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

CARRASCO IZAGUIRRE, David
Petitioner,

v.

**CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,**
Respondents.

CASE NO.: 3:26-cv-3455 DMS MSB

**Traverse in support of Petition
for a
Writ of Habeas Corpus**

The government does not oppose the petition. Doc 6 at 2. We therefore request the court grant outright release as requested in the writ and provide the below reasoning for our request.

In his petition, Mr. David Josue Carrasco Izaguirre explained that despite his clean criminal history, stable employment, valid employment authorization, not being a danger to the community or a flight risk, and unchanged circumstances, ICE re-detained him arbitrarily and without following regulations. He made three claims: (1) ICE conducted an unreasonable seizure of his person, without a judicial warrant or individualized suspicion, violating the 4th amendment, (2) ICE violated due process by re-detaining him without notice and an opportunity to be heard and (3) ICE arbitrarily detained him absent an individualized suspicion. He therefore asked this Court to order outright release.

1 The government's Return does not respond at all to these claims. Instead
 2 the government purports to unilaterally redefine the "legal issues presented" in the
 3 petition: Per the government, they involve only "the statutory authority for . . .
 4 detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), and in a
 5 footnote refers to whether Petitioner is entitled to a bond hearing. Doc. 6 at 2.
 6 **That is false—this is not a Yajure Hurtado/Maldonado Bautista case, and the**
 7 **proper remedy is not a bond hearing. This is a parole case, and the proper**
 8 **remedy is release.**

9 That follows from three considerations.

10 First, to state what should be obvious, the government does not get to
 11 decide what "legal issues [are] presented" in a habeas petition. Doc. 6 at 2. The
 12 petitioner does. And the petitioner challenged his re-detention without notice and
 13 an opportunity to be heard, not the government's failure to provide a bond
 14 hearing. Doc. 1 at 2-4.

15 Second, Mr. Carrasco Izaguirre's case does not at all implicate *Matter of*
 16 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), *Maldonado-Bautista v. Noem*,
 17 No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), or
 18 § 1226(a). *Yajure Hurtado* and *Maldonado Bautista* address the rights of
 19 immigrants who successfully evaded detection at the border, entered the country
 20 illegally, and lived for a time in the United States. *See Maldonado-Bautista*, 2025
 21 WL 3713987, at *2 (defining the class to include people who "were not or will
 22 not be apprehended upon arrival"). The former says that this population is barred
 23 from bond hearings by § 1225(b), while the latter says that it is entitled to bond
 24 hearings under § 1226(a). *Id.* at *12. But Mr. Carrasco Izaguirre did not
 25 successfully evade detection at the border and enter the country illegally, or live
 26 for a time in the United States. He turned himself in immediately at the border.
 27 Doc. 1 at 2. And everyone agrees that people caught immediately at the border are
 28 subject to mandatory detention under § 1225(b), *unless*—as occurred here—ICE

1 exercises its discretionary authority to grant parole. After his grant of parole, he
2 was issued a work permit and social security card and worked and lived in the
3 U.S. for about 33 months, before he was re-detained by immigration authorities
4 during an operation which they were searching for somebody else. Doc 1 at 2 and
5 11.

6 Thus, the problem with Mr. Carrasco Izaguirre's detention is not that the
7 government failed to provide him a statutorily guaranteed bond hearing. It is that
8 ICE exercised discretion to give him parole, then unlawfully revoked it.

9 Third, when an immigrant's parole is unlawfully revoked, the remedy is
10 release, not a bond hearing. *See, e.g., Arias v. Larose*, No. 3:25-CV-02595-BTM-
11 MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) ("The Respondents shall
12 immediately release Arias from custody on her preexisting conditions."); *Noori v.*
13 *LaRose*, 807 F. Supp. 3d 1146, 1154 (S.D. Cal. 2025) ("order[ing] his immediate
14 release"); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL 3063629 (S.D.
15 Cal. Nov. 3, 2025) (ordering that ICE "immediately release Petitioner from custody
16 subject to the conditions of her preexisting parole and Form I-94"); *Perez v.*
17 *LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025)
18 (ordering respondents "to immediately release Petitioner from custody, subject to
19 the conditions of his preexisting parole and Form I-94"); *Y-Z-L-H v. Bostock*, No.
20 25-cv-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025) (ordering
21 respondents "immediately to release Petitioner from custody"). The government's
22 cases granting bond hearings to persons wrongly detained under *Yajure Hurtado*
23 are inapposite, because they involve completely different claims.

24 Thus, this Court must not allow the government to redefine the claims in
25 the petition, rely on a set of inapplicable cases, and thereby deprive Mr. Carrasco
26 Izaguirre of the relief to which he is entitled. This Court must instead address the
27 claims in the petition and—having received no response or opposition to those
28 claims from the government—grant outright release.

