Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALEXANDER JOSE ROMERO-MEDINA

Petitioner

v.

Christopher LaROSE, Warden, Otay Mesa Detention Center, *et al.*,

Case No.: 26-CV-04111-GPC-JAC

PETITIONER'S TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Petitioner respectfully submits this Traverse in support of his Petition for Writ of Habeas Corpus.

Respondents acknowledge that this Court's prior re-detention decisions control the disposition of this case. Specifically, Respondents acknowledge that this Court's prior decisions "will control the result here if the Court adheres to its prior decisions," because "the facts are not materially distinguishable for purposes of the Court's decision." On that basis, Respondents "do not oppose the petition" and "defer to the Court on the appropriate relief."

Accordingly, the only remaining issue is the appropriate remedy. This Court has already answered that question. In *Hidalgo Gonzalez v. LaRose*, a factually indistinguishable re-detention case, this Court held that once the government releases a noncitizen from custody and

permits that person to remain at liberty, due process prohibits revoking that liberty without constitutionally adequate procedures and materially changed circumstances. Where those constitutional requirements were not satisfied, this Court ordered immediate release on the same terms and conditions under which the petitioner was previously released, rather than merely directing a future custody hearing.

Because Respondents expressly acknowledge that this Court's prior decisions "will control the result here" because "the facts are not materially distinguishable for purposes of the Court's decision," and do not oppose the Petition, the Court should grant the Petition and order Petitioner's immediate release on the same terms and conditions under which he previously remained at liberty.

II. The Petition Challenges the Revocation of Petitioner's Previously Granted Liberty Without Constitutionally Adequate Process

Respondents do not meaningfully dispute the factual allegations underlying the Petition or attempt to distinguish this case from this Court's prior re-detention decisions. Instead, while preserving their statutory position for appellate purposes, Respondents acknowledge that this Court's prior decisions "will control the result here" because "the facts are not materially distinguishable for purposes of the Court's decision." Respondents further state that they "do not oppose the petition" and "defer to the Court on the appropriate relief." Respondents identify no material factual or legal distinction warranting a different result, present no intervening authority, and offer no constitutional analysis that would justify departing from this Court's established re-detention jurisprudence.

That concession is significant. Rather than defending the constitutionality of Petitioner's re-detention, Respondents acknowledge that this Court's prior decisions resolve the legal issue presented. Respondents do not contend that Petitioner's liberty was revoked following constitutionally adequate procedures, that materially changed circumstances justified his re-detention, or that any individualized determination established that Petitioner presents a danger to the community or a risk of flight.

Accordingly, there is no need for the Court to revisit the constitutional principles governing Petitioner's re-detention. Respondents acknowledge that this Court's existing precedent controls the disposition of this case. The only remaining issue is the appropriate remedy for Respondents' unconstitutional revocation of Petitioner's previously granted liberty.

III. Respondents Fail to Justify the Revocation of Petitioner's Previously Granted Liberty

The Due Process Clause protects individuals against arbitrary governmental deprivations of liberty. Once the government affirmatively releases an individual from physical custody and permits that individual to remain at liberty in the community, it may not later revoke that liberty without constitutionally adequate procedures. In *Hidalgo Gonzalez v. LaRose*, this Court recognized that the government's decision to release a noncitizen from custody creates a protected liberty interest that cannot later be revoked absent constitutionally adequate procedures and materially changed circumstances.

The relevant facts are undisputed. Petitioner was released from immigration custody on parole under 8 U.S.C. § 1182(d)(5) in August 2021 and thereafter remained at liberty in the United States for more than five years. During that period, Respondents permitted Petitioner to reside openly in the community, remain available to immigration authorities, and continue living at liberty while USCIS processed his affirmative asylum application and DHS later initiated removal proceedings.

Respondents do not contend that Petitioner's re-detention resulted from any violation of the conditions of his release, that he became a danger to the community or a flight risk, or that any materially changed circumstance arose after his release justifying the revocation of his liberty. Nor do Respondents contend that they provided Petitioner with constitutionally adequate procedures before depriving him of that liberty.

Under this Court's prior decisions, those undisputed facts establish a violation of the Due Process Clause. Where the government re-detains a previously released noncitizen without constitutionally adequate procedures or an individualized justification supported by materially

changed circumstances, continued detention violates the Fifth Amendment regardless of the government's assertion that the petitioner remains subject to detention under 8 U.S.C. § 1225(b).

The same reasoning governs here. Having previously released Petitioner and permitted him to remain at liberty for years, Respondents cannot constitutionally revoke that liberty without the process required by the Fifth Amendment. Because Respondents identify no constitutionally adequate procedures, no materially changed circumstances, and no individualized justification supporting Petitioner's re-detention, Petitioner's continued detention violates the Due Process Clause.

IV. Immediate Release Is the Appropriate Remedy

The constitutional violation was complete when Respondents revoked Petitioner's previously granted liberty without constitutionally adequate procedures. Because that injury has already occurred, the traditional function of habeas corpus is to restore the liberty that was unlawfully taken. Immediate release is therefore the appropriate remedy.

In a factually indistinguishable case, this Court held that immediate release—not merely a future custody hearing—is the appropriate remedy where DHS unlawfully revokes a previously granted liberty interest. In *Hidalgo Gonzalez v. LaRose*, Case No. 3:26-cv-03561-GPC-GC (S.D. Cal. June 24, 2026), this Court concluded that a previously released noncitizen possessed a protected liberty interest that could not be revoked without constitutionally adequate process and ordered the petitioner's immediate release.

Other judges in this District have likewise reached the same conclusion, ordering immediate release under materially indistinguishable circumstances. See *Diego Gonzalez v. Casey*, Case No. 3:26-cv-03579-JO-DEB (S.D. Cal. June 26, 2026); *Nicolas-Jimenez v. LaRose*, Case No. 3:26-cv-03720-BJC-VET (S.D. Cal. July 8, 2026); *Nunez-Baron v. LaRose*, Case No. 3:26-cv-03822-AGS-JLB (S.D. Cal. July 10, 2026); *Velasquez-Lara v. LaRose*, Case No. 3:26-cv-03828-JES-JAC (S.D. Cal. July 14, 2026); *Garrillo Victora v. Warden, Imperial Regional Detention Facility*, Case No. 3:26-cv-03604-JO-JLB (S.D. Cal. July 15, 2026); *Francisco v. Casey*, Case No. 3:26-cv-03929-RBM-JLB (S.D. Cal. July 17, 2026); *Ramos-Garcia v. Casey*,

Case No. 3:26-cv-03957-BAS-DEB (S.D. Cal. July 20, 2026); and *Castillo-Toruno v. LaRose*, Case No. 3:26-cv-03977-BAS-VET (S.D. Cal. July 22, 2026). These decisions recognize that where DHS unlawfully revokes a previously granted liberty interest without constitutionally adequate procedures, the appropriate habeas remedy is restoration of that liberty through immediate release.

The same result is warranted here. Petitioner likewise was previously released from government custody, remained at liberty in the community for more than five years, and was re-detained without any identified violation of the conditions of his release, any materially changed circumstance, or any constitutionally adequate process preceding the revocation of his liberty.

Respondents identify no material factual or legal distinction between this case and *Hidalgo Gonzalez* and expressly acknowledge that this Court's prior decision "will control the result here" because "the facts are not materially distinguishable for purposes of the Court's decision." Respondents therefore do not oppose the Petition and defer to the Court regarding the appropriate relief.

Respondents nevertheless suggest that, if relief is granted, the Court should merely order a future custody hearing. That remedy does not fully redress the constitutional injury already inflicted. The Due Process Clause protects against the unlawful deprivation of liberty itself. Once that deprivation has occurred without constitutionally adequate procedures, habeas corpus restores the liberty that was unlawfully taken. A future custody hearing may determine whether continued detention is justified, but it does not remedy the unconstitutional revocation of Petitioner's previously granted liberty. Indeed, this Court has already rejected that very approach, ordering immediate release—not merely a future custody hearing—under materially indistinguishable circumstances.

Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release on the same terms and conditions under which he previously remained at liberty.

In the alternative, should the Court decline to order immediate release, Petitioner respectfully requests that the Court order a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that continued detention is necessary because Petitioner presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

V. Conclusion

For the foregoing reasons, Respondents have not established that Petitioner's continued detention complies with the Due Process Clause of the Fifth Amendment. Respondents identify no material factual or legal distinction between this case and this Court's decision in *Hidalgo Gonzalez v. LaRose* and expressly acknowledge that this Court's prior decision "will control the result here" because "the facts are not materially distinguishable for purposes of the Court's decision." Respondents therefore do not oppose the Petition and defer to the Court regarding the appropriate relief.

Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release on the same terms and conditions under which he previously remained at liberty.

In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order Respondents to provide a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

Petitioner further respectfully requests that, if the Court determines that the present record is sufficient to resolve the Petition, the Court vacate the Order to Show Cause hearing currently scheduled for July 31, 2026, at 1:30 p.m., and issue its ruling on the papers. Respondents have fully addressed the legal issues presented, expressly acknowledge that this

Court's prior decisions control the outcome because "the facts are not materially distinguishable for purposes of the Court's decision," do not oppose the Petition, and identify no factual dispute requiring an evidentiary hearing. The only remaining issue concerns the appropriate remedy, which has been fully briefed by the parties. Accordingly, Petitioner respectfully submits that no purpose would be served by oral argument unless the Court concludes that oral argument would materially assist its resolution of the Petition.

Respectfully Submitted.

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Counsel for Petitioner

Dated: July 24, 2026