

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martinez**

Civil Action No. 25-cv-3078-WJM-KAS

JESUS MORALES LOPEZ

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as warden  
of the Aurora Contract Detention Facility, et al.

Respondents.

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**PETITIONER'S FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS<sup>1</sup>**

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**INTRODUCTION**

1. Petitioner, JESUS MORALES LOPEZ, by and through undersigned counsel, hereby amends his Petition for Writ of Habeas Corpus (ECF No. 1), based on the new circumstance of the Board of Immigration Appeals (BIA) decision on October 23, 2025. The BIA decision extinguished the automatic stay that was the basis for Morales Lopez's Petition. Morales Lopez is still within the Court's jurisdiction and asks that the Court agree with him that his continued detention by Respondents pursuant to 8 U.S.C. § 1225(b)(2)(A) is unlawful and grant his First Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

2. Morales Lopez is charged with having entered the United States without admission in August 2006 in violation of 8 U.S.C. § 1182(a)(6)(A)(i). Morales Lopez did not encounter

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<sup>1</sup> Morales Lopez respectfully submits this standalone filing of his First Amended Petition for Writ of Habeas Corpus pursuant to the Court's Order, ECF No. 30. In accordance with the Court's directive and D.C.COLO.LCivR. 15.1(a), Morales Lopez also files as Attachment A, a redlined version of the Petition showing the changes from the original Petition. All original exhibits to the amended petition are included and re-attached to this filing.

immigration officials during his August 2006 entry and had no contact with immigration officials until July 2, 2025. On July 2, 2025, Morales Lopez was arrested pursuant to DHS Form I-200 (Warrant for Arrest of Alien), DHS Form I-286 (Notice of Custody Determination), and the Notice to Appear. These documents all indicated that Morales Lopez was detained under INA § 236(a).

3. At the bond hearing on August 14, 2025, the Immigration Judge (IJ) agreed with Morales Lopez that he was detained under INA § 236(a). Therefore, after finding that he is not a danger to the community nor a flight risk, the IJ ordered his release on a \$ 7,500 bond, which Morales Lopez paid that next day.

4. Morales Lopez remained in detention despite the posted bond amount due to DHS's invocation of the automatic stay on August 14, 2025, and perfected on August 20, 2025.

5. While seeking review before this Court regarding that continued detention under the automatic stay provision, the BIA issued a decision on October 23, 2025, which extinguished the automatic stay. As such, Morales Lopez sought leave to file the instant First Amended Petition.

6. Morales Lopez's continued detention by Respondents based on INA § 235(b)(2)(A) violates the plain language of the Immigration and Nationality Act. INA § 235(b)(2)(A) does not apply to individuals like Morales Lopez who previously entered and are now residing in the United States, and instead, INA § 236(a) applies.

7. He respectfully requests that the Court find his detention unlawful and unconstitutional and issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 ordering Respondents to immediately release him from custody.

### CUSTODY

8. Morales Lopez is currently in the custody of the Aurora Contract Detention Facility in Aurora, Colorado. He is in the physical custody of Respondents and under the direct control of Respondents and their agents. Morales Lopez has been in ICE custody since July 2, 2025.

### JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 2201-02 (declaratory relief), and Article I, section 9, clause 2 of the U.S. Constitution (Suspension Clause), as Morales Lopez is presently in custody under or by color of the authority of the United States, and he challenges his custody in violation of the Constitution, laws, or treaties of the United States.

10. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 678 (2001).

11. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because Morales Lopez is confined in this District, at least one Respondent is in this District, Morales Lopez's immediate physical custodian is in this District, and a substantial part of the events giving rise to the claims in this action occurred in this District. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005–06 (2025) (per curiam) (“For core habeas petitions, jurisdiction lies in only one district: the district of confinement” (internal quotation marks and citation omitted)).

### HABEAS CORPUS

12. A petitioner is entitled to habeas relief if he demonstrates that his detention violates the United States Constitution or federal law. 28 U.S.C. § 2241.

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

14. The Court has inherent power to release the petitioner pending adjudication of the petition. *See United States v. Hardage*, 58 F.3d 569, 574 (10th Cir. 1995).

### PARTIES

#### **A. Petitioner**

15. Morales Lopez was detained by Immigration and Customs Enforcement (ICE) officers on July 2, 2025, pursuant to a warrant for his arrest issued in conjunction with a Notice to Appear. He is detained at the Aurora Contract Detention Facility in Aurora, Colorado. He is in the custody and direct control of Respondents and their agents.

#### **B. Respondents**

16. Respondent Juan Baltazar is the Warden of the Aurora Contract Detention Facility. Respondent Baltazar has immediate physical custody of Morales Lopez and is sued in his official capacity.

17. Respondent Robert Guadian is the Field Office Director of the U.S. Immigration and Customs Enforcement Denver Field Office. Respondent Guadian has immediate physical custody of Morales Lopez and is sued in his official capacity.

18. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons has immediate physical custody of Morales Lopez and is sued in his official capacity.

19. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. Respondent Noem is a legal custodian of Morales Lopez and is sued in her official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). Respondent Bondi is a legal custodian of Morales Lopez and is sued in her official capacity.

### **FACTUAL ALLEGATIONS**

#### **A. Background**

21. Morales Lopez has been a longtime Colorado resident of almost 20 years. Morales Lopez is married and together with his wife has 4 United States Citizen (USC) children. Morales Lopez has worked very hard through the painting business he owns that is incorporated and registered in the State of Colorado to be the sole financial provider for his children. He and his wife have paid taxes since 2006 demonstrating that he is financially independent. *See Bond Memorandum of the Immigration Judge, dated August 27, 2025, attached hereto as Exhibit J.*

22. When Morales Lopez last entered the United States in August 2006 he was not encountered by immigration and had no contact with immigration authorities until his arrest on July 2, 2025. When Morales Lopez was arrested, DHS issued a Notice to Appear, *attached hereto as Exhibit A*, DHS Form I-286 (Notice of Custody Determination), *attached hereto as Exhibit B*, and DHS Form I-200 (Warrant for Arrest of Alien), *attached hereto as Exhibit C*. These documents all indicated that Morales Lopez was detained under INA § 236(a).

23. At the bond hearing on August 14, 2025, the IJ agreed with Morales Lopez that he was detained under INA § 236(a), rejected DHS' novel argument of mandatory detention under INA § 235(b)(2)(A), found Morales Lopez was not a danger to the community nor a flight risk,

and ordered his release on a \$ 7,500 bond. *See Bond Order of the Immigration Judge, dated August 14, 2025, attached hereto as Exhibit D.* Morales Lopez posted a \$ 7,500 bond the next day.

24. Meanwhile, DHS filed a Form EOIR-43 “Notice of Intent to Appeal the Custody Redetermination,” unilaterally triggering the automatic stay provision at 8 C.F.R. § 1003.19(i)(2). *See DHS Form EOIR-43, dated August 14, 2025, attached hereto as Exhibit E.* Filing that form blocked the IJ’s order, at least for the pendency of the appeal to the BIA.

### **B. BIA Appeal**

25. In anticipation of DHS perfecting its appeal, undersigned counsel entered her appearance with the Board on August 18, 2025. *See EOIR-27 on behalf of Morales Lopez, dated August 18, 2025, attached hereto as Exhibit G.*

26. On August 27, 2025, undersigned counsel received notice that her EOIR-27 had been rejected and a receipt notice for an appeal that had been filed by DHS seven (7) days prior on August 20, 2025. *See DHS Form EOIR-26, dated August 20, 2025, attached hereto as Exhibit H.*

27. Included in the Notice of Appeal was an evidentiary submission by DHS that appeared to indicate Form I-286 was “cancelled” on August 20, 2025. *See DHS Evidence of Cancelled Form I-286, dated August 20, 2025, attached hereto as Exhibit I.*

28. On September 2, 2025, undersigned counsel filed a Motion to Dismiss the pending appeal based on the incomplete service of EOIR-26. On September 18, 2025, undersigned counsel renewed her request to dismiss the appeal as DHS had not responded to her Motion. *See Motion to Dismiss DHS Bond Appeal for Incomplete Service, dated September 2, 4, 2025, attached hereto as Exhibit K.*

29. On September 23, 2025, Morales Lopez submitted his brief in support of opposition to the DHS bond appeal.

30. On October 1, 2025, Morales Lopez submitted his Petition for Writ of Habeas Corpus with this Court seeking review of DHS' application of the automatic stay regulation.

31. On October 23, 2025, the BIA issued a decision for Morales Lopez asserting that under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), he was ineligible for bond. See *Decision of the BIA, dated October 23, 2025, attached hereto as Exhibit L*. The BIA did not address or adjudicate the pending Motion to Dismiss. See *Exhibit L attached hereto*.

### **LEGAL FRAMEWORK**

#### **A. Due Process Clause**

32. The Due Process Clause of the Fifth Amendment provides Morales Lopez with important protections regarding his detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

33. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

34. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.* The government may not detain a noncitizen based on any other justification.

35. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards).

36. Courts have found that automatic detention pending appeal “after a judicial officer has determined that release [] is appropriate,” where the government has made no “showing of dangerousness or flight risk,” “renders the continued detention arbitrary” and “raises a substantial Fifth Amendment claim.” *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025).

#### **B. Detention**

37. The relevant detention statutes at issue here are 8 U.S.C. § 1225(b)(2), which requires mandatory detention “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted,” and 8 U.S.C. § 1226(a), which states that “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. §§ 1225, 1226.

38. Since these statutes were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585, they have not been amended until earlier this year when the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), amended section 1226.

39. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).

40. Thus, in the decades that followed their enactment in 1996, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

## ARGUMENT

### **I. MORALES LOPEZ IS DETAINED UNDER 8 U.S.C. § 1226(a).**

41. This Court must conclude that Respondents’ treatment of Morales Lopez and the plain text of the statutes indicates that Morales Lopez was detained pursuant to the government’s discretionary authority under § 1226(a).

42. The overall structure and case law interpreting the statutes compels the conclusion that § 1225’s provision for mandatory detention for aliens “seeking admission” does not apply to

someone like Morales Lopez who has been residing in the United States for almost twenty (20) years. *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at \*3 (S.D.N.Y. Aug. 13, 2025); *see also Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at \*8 (D.N.H. Sept. 8, 2025) (“Because § 1225(b)(2)(A) applies to applicants for admission who are seeking to enter the United States, it cannot apply to Jimenez, who has already entered the country and has been residing here for over two years.”); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at \*8 (D. Mass. July 24, 2025) (rejecting the Government’s “novel interpretation” that 1225(b) applies to noncitizens detained while present in the United States); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*7 (D. Mass. July 7, 2025) (“[T]he plain text of Sections 1225 and 1226, together with the structure of the larger statutory scheme, indicates that Section 1225(b)(2) does not apply to noncitizens who are arrested on a warrant issued by the Attorney General while residing in the United States.”).

43. In a recent order, the District Court of Colorado found that while Morales Lopez’s application for Non-LPR Cancellation of Removal may make him an “applicant for admission,” that is not synonymous with “seeking admission” under § 1225(b)(2) because such a reading of the statute “would render the phrase ‘seeking admission’ in § 1225(b) superfluous.” *See Gutierrez v. Baltazar, et. al.*, No. 1:25-cv-02720-RMR (D. Colo. Oct. 17, 2025) (rejecting argument that a U-Visa made Gutierrez an “applicant for admission”).

44. Also weakening the position that 8 U.S.C. § 1225 applies to Morales Lopez is the fact that on July 2, 2025, ICE issued Morales Lopez Form I-200 (Warrant for Arrest of Alien) and Form I-286 (Notice of Custody Determination), which both reference his detention under INA § 236, 8 U.S.C. § 1226(a). *See Exhibits B and C, attached hereto.*

45. Respondents allegedly cancelled Form I-286 on August 20, 2025. *See Exhibit I attached hereto*. The alleged cancellation followed the Immigration Judge’s decision, when the case was already on appeal to the BIA. Morales Lopez did not receive proper notice of this cancelled Form. *See Exhibit K attached hereto*. No other documents of Morales Lopez were cancelled.

46. As a recent district court noted, “Courts have given great weight to the manner in which DHS treated the petitioner in determining which detention statute applies.” *Zumba v. Bondi*, No. 2:25-cv-14626-KSH, 2025 WL 2753496, at \*9 (citing *Lopez Benitez*, 2025 WL 2371588, at \*3 (holding that § 1225 did not apply because (1) DHS had consistently treated petitioner as subject to discretionary detention under § 1226(a) and (2) the “plain text, overall structure, and uniform case law interpreting” the statutory provision compels the conclusion)), and here the Court should give weight to the July 2, 2025, documents Morales Lopez was properly issued.

47. In sum, because Morales Lopez was not detained while attempting to enter the country and does not have circumstances that would subject him to mandatory detention, Morales Lopez is not subject to § 1225(b)(2)(A)’s mandatory detention provision, nor does he fall outside of § 1226(a)’s discretionary detention provision based on any § 1226(c) exceptions.

## **II. THE OCTOBER 23, 2025, BIA DECISION IS ARBITRARY AND CAPRICIOUS.**

48. This Court is not required to follow the BIA decision from October 23, 2025, because it relies on legal analysis that has since been rejected by this Court. *See Hernandez v. Baltazar*, No. 1:25-cv-03094-CNS (D. Colo. Oct. 24, 2025). Interpretation of the meaning of a statute belongs to the “independent judgment” of the courts, as “agencies have no special competence in resolving statutory ambiguities.” *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385-86, 401 (2024).

49. Respondents do not point to an Article III court that has adopted their expansive construction of § 1225(b)(2), but instead cite *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), to argue that Morales Lopez is an “applicant for admission” and therefore can be detained pursuant to § 1225, regardless of how many years they have been present in the United States.

50. In that case, the BIA held that noncitizens who are present in the United States without admission and are arrested on a warrant are subject to § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I&N Dec. at 227. However, while the BIA decision might be a helpful guidance, this Court is not bound by it, see *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385-86, 401 (2024) (interpretation of the meaning of a statute belongs to the “independent judgment” of the courts, as “agencies have no special competence in resolving statutory ambiguities”), particularly where BIA made prior pronouncements to the contrary. See *Matter of Yajure Hurtado*, 29 I&N Dec. at 225 n.6 (“We acknowledge that for years Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection.”); see *Martinez v. Hyde*, 25- 11613 (BEM) 2025 WL 2084238, at \*8 (D. Mass. July 24, 2025) (discussing prior BIA decisions).

51. Under *Loper*, the Court is not required to defer to the BIA’s recent interpretation, particularly when that view has not “remained consistent over time.” 603 U.S. at 385-86 (“the longstanding practice of the government’—like any other interpretive aid—‘can inform [a court’s] determination of what the law is’”) (citations omitted); see *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (stating that the “weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.”).

52. Therefore, because it is the “responsibility of the court to decide whether the law means what the agency says” the Court disagrees with the holding of *Yajure Hutado* and declines to follow it. *Perez v. Mortgage Bankers Assn.*, 575 U.S. 92, 109, (2015) (Scalia, J., concurring in judgment). As discussed above, this Court joins other courts throughout the nation and finds that DHS has adopted a policy that likely violates federal law.

**CLAIMS FOR RELIEF**

**Count One**

**Violation of 8 U.S.C. § 1226(a), INA § 236(a)  
Unlawful Denial of Release on Bond**

53. Morales Lopez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

54. Morales Lopez’s detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A), given his almost 20 years of presence in the United States, the interior apprehension, and the warrant for his arrest and notice of custody determination. The application of 8 U.S.C. § 1225(b)(2)(A) to Morales Lopez thus violates the INA.

**Count Two**

**Violation of the Due Process Clause of the Fifth Amendment  
to the United States Constitution – Substantive Due Process**

55. Morales Lopez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

56. To satisfy the substantive due process requirements of the Fifth Amendment, a noncitizen’s detention must be tied to some lawful purpose, which does not exist when the individual is not a flight risk or danger to the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

57. Here, as the IJ found, Morales Lopez is not flight risk nor is he a danger to the community. Respondents' detention of Morales Lopez is therefore unjustified and unlawful. Accordingly, Morales Lopez is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment. This necessitates his release.

**Count Three**  
**Violation of the Administrative Procedure Act**  
**Contrary to Law and Arbitrary and Capricious Agency Action**

58. Morales Lopez realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

59. The Administrative Procedure Act prohibits agency action that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. Of Wildlife*, 551 U.S. 644, 658 (2007).

60. The reasoning relied on in *Matter of Hurtado* has been found unpersuasive by this Court, and therefore, there is no requirement to defer to the administrative agency's decision that rests solely on that interpretation. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024). It appears that every court that has examined this issue since the BIA's decision on September 5 has rejected *Matter of Yajure Hurtado* as unavailing in light of the contrary conclusion compelled by tools of statutory interpretation. *See, e.g., Chogllo Chafra*, 2025 WL 2688541, at \*7 ("I find *Yajure Hurtado* to be unavailing . . . ."); *Sampiao*, 2025 WL 2607924, at \*8 n.11 ("[T]he Court disagrees with the BIA for the reasons given herein."); *Pizarro Reyes*, 2025 WL 2609425, at \*7 ("[T]he BIA's decision to pivot from three decades of consistent statutory

interpretation and call for [petitioner's] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation.”).

**PRAYER FOR RELIEF**

Petitioner Morales Lopez respectfully requests that this Court to grant the following relief:

- (1) Assume jurisdiction over this matter; and
- (2) Grant Morales Lopez’s Writ of Habeas Corpus based on his mandatory detention under § 1225 violates the INA and the Due Process Clause of the Fifth Amendment; and
- (3) Order that Respondents actions violate the Administrative Procedure Act; and
- (4) Order Respondents to immediately release Morales Lopez within 24 hours of the Court’s order from custody in accordance with the bond order from IJ Gardezelewski notwithstanding the BIA decision, a remedy this Court is empowered to do as it would return Morales Lopez to his position prior to his unlawful detention. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (noting that at “common-law habeas corpus was, above all, an adaptable remedy”); *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (explaining that habeas is not an appropriate vehicle to challenge the circumstances of confinement); and
- (5) Permanently enjoin Respondents from re-detaining Morales Lopez under § 1225; and
- (6) Permanently enjoin Respondents from re-detaining Morales Lopez unless his circumstances change, or he has a final order of removal; and
- (7) Award Petitioner reasonable attorneys’ fees and costs; and
- (8) Grant any further relief the Court deems just and proper.

Dated this 17th day of November 2025.

Respectfully submitted,

/s/ Skylar M. Larson

Skylar M. Larson, Esq.

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ATTORNEY FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2025, I electronically filed the foregoing **Petitioner's First Amended Petition for Writ of Habeas Corpus and Attachments A-L** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Leslie Schulze  
U.S. Attorney's Office  
1801 California Street, Suite 1600  
Denver, CO 80202  
[Leslie.schulze@usdoj.gov](mailto:Leslie.schulze@usdoj.gov)

/s/ Skylar M. Larson  
Skylar M. Larson, Esq.

ATTORNEY FOR PETITIONER

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martinez**

Civil Action No. 25-cv-3078-WJM-KAS

JESUS MORALES LOPEZ

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as warden  
of the Aurora Contract Detention Facility, et al.

Respondents.

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**ATTACHMENTS TO PETITIONER'S FIRST AMENDED PETITION FOR  
WRIT OF HABEAS CORPUS**

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- Exhibit A. Notice to Appear, dated July 2, 2025
- Exhibit B. DHS Form I-286, Notice of Custody Determination, dated July 2, 2025
- Exhibit C. DHS Form I-200, Warrant for Arrest of Alien, dated July 2, 2025
- Exhibit D. Bond Order of the Immigration Judge, dated August 14, 2025
- Exhibit E. DHS Form EOIR-43, dated August 14, 2025
- Exhibit F. ICE Form I-352, dated August 15, 2025
- Exhibit G. EOIR-27 on Behalf of Morales Lopez, dated Aug. 18, 2025
- Exhibit H. DHS Form EOIR-26, dated August 20, 2025
- Exhibit I. DHS Evidence of Cancelled Form I-286, dated August 20, 2025
- Exhibit J. Bond Memorandum of the Immigration Judge, dated August 27, 2025
- Exhibit K. Motion to Dismiss DHS Bond Appeal for Incomplete Service, dated September 2, 4, 2025
- Exhibit L. Decision of the Board of Immigration Appeals, dated October 23, 2025

**A**

DEPARTMENT OF HOMELAND SECURITY  
**NOTICE TO APPEAR**

DOB: [REDACTED]

Event No: [REDACTED]

**In removal proceedings under section 240 of the Immigration and Nationality Act:**

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: JESUS MORALES-LOPEZ currently residing at:

[REDACTED]  
[REDACTED] (Number, street, city, state and ZIP code) [REDACTED] (Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near El Paso, Texas, on or about August 15, 2006;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

3130 N OAKLAND ST, AURORA, COLORADO 80010. AURORA IMMIGRATION COURT  
(Complete Address of Immigration Court, including Room Number, if any)

on July 17, 2025 at 8:00 am to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

K8643 CRUZ - SDOO  
(Signature and Title of Issuing Officer)

Date: July 2, 2025

Centennial, Colorado  
(City and State)

*[Handwritten Signature]*  
*#9464 (A) SDOO*

EOIR - 1 OF 6

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the Immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at [www.uscis.gov/i-589](http://www.uscis.gov/i-589). Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

**U.S. Citizenship Claims:** If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on July 2, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to sign  
(Signature of Respondent if Personally Served)

J. 9466 BLEVINS - DO  
(Signature and Title of officer)

EOIR - 2 of 6

### Privacy Act Statement

**Authority:**

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

**Purpose:**

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

**Routine Uses:**

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorns>. When disclosed to the DOJ's EOIR for Immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

**Disclosure:**

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

**B**

DEPARTMENT OF HOMELAND SECURITY  
NOTICE OF CUSTODY DETERMINATION

Alien's Name: MORALES-LOPEZ, JESUS A-File Number: [REDACTED]  
Date: [REDACTED]  
Event ID: [REDACTED] Subject ID: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- Detained by the Department of Homeland Security.
- Released (check all that apply):
  - Under bond in the amount of \$ \_\_\_\_\_
  - On your own recognizance.
  - Under other conditions. [Additional document(s) will be provided.]

CRUZ, X8643 [Signature] #9464 [REDACTED] 7:55 AM  
Name and Signature of Authorized Officer Date and Time of Custody Determination  
[REDACTED] 3130 N. Oakland St. Aurora, CO US 80010  
Title Office Location/Address

You may request a review of this custody determination by an immigration judge.

- I acknowledge receipt of this notification, and
  - I do request an immigration judge review of this custody determination.
  - I do not request an immigration judge review of this custody determination.

Refused to sign [REDACTED]  
Signature of Alien Date

The contents of this notice were read to MORALES-LOPEZ, JESUS in the SPANISH language.  
(Name of Alien) (Name of Language)

BLEVINS, J. 9466 [Signature] N/A  
Name and Signature of Officer Name or Number of Interpreter (if applicable)  
DO  
Title

**C**



**D**



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

Respondent Name:

MORALES-LOPEZ, JESUS

To:

Larson, Skylar Madison  
8275 E 11th Ave # 200176  
Denver, CO 80220

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

08/14/2025

**ORDER OF THE IMMIGRATION JUDGE**

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

Denied, because

- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
  - released from custody under bond of \$ 7,500.00
  - other:  
Along with any conditions imposed by ICE.

Other:



Immigration Judge: Gardzelewski, Ivan 08/14/2025

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

Appeal Due: 09/15/2025

### Certificate of Service

This document was served:

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

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : MORALES-LOPEZ, JESUS | A-Number : 

Riders:

Date: 08/14/2025 By: PARISH, REGAN, Court Staff

**E**

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

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

Date: 8/14/2025

Alien Number: 

Alien Name: Jesus Morales-Lopez

1. Immigration and Customs Enforcement (ICE) has:

- a. Held the respondent without bond.
- b. Set the respondent's bond at \$ \_\_\_\_\_.

2. The Immigration Judge on 8/14/2025 (Date)

- a. Authorized the respondent's release.
- b. Redetermined the ICE bond to \$ 7500.

3. Filing this form on 8/14/2025 (Date) automatically stays the Immigration Judge's custody redetermination decision. See 8 C.F.R. §1003.19(i)(2).

4. The stay shall lapse if ICE does not file a notice of appeal along with appropriate certification within ten business days of the issuance of the order of the Immigration Judge, or upon ICE's withdrawal of this notice, or as set forth in 8 C.F.R. §1003.6(c)(4) and (5).  
See 8 C.F.R. §1003.6(c)(1).

James Cole Weber  
ICE Counsel

I, James Cole Weber (Name), served the Notice of ICE Intent to Appeal Custody Redetermination on Skylar Larson (Respondent or Respondent's Representative), on 8/14/2025 (Date).

EOIR - 1 of 1

James Cole Weber  
Signature

**F**

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**IMMIGRATION BOND**

OMB No. 1653-0022  
Expires 8/31/2022

**INSTRUCTIONS**

(READ INSTRUCTIONS CAREFULLY)

This bond is posted as security for performance and fulfillment of the bonded alien's obligations to the government. An acceptable surety company or an entity or individual who deposits a certified check, a cashier's check or a money order ("cash equivalent") may execute the bond as surety. The surety is the obligor; the bonded alien is the principal; and U.S. Immigration and Customs Enforcement (ICE) is the beneficiary of all bonds it authorizes. The obligor guarantees the performance of the conditions of the bond. The bond's guaranty is secured by the amount of the bond. An acceptable surety company is one that appears on the current Treasury Department Circular 570 as a company holding the requisite certificate of authority to act as a surety on Federal bonds. An agent of an acceptable surety company (a co-obligor) may execute the bond only if the agent attaches to the bond a currently valid power of attorney showing the authority of the agent to act for the surety company or has provided to ICE a power of attorney to be used as part of the eBONDS system. Any agent of an acceptable surety company is a co-obligor on this bond, and he/she shall sign as a co-obligor in paragraph D. Failure of an agent to sign as co-obligor shall result in rejection of the bond. A co-obligor shall be jointly and severally liable with the surety company for any breach of this bond (i.e., the liability of a co-obligor is in addition to, not instead of, that of the obligor).

ICE may refuse to accept any bond to the extent permitted by law. Obligors and co-obligors (if any) shall state their full name and address in Paragraph A. If the obligor's or co-obligor's address changes after posting this bond, the obligor shall promptly submit an Obligor Change of Address (Form I-333) to ICE with the obligor's new address. An obligor or co-obligor shall sign the bond where indicated in Paragraph D. Either the obligor or co-obligor, or both, may be corporate entities. In addition, an obligor who deposits a cash equivalent to secure the bond authorizes ICE to deposit the funds in an account held by the Department of the Treasury (Treasury). By depositing a cash equivalent and executing this agreement, the obligor certifies, subject to penalties provided by 18 U.S.C. § 1001, that the deposit is not the proceeds of any illicit activity. Provided that is true, if the bond is cancelled upon issuance of Form I-391, "Notice - Immigration Bond Cancelled," ICE will refund the cash deposit and applicable interest to the obligor at the address on file.

**PRIVACY ACT NOTICE**

**Authority:** The collection of this information is authorized by the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1183, 1226, 1229c, and 1363); and 31 U.S.C. 7701(c)(1). The collection of the Taxpayer Identification Number (TIN) is authorized by Internal Revenue Code (26 U.S.C. 6109) and Executive Order 9397. In some cases, the TIN may be an individual's Social Security Number.

**Purpose:** ICE collects this information to provide for the posting, maintenance, cancellation, and breach of an immigration surety bond, and for associated financial management activities, including collection of unpaid monies, reimbursement of the bond principal, and the calculation, payment, and reporting of interest.

**Routine Uses:** For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the DHS/ICE-011 - Criminal Arrest Records and Immigration Enforcement Records (CARIER) System of Records Notice, DHS/ICE-004 Bond Management Information System of Records Notice (BMIS SORN), and DHS/USCIS/ICE/CBP-001 - Alien File, Index, and National File Tracking System of Records (A-FILE SORN), which can be viewed at <https://www.dhs.gov/topic/privacy>.

For all others, as appropriate under United States law and U.S. Department of Homeland Security (DHS) policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties as appropriate for collection, enforcement, investigatory, litigation, or other purposes.

**Disclosure:** Furnishing this information is voluntary; however, an immigration bond cannot be issued unless you provide the information requested on this form. For bonds secured by a cash equivalent, the obligor's TIN (EIN, ITIN or SSN) is necessary to pay interest through Treasury and to comply with Internal Revenue Service requirements to report interest payments. Your TIN will also be used for the purposes of collecting and reporting information on any delinquent accounts arising out of your relationship with the Government.

**Public Reporting Burden.** Under the Paperwork Reduction Act (PRA), an agency may not sponsor an information collection and a person is not required to respond to a collection of information unless the form displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 30 minutes per application. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Department of Homeland Security, U.S. Immigration and Customs Enforcement, Bond Management Unit, 188 Harvest Ln., Williston, VT 05495-7554. **(Do not mail your completed application to this address.)**

### GENERAL TERMS AND CONDITIONS

The express language of the bond shall take precedence over any inconsistent policies or statements. Federal law shall apply to the interpretation of the bond, and its terms shall be strictly construed.

Cancellation of a bond issued as a delivery bond shall occur upon any of the following events, provided that the event occurs prior to the date of a breach: ICE taking the alien back into its custody; deportation/exclusion/removal of the bonded alien; grant of permanent residence to the bonded alien; termination of deportation/removal proceedings (but not administrative closure or stay of such proceedings); death of the bonded alien; voluntary departure by the bonded alien pursuant to a grant of voluntary departure by the immigration court or Board of Immigration Appeals as evidenced by probative documentation (valid proof) thereof; or other circumstances as provided by statute or regulation. Cancellation for these reasons is automatic, and any subsequent appearance demand, or attempt to breach the bond, is null and void. A delivery bond may not be breached when the bonded alien is in local, state, or federal custody, or when the alien is not within the United States, on the date the obligor is to produce the alien; the bond stays in effect unless ICE later takes the bonded alien into its custody directly from local, state, or federal authorities, in which case the bond will be cancelled.

ICE shall notify the obligor or the co-obligor of a demand to produce the alien, the breach or cancellation of a bond, and any demand for payment of a breached bond. Notice sent to either the obligor or co-obligor is sufficient to trigger the duties and obligations under this bond. Any obligation or duty imposed on an obligor by this bond applies equally to all co-obligors.

ICE shall send notice of a breach of the bond to the obligor or co-obligor on Form I-323, Notice - Immigration Bond Breached, at the address of record. DHS regulations provide that, upon notification of a breach, the obligor has 30 days in which to file an administrative appeal or motion for reconsideration of the breach. Any obligor who contests a declaration of breach shall file an administrative appeal seeking review of the declaration of breach. A declaration of breach shall be administratively final if not timely appealed. Judicial review of any final administrative declaration of bond breach is pursuant to the Administrative Procedure Act, 5 U.S.C. § 701, et seq.

Demands for amounts due under the terms of this bond will be sent to the obligor or co-obligor after a declaration of breach becomes administratively final. For bonds posted by acceptable surety companies, if the surety company or agent does not make payment within 120 days of the demand for payment, DHS may notify Treasury of such nonpayment. If payment is not made within 30 days of the date of the demand for payment, interest, penalty, and administrative fees as provided by the Debt Collection Act, 31 U.S.C. § 3701, et seq., and the Federal Claims Collection Standards, 31 C.F.R. §§ 900-904, will accrue from the date of the first demand.

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

IMMIGRATION BOND

OMB No. 1653-0022  
Expires 8/31/2022

Power of Attorney Number \_\_\_\_\_

A-File No. or Visa No. \_\_\_\_\_

Bond Receipt No. \_\_\_\_\_



Part A. Obligor Information

Name of Obligor: \_\_\_\_\_

Taxpayer Identification Number (TIN): \_\_\_\_\_

Street Address of Obligor: \_\_\_\_\_

City, State and Zip Code: Aurora, CO, 80017 Telephone: \_\_\_\_\_

Name of Agent/Co-Obligor (if any-Surety Bonds only): \_\_\_\_\_

Address (if different from that of Obligor): \_\_\_\_\_

Telephone: \_\_\_\_\_

If this is executed by a surety company the rate of premium is: \_\_\_\_\_ % and the amount of premium is: \_\_\_\_\_

The name and address of the person who executed a written instrument with the surety company requesting it to post bond is: \_\_\_\_\_

B. Information about alien for whom bond is furnished:

Name: MORALES-LOPEZ, JESUS

Alien Registration Number or Visa Number: \_\_\_\_\_

Current Location: DENVER CONTRACT DETENTION

Date and country of birth: \_\_\_\_\_ / MEXICO Nationality: MEXICO

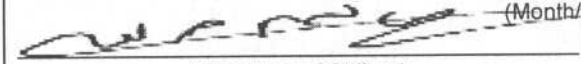
Date, port and means of arrival in the United States: \_\_\_\_\_ / EL PASO, TX

Alien to reside at: \_\_\_\_\_

Telephone number at alien's residence: \_\_\_\_\_

C. In consideration of the facts recited in paragraph or paragraphs herein numbered G.1 and captioned **BOND CONDITIONED UPON THE DELIVERY OF AN ALIEN** (and in any rider or riders lettered \_\_\_\_\_ and captioned \_\_\_\_\_), the above named obligor and the agent acting on its behalf (if any), upon execution of this bond, agree that they are immediately liable to the United States in the sum of seven thousand five hundred dollars (\$ 7500) which sum is to be forfeited and paid to the United States upon an administratively final breach determination. The obligor and any co-obligor acknowledge receipt of a copy of the executed bond and any attached rider or riders specified above. The obligor certifies, subject to penalties provided by 18 U.S.C. § 1001, that any cash equivalent deposited is not the proceeds of illicit activity.

D. Signed this 15th day of August 2025 (Month/Year)

  
(Signature of Obligor)

\_\_\_\_\_  
(Signature of Agent/Co-Obligor (if any))

E. Bond approved and accepted at \_\_\_\_\_ on \_\_\_\_\_ (City and State) (Date)

L STENSON  
(Field Office Director Printed Name)

\_\_\_\_\_  
(Field Office Director Signature)

F.  
Surety Company \_\_\_\_\_ EIN \_\_\_\_\_  
Agent-Bonding Company \_\_\_\_\_ EIN \_\_\_\_\_  
Obligors-Cash Equivalents \_\_\_\_\_ Taxpayer Identification Number (TIN) \_\_\_\_\_

31 U.S.C.A. § 7701(c)(1). The head of each Federal agency requires each person doing business with that agency to furnish to that agency such person's taxpayer identifying number. It is ICE's intent to use such numbers for purposes of collecting and reporting information on any delinquent accounts arising out of such person's relationship with the Government. The obligor, surety, or agent must furnish its Taxpayer Identification Number (TIN) to ICE. Failure to furnish the TIN may result in a refusal of the bond.

**IMMIGRATION BOND**OMB No. 1653-0022  
Expires 8/31/2022

Power of Attorney Number \_\_\_\_\_

A-File No. or Visa No. \_\_\_\_\_

Bond Receipt No. \_\_\_\_\_

**G.**

**(1) BOND CONDITIONED UPON THE DELIVERY OF AN ALIEN.** In consideration of the granting of the application of the above alien for release from custody, the obligor and any co-obligor hereby furnish such bond with the following conditions if: (1) the alien is released from custody and if the obligor and any co-obligor shall cause the alien to be produced or to produce himself/herself to an immigration officer or an immigration judge of the United States, as specified in the "Notice to Obligor to Deliver Alien," Form I-340, issued by ICE, upon each and every written request until removal proceedings in his/her case are finally terminated; (2) the said alien is accepted by ICE for detention or removal; or (3) the bond is otherwise cancelled, this obligation shall terminate. If, however, the obligor or any co-obligor fails to surrender the alien in response to a demand while the bond remains in effect, the full amount of the bond (see Paragraph C above) becomes due and payable upon an administratively final breach determination. The obligor and any co-obligor further agree that no order issued by or under the authority of the Attorney General or Secretary of Homeland Security such that the issuance or execution of any order of removal is or may be deferred shall be in any manner construed to impair or render void this obligation or any part thereof.

**(2) BOND CONDITIONED UPON THE VOLUNTARY DEPARTURE OF AN ALIEN.** In consideration of the granting by the Attorney General of an application of the above alien to depart voluntarily from the United States, the obligor hereby furnishes a bond with the following conditions if: (1) the obligor and any co-obligor ensure that the alien departs the United States on or before the date specified in the order granting voluntary departure, and provides probative documentation of the departure within 30 days of the date specified in the order granting voluntary departure; or (2) the alien is actually accepted by DHS for detention or removal, this obligation shall terminate. Otherwise the amount of the bond specified in Paragraph C above shall become due and payable upon an administratively final breach determination.

**(3) ORDER OF SUPERVISION BOND.** In consideration of the granting of the release of the above alien pursuant to a post-removal-period order of supervision, the obligor and any co-obligor hereby furnish this guaranty with the condition that: if the alien fully performs all of the conditions of the order of supervision and surrenders for removal, then this obligation shall terminate; but if the alien fails to fully perform any of the conditions of the order of supervision, or the alien fails to surrender for removal, the full amount of this bond shall become due and payable by the obligor and any co-obligor upon an administratively final breach determination.

**(4) MAINTENANCE OF STATUS AND DEPARTURE BOND.** As a condition of the granting of a nonimmigrant visa to the above alien and/or the granting of the application for admission to the United States of the above alien as a nonimmigrant, the obligor hereby furnishes a bond with the following conditions: If the alien is admitted to the United States for a temporary period as a nonimmigrant and complies with all the conditions of each specific nonimmigrant status which s/he is accorded while classified in such status, including the condition that the alien should not accept unauthorized employment, and departs from the United States on or before the date to which s/he is initially authorized to remain in the United States, then this obligation shall be void. If the alien is granted or has timely and properly filed an application for an extension of temporary admission or a change in nonimmigrant status, and if the alien complies with all the conditions of each specific nonimmigrant status which s/he is accorded while classified in such status, including the condition that the alien should not accept unauthorized employment, and departs from the United States on or before the extended date to which s/he is authorized to remain in the United States, then this obligation shall be void. The obligation shall become due and payable if the alien: (a) violates any condition of her/his status; (b) files an untimely application for change of status or extension of his/her lawful admission; or (c) remains in the United States after expiration of the temporary period of admission or, if the alien timely and properly files an application for change of status or extension of her/his lawful temporary stay, the alien does not depart the United States within 10 days after denial of such request.

**G**



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

Respondent Name:

MORALES-LOPEZ, JESUS

To:

Larson, Skylar Madison  
8275 E 11th Ave # 200176  
Denver, CO 80220

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

08/14/2025

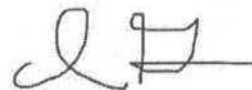
ORDER OF THE IMMIGRATION JUDGE

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

Denied, because

- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
  - released from custody under bond of \$ 7,500.00
  - other:  
Along with any conditions imposed by ICE.

Other:



Immigration Judge: Gardzelewski, Ivan 08/14/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved  
Appeal Due: 09/15/2025

**Certificate of Service**

This document was served:

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

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : MORALES-LOPEZ, JESUS | A-Number : 

Riders:

Date: 08/14/2025 By: PARISH, REGAN, Court Staff

**I**

Christopher Tod St. John  
Chief Counsel  
Sunika Pawar  
Deputy Chief Counsel  
James Cole Weber  
Assistant Chief Counsel  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
12445 E. Caley Ave.  
Centennial, CO 80111

DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
AURORA, COLORADO**

In the Matter Of

**MORALES-LOPEZ, Jesus**

In Removal Proceedings

File No.



Immigration Judge: Gardzelewski

Next Hearing Date: 8/14/2025

**U.S. DEPARTMENT OF HOMELAND SECURITY  
EVIDENCE SUBMISSION**

DEPARTMENT OF HOMELAND SECURITY  
NOTICE OF CUSTODY DETERMINATION

Alien's Name: MORALES-LOPEZ, JESUS A-File Number: [REDACTED]  
Date: [REDACTED]  
Event ID: [REDACTED] Subject ID: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- Detained by the Department of Homeland Security.
- Released (check all that apply):
  - Under bond in the amount of \$ \_\_\_\_\_
  - On your own recognizance.
  - Under other conditions. [Additional document(s) will be provided.]

CRUZ, KB643 [Signature] #9464 8/10/25 7:55 AM  
 Name and Signature of Authorized Officer Date and Time of Custody Determination  
ASDDO [Signature] 330 N. Oakland St. Aurora, CO US 80010  
 Title Office Location/Address

You may request a review of this custody determination by an immigration judge.

- I acknowledge receipt of this notification, and
- I do request an immigration judge review of this custody determination.
- I do not request an immigration judge review of this custody determination.

Refused to sign [Signature] [REDACTED]  
Signature of Alien Date

The contents of this notice were read to MORALES-LOPEZ, JESUS in the SPANISH language.  
(Name of Alien) (Name of Language)

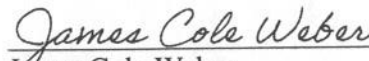
BLEVINS, J. 9466 [Signature] N/A  
Name and Signature of Officer Name or Number of Interpreter (if applicable)  
DO Title

*Cancelled 8/10/25 Kinsey 8867 00*

**CERTIFICATE OF SERVICE**


On 8/20/2025 I served this U.S. Department of Homeland Security EVIDENCE SUBMISSION as indicated below.

- by causing a true and complete copy to be placed in the U.S. mail, with first class postage pre-paid, addressed as follows:
- by electronic service, with prior consent, at the following e-mail address:
- by eService pursuant to the Terms and Conditions agreed to between the parties.
- through the EOIR Courts and Appeals System (ECAS), which will automatically send service notifications to both parties that a new document has been filed.
- through the internal mailing system at the GEO Contract Detention Facility to:

  
\_\_\_\_\_  
James Cole Weber  
Assistant Chief Counsel

**J**

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

In The Matter Of: )  
)  
MORALES-LOPEZ, Jesus ) IN CUSTODY  
) PROCEEDINGS  
Respondent. )  
)  
File No.:  ) DETAINED

**ON BEHALF OF RESPONDENT:**

Skylar M. Larson, Esquire  
8275 E. 11<sup>th</sup> Ave. #200176  
Denver, CO 80220

**ON BEHALF OF THE DEPARTMENT:**

Cole Weber, Assistant Chief Counsel  
U.S. Department of Homeland Security  
12445 East Caley Avenue  
Centennial, CO 80111

**Written Decision and Order of the Immigration Judge**

Jesus Morales-Lopez (Respondent) requested a hearing for the Court to review his detention by the Department of Homeland Security (Department). Exh. 1. On August 14, 2025, the Court held a custody hearing. At the conclusion of that hearing, the Court issued an order granting Respondent's request for bond. The Department has appealed this decision.

The Department argues that the Court does not have jurisdiction over Respondent's bond request because he entered without inspection, citing to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). However, the Court does not find *Matter of Q. Li* applies in Respondent's case. In *Matter of Q. Li*, the Board of Immigration Appeals (Board) held that an alien who was apprehended while trying to cross the border was subject to mandatory detention under INA section 235(b). 29 I&N Dec. at 70 ("The respondent was initially arrested by DHS without a warrant . . . less than 100 yards north of the southern border as she tried to illegally enter the United States."). The Board emphasized that aliens who are caught shortly after entry are applicants for admission, whether they came to a port of entry or were caught after entering without inspection. *Id.* at 68 ("The Supreme Court of the United States has clarified that 'an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry,' and is in the same position as an alien seeking admission at a port of entry.") (quoting *DHS v. Thuraissigiam*, 591 US 103, 140 (2020) (internal citation omitted)). The Board also clarified that an alien detained under section 235(b) of the INA who is released from detention pursuant to a grant of parole under section 212(d)(5)(A) of the INA, and whose grant of parole is subsequently terminated, is returned to custody under section 235(b) pending the completion of removal proceedings. *Id.*

Here, Respondent last entered the United States in August 2006. Exh. 3 (Form I-213). He was not apprehended shortly after his entry, and there is no evidence that he was ever detained under section 235(b) of the INA or granted parole under 212(d)(5)(A). Rather, he was arrested

Morales-Lopez

A 

about nineteen years after his last entry. Accordingly, *Matter of Q. Li* does not control in Respondent's case, and the Court finds that it has jurisdiction to consider his bond request.

The Court next turns to the substantive portion of Respondent's bond request. An alien in removal proceedings has no constitutional right to be released on bond. *Carlson v. Landon*, 342 U.S. 524, 534 (1952). Rather, section 236(a) of the Act grants the Court broad discretion to determine bond during removal proceedings. *Matter of D-J-*, 23 I&N Dec. 572, 575 (A.G. 2003). For an alien to secure bond, the alien must first demonstrate to the Court that his release would not pose a danger to people or property. *Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009) ("An Immigration Judge should only set a bond if he first determines that the alien does not present a danger to the community."); see 8 C.F.R. § 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. at 38; *Matter of Adeniji*, 22 I&N Dec. 1102, 1112-13 (BIA 1999); see also *Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 (BIA 2020) (stating the burden of proof to establish bond eligibility is on the alien). If the alien is not considered a danger, the alien must then establish that he is likely to appear for future immigration proceedings. *Matter of R-A-V-P-*, 27 I&N Dec. at 804.

General criteria for consideration of bond include (1) a fixed address in the United States; (2) length of residence in the United States; (3) local family ties and whether the ties may entitle the applicant to reside in the United States; (4) employment history; (5) record of appearances in court; (6) criminal record and any pending criminal charges; (7) history of immigration violations; (8) attempts to flee prosecution or authorities; and (9) manner of entry. *Matter of Guerra*, 24 I&N Dec. at 40. The Court may also consider the "likelihood that relief from removal will be granted in determining whether an alien warrants bond." *Matter of R-A-V-P-*, 27 I&N Dec. at 805) (citing *Matter of Andrade*, 19 I&N Dec. 448, 490 (BIA 1987)). The Court has wide latitude in deciding which factors to consider, and the weight they hold in making its determination. *Id.*

As an initial matter, Respondent has established that he is not a danger to the community. He does not have a criminal conviction in the United States. Exh 2 at 20 (Colorado arrest record); Exh. 3. While Respondent does have several traffic infractions over the past 25 years, most of these offenses are for "defective/unsafe vehicle," and do not reflect that Respondent poses a danger to others. See Exh. 3. Further, the most recent offense, for careless driving, occurred in May 2016, more than nine years ago. *Id.* Thus, even considering Respondent's traffic infractions, there is only one case since 2012. In short, as Respondent has resided in the United States for approximately nineteen years without a criminal conviction, the Court finds that he is not a threat to public safety.

Respondent has also established he is not a flight risk. In making this determination, the Court considers the *Guerra* factors. The Court recognizes that Respondent entered the United States without inspection. However, the other *Guerra* factors establish he is not a flight risk. Respondent has resided in the United States for nineteen years. He is married and has four United States citizen (USC) children. Exh. 1 at 15-18 (birth certificates). He is *prima facie* eligible for cancellation of removal for certain nonpermanent residents, and has filed that application with the Court. Thus, Respondent has an avenue for relief in removal proceedings and a strong incentive to appear at future hearings.

Morales-Lopez



Further, Respondent has a fixed address where he lives with his wife and children. *Id.* at 26. He has stable employment as the owner of a painting company that is incorporated within the State of Colorado. *Id.* at 28. Finally, Respondent is the sole financial provider for his family, and has submitted tax returns dating back to 2006 to show that he is financially independent. *Id.* at 29-45. Considering all these circumstances, the Court is persuaded that Respondent is not a flight risk. To mitigate against any concern that Respondent may abscond, the Court has set a bond amount of \$7,500 and ordered that ICE may set conditions on Respondent's bond that it deems appropriate. The Court finds this is sufficient to establish that Respondent will not pose a flight risk.

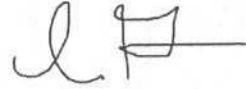
Accordingly, the Court granted Respondent's Bond Redetermination Request.

August 27, 2025

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ivan E. Gardzelewski  
Immigration Judge

**Order of the Immigration Judge**



Immigration Judge: Gardzelewski, Ivan 08/27/2025

**Certificate of Service**

This document was served:

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

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

Respondent Name : MORALES-LOPEZ, JESUS | 

Riders:

Date: 08/28/2025 By: PARISH, REGAN, Court Staff

**K**



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

Respondent Name:  
MORALES-LOPEZ, JESUS

Address:  
3130 N Oakland Street  
Aurora, CO 80010

A-Number:



REJECTION NOTICE

Date: 09/03/2025

REJECTED FILING  
NOTICE TO ATTORNEY OR REPRESENTATIVE

This notice is to inform you that the document(s) received by the Immigration Court on 09/02/2025 is/are being rejected for the reasons given below. When re-filing the corrected document(s) other than initiation documents, please attach this rejection notice. A copy of the corrected filing must also be served on the opposing party.

Document(s) being rejected:



Respondent Motion to Dismiss Appeal and Index in Support.pdf

Rejection Reason(s)

1. Incorrect Filing Location (Case at BIA)

Rejection Explanation:

Certificate of Service

This document was served:

Via:  Mail  Personal Service  Electronic Service  
To:  Alien  Alien c/o custodial officer  Alien's atty/rep.  DHS  
By: ParishR,  Court Staff  Immigration Judge  
Date: 09/03/2025

Skylar M. Larson, Esq.  
8275 E 11th Ave. # 200176  
Denver, CO 80220  
Tel: (970) 692-3156  
Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)  
Attorney for Respondent

**DETAINED**

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

\_\_\_\_\_  
In the matter of: )  
)

Jesus MORALES LOPEZ )  
)

In Bond Proceedings )  
\_\_\_\_\_ )

File No.: 

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**RESPONDENT'S MOTION TO DISMISS DEPARTMENT BOND APPEAL  
& VACATE AUTOMATIC STAY**

---

Respondent, by and through undersigned counsel, respectfully moves the Board of Immigration Appeals (“Board”) to **dismiss the bond appeal** filed by the Department of Homeland Security (“Department”), and **vacate the automatic stay** and order Respondent’s immediate release on bond, as remedy for the Sixth Amendment violation of his right to counsel, and as grounds thereof, states as follows:

### Background Facts

1. On August 14, 2025, the Immigration Judge granted Respondent bond in the amount of \$ 7,500.00. *See Order of the Immigration Judge, dated August 14, 2025, attached hereto as Exhibit A.*
2. On that same day, August 14, the Department filed Form EOIR-43, Notice of ICE Intent to Appeal Custody Redetermination. *See Form EOIR-43, dated August 14, 2025, attached hereto as Exhibit B.*
3. On August 18, 2025, undersigned counsel filed EOIR-27, Notice of Entry of Appearance, before the Board in anticipation of the Department perfecting its appeal. *See Form EOIR-27, dated August 18, 2025, attached hereto as Exhibit C.*
4. On August 20, 2025, the Department filed Form EOIR-26, Notice of Appeal. However, the Department served the Notice of Appeal on Respondent. *See Electronic Case Access System (“ECAS”) Email Notification and EOIR-26 Receipt Notice, dated August 27, 2025, attached hereto as Exhibit D.*
5. Undersigned counsel did not receive the EOIR-26 until August 27, 2025, via the ECAS email, [erop@usdjo.gov](mailto:erop@usdjo.gov). *See ECAS Email Notification and EOIR-26 Receipt Notice, dated August 27, 2025, attached hereto as Exhibit D.*
6. On an unknown date between August 18 and August 27, undersigned counsel’s EOIR-27 was rejected “as it was electronically submitted prior to filing the appeal.” *See ECAS Screenshots, reflecting rejected Form EOIR-27, attached hereto as Exhibit E.*
7. Respondent has remained detained despite the IJ ordering his release on August 14, 2025.

### Law

#### **Right to Counsel**

8. The Fifth Amendment guarantees that “[n]o person ... shall be deprived of life, liberty, or property” without due process of law. U.S. Const., Amend. V.
9. The right to counsel in removal proceedings is codified by statute. 8 U.S.C. § 1362.
10. An alien’s right to counsel at their own expense is so fundamental to the proceeding’s fairness that a denial of this right could rise to the level of fundamental unfairness.



11. After an alien chooses counsel at their own expense, that counsel must file a Notice of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27) to file all documents on behalf of an alien, **and to accept service of process of all documents filed in the proceedings.** 8 C.F.R. § 1003.38(g)(1).

**Automatic Stay Pursuant to 8 C.F.R. § 1003.19(i)(2)**

12. An Immigration Judge's custody redetermination decision is automatically stayed pending an appeal by the Department following the submission of a properly executed Form EOIR-43. 8 C.F.R. § 1003.19(i)(2).
13. For the automatic stay to attach for the pendency of the bond appeal, the Department must properly file a Notice of Appeal (Form EOIR-26) within ten (10) days of the issuance of the order of the immigration judge. 8 C.F.R. § 1003.6(c)(1).
14. To be considered properly filed under the regulations and the Board's Practice Manual, an EOIR-26 must be accompanied by a properly executed Certificate of Service on the opposing party that is conducted contemporaneously with the filing. 8 C.F.R. § 1003.3(a)(1); Board Practice Manual § 3.2(d).
15. **The Board is instructed to reject any submission that is filed without Proof of Service on the opposing party.** Board Practice Manual § 3.2(d).

**Arguments**

**No Legal Basis for Rejecting EOIR-27**

16. Neither the INA, nor the regulations, nor the Practice Manual **provide any basis** for rejecting an EOIR-27 on the ground that "no appeal has been filed."
17. The Form EOIR-27 serves to establish representation before the Board and therefore **is not dependent or contingent upon whether the EOIR-26 has been processed, docketed, or served.**
18. Indeed, the Board's own Practice Manual confirms this as it states that "the completed Proof of Service on counsel's Notice of Appearance (Form EOIR-27) or a Notice of Limited Appearance (Form EOIR-60) by itself is *not* considered sufficient proof of service of documents accompanying the Form EOIR-27 or EOIR-60." Board Practice Manual § 3.2(f).
19. **The Board Practice Manual does not state anywhere that an EOIR-27 can be rejected if EOIR has not yet recognized the appeal as "filed."**
20. Here, EOIR had no lawful basis for rejecting undersigned counsel's EOIR-27 that was filed on August 18, 2025, in anticipation of the Department's custody appeal. This filing put the



Board and the Department on notice that Respondent was represented and that all filings should be served on counsel.

21. Indeed, as further evidence that EOIR was on notice of undersigned counsel's representation, despite the rejected EOIR-27, undersigned counsel still received email notification of the EOIR-26 receipt notice. *See ECAS Email Notification and EOIR-26 Receipt Notice, dated August 27, 2025, attached hereto as Exhibit D.*

#### **The Department Failed to Properly Serve EOIR-26**

22. The Department failed to properly serve Form EOIR-26, Notice of Appeal, on August 20, 2025, when it was served on Respondent and not Respondent's counsel. *See ECAS Email Notification and EOIR-26 Receipt Notice, dated August 27, 2025, attached hereto as Exhibit D.*
23. The failure to serve a Practitioner of Record was in violation of 8 C.F.R. § 1003.3, as the service on counsel was not contemporaneous with the filing of Form EOIR-26 nor did it list the correct opposing party.

#### **Pursuant to 8 C.F.R. § 1003.3, the Notice of Appeal Must Be Rejected**

24. As the Department failed to properly serve Form EOIR-26, pursuant to 8 C.F.R. § 1003.3, and the Board's own Practice Manual, the Board must reject the EOIR-26, Notice of Appeal.
25. **Any other outcome apart from dismissal of the appeal would effectively sanction noncompliance with the rules and regulations and raise serious concerns about the fairness and transparency of these proceedings.**

#### **The Board Violated Respondent's Right to Counsel**

26. On August 18, 2025, undersigned counsel filed EOIR-27 to appear before the Board so that Respondent could exercise his statutory and constitutional right to representation. *See Form EOIR-27, dated August 18, 2025, attached hereto as Exhibit C.*
27. The Board's erroneous rejection of undersigned counsel's EOIR-27 and failure to reject the Department's EOIR-26 for lack of proper service, **constitutes a direct denial of Respondent's right to counsel guaranteed by statute.**
28. Respondent was prejudiced by the Department's failure to serve undersigned counsel at the time of filing because he remained in custody without lawful notice of the appeal.
29. Respondent's continued detention is without legal basis. Without a properly perfected appeal, Respondent should be released in accordance with the IJ's Order.



**Respondent's Continued Detention is Prejudicial to Him, His Case, & His U.S. Citizen Children Who Are Suffering Exceptional and Extremely Unusual Hardship With Him Detained**

30. This significant violation of Respondent's fundamental right to counsel requires the Board to vacate the automatic stay on the bond. Respondent's continued detention is prejudicial to him, his qualifying relatives, and the exceptional and extremely unusual hardship they are already facing with him in detention.
31. Respondent's oldest son, [REDACTED], has been struggling with sleeping since his dad was detained. He now struggles to sleep, will wake up, play Xbox for several hours, and then fall back asleep before having to wake up for school. See [REDACTED] LMFT, dated [REDACTED], attached hereto as Exhibit G.
32. This new struggle to sleep, in addition to verbal and emotional outbursts at his mom and older sister, prompted his mom to take him to a pediatrician for evaluation. From there, he was referred to [REDACTED]. See After Visit Notes from [REDACTED] dated [REDACTED], attached hereto as Exhibit H.
33. Respondent's detention has affected [REDACTED]'s development and progress at school.
34. As a coping skill to help him with the stress of his dad's detention, [REDACTED] has permission from the school to walk around the campus of the school when he needs to be alone, which the administration has allowed. See After Visit Notes from [REDACTED] dated [REDACTED], attached hereto as Exhibit G.
35. At his most recent appointment on [REDACTED], he was diagnosed with Acute Stress Disorder. See [REDACTED] dated [REDACTED], attached hereto as Exhibit H.
36. [REDACTED] is scheduled every two (2) weeks for therapy and his next appointment is on [REDACTED]. See After Visit Notes from [REDACTED] dated [REDACTED], attached hereto as Exhibit H.
37. His daughter, [REDACTED], who is two (2) years-old is currently being scheduled for sensory, speech, and social/behavioral therapies as she has some symptoms of Autism. Respondent's corroborating evidence of this is forthcoming.
38. Respondent himself is currently taking cholesterol medication and muscle relaxers. Undersigned counsel is working on obtaining those medical records from the detention center.

**Requested Relief**

39. The Board **must** dismiss the Department's appeal as improperly filed for failure to properly serve undersigned counsel.
40. **At a minimum, the Board must vacate the automatic stay and order Respondent released on the IJ's bond order, since the Department's defective service deprived the appeal of legal effect and Respondent was deprived his fundamental right to counsel.**
- Dated this 4th day of September 2025.

Respectfully submitted,

/s/ Skylar M. Larson

Skylar M. Larson, Esq.  
8275 E 11th Ave. # 200176  
Denver, CO 80220  
Tel: (970) 692-3156  
Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)  
Attorney for Respondent



Skylar M. Larson, Esq.  
8275 E 11th Ave. # 200176  
Denver, CO 80220  
Tel: (970) 692-3156  
Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)  
Attorney for Respondent

**DETAINED**

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





\_\_\_\_\_  
**In the matter of:** )  
)

**Jesus MORALES LOPEZ** )  
)

**In Bond Proceedings** )  
)  
\_\_\_\_\_

File No.: 

\_\_\_\_\_  
**RESPONDENT'S INDEX OF EXHIBITS IN SUPPORT**  
\_\_\_\_\_

Exhibit		Pages
<b>A</b>	Order of the Immigration Judge, dated August 14, 2025	9-10
<b>B</b>	Form EOIR-43, dated August 14, 2025	11
<b>C</b>	Form EOIR-27, dated August 18, 2025	12-14
<b>D</b>	Electronic Case Access System (“ECAS”) Email Notification and EOIR-26 Receipt Notice, dated August 27, 2025	15-18
<b>E</b>	ECAS Screenshots, reflecting rejected Form EOIR-27	19-20
<b>F</b>	Patient Questionnaire for 15 Year-Old U.S. Citizen Son,  Morales, dated August 12, 2025	21-23
<b>G</b>	After Visit Notes from  <ul style="list-style-type: none"> <li>- Symptoms of Concern: not being able to sleep through the night and emotional, verbal outbursts towards his mother and older sister</li> <li>- Cause of Symptoms: Father’s Detention by ICE, symptoms are recent and brought on by this significant life stressor</li> <li>- Indicates school gives permission to  to walk around school campus when he feels stressed and needs help coping with that stress</li> <li>- Provisional Diagnosis: Stress Reaction</li> <li>- Scheduled Treatment: Further Therapy Evaluation and Assessment</li> </ul>	24-29
<b>H</b>	After Visit Notes from  August 19, 2025 <ul style="list-style-type: none"> <li>- Symptoms of Concern: depressed mood, decreased interest/pleasure, guilt, decreased sleep: difficulty staying asleep and restless unsatisfying sleep, decreased appetite/weight, decreased energy, irritability, anxiety: excessive worry or anxiety, difficulty controlling the worry, restless, feeling keyed up, or on edge, easily fatigued, irritability, muscle tension, sleep disturbance: difficult staying asleep and restless unsatisfying sleep</li> <li>- Cause of Symptoms: Father’s Detention by ICE, symptoms are recent and brought on by this significant life stressor</li> <li>- Diagnosed: Acute Stress Disorder, Adjustment</li> <li>- Next Appointments: September 2, September 16, September 30, October 14, 2025</li> <li>- Scheduled Treatment: Trauma-PTSD disorder: 12-18 sessions</li> </ul>	30-32



**A**



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

Respondent Name:

MORALES-LOPEZ, JESUS

To:

Larson, Skylar Madison  
8275 E 11th Ave # 200176  
Denver, CO 80220

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

08/14/2025

ORDER OF THE IMMIGRATION JUDGE

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

Denied, because

- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
  - released from custody under bond of \$ 7,500.00
  - other:  
Along with any conditions imposed by ICE.

Other:





Immigration Judge: Gardzelewski, Ivan 08/14/2025

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

Appeal Due: 09/15/2025

### Certificate of Service

This document was served:

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

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : MORALES-LOPEZ, JESUS | A-Number : 

Riders:

Date: 08/14/2025 By: PARISH, REGAN, Court Staff

**B**

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

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

Date: 8/14/2025

Alien Number: 

Alien Name: Jesus Morales-Lopez

1. Immigration and Customs Enforcement (ICE) has:

- a. Held the respondent without bond.
- b. Set the respondent's bond at \$ \_\_\_\_\_.

2. The Immigration Judge on 8/14/2025 (Date)

- a. Authorized the respondent's release.
- b. Redetermined the ICE bond to \$ 7500.

3. Filing this form on 8/14/2025 (Date) automatically stays the Immigration Judge's custody redetermination decision. See 8 C.F.R. §1003.19(i)(2).

4. The stay shall lapse if ICE does not file a notice of appeal along with appropriate certification within ten business days of the issuance of the order of the Immigration Judge, or upon ICE's withdrawal of this notice, or as set forth in 8 C.F.R. §1003.6(c)(4) and (5).  
See 8 C.F.R. §1003.6(c)(1).

James Cole Weber  
ICE Counsel

I, James Cole Weber (Name), served the Notice of ICE Intent to Appeal Custody Redetermination on Skylar Larson (Respondent or Respondent's Representative), on 8/14/2025 (Date).

James Cole Weber  
Signature

C

**D**



Skylar Larson <skylarmlarsonesq@gmail.com>

---

**EOIR - MORALES-LO - 172 - Accepted - EOIR-26, Notice - BIA**

---

eRop@usdoj.gov <eRop@usdoj.gov>  
To: James.C.Weber@ice.dhs.gov, skylarmlarsonesq@gmail.com

Wed, Aug 27, 2025 at 8:20 AM

The Executive Office for Immigration Review (EOIR) has reviewed and approved your uploaded document. The following document is now included in the electronic Record of Proceedings (eROP):

- eFiled Document Name: DHS NOA-Only Submission\_ [REDACTED]\_Final.pdf
- Document Category: EOIR-26, Notice of Appeal from a Decision of an Immigration Judge
- Document Sub Category: Bond Appeal
- Uploaded On: 08/20/2025
- Tracking Number: [REDACTED]
  
- A-Number: [REDACTED]
- Alien Name: MORALES-LOPEZ, JESUS
- Bond Requested Date: 07/02/2025
- Case Type: RMV
  
- BIA Case Type: Bond Appeal
- Date the BIA Case was Filed: 08/20/2025

Attorneys/Representatives you may view the documents in the EOIR Case Portal at this link. Please note you will need your User ID and password to access the location.

DHS users you may view the documents in the EOIR DHS Portal at this link.





**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
BOARD OF IMMIGRATION APPEALS**

MORALES-LOPEZ, JESUS  
[REDACTED]  
C/O : DHS / ICE / GEO  
3130 N. OAKLAND STREET  
AURORA, CO 80010

DHS/ICE Office of Chief Counsel - AUR  
12445 East Caley Avenue  
Centennial, CO 80111-5663

Name:  
MORALES-LOPEZ, JESUS



Riders:

Date of Notice: 08/27/2025

**FILING RECEIPT FOR APPEAL OR MOTION**

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 08/20/2025, in the above-referenced case, filed by the Department

Additional Comments  
N/A

**WARNING FOR APPEALS:**

**Departure.** If you leave the United States after filing this appeal but before the Board issues a decision, your appeal may be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).



**Proof of posting voluntary departure bond.** If you have been granted voluntary departure by the Immigration Judge, you must submit proof of having posted the voluntary departure bond set by the Immigration Judge to the Board. Your submission of proof must be provided to the Board within 30 days of filing this appeal. If you do not timely submit proof to the Board that the voluntary departure bond has been posted, the Board cannot reinstate the period of voluntary departure. 8 C.F.R. § 1240.2(c)(3)(ii).

**Autostay Bond Appeals.** Please note that the automatic stay will expire 90 days from the date of receipt of the DHS' appeal. 8 C.F.R. § 1003.6(c)(3). If the Board grants the respondent's request for additional briefing time, then the 90-day automatic stay period will be tolled for the same number of days. 8 C.F.R. § 1003.6(c)(4).

**Form EOIR-27.** If the appeal was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

**WARNING FOR MOTIONS:**

**Stay of removal.** Filing a motion with the Board does not automatically stop the DHS from executing an order of removal. If the respondent/applicant is in DHS detention and is about to be removed, you may request the Board to stay the removal on an emergency basis. For more information, call the Clerk's Office at (703) 605-1007.

**Form EOIR-27.** If the motion was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.



**FILING INSTRUCTIONS:**

If you have any questions about how to file something at the Board, please review the Board's Practice Manual which is available on EOIR's website at [www.justice.gov/eoir](http://www.justice.gov/eoir).

Accepted by: ChennubS

CC



**E**

 **Appearance Form Rejected** 

Your appearance form has been rejected for the following reason:

- E27 rejected as it was electronically submitted prior to filing the appeal.

Close



< Back to Cases

A-Number: [REDACTED], MORALES-LOPEZ, JESUS

Select a case to view details and file documents

Removal Charging Doc. Date: 07/02/2025 Case Pending

Bond Charging Doc. Date: 07/02/2025 Bond Request Date: 08/05/2025 Case Completed

Bond Appeal Filed on Date: 08/20/2025 Case Pending

End of list. Please file a Form EOIR-27 or EOIR-28 using "Appearances" link in the header to view additional cases.

Court Information

Case Type: Bond

Bond Request Date: 08/05/2025

Alien Name: MORALES-LOPEZ, JESUS

Hearing Location: -- NA --

Next Bond Hearing: -- NA --

Hearing Medium: -- NA --

Immigration Court: 3130 N. OAKLAND ST. AURORA, CO 80010

IJ Decision Date: 08/14/2025

Bond Decision: The Immigration Judge entered a new bond amount.

Court Actions

You do not have permission to view this case. For cases on appeal at the BIA, only representatives with a Form EOIR-27 on file may view the eROP. For information about the FOIA process, please visit https://www.justice.gov/eoir/freedom-information-act-foia. Please note that FOIA requests must be filed in accordance with the EOIR Policy Manual.

**L**



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*



*5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041*

**Larson, Skylar Madison  
Skylar M. Larson, Esq.  
8275 E 11th Ave # 200176  
Denver CO 80220**

**DHS/ICE Office of Chief Counsel - AUR  
12445 East Caley Avenue  
Centennial CO 80111-5663**

**Name: MORALES-LOPEZ, JESUS**



**Date of this Notice: 10/23/2025**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

A handwritten signature in black ink, appearing to read "John Seiler".

John Seiler  
Acting Chief Clerk

Enclosure

Userteam: Docket



**U.S. Department of Justice**

Executive Office for Immigration Review  
*Board of Immigration Appeals*  
*Office of the Clerk*

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**MORALES-LOPEZ, JESUS**



3130 N Oakland Street  
Aurora CO 80010

**DHS/ICE Office of Chief Counsel - AUR**  
12445 East Caley Avenue  
Centennial CO 80111-5663

**Name: MORALES-LOPEZ, JESUS**



**Date of this Notice: 10/23/2025**

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

A handwritten signature in black ink, appearing to read "John Seiler".

John Seiler  
Acting Chief Clerk

Enclosure

Userteam: Docket

**NOT FOR PUBLICATION**

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

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MATTER OF:

Jesus MORALES-LOPEZ, 

Respondent

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**FILED**  
Oct 23, 2025

ON BEHALF OF RESPONDENT: Skylar Madison Larson, Esquire

ON BEHALF OF DHS: James Cole Weber, Assistant Chief Counsel

IN BOND PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Aurora, CO

Before: Gallow, Appellate Immigration Judge

GALLOW, Appellate Immigration Judge

The Department of Homeland Security (“DHS”) appeals from the Immigration Judge’s August 14, 2025, order which released the respondent from custody on condition of paying a \$7,500 bond.<sup>1</sup> The appeal will be sustained, and the Immigration Judge’s bond order will be vacated.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

While this appeal was pending, the Board issued a precedential decision concluding Immigration Judges lack the authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025); *see also* section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A). Because the respondent is present in the United States without admission, there is no authority to grant a bond in this case. *Id.*

Accordingly, the following order will be entered.

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<sup>1</sup> On August 19, 2025, the government filed a Senior Legal Official Certification (Form EOIR-43), automatically staying the decision of the Immigration Judge which remains in abeyance pending a decision of the appeal by this Board. 8 C.F.R. § 1003.19(i)(2).



ORDER: The appeal is sustained, and the Immigration Judge's August 14, 2025, bond order is vacated.