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8

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 In the Matter of:)
12)
13)

Case No: 3: 26-cv-02193-LL-DDL

14 **Alvino REYES HERNANDEZ**)
15)

16 Petitioner,)

PETITIONER'S TRAVERSE

17 v.)
18)

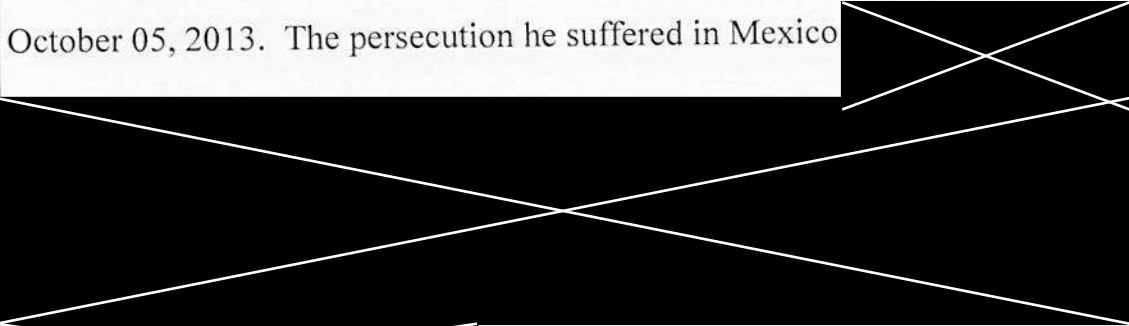
19 Warden of the Otay Mesa)
20 Detention Facility, Current or Acting)
21 Field Office Director, San Diego)
22 Field Office, United States)
23 Immigration and Customs)
24 Enforcement; Current or Acting)
25 Director, United States Immigration)
26 and Customs Enforcement; Current)
27 or Acting Secretary, United States)
28 Department of Homeland Security;)
and Current or Acting United States)
Attorney General Respondents.)

PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN

Petitioner, Alvino Reyes Hernandez, through undersigned counsel, respectfully submit this Traverse to Respondents' Return and in support of his Petition for Writ of Habeas Corpus.

I. INTRODUCTION

Petitioner, Mr. Alvino Reyes Hernandez ("Petitioner" or "Mr. Reyes Hernandez") remains in immigration detention without a bond hearing, parole review, or any other available administrative mechanism to challenge the legality or length of custody. Petitioner is a Mexican asylum seeker detained at Otay Mesa Detention Center in San Diego, California, who entered the United States around October 05, 2013. The persecution he suffered in Mexico

 He has had no departures since his arrival. He is not married. He has no children. On information and belief, he has no criminal convictions. Since the detention on or about December 02, 2025, Mr. Reyes-Hernandez has remained in Respondents' custody.

Respondents commenced removal proceedings against him in immigration court, entitling him to present his asylum claim with the due process rights under

1 8 U.S.C. § 1229a. Petitioner filed his I-589 Asylum Application on March 18,
2 2026 and it remains pending. Since commencement of proceedings, Petitioner has
3 attended his immigration court hearings.
4

5 II. ARGUMENT

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7 The Constitution protects Petitioner—and every other person present in this
8 country—from arbitrary deprivations of his liberty and guarantees him due
9 process of law. The government’s power over immigration is broad, but as the
10 Supreme Court has declared, it “is subject to important constitutional limitations.”
11 *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has
12 always been at the core of the liberty protected by the Due Process Clause from
13 arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
14

15
16 Petitioner’s arrest and inability to contest his arbitrary detention violate his
17 statutory and constitutional rights, including Due Process protections under the
18 U.S. Constitution. He respectfully requests that this Court should grant the instant
19 petition for a writ of habeas corpus, and order that the government hold a bond
20 hearing, placing the burden on the government to establish that he is a flight risk
21 or danger to the community.
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25 This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
26 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, the All
27 Writs Act, 28 U.S.C. § 1651, and the Court’s inherent equitable powers.
28

1 The government may not deprive a person of life, liberty, or property
2 without due process of law. U.S. Const. amend. V. “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical
4 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v.*
5 *Davis*, 533 U.S. 678, 690 (2001).
6
7

8 Petitioner has a fundamental interest in liberty and being free from official
9 restraint. The government’s detention of Petitioner without a notice or an
10 opportunity to be heard before detention violates his right to due process.
11 The government’s detention of Petitioner without a meaningful bond and custody
12 hearing to determine whether he is a flight risk or danger to others violates his
13 right to due process.
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16 The United States contends that “Petitioner appears to be a member of the
17 Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-
18 01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25,
19 2025).” The United States “do[es] not oppose an order from this Court directing a
20 bond hearing be held pursuant to 8 U.S.C. § 1226(a).” Due to the government non
21 opposition to the bond hearing, as stated in their return, petitioner requests the
22 court grant the petition and order a bond hearing in which the government bears
23 the burden.
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1 **III. CONCLUSION and PRAYER FOR RELIEF**

2 For the foregoing reasons, Petitioner respectfully requests that this Court:

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- 4 1. Grant the petition.
- 5 2. Declare that Petitioner's detention without an individualized
- 6 determination violates the Due Process Clause of the Fifth
- 7 Amendment;
- 8 3. Order the government to hold a bond hearing, in which, the
- 9 Respondents should bear the burden of establishing, by clear
- 10 and convincing evidence, that Petitioner poses a danger to the
- 11 community or a risk of flight at that hearing;
- 12 4. Order any other relief that the Court deems just and proper.
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18 Respectfully Submitted,

19 /S/ David Szeles

20 DATED: April 19, 2026

21 _____
22 David Szeles
23 Attorney for Petitioner,
24 Alvino Reyes Hernandez