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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 ENRIQUE TAPIA-MEDINA,
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16 Petitioner,
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18 v.
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20 CRISTOPHER J. LAROSE; ET AL.,
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22 Respondents.
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Case No.: 3:26-cv-1300-CAB-BLM

**PETITIONER'S TRAVERSE TO
RESPONDENT'S RETURN IN SUPPORT
OF PETITION FOR WRIT OF HABEAS
CORPUS**

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IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Enrique Tapia-Medina, by and through counsel, respectfully submits this Traverse to Respondent's Return in Support of Petition For Writ of Habeas Corpus.

INTRODUCTION

This case presents a straightforward constitutional question: whether the government may re-detain a noncitizen who was previously released on immigration bond without revoking that bond, without identifying any change in circumstances, and without providing any individualized determination supporting renewed detention.

The answer is no.

Petitioner was previously detained and released on his own recognizance by an Immigration Judge following an individualized custody determination that Petitioner was neither a flight risk nor a danger to the community. That determination authorized Petitioner's release and governed his custody status while his immigration proceedings continued.

Petitioner remained free under that release order for a couple of years while complying with the immigration process governing his case. During that time, Petitioner lived and worked in the community and appeared as required in his immigration proceedings.

Despite the continued existence of the Immigration Judge's release order, Immigration and Customs Enforcement ("ICE") later re-arrested Petitioner and returned him to detention.

Respondents do not contend that Petitioner violated the conditions of his release. They do not assert that the Immigration Judge's release order was revoked. And they do not identify any changed circumstances that would justify renewed detention.

Instead, Respondents argue that Petitioner should now be treated as subject to mandatory detention under 8 U.S.C. §1225(b). Respondents acknowledge, however, that courts in the Southern District of California have repeatedly rejected that position and further concede that the facts of this case are not materially distinguishable from those prior decisions.

Respondents' desire to preserve their disagreement with those decisions for purposes of appeal does not provide lawful authority to detain Petitioner in the meantime.

The question before the Court is therefore whether Respondents have lawful authority to detain Petitioner despite the Immigration Judge's existing release order that authorized his release. Because Respondents have neither revoked that order nor identified any change in

1 circumstances justifying renewed detention, Petitioner's continued custody violates the
2 Constitution and exceeds Respondents' statutory authority.

3 **LEGAL STANDARD**

4 Under 28 U.S.C. § 2241, a writ of habeas corpus may be granted to any petitioner who
5 demonstrates that he is "in custody in violation of the Constitution or laws or treaties of the
6 United States." 28 U.S.C. § 2241(c)(3). The writ is available to every individual detained
7 within the United States. See *Rasul v. Bush*, 542 U.S. 466, 473 (2004).

8 The traditional function of habeas corpus is to test the legality of detention and to secure
9 release from unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Where the
10 government cannot demonstrate lawful authority for continued detention, the writ must issue
11 and the appropriate remedy is release.

12 **ARGUMENT**

13 **I. RESPONDENTS' RETURN DOES NOT ESTABLISH LAWFUL AUTHORITY FOR** 14 **PETITIONER'S DETENTION**

15 Respondents' abbreviated return does not dispute the central facts alleged in the
16 petition. Respondents do not contend that Petitioner violated the conditions of his release, that
17 that the Immigration Judge's release order was revoked, or that any change in circumstances
18 occurred that would justify renewed detention.

19 Instead, Respondents argue that Petitioner should be treated as subject to mandatory
20 detention under 8 U.S.C. § 1225(b) because he originally entered the United States without
21 being admitted or paroled. Respondents rely primarily on *Matter of Yajure Hurtado*, 29 I. & N.
22 Dec. 216 (BIA 2025), and several district court decisions from outside this District.

23 Respondents expressly acknowledge that the facts of this case are "not materially
24 distinguishable" from prior decisions of courts in this District that have rejected the
25 government's position and granted habeas relief. Respondents further concede that this Court's
26 prior decisions would control the result if the Court adheres to those rulings.

27 Respondents cite no intervening binding authority from the Ninth Circuit or the
28 Supreme Court requiring a different outcome. Instead, the government simply preserves its
disagreement with those decisions for purposes of appeal.

1 But the government's desire to preserve appellate arguments does not supply lawful
2 authority to detain Petitioner in the meantime. Where Respondents concede that the facts of this
3 case are materially indistinguishable from cases in which courts in this District have already
4 granted habeas relief, the return fails to establish lawful authority for Petitioner's continued
5 detention.

6 **II. PETITIONER'S RE-DETENTION VIOLATES THE DUE PROCESS CLAUSE**

7 The Fifth Amendment provides that no person shall be deprived of liberty without due
8 process of law. Freedom from physical restraint lies at the core of the liberty protected by the
9 Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). These protections apply to
10 noncitizens present within the United States. *Id.* at 693.

11 Here, an Immigration Judge previously determined that Petitioner was neither a danger
12 to the community nor a flight risk and ordered Petitioner released on his own recognizance.
13 The Immigration Judge's decision to release Petitioner on his own recognizance necessarily
14 reflects a determination that detention was not required to achieve the government's legitimate
15 objectives.

16 Despite the continued existence of that release order, ICE re-arrested Petitioner and
17 returned him to detention without revoking the order and without identifying any changed
18 circumstances that would justify renewed detention.

19 Once the government has made an individualized custody determination and released an
20 individual from detention, the Due Process Clause prohibits the government from arbitrarily
21 disregarding that determination and returning the individual to custody without lawful process.

22 **III. RE-DETENTION WITHOUT REVOCATION OR CHANGED CIRCUMSTANCES** 23 **IS ARBITRARY**

24 Immigration detention is civil in nature and permissible only where reasonably
25 necessary to ensure appearance at proceedings or protect the community. *Zadvydas*, 533 U.S. at
26 690.

27 A prior release determination necessarily reflects the government's conclusion that
28 detention is not required to achieve those purposes.

1 For that reason, courts have recognized that the government may not re-detain a
2 noncitizen previously released from immigration custody absent a lawful basis such as changed
3 circumstances or a valid revocation of the prior custody determination. See Panosyan v.
4 Mayorkas, 854 F. App'x 787, 788 (9th Cir. 2021).

5 Respondents identify no such change here. They do not contend that Petitioner violated
6 the conditions of his release. They do not assert that the Immigration Judge's release order was
7 revoked. And they do not identify any new facts supporting renewed detention.

8 Detention under these circumstances is arbitrary and incompatible with due process.

9 **IV. PETITIONER'S COMPLIANCE CONFIRMS THAT DETENTION IS**
10 **UNJUSTIFIED**

11 Petitioner's history further demonstrates that renewed detention is unwarranted.
12 For over two years after being released on bond, Petitioner lived in the community,
13 maintained employment, and pursued immigration relief through the lawful process established
14 by the immigration courts.

15 During that time, Petitioner appeared as required and complied with the legal process
16 governing his case. Petitioner's period of compliance confirms the correctness of the original
17 custody determination and underscores the absence of any legitimate justification for renewed
18 detention.

19 Respondents have identified no change in circumstances that would justify revisiting
20 the prior custody determination. The undisputed record therefore confirms that Petitioner's
21 detention is unsupported by any lawful basis.

22 **V. BECAUSE RESPONDENTS LACK AUTHORITY TO DETAIN PETITIONER,**
23 **RELEASE IS THE PROPER REMEDY**

24 The purpose of habeas corpus is to determine whether a person's detention is lawful.
25 When the government cannot demonstrate lawful authority for custody, the writ must issue.
26 Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)

27 Here, Respondents have not shown that Petitioner violated the conditions of his release,
28 that the Immigration Judge's release order was revoked, or that any change in circumstances

1 occurred that would justify renewed detention.

2 Because Respondents lack lawful authority to detain Petitioner despite the Immigration Judge's
3 existing release order, Petitioner's continued custody violates the Constitution.

4 The proper remedy is release.

5
6 **CONCLUSION**

7 Respondents have failed to demonstrate any lawful basis for detaining Petitioner despite
8 the Immigration Judge's outstanding release order that authorized his release. Respondents do
9 not contend that Petitioner violated the conditions of his release, that the release order was
10 revoked, or that any changed circumstances justify renewed detention.

11 Instead, Respondents rely on a legal argument that courts in this District have
12 repeatedly rejected and concede that the facts of this case are not materially distinguishable
13 from those prior decisions.

14 Under these circumstances, Respondents have not established lawful authority for
15 Petitioner's continued detention. Because habeas corpus exists to remedy unlawful custody, the
16 writ must issue.

17 For these reasons, Petitioner respectfully requests that the Court grant the Petition for
18 Writ of Habeas Corpus and order Petitioner released from ICE custody.

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21 Respectfully submitted this 10th day of March 2026,

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23 /s/ Richard S. Sterger, Esq.

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