

1 **David Szeles, SBN 279244**
2 Global Law Group San Diego, P.C.
3 1455 Frazee Road, Ste. 500
4 San Diego, California 92108
5 Telephone: (858)833-2020
6 Facsimile: (619) 839-3152
7 Attorney for Petitioner

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

9 **ARIAS TOVAR**
10 **Yohana Del Carmen**

11 **Petitioner,**

12 **v.**

13 **CHRISTOPHER LAROSE, Warden at**
14 **Otay Mesa Detention Center,**

15 **Respondents.**

CASE NO.:3:26-cv-03524-RBM-DEB

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

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17 In her amended petition, Ms. Yohana Del Carmen Arias Tovar explained
18 that despite her compliance with her conditional parole release conditions, ICE
19 revoked her parole arbitrarily and without following regulations. She therefore
20 made two claims: (1) ICE had failed to comply with its own regulations, violating
21 the Administrative Procedures Act, and (2) ICE violated due process by revoking
22 parole without notice and an opportunity to be heard. She therefore asked this
23 Court to order outright release.

24 The government's Return does not respond at all to these claims. Instead
25 the government purports to unilaterally redefine the "legal issues presented" in the
26 petition: Per the government, they involve only "the statutory authority for . . .
27 detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), and in a
28 footnote refers to whether Petitioner is entitled to a bond hearing. Doc. 5 at 2-3.

That is false—this is not a Yajure Hurtado/Maldonado Bautista case, and the

1 **proper remedy is not a bond hearing. This is a parole case, and the proper**
2 **remedy is release.**

3 That follows from three considerations.

4 First, to state what should be obvious, the government does not get to
5 decide what “legal issues [are] presented” in a habeas petition. Doc. 5 at 2. The
6 petitioner does. And the petitioner challenged the revocation of her conditional
7 parole release, not the government’s failure to provide a bond hearing. Doc. 1 at
8 13-20.

9 Second, Ms. Arias Tovar’s case does not at all implicate *Matter of Yajure*
10 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), *Maldonado-Bautista v. Noem*, No.
11 5:25-CV-01873-SSS-BFM, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), or
12 § 1226(a). *Yajure Hurtado* and *Maldonado Bautista* address the rights of
13 immigrants who successfully evaded detection at the border, entered the country
14 illegally, and lived for a time in the United States. *See Maldonado-Bautista*, 2025
15 WL 3713987, at *2 (defining the class to include people who “were not or will
16 not be apprehended upon arrival”). The former says that this population is barred
17 from bond hearings by § 1225(b), while the latter says that it is entitled to bond
18 hearings under § 1226(a). *Id.* at *12. But Ms. Arias Tovar did not successfully
19 evade detection at the border and enter the country illegally, or live for a time in
20 the United States. She turned himself in immediately at the border. Doc. 1 at 20.
21 And everyone agrees that people caught immediately at the border are subject to
22 mandatory detention under § 1225(b), *unless*—as occurred here—ICE exercises
23 its discretionary authority to grant parole.

24 Thus, the problem with Ms. Arias Tovar’s detention is not that the
25 government failed to provide her a statutorily guaranteed bond hearing. It is that
26 ICE exercised discretion to give her parole, then unlawfully revoked it.

27 Third, when an immigrant’s parole is unlawfully revoked, the remedy is
28 release, not a bond hearing. *See, e.g., Arias v. Larose*, No. 3:25-CV-02595-BTM-

1 MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (“The Respondents shall
 2 immediately release Arias from custody on her preexisting conditions.”); *Noori v.*
 3 *LaRose*, 807 F. Supp. 3d 1146, 1154 (S.D. Cal. 2025) (“order[ing] his immediate
 4 release”); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL 3063629 (S.D.
 5 Cal. Nov. 3, 2025) (ordering that ICE “immediately release Petitioner from custody
 6 subject to the conditions of her preexisting parole and Form I-94”); *Perez v.*
 7 *LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025)
 8 (ordering respondents “to immediately release Petitioner from custody, subject to
 9 the conditions of his preexisting parole and Form I-94”); *Y-Z-L-H v. Bostock*, No.
 10 25-cv-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025) (ordering
 11 respondents “immediately to release Petitioner from custody”). The government’s
 12 cases granting bond hearings to persons wrongly detained under *Yajure Hurtado*
 13 are inapposite, because they involve completely different claims.

14 Thus, this Court must not allow the government to redefine the claims in
 15 the petition, rely on a set of inapplicable cases, and thereby deprive Ms. Arias
 16 Tovar of the relief to which she is entitled. This Court must instead address the
 17 claims in the petition and—having received no response or opposition to those
 18 claims from the government—grant outright release.

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22 Respectfully submitted,

23 Dated: June 16, 2026

/s/ David Szeles

24 David Szeles,
 25 Attorney for Petitioner
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