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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **QUANG LE PHAN,**

Case No.: 26-cv-1386-JES-MSB

11
12 Petitioner

13 v.

Judge: Hon. James E. Simmons Jr

PETITIONER’S TRAVERSE

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15 **CHRISTOPHER LAROSE, et al.,**

16 Respondents

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18 Petitioner respectfully submits this Traverse pursuant to the Court’s Order directing
19 Respondents to file a Return addressing the Petition for Writ of Habeas Corpus.

20 **I. Procedural Posture and Scope of the Traverse**

21 Petitioner submits this Traverse in response to Respondents’ Return opposing the Petition
22 for Writ of Habeas Corpus. The Return asserts that the Petition is moot and that Petitioner is
23 subject to mandatory detention under INA § 236(c). Petitioner addresses those arguments below
24 and further notes that the exhibits submitted by Respondents do not correspond to Petitioner.
25 Petitioner otherwise preserves the arguments set forth in the Petition.

1 **II. The Petition Is Not Moot**

2 Respondents contend that the Petition is moot because Petitioner’s removal proceedings
3 were reopened and detention now purportedly arises under INA § 236(c). That contention
4 misunderstands the nature of the claim presented in this habeas action. Petitioner challenges the
5 legality of his continued detention, not the validity of the underlying removal order.

6 The reopening of removal proceedings did not eliminate the injury challenged in the
7 Petition. Petitioner remains in immigration custody without an individualized determination that
8 continued detention is justified. A change in the statutory framework governing detention does
9 not extinguish the live controversy regarding the legality of that detention.

10 Accordingly, the Petition continues to present a live case or controversy and is not moot.

11 **III. Respondents Have Not Demonstrated That Petitioner Is Subject to Mandatory**

12 **Detention Under INA § 236(c)**

13 Respondents assert that Petitioner is subject to mandatory detention under INA § 236(c).
14 That contention ignores the extraordinary procedural history of this case.

15 Petitioner was originally detained in connection with removal proceedings arising from a
16 2003 conviction and was ordered removed in 2004. Because removal could not be effectuated,
17 the Government released Petitioner under an Order of Supervision. For more than twenty years
18 thereafter, Petitioner complied fully with ICE supervision requirements, regularly reporting as
19 instructed and living at liberty in the community without incident.

20 Section 236(c) requires detention of certain noncitizens “when the alien is released” from
21 criminal custody. The Government exercised its detention authority at the time of Petitioner’s
22 original proceedings and subsequently chose to release him under supervision. Having permitted
23 Petitioner to live at liberty for more than two decades, the Government cannot now resurrect
24 mandatory detention based on the same decades-old conviction.

25 Allowing the Government to invoke § 236(c) after twenty years of government-approved
26 liberty would expand mandatory detention far beyond the narrow circumstances contemplated by
27

1 Congress and would raise serious constitutional concerns. Respondents' assertion that
2 Petitioner is now subject to mandatory detention under § 236(c) therefore fails.


3 **IV. Respondents Have Not Established Lawful Authority for Petitioner's Detention**

4 Respondents conclude that Petitioner's detention is lawful, but the Return does not
5 provide a factual or legal basis supporting that conclusion. As discussed above, the exhibits
6 submitted with the Return do not correspond to Petitioner. Because the documentary record
7 submitted by Respondents relates to a different individual, the Return fails to establish the
8 factual basis necessary to justify Petitioner's detention.

9 In habeas proceedings, Respondents bear the burden of demonstrating lawful authority
10 for a petitioner's continued confinement. Where the administrative record submitted to the Court
11 does not correspond to the detainee before the Court, Respondents cannot meet that burden.
12 Without competent evidence establishing the statutory basis for detention, Respondents'
13 assertion that Petitioner is lawfully detained cannot be sustained.

14 Accordingly, the Return does not establish lawful authority for Petitioner's continued
15 detention.

16 **V. The Exhibits Submitted with the Return Do Not Correspond to Petitioner**

17 Respondents submitted three exhibits in support of the Return. *Exhibit 1* (Form I-213)
18 identifies an individual named  who allegedly entered the United States without
19 inspection on February 2, 2025. *Exhibit 2* is a Notice to Appear dated April 4, 2025, and *Exhibit*
20 *3* is an Immigration Judge decision dated February 12, 2026 denying asylum, withholding of
21 removal, and protection under the Convention Against Torture.

22 These documents do not correspond to Petitioner. Petitioner entered the United States as
23 a refugee in 1993 and adjusted to lawful permanent resident status in 1994. Petitioner's
24 immigration proceedings arose from a 2003 conviction and a removal order issued in 2004. The
25 exhibits submitted with the Return instead describe a different individual with a distinct
26 immigration history involving a 2025 entry and recent asylum proceedings.

1 Accordingly, the exhibits submitted with the Return do not correspond to Petitioner and
2 do not reflect Petitioner's immigration history.

3 **VI. Conclusion**

4 For the foregoing reasons, and for the reasons set forth in the Petition, Petitioner
5 respectfully requests that the Court grant the Petition for Writ of Habeas Corpus. Petitioner
6 further requests that the Court order his immediate release from immigration custody or, in the
7 alternative, order a constitutionally adequate custody redetermination hearing. Petitioner requests
8 such other and further relief as the Court deems just and proper.

9 Respectfully submitted,

10 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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17 Dated: March 11, 2026

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