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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 YUNIELL MICHELL GUERRA
12 FONSECA,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, Secretary of
16 the Department of Homeland Security, et
al.

17 Respondents.
18

Civil Case No.: 26-cv-2496-BJC-BJW

Traverse

19 Mr. Guerra Fonseca is a citizen of Cuba who was released into the country
20 in 2022, given a valid work permit, and has a pending asylum claim. Despite
21 complying with the requirements of his release, he was arrested at a check point.
22 In his amended petition, he argued that the revocation of his release violated due
23 process among other violations. *See* Amended Petition at 3–7, ECF No. 11.

24 The government return states that it “*does not oppose* the amended petition
25 and defers to the Court on the appropriate relief.” Return ECF No. 10 at 2
26 (emphasis added). In accordance with this Court’s prior precedent, the appropriate
27 relief is immediate release regardless of whether Mr. Guerra Fonseca was under 8
28 U.S.C. § 1182(d)(5) parole or a different parole. “Parole can be made for

humanitarian reasons or for it providing a significant public benefit under 8 U.S.C. § 1182(d)(5)(A), or it can be for conditional parole or Order of Release on Recognizance. (OREC) under 8 U.S.C. § 1226(a). *J.S.H.M v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *6 (E.D. Cal. Oct. 16, 2025). Using the analogous reasoning in humanitarian parole cases, several district courts, including this Court, have granted immediate release after finding due process violations for petitioners previously released under OREC's conditional parole. *Seidulla v. Larose*, No. 26-CV-1555-BJC-MSB, 2026 WL 821172, at *2 (S.D. Cal. Mar. 25, 2026) (granting immediate release); *Matkerimov v. Warden, Imperial Reg'l Det. Facility*, No. 26-CV-1287-BJC-MSB, 2026 WL 899431, at *1 (S.D. Cal. Mar. 30, 2026) (same); *Tabak v. Marrero*, No. 26-CV-1954-BJC-JLB, 2026 WL 962836, at *1 (S.D. Cal. Apr. 9, 2026) (same).

Thus, the appropriate relief for the unopposed amended petition is *immediate release*.

Respectfully submitted,

s/ Zandra L. Lopez

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