

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

Osman Alberto ALMENDAREZ CARCAMO,

Petitioner,

v.

Christopher J. LAROSE, *in his official capacity*
as Warden of Stewart Detention Center;
Patrick DIVVER, *in his official capacity as*
San Diego Field Office Director, ICE Enforcement
Removal Operations; Todd LYONS, *in his official*
capacity as Acting Director of Immigration and
Customs Enforcement; and Kristi NOEM, *in her*
official capacity as Secretary of Homeland Security,

Respondents.

Case No. '25CV2041 W SBC

**PETITION FOR WRIT
OF HABEAS CORPUS**

A# 

I. INTRODUCTION

1. Petitioner Osman Alberto Almendarez Carcamo ("Mr. Almendarez") is a 35-year-old Honduran national who first entered the United States in 2005 at the age of fifteen. He has resided in eastern North Carolina for roughly twenty years. He is divorced and supports three children, all of whom are U.S. citizens.

2. On July 14, 2025, an Immigration Judge ("IJ") ordered Mr. Almendarez released on a \$5,500 bond with electronic monitoring, finding he poses neither danger to the community nor flight risk. No additional conditions were imposed.

3. The bond was posted on July 14, 2025, yet Immigration and Customs Enforcement ("ICE") refused to accept the bond and release him, asserting it intended to appeal and that release would be automatically stayed under 8 C.F.R.

§ 1003.19(i)(2).

4. On July 25, 2025 (docketed July 29, 2025), DHS filed a notice of appeal with senior-official certification with the Board of Immigration Appeals (“BIA”) triggering a ninety-day automatic stay pursuant to § 1003.19(i)(2). Mr. Almendarez remains confined at Otay Mesa Detention Center in San Diego, California.

5. The automatic-stay regulation exceeds any authority Congress conferred in the Immigration and Nationality Act (“INA”) and violates the Fifth Amendment’s Due Process Clause.

6. Mr. Almendarez therefore seeks a writ of habeas corpus directing his immediate release.

II. VENUE AND JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

8. Venue lies in this Division because Mr. Almendarez is detained in Otay Mesa Detention Center, within the San Diego Division, and Respondent LaRose is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner Osman Alberto Almendarez Carcamo (“Mr. Almendarez”) is a 35-year-old Honduran national who resides in Magnolia, North Carolina. He is currently detained at the Otay Mesa Detention Center in San Diego, California.

10. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. As such, Respondent is responsible for the operation of the

Detention Center where Mr. Almendarez is detained. Because ICE contracts with private prisons such as Otay Mesa to house immigration detainees such as Mr. Almendarez, Respondent LaRose has immediate physical custody of the Petitioner.

11. Respondent Patrick Divver is the San Diego Field Office Director (“FOD”) for ICE Enforcement and Removal Operations (“ERO”). As such, Respondent Divver is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Divver is being sued in his official capacity.

12. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (“ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. Moreover, ICE’s refusal to honor the IJ’s bond order leaves no administrative avenue to secure release; additional agency steps would be futile.

15. Mr. Almendarez has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action

V. STATEMENT OF FACTS

16. Mr. Almendarez is a Honduran national born on [REDACTED]. He entered the United States without inspection in 2005, when he was fifteen years old, and has lived continuously in North Carolina for the past twenty years. He resides in Magnolia, Duplin County, North Carolina.

17. Mr. Almendarez supports three United-States-citizen children—[REDACTED] (born [REDACTED]), [REDACTED] (born [REDACTED]), and [REDACTED] (born [REDACTED])—as well as his mother, Elsa Oneida Carcamo Caballero, a lawful-permanent resident (“LPR”) born on [REDACTED].

18. Since 2010, Mr. Almendarez has been employed full-time as a translator and cultural liaison for Rose Hill Funeral Home in Rose Hill, North Carolina.

19. On May 3, 2025, a Wilmington Police Department officer stopped Mr. Almendarez for a minor traffic infraction approximately sixty miles from his home. Officers discovered a 2022 child-support warrant of which he was unaware. Upon arrival at the station, Mr. Almendarez telephoned his mother, who paid the arrears immediately; nevertheless, local authorities honored an ICE detainer and transferred him to ICE custody.

20. On May 8, 2025, ICE transported Mr. Almendarez to Stewart Detention Center in Lumpkin, Georgia, a privately operated CoreCivic facility, placing him more than five hundred fifty miles from his family.

21. Within weeks, ICE moved Mr. Almendarez across the country to the CoreCivic-run Otay Mesa Detention Center in San Diego, California, where he remains confined under the supervision of Respondent LaRose.

22. Removal defense counsel filed a written motion for custody redetermination on July 7, 2025. Following a full evidentiary hearing on July 14, 2025, Immigration Judge Mark Sameit rejected ICE's argument that every entrant without inspection ("EWI") is an "Applicant for Admission" subject to mandatory detention and granted release on a \$5,500 bond with electronic monitoring (ATD). **(Exhibit A, Immigration Judge's Bond Packet).**

23. On July 15, 2025, Mr. Almendarez's mother attempted to tender the full \$5,500 bond, but ICE simultaneously filed Form EOIR-43 ("Notice of DHS Intent to Appeal Custody Redetermination"), triggering a provisional automatic stay contained in 8 C.F.R. § 1003.19(i)(2). **(Exhibit B, Form EOIR-43:).** On July 16, 2025, ICE denied the bond payment request due to a pending result of DHS Appeal.

24. On July 25, 2025, ICE filed its formal notice of appeal, together with the senior-official certification required to extend the automatic stay; the BIA docketed the appeal on July 29, 2025, and directed both parties to file briefs by August 25, 2025. **(Exhibit C, Notice of Appeal with Senior-Official Certification).** No discretionary stay has been requested by ICE or issued by the BIA. **(Exhibit D, BIA Briefing Schedule Notice, requiring party briefs by August 25, 2025).**

25. Mr. Almendarez is pursuing cancellation of removal under 8 U.S.C. § 1229b(b)(1) based on exceptional-and-extremely-unusual hardship to his U.S.-citizen children and LPR mother. His next master-calendar hearing is scheduled in person on August 15, 2025, at 1:00 p.m. before Immigration Judge Guy G. Grande at 7488 Calzada de la Fuente, San Diego, California. **(Exhibit E, EOIR Notice of Hearing).**

26. Mr. Almendarez remains detained solely because the automatic-stay regulation blocks execution of Judge Sameit's bond order, even though bond can be posted and no stay has been granted by the BIA or any court. He now seeks habeas relief because continued detention under 8 C.F.R. § 1003.19(i)(2) exceeds statutory authority and violates the Fifth Amendment.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

27. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

28. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553 U.S. 723, 779–

80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

VII. CAUSES OF ACTION

COUNT ONE THE REGULATION IS *ULTRA VIRES*

29. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

30. The Immigration and Nationality Act, 8 U.S.C. § 1226(a), authorizes discretionary detention subject to an Immigration Judge’s bond decision; it does not authorize Immigration and Customs Enforcement to nullify that judicial decision by administrative fiat.

31. Regulation 8 C.F.R. § 1003.19(i)(2) purports to impose an automatic stay that takes effect the moment ICE files—or merely intends to file—a notice of appeal, without any neutral review or individualized findings.

32. By turning discretionary custody into de facto mandatory detention for detainees not subject to 8 U.S.C. § 1226(c), § 1003.19(i)(2) exceeds the statutory power Congress delegated.

33. Detention premised solely on this ultra vires regulation is “not in accordance with law,” “in excess of statutory jurisdiction,” and “arbitrary [and] capricious” under 5 U.S.C. § 706(2), entitling Petitioner to immediate release.

COUNT TWO
(PROCEDURAL DUE PROCESS)

34. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

35. The Fifth Amendment forbids a deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

36. Subsection 1003.19(i)(2) strips Petitioner of that protection by allowing the prosecuting agency—after losing at the bond hearing—to veto the Immigration Judge's order with a one-page notice that requires no showing of danger, flight risk, or likelihood of success on appeal.

37. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test, Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering the Immigration Judge's determination that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955). In filing the Form EOIR-43, ICE is acting as both the prosecutor as well as the adjudicator. Lastly, the interest of the government in being able to invoke the challenged regulation is minimal, as there is a substitute administrative provision available. Under 8 C.F.R. §1003.19(i)(1), DHS may request an emergency stay from the BIA on the merits of the Immigration Judge's decision to release Petitioner on bond.

COUNT THREE
(SUBSTANTIVE DUE PROCESS)

38. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

39. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

40. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

41. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

42. Once the Immigration Judge found Petitioner neither dangerous nor a flight risk and set a bond that his mother immediately posted, the Government’s lawful objectives were satisfied; continued confinement therefore bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary.

43. The regulation is also excessive because an alternative provision enables

ICE to seek an emergency stay of the immigration judge's release order on the merits. The "emergency stay" provision at 8 C.F.R. § 1003.19(i)(1) permits ICE to file an emergency request for a stay of release with the BIA, just as in any other proceeding in which the losing party seeks appellate review of an adverse decision and a stay pending appeal.

44. The continued detention of Petitioner pursuant to the "automatic stay" regulation violates his due process rights. *See Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 U.S. Dist. LEXIS 117197, at *15 (D. Minn. June 17, 2025); *Günaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 U.S. Dist. LEXIS 99237 (D. Minn. May 21, 2025). But for intervention by this Court, Petitioner has no means of release pending ICE's appeal.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 8th day of August, 2025.

/s/Andrew Kenneth Nietor
Law Office of Andrew K. Nietor
750 B St., Ste. 2330
San Diego, CA 92101
CA Bar # 208784
Attorney for Petitioner

/s/Jeremy Layne McKinney
McKinney Immigration Law
910 N. Elm St. (POB 1800)
Greensboro, NC 27401 (27402)
NC Bar # 23318
*Motion to Appear Pro Hac Vice
Forthcoming*

EXHIBIT A



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

Respondent Name:

ALMENDAREZ CARCAMO, OSMAN
ALBERTO

To:

Arroyo Longoria, Dara
PO BOX 1800
Greensboro, NC 27402

A-Number:

204-601-963

Riders:

In Custody Redetermination Proceedings

Date:

07/14/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☐ Denied, because

☐ Granted. It is ordered that Respondent be:

- ☐ released from custody on his own recognizance.
- ☒ released from custody under bond of \$ 5,500.00
- ☒ other:
and ATD at the discretion of DHS.

☐ Other:



Immigration Judge: SAMEIT, MARK 07/14/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☒ waived ☐ reserved
Appeal Due: 08/13/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Noncitizen | [] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS

Respondent Name : ALMENDAREZ CARCAMO, OSMAN ALBERTO | A-Number : 204-601-963

Riders:

Date: 07/14/2025 By: Rosa Rodriguez, Court Staff

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
7488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154

McKinney Immigration Law
Arroyo Longoria, Dara
PO BOX 1800
Greensboro, NC 27402

In the matter of File A 204-601-963 DATE: Jul 31, 2025
ALMENDAREZ CARCAMO, OSMAN ALBERTO

- ___ Unable to forward - No address provided.
- ___ Attached is a copy of the decision of the Immigration Judge. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:
Board of Immigration Appeals
Office of the Clerk
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041
- ___ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242b(c) (3) of the Immigration and Nationality Act, 8 U.S.C. § 1252b(c) (3) in deportation proceedings or section 240(b) (5) (C), 8 U.S.C. § 1229a(b) (5) (C) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:
IMMIGRATION COURT
7488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154
- ___ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g) (1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA §242.
- ___ Attached is a copy of the decision of the immigration judge relating to a Credible Fear Review. This is a final order. No appeal is available.
- ☒ Other: ORDER OF THE IMMIGRATION JUDGE

RR
COURT CLERK
IMMIGRATION COURT

FF

cc: MUBARAKI, MONICA, ASSISTANT CHIEF COUNSEL
880 FRONT STREET, ROOM #2246
SAN DIEGO, CA, 921010000

**7488 Calzada de la Fuente
San Diego, California 92154**

IN BOND PROCEEDINGS

**ON BEHALF OF THE DEPARTMENT
OF HOMELAND SECURITY:**

Antonia Estrada, Assistant Chief Counsel
P.O. Box 438150
San Diego, California 92143

BOND MEMORANDUM OF THE IMMIGRATION JUDGE

On July 7, 2025, Respondent filed a bond redetermination request with this Court. On July 14, 2025, the Court conducted a custody redetermination hearing. After determining the Court had jurisdiction, it found that Respondent had met his burden to show that he does not pose a danger to the community, but found that he did present a risk of flight which could be mitigated with bond and Alternatives to Detention. The Court granted Respondent's release with a \$5,500 bond. *See* Order of the Immigration Judge, July 14, 2025. On July 15, 2025, the Department filed form EOIR-43, indicating its intent to appeal the Court's custody order. *See* Form EOIR-43, July 15, 2025. The Court provides this memorandum to facilitate review of the Department's appeal. *See* EOIR Policy Man., Part II, Ch. 9.3(e)(7).

At the outset of the hearing, the Department argued that the Court lacked jurisdiction to redetermine Respondent's custody because the Respondent is an "applicant for admission." However, the Department did not cite any authority for this argument. *See Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980) (holding that statements made by counsel are not evidence). The Department's evidence indicates that the Respondent entered the United States at an unknown time and place and was taken into custody at the Duplin County Jail pursuant to an ICE detainer. Exh. 3 at 4, 12. Based on this evidence, the Court found that the Respondent was not detained "while arriving in the United States" pursuant to a warrantless arrest, as envisioned in *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025). Additionally, the Department's evidence indicates that the Department served Respondent with Forms I-200 and I-286 upon the Respondent's detention. Exh. 3 at 14. Upon issuance of the Notice to Appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest, and an immigration official may issue a Form I-286, Notice of Custody Determination. 8 C.F.R. § 1236.1(b), (g). The

issuance of a Form I-200 is pursuant to section 236 of the INA. 8 C.F.R. §§ 1236.1(a) (“The issuance of detainees under this section shall be governed by the provisions of §287.7 of 8 CFR chapter I.”), 287.7(a) (“Detainers are issued pursuant to sections 236 and 287 of the Act”). Absent evidence of unreliability, information on an authenticated immigration form is presumed reliable. *Espinoza v. INS*, 45 F.3d 308, 310 (9th Cir. 1995). As such, the Court found the statements contained within the Form I-213 indicating the Department’s issuance of Forms I-200 and I-286 to be reliable. *See id.*; (Exh. 3, at 12). Based on this evidence, the Court determined that the Respondent is detained pursuant to section 236(a) of the INA and that the Court did have jurisdiction to consider his custody status.

A respondent in a custody redetermination hearing under INA section 236(a) must establish to the satisfaction of the Immigration Judge that he does not present a danger to persons or property, is not a threat to national security, and does not pose a risk of flight. *See Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). In determining whether a respondent merits release from custody, the Immigration Judge may consider various factors, as well as the amount of bond that is appropriate, and may consider any evidence that is probative and specific. *Matter of Guerra*, 24 I&N Dec. 37, 40-41 (BIA 2006).

The Immigration Judge has broad discretion in deciding which factors to consider in custody redeterminations and may choose to give greater weight to one factor over others, as long as the decision is reasonable. *Guerra*, 24 I&N Dec. 40 at 40-41. These factors may include any or all of the following: (1) whether the respondent has a fixed address in the United States; (2) length of residence in the United States; (3) family ties in the United States, and whether they may entitle the respondent to reside permanently in the United States in the future; (4) employment history; (5) record of appearance in court; (6) criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) history of immigration violations; (8) any attempts to flee prosecution or otherwise escape from authorities; and (9) the manner of entry to the United States. *Id.* (citations omitted); *see also Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011) (noting that the recency and severity of criminal offenses must be considered, because criminal history alone is not always grounds for denial of bond). A respondent who is likely to abscond is a poor bail risk and does not merit release on bond. *Guerra*, 24 I&N Dec. at 40. Dangerous respondents are properly held without bond; the Immigration Judge should only determine a bond amount upon which the respondent may be released if he is not a danger to the community. *Id.* at 38; *see also Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009).

First, the Court found that Respondent does not pose a danger to the community. In his 20 years of residence in the United States, the Respondent’s only criminal history includes traffic infractions and an arrest for child support arrearage. Exh. 2. The Court observed that neither party alleged the Respondent presented a danger. Second, the Court determined that the Respondent presents some risk of flight because of his manner of entry and the limited relief available to him.


However, the Respondent possesses various positive factors which mitigate his risk of flight. Namely, he has extensive family ties in the United States, including three United States citizen children, a United States citizen brother, and a lawful permanent resident mother. Exh. 2. The Respondent received his education in the United States. He resides with his mother, who is also his sponsor. He has steady employment as a translator. Furthermore, he complied with a

court order to pay child support, which is evidence that Respondent will comply with any future court orders and attend hearings. Exh. 2. Furthermore, Respondent has an incentive to attend his immigration hearings because he is pursuing relief in the form of cancellation of removal. As such, the Court determined that a bond of \$5,500 would ensure his appearance at future hearings.

In making its determination, the Court considered all the information, evidence, and arguments presented by the parties. *See Matter of Guerra*, 24 I&N Dec. at 40. The Court found that Respondent does not pose a danger to the community, but that he presents a risk of flight. *See id.* Accordingly, the Court granted his request for a change in his custody status and imposed a \$5,500 bond with Alternatives to Detention at the Department's discretion.

Dated:

7/31/25



Mark Sameit
Immigration Judge

EXHIBIT B

U.S. Department of Justice
Executive Office for Immigration Review

**Notice of ICE Intent to Appeal Custody
Redetermination**

Date: July 15, 2025

Alien Number: 204-601-963

Alien Name: Osman Alberto Almendarez-Carcamo

1. Immigration and Customs Enforcement (ICE) has:

☒ a. Held the respondent without bond.

☐ b. Set the respondent's bond at \$ _____.

2. The Immigration Judge on 07/14/2025
(Date)

☐ a. Authorized the respondent's release.

☒ b. Redetermined the ICE bond to \$ No 5,500.

3. Filing this form on 07/15/2025
(Date) automatically stays the
Immigration Judge's custody redetermination decision. See 8 C.F.R. §1003.19(i)(2).

4. The stay shall lapse if ICE does not file a notice of appeal along with appropriate certification within ten business days of the issuance of the order of the Immigration Judge, or upon ICE's withdrawal of this notice, or as set forth in 8 C.F.R. §1003.6(c)(4) and (5).

See 8 C.F.R. §1003.6(c)(1).

ANTONIO
ESTRADA
Antonio Estrada
ICE Counsel

Digitally signed by ANTONIO
ESTRADA
Date: 2025.07.15 15:00:36 -07'00'

I, Antonio Estrada
(Name), served the Notice of ICE Intent to Appeal Custody Redetermination on

Dara Arroyo-Longoria, via ECAS, on 07/15/2025
(Respondent or Respondent's Representative) (Date)

ANTONIO
ESTRADA

Digitally signed by ANTONIO
ESTRADA
Date: 2025.07.15 14:59:59 -07'00'

Signature

EXHIBIT C

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB# 1125-0002

Notice of Appeal from a Decision of an
Immigration Judge

1. Staple Check or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):
Osman Alberto ALMENDAREZ-CARCAMO A204-601-963

For Official Use Only



WARNING: Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

2. I am ☐ the Respondent/Applicant ☒ DHS-ICE (Mark only one box.)

3. I am ☒ DETAINED ☐ NOT DETAINED (Mark only one box.)

4. My last hearing was at Otay Mesa Immigration Court, Otay Mesa, California (Location, City, State)

5. What decision are you appealing?

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☐ I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated _____.

☒ I am filing an appeal from the Immigration Judge's decision *in bond proceedings* dated 07/14/2025. (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☒ Yes. ☐ No.)

☐ I am filing an appeal from the Immigration Judge's decision *denying a motion to reopen or a motion to reconsider* dated _____.

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

Osman Alberto ALMENDAREZ-CARCAMO A204-601-963

Please see attached Form EOIR-26 Continuation Page.

(Attach additional sheets if necessary)



WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☒ No
8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☒ Yes ☐ No
9. If you are unrepresented, do you give consent to the BIA Pro Bono Project to have your case screened by the Project for potential placement with a free attorney or accredited representative, which may include sharing a summary of your case with potential attorneys and accredited representatives? ☐ Yes ☐ No
(There is no guarantee that your case will be accepted for placement or that an attorney or accredited representative will accept your case for representation)



WARNING: If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

10. **Print Name:** Antonio Estrada

11. **Sign Here:**

X ANTONIO ESTRADA Digitally signed by ANTONIO ESTRADA
Date: 2025.07.25 15:39:32 -07'00'

07/25/2025

Signature of Person Appealing
(or attorney or representative)

Date

12. Mailing Address of Respondent(s)/Applicant(s)

Osman Alberto Almendarez-Carcamo
(Name)

7488 Calzada de la Fuente
(Street Address)

(Apartment or Room Number)
San Diego, CA 92154
(City, State, Zip Code)

(Telephone Number)

11. Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)

Dara Arroyo-Longoria
(Name)

PO BOX 1800
(Street Address)

(Suite or Room Number)
Greensboro, NC 27402
(City, State, Zip Code)

336-275-5885
(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).


13. PROOF OF SERVICE (You Must Complete This)

I Antonio Estrada, Assistant Chief Counsel mailed or delivered a copy of this Notice of Appeal
(Name)

on 07/25/2025 to Osman Alberto Almendarez-Carcamo/Dara Arroyo-Longoria
(Date) (Opposing Party)

at 7488 Calzada de la Fuente, San Diego, CA 92154/ PO BOX 1800, Greensboro, NC 27402
(Number and Street, City, State, Zip Code)

☐ No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

SIGN HERE  **X ANTONIO ESTRADA**
Digitally signed by ANTONIO ESTRADA
Date: 2025.07.25 15:40:07 -07'00'

Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee payment receipt, fee, or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- | | |
|--|--|
| <input type="checkbox"/> Read all of the General Instructions. | <input type="checkbox"/> Served a copy of this form and all attachments on the opposing party, if applicable. |
| <input type="checkbox"/> Provided all of the requested information. | <input type="checkbox"/> Completed and signed the Proof of Service |
| <input type="checkbox"/> Completed this form in English. | <input type="checkbox"/> Attached the required fee payment receipt, fee, or |
| <input type="checkbox"/> Provided a certified English translation for all non-English attachments. | <input type="checkbox"/> Fee Waiver Request. |
| <input type="checkbox"/> Signed the form. | <input type="checkbox"/> If represented by attorney or representative, attach a completed and signed EOIR-27 for each respondent or applicant. |

Osman Alberto ALMENDAREZ-CARCAMO A204-601-963

(Form EOIR-26, Notice of Appeal – Continuation of Item #6)

1. The Department of Homeland Security (DHS) is appealing the decision of the Immigration Judge dated July 14, 2025, ordering the respondent released from DHS custody pursuant to INA § 236(a). The respondent, who is present in the United States without admission or parole, is an applicant for admission in INA § 240 removal proceedings and is therefore detained pursuant to INA § 235(b)(2)(A). An “applicant for admission” is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). INA § 235 is the applicable immigration detention authority for all applicants for admission.

Applicants for admission “fall into one of two categories, those covered by [INA § 235(b)(1)] and those covered by [INA § 235(b)(2)].” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). INA § 235(b)(1) applies to aliens subject to expedited removal. *See* INA § 235(b)(1)(B)(ii), (iii)(IV); *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) (holding that aliens present without admission or parole placed in expedited removal and later transferred to INA § 240 removal proceedings after establishing a credible fear of persecution or torture are subject to detention under INA § 235(b)(1) and are ineligible for release under INA § 236).

On the other hand, INA § 235(b)(2) “is broader” and “serves as a catchall provision that applies to all applicants for admission not covered by [INA § 235(b)(1)].” *Jennings*, 583 U.S. at 287; *see* INA § 235(b)(2)(A), (B). Under INA § 235(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” INA § 235(b)(2)(A).

Aliens detained pursuant to INA § 235 may only be released pursuant to DHS’s discretionary parole authority under INA § 212(d)(5). Nevertheless, the Immigration Judge ordered the respondent’s release from DHS custody pursuant to INA § 236(a).

2. Alternatively, the Immigration Judge erred in determining that respondent’s flight risk could be mitigated through a \$5,500 bond. In a custody redetermination hearing, an alien must establish to the satisfaction of the Immigration Judge that he or she does not present a danger to others, a threat to the national security, or a flight risk, the Immigration Judge has wide discretion in deciding the factors that may be considered. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). The respondent claims that he will seek EOIR42B Application for Cancellation of Removal for Non-Permanent Residents as relief for removal. However, the respondent did not present sufficient evidence to support his eligibility for said relief. Additionally, the respondent has been present in the U.S. unlawfully for many years. This, coupled with his criminal arrest, shows that the respondent has a blatant disregard for the law. The respondent’s speculate relief, coupled with his disregard for the law show that the respondent is a flight risk such that no amount of bond can mitigate the flight risk. As such, the Immigration Judge wrongly granted respondent a bond.

3. The DHS reserves the right to appeal any other issue that may arise upon examination of the record of bond proceedings and the Immigration Judge’s written bond memorandum.

204-601-963

EOIR-43 Senior Legal Official Certification

I certify that I have approved the filing of the notice of appeal in this case according to review procedures established by U.S. Immigration and Customs Enforcement, Department of Homeland Security.

I further certify that I am satisfied that the evidentiary record supports the contentions justifying the continued detention of the noncitizen and the legal arguments are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing precedent or the establishment of new precedent. Further, the legal argument, specifically warranted above, may be premised on the noncitizen being subject to the prohibition from release from DHS custody pursuant to section 236(c) of the Immigration and Nationality Act, 8 U.S.C. § 1226(c).

7/16/2025

Date

JASON B
AGUILAR

Digitally signed by JASON B
AGUILAR
Date: 2025.07.16 16:30:47
-07'00'

Jason Aguilar
Chief Counsel
U.S. Immigration and Customs
Enforcement



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

Respondent Name:

ALMENDAREZ CARCAMO, OSMAN
ALBERTO

To:

Arroyo Longoria, Dara
PO BOX 1800
Greensboro, NC 27402

A-Number:

204-601-963

Riders:

In Custody Redetermination Proceedings

Date:

07/14/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☐ Denied, because

- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☒ released from custody under bond of \$ 5,500.00
 - ☒ other:
and ATD at the discretion of DHS.

☐ Other:



Immigration Judge: SAMEIT, MARK 07/14/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☒ waived ☐ reserved
Appeal Due: 08/13/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Noncitizen | [] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS

Respondent Name : ALMENDAREZ CARCAMO, OSMAN ALBERTO | A-Number : 204-601-963

Riders:

Date: 07/14/2025 By: Rosa Rodriguez, Court Staff

EXHIBIT D



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

McKinney, Jeremy L
McKinney Immigration Law
PO Box 1800
Greensboro, NC 27402

DHS/ICE Office of Chief Counsel - OTM
P.O.Box 438150
San Diego, CA 92143

Name:
ALMENDAREZ CARCAMO, OSMAN ALBERTO

A 204-601-963

Type of Proceeding: Removal

Date of this notice: 8/4/2025

Type of Appeal: Bond Appeal

Filed By: DHS

NOTICE -- BRIEFING SCHEDULE

- o Enclosed is a copy of the decision of the Immigration Judge. If you are receiving this notice electronically, the Immigration Judge's decision is viewable online in the electronic record of proceedings.
- o Appealing party is granted until 8/25/2025 to submit a brief to the Board of Immigration Appeals. The brief must be **RECEIVED** at the Board on or before this date.
- o Opposing party is granted until 8/25/2025 to submit a brief to the Board of Immigration Appeals. The brief must be **RECEIVED** at the Board on or before this date.
- o **BOND** - Transcripts are not prepared for appeals from an Immigration Judge's decision in bond proceedings. If you wish to listen to the audio recording of the custody hearing or obtain copies of audio recordings, you should contact the Immigration Court for assistance. You may also address the need for a transcript in your brief to the Board.

WARNING: If you indicate on the Notice of Appeal (Form EOIR-26) that you will file a brief or statement, you are expected to file a brief or statement in support of your appeal. If you fail to file a brief or statement within the time set for filing in this briefing schedule, the Board of Immigration Appeals (Board or BIA) may summarily dismiss your appeal. See 8 C.F.R. § 1003.1(d)(2)(i)(E).

If you are the respondent/applicant and you received this notice, you are not represented by an attorney or accredited representative. An attorney or accredited representative must file a Notice of Entry of Appearance (Form EOIR-27) to represent you. 8 C.F.R. §§ 1003.3(a)(3) and 1003.38(g). Until a Form EOIR-27 is received, you are responsible for submitting a brief, and any submissions by anyone other than you will be rejected.

FILING INSTRUCTIONS – In General.

IMPORTANT: Briefs and other submissions should always be paginated. Parties should limit their briefs to 30 pages unless directed by the Board. For spacing, parties should use double-spaced text and single-spaced footnotes. Parties are reminded to consult Chapter 3 (Filing with the Board) and Chapter 4.6 (Appeal Briefs) of the BIA Practice Manual, found within EOIR's Policy Manual, which is available on EOIR's website at www.justice.gov/eoir.

Motions to accept briefs that exceed the page limitation established by the Board are disfavored, and will not be granted absent a showing of extraordinary and compelling circumstances. If a party files a motion to increase the page limit, the motion and the brief need to be filed together.

The Board has included two copies of this notice. Please attach/submit one copy of this notice to the front of your brief when you mail or deliver it to the Board, and keep one for your records. Thank you for your cooperation.

The parties may address any allegations of transcript error or deficiency in the appeal brief. See Chapter 4.2(f)(3) (Defects in the transcript) of the BIA's Practice Manual, found within EOIR's Policy Manual available on EOIR's website at www.justice.gov/eoir. Please note defects do not excuse the parties from existing briefing deadlines. Those deadlines remain in effect until the parties are notified otherwise. See Chapter 4.7(c) (Extensions) of the BIA's Practice Manual.

A fee is not required for the filing of a brief. Your brief must be RECEIVED at the Clerk's Office at the Board of Immigration Appeals within the prescribed time limits. As a reminder, electronic filing through ECAS is mandatory for attorneys and accredited representatives appearing as practitioners of record (filed a Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27)), as well as for DHS in every case that is eligible for electronic filing. See 8 C.F.R. §§ 1003.2(g)(4), 1003.3(g)(1), 1003.31(a).

Where electronic filing is not required, use of an overnight courier service to the address listed in the **FILING ADDRESS** section below is encouraged to ensure timely filing.

It is NOT sufficient simply to mail the brief and assume your brief will arrive on time. We strongly urge the use of an overnight courier service to ensure the timely filing of your brief.

If you have any questions about how to file something at the Board, please review the BIA Practice Manual, found within EOIR's Policy Manual available on EOIR's website at www.justice.gov/eoir.

Certificate of service on the opposing party at the address above is required for ALL submissions to the Board of Immigration Appeals – including correspondence, forms, briefs, motions, and other documents. If you are the Respondent or Applicant, the "Opposing Party" is the DHS Counsel or the Director for HHS/ORR at the address shown above. Your certificate of service must clearly identify the document sent to the opposing party, the opposing party's name and address, and the date it was sent to them. Any submission filed with the Board without a certificate of service on the opposing party will be rejected.

FILING INSTRUCTIONS – Extension Request.

Extension requests must be RECEIVED by the Board by the brief's original due date; however, requests filed the same day as a brief is due are particularly disfavored and granted only in the most compelling of circumstances. Extension requests received after the due date will not be granted.

Unless you receive a Board Notice granting your extension request, your brief will remain due on the date stated above.

Extensions of briefing time are not favored. There is no automatic entitlement to an extension of the briefing schedule by either party. See Chapter 4.7(c) (Extensions) of the BIA's Practice Manual, found within EOIR's Policy Manual available on EOIR's website at www.justice.gov/eoir. It is also the Board's policy not to grant second briefing extension requests. Second requests are granted only in extraordinary circumstances.

All extension requests must be in writing. Telephonic, e-mail, or fax request will not be accepted.

FILING INSTRUCTIONS -- REMINDER

Electronic filing through ECAS is mandatory for attorneys and accredited representatives appearing as practitioners of record (filed a Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27)), as well as for DHS in every case that is eligible for electronic filing. See 8 C.F.R. §§ 1003.2(g)(4), 1003.3(g)(1), 1003.31(a).

Where electronic filing is not required, use of an overnight courier service to the address below is encouraged to ensure timely filing.

FILING ADDRESS:

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

Business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m.

Userteam: 

EXHIBIT E

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

LEAD FILE: 204-601-963
IN REMOVAL PROCEEDINGS
DATE: Jul 23, 2025

TO:

ALMENDAREZ CARCAMO, OSMAN ALBERTO
OTAY MESA DETENTION CENTER
7488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154

RE: 204-601-963 ALMENDAREZ CARCAMO, OSMAN ALBERTO

Notice of In-Person Hearing

Your case has been scheduled for a MASTER hearing before the immigration court on:

Date: Aug 15, 2025
Time: 1:00 P.M. PT
Court Address: 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

Failure to Appear: If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

Change of Address: The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by completing the enclosed paper form and mailing it to the immigration court listed above.

Internet-Based Hearings: If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

In-Person Hearings: If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call **1-800-898-7180** (toll-free) or **304-625-2050**.

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL ☐ [M] PERSONAL SERVICE ☐ [P] ELECTRONIC SERVICE ☒ [E]

TO: ☐ [] Noncitizen | ☐ [M] Noncitizen c/o Custodial Officer |

☐ [] Noncitizen ATT/REP | ☐ [M/E] DHS

DATE: **7/23/2025**

BY: COURT STAFF: **EG**

Attachments: ☐ [] EOIR-33 ☐ [] Appeal Packet ☐ [] Legal Services List ☐ [] Other NH

Use a smartphone's camera to scan the code on this page to read the notice online.

Usa la cámara de un teléfono inteligente para escanear el código de esta página y leer el aviso en línea.

Use a câmara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

使用智能手机摄像头扫描本页面的代码，即可在线阅读该通知。

ਨੋਟਿਸ ਨੂੰ ਆਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੇਜ 'ਤੇ ਕੋਡ ਨੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পേজের কোডটি স্ক্যান করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন

सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane kòd ki nan paj sa a pou li avi a sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في هذه الصفحة لقراءة الإشعار على الإنترنت

Чтобы прочитать уведомление онлайн, отсканируйте код на этой странице с помощью камеры вашего смартфона.

Utilisez l'appareil photo d'un téléphone intelligent pour scanner le code sur cette page afin de lire l'avis en ligne.



I. (a) PLAINTIFFS

DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

Attorneys (If Known)

'25CV2041 W SBC

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

[Click here for: Nature of Suit Code Descriptions.](#)

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
28 U.S.C. 2241(c)(1)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND S

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

(See instructions):

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

/s/Andrew Nietor

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1 ADAM GORDON
United States Attorney
2 ERIN M. DIMBLEBY
Assistant U.S. Attorney
3 California Bar No. 323359
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Tel: (619) 546-6987
Fax: (619) 546-7751
6 Email: Erin.Dimbleby@usdoj.gov

7 Attorneys for Respondents

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

10
11 OSMAN ALBERTO ALMENDAREZ
CARCAMO,

12 Petitioner,

13 v.

14 CHRISTOPHER J. LAROSA; et al.,

15 Respondents.
16

Case No.: 25-cv-2041-GPC-SBC

JOINT MOTION TO VACATE

17
18
19
20 The parties, through their respective counsel of record, respectfully request an
21 order vacating the current briefing schedule and the hearing set for August 25, 2025.
22 On August 8, 2025, Petitioner filed a petition for writ of habeas corpus. ECF No. 1. On
23 August 12, 2025, the Court issued an order setting certain deadlines for the filing of
24 Respondent's return and Petitioner's traverse, and setting a hearing for August 25, 2025
25 at 2:30 p.m. ECF Nos. 6, 7.

26 The parties are currently working towards an extrajudicial resolution of the
27 habeas petition. As such, the parties request that the August 25, 2025 hearing and
28

1 briefing schedule be vacated. If the habeas petition is not dismissed by August 22, 2025,
2 the parties will file a joint status report.

3
4 DATED: August 14, 2025

s/ Jeremy McKinney
JEREMY MCKINNEY
ANDREW NIETOR
Attorneys for Petitioner

5
6
7
8
9 DATED: August 14, 2025

ADAM GORDON
United States Attorney

10
11 s/Erin M. Dimbleby
ERIN M. DIMBLEBY
Assistant U.S. Attorney
Attorneys for Respondents

12
13
14
15 **SIGNATURE CERTIFICATION**

16 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies
17 and Procedures of the United States District Court for the Southern District of
18 California, I hereby certify that the content of this document is acceptable Jereny
19 McKinney, counsel for Petitioner, and that I have obtained Mr. McKinney's
20 authorization to affix his electronic signature to this document.

21 DATED: August 14, 2025

22 s/Erin M. Dimbleby
ERIN M. DIMBLEBY
Assistant United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

ALMENDAREZ CARCAMO,
Petitioner,

v.

LAROSE, *at al.*
Respondents.

)
)
)
)
)
)
)

Case No:
3:25-cv-2041-GPC (SBC)

NOTICE OF VOLUNTARY DISMISSAL UNDER FED. R. CIV. P. 41(a)(1)(A)(i)

Petitioner Osman Alberto Almendarez Carcamo gives notice of voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). No Respondent has served an answer or a motion for summary judgment.

After the Court issued a briefing schedule and set a conference, the Department of Justice informed undersigned counsel that U.S. Immigration and Customs Enforcement withdrew its Board of Immigration Appeals bond appeal and any reliance on the automatic stay, and Petitioner was released from ICE custody on August 15, 2025.

Dated: August 18, 2025

/s/ Andrew Kenneth Nietor
Andrew Kenneth Nietor
Law Office of Andrew K. Nietor
750 B St., Ste. 2330
San Diego, CA 92101
CA Bar # 208784
Attorney for Petitioner

/s/ Jeremy Layne McKinney
Jeremy Layne McKinney
McKinney Immigration Law
910 N. Elm St. (POB 1800)
Greensboro, NC 27401 (27402)
NC Bar # 23318
Attorney for Petitioner

CERTIFICATE OF SERVICE (CM/ECF)

I certify that on August 18, 2025, I filed the foregoing Notice of Voluntary Dismissal via the Court's CM/ECF system, which will send a Notice of Electronic Filing to all registered counsel of record.

Dated: August 18, 2025

/s/ Jeremy Layne McKinney
Jeremy Layne McKinney
McKinney Immigration Law
910 N. Elm St. (POB 1800)
Greensboro, NC 27401 (27402)
NC Bar # 23318
Attorney for Petitioner