

1 **Kara Hartzler**  
2 CA Bar No. 293751  
3 Federal Defenders of San Diego, Inc.  
4 225 Broadway, Suite 900  
5 San Diego, California 92101-5030  
6 Telephone: (619) 234-8467  
7 Facsimile: (619) 687-2666  
8 Kara\_hartzler@fd.org  
9 Attorneys for Petitioner

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 CARLOS ALBERTO FERNANDO  
12 GARCIA-MARROQUIN,

Case No.: 26-cv-2131-JLS-BLM

13  
14 Petitioner,

**Traverse in Support of Amended  
Petition for Writ of Habeas Corpus**

15 v.

16 MARKWAYNE MULLIN, Secretary of  
17 the Department of Homeland Security,  
18 TODD BLANCHE, Acting Attorney  
19 General, TODD M. LYONS, Acting  
20 Director, Immigration and Customs  
21 Enforcement, JESUS ROCHA, Acting  
22 Field Office Director, San Diego Field  
23 Office, CHRISTOPHER LAROSE,  
24 Warden at Otay Mesa Detention Center,

25 Respondents.

23 Mr. Garcia-Marroquin is a citizen of Peru who was arrested at an airport in  
24 Laredo, Texas, and released into the United States and placed in removal  
25 proceedings. But despite complying with all his court dates, Mr. Garcia-  
26 Marroquin was re-arrested with no notice or explanation when ICE called him in  
27 for a check-in appointment. In his amended petition, Mr. Garcia-Marroquin  
28 argued that the revocation of his parole violated the regulations, the

1 Administrative Procedures Act, and due process. *See* Amended Petition at 3–7,  
2 ECF No. 11.

3 But in their return, Respondents never address Mr. Garcia-Marroquin’s  
4 argument that he is entitled to immediate release because the government revoked  
5 his parole with no notice or explanation. *See* Gov. Return at ECF No. 13.  
6 Respondents have thus waived any argument to the contrary. *See United States v.*  
7 *Cabrera*, 796 F. Supp. 3d 660, 664 (S.D. Cal. 2025) (recognizing that “a party  
8 waives argument when it fails to respond to an argument made to the court”  
9 quoting *United States v. Caceres-Olla*, 738 F.3d 1051, 1053 n.1 (9th Cir. 2013)).

10 Instead, Respondents’ only argument is that Mr. Garcia-Marroquin failed to  
11 exhaust his administrative remedies by appealing the denial of bond to the BIA.  
12 ECF No. 13. But Mr. Garcia-Marroquin’s amended habeas petition never  
13 challenged the IJ’s denial of bond—thus, he need not exhaust an argument that he  
14 did not make to this Court. Because the government’s return is non-responsive  
15 and waives the claim Mr. Garcia-Marroquin made, this Court should order his  
16 immediate release.

17 Respectfully submitted,

18 Dated: April 24, 2026

19 s/ Kara Hartzler

20 Kara Hartzler

21 Federal Defenders of San Diego, Inc.

22 Email: kara\_hartzler@fd.org  
23  
24  
25  
26  
27  
28