Brian J. McGoldrick (California #169104)
Counsel for the Petitioner
4916 Del Mar Avenue
San Diego, CA 92107
(619) 675-2366
attorney@brianmcgoldrick.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MUHAMMED ALPER KARATAS,

Petitioner,

vs.

CHRISTOPHER LAROSE, warden of Otay Mesa Detention Center;
PATRICK DIVVER, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO");
TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE");
MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS");
ACTING Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: 3: 26-cv-03746-LL-JLB

TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner was illegally detained and must be released.

Bond is not the appropriate remedy.

The government's response states "... the government does not oppose the petition and defers to the Court on the appropriate relief." ECF 4 p. 3. Petitioner asserts the government's arrest and detention of Mr. Karatas was not authorized under color of any law. His arrest and detention were a violation of his right to due process guaranteed by the Fifth Amendment to the Constitution and was a violation of the Administrative Procedures Act.

Count One of the Petition set out in detail how his detention was a violation of due process because the government did not follow its own procedural rules regarding revocation of his liberty. In addition, the government did not afford the petitioner any pre-detention notice or hearing regarding the termination of his liberty interest he had accrued during the time he was on parole and thereafter. The appropriate remedy for this violation of due process is not a bond hearing. The appropriate remedy is Mr. Karatas's immediate release from custody.

Count Two of the Petition set out in detail how his detention was a violation of the APA because the government did not follow its own rules regarding revocation of his liberty. The appropriate remedy for this violation of the APA is not a bond hearing. The appropriate remedy is Mr. Karatas's immediate release from custody.

If Mr. Karatas's detention was unlawful, *ab initio*, he should not be required to post a bond and, in effect, pay a ransom to be released from this illegal detention. Nothing in the government's response indicates that Mr. Karatas has somehow become a flight risk or a danger to the community.

In addition, the current practice at Otay Mesa Detention Center is, upon release, to immediately enroll detainees in an Alternative to Detention program and put an ankle monitor on them before their actual release. This is also done without any individualized consideration of whether the detainee is a potential flight risk or a danger to the community. Mr. Karatas has been at liberty for quite a while prior to his detention and should not be enrolled in any ATD program and especially should not be forced to wear an ankle monitor. This court has authority to include conditions upon release. While habeas relief commonly includes reprieve from physical imprisonment, "release need not be the exclusive remedy." *Boumediene v. Bush,* 553 U.S. 723, 779–80 (2008) ("depending on the circumstances, more [relief] may be required").

Habeas jurisdiction extends beyond formal incarceration to restraints on liberty that are substantial, immediate, and not shared by the public generally. The Supreme Court has long recognized that custody includes significant noncarceral restraints, and that principle applies with special force where the government

requires a person to wear a physical monitoring device that enables continuous surveillance and carries the ongoing threat of re-detention for alleged noncompliance. See *Jones v. Cunningham*, 371 U.S, 236 (1963); *Hensley v. Municipal Court*, 411 U.S. 345 (1973). Just because an ankle monitor isn't a ball and chain doesn't make it any less burdensome or humiliating.

Finally, another practice at Otay Mesa Detention Center is to retain the Petitioner's documents that were taken when he was unlawfully detained. In particular they retain the driver's license and the work authorization card of the petitioner. This ends up being a huge burden for the petitioner because it is so difficult to get those documents replaced, especially the work authorization document. Petitioner requests the court order that any documents taken from Mr. Karatas upon his detention be returned upon his release.

CONCLUSION

Petitioner respectfully requests this Court to grant the following:

(1) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Administrative Procedures Act;

(2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(3) Issue an Order prohibiting Petitioner's redetention without notice and a predetention hearing before a neutral third party as to flight risk and danger to the community;

(4) Issue an Order prohibiting the Respondents from enrolling the Petitioner in any Alternative to Detention program, specifically barring them from requiring an ankle monitor upon his release;

(5) Issue an Order requiring the Respondents to return Petitioner's documents that were confiscated upon his arrest and detention;

(6) Grant any further relief this Court deems just and proper.

Dated: July 7, 2026

/s/ Brian J. McGoldrick
BRIAN J. MCGOLDRICK, ESQ.
attorney@brianmcgoldrick.com

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 July 07, 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 July 07, 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:

- **Hunter V. Norton**
  hunter.norton2@usdoj.gov,angela.shepherd@usdoj.gov,rafaele.sanchez@usdoj.gov,CaseView.ecf@usdoj.gov,Efile.dkt.civ@usdoj.gov

/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Counsel for Respondent