE THIS, HE HAS
BEEN DETAINED FOR APPROXIMATELY FOURTEEN MONTHS
WITHOUT RELEASE OR BOND HEARING.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

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GROUND FOUR REMOVAL IS SPECULATIVE DUE TO PENDING
IMMIGRATION PROCEEDINGS

(a) Supporting facts (Be brief. Do not cite cases or law.):

A MOTION TO RECONSIDER WAS FILED ON 12 DECEMBER
2025 AND REMAINS PENDING. THE GOVERNMENT HAS NO
IDENTIFIED ANY COUNTRY WILLING TO ACCEPT PETITIONER
NO TRAVEL DOCUMENTS HAVE BEEN OBTAINED.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

- 14 If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: NOT APPLICABLE. ALL AVAILABLE ADMINISTRATIVE
REMEDIES HAVE BEEN PURSUED.

Request for Relief

15. State exactly what you want the court to do: PETITIONER RESPECTFULLY REQUESTS
THAT THIS COURT GRANT THE PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER HIS IMMEDIATE RELEASE UNDER APPROPRIATE
SUPERVISION. IN THE ALTERNATIVE, PETITIONER REQUESTS AN
INDIVIDUALIZED CUSTODY HEARING BEFORE A NEUTRAL DECISIONMAKER.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

24 FEBRUARY 2026

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date 24 FEB 2026

af
Signature of Petitioner

Signature of Attorney or other authorized person, if any

~~UNITED STATES DISTRICT COURT~~
SOUTHERN DISTRICT OF CALIFORNIA

Suren Pinachyan(A 
(petitioner)

v

Case No.: _____

Warden,Otay Mesa Detention Center:
Field Office Director,ICE San Diego Field office
(Respondents)

**MEMORANDUM OF LAW IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS (28 U.S.C §2241)**

1. INTRODUCTION

Petitioner challenges his continued detention under 8 U.S.C §1231. Although a final order of removal was entered on november 13,2025, the immigration Judge granted withholding of removal as both the Russian Federation (country of nationality) and the Republic of Armenia(country of birth).As result,the government is legally barred from removing Petitioner to either country.

Because no third country has been identified,no travel documents have been requested or issued,and a Motion to Reconsider remains pending before the immigration Court,removal is no significantly likely in the reasonably foreseeable future. Continued detention therefore violates the Fifth Amendment under *Zadvydas v. Davis*,533 U.S 678 (2001).

2. FACTUAL BACKGROUND

Petitioner entered the United States on January 19,2025 and has remain detained since that date,including at Otay Mesa Detention Center from January 26,2025 to present.He has now been detained approximately fourteen months.

On November 13,2025, the immigration Judge granted withholding of removal both Russia and Armenia.

On December 5,2025,ICE initiated the 90-day Post-Order Custody Review process. The 90-day review was conducted on February 11,2026,but no written decision has been issued.

On December 12,2025,Petitioner filed a Motion to Reconsider,which was accepted on December 15,2025.That s remains pending.

Petitioner has no criminal history.He has strong family tier in the United States,including a spouse with pending immigration proceedings.

3.LEGAL STANDART

In *Zadvydas v. Davis*,533 U.S 678 (2001),the Supreme Court held that post-order detention is limited to a period reasonably necessary to effect removal.The Court explained that once removal is no longer significantly likely in the reasonably foreseeable future,continued detention is not authorized and violates due process.

Although the Court identified six months as a presumptively reasonable period,it did not establish a mandatory minimum period of detention. The controlling inquiry is whether removal is significantly likely in the reasonably foreseeable future.

4.REMOVAL IS NOT REASONABLY FORESEEABLE

A.Petitioner is Barred from Removal to All known Countries connected to Him

Petitioner cannot be removed to;
The Russian Federation (country of nationality)
The Republic of Armenia (country of birth)

The government is legally barred from removing him to either country due to the grant of withholding of removal.

The government has not identified any third country willing to accept Petitioner.

~~Re: No travel documents and No identified Rescuing Country~~

No travel documents have been requested or issued. Petitioner's Russian passport is expired. Due to current diplomatic circumstances, renewal through consular services is not realistically available.

C. Pending Motion Further Renders Removal Speculative

Petitioner's Motion to reconsider remains pending before the immigration Court. While the motion is unresolved, removal cannot be imminently executed. This further demonstrates that removal is not significantly likely in the reasonably foreseeable future.

5. DISTRICT PRECEDENT CONFIRMS THAT DETENTION CANNOT CONTINUE WHERE REMOVAL IS NOT REALISTIC ATTAINABLE

Courts in the Southern District of California have addressed similar circumstances involving detainees at Otay Mesa following grants of withholding removal.

In *Tumasov v. Doe*, the Court examined continued post-order detention of a Armenian national where removal was not realistically attainable. The Court recognized that detention cannot continue where the government cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future.

Similarly, in *Yeritsyan v. LaRose*, the Court considered prolonged detention of a detainee with connections to multiple countries where removal was legally or practically barred. The Court did not treat the six-month period identified in *Zadvydas* as an absolute prerequisite for relief, but instead focused on whether removal was realistically foreseeable under the specific facts presented.

Like the petitioners in those cases, Petitioner here;

Is detained at Otay Mesa Detention Center;

Is barred from removal to the countries most directly connected to him;

Has no identified third country willing to accept him;

~~Has no travel documents.~~
Remains detained without a concrete removal plan.

These parallels demonstrate that continued detention in this case serves no meaningful removal purpose.

6. CONTINUED DETENTION VIOLATES DUE PROCESS

Petitioner has been detained approximately fourteen months. He has no criminal history and poses no danger to the community. Despite this, he remains confined without a realistic removal plan and without a completed custody determination following the 90-day review.

Where detention becomes disconnected from its civil purpose-effectuating removal - violates the Fifth Amendment.

7. CONCLUSION

Because there is no significant likelihood of removal in the reasonably foreseeable future, continued detention violates the Constitution.

Petitioner respectfully requests that this Court:

1. Grant the petition to Writ of Habeas Corpus;
2. Ordered his immediate release under appropriate supervision; or in the alternative,
3. Order an individualized custody determination before a neutral decisionmaker.

Respectfully submitted,

24 February 2026

Suren Pinachyan



Otay Mesa Detention Center
San Diego, California

FD-242 (Rev. 09-17) Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement may lead to prosecution.
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

~~CERTIFICATE OF SERVICE~~

I CERTIFY THAT ON 24 FEBRUARY I PLACED A TRUE AND CORRECT COPY OF THIS PETITION AND MEMORANDUM IN THE INSTITUTIONAL LEGAL MAIL SYSTEM, ADDRESSED TO:

OFFICE OF THE UNITED STATES
ATTORNEY
SOUTHERN DISTRICT OF CALIFORNIA
880 FRONT STREET, ROOM 6293
SAN DIEGO, CA 92101

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE 24 FEBRUARY 2026

PINACHYAN SUREN



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