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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AHUIZOTL MENDOZA BAHENA,
Petitioner,
v.
TIMOTHY AITKEN, et al.,
Respondents.

No. 1:17-cv-00145-JLT (HC)
**ORDER TO SHOW CAUSE WHY
PETITION SHOULD NOT BE GRANTED**
[FORTY-FIVE DAY DEADLINE]

Petitioner has filed a petition for writ of habeas corpus challenging his indefinite detention by the United States Bureau of Immigration and Customs Enforcement (“ICE”).

Petitioner states he is a citizen of Mexico who entered the United States illegally on or about July 9, 2003. Subsequently, he was convicted a crime which constituted a removable offense. He was taken into custody on March 4, 2016 and has remained in ICE custody since then. He states he has been in ICE custody for more than six months since his removal/exclusion/deportation order became final.

Petitioner contends that his detention pursuant to 8 U.S.C. § 1231(a)(2) has exceeded the six-month presumptive period set forth in Zadvydas v. Davis, 533 U.S. 678 (2001), that his continued detention is no longer reasonable, that Respondent has been unable to effect his removal to Mexico, that there is no “significant likelihood” of such removal in the “reasonably foreseeable future,” and therefore that his ongoing detention is indefinite and violates his

1 substantive and procedural due process rights under the Due Process Clause of the Fifth
2 Amendment of the United States Constitution.

3 Because Petitioner may be entitled to relief if the claimed violations are proved,
4 Respondent is **ORDERED** to show cause why the Petition should not be granted. Rule 4, Rules
5 Governing Section 2254 Cases; see Rule 1(b), Rule 11, Rules Governing Section 2254 Cases;
6 Fed. R. Civ. P. 81(a)(2). Respondent **SHALL INCLUDE** a copy of Petitioner's Alien File and
7 any and all other documentation relevant to the determination of the issues raised in the petition.
8 Rule 5 of the Rules Governing Section 2254 Cases. In the event the Petitioner is released from
9 ICE custody during the pendency of this Petition, the parties **SHALL** notify the Court by filing a
10 Motion to Dismiss the Petition or other proper pleading. Should the parties fail to notify the
11 Court that Petitioner has been released, the parties may be subject to sanctions pursuant to the
12 inherent power of the Court to issue sanctions in appropriate cases. See Local Rule 110.

13 Accordingly, the Court **ORDERS**:

14 1. **Within 45 days**, Respondent is **SHALL** show cause in writing why the Petition
15 should not be granted. Petitioner may file a Traverse to the Return **within 10 days** of the date the
16 Return to the Order to Show Cause is filed with the Court.

17 2. The Clerk of the Court is **DIRECTED** to **SERVE** a copy of the Petition for Writ
18 of Habeas Corpus on the United States Attorney.

19 The Court has determined that this matter is suitable for decision without oral argument
20 pursuant to Local Rule 230(h). As such, the matter will be taken under submission following the
21 filing of Petitioner's Traverse or the expiration of the time for filing the Traverse. All other
22 briefing in this action is suspended.

23
24 IT IS SO ORDERED.

25 Dated: March 1, 2017

/s/ Jennifer L. Thurston
26 UNITED STATES MAGISTRATE JUDGE