

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

_____)	
)	Case No. 1:26-cv-338
)	
ALBERTO CHAVEZ CHAVEZ,)	
)	
<i>Petitioner</i>)	
)	
v.)	MEMORANDUM IN SUPPORT OF
)	PETITIONER'S MOTION FOR
ROBERT HAGAN, <i>et al.</i> ;)	ISSUANCE OF AN
)	ORDER TO SHOW CAUSE
<i>Respondents</i>)	
)	
)	
)	
_____)	

On December 13, 2025, Petitioner Alberto Chavez Chavez (“Mr. Chavez”) filed a petition for a writ of habeas corpus on the basis that his immigration detention violates the Immigration and Nationality Act as well as his substantive and procedural due process rights. *See* ECF No. 1. He now seeks the issuance of an Order to Show Cause directing Respondents to forthwith respond to the petition for a writ of habeas corpus within three days or another period deemed reasonable, but no longer than ten days.

RELEVANT FACTS

Mr. Chavez is a native and citizen of Mexico who has resided in the United States for more than thirteen years. Prior to his detention, he lived in Colorado with his family and was an active member in his community. He has no criminal history and poses no flight risk. Yet, the government’s position is that he is subject to mandatory detention because he should be considered a noncitizen who is “seeking admission” to the United States, despite the fact that he came to the United States more than a decade ago and he was not in the process of seeking inspection for

admission at the time he was arrested. In his petition, he seeks release from custody or, alternatively, a bond hearing because his continued detention violates his due process rights.

ORDER TO SHOW CAUSE

Mr. Chavez respectfully requests the Court issue a briefing schedule requiring Respondents to file a return and respond to the habeas petition. Pursuant to 28 U.S.C. § 2243, a district court with jurisdiction over a petition for a writ of habeas corpus “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted.” The statute directs that an order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243. Section 2243 further provides that the Court shall hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed.” In addition, Section 2243 states that the Court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.”

Pursuant to 28 U.S.C. § 2243, Mr. Chavez respectfully requests that this Court issue an order directing Respondents to show cause within three days why the petition for a writ of habeas corpus should not be granted. The case law is clear that Mr. Chavez is not subject to mandatory detention, as Respondents insist, under 8 U.S.C. § 1225(b)(2). *See, e.g., Mendoza Gutierrez v. Baltasar*, No. 25-cv-2720, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Loa Caballero v. Baltasar*, No. 25-cv-3120, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Garcia Cortes v. Noem*, No. 25-cv-2677, 2025 WL 265880 (D. Colo. Sept. 16, 2025); *Maldonado Bautista v. Santacruz*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) (vacating DHS’s policy). Indeed, Respondents have filed a traverse on this issue in dozens of cases in this district and should be able to provide their position on this case within a short period of time. If the Court sets a period longer than three days for

Respondents to show cause, Mr. Chavez requests that it be no longer than ten days, as DHS's detention is contrary to the overwhelming case law on this issue and DHS has provided no justification for Mr. Chavez's unlawful detention—he is neither a flight risk nor a danger to the community—and thus his continued detention is a deprivation of his established liberty interest.

CONCLUSION

For the foregoing reasons, Mr. Chavez requests the Court issue an order to show cause requiring Respondents to respond to the habeas petition within three days.

Respectfully submitted,

January 28, 2026

Respectfully submitted,

/s/ Jessica A. Dawgert
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