

1 **Kara Hartzler**
2 Cal. 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 Mr. Duran Montilla

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 ENMANUEL ALEJANDRO DURAN
14 MONTILLA,

15 Petitioner,

16 v.

17 KRISTI NOEM, Secretary of the
18 Department of Homeland Security, et al.

19 Respondents.

No.: 26-cv-1336-RBM-DDL

Traverse in support of
petition for writ of
habeas corpus

[Civil Immigration Habeas,
28 U.S.C. § 2241]

1 In his amended petition, Mr. Duran Montilla established that he was an
 2 asylum seeker from Venezuela who presented himself at the port of entry for his
 3 CBP One appointment and was paroled in to the United States. Dkt. 6 at 2; Dkt. 6,
 4 Exh. A. He argued that Respondents unlawfully revoked his parole in violation of
 5 the regulations, the statute, and due process, which require written notification
 6 and a determination that the purposes of the parole have been served. *See* 8 U.S.C.
 7 § 1182(d)(5)(A) (stating that a person shall only be “returned to the custody from
 8 which he was paroled” when “the purposes of such parole . . . have been served”);
 9 *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be terminated “upon
 10 accomplishment of the purpose for which parole was authorized” and “upon
 11 written notice to the alien”). Because Mr. Duran Montilla’s revocation of parole
 12 was unlawful, he argued that this Court should order Respondents to
 13 “immediately *release* Petitioner from custody, subject to the conditions of his
 14 preexisting parole.” Dkt. 6 at 7 (emphasis added).

15 In its return, Respondents’ boilerplate concession misstates the facts,
 16 claiming that “Petitioner was present in the United States without being admitted
 17 or paroled” and is thus “subject to mandatory detention” under *Matter of Yajure*
 18 *Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025). Dkt. 8 at 2. Respondents thus
 19 claim that the question is “whether Petitioner is entitled to a *bond hearing*.” Dkt. 8
 20 at 2 (emphasis added). But courts in this district have repeatedly held that the
 21 correct remedy for unlawful revocation of parole is *release*, not a *bond hearing*.¹
 22 Thus, Respondents mischaracterize the appropriate remedy. And because
 23
 24

25
 26 ¹ *See, e.g., Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385,
 27 at *3 (S.D. Cal. Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB,
 28 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784
 JLS-VET, 2025 WL 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-
 cv-02620-RBM-JLB, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v.*
Bostock, No. 25-cv-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025).

1 Respondents do not contest Mr. Duran Montilla's arguments on the merits, this
2 Court should grant the petition and order his immediate release.

3 Respectfully submitted,
4

5 Dated: April 1, 2026

s/ Kara Hartzler

6 Federal Defenders of San Diego, Inc.
7 Attorneys for Mr. Duran Montilla
8 Email: kara_hartzler@fd.org
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28