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

VICTOR ARTURO VELASQUEZ LARA,

Case No.: 3:26-cv-3828-JES-JAC

Petitioner

v.

CHRISTOPHER LaROSE, et al.,

**PETITIONER'S TRAVERSE
TO RESPONDENTS'
RESPONSE TO ORDER TO
SHOW CAUSE**

I. Introduction

Petitioner challenges the constitutionality of his continued immigration detention following Respondents' decision to revoke the liberty they previously granted by releasing him from immigration custody and permitting him to reside openly in the United States for years before abruptly re-detaining him.

Respondents' Return does not meaningfully dispute Petitioner's central constitutional claim. Instead, Respondents expressly acknowledge that "the facts are not materially distinguishable" from this Court's prior re-detention decisions, recognize that those decisions "will control the result here if the Court adheres to its prior decisions," state that they "do not oppose the petition," and defer to the Court on the appropriate relief.

1 Accordingly, the only remaining issue is the appropriate remedy. Because Respondents
2 identify no material factual or legal distinction warranting a different result, and because this
3 Court has repeatedly granted habeas relief under materially indistinguishable circumstances, the
4 Petition should be granted and Petitioner immediately released.

5 **II. Respondents Fail to Rebut Petitioner's Constitutional Claim**

6 Respondents do not meaningfully dispute Petitioner's central constitutional claim. Rather
7 than identifying any material factual or legal distinction warranting a different result,
8 Respondents expressly acknowledge that "the facts are not materially distinguishable" from this
9 Court's prior re-detention decisions and recognize that those decisions "will control the result
10 here if the Court adheres to its prior decisions." Respondents further state that they "do not
11 oppose the petition" and "defer to the Court on the appropriate relief."

12 Those concessions are dispositive. Respondents identify no meaningful distinction
13 between this case and the prior re-detention cases in which this Court granted habeas relief. Nor
14 do Respondents contend that Petitioner received prior notice that his previously granted liberty
15 would be revoked, an opportunity to be heard before a neutral decisionmaker, or any
16 individualized determination that changed circumstances, danger to the community, or risk of
17 flight justified his re-detention.

18 Instead, Respondents preserve their statutory position that Petitioner remains subject to
19 mandatory detention under 8 U.S.C. § 1225(b)(2), but expressly acknowledge that this Court's
20 prior decisions reject that position under materially indistinguishable facts. Respondents
21 therefore present no constitutional analysis, no intervening authority, and no material factual
22 distinction warranting departure from this Court's prior decisions.

23 Accordingly, because Respondents concede that the facts are not materially
24 distinguishable, do not oppose the Petition, and identify no constitutionally meaningful basis for
25 a different result, the Petition should be granted.

III. Petitioner Possessed a Protected Liberty Interest in Remaining Free From Re-Detention

Respondents' own actions created Petitioner's protected liberty interest. After releasing Petitioner from immigration custody, Respondents permitted him to reside openly in the United States for years while he remained subject to their authority and continued participating in his immigration proceedings. During that period, Respondents did not revoke Petitioner's release, seek his detention, or contend that he posed a danger to the community or a risk of flight.

That previously granted liberty is the constitutional interest at issue here. By permitting Petitioner to remain at liberty for years, Respondents necessarily determined that immediate physical detention was unnecessary. Having made that determination, Respondents could not later revoke Petitioner's liberty without providing constitutionally adequate process.

Respondents do not meaningfully dispute that principle. Nor do they contend that Petitioner received prior notice, an opportunity to be heard before a neutral decisionmaker, or any individualized determination that changed circumstances justified revoking Petitioner's previously granted liberty. Instead, Respondents acknowledge that the facts are not materially distinguishable from this Court's prior re-detention decisions and defer to the Court regarding the appropriate relief.

Accordingly, because Petitioner possessed a protected liberty interest in remaining free from re-detention, and because Respondents identify no constitutionally adequate process preceding the revocation of that liberty, the Petition should be granted.

IV. Re-Detention Without Constitutionally Adequate Process Violated the Due Process Clause

Here, after previously releasing Petitioner from immigration custody, Respondents permitted him to remain at liberty in the United States for years before abruptly re-detaining him. Respondents do not contend that, before revoking Petitioner's previously granted liberty, they provided prior notice, a meaningful opportunity to be heard, a hearing before a neutral

1 decisionmaker, or any individualized determination that changed circumstances, danger to the
2 community, or risk of flight justified Petitioner's re-detention.

3 The constitutional violation does not arise merely from Petitioner's present detention.
4 Rather, it arises from Respondents' decision to revoke Petitioner's previously granted liberty
5 without constitutionally adequate process. Once Respondents released Petitioner and permitted
6 him to remain at liberty, the Fifth Amendment required constitutionally adequate procedures
7 before that liberty could be revoked.

8 Respondents do not meaningfully dispute that principle. Instead, they preserve their
9 statutory position that Petitioner remains subject to mandatory detention under 8 U.S.C. §
10 1225(b)(2), while expressly acknowledging that this Court's prior decisions reject that position
11 under materially indistinguishable facts. That statutory argument does not answer the
12 constitutional question presented here. Regardless of the detention authority Respondents invoke,
13 the government may not revoke a protected liberty interest without providing the procedural
14 safeguards required by the Due Process Clause.

15 This Court has repeatedly recognized that a noncitizen who has previously been released
16 from immigration custody possesses a protected liberty interest that cannot be revoked without
17 constitutionally adequate process. Respondents identify no material factual or legal distinction
18 warranting a different result here.

19 Accordingly, because Respondents revoked Petitioner's previously granted liberty
20 without constitutionally adequate process, Petitioner's continued detention violates the Fifth
21 Amendment. Habeas relief should therefore be granted.

22 **V. Respondents' Response Effectively Concedes That the**
23 **Petition Should Be Granted**

24 Rather than rebutting Petitioner's constitutional claim, Respondents' Response effectively
25 concedes that the Petition should be granted. Respondents expressly acknowledge that this
26 Court's prior decisions "will control the result here if the Court adheres to its prior decisions"
27 because "the facts are not materially distinguishable." Respondents further state that they "do not
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1 oppose the petition" and "defer to the Court on the appropriate relief." Respondents identify no
2 material factual or legal distinction warranting a different result here.

3 Although Respondents preserve their statutory detention argument, that argument does
4 not answer the constitutional question presented by the Petition. Respondents do not
5 meaningfully address Petitioner's due process claim. Nor do they contend that Petitioner received
6 prior notice that his previously granted liberty would be revoked, a meaningful opportunity to be
7 heard before a neutral decisionmaker, or any individualized determination that changed
8 circumstances, danger to the community, or risk of flight justified his re-detention after
9 previously being released from immigration custody on bond. Instead, Respondents preserve
10 their statutory position while acknowledging that this Court and other courts in this District have
11 repeatedly rejected that position under materially indistinguishable facts.

12 Equally significant, Respondents offer no persuasive reason for this Court to depart from
13 its prior decisions granting habeas relief in materially similar re-detention cases. To the contrary,
14 Respondents expressly acknowledge that this Court's prior decisions control the outcome if the
15 Court adheres to them because the facts presented here are not materially distinguishable.
16 Respondents present no new constitutional analysis, no intervening authority, and no material
17 factual distinction that would justify a different outcome.

18 Accordingly, Respondents' own Response confirms that the Petition should be granted.
19 Having acknowledged that the facts are not materially distinguishable from this Court's prior
20 decisions, that they do not oppose the Petition, and that they defer to the Court on the appropriate
21 relief, Respondents provide no basis for denying habeas relief.

22 **VI. Immediate Release Is the Appropriate Remedy**

23 Where detention violates the Constitution, the traditional function of habeas corpus is to
24 secure release from unlawful custody. Immediate release is therefore the appropriate remedy.

25 Respondents' own concessions reinforce that result. They expressly acknowledge that this
26 Court's prior decisions "will control the result here if the Court adheres to its prior decisions,"
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1 that "the facts are not materially distinguishable," that they "do not oppose the petition," and that
2 they "defer to the Court on the appropriate relief."

3 This Court has repeatedly ordered immediate release under materially indistinguishable
4 circumstances. Most recently, in *Jimenez Quevedo v. LaRose*, Case No. 3:26-cv-03211-JES-
5 MSB, this Court granted the petition after Respondents acknowledged that the facts were not
6 materially distinguishable from the Court's prior re-detention decisions and did not oppose relief.
7 Likewise, in *Dujour v. LaRose*, Case No. 3:26-cv-02207-JES-MSB, this Court likewise ordered
8 Petitioner's immediate release after concluding that Respondents violated due process by
9 revoking Petitioner's previously granted liberty without constitutionally adequate process.
10 Respondents identify no material factual or legal distinction warranting a different result here.

11 The same conclusion has been reached repeatedly throughout the Southern District of
12 California. See, e.g., *Tido-Ngoumtsop v. Warden*, No. 3:26-cv-02913-LL-VET (S.D. Cal. May
13 21, 2026); *Revelorio-Osorio v. Casey*, No. 3:26-cv-03440-JAO-GC (S.D. Cal. June 16, 2026);
14 *Hidalgo Gonzalez v. LaRose*, No. 3:26-cv-03561-GPC-GC (S.D. Cal. June 24, 2026); *Diego*
15 *Gonzalez v. Casey*, No. 3:26-cv-03579-JO-DEB (S.D. Cal. June 26, 2026). In each of those
16 cases, the courts concluded that the government could not revoke a previously granted liberty
17 interest without constitutionally adequate process and ordered Petitioners' immediate release.

18 The constitutional violation in this case was complete when Respondents revoked the
19 liberty they had previously granted Petitioner by releasing him from immigration custody and
20 subsequently returned him to detention without constitutionally adequate process. Respondents
21 do not contend that Petitioner received prior notice that his liberty would be revoked, a hearing
22 before a neutral decisionmaker, or any individualized determination that changed circumstances
23 justified his re-detention. Nor do Respondents identify any material distinction from this Court's
24 prior decisions.

25 Respondents alternatively request that, should the Court order a custody hearing under 8
26 U.S.C. § 1226(a), the government be afforded fourteen days to conduct that hearing. That request
27 does not alter the appropriate disposition of this case. The constitutional violation identified in
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1 the Petition is the revocation of Petitioner's previously granted liberty without constitutionally
2 adequate process. Because that constitutional violation has already occurred, the appropriate
3 remedy is immediate release.

4 Accordingly, because Respondents revoked Petitioner's previously granted liberty
5 without constitutionally adequate process, because Respondents identify no material distinction
6 from this Court's prior decisions, and because Respondents do not oppose the Petition, the Court
7 should grant the Petition and order Petitioner's immediate release.

8 In the alternative, should the Court decline to order immediate release, Petitioner
9 respectfully requests that the Court order a prompt constitutionally adequate custody hearing
10 before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear
11 and convincing evidence, that continued detention is necessary to prevent flight or danger to the
12 community.

13 **VII. Conclusion**

14 Respondents have failed to rebut Petitioner's central constitutional claim. Rather than
15 identifying any material factual or legal distinction warranting a different result, Respondents
16 expressly acknowledge that this Court's prior decisions "will control the result here if the Court
17 adheres to its prior decisions" because "the facts are not materially distinguishable," state that
18 they "do not oppose the petition," and defer to the Court on the appropriate relief. Respondents
19 nevertheless identify no constitutionally adequate process that preceded the revocation of
20 Petitioner's previously granted liberty.

21 The Constitution does not permit the government to revoke previously granted liberty
22 through abrupt re-detention without prior notice, a meaningful opportunity to be heard, and an
23 individualized determination justifying the deprivation of liberty. Because Respondents failed to
24 provide those basic procedural safeguards, Petitioner's continued detention violates the Due
25 Process Clause.

26 Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of
27 Habeas Corpus and order his immediate release.

1 Petitioner further respectfully submits that the Court may resolve the Petition on the
2 existing record. Respondents have fully addressed the legal issues presented, expressly do not
3 oppose the Petition, and have identified no factual dispute requiring an evidentiary hearing.
4 Accordingly, no further proceedings are necessary before granting the requested habeas relief.

5 In the alternative, should the Court decline to order immediate release, Petitioner
6 respectfully requests that the Court order a prompt constitutionally adequate custody hearing
7 before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear
8 and convincing evidence, that continued detention is necessary to prevent flight or danger to the
9 community, and at which the adjudicator considers alternatives to detention and Petitioner's
10 ability to pay any bond imposed.

11 Respectfully submitted,

12 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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18 Dated: July 7, 2026