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

MONTEJO ANTONIO, Pablo)
Alien Number: )
)
Petitioner,)
v.)
)
TODD BLANCHE, U.S. Attorney General)
)
MARKWAYNE MULLIN, U.S.)
Secretary of Homeland Security ("DHS"),)
)
TODD LYONS, Acting)
Director U.S. Immigration and Customs)
Enforcement,)
)
SIDNEY AKI, Acting Field Office)
Director of San Diego ICE,)
)
Warden of the Imperial Regional Adult)
Detention Center)
)
IN THEIR OFFICIAL)
CAPACITIES)
)
Respondents.)
_____)

Case No.: 3:26-cv-03495-DMS-DDL

TRAVERSE IN SUPPORT OF
PETITION FOR WRIT OF
HABEAS CORPUS

Mr. Montejo Antonio possesses a protected liberty interest in remaining out of custody

1. In its Return to Petition, Respondents agree that Petitioner “appears to be a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santa Cruz*, 813 F. Supp. 3d 1084 (C.D. Cal. 2025).” Dkt. No. 4. Thus, Respondents do not oppose an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. §1226(a). *Id.*
2. Mr. Montejo Antonio agrees that he should not be subject to mandatory custody. However, this Court should order his immediate release rather than ordering a bond hearing before the immigration court. As an individual who has been at liberty in the United States since 2005 and with the knowledge of the immigration authorities since 2018 when he applied for asylum, he has a constitutionally protected liberty interest in remaining free from detention. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *see also Sanchez v. LaRose*, No. 25-cv-2396-JES-MMP, 2025 WL 2770629, at * 3 (S.D. Cal. Sept. 26, 2025). At the time of his arrest, he had an employment authorization card, which was valid from 2024 through 2029. His asylum

and cancellation of removal case were pending with the immigration court on the non-detained docket at the time of his arrest. He has been law-abiding and has well-established ties to the community including his wife, Maria Lopez Silvera, and his three (3) children, [REDACTED] He was a hard-working landscaper making ends meet for his family, and enjoys heartfelt and positive references from his network of family and friends, many of whom he met as an active member at his local Catholic church.

3. Mr. Montejo Antonio's liberty interest is like the interest of individuals who are paroled into the United States and released to attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025). As articulated in his petition for habeas corpus, because he had previously been at liberty within the United States with the knowledge of the immigration authorities, Due Process Requires notice and a hearing prior to his re-detention. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678 (2001). Accordingly, "[i]t is well established that the Fifth Amendment

entitles aliens to due process of law in the context of removal proceedings.”

Trump v. J.G.G., 604 U.S. 670, 673 (2025) (internal quotation marks omitted) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Due process “requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

4. While the government has discretion to revoke his liberty, it may not do so in a manner that violates Mr. Montejo Antonio’s constitutional rights. Because Mr. Montejo Antonio applied for asylum and cancellation of removal, was granted employment authorization, and had been living and working in the United States for many years, he should be immediately released rather than go before the immigration judge for a bond hearing. *See Maceo-Aguilera v. LaRose*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Escamilla Alvarado v. Casey*, No. 26-cv-2593-JO-BJW (S.D. Cal. May 7, 2026), Dkt. No. 6; *Magana-Hernandez v. Casey*, No. 26-cv-2952-JLS (MSB) (S.D. Cal. May 18, 2026), Dkt. No. 5. Due process requires that he be provided with a pre-deprivation bond hearing prior to his re-detention. *See Valdez v. Joyce*, No. 25 Civ. 4627 (GBD), 2025 WL 1707737, *4 (S.D.N.Y. 2025).

5. For the foregoing reasons and the reasons laid out in his amended petition, this Court should grant Mr. Montejo Antonio’s habeas petition and order his

immediate release. If the government wishes to detain Petitioner, the government must provide Petitioner with notice of the reasons for the revocation of his liberty and an opportunity to be heard before a neutral decision maker.

Respectfully submitted,

/s/ James M. Chavez

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