

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SEP 08 2025 *BP*

MITCHELL R. ELFERS
CLERK

Carlos Gustavo Pardo Gomez, A# 

CV 25-872 SMD/JMR

Petitioner,

v.

Director, Torrance County Detention Facility,

and

Field Office Director, U.S. Immigration and Customs Enforcement, Albuquerque, NM,

Respondents.

Case No. _____ (to be assigned by the Court)

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

I. INTRODUCTION

Petitioner, Carlos Gustavo Pardo Gomez (A# , currently detained at the Torrance County Detention Facility in Estancia, New Mexico, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. §2241. Petitioner challenges the legality of his continued detention by U.S. Immigration and Customs Enforcement ("ICE"), given that he already has a favorable ruling of Withholding of Removal and his asylum case is under appeal before the Board of Immigration Appeals ("BIA").

II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. §2241 because Petitioner is in custody in violation of the Constitution and laws of the United States. Venue is proper in the District of New Mexico because Petitioner is detained within this District.

III. PARTIES

- Petitioner: Carlos Gustavo Pardo Gomez, A# , citizen of Venezuela, born  1989.
- Respondents: (a) Director of Torrance County Detention Facility, Estancia, NM; (b) ICE Field Office Director, Albuquerque, NM.

IV. FACTS

1. Petitioner is a Venezuelan national who was taken into ICE custody on July 5, 2025, in Caguas, Puerto Rico, by agents of the Department of Homeland Security.
2. ICE had already taken Petitioner's passport into custody at the time of his arrest.
3. On June 4, 2025, an Immigration Judge in Puerto Rico granted Petitioner relief in the form of Withholding of Removal under INA §241(b)(3), 8 U.S.C. §1231(b)(3).
4. The Immigration Judge denied asylum under INA §208(b)(1) but explicitly granted mandatory protection from removal to Venezuela. DHS waived its right to appeal the decision.
5. On July 7, 2025, Petitioner timely filed an appeal before the Board of Immigration Appeals (BIA), challenging only the denial of asylum, within the permitted deadline extended by the July 4 federal holiday.
6. Petitioner remains detained while his appeal is pending, despite the fact that he has already been granted statutory protection from removal.
7. Petitioner has no criminal record either in his country of origin, Venezuela, or in the United States.

V. LEGAL CLAIMS

- Petitioner's continued detention after being granted withholding of removal is arbitrary, excessive, and unconstitutional.
- Detention under these circumstances violates due process rights guaranteed by the Fifth Amendment of the U.S. Constitution.
- DHS waived appeal of the Immigration Judge's grant of withholding of removal, which is therefore final and binding. Petitioner cannot lawfully be removed to Venezuela.
- Petitioner's pending appeal concerns only the denial of asylum, seeking broader protection. This does not undermine the finality of withholding protection already granted.
- Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Clark v. Martinez*, 543 U.S. 371 (2005), ICE may not detain an individual indefinitely where removal is not reasonably foreseeable.
- Under INA §241(b)(3), 8 U.S.C. §1231(b)(3), Petitioner cannot be removed to Venezuela, the country of persecution, due to the Immigration Judge's grant of protection.
- Continued detention serves no legitimate government purpose because removal is legally barred. Prolonged detention in this situation constitutes punishment rather than regulation, which is impermissible under the Due Process Clause.

VI. SUPPLEMENTAL LEGAL AUTHORITY

The Immigration Judge's grant of withholding of removal is mandatory under federal law and was not appealed by DHS. Therefore, ICE has no lawful authority to remove Petitioner to Venezuela. Petitioner's only pending matter before the BIA is the denial of asylum. This appeal does not negate the withholding order's effect, which prohibits deportation to Venezuela. Under binding Supreme Court precedent, including *Zadvydas v. Davis* and *Clark v. Martinez*, the government cannot lawfully detain an individual indefinitely where removal is not reasonably foreseeable. Petitioner's continued detention is therefore unlawful.

VII. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Issue a writ of habeas corpus ordering Respondents to show cause why Petitioner should not be released.
2. Order Petitioner's immediate release under appropriate conditions of supervision, bond, or parole, given the Immigration Judge's grant of withholding of removal.
3. Grant any further relief the Court deems just and proper.

VIII. DECLARATION

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

Date: _____

Respectfully submitted,

Carlos Gustavo Pardo Gomez, A# 
Torrance County Detention Facility
209 County Road A027
Estancia, NM 87016

CERTIFICATE OF SERVICE

I certify that on this date, I mailed a copy of this Petition for Writ of Habeas Corpus to:

- Clerk of Court, U.S. District Court - District of New Mexico, 333 Lomas Blvd NW, Suite 270, Albuquerque, NM 87102
- U.S. Attorney for the District of New Mexico, P.O. Box 607, Albuquerque, NM 87103
- ICE Office of Chief Counsel, 1600 Broadway Blvd NE, Suite 300, Albuquerque, NM 87102

Date: _____

Carlos Gustavo Pardo Gomez, A#



**G-28, Notice of Entry of Appearance
as Attorney or Accredited Representative**

Department of Homeland Security

Part 1. Notice of Appearance as Attorney or Accredited Representative**A. This appearance is in regard to immigration matters before:**

USCIS - List the form number(s): _____ CBP - List the specific matter in which appearance is entered: _____

ICE - List the specific matter in which appearance is entered: _____
remove ankle monitor

B. I hereby enter my appearance as attorney or accredited representative at the request of:

List Petitioner, Applicant, or Respondent. NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent being represented, and not the address of the attorney or accredited representative, except when filed under VAWA.

Principal Petitioner, Applicant, or Respondent			A Number or Receipt Number, if any			
Name: Last		First	Middle		<input type="checkbox"/> Petitioner <input type="checkbox"/> Applicant <input checked="" type="checkbox"/> Respondent	
Pardo Gomez		Carlos	Gustavo			
Address: Street Number and Street Name			Apt. No.	City	State	Zip Code
Bo. Guasabara, Carr			X	Caguas	PR	00725

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, USCBP, or USICE

Signature of Petitioner, Applicant, or Respondent



Date

June 24, 2025

Part 2. Information about Attorney or Accredited Representative (Check applicable item(s) below)

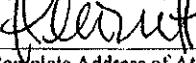
A. I am an attorney and a member in good standing of the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia: **Supreme Court of Puerto Rico**
I am not or am subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law (If you are subject to any order(s), explain fully on reverse side).

B. I am an accredited representative of the following qualified non-profit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 1292.2. Provide name of organization and expiration date of accreditation:

C. I am associated with _____
The attorney or accredited representative of record previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request (If you check this item, also complete item A or B above in Part 2, whichever is appropriate).

Part 3. Name and Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

Name of Attorney or Accredited Representative		Attorney Bar Number(s), if any	
Mariela Liane Negrón Marty		21640	
Signature of Attorney or Accredited Representative		Date	
		June 24, 2025	

Complete Address of Attorney or Organization of Accredited Representative (Street Number and Street Name, Suite No., City, State, Zip Code)
PO Box 404, Aguada, PR 00602

Phone Number (Include area code)	Fax Number, if any (Include area code)	E-Mail Address, if any
787-951-3089		mnegronlaw@gmail.com



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
GUAYNABO (SAN JUAN) IMMIGRATION COURT

Respondent Name:

PARDO GOMEZ, CARLOS GUSTAVO

To:

Negron Marty, Mariela Liane
PO Box 404
Aguada, PR 00602

A-Number:

Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/04/2025

- Unable to forward - no address provided.
- Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041
- Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

- Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA § 242.
- Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.

Other:

See Order of the Immigration Judge

Date: 06/04/2025



Immigration Judge: Elvin R. Talavera-Peraza 06/04/2025

Certificate of Service

This document was served:

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

Riders:

Date: 06/04/2025 By: PEREZ, MYRNELIS, Court Staff



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
GUAYNABO (SAN JUAN) IMMIGRATION
COURT**

Respondent Name:

PARDO GOMEZ, CARLOS GUSTAVO

To:

Negrón Marty, Mariela Liane
PO Box 404
Aguada, PR 00602

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/04/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 06/04/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent removable inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(6)(A)(i)

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

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

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

B. Cancellation of Removal

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

C. Waiver

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

D. Adjustment of Status

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

E. Other

III. Voluntary Departure

- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was denied.
- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was granted, and Respondent is ordered to depart by [REDACTED]. The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
 - Further information regarding voluntary departure has been added to the record.
 - Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

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

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

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

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

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

IV. Removal

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

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

V. Other

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

The respondent's removal has been WITHHELD as to VENEZUELA pursuant to INA §241(b)(3) as withholding of removal was GRANTED by the Court.

Elvin R. Talavera-Peraza

Immigration Judge: Elvin R. Talavera-Peraza 06/04/2025

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

Appeal Due: 07/07/2025

Certificate of Service

This document was served:

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

Riders:

Date: 06/04/2025 By: PEREZ, MYRNELIS, Court Staff

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

OMB# 1125-0002

Notice of Appeal from a Decision of an
Immigration Judge

1.

List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):
PARDO GOMEZ, Carlos Gustavo A# 

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

For Official Use Only



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

2. I am



the Respondent/Applicant



DHS-ICE (Mark only one box.)

3. I am



DETAINED



NOT DETAINED (Mark only one box.)

4. My last hearing was at Guaynabo (San Juan) Immigration Court, Guaynabo, Puerto Rico (Location, City, State)5. **What decision are you appealing?**

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

I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated 06/04/2025.

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

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

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

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

The Respondent is appealing the Immigration Judge's denial of the application for asylum pursuant to INA section 208(b)(1).

The Immigration Judge erred in denying Respondent's application for asylum and for withholding of removal because the decision does not follow applicable precedent. Lead respondent, through credible testimony and evidence, has demonstrated a well-founded fear of persecution on account of the political persecution he suffered in Venezuela. Consequently, the Immigration Judge erred in failing to recognize that the persecution that Respondent testified he suffered in Venezuela, as well as the future persecution he will face if removed to her country of origin, is directly linked to, and is because of, his political opinion. Furthermore, the government of Venezuela is unable or unwilling to provide protection to him.

(Attach additional sheets if necessary)

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

7. Do you desire oral argument before the Board of Immigration Appeals? Yes No

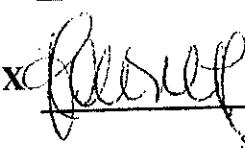
8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? Yes No

9. If you are unrepresented, do you give consent to the BIA Pro Bono Project to have your case screened by the Project for potential placement with a free attorney or accredited representative, which may include sharing a summary of your case with potential attorneys and Yes No accredited representatives? *(There is no guarantee that your case will be accepted for placement or that an attorney or accredited representative will accept your case for representation)*

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

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

10. Print Name: Mariela Liane Negron Marty

11. Sign Here:  X 07/07/2025

Signature of Person Appealing
(or attorney or representative)

Date



Lcda. Mariela Negron Marty <mnegronlaw@gmail.com>

URGENTE: Pasaporte PARDO GOMEZ Carlos Pardo

3 messages

Lcda. Mariela Negron Marty <mnegronlaw@gmail.com>
To: "Melendez, Agnes M" <agnes.m.melendez@ice.dhs.gov>

Fri, Jul 18, 2025 at 2:47 PM

Saludos Agnes:

Espero que se encuentre bien.

Quisiera saber si usted tiene alguna información sobre PARDO GOMEZ, Carlos Gustavo. Lo detuvieron el 5 de julio de 2025 y desde entonces no tenemos información al respecto. No lo han registrado en el localizador ni le han asignado a un oficial de deportación. De igual forma quisiera saber en posesión de quién está su pasaporte.

Agradecida,

Lcda. Mariela Negrón MartyAttorney at Law
Cell: (787)-951-3089
mnegronlaw@gmail.com

CONFIDENTIALITY NOTE: This communication contains information belonging to MNEGRON LAW LLC which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of said information is strictly prohibited. If you have received this communication by error, please notify us immediately.

Melendez, Agnes M <agnes.m.melendez@ice.dhs.gov>
To: "Lcda. Mariela Negron Marty" <mnegronlaw@gmail.com>

Sat, Jul 19, 2025 at 7:56 AM

Good morning:

Mr. PARDO is at a State Facility in Florida. His passport should be in his A-file.

Regards,

Agnes M. Meléndez

Supervisory Detention & Deportation Officer

Non-Detained Unit

Gmail - URGENTE: Pasaporte PARDO GOMEZ Carlos Pardo

Miami Field Office - Puerto Rico

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

Desk: 939-600-6108 Cell: 305-216-5502

From: Lcda. Mariela Negron Marty <mnegronlaw@gmail.com>

Sent: Friday, July 18, 2025 2:47 PM

To: Melendez, Agnes M <agnes.m.melendez@ice.dhs.gov>

Subject: URGENTE: Pasaporte PARDO GOMEZ Carlos Pardo

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please use the Cofense Report Phishing button to report. If the button is not present, click [here](#) and follow instructions.

[Quoted text hidden]

Mon, Jul 21, 2025 at 9:02 AM

Lcda. Mariela Negron Marty <mnegronlaw@gmail.com>

To: "Melendez, Agnes M" <agnes.m.melendez@ice.dhs.gov>

Thank you for the update.

Lcda. Mariela Negron Marty

Attorney at Law

Cell: (787)-951-3089

mnegronlaw@gmail.com

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[Quoted text hidden]

CARLOS PARDO GOMEZ (A#
TORRANCE COUNTY DETENTION FACILITY
PO BOX 8378
ESTANCIA, NM 87016

ALBUQUERQUE NM 870
5 SEP 2025 PM 3 L

RECEIVED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
SEP 08 2025
MITCHELL R. ELFERS
CLERK

Clerk of Court
U.S. District Court – District of New Mexico
Pete V. Domenici U.S. Courthouse
333 Lomas Blvd NW, Suite 270
Albuquerque, NM 87102

卷之三

