WILLIAM BAKER, SBN 157 906
Moreno & Associates Law Firm, APC
2082 Otay Lakes Road, Ste. 102
Chula Vista, CA 91913
619-422-4885
william.baker@morenoandassociates.com

Attorney for petitioner

UNITED STATES DISTRICT COURT

Southern District of California

SAMETCAN AVCI,

Petitioner,

v.

CHRISTOPHER J. LaROSE ; *et al.*,

Respondents.

Case Number: 26-cv-03870-LEK-MSB

PETITIONER'S TRAVERSE AND MEMORANDUM IN SUPPORT OF PETITION

Petitioner submits this Traverse and Memorandum to comply with the Court's order and the habeas corpus procedure and to expedite the process.

1225 v. 1226

As a threshold matter, petitioner agrees with respondents non-opposition that petitioner is detained pursuant to 8 U.S.C. § 1226(a). However, the Response fails to address the primary basis of the habeas corpus petition: whether the DHS unlawfully re-detained petitioner. This is an apparent concession as to this issue, too. The Response does state that the government "...does not oppose the petition and defers to the Court on the appropriate relief."

Re-Detention

In this case, the appropriate relief is an order that respondents immediately release petitioner on the same terms and conditions of his prior release. Petitioner should not have to request a bond hearing at the immigration court because he was unlawfully re-detained. Can the DHS just arbitrarily re-detain a noncitizen with no change in circumstances? The district courts have said no.

District courts have concluded that the DHS cannot just arbitrarily re-detain an individual without any explanation or change in circumstances. For instance, in *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, ___ F. Supp. 3d ___, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025), the court reached this conclusion relying on the Due Process Clause:

... **even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody**. *See Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022) ("[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-detention."); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond."). *Id.* (emphasis added). Other courts, including this Court, have held similarly. *Doe v. Becerra*, No.

2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *see also Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) ("The Supreme Court has consistently held that non-punitive detention violates the Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals.").

The DHS initially detained petitioner in 2024 but released him on his own recognizance. Petitioner's release on OR was a concession that he was not a danger to the community or flight risk. Petitioner filed an asylum application. He was provided withi a work permit. Petitioner was stunned when the DHS officers detained him for no apparent reason in June 2026 and sent him to the immigration jail without any explanation, hearing, or change in circumstances.

Notably, the respondent's Return also provides no explanation or justification for the re-detention after his OR release. Petitioner should be released to the street on the same conditions as had previously been set.

DATED: 14 July 2026

Respectfully submitted,

/s/ *William Baker*
William Baker (157 906)
MORENO & ASSOCIATES