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7
8 UNITED STATES DISTRICT COURT
9 SOUTERN DISTRICT OF CALIFORNIA

10 ALVARD NERSISYAN,

11
12 Petitioner,

Case No. 3:26-cv-03453-BAS-BJW

13 v.

14 **PETITIONER'S TRAVERSE**
15 **IN SUPPORT OF PETITION**
16 **FOR WRIT OF HABEAS**
17 **CORPUS**

18 TODD BLANCHE, in his official capacity as
19 Attorney General of the United States; U.S.
20 Immigration & Customs Enforcement;
21 TODD LYONS, in his official capacity as
22 Acting Director of U.S. Immigration and
23 Customs Enforcement; MARKWAYNE
MULLIN, in his official capacity as U.S.
Secretary of Homeland Security; DANIEL
A. BRIGHTMAN, Director, San Diego Field
Office, Immigration and Customs
Enforcement, Enforcement and Removal
Operations; JEREMY CASEY, Warden,
Imperial Regional Detention Center

24 Respondents.
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1 Respondents' return does not engage with the core constitutional defect
2 presented here: the un rebutted medical evidence showing that Petitioner's
3 continued civil detention has become life-threatening and punitive in effect. Where
4 the record establishes that Respondents are knowingly subjecting a civil detainee
5 to escalating risks of serious harm without necessary care, due process demands
6 immediate judicial intervention and release.
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9 Petitioner's detention is mandatory under 8 U.S.C. § 1225(b), but that
10 statutory classification does not eliminate Respondents' authority to release her.
11 Congress expressly preserved the Executive's discretion to parole noncitizens "for
12 urgent humanitarian reasons or significant public benefit" under 8 U.S.C. §
13 1182(d)(5)(A). That authority applies even to individuals, otherwise subject to
14 mandatory detention and has long served as a critical safety valve where continued
15 custody would be unjustified or harmful. Thus, Respondents have always had the
16 ability to release Petitioner and have continuously chosen to not release her despite
17 her growing medical vulnerabilities.
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21 Respondents do not dispute that two board-certified physicians found
22 Petitioner's medical care in detention fell below accepted standards, that urgent
23 diagnostic and specialty care has been dangerously delayed, or that Petitioner now
24 faces a potentially life-threatening cancer and escalating risks of airway
25 compromise, disability, and death. Ex. E ¶¶ 12, 13, 22–28. The medical record is
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1 unrebutted: Respondents know Petitioner is in serious danger yet continue to detain
2 her without the urgent care her condition requires.
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4 Those unrebutted facts establish a substantive due process violation. A civil
5 detainee may not be punished at all. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).
6 Civil detainees are entitled to more considerate treatment than those held pursuant
7 to criminal process. *Youngberg v. Romeo*, 457 U.S. 307, 321–22 (1982); *Jones v.*
8 *Blanas*, 393 F.3d 918, 931–33 (9th Cir. 2004). The Ninth Circuit has emphasized
9 that civil detainees may not be subjected to conditions that are identical to, similar
10 to, or more restrictive than those faced by criminal detainees absent adequate,
11 nonpunitive justification. *Jones*, 393 F.3d at 932–33.
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14 The Supreme Court has long held that incarcerated persons must rely on
15 custodial officials to meet their medical needs, and that deliberate indifference to
16 serious medical needs constitutes the “unnecessary and wanton infliction of pain.”
17 *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976). If that conduct is unconstitutional
18 as to convicted prisoners, it necessarily violates due process as to a civil detainee,
19 who may not be punished in any respect.
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22 The same principle animates *Castro v. County of Los Angeles*, where the
23 Ninth Circuit held that a pretrial detainee had a due process right to be protected
24 from violence because detention strips a person of “virtually every means of self-
25 protection” and forecloses access to outside aid. 833 F.3d 1060, 1067 (9th Cir.
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1 2016) (quoting *Farmer v. Brennan*, 511 U.S. 825, 833 (1994)). That logic applies
2 equally here. A civil detainee with life-threatening medical conditions is wholly
3 dependent on her custodians not only for access to care, but also for release when
4 detention itself becomes dangerous. Exposure to a known risk of serious medical
5 harm is no less a due process violation than exposure to a known risk of inmate
6 violence.
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9 That is what the un rebutted record shows here. Respondents have known for
10 months, through parole requests and supporting medical documentation, that
11 Petitioner faces potentially life-threatening conditions and that her care in
12 detention has fallen below accepted standards. Ex. E ¶ 12; Pet. ¶¶ 54–56. Yet they
13 continue to detain her without ensuring the urgent biopsy, cardiology workup, and
14 specialty treatment that the reviewing physicians state are necessary without
15 further delay. Ex. E ¶ 13, ¶ 26(a), (c); Pet. ¶¶ 55–56. Each day Petitioner remains
16 in detention under these conditions, Respondents expose her to a known and
17 escalating risk of serious harm.
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21 Under *Bell*, detention becomes punitive when it is not reasonably related to
22 a legitimate governmental objective or is excessive in relation to that objective.
23 441 U.S. at 538–39. Whatever regulatory purpose Respondents invoke, continued
24 detention of a 56-year-old civil detainee under conditions that expose her to
25 worsening malignancy, airway compromise, cardiovascular decompensation,
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1 permanent disability, and death is excessive to that purpose. At that point, detention
2 is no longer regulatory. It is punitive.
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4 Petitioner does not dispute that she has also been denied procedural due
5 process. To the extent Respondents now agree that she is entitled to a custody
6 hearing at which the government bears the burden of proving flight risk and danger,
7 Petitioner agrees those procedural protections apply. But that concession does not
8 resolve the more fundamental constitutional problem. This case is not limited to a
9 denial of process. It involves ongoing detention that, on the unrebutted medical
10 record, has itself become unconstitutional.
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12 For the same reason, *Sadeqi* and *Gao* do not control the remedy. *Sadeqi v.*
13 *LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025);
14 *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26,
15 2025). Those cases addressed prolonged detention as a procedural due process
16 question and held that a bond hearing could cure the lack of process. They did not
17 involve unrebutted evidence that detention itself had become punitive because it
18 subjected the detainee to life-threatening medical neglect. Here, the constitutional
19 injury is present and ongoing. A bond hearing does not remedy the current
20 violation; it merely postpones relief while the risk of serious harm continues.
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22 If the Court concludes that some individualized determination of flight risk
23 or danger remains necessary, Petitioner respectfully submits that this Court should
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1 make that determination on the existing record. The Petition includes substantial
2 materials raising serious concerns regarding adjudicative impartiality in the
3 immigration process, as reflected in the articles and exhibits submitted in support
4 of the Petition. Under those circumstances, and given the urgent medical stakes,
5 the Court should not require Petitioner to return to a process whose neutrality has
6 been credibly called into question. Exs. I-Q.

9 Immediate release is therefore the only adequate remedy. Each day
10 Petitioner remains detained without adequate medical care is a renewed violation
11 of substantive due process. A bond hearing addresses process; it does not remedy
12 ongoing exposure to serious medical harm. The Constitution does not require
13 Petitioner to endure further deterioration while awaiting additional proceedings.

16 In the alternative, if the Court finds that a custody determination remains
17 necessary, Petitioner requests that this Court itself assess flight risk and danger on
18 the present record.

20 If, however, the Court decides to order that Petitioner receive a bond hearing,
21 Petitioner agrees that the government would bear the burden of proof of
22 establishing, by clear and convincing evidence, that she poses a danger to the
23 community or a risk of flight.

25 Petitioner further requests that, if she is released from custody, whether by
26 immediate order of this Court or at any later time, the Court enjoin Respondents
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1 from imposing an ankle monitor as a condition of release. Given Petitioner's leg
2 edema, ankle monitoring would be medically inappropriate and would interfere
3 with her ability to obtain necessary medical care.
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5 Respectfully submitted this 15th day of June 2026.
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8 /s/ Edita Ghushchyan

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