

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of Texas

United States Courts
Southern District of Texas
FILED

AUG 18 2025

Nathan Ochsner, Clerk of Court

AGUERO AVILA DIEGO ALEJANDRO

Petitioner

v.

KRISTI NOEM DHS HEAD
PAM BONDI, ATTORNEY GENERAL
TODD M. LYONS, ACTING ICE DIRECTOR

OTLA PEARSALE TX

Respondent

(name of warden or authorized person having custody of petitioner)

Case No.

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: AGUERO AVILA DIEGO ALEJANDRO
- (b) Other names you have used: N/A
2. Place of confinement:
 - (a) Name of institution: KARNES COUNTY IMMIGRATION PROCESSING CENTER
 - (b) Address: 409 FM 1144 KARNES CITY, TX 78118
- (c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you:
 - (b) Docket number of criminal case: 25-097-CCCR-00043
 - (c) Date of sentencing:
- ☒ Being held on an immigration charge
☐ Other (explain): NOTICE TO APPEAR WITH INVALID/FORGED CHARGES

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☒ Other (explain): IMMIGRATION DETENTION AND CHARGES IN THE NOTIOCE TO APPEAR
DETAINDER WAS IMPROVIDENTLY ISSUED

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: PEARSALL IMMIGRATION COURT
- (b) Docket number, case number, or opinion number: 
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
07/28/2025 JUDGE DENIED MOTION TO TERMINATE AND IMMEDIATE RELEASE DESPITE I HAVE SUBMIT
ED AS ASKED BY THE JUDGE, EVIDENCE OF MY ASYLUM SINCE 2015 AS DERIVATIVE UNDER MY FATH
ER'S ASYLUM
- (d) Date of the decision or action: 07/28/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: BOARD OF IMMIGRATION APPEALS 08/12/2025

(2) Date of filing: 08/12/2025

(3) Docket number, case number, or opinion number:

(4) Result: NO ANSWER YET

(5) Date of result:

(6) Issues raised:

CHARGES IN THE NTA AND MY UNLAWFUL DETENTION, AND CHALLENGED THE FORGED
FACTS AND MISAPPLICATION OF LAW/MISPRESNTTION BY JUDGE AND DHS OFFICIALS

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES - DHS

(2) Date of filing: 08/05/2025

(3) Docket number, case number, or opinion number: _____

(4) Result: NO ANSWER

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: BOARD OF IMMIGRATION OF APPEAL

(2) Date of filing: 07/11/2025

(3) Docket number, case number, or opinion number: _____

(4) Result: REJECTED

(5) Date of result: 07/21/2025

(6) Issues raised: _____

I am pro se applicant when I filed my appeal I have addressed one order of the judge but also checked marked the bond box, since all my arguments belong to one proceedings and addressed in the BIA appeal how the judge misinterpreted my entire immigration history and how DHS weaponized it against me to keep me falsely imprisoned and not be able to decide upon my faith. Even if I would be willing to go to Canada immediately to seek protection considering Venezuela canceled my passport, annuled it meaning I am in imminent danger should I return, the judge said NO. Now I am not even allowed to seek prot in oth

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☒ No

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If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 06/12/2025

(b) Date of the removal or reinstatement order:

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☐ No

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If "Yes," provide:

(1) Date of filing: 08/12/2025

(2) Case number: 

(3) Result: FILED

(4) Date of result:

(5) Issues raised: I have raised the issue with the BIA in a first filing on 07/11/2025 the BIA returned the filing for simply check marking the box for the bond as well. This was an admin error, the BIA appeal was referencing the denial of the judge to release me since the Notice to Appear has forged and false allegation against me. The bond is in nexus with the Notice to Appear. Since the Notice to Appear is invalid the DHS and the immigration judge has no jurisdiction over me

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court:

(2) Date of filing:

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES - DHS

(b) Name of the authority, agency, or court:

(c) Date of filing: 08/05/2025

(d) Docket number, case number, or opinion number:

(e) Result: NO ANSWER

(f) Date of result:

(g) Issues raised:

REACHED OUT TO THE OFFICE OF THE PRESIDENT AND ALSO OTHER OFFICES BUT I WAS LEFT WITHOUT AN ANSWER

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your 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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: 14th Amendment US Constitution - DUE Process constitutional right to due process under the Fifth Amendment by refusing acknowledge challenge the false and y and misleading allegations in my Notice to Appear and by obstructing my ability to defend against the criminal acc usations used to justify my detention.

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground One in all appeals that were available to you?
☒ Yes ☐ No

GROUND TWO: At the time of my arrest, I was lawfully present in the United States: I was a derivative on my father's asylum application since childhood- IJ in its 07/282025 order said doesn't count I was covered by Temporary Protected Status (TPS) for Venezuela. Despite this, DHS detained me and issued a Notice to Appear (NTA) falsely claiming I had no pending asylum claim

(a) Supporting facts (Be brief. Do not cite cases or law.):
Notice of Appear issued by the DHS and rest of the prepared narratives of the DHS + Judge's chain of orders issued in abuse of powers and violation of judicial conduct

(b) Did you present Ground Two in all appeals that were available to you?
☒ Yes ☐ No

GROUND THREE: DHS knowingly submitted inaccurate records and omitted my lawful status This constitutes a Brady violation as it misrepresents material facts and obstructs justice

(a) Supporting facts (Be brief. Do not cite cases or law.):
Notice of Appear issued by the DHS and rest of the prepared narratives of the DHS + Judge's chain of orders issued in abuse of powers and violation of judicial conduct

(b) Did you present Ground Three in all appeals that were available to you?
☒ Yes ☐ No

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GROUND FOUR: I submitted multiple motions and evidence, including requests for bond, U visa certification, a and review of DHS misconduct. DHS failed to respond, violating 8 C.F.R. § 1236.1(d) nd Matter of Garcia-Flores , 17 I&N Dec. 325 (BIA 1980). Acknowledge my lawful presence Consider my U visa certification request under 8 C.F.R. § 214.14(c)(2)(i). Review DHS's conduct.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:
Notice of Appeal issued by the DHS and rest of the prepared narratives of the DHS + Judge's chain of orders issued in abuse of powers and violation of judicial conduct

(b) Did you present Ground Four in all appeals that were available to you?
☒ Yes ☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Issue a writ of habeas corpus and order my immediate release from ICE custody
Order DHS to correct the record and acknowledge my lawful presence.
Grant any other relief the Court deems just and proper.
Declare that my charges and detention violates the Constitution and federal law.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:
08/13/2025

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 08/13/2025

Dieso AGUERO

Signature of Petitioner

Signature of Attorney or other authorized person, if any

OAO 187 (Rev. 7/87) Exhibit and Witness List

UNITED STATES DISTRICT COURT

Southern

DISTRICT OF

Texas

AGUERO AVILA DIEGO ALEJANDRO

v.

EXHIBIT AND WITNESS LIST

KRISTI NOEM DHS HEAD PAM BONDI, ATT

Case Number:

PRESIDING JUDGE					PLAINTIFF'S ATTORNEY	DEFENDANT'S ATTORNEY
TRIAL DATE(S)					COURT REPORTER	COURTROOM DEPUTY
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
1					PETITION BRIEF FOR WRIT OF HABEAS CORPUS P 1-13	
2					ORDER OF THE IJ 07/28/2025 P 14-15	
3					INTERLOCUTORY BRIEF TO THE BIA P 16-20	
4					SUPPLEMENT STATEMENT IN SUPPORT MTR 07/11/2025 P 21 - 33	
5					COPY OF USCIS NOTICE ASYLUM APPLICATION 09/2015 P 34-39	
6					USCIS NOTICE ASYLUM APPLICATION DIEGO AGUERO P 40-41	
7					USCIS NOTICE TPS VENEZUELA P 44	
8					VENEZUELAN PASSPORT FOR DIEGO ANNULLED TRANSL. P 45-48	
9					CHRONICLES "PASSPORT REVOCATION IN VENEZUELA" P 49-53	
10					DIEGO'S EMPLOYER'S REFERENCE LETTER P 54-56	
11					HAMILTON PD CORRESPONDENCE DENYING RECORD P 57-58	
12					LAMPASAS PD CORRESPONDENCE DENYING RECORD P 58	
13					TDPS LETTER PUBLIC INFORMATION P 59-64	
14					HAMILTON COUNTY COMPLAINT CRIMINAL CASE 25D97CCR0043 P66-74	
15					WHITE HOUSE SUBMISSIO REGARDING UNJUST PROCEEDINGS P 75	

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

AGUERO AVILA DIEGO ALEJANDRO A# [REDACTED] DETAINED ICE	))))	CAUSE NR. _____
KRISTI NOEM, DHS' HEAD PAM BONDI, ATTORNEY GENERAL TODD M. LYONS, ACTING ICE DIRECTOR OPLA PEARSALL TX	)))	

PETITION BRIEF FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

Introduction

I, Diego Agucero Avila, respectfully petition this Court for a *writ of habeas corpus* under 28 U.S.C. § 2241. I am currently detained by U.S. Immigration and Customs Enforcement (ICE) at the KARNES COUNTY IMMIGRATION PROCESSING CENTER. My detention is unlawful, prolonged, and violates my constitutional rights.

Grounds for Relief

1. Unlawful Detention While Lawfully Present

At the time of my arrest – 06/2025, I was lawfully present in the United States:

- I was a **derivative on my father's asylum application** since **September 2015**, and I remained protected under that status throughout my childhood.
- I was also covered by **Temporary Protected Status (TPS) for Venezuela**, a designation that provides lawful presence and protection from removal under **INA § 244**.

Despite this, DHS detained me and issued a **Notice to Appear (NTA)** falsely claiming that I had no pending asylum claim and no lawful status. This misrepresentation is not only factually incorrect—it is a violation of my **Fifth Amendment right to liberty and due process**.

The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. DIIS's actions violated this protection in several ways:

- They **ignored my derivative asylum status**, which was on record and never terminated.
- They **failed to acknowledge my TPS designation**, which provides lawful presence and bars removal during its validity.
- They **issued an NTA based on fabricated grounds**, depriving me of a meaningful opportunity to contest removability.
- They **refused to respond to my filings**, including motions to terminate, bond requests, and evidence submissions.

This conduct amounts to **unlawful detention, procedural misconduct, and constitutional injury**. It also violates DIIS's own regulations under 8 C.F.R. § 208.14(c) and *Matter of Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980), which require proper adjudication of asylum claims and lawful status before initiating removal.

Human Rights Violations and Request for Safe Relocation

I, Diego Agüero Avila, have lost trust in the integrity of the U.S. immigration system. The Immigration Judge and DHS have refused to consider my lawful presence, ignored my evidence, and used unsubstantiated allegations to justify my detention. They have effectively **disposed of my life**, seeking to deport me to a country — Venezuela, where I face **CERTAIN death, persecution, and irreparable harm**.

I did not cause harm to this country, despite the government's false allegations. The criminal charge against me—**possession of less than 30 grams of marijuana**—was used against me without disclosure, without evidence, and without due process.

DHS, Texas Department of Public Safety despite FOIA/subpoena etc. has refused to produce the record or disclose the amount of marijuana, yet continues to label me a "*danger to the community*" without justification.

This conduct violates:

- **The Refugee Act of 1980 and Article 33(1) of the 1951 Refugee Convention**, which prohibit refoulement and guarantee protection for asylum seekers.
- **The Fifth Amendment**, which ensures due process and protection from arbitrary detention.
- **International human rights norms**, including the right to life, dignity, and freedom from torture or inhumane treatment.
- **Categorical approach principles.**

Request for Relief:

Given the systemic violations and the threat to my life, I respectfully ask this Court to:

- Order my **immediate release from ICE custody.**
- Recognize the **unlawfulness of my detention and the misconduct of DHS and the Immigration Judge.**
- Allow me to **seek safe relocation to Canada or a European country** where I may apply for asylum and live free from persecution.

I am not an enemy of this country. I am a human being seeking protection, dignity, and the chance to live without fear. I ask this Court to uphold the principles of justice and humanity that this nation claims to represent.

Refusal to Remain in the United States Under DHS/EOIR Coercion and Fear of Forced Deportation

I have lost trust in the U.S. immigration system. The Immigration Judge and DHS have refused to consider my lawful presence, ignored my evidence, and used false, unproven allegations

to justify my detention. They have treated me not as a human being seeking protection, but as a disposable target.

During my hearing, Immigration Judge **Crossan Thomas** told me that if I presented evidence showing I was a derivative on my father's asylum application from **September 2015**, I **would be granted relief**. I relied on this assurance and submitted the documentation. However, in the Judge's written order dated **July 28, 2025**, he reversed his position and stated:

"Being a rider on an asylum application or filing a separate asylum application is not an entry into the United States nor is it permission to remain in the United States. Respondent can be charged as overstayed, and DHS has used its prosecutorial discretion to charge Respondent as removable pursuant to the INA."

This statement is legally incorrect and contradicts established immigration law. Under:

- **INA § 208(b)(3)(C) and 8 C.F.R. § 208.3(a)**, a child listed as a derivative on a parent's asylum application is lawfully present while the application is pending.
- *Matter of A-M*, 23 I&N Dec. 737 (BIA 2005), affirms that derivative status must be adjudicated and cannot be dismissed arbitrarily.
- **INA § 212(a)(9)(B)(iii)(I)** provides that time spent in the U.S. as a derivative asylum applicant does **not count as unlawful presence**.

There is **no provision in the INA** that allows DHS or the Court to disregard derivative status and retroactively label a child as unlawfully present or overstayed. The Judge's reversal and DHS's prosecutorial discretion were used to fabricate removability and justify detention without legal basis.

This conduct violates:

- **The Fifth Amendment** right to due process
- **The Administrative Procedure Act**, 5 U.S.C. § 706(2)(A), prohibiting arbitrary and capricious agency action

- **Basic principles of fairness and reliance**, as I was misled by the Court and punished for presenting truthful evidence

I respectfully ask this Court to recognize that my detention and removal charges are based on a **misstatement of law**, **judicial reversal**, and **abuse of discretion**, and to grant immediate relief.

EMERGENCY REQUEST FOR STAY OF DEPORTATION TO VENEZUELA AND PERMISSION FOR VOLUNTARY DEPARTURE TO A SAFE THIRD COUNTRY

I respectfully submit this emergency request to the Court to block my deportation to Venezuela and instead permit me to voluntarily depart to a safe third country—specifically Canada or a European nation—where I intend to seek asylum. If, for any legal reason under the laws of the United States, this Court determines that my stay cannot be granted to pursue lawful employment or protection, I respectfully request immediate authorization to depart to Canada, where I will seek refuge and protection consistent with international human rights norms.

Jurisdiction - This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of my detention and removal. The Supreme Court has affirmed that federal courts may intervene when removal would violate constitutional rights or international obligations. See *Boumediene v. Bush*, 553 U.S. 723 (2008); *Munaf v. Geren*, 553 U.S. 674 (2008).

Furthermore, the U.S. government **cannot extend its jurisdiction to forcibly transfer individuals to foreign prisons or detention systems**, nor can it compel removal to countries where the individual faces persecution or arbitrary detention. Doing so would violate the **Foreign Affairs Reform and Restructuring Act of 1998 (FARRA)** and the **Convention Against Torture**, codified at 8 C.F.R. § 208.16–208.18.

Basis for Relief - I am currently detained and facing imminent deportation to Venezuela, a country where I fear for my life due to political persecution, instability, and lack of humanitarian protections. I have submitted evidence of my derivative asylum status under my father's application, and I was misled by Immigration Judge Crossan Thomas, who reversed his position and misrepresented the law in his July 28, 2025 order.

I am not seeking to evade immigration enforcement. I am asking for the opportunity to **self-deport to Canada or Europe**, where I will lawfully seek asylum. I have the financial means to do so and will provide proof of purchased travel arrangements. I am committed to complying with all conditions set by this Court.

Request - I respectfully ask this Court to:

1. **Stay my deportation to Venezuela** pending resolution of my habeas petition.
2. **Permit me to voluntarily depart to Canada or a European country**, where I will seek asylum.
3. **Order DIIS to refrain from obstructing my departure** and to update my record to reflect voluntary departure.
4. **Allow me to submit proof of travel arrangements** within 7 days of this order.

I am not a threat to public safety. I am a young person seeking protection and dignity. I ask this Court to recognize my humanity and grant me the chance to pursue asylum in a country where **I will not be treated as disposable.**

Fabrication and Misrepresentation by DHS. Fabrication of Records and Brady Violation by DIIS

DIIS knowingly submitted inaccurate records and omitted my lawful status. This constitutes a **Brady violation**, as it misrepresents material facts and obstructs justice.

DIIS knowingly submitted **inaccurate records** and **omitted my lawful status** in official immigration documents, including the Notice to Appear (NTA). These omissions and misrepresentations are not clerical errors—they are deliberate acts that obstruct justice and violate my constitutional rights.

- DHS falsely claimed I had no pending asylum claim, despite my derivative status since 2015 and TPS protection for Venezuela.
- DHS cited **inapplicable statutes** and **executive orders** that do not override statutory protections under the Immigration and Nationality Act (INA).

- DHS failed to disclose exculpatory evidence, including my lawful presence, TPS documentation, and asylum derivative status.

This conduct constitutes a **Brady violation**, as established in *Brady v. Maryland*, 373 U.S. 83 (1963), which prohibits the government from withholding material evidence favorable to the accused. In immigration proceedings, this principle applies when DHS conceals facts that would prevent detention or removal.

Moreover, DHS cannot and should not:

- **Forge false allegations** in official documents to justify detention.
- **Misrepresent facts or legal citations** to enforce executive orders that conflict with statutory and constitutional law.
- **Override due process protections** guaranteed under the Fifth Amendment.

The Immigration Judge relied on these flawed records and refused to allow me to challenge them, compounding the violation. This undermines the integrity of the proceedings and deprives me of a fair opportunity to defend myself.

I respectfully ask this Court to recognize that my detention is based on **fabricated grounds, concealed evidence, and unconstitutional enforcement practices**. These violations demand judicial intervention and immediate relief.

Judicial Misconduct and Denial of Legal Protections

The Immigration Judge relied on **flawed and fabricated records** submitted by DHS and **refused to allow me to challenge them**, compounding the constitutional violation. During my hearing, the Judge stated **in person** that my derivative asylum claim under my father's application from September 2015 "**does not count anymore**," and that "**the Judge can do whatever they want, and DHS as well**." Order of 07/28/2025 reflects this approach.

This statement is not only **legally incorrect**—it is a **direct violation of judicial ethics, due process, and statutory protections** under the Immigration and Nationality Act (INA).

Legal Violations:

- INA § 208(b)(3)(C) protects derivative asylum status unless formally terminated.
- *Matter of A-M*, 23 I&N Dec. 737 (BIA 2005) affirms that derivative status must be adjudicated, not dismissed arbitrarily.
- 5 U.S.C. § 706(2)(A) prohibits agency action that is arbitrary, capricious, or contrary to law.
- 8 C.F.R. § 1003.10(b) requires Immigration Judges to exercise impartiality and apply the law—not personal discretion.

The Judge's refusal to acknowledge my lawful status, combined with DIIS's fabrication of facts and misapplication of law, amounts to **systemic misconduct**. DIIS cited **executive orders that are unconstitutional and inapplicable**, ignoring binding statutory protections and international obligations.

This conduct violates:

- The **Fifth Amendment** right to due process
- The **Administrative Procedure Act**
- The **Refugee Act of 1980**
- **Article 33(1)** of the 1951 Refugee Convention (non-refoulement)

I respectfully ask this Court to recognize that:

- My detention is based on **false allegations and unlawful judicial statements**
- The Immigration Judge and DIIS have **obstructed justice and denied me a fair hearing**
- I am entitled to **termination of removal proceedings, release from custody**, and the opportunity to seek asylum or protection in a safe third country

Failure to Respond to Motions and Evidence

I submitted multiple motions and evidence, including requests for bond, U visa certification, and review of DIIS misconduct. DHS failed to respond, violating 8 C.F.R. § 1236.1(d) and *Matter of Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980).

DHS's Failure to Respond to Motions and Evidence

I submitted multiple motions and supporting evidence while in detention, including:

- A request for bond under 8 C.F.R. § 1236.1(d)
- A U visa certification request under 8 C.F.R. § 214.14(c)(2)(i)
- A motion to review DHS misconduct, including fabricated records and Brady violations.

Despite these filings, DHS failed to respond, acknowledge, or forward the motions to the Immigration Judge. This violates both procedural and constitutional protections.

Legal Violations:

- 8 C.F.R. § 1236.1(d) requires DHS to promptly review custody status and respond to bond requests.
- *Matter of Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980), affirms that immigration authorities must consider all relevant evidence and cannot ignore material submissions.
- The **Fifth Amendment** guarantees a meaningful opportunity to be heard before being deprived of liberty.

DHS's silence and obstruction denied me access to relief, prevented judicial review, and undermined the fairness of my proceedings. The Immigration Judge, relying on DHS's inaction, refused to consider my motions or the evidence I submitted.

This pattern of neglect and concealment amounts to **procedural misconduct, denial of due process, and unlawful detention**. I respectfully ask this Court to recognize that my rights were violated and that I am entitled to immediate release and termination of removal proceedings.

Denial of Access to Relief and Due Process

The Immigration Judge refused to:

- Consider my U visa certification request under 8 C.F.R. § 214.14(c)(2)(i).
- Review DHS's conduct.

- Acknowledge my lawful presence under INA § 208(a) and INA § 212(a)(9)(B)(iii)(II).

This denial violates the **Refugee Act of 1980** and Article 33(1) of the 1951 Refugee Convention.

Prolonged Detention Without Justification

I have been detained for an extended period without a threat assessment and my bond. This violates *Zadvydas v. Davis*, 533 U.S. 678 (2001), which prohibits indefinite detention without justification. I have been detained for an extended period without a lawful threat or danger assessment, in direct violation of 8 C.F.R. § 1236.1(c)(8), which requires the government to substantiate any claims of dangerousness with credible evidence. My bond was denied based on false and unproven allegations, and DIIS failed to meet its burden under *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), which **mandates** that such claims be supported by clear and convincing evidence. Despite repeated requests, DIIS never provided the required documentation, and the immigration judge relied on these unsupported assertions, thereby violating both regulatory standards and my constitutional right to due process. This unlawful detention has caused irreparable harm and undermines the integrity of the proceedings.

Retaliatory Detention and Misuse of Criminal Allegations

My detention by DIIS was not only procedurally unlawful—it was retaliatory and obstructive. I was detained in a manner that:

- **Prevented me from attending a scheduled criminal court appearance** related to a **misdemeanor marijuana charge (less than 30 grams)**.
- Despite repeated requests, Attorney General, DIIS etc. **refused to produce the criminal record**, disclose the exact **amount of marijuana**, or provide any documentation supporting their allegations.
- Immigration Judges relied on **unsubstantiated claims** and **absent evidence** to label me a “danger to the community,” without reasonable cause or justification.

This conduct violates:

- **Due process under the Fifth Amendment**, which guarantees notice and an opportunity to be heard.
- *Brady v. Maryland*, 373 U.S. 83 (1963), which prohibits the government from withholding exculpatory evidence.
- *Matter of Gaitan*, 19 I&N Dec. 238 (BIA 1985), which requires that criminal allegations used in immigration proceedings be supported by reliable evidence.

Consequences of DHS Misconduct:

- I was **denied access to my criminal court**, risking a default judgment and compounding legal harm.
- DHS used **fabricated or undisclosed allegations** to justify prolonged detention.
- The Immigration Judge accepted **unsupported claims** without requiring proof or disclosure.

This misuse of criminal allegations and obstruction of my legal rights reflects a broader pattern of misconduct and retaliation. I respectfully ask this Court to recognize that my detention is unlawful, retaliatory, and unsupported by evidence, and to order my immediate release and full review of all pending motions.

Prayer for Relief

Wherefore, Petitioner respectfully requests that this Honorable Court:

1. **Issue a writ of habeas corpus** pursuant to 28 U.S.C. § 2241 and order Petitioner's immediate release from ICE custody.
2. **Declare that Petitioner's continued detention violates the U.S. Constitution**, including the Fifth Amendment, and applicable federal regulations, including 8 C.F.R. § 1236.1(c)(8).
3. **Order the Department of Homeland Security (DHS) to correct the official record** to reflect Petitioner's lawful presence and compliance with immigration procedures.
4. **Stay Petitioner's removal to Venezuela** pending final adjudication of this habeas petition, in light of country conditions and humanitarian concerns.

5. **Permit Petitioner to voluntarily depart to a safe third country**, in the alternative, specifically Canada or a European nation, where Petitioner intends to seek asylum consistent with international law.

Petitioner respectfully requests that this Court order the Department of Homeland Security (DHS) to refrain from obstructing Petitioner's voluntary departure and to update all relevant immigration records to reflect voluntary departure status, in accordance with humanitarian principles and applicable federal policies. Petitioner seeks to depart to a safe third country—specifically Canada or a European nation—to seek asylum, and does so without intent to evade lawful process. This request is made in good faith and in alignment with the spirit of Executive humanitarian discretion, including directives that prohibit punitive sanctions or adverse immigration consequences for individuals who pursue voluntary departure in lieu of removal. Petitioner further requests that DHS be directed to facilitate this departure without delay or retaliation, and to allow submission of travel documentation within seven (7) days of the Court's order.

6. **Order DHS and/or EOIR to refrain from obstructing Petitioner's departure**, and to update all relevant records to reflect voluntary departure status.
7. **Allow Petitioner to submit proof of travel arrangements within seven (7) days** of the Court's order granting voluntary departure.
8. **Grant such other and further relief as the Court deems just and proper**, including costs and any equitable remedies necessary to prevent further harm.

Respectfully Submitted,

Diego AGUERO

Diego Aguero Avila

08/13/2025



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

Respondent Name:

AGUERO-AVILA, ALEJANDRO

To:

AGUERO-AVILA, ALEJANDRO
KARNES CNTY IMM PROCESSING CTR
KARNES, TX 78118

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

07/28/2025

ORDER OF THE IMMIGRATION JUDGE

☒ Respondent ☐ The Department of Homeland Security has filed the following motion in these proceedings:

U Visa Certification Request and Formal Complaint Pursuant to 8 C.F.R. Section 214.14(c)

After considering the facts and circumstances, the motion is ☐ granted ☒ denied for the following reason(s):

EOIR is not a law enforcement agency with U Visa Certification authority. That request must be made to a proper law enforcement agency. U Visa Petitions must be filed with USCIS pursuant to 8 C.F.R. Section 214 (c).

By Respondent filing the formal complaint concerning alleged criminal acts and abuses by DHS/ICE Officers, DHS is now on notice of the allegations. This Court has no authority to investigate the allegations. The Court has no authority to question DHS's use of prosecutorial discretion either in favor of or not favor of Respondent. EOIR has no authority to mandate DHS initiate any investigation into Respondent's allegations of criminal acts and abuses.

Being a rider on an asylum application or filing a separate asylum application is an entry into the United States nor is it permission to remain in the United States. Respondent can be charged as an overstay and DHS has used its prosecutorial discretion to charge Respondent as being removable pursuant to Section 237(a)(1)(B) of the Immigration and Nationality Act. The Court sustained the charge on 9 July 2025.

Respondent is scheduled to appear at a master calendar hearing on 31 July 2025 at 8:30 a.m. The Court will take up the application for relief filed in a separate motion to terminate. If Respondent wishes to continue with the application filed in that motion, the Court intends to schedule a final hearing on that application after Respondent affirms the information on the application.

Respondent's motion is DENIED.

[Handwritten Signature]

Immigration Judge: CROSSAN, THOMAS 07/28/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved
Appeal Due: 08/27/2025

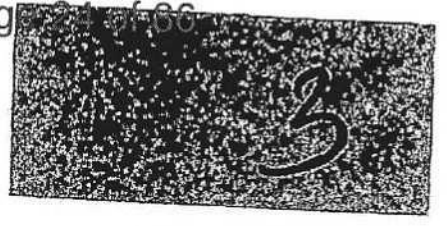
Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [] Noncitizen | [M] Noncitizen c/o custodial officer | [] Noncitizen's atty/rep. | [E] DHS
Respondent Name : AGUERO-AVILA, ALEJANDRO | A-Number : 

Riders:

Date: 07/29/2025 By: Johnson, Briana, Court Staff



DETAINED

AGUERO AVILA DIEGO ALEJANDRO
19827 Heron Shadow Ct
Richmond, TX 77407
Respondent

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION OF APPEALS
FALLS CHURCH, VA**

In the Matter of:

Respondent
AGUERO AVILA DIEGO ALEJANDRO

In Removal Proceedings

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Immigration Judge: Hon. Randall Fluke

Next hearing: 08/21/2025

Interlocutory Brief to the Board of Immigration Appeals

I. Introduction

My name is Diego Aguero Avila, and I respectfully submit this interlocutory brief to the Board of Immigration Appeals to challenge the Immigration Judge's July 28, 2025 order. I am a

A# 208-404-061

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pro se respondent doing my best to navigate a system that often feels stacked against me. I ask only for fairness, dignity, and a chance to be heard.

The Immigration Judge dismissed my filings and arguments without proper review, made legal errors, and denied me access to relief I may qualify for. I am not a lawyer, but I have tried to follow every rule and submit every document required. I ask the Board to consider the following points and protect my right to due process.

II. My Asylum Application Was Lawfully Filed and Should Not Be Used Against Me

I came to the United States as a child, seeking protection through asylum. I was included as a derivative on my father's asylum application and remained under that protection until recently. On the day DIIS detained me, I was also covered by Temporary Protected Status (TPS) for Venezuela. I was not unlawfully present then, and I am not unlawfully present now.

Despite this, DIIS issued a Notice to Appear (NTA) and other federal documents that falsely stated I had no pending asylum claim since my entry as a minor. That is not true. DIIS misrepresented my immigration history and ignored the protections I was lawfully under. I am not trying to evade the law—I am trying to survive.

The Immigration Judge said that filing an asylum application does not count as lawful presence. That is legally incorrect.

- Under 8 C.F.R. § 208.3(c)(2) and INA § 208(a), asylum applicants are considered to be in authorized stay while their application is pending.
- In *Matter of M-D-C-V-*, 28 I&N Dec. 18 (BIA 2020), the Board confirmed that asylum seekers remain in proceedings and cannot be charged with unlawful presence.
- INA § 212(a)(9)(B)(iii)(II) specifically exempts asylum applicants from accruing unlawful presence.

Expecting me to wait outside the United States while my asylum claim is processed is not just unrealistic—it's dangerous. It violates the Refugee Act of 1980 and the principle of non-

refoulement under Article 33(1) of the 1951 Refugee Convention. I came here because I feared for my life. I did not come to break the law.

I respectfully ask the Board to recognize that I was lawfully present under both asylum and TPS at the time of my detention, and that DHS's misrepresentations should not be used to justify removal proceedings against me.

III. The Judge Refused to Consider My U Visa Certification Request

I asked the Immigration Judge to certify my U visa petition. Judge said in its 07/11/2025 order that EOIR has no authority to do that. But that's not true.

- 8 C.F.R. § 214.14(c)(2)(i) allows judges to certify Form I-918 Supplement B if they investigate or evaluate qualifying criminal activity.
- The USCIS Policy Manual, Vol. 3, Part C, Ch. 2, confirms this.
- *Audubon Communities Management v. U.S. Dept. of Labor*, 2008 WL 1774584, supports judicial certification.
- *Matter of L-N-Y-*, 27 I&N Dec. 755 (BIA 2020), shows that judges can accommodate U visa efforts.

I cannot file my U visa without certification. The Judge refused to even consider it. That denial blocks me from seeking protection I may qualify for.

III. The Judge Ignored DHS Misconduct and Refused to Review Their Actions

I submitted motions showing that DHS failed to respond, withheld evidence, and made false claims. The Judge said she had no authority to investigate DHS. That is incorrect.

- *Matter of Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980), says judges must evaluate DHS conduct if it affects the case.
- *Matter of Sanchez-Herbert*, 26 I&N Dec. 43 (BIA 2012), confirms this.
- 8 C.F.R. § 1236.1(d) allows judges to review DHS custody decisions.

I deserve a fair chance to defend myself. Ignoring DHS misconduct violates my right to due process.

VI. DHS Failed to Respond and Provided No Evidence That I Am a Threat

- DHS ignored my motions.
- They claimed I was a threat but gave no evidence.
- The marijuana accusation is unverified, and they won't release the records.

I am not a danger to anyone. I work hard, I support my family, and I follow the law. DIIS must respond and prove their claims. If they can't, the charges should be dismissed.

V. Request for Immediate Release from Detention

I respectfully ask the Board of Immigration Appeals to immediately order my release from detention. I am not a danger to the community, I am not a flight risk, and I was lawfully present under both asylum and TPS protections at the time DIIS detained me.

The Board has the authority to take action on any case over which it has jurisdiction, including issuing orders related to custody and detention:

- Under 8 C.F.R. § 1003.1(b)(3), the BIA has jurisdiction to review decisions of Immigration Judges in bond and custody matters.
- The BIA Practice Manual, Chapter 1.4(a), confirms that the Board may review "some decisions pertaining to bond, parole, or detention" under 8 C.F.R. Part 1236, Subpart A.
- The Board may also act *sua sponte*—on its own motion—when justice requires it, especially in cases involving unlawful detention or procedural violations.

Given that DIIS misrepresented my immigration status, failed to respond to my filings, and has not provided any credible evidence that I pose a threat, I ask the Board to:

Immediately order my release from DHS custody pending resolution of my appeal, and instruct DHS to comply with all due process requirements.

I am not asking for leniency—I am asking for lawful treatment. I am asking to be free while I fight for my right to remain in the country I have called home since childhood.

VI. What I'm Asking For

I respectfully ask the Board of Immigration Appeals to take immediate action to correct the errors and injustices in my case. Specifically, I ask the Board to:

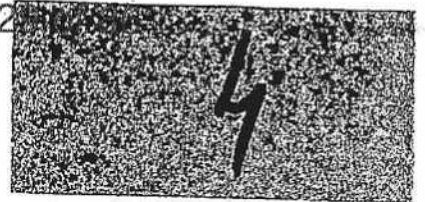
1. Reverse the Immigration Judge's July 28, 2025 order due to legal errors, misstatements of fact, and unfair treatment.
2. Review my full record, including all motions, exhibits, and declarations I submitted.
3. Order DHS to respond to my filings or dismiss the case for failure to prosecute.
4. Strike any claim that I pose a threat to the community, unless DHS can provide credible, admissible evidence.
5. Transfer my case to a different Immigration Judge if impartiality and fairness cannot be guaranteed.
6. Immediately order my release from detention, as I am not a flight risk, not a danger to the community, and was lawfully present under asylum and TPS at the time of my arrest.

I am not asking for special treatment. I am asking for justice. I am asking to be seen, heard, and treated with dignity. I have complied with every requirement, and I have fought to survive. Please allow me the chance to do so with fairness and freedom.

DIEGO AGUERO

Respectfully, Diego Agüero Avila A# 

A# 



DETAINED

DIEGO ALEJANDRO AGUERO-AVILA

Respondent

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
PEARSALL, TEXAS

In the Matter of:

Respondent
AGUERO-AVILA, DIEGO ALEJANDRO
In Removal Proceedings

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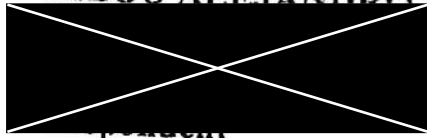


*Supplemental Statement in Support of Motion to Terminate
July 11, 2025*

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DETAINED

DIEGO ALEJANDRO AGUERO-AVILA



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
PEARSALL, TEXAS

In the Matter of:

Respondent
AGUERO-AVILA, DIEGO ALEJANDRO
In Removal Proceedings

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Supplemental Statement in Support of Motion to Terminate
July 11, 2025

I, Diego Aguero, submit this statement in support of my motion to terminate removal proceedings. Returning me to Venezuela would not only endanger my life, it would violate U.S. legal obligations under the Convention Against Torture (CAT), established case law, and fundamental principles of human rights.

At my last hearing, the Court stated that I "cannot choose Canada" and must return to Venezuela. But I am not seeking to "choose" convenience—I am fighting for survival. The

government of Venezuela under Nicolás Maduro has launched a sweeping and documented campaign of repression against people like me—scholars, journalists, and political critics—by canceling our passports, erasing our nationality, and blocking access to even basic documentation.

As reported by Aula Abierta in August 2024, and corroborated by multiple independent sources including Caracas Chronicles and JURIST, the Venezuelan regime has:

- **Revoked passports** of over 40 journalists, human rights advocates, professors, and LGBTQ+ leaders without explanation. My passport was also annulled. (see attached)
- Closed consulates abroad, making it impossible to renew travel documents or access basic civil services
- Prevented return with expired passports and denied re-entry unless holding dual nationality
- Used Simón Bolívar Airport as a site of detention, retaliation, and public humiliation for visible dissidents

This policy mirrors practices used in **Nicaragua**, where civil opponents are rendered stateless and punished for criticism. In my case, the act of dissent alone places me at risk. I am part of multiple **Particular Social Groups (PSGs)** defined by:

PSG Formulation	Visibility	Nexus to Harm
"Venezuelan dissidents subjected to passport revocation"	Public record, civic engagement	Political opinion
"Academics and intellectuals targeted post-election"	Online trace, published commentary	Anti-regime views
"Stateless critics denied documentation and safe return"	Document void, visible dissent	Perceived subversion
Venezuelan nationals who are abroad and unable to verify or renew their passports due to	This group meets all key PSG elements: • Immutable characteristic: Their	Without valid passports, individuals are barred from safe

deliberate government blockage, resulting in statelessness, visibility, and vulnerability to surveillance and persecution.	identity as Venezuelan nationals abroad, blocked from passport renewal, is not changeable. It's tied to their origin and exile. • Social distinction: This population is clearly visible to society and state mechanisms, particularly due to their status as non-returning exiles whose citizenship rights are obstructed. • Particularity: Defined narrowly by technological and bureaucratic targeting—specifically those whose access to civic documentation is suppressed from abroad.	reentry, international mobility, and diplomatic protection. Protected Ground: <i>Political Opinion</i> Government Actor: Venezuelan regime via SAIME and national intelligence. Persecutory Act: Blocking digital access to passport status from abroad, erasing civic identity, targeting visibility of exiled nationals. Nexus Claim: The Venezuelan government's digital blockade is <i>not neutral</i>. It specifically targets: • Those abroad who have not returned; • Those perceived as opponents or dissidents; • Those whose refusal to re-enter reflects a moral, political, or ideological stance. In Diego's case—and others in the proposed PSG—the inability to access a passport is not a random glitch. It is state-sponsored retaliation tied to political opinion. The regime sees non-return as defiance. And the tech barrier is engineered to silence, monitor, and isolate. • Imputed Opposition: The simple act of remaining abroad, especially in the U.S., imputes political resistance. The nexus flows from perception—as adjudicators must recognize. • Visibility Theory: Those blocked from verifying documentation become socially visible as exiles. That visibility marks them for persecution
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		based on status and suspected beliefs. • Statelessness as Reprisal: Passport denial weaponizes nationality erasure. Statelessness becomes both consequence and evidence of nexus: punishment for ideological non-alignment. • Comparative Targeting: Those inside Venezuela can check their status. Those outside, like Diego, are blocked. This shows differential treatment based on location, which flows from political opinion attributed to diaspora.
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These groups meet the legal standards under *Matter of W-G-R-* and *Matter of M-E-V-G-*, being socially distinct, immutable, and persecuted precisely because of our identity and opinion.

Moreover, **internal relocation is impossible**. The regime controls identification systems, travel access, and surveillance infrastructure. Venezuelan consulates remain shuttered across Latin America and the U.S., and critics cannot receive new passports unless they return—a process designed to trigger detention and punishment.

If the United States cannot or will not offer protection, I respectfully request the opportunity to seek asylum in a third safe country. Refusing me asylum while also preventing my pursuit of safety elsewhere constitutes **constructive refoulement**, which is prohibited under:

- *Khouzam v. Ashcroft*, 361 F.3d 161 (2d Cir. 2004)
- *Matter of Pula*, 19 I&N Dec. 467 (BIA 1987)
- Article 3 of the CAT Treaty
- UNHCR Guidelines on Diplomatic Protection and Statelessness

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My statement and the attached country condition reports should be incorporated into the record as amendments to my prior hearing, and administrative notice should be taken of Venezuela's active human rights violations. I am not asking for mercy—I am invoking the law that protects all lives from politically engineered erasure.

Venezuela Blocks My Passport Status to Trap Me in Exile - PERSECUTION

I, Diego Alejandro Agucro Avila, affirm that the Venezuelan government has intentionally concealed and obstructed access to my passport information. This is not just inconvenience—it is persecution. It is a calculated tactic to render dissidents stateless and trapped.

The official government page that allows citizens to check passport status—SAIME (Servicio Administrativo de Identificación, Migración y Extranjería)—cannot be accessed from outside Venezuela. As soon as the page is searched from a foreign IP, especially from the United States, it is automatically blocked. The system detects external attempts and disables access. I and my parents have tried multiple times, including through private networks and proxies. The result is always the same: denial of access.

This means:

- I cannot verify the status of my passport renewal;
- I cannot initiate restoration of my travel documents;
- I cannot seek remedies through diplomatic channels;
- I am cut off from my own civic identity as a Venezuelan national.

This digital blockade is not a technical glitch—it is a form of punishment. The Venezuelan regime has weaponized bureaucracy and firewalls to erase its critics.

As stated in Aula Abierta's 2024 report, the cancellation of passports is part of a broader campaign of repression targeting both internal opponents and Venezuelans abroad. I am one of them. The fact that I am outside the country is enough to be considered hostile. The moment I attempt to check my status, the system confirms: *You have been blocked.*

This is not just symbolic—it's lethal. The inability to renew or confirm my passport is:

- A barrier to lawful reentry;
- A trigger for detention upon arrival;
- A denial of nationality protections under international law.

No one should be forced to return to a country that has locked the doors, erased the identity, and tagged the exile as subversive. I am not free to check on my passport. I am not free to renew it. I am not free to safely return. I am *blocked from all sides*—the digital wall is a mirror of the regime itself.

This is evidence of imminent danger, attack on my nationality. And no government acting in good faith can ignore it.

My Lawful TPS Status and Timely Pursuit of Asylum

I, Diego Alejandro Agüero Avila, declare that at the time of my arrest on June 12, 2025, I was under active and lawful Temporary Protected Status (TPS) pursuant to §244 of the Immigration and Nationality Act. USCIS had granted my original TPS registration, valid from July 25, 2023 through March 10, 2024, and I timely re-registered on March 9, 2024. I received my Receipt Notice from USCIS on May 9, 2024, confirming my continued TPS eligibility.

This means that on the date of my arrest, I was:

- Under lawful TPS protection;
- Authorized to remain in the United States;
- Protected from removal;
- Eligible for employment authorization;
- Considered in lawful status for purposes of adjustment under INA §245.

This status is not discretionary—USCIS codified it. It includes an approved Form I-94 under TPS designation and carries the legal consequence that I could not lawfully be detained or removed without violating federal protections.

In addition, I affirm that I timely pursued asylum protection ever since my arrival to the United States. Through my father, Mr. Fredlyn Agüero (A# 208-404-058), I was included in a

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timely-filed Affirmative Asylum application, submitted between October 30, 2014 and September 21, 2015—within one year of our entry. This establishes:

- A legal footprint demonstrating our fear of return to Venezuela;
- Ongoing engagement with the asylum system;
- My eligibility to adjust or continue proceedings under derivative and individual claims.

Despite this, DIIS has failed to acknowledge my TPS designation, my compliance with all re-registration and biometrics, and the presence of an earlier asylum record under my family's case. Their characterization of me as unlawfully present or ineligible for protection is not supported by the government's own records.

I respectfully ask the Court to:

1. Recognize that I was in lawful TPS status at the time of arrest;
2. Accept Exhibit B (TPS Approval and I-94) and Exhibit C (TPS Renewal Receipt) as record evidence;
3. Integrate my asylum record via my father's A-number into the current proceedings;
4. Terminate removal efforts on the basis that I am **not a deportable individual**, but a TPS holder with a pending and properly filed asylum claim.

These are not abstract requests—they reflect my lawful presence, my fight for safety, and the government's duty to honor its own protections. TPS is not a loophole. It is a lifeline. I am here, lawfully. I should not be treated like a fugitive for surviving.

I, **Diego Alejandro Aguero Avila**, affirm that on the date of my arrest—**June 12, 2025**—I was under active protection through Temporary Protected Status (TPS) as designated by USCIS.

I first registered under the 2023 TPS designation for Venezuela, receiving TPS-related documents valid through **March 10, 2024**. I timely re-registered on **March 9, 2024**, and USCIS issued me a **Receipt Notice** dated **May 9, 2024**, confirming renewal and a new expiration date of **October 2, 2026**.

Under the federal district court's order in *National TPS Alliance, et al. v. Kristi Noem*, No. 3:25-cv-01766 (N.D. Cal.), issued on **May 30, 2025**, TPS beneficiaries who received

documentation on or before February 5, 2025, with expiration dates of October 2, 2026, remain in lawful TPS status for the duration of the litigation.

That includes me. The U.S. Supreme Court may have issued a temporary stay, but the district court's protection order remains binding. I was—by law—in lawful status on the day ICE detained me.

My Arrest and the ICE Hold Were Unlawful

I Was a TPS Holder Under Active Federal Protection — My Detention Was Unlawful

I, Diego Alejandro Aguero Avila, affirm that on the date of my arrest—June 12, 2025—I remained under active protection through Temporary Protected Status (TPS) as defined by federal law and pending litigation.

My TPS renewal application was timely submitted under the 2023 designation, and on May 9, 2024, USCIS issued me a Receipt Notice (Form I-797) confirming receipt of my Form I-765 TPS re-registration. Though my last EAD expired on March 10, 2024, that Receipt Notice constituted an automatic extension of employment authorization for 540 days, pursuant to 8 C.F.R. § 274a.13(d) and the litigation-based protections ordered in *National TPS Alliance v. Kristi Noem*, No. 3:25-cv-01766.

I Was Still Covered — But ICE Refused to Recognize It

Despite this lawful status:

- ICE issued an NTA alleging I was “unlawfully present”;
- Detained me without reviewing the receipt notice or EAD extension eligibility;
- Ignored clear federal guidance that pending TPS applications confer continuing protection and employment authorization under *Mejia v. Garland*, 68 F.4th 1250 (9th Cir. 2023);
- Made no inquiry into the facts of my case or the litigation shielding TPS holders.

The fact that my renewal was pending and supported by a receipt notice should have precluded any removal action. But ICE refused to apply the law or recognize the injunction's scope.

I Was a Minor at Entry — I Could Not Have Been “Unlawfully Present”

I entered the U.S. as a child—federal law under INA §212(a)(9)(B) makes clear that unlawful presence cannot be accrued before age 18. My family filed an asylum claim within statutory limits, further precluding unlawful presence. To label me as having “unlawful presence since entry” is to criminalize childhood and ignore basic statutory protections.

What I Ask the Court to Recognize

1. That my TPS status was pending and covered by auto-extension protections;
2. That ICE failed to assess my documentation, acting in procedural bad faith;
3. That any NTA issued on grounds of unlawful presence is invalid when unlawful presence could not have accrued;
4. That the record shows ICE detained me **without legal basis**, and that such detention violates due process and TPS law.

Federal protection was alive. The detention was not. And the error was not mine.

My Asylum Was Still Pending — DHS Hid This From the Court

I, Diego Alejandro Agüero Avila, affirm that my immigration history includes a pending asylum application, filed affirmatively by my father, Fredlyn Agüero (A# ) in September 2015. That application listed me as a child derivative, anchoring my claim to protection long before I reached adulthood.

This application remained unresolved for years. It was never denied, never withdrawn, and remains in USCIS—**eligible for appeal and amendment**. My presence in the U.S. was never unlawful; it was legally shielded by that pending claim.

FOIA Evidence — DHS Knew and Concealed the Truth

In April 2025, I submitted a Freedom of Information Act (FOIA) request, which confirmed:

- DHS had **retrieved and reviewed my record**;
- The asylum filing was **visible and traceable**;
- Yet ICE failed to **acknowledge it**, choosing instead to classify me as unlawfully present.

This deliberate omission constitutes more than error. It is **suppression of exculpatory evidence**, obstructing the court's ability to fairly assess my case.

Obstruction of Justice — Legal and Ethical Violation

By concealing a pending asylum application from the record—and issuing a Notice to Appear (NTA) based on false allegations of unlawful entry and presence—DHS violated basic principles of justice.

This misconduct is actionable under:

- U visa eligibility criteria, based on obstruction of justice (8 C.F.R. § 214.14(a)(14));
- *Matter of E-F-H-L-*, 27 I&N Dec. 226 (BIA 2018), requiring EOIR to honor asylum claims for amendment before final adjudication;
- The constitutional right to **procedural due process**, which ICE ignored when it failed to include the asylum application in any analysis.

What I Ask the Court to Recognize

1. That my asylum application remained pending and amendable when ICE detained me;
2. That ICE had reviewed my record but concealed that information from the court;
3. That this concealment qualifies as **obstruction**, meriting referral to the U visa program;
4. That proceedings based on false premises and omitted evidence are **constitutionally defective** and must be **terminated**;
5. Eligible for employment based AOS;
6. Eligible for U visa.

The truth was in the file. DHS chose silence. Now I speak, not just to defend myself—but to expose the silence that was used as a weapon.

Government Harm and Policy Violations

I also respectfully submit that the actions taken by DHS and ICE in my case do not merely affect me—they expose the federal government to institutional harm. By detaining without legal basis, concealing pending asylum records, and issuing NTAs rooted in false allegations, DHS is actively undermining its own operational integrity.

These actions violate government-wide waste reduction policies under the Directive on Government Efficiency (DOGE), by allocating resources to detention and prosecution of individuals who are lawfully present or actively seeking protection. The consequences include:

- Unnecessary litigation costs,
- Improper use of enforcement budgets,
- Violation of evidence retention standards,
- And long-term financial liability to victims who may pursue damages under the Federal Tort Claims Act or civil rights statutes.

I have followed the law, submitted valid documentation, and made good faith efforts to engage with the system. The government's failure to review or acknowledge this not only harms me—it places itself in a posture of vulnerability, contradiction, and waste.

I respectfully ask this Court to terminate my proceedings, not only in defense of truth, but in prevention of further systemic damage.

Respectfully submitted,

Diego Alejandro Agüero Avila

In the Matter of:

Respondent
AGUERO-AVILA, DIEGO ALEJANDRO
In Removal Proceedings

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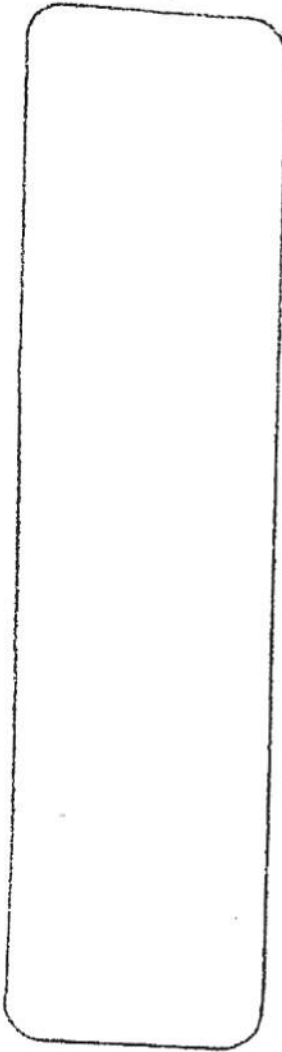
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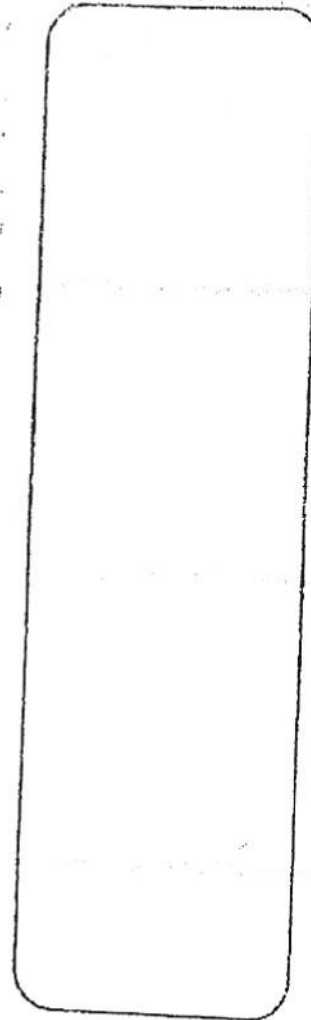
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B	USCIS Receipt Notice 589 MGL2531148170	18-19
C	TPS Renewal USCIS Notice + TPS approval 07/25/2023-03/10/2024	20-22
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W O D T
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
P.O. Box 670026
Houston, TX 77267



U.S. Citizenship
and Immigration
Services

DATE: FEB 24 2025

Fredlyn Aguero Garcia
19827 Heron Shadow Court
Richmond, TX 77407

RE: Aguero Garcia, Fredlyn
Avila Vargas, Meibel
Aguero Avila, Victoria
Aguero Avila, Diego

Notice of Intent to Deny

Dear Mr. Fredlyn Aguero Garcia,

The purpose of this letter is to notify you of the intent to deny your request for asylum. U.S. Citizenship and Immigration Services ("USCIS") has carefully considered your written application and accompanying documents, available country conditions materials, and your oral testimony to reach this determination for the reasons given below.

In presenting your request for asylum, you indicated that you are a 42-year-old male native of Venezuela and citizen of Venezuela. You stated that you were admitted to the United States in Miami, FL on October 30, 2014 on a B1 Visa. You are in lawful status.

You applied for asylum on September 21, 2015. You established by clear and convincing evidence that your application for asylum was filed within one year of your last entry into the United States. Therefore, you filed a timely application.

You testified that you were called arrescualido by unknown individuals in May 2014. You testified that the individuals did not say anything else.

You testified that some individuals yelled "all escualido should die starting with you" in July 2014. You testified that the individuals did not say anything else.

You testified that you were beat on August 7, 2014 while leaving the Voluntad Popular Political Party office. You testified that the individuals beat you with sticks and repeatedly asked "was the first beating not enough." You testified that this incident left you with second degree burns, which are bruises and pimples.

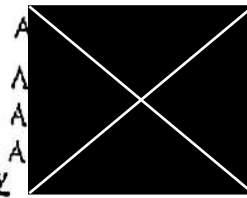
You testified that while you worked at PDVSA you were repeatedly verbally insulted. However, you testified you were never harmed or threatened while you worked at PDVSA.

ORIGINAL ACTION

IT IS A FOURTH

ACIO CRIMINAL ACT

THIS IS NOT A



CHAVEZ - OPPOSITION PARTY MEMBERSHIP PARTICULAR GROUP

POLITICAL PARTY MEMBERS - IDENTIFIED BY COMMON SOCIAL GROUP

23 35

Mat 4-S 1

All in all, these incidents were isolated incidents, you did not know the individuals who harmed and/or threatened you, and you did not sustain any serious injuries. Thus, the incidents do not rise to persecution.

Therefore, you did not suffer serious harm that rises to the level of persecution.

You also claim to have a fear of future persecution. To establish a well-founded fear of future persecution, an asylum applicant must show that his or her fear is both subjectively genuine and objectively reasonable. An asylum applicant may establish an objectively reasonable fear by demonstrating that there is a reasonable possibility of suffering persecution.

NOT TRUE

Accordingly, it is the applicant's burden to establish that:

- (1) she or he possess (or is believed to possess) beliefs or characteristics the persecutor seeks to overcome in others;
- (2) the persecutor is already aware, or could become aware, that she or he possesses these beliefs or characteristics;
- (3) the persecutor has the capability of persecuting the applicant; and
- (4) the persecutor has the inclination to persecute the applicant.

See *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

An applicant can establish a well-founded fear of persecution by showing that he or she will be singled out for persecution or that there is a pattern or practice of persecution of groups of persons similarly situated to the applicant on account of one of the five characteristics in the refugee definition. You have failed to establish that you are similarly situated to any group of persons subject to a pattern or practice of persecution.

Future Persecution Not Established

You failed to establish a well-founded fear of future persecution.

Harm - Future, No Reasonable Possibility

You failed to satisfy the *Mogharrabi* test for well-foundedness.

There is not a reasonable possibility the feared persecutor is inclined to persecute you on account of a protected ground.

You testified that you fear being returned to Venezuela because you fear that you will be killed by the Venezuelan government.

You testified that you have not been harmed or threatened since 2014. Thus, showing that there would be no inclination for anyone to harm you now.

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You testified that you received calls from private numbers in September 2014, where the individuals said that your resignation from work was payable by blood. You testified that you believed they meant they will kill you if they ever found you. You testified, that the individuals did not say or do anything else.

You testified that on September 8, 2014, some individuals shot at your house but did not say anything. You testified that you were not harmed or threatened during this incident.

You testified that you fear being returned to Venezuela because you fear that you will be killed by the Venezuelan government.

You have presented testimony that was consistent, detailed and plausible. Therefore, you are found to be credible.

In order to receive asylum, an asylum-seeker must establish past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

CATHOLIC

Past Persecution Not Established

You did not establish past persecution.

Harm – Past, Harm Does Not Rise

The events you described do not amount to past persecution.

Persecution is "an extreme concept, marked by the infliction of suffering or harm ... in a way regarded as offensive." *See Li v. Ashcroft*, 356 F.3d 1153, 1158 (9th Cir. 2004). Actions must rise above the level of mere harassment to constitute persecution. *See Tamara-Mercea v. Reno*, 222 F.3d 417, 424 (7th Cir. 2000). The experience "must rise above unpleasantness, harassment and even basic suffering." *See Nelson v. INS*, 232 F.3d 258, 263 (1st Cir. 2000). You testified that some unknown individuals called you an *escualido* in May 2014 but did not say anything else. You testified that in July 2014 some other unknown individuals yelled all *escualidos* must die starting with you. These incident alone do not rise to persecution. You testified that you were beat in August 2017, and this incident left you with bruises. You did not have any significant injuries; thus, this incident alone doesn't rise to persecution. You testified that you were repeatedly verbally insulted at your job, but never harmed or threatened. You testified that you eventually resigned from your job, and that is when the private calls and threats began. However, you testified that nothing further happened. These incidents alone do not rise to persecution. You testified that some individuals shot at your home in September 2014, but did not say anything. In addition, you stated that you did not know the individuals who were shooting nor were you injured during this incident.

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In addition, you testified that you were not harmed or threatened during the month that you remained in Venezuela before coming to the U.S. Furthermore, you testified that while coming to the U.S you went through security in the airport in Venezuela without any incident. Further showing that the government would not be inclined to harm or threaten you now.

For the reasons explained above, USCIS has found that you are not eligible for asylum status in the United States.

You can provide rebuttal to this notice in support of your request. You have sixteen (16) days [6 days total for mail included] from the date of this notice to submit such rebuttal or new evidence. Failure to respond to this notice within this allotted time may result in the denial of your request for asylum.

Please direct any response to the address on this letterhead. Mark both the envelope and the contents as follows:

Attention: File Number A#



Rebuttal—ZHN# 1033

Sincerely,

For Brian D. Hemming
Asylum Office Director
Houston Asylum Office

A handwritten signature in black ink, appearing to be "B. Hemming".Handwritten initials "BH" and the number "39" in the bottom right corner.

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-797C, No. [REDACTED]

THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.

Receipt Number [REDACTED]		Case Type 1589 - APPLICATION FOR ASYLUM AND FOR WITHHOLDING OF REMOVAL
Received Date 06/18/2025	Priority Date	Applicant A AGUERO AVILA, DIEGO ALEJANDRO
Notice Date 06/18/2025	Page 1 of 2	
DIEGO AGUERO AVILA c/o DIEGO ALEJANDRO AGUERO AVILA [REDACTED]		Notice Type: Receipt Notice

***** ACKNOWLEDGEMENT OF RECEIPT *****

Your complete Form I-589, Application for Asylum and for Withholding of Removal was received and is pending as of 06/18/2025.

You may remain in the United States until your asylum application is decided. Having a pending asylum application with USCIS does not preclude U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) from placing you into removal proceedings. If you wish to leave the United States while your application is pending, you must obtain advance parole or, for Temporary Protected Status (TPS) recipients, approval of Form I-512T, Authorization for Travel by a Noncitizen to the United States (sometimes referred to as MTINA TPS travel authorization), from USCIS or you may be considered to have abandoned your asylum application. You must report a change of address to USCIS within 10 days of moving by following the instructions on the How to Change Your Address webpage (<https://www.uscis.gov/addresschange>). Changing your address with the U.S. Postal Service will not change your address with USCIS.

BIOMETRICS APPOINTMENT AND ASYLUM INTERVIEW NOTICES:

You will receive a notice informing you when you and those listed on your application as a husband or wife or son or daughter dependent must appear at an Application Support Center (ASC) for biometrics collection. You will also receive a notice informing you when you and those listed on your application as a husband or wife or son or daughter dependent must appear for an asylum interview. Those notices will contain instructions for what to bring to your ASC appointment and what to bring to your asylum interview.

WARNING: Failure to appear at the ASC for biometrics collection or for your asylum interview may affect your eligibility for employment authorization and may also result in the dismissal of your asylum application or referral of your asylum application to an immigration judge.

EMPLOYMENT AUTHORIZATION:

You may file a Form I-765, Application for Employment Authorization, based on your pending asylum application 150 days after you filed your asylum application. You are not eligible to receive an Employment Authorization Document (EAD) until your asylum application has been pending for at least another 30 days, for a total of 180 days. 8 CFR 208.7(a)(1). The 150-day waiting period and the 180-day eligibility period, commonly referred to as the 180-Day Asylum EAD Clock, do not include delays that you request or cause while your asylum application is pending with an asylum office or with the Immigration Court. 8 CFR 208.7(a)(2).

Delays requested or caused by the applicant may include:

- A request to transfer a case to a new asylum office or interview location, including when the transfer is based on your change of address;
- A request to reschedule an interview for a later date;
- Failure to appear at an interview or biometrics appointment;
- Failure to provide a competent interpreter at an interview (if required);
- A request to provide additional evidence at or after an interview;
- The submission of large volumes of evidence immediately before an interview that requires a reschedule; and
- Failure to receive and acknowledge an asylum decision in person (if required).

Applicant(s):

Alien Number

[REDACTED]

Name

AGUERO AVILA, DIEGO

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

USCIS Houston Asylum Office
U.S. CITIZENSHIP & IMMIGRATION SVC
16855 Northchase Drive
Suite 1064
Houston TX 77060

USCIS Contact Center: www.uscis.gov/contactcenter

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If you are visiting a field office and need directions, including public transportation directions, please see www.uscis.gov/fieldoffices for more information.

Notice for People with Disabilities

To request a disability accommodation:

- Go to uscis.gov/accommodations to make your request online, or
- Call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833) for help in English or Spanish. Asylum and NACARA 203 applicants must call to make their request.

If you need a sign language interpreter, make your request as soon as you receive your appointment notice. The more advance notice we have of your accommodation request, the better prepared we can be and less likely we will need to reschedule your appointment. For more information about accommodations, visit uscis.gov/accommodationsinfo.

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June 20, 2025

To Whom it May Concern:

RE: Diego A. Aguero

It is with great pleasure that I write this letter of recommendation for Diego Aguero, a Level II Wind Technician at Tech Wind Services. Since joining our team on March 17, 2025, Diego has proven himself to be an exceptional and valued member of our workforce.

From day one, Diego has demonstrated a high level of professionalism, dedication, and technical expertise, particularly in the area of blade work. His knowledge and hands-on skills with blades have been instrumental in the successful completion of numerous projects. Diego consistently approaches each assignment with precision and care, ensuring that all blade inspections, repairs, and maintenance procedures meet or exceed industry standards. His attention to detail and commitment to quality are truly commendable. He continually adds value to the team.

In addition to his technical strengths, Diego is a responsible, productive and dependable team member. He takes initiative, follows through on tasks, and can always be counted on to deliver excellent work in a timely manner. His reliability contributes significantly to the success and smooth operation of our team.

Beyond his technical abilities, Diego stands out as a true team player. He is always willing to assist his colleagues, share his knowledge, and support the overall success of the team. His positive attitude, strong work ethic, and willingness to go above and beyond is commendable.

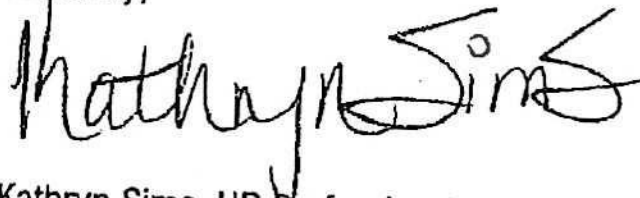
Diego has quickly become a tremendous asset to Tech Wind Services, and I am confident he will continue to excel in any future role he pursues. I recommend him without reservation.

TECH WIND SERVICES - Technical Office

465 Industrial Blvd Suite 300 - McKinney 75069 (TX)

TECH·WIND
SERVICES

Sincerely,



Kathryn Sims, HR Professional

Kathryn.sims@techwindservices.com

Office: 469-905-444

TECH WIND SERVICES - Technical Office

465 Industrial Blvd Suite 300 – McKinney 75069 (TX)

TECH·WIND[®]
SERVICES

June 20, 2025

To Whom it May Concern:

RE: Diego A. Aguero

Diego A. Aguero was scheduled to attend the GE LOTO Essentials Maintenance Training in Niskayuna, NY, from June 23–27, 2025. This is a highly specialized and limited-access course, with only a select number of employees invited to participate and receive certification. Securing a spot in this training is both competitive and crucial for supporting our operational needs.

As a Wind Technician Level II, this certification is essential to Diego's role and professional development. It equips him with the advanced safety procedures required to perform lockout/tagout on GE turbines, a skill set that is increasingly in demand across our projects. GE LOTO-certified technicians are vital to our success, and Diego's participation directly contributes to project readiness, compliance, and safety standards.

We were looking forward to Diego bringing this valuable expertise back to the team and continuing to grow within Tech Wind Services as he is a committed part of the team. His development and this certification are key to both his success and the success of the company.

Thank you,



Kathryn Sims, HR Professional

Office: 469-905-4444

Kathryn.sims@techwindservices.com

TECH WIND SERVICES - Technical Office

465 Industrial Blvd Suite 300 – McKinney 75069 (TX)

From: Hannah Powers h.powers@hamiltoncountytexas.org
Subject: Offense/Arrest Records Request
Date: June 27, 2025 at 6:59 AM
To: fredlynaguero@gmail.com

Good morning,

I received a request for arrest/offense records for Aguero Avila Diego in reference to the case for Possession of Marijuana.

After full review of the request, our agency is unable to comply since this offense was not a case filed by our office. The agency in question is The Texas Department of Public Safety because a State Trooper is the officer that arrested the individual. Please contact TX DPS for more information on how to obtain the necessary records.

Thank you,



Hannah Powers

Admin Assistant

Hamilton County

Sheriff's Office

1108 S. Rice St.

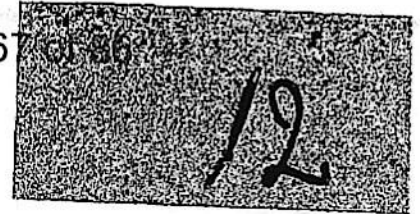
Hamilton, TX 76531

Phone: (254) 386-8120

Admin. Fax: (254) 386-8762

This Email contains confidential information that is legally privileged. The information herewith is intended only for the recipient named above. If you have received this E-mail in error, please immediately notify the Hamilton County Sheriff's Department. The disclosure, copying, distribution, or the taking of any action in reliance on the contents of this E-mail is strictly prohibited.

Handwritten signature or initials.



From: Kelli Sanguinet ksanguinet@cityoflampasas.com
Subject: RE: Urgent Records Request – Certified Copy of Criminal Records for Guero Diego Alejandro (A 208404061) TX C 25 3282347
Date: June 19, 2025 at 8:51 AM
To: Fredlyn Aguero fredlynaguero@gmail.com
Cc: diego Aguero diegoelkun21@gmail.com, gaiaedoc@gmail.com, Jody Cummings jcummings@cityoflampasas.com

Mr. Aguero,

I have searched our records for "Avilo Diego Aguero" and have found no records of arrest, nor involvement in our computer system. You stated that you were arrested by Officer Y. Rees with HP Lampasas. I am assuming that is going to be a Highway Patrol with Texas Department of Public Safety. I have never heard of an Officer Y. Rees.

You also stated that a ticket was "paid within your office", however, this office does not take any payments for citations. The ticket was not paid in our office.

My suggestion would be to double check the arresting officer and possibly reach out the Hamilton County Sheriff's Office or Hamilton Police Department to see if they have any records of your arrest. If you have a copy of the citation you received that you could forward to me, I might be able to better point you in the right direction.

At this time, this request is considered closed.

Thank you,

Kelli Sanguinet
Communications Supervisor / Records Clerk
Lampasas Police Department
301 E 4th Street
Lampasas, TX 76550
512.556.3644 (ext 212)

From: Fredlyn Aguero <fredlynaguero@gmail.com>
Sent: Wednesday, June 18, 2025 2:09 PM
To: Kelli Sanguinet <ksanguinet@cityoflampasas.com>
Cc: diego Aguero <diegoelkun21@gmail.com>; gaiaedoc@gmail.com
Subject: Urgent Records Request – Certified Copy of Criminal Records for Guero Diego Alejandro (A 208404061) TX C 25 3282347

Caution: This email originated from outside of the City's organization. Do not click links nor open attachments unless you recognize the sender and know the content is safe.

Dear Clerk Sanguinet,

I am writing to formally request an immediately certified copy of my criminal records related to case TX C 25 3282347, specifically detailing the exact quantity of marijuana found in my possession.

I am currently detained at the Karnes County Immigration Processing Center, and these records are urgently required for legal proceedings. On June 16, 2025, Chief Cummings referred me to your office, stating that no records could be found under my name (see attached correspondence). However, I am providing attached documentation that:

FS



TEXAS DEPARTMENT OF PUBLIC SAFETY

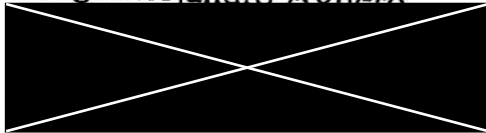
5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000

www.dps.texas.gov



06/25/2025

Diego Alejandro Agüero



RE: Public Information Request for Reference # P013010-061925

Dear Diego Alejandro Agüero:

The Texas Department of Public Safety (DPS) received your above-referenced request on June 19, 2025. We provided basic arrest information on June 20, 2025. We then received your second request for the same records on June 24, 2025. We have located records responsive to your request; however, we believe these records may be excepted from required public disclosure at this time. We are seeking a ruling from the Office of the Attorney General (OAG) with respect to disclosure of these records, and a copy of our request letter is enclosed. You will be notified directly by OAG when a ruling is issued.

If you have any questions regarding this request, please submit them in writing via email to publicrecords@dps.texas.gov. Thank you.

Cordially,

Jodie Clopton

Jodie Clopton
Legal Assistant



TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000

www.dps.texas.gov



06/25/2025

Via EFile

Attorney General of Texas
Open Records Division
PO Box 12548
Austin, Texas 78711-2548

RE: Public Information Request for (P013010-061925)

DATE REQUEST FOR INFORMATION P013010-061925 RECEIVED:	06/19/2025
DATE RESPONSE USING PREVIOUS DETERMINATION SENT;	06/20/2025
DATE SECOND REQUEST FOR INFORMATION RECEIVED;	06/24/2025
DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:	06/25/2025

Dear Open Records Division:

The Department of Public Safety (DPS) received the above-referenced request from Diego Alejandro Agüero on June 19, 2025. DPS provided Mr. Agüero a response within five business days on June 20, 2025, and relied on the previous determination based on Government Code 552.108 issued to DPS. DPS received a second request for the same information on June 24, 2025. Pursuant to OR2017-17508, DPS is now requesting a ruling from your office as we believe some or all of the requested information is excepted from required public disclosure pursuant to section 552.108(a)(1) of the Government Code. Accordingly, we are requesting a ruling regarding the release of these records.

A copy of the basic arrest information has been provided to the requestor. As a result of the above-referenced incident, there is an open and active criminal investigation and criminal charges are pending against one or more individuals. Thus, DPS believes the requested information is excepted from required public disclosure pursuant to section 552.108(a)(1) of the Government Code, which states:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
 - (1) release of the information would interfere with the detection, investigation, or prosecution of crime.

Because this is an ongoing criminal case, the release of potential evidence would interfere with the investigation and prosecution of this case. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 184-85 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e., 536 S.W.2d

559 (Tex. 1976) (per curiam). Consequently, we believe the responsive records are excepted from required public disclosure at least until the criminal investigation is complete and any related charges are resolved.

Please find enclosed the request from Diego Alejandro Aguero, the notice of our request for a ruling sent to the requestor, and a representative sample of the responsive records we wish to except from required disclosure. Please feel free to contact me if you have any questions.

Sincerely,

Jodie Clopton
Jodie Clopton
Legal Assistant

Enclosure(s)

cc: Diego Alejandro Aguero
VIA Web



Gaia EDOC <gaiaedoc@gmail.com>

Fwd: Public Information :: P013010-061925

1 message

Fredlyn Aguero <fredlynaguero@gmail.com>
To: gaiaedoc@gmail.com

Fri, Jun 27, 2025 at 8:52 AM

Sent from my iPhone

Begin forwarded message:

From: Texas DPS Records <txdps@govqa.us>
Date: June 25, 2025 at 1:07:31 PM CDT
To: fredlynaguero@gmail.com
Subject: Public Information :: P013010-061925

Attachments:
Letter_for_requestor.pdf

--- Please respond above this line ---



Texas Department of Public Safety

RE: PUBLIC RECORDS REQUEST of June 19, 2025., Reference # P013010-061925.

Dear Diego Alejandro Aguero,

The Texas Department of Public Safety received a public information request from you on June 19, 2025. Your request mentioned:

"To whom it may concern,

I am requesting complete criminal record related to Ticket # TX C 25 3282347. Currently I am in ICE Custody and I will need a certified copy of my record sent immediately to this email fredlynaguero@gmail.com. It is imperative the record to reflect the exact amount of the marijuana found on me.

Complete name: Aguero Avila Diego Alejandro

A# [REDACTED]

DOB [REDACTED] Venezuela

Any fees involved with the certified copies, please let me know.

I appreciate your time and consideration dedicated to this matter. I am attaching herewith the ticket and my IDs.

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Sincerely,
Aguero Diego"

This also pertains to P013251-062425; which has been closed as a duplicate request.

DPS has located records responsive to your request; however, we believe these records may be excepted from required public disclosure at this time. DPS is seeking a ruling from the Office of the Attorney General (OAG) with respect to disclosure of these records, and a copy of our request letter is attached. You will be notified directly by the OAG when a ruling is issued.

If you have any questions or need additional information, please submit your response through this portal.

Sincerely,

Jodie Clopton
Legal Assistant
OGC

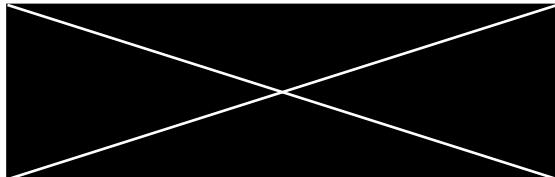
To monitor the progress or update this request please log into the Public Information Center

Powered by
GovQA

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Rachel Lamb Gesslin
Hamilton County Clerk
102 N. Rice Street, Suite 107
Hamilton, Texas 76531
254-386-1204

DIEGO A. AGUERO AVILA



Cause No. 25-097-CCCR-00043

THE STATE OF TEXAS
VS.
DIEGO A. AGUERO AVILA

You are hereby notified that the above styled and numbered cause has been filed in the County Court of Hamilton, Hamilton County, Texas. You will receive another notice with a court date.

If there are any questions, please call the telephone number above.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Alejandra Moncada'.

Alejandra Moncada
Hamilton County Chief Deputy Clerk

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CAUSE NO. 25-097-CCCR-00013

COMPLAINT ALLEGING POSSESSION OF MARIHUANA
LESS THAN 2 OUNCES
CLASS B MISDEMEANOR

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

I, Nestor Reyes, being duly sworn by the undersigned authority, do state that upon my oath that I have personal knowledge, and I charge that heretofore, and before the making and filing of this Complaint, DIEGO A. AGUERO AVILA, Defendant, on or about June 12, 2025, in the County of Hamilton, State of Texas, did then and there intentionally or knowingly possess a usable quantity of marihuana, to wit: in an amount less than two (2) ounces.

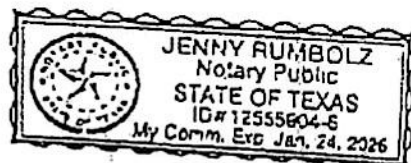
PROBABLE CAUSE

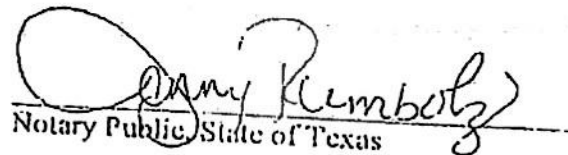
My belief of the foregoing is based upon my experience and training as a certified peace officer of the State of Texas and my investigation of the incident, which is the basis for this complaint.

AGAINST THE PEACE AND DIGNITY OF THE STATE.


Nestor Reyes, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME BY Nestor Reyes, a credible person, this 30th day of July, A. D. 2025.

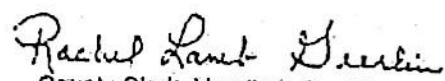



Notary Public, State of Texas

FILED FOR RECORD

a: _____ o'clock _____ M

JUL 07 2025


County Clerk, Hamilton Co., Texas

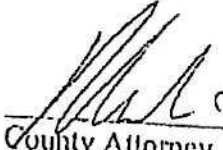
CAUSE NO. 25-097-CCCR-00043

POSSESSION OF MARIHUANA LESS THAN 2 OUNCES INFORMATION
CLASS B MISDEMEANOR

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

I, Mark C. Henkes, County Attorney of Hamilton County, State of Texas, on
affidavit of Nestor Reyes, a competent and credible person, herewith filed in the County
Court of Hamilton County, Texas, do present in and to said court, that on or about June
12, 2025, and before the making and filing of this information, in the DIEGO A.
AGUERO AVILA, Defendant, did then and there intentionally or knowingly possess a
usable quantity of marihuana, to wit: in an amount less than two (2) ounces,

AGAINST THE PEACE AND DIGNITY OF THE STATE.


County Attorney
Hamilton County, Texas

DOB:

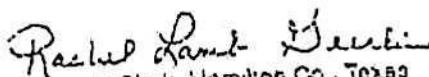


DL#:



FILED FOR RECORD
at _____ o'clock _____ M

JUL 07 2025


County Clerk, Hamilton Co., Texas



Texas DPS
GENERAL OFFENSE HARDCOPY
(Marijuana)
GO# TX 2025-955154

MAL 253 114 8170



Texas DPS
GENERAL OFFENSE HARDCOPY
RELEASE TO PROSECUTORS OFFICE ONLY
(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

Related Event(s)

1. CP TX2025-955154
2. AB TX2025-17317

COMPLAINT INFORMATION

Incident Location

Address LAT: 31° 45' 40.28"N LONG:
098° 10' 44.03"W TX36
District 6A Beat HM

GENERAL INFORMATION

Case Type TRAFFIC STOP
Dispatched Time 16:50:35
At Scene Time 16:50:35
Unit IDs 6A408
Remarks LYJ0696.TX

Priority 2
En Route Time 16:50:35
Cleared Time 18:34:59

CLEARANCE INFORMATION

Final Case Type TRAFFIC STOP
Report Expected NO
Cleared By CUSTODIAL ARREST
Reporting Officer 1 14108 - REYES, NESTOR

Related Person(s)

1. ARRESTEE # 1 - AGUERO AVILA, DIEGO A

CASE SPECIFIC INFORMATION

Sex MALE
Race WHITE
Date Of Birth [REDACTED]
Address [REDACTED]
Municipality [REDACTED]
State TEXAS
ZIP Code 77407
CELL [REDACTED]

PERSON PARTICULARS

Ethnicity HISPANIC
Height 5'08

Weight 158 LBS.

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Texas DPS
GENERAL OFFENSE HARDCOPY
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(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

VIN 19XFB2F90EE021113
Year Of Issue 2026
Type PA - PASSENGER CAR
Make And Model HONDA CIVIC (AND CRX AND DEL SOL)
Style 4DR AUTOMOBILE
Year 2014
Color WHITE

MASTER VEHICLE INDEX REFERENCE

License Number LYJ0696
State Of Issue TEXAS
Year Of Issue 2026

OWNER INFORMATION

Owner Type PERSON
Owner Role INVOLVED



Texas DPS
GENERAL OFFENSE HARDCOPY
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(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

Related Arrest Report AB# TX 2025- 17317

Arrestee AGUERO AVILA, DIEGO A
Date Of Birth [REDACTED]
Related CD# 68225

Arrest Information

Status CHARGED
Type Of Arrest ON VIEW ARREST
Arrest Date JUN-12-2025 1728
Rush File Required NO
Notify Victim On NO
Release
Juvenile NO
Armed With UNARMED
Interpreter Needed NO
Mental Exam NO
Required
Statement Taken NO
Fingerprinted NO
CD Updated NO
Booked Into Cell NO
Arrest Agency DEPARTMENT OF PUBLIC SAFETY
Arresting Officer(s) 14108 - REYES, NESTOR
Summary Of Facts POM < 2

Photo Taken NO

ARREST LOCATION

Address TX36
Municipality HAMILTON UI
County HAMILTON
SODA Zone NO

Drug Free Zone NO

ADDITIONAL ARREST INFORMATION

Case Screened NO
Diversion NO
Recommended
Rights Given NO
Lawyer Called NO
Meal Given NO
Coffee Given NO
Detained NO

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Department of Public Safety
THP- Violator Copy



Ticket # TX C 25 3282347

Date/Time: 06/12/2025 5:29pm County: Hamilton

Location: SH 36 MM 404, HAMILTON UI

Weather: Clear Traffic: Medium

Constr. Zone ☒ Workers Present ☐ Crash ☐ Active School Zone ☐

DL/ID # TX - 44247578 CDL Required ☐

Class: DL - CLASS C

Violator: AGUERO AVILA, DIEGO A

Gender: MALE DOB: ☒ Height: 5'08

Race: WHITE Ethnicity: HISPANIC

Address:

Phone Number:

CMV ☐ HazMat Plac. ☐ Passenger ☐ Interstate ☐ Intrastate ☐

Veh LP: TX - LYJ0696 VIN: 19XFB2F90EE021113

Color: WHITE Year: 2014 Make: HONDA

Model: CIVIC (AND CRX AND DEL SOL) Type: 4DR AUTOMOBILE

CUSTODIAL ARREST VIOLATION

1. POSS MARIJ < 2OZ (HS 481.121(b)(1); CLASS B MISDEMEANOR)

You have been arrested and booked into jail for this offense. You will appear before a judge to complete an arraignment prior to your release from jail. An arraignment is your first appearance before a judge for the criminal charge listed on the citation. The judge will advise you of the criminal charge against you and ask that you enter a plea.

WARNING—NO PENALTY ASSESSED FOR THE FOLLOWING OFFENSE

1. IMPROPERLY PLACED/ILLEGIBLE/UNREADABLE LP (TR 504.943) - TXAC:TITLE43;PART10;CHAPTER21;RULE217.27

THIS IS A WARNING ONLY for an infraction of the traffic laws committed to a minor degree or with extenuating circumstances present. **No Penalty** will be assessed and **no further action** on your part is necessary other than to comply with the traffic laws in the future. This **does not** become a part of your driving record.

This warning is given to you in an effort to secure your cooperation in better observance of the traffic laws thus helping to prevent traffic crashes. The Texas Department of Public Safety believes that good citizens will comply with traffic laws when reminded of their provisions and of the importance of strict compliance with them.

Issued by: N. REYES #14108 Duty Station: 6A04 (HP LAMPASAS)

Compliment or Complaint?

To provide a compliment, contact:

CustomerComments@dps.texas.gov or (512) 424-2823

To file a personnel complaint, contact:

Texas Department of Public Safety - Office of Inspector General
PO Box 4087; Austin, TX 78773

InspectorGeneral@dps.texas.gov or (512) 424-5017 (Mon-Fri, 8AM-5PM)

For detailed personnel complaint information, visit

<http://www.dps.texas.gov/section/office-inspector-general>

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Texas DPS
GENERAL OFFENSE HARDCOPY
RELEASE TO PROSECUTORS OFFICE ONLY
(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

Narrative Text

Type CASE SYNOPSIS

Related Person (ARRESTEE #1) AGUERO AVILA, DIEGO A (DOB: [REDACTED])

Subject AGUERO AVILA, DIEGO A DOB: [REDACTED]

Author 14108 - REYES, NESTOR

Related Date Jun-18-2025 22:22

On June 12, 2025, at approximately 4:50 PM, I, Trooper Nestor Reyes, was working routine patrol on SH 36 near County Road 607, approximately five miles west of Hamilton, when I observed a white Honda Civic traveling eastbound with its front license plate improperly placed on the dashboard. I activated my patrol unit's emergency lights and conducted a traffic stop for a registration violation. After the vehicle came to a stop, it was observed to be displaying Texas license plate# LYJ0696. The driver was identified as Diego Alejandro AGUERO AVILA by Texas driver's license# [REDACTED]. As I was speaking to AGUERO AVILA, I could see a bong in the cup holder. I could also see rolling paper and a marijuana cigarette near the center console area. I could also smell the odor of marijuana being emitted from within the vehicle. A vehicle search was conducted and found contraband. The found contraband was a bong, a marijuana cigarette, containers with marijuana buds, empty vape pens, a tray, rolling papers, and two marijuana grinders. AGUERO AVILA was placed under arrest for Possession of Marijuana (<2 oz). He was transported to the Hamilton County Jail for booking and processing.



Texas DPS
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(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

Eye Color BLACK

MASTER NAME INDEX REFERENCE

Name AGUERO AVILA, DIEGO A
Sex MALE
Race WHITE
Date Of Birth [REDACTED]
Ethnicity HISPANIC
Address [REDACTED]
Municipality [REDACTED]
State TEXAS
ZIP Code 77407

PHONE NUMBERS

CELL [REDACTED]

CHARGE SUMMARY

CHARGE # 1
Offense Date JUN-12-2025 1728
Offense POSS MARIJ < 2OZ - COMPLETED
Charge Statute HS 481.121(B)(1)
Charge Count 1
Charge Severity MISDEMEANOR - CLASS B
Domestic Violence NO

LINKAGE FACTORS

Age Range 22-29 YEARS
Armed With UNARMED
Offense 3507- 0 MARIJUANA - COMPLETED
Arrest Date JUN-12-2025 (THU.)
Arrest Type ON VIEW ARREST

Related Vehicle(s)

1. INVOLVED # 1 - LYJ0696, TX VIN# 19XFB2F90EE021113

CASE SPECIFIC INFORMATION

License Number LYJ0696
License Expiry NO
Exempt
State Of Issue TEXAS

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Texas DPS
GENERAL OFFENSE HARDCOPY
RELEASE TO PROSECUTORS OFFICE ONLY
(Marijuana)

GO# TX 2025-955154
CLEARED/CLOSED

General Offense Information

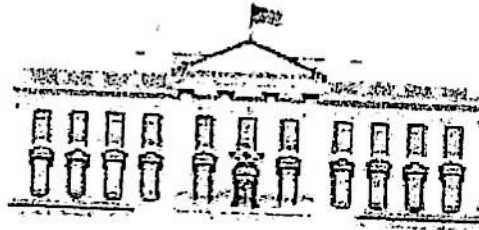
Operational Status CLEARED/CLOSED
Reported On JUN-12-2025 1650
Occurred On JUN-12-2025 1650
Approved On JUN-19-2025 (THU.)
Approved By 9084 - CARROLL, MONTE R
Report Submitted 14108 - REYES, NESTOR
By
Org Unit HP LAMPASAS
Address SH 36 / CR 607
Municipality HAMILTON UI
County HAMILTON
District 6A Beat HM
Felony/ MISDEMEANOR
Misdemeanor
Family Violence NO
Cargo Theft NO

Offenses (Completed/Attempted)

Offense # 1 3507-0 MARIJUANA - COMPLETED
Statute 481.121(B)(1) POSS MARIJ < 20Z
Location HIGHWAY/ROAD/ALLEY
Suspected Of Using N/A OR UNKNOWN
Bias NONE (NO BIAS)

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Response to your message (Intranet Quorum IMA00)



THE WHITE HOUSE WASHINGTON

August 7, 2025

Thank you for taking the time to write and share your story with President Donald J. Trump. After careful review, we have provided the appropriate federal government agency with a copy of your letter for possible assistance or further action.

For additional information about Federal government services, please visit www.USA.gov or call 1-800-FED-INFO.

Sincerely,

The Office of Presidential Correspondence

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

Plaintiff(s),
versus
Defendant(s).

§
§
§
§
§
§

CIVIL ACTION NO. _____

NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL

TO DEFENDANT: KRISTI NOEM DHS HEAD PAM BONDI, ATTORNEY GENERAL TODD M. LYONS, ACTING ICE DIRECTOR
(Name and Address)

The summons and complaint are served under Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure. You must sign and date the acknowledgment below and return one copy of it to the sender within 20 days. If you received the papers for a corporation, unincorporated association, partnership, or other entity (including another person), you must indicate under your signature your relationship to it.

If you *do not* return the completed form to the sender within 20 days, you may be required to pay the expenses of serving a summons and complaint in another way under the law.

If you *do* return the completed form, you must answer the complaint within 20 days. If you fail to file an answer, a judgment will be taken against you for the relief demanded in the complaint.

I declare, under the penalty of perjury, that this notice and acknowledgment will have been mailed on 08/14/2025

Dieso AGUERO

Signature of Plaintiff

08/13/2025
Date of Signature

ACKNOWLEDGMENT OF RECEIPT

I declare, under penalty of perjury, that I received a copy of the summons and complaint in this matter on _____ at _____
(date) (location)

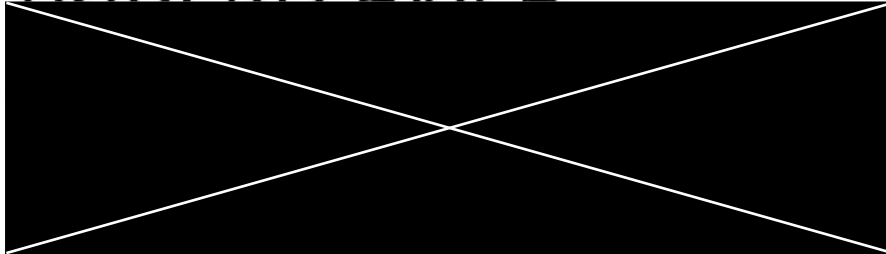
Signature

Name Typed

Relationship or Authority

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DIEGO ALEJANDRO
AGUIERO AVILA



CERTIFIED MAIL



9589 0710 5270 2631 2844

