

Victor Aguilar Olarte A241 320 011
 Name and Prisoner Number/Alien Registration Number
San Luis Regional Detention Center
 Place of Confinement
PO Box 7710
 Mailing Address
San Luis, AZ 85349
 City, State, Zip Code

☒ FILED	☐ LODGED
☐ RECEIVED	☐ COPY
APR 25 2025	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <u>[Signature]</u>	DEPUTY

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Victor Aguilar Olarte,
 (Full Name of Petitioner)

Petitioner,

v.

U.S. Immigration and Customs Enforcement, et al.
 (Name of Warden, Jailor or authorized person
 having custody of Petitioner)

Respondent.

CASE NO. CV-25-1400-PHX-JAT-- ESW
 (To be supplied by the Clerk)

**PETITION UNDER 28 U.S.C. § 2241
FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY**

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING
 TO FEDERAL AND/OR LOCAL RULES AND PRACTICES
 AND IS SUBJECT TO REJECTION BY THE COURT.

REFERENCE LRCiv 5.4
 (Rule Number/Section)

PETITION

- What are you challenging in this petition?
 - ☒ Immigration detention
 - ☐ Bureau of Prisons sentence calculation or loss of good-time credits
 - ☐ Probation, parole or supervised release
 - ☐ Other (explain): _____
- Name and location of the agency or court that made the decision you are challenging: ICE ERO San Diego / EOIR San Diego
 - Case or opinion number: [REDACTED]
 - Decision made by the agency or court: Grant of deferral under convention against torture. ICE/ERO refuses to release me even though I won my case.
 - Date of the decision: 12/19/2024

3. Did you appeal the decision to a higher agency or court? Yes ☐ No ☒

If yes, answer the following:

(a) First appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Second appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(c) Third appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

4. If you did not appeal the decision to a higher agency or court, explain why you did not: _____

I did not appeal because I won the only relief
available to me, deferral under CAT.

5. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? Yes ☒ No ☐

If yes, answer the following:

(a) Name of the agency or court: EOIR San Diego

(b) Date you filed: _____

(c) Opinion or case number: _____

(d) Result: Not eligible for bond

(e) Date of result: _____

(f) Issues raised: Motion for Custody Redetermination

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court.

GROUND ONE: I am being detained even though I have
won my immigration case.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

On December 19, 2024, Immigration Judge Paula Dixon
granted my application for deferral under the convention
against torture. The Department of Homeland Security
reserved appeal. No appeal was filed.

(b) Did you exhaust all available administrative remedies relating to Ground One? Yes ☒ No ☐

(c) If yes, did you present the issue to:

- ☐ The Board of Immigration Appeals
- ☐ The Office of General Counsel
- ☐ The Parole Commission
- ☒ Other: EOIR

(d) If you did not exhaust all available administrative remedies relating to Ground One, explain why:

GROUND TWO: U.S. Immigration and Customs Enforcement continues to hold me in detention even though I have no case pending or any likelihood of being removed to Colombia.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

I have been granted deferral under CAT. The Department of Homeland Security did not file an appeal. I cannot be removed to Colombia.

(b) Did you exhaust all available administrative remedies relating to Ground Two? Yes ☒ No ☐

(c) If yes, did you present the issue to:

- ☐ The Board of Immigration Appeals
- ☐ The Office of General Counsel
- ☐ The Parole Commission
- ☒ Other: ICE GRC

(d) If you did not exhaust all available administrative remedies relating to Ground Two, explain why:

GROUND THREE:

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Did you exhaust all available administrative remedies relating to Ground Three? Yes ☐ No ☐

(c) If yes, did you present the issue to:

- ☐ The Board of Immigration Appeals
☐ The Office of General Counsel
☐ The Parole Commission
☐ Other: _____

(d) If you did not exhaust all available administrative remedies relating to Ground Three, explain why:

[illegible]

GROUND FOUR: _____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

(b) Did you exhaust all available administrative remedies relating to Ground Four? Yes ☐ No ☐

(c) If yes, did you present the issue to:

- ☐ The Board of Immigration Appeals
☐ The Office of General Counsel
☐ The Parole Commission
☐ Other: _____

(d) If you did not exhaust all available administrative remedies relating to Ground Four, explain why:

[illegible]

Please answer these additional questions about this petition:

7. Are you challenging your conviction or sentence in any of the grounds raised above? Yes ☐ No ☒
(Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless the § 2255 motion is legally inadequate or ineffective.)

If yes, answer the following:

(a) Have you filed a motion under 28 U.S.C. § 2255? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: _____

(2) Case number: _____

(3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Explain why the remedy under § 2255 is inadequate or ineffective: _____

8. If this case concerns immigration removal proceedings, answer the following:

(a) Date you were taken into immigration custody: May 2, 2024

(b) Date of removal or reinstatement order: December 19, 2024

(c) Did you file an appeal with the Board of Immigration Appeals? Yes ☐ No ☒

(1) Date you filed: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(d) Did you file an appeal with the federal court of appeals? Yes ☐ No ☒

(1) Name of the court: _____

(2) Date you filed: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

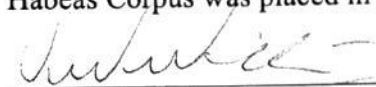
(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

9. Petitioner asks that the Court grant the following relief: Release from custody
or grant a hearing for bond.

or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on sector A similar clerk (month, day, year).


Signature of Petitioner

Signature of attorney, if any

21/04/2025
Date

PROOF OF SERVICE

On 4/21/25, I Victor Aguilar Olarte served a copy of this Respondent's Petition for Writ of Habeas Corpus Under 28 USC 2241 to the US Immigrations and Customs Enforcement to:

7488 Calzada de la Fuente San Diego CA 92154

Victor Aguilar Olarte

Signature

21/04/2025

Date:



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:

AGUILAR OLARTE, VICTOR ALFONSO

To:

Brambila, Jose Antonio
2727 Camino del Rio S 320
San Diego, CA 92108

A-Number:

241320011

Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

12/19/2024

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on 12/19/2024. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☒ removable ☐ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(I)

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under the Convention Against Torture was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Deferral of Removal under the Convention Against Torture was ☒ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:

- ☐ Further information regarding voluntary departure has been added to the record.

- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- ☐ the presumptive civil monetary penalty amount of \$3,000.00 USD
- ☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of

nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

- ☒ Respondent was ordered removed to Colombia
- ☐ In the alternative, Respondent was ordered removed to
- ☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.
- ☐ Respondent's status was rescinded under INA § 246.
- ☐ Other:



Immigration Judge: DIXON, PAULA 12/19/2024

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☒ waived ☐ reserved

Appeal Due: 01/21/2025

Certificate of Service

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To: [] Noncitizen | [] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS
Respondent Name : AGUILAR OLARTE, VICTOR ALFONSO | A-Number : 241320011

Riders:

Date: 12/19/2024 By: Alilin, Vanessa, Court Staff