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

9 ANIBAL ROMERO CHAVEZ,
10
11 Petitioners,

12 vs.

13 CHRISTOPHER LAROSE, warden of
14 Otay Mesa Detention Center;
15 PATRICK DIVVER, San Diego Field
16 Office Director, Immigration and Customs
17 Enforcement and Removal Operations
18 (“ICE/ERO”);
19 TODD LYONS, Acting Director of
20 Immigration Customs Enforcement
21 (“ICE”);
22 MARKWAYNE MULLIN, Secretary of
23 the Department of Homeland Security
24 (“DHS”);
25 ACTING Attorney General of the United
26 States,
27 U.S. DEPARTMENT OF HOMELAND
28 SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: 3: 26-cv-3365-RSH-DDL

TRAVERSE TO PETITION FOR
WRIT OF HABEAS CORPUS

1 **The Petitioner was illegally detained and must be released.**

2 **Bond is not the appropriate remedy.**

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4 The government's response states "... the government does not oppose the
5 petition and defers to the Court on the appropriate relief." ECF 4 p. 3. Petitioner
6 asserts the government's arrest and detention of Mr. Romero Chavez was not
7 authorized under color of any law. His arrest and detention were a violation of his
8 right to due process guaranteed by the Fifth Amendment to the Constitution and
9 was a violation of the Administrative Procedures Act.
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12 Count One of the Petition set out in detail how his detention was a violation
13 of due process because the government did not follow its own procedural rules
14 regarding revocation of his liberty. In addition, the government did not afford the
15 petitioner any pre-detention notice or hearing regarding the termination of his
16 liberty interest he had accrued during the time he was on parole and thereafter. The
17 appropriate remedy for this violation of due process is not a bond hearing. The
18 appropriate remedy is Mr. Romero Chavez's immediate release from custody.
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22 Count Two of the Petition set out in detail how his detention was a violation
23 of the APA because the government did not follow its own rules regarding
24 revocation of his liberty. The appropriate remedy for this violation of the APA is
25 not a bond hearing. The appropriate remedy is Mr. Romero Chavez's immediate
26 release from custody.
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2 If Mr. Romero Chavez's detention was unlawful, *ab initio*, he should not be
3 required to post a bond and, in effect, pay a ransom to be released from this illegal
4 detention. Nothing in the government's response indicates that Mr. Romero
5 Chavez has somehow become a flight risk or a danger to the community.
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8 In addition, the current practice at Otay Mesa Detention Center is, upon
9 release, to immediately enroll detainees in an Alternative to Detention program and
10 put an ankle monitor on them before their actual release. This is also done without
11 any individualized consideration of whether the detainee is a potential flight risk or
12 a danger to the community. Mr. Romero Chavez has been at liberty for quite a
13 while prior to his detention and should not be enrolled in any ATD program and
14 especially should not be forced to wear an ankle monitor. This court has authority
15 to include conditions upon release. While habeas relief commonly includes
16 reprieve from physical imprisonment, "release need not be the exclusive remedy."
17 *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) ("depending on the
18 circumstances, more [relief] may be required").
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23 Habeas jurisdiction extends beyond formal incarceration to restraints on
24 liberty that are substantial, immediate, and not shared by the public generally. The
25 Supreme Court has long recognized that custody includes significant noncarceral
26 restraints, and that principle applies with special force where the government
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1 requires a person to wear a physical monitoring device that enables continuous
2 surveillance and carries the ongoing threat of re-detention for alleged
3 noncompliance. See *Jones v. Cunningham*, 371 U.S. 236 (1963); *Hensley v.*
4 *Municipal Court*, 411 U.S. 345 (1973). Just because an ankle monitor isn't a ball
5 and chain doesn't make it any less burdensome or humiliating.
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8 Finally, another practice at Imperial Detention Center is to retain the
9 Petitioner's documents that were taken when he was unlawfully detained. In
10 particular they retain the driver's license and the work authorization card of the
11 petitioner. This ends up being a huge burden for the petitioner because it is so
12 difficult to get those documents replaced, especially the work authorization
13 document. Petitioner requests the court order that any documents taken from Mr.
14 Romero Chavez upon his detention be returned upon his release.
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18 CONCLUSION

19 Petitioner respectfully requests this Court to grant the following:

20 (1) Declare that Petitioner's detention violates the Due Process Clause
21 of the Fifth Amendment and the Administrative Procedures Act;
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23 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
24 Petitioner from custody;
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1 (3) Issue an Order prohibiting Petitioner's redetention without notice
2 and a predetention hearing before a neutral third party as to flight risk and danger
3 to the community;
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5 (4) Issue an Order prohibiting the Respondents from enrolling the
6 Petitioner in any Alternative to Detention program, specifically barring them from
7 requiring an ankle monitor upon his release;
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9 (5) Issue an Order requiring the Respondents to return Petitioner's
10 documents that were confiscated upon his arrest and detention;
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12 (6) Grant any further relief this Court deems just and proper.
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14 Dated: June 9, 2026

/s/ Brian J. McGoldrick
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CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On June 9, 2026, I served a copy of this **TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS** by the method and to the parties listed below:

On June 9, 2026, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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