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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GUIBRAN ARIEL RUIZ CHAVEZ,
Plaintiff,
v.
JEFFERSON SESSIONS, et al.,
Defendants.

Case No. [18-cv-00439-MEJ](#)
AMENDED ORDER TO SHOW CAUSE

Petitioner initially filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. *See* Pet., Dkt. No. 1. The Court issued an Order to Show Cause directing Respondents U.S. Attorney General Jefferson Sessions; Secretary of the U.S. Department of Homeland Security Kirstjen Nielson; Field Office Director of U.S. Immigration and Customs Enforcement for San Francisco David Jennings; and Sheriff-Coroner of Contra Costa County David O. Livingston to show cause by April 2, 2018 why a writ of habeas corpus should not issue. OSC, Dkt. No. 6. Three weeks later, Petitioner filed an Amended Petition. Am. Pet., Dkt. No. 9. Petitioner stated he had been released from detention but was subject to certain conditions of release that might last indefinitely. *Id.* ¶¶ 8-9, 12-14; *see generally Brown v. Baughman*, 2017 WL 3142115, at *1 (N.D. Cal. July 25, 2017) (for purposes of habeas relief, “custody” may exist when the petitioner is on parole or probation, or where the sentence imposes significant restraints on liberty (citing cases)).

In his Amended Petition, Petitioner challenges his conditions of release as a violation of his Fifth Amendment right to due process, and asks the Court either order him released from certain conditions of supervision, or order Respondents to show cause why he should not be released. *Id.* Respondent Livingston filed a Statement of Non-Opposition to the initial and amended petitions on the ground Petitioner was released from custody and Respondent takes no position regarding the merits of Petitioner’s claim for habeas release. Statement, Dkt. No. 10. He

1 states he will not appear at any future hearings unless otherwise ordered by the Court. *Id.*¹
2 Respondents Sessions, Nielsen, and Jennings have not yet responded to the initial OSC or
3 appeared in these proceedings, and it is not apparent from the docket whether Petitioner served
4 them with a copy of the Amended Petition (*see* Am. Pet. at ECF p.19 (Cert. of Service only
5 through ECF system)).

6 Having considered the pleadings and documents in this matter, and good cause having
7 been shown by Petitioner, the Court ORDERS Respondents Sessions, Nielsen, and Jennings to
8 Show Cause:

- 9 1. By April 2, 2018, Respondents shall respond by answering the allegations in the
10 Amended Petition and showing cause why a writ of habeas corpus should not issue, or by
11 filing a motion to dismiss on procedural grounds;
- 12 2. Petitioner’s traverse, opposition, or statement of non-opposition shall be filed by
13 May 2, 2018; and
- 14 3. Any reply by Respondents shall be due May 17, 2018.

15 The Clerk of the Court shall serve a copy of this Order, the Amended Petition, and all attachments
16 thereto, on Respondents and shall serve copies of these documents to the U.S. Attorney for the
17 Northern District of California. The Clerk shall also serve a copy of the “consent or declination to
18 magistrate judge jurisdiction” upon Respondents and their attorneys.

19 **IT IS SO ORDERED.**

20 Dated: March 26, 2018



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22 _____
23 MARIA-ELENA JAMES
24 United States Magistrate Judge

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27 _____
28 ¹ The Amended Petition does not allege how Livingston remains a proper respondent in this matter
(e.g., by alleging any facts showing that Livingston is responsible for the release conditions
Petitioner challenges in the Amended Petition).