



**U.S. Department of Justice**

*United States Attorney  
Western District of New York*

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November 4, 2025

The Honorable Lawrence J. Vilaro  
United States District Judge  
Robert H. Jackson United States Courthouse  
2 Niagara Square  
Buffalo, New York 14202

**Re: Diaz v. Hyde, et al.  
25-CV-01122-LJV**

Dear Judge Vilaro:

In addition to the response already submitted by the United States Attorney's Office for the District of Massachusetts (ECF No. 17), the government submits the underlying documentation referred to by Assistant Field Office Director Keith Chan in his declaration (ECF No. 12-1), enclosed herein.

Moreover, in addition to the arguments made in the government's brief, the government would submit that due to the issuance of the Notice of Intent/Decision to Reinstate Prior Order, Diaz is unequivocally detained under 8 U.S.C. § 1231. Because he has failed to make a *prima facie* argument under *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Petition should be dismissed for failing to state a claim upon which relief can be granted. Additionally, even if Diaz were to seek to amend the Petition, such amendment would be futile because he has only been detained for approximately 50 days and ICE has advised me that they are ready to remove Diaz within a two-to-three-week period. This Court's order enjoining removal is the only thing preventing removal at present.

Accordingly, the government respectfully requests that the Petition be denied or dismissed in its entirety.

Respectfully submitted,

MICHAEL DIGIACOMO  
Acting United States Attorney  
Western District of New York


BY: /s/ ADAM A. KHALIL  
Assistant United States Attorney


U.S. Department of Justice

Immigration and Naturalization Service

### Notice and Order of Expedited Removal

#### DETERMINATION OF INADMISSIBILITY

Event Number 

File No: 

Date: March 12, 2007

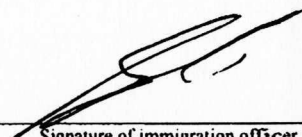
In the Matter of: NOE DIAZ-DIAZ

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Immigration and Naturalization Service has determined that you are inadmissible to the United States under section(s) 212(a)  (6)(C)(i);  (6)(C)(ii);  (7)(A)(i)(I);  (7)(A)(i)(II);  (7)(B)(i)(I); and/or  (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

- 1) You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act; to wit; you have entered the United States illegally on March 11, 2007, at approximately 0200 hours near Hidalgo, Texas, with the intent to reside in the United States.

**STEPHEN H. PINE**  
**BORDER PATROL AGENT**

Name and title of immigration officer (Print)


  
Signature of immigration officer

#### ORDER OF REMOVAL UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

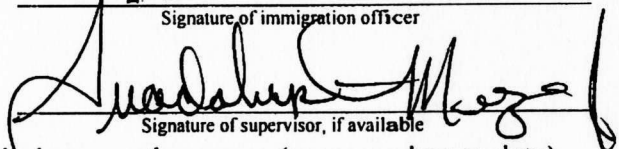
**STEPHEN H. PINE**  
**BORDER PATROL AGENT**

Name and title of immigration officer (Print)

  
Signature of immigration officer

**GUADALUPE MEZA JR**  
**SUPERVISORY BORDER PATROL AGENT**

Name and title of supervisor (Print)

  
Signature of supervisor, if available

Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

#### CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on



3/12/07  
(Date)

  
Signature of immigration officer

FINS: 

U.S. Department of Justice  
Immigration and Naturalization Service

**Notice to Alien Ordered Removed/Departure Verification**

Event No:   
File No: 

Date: 03/12/2007

Alien's full name: Noe DIAZ-Diaz

You have been found to be inadmissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act) or deportable under the provisions of section 237 of the Act as a Visa Waiver Pilot Program violator. In accordance with the provisions of section 212(a)(9) of the Act, you are prohibited from entering, attempting to enter, or being in the United States

- for a period of 5 years from the date of your departure from the United States as a consequence of your having been found inadmissible as an arriving alien in proceedings under section 235(b)(1) or 240 of the Act.
- for a period of 10 years from the date of your departure from the United States as a consequence of your having been ordered removed in proceedings under any section of the Act other than section 235(b)(1) or 240, or of your having been ordered excluded under section 236 of the Act in proceedings commenced prior to April 1, 1997.
- for a period of 20 years from the date of your departure from the United States as a consequence of your having been found inadmissible and of your having been previously excluded, deported, or removed from the United States.
- at any time because in addition to having been found inadmissible, you have been convicted of a crime designated as an aggravated felony.

After your deportation or removal has been effected, if you desire to reenter the United States within the period during which you are barred, you must request and obtain permission from the Attorney General to reapply for admission to the United States. You must obtain such permission before commencing your travel to the United States. Application forms for requesting such permission may be obtained by contacting any United States Consulate or office of the United States Immigration and Naturalization Service.

**WARNING: Title 8 United States Code, Section 1326 provides that it is a crime for an alien who has been removed from the United States to enter, attempt to enter, or be found in the United States without the Attorney General's express consent. Any alien who violates this section of law is subject to prosecution for a felony. Depending on the circumstances of the removal, conviction could result in a sentence of imprisonment for a period of from 2 to 20 years and/or a fine of up to \$250,000.**

PINE, Stephen H.

(Signature of officer serving warning)

BORDER PATROL AGENT

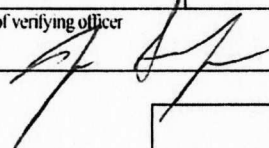
(Title of officer)

HRL

(Location of INS office)

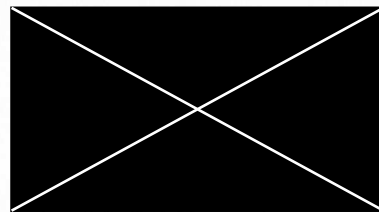
**Verification of Removal**

(Complete this section for file copy only)

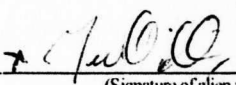
Departure date <u>4-3-07</u>	Port of departure <u>JNA, TX</u>	Manner of departure <u>JAATS</u>
Signature of verifying officer 		Title of Officer <u>IEA</u>



Photograph of alien removed



Right index fingerprint  
of alien removed

  
(Signature of alien whose fingerprint and photograph appear above)

  
(Signature of official taking fingerprint)

U.S. Department of Homeland Security

Notice of Intent/Decision to Reinstate Prior Order

File No. [Redacted]
Event No. [Redacted]
Date: September 14, 2025

FIN: [Redacted]

Name: NOE DIAZ-DIAZ

In accordance with section 241(a)(5) of the Immigration and Nationality Act (Act) and 8 CFR 241.8, you are hereby notified that the Secretary of Homeland Security intends to reinstate the order of Removal entered against you. This intent is based on the following determinations:

1. You are an alien subject to a prior order of deportation / exclusion / removal entered on March 12, 2007 at Hidalgo, Texas

2. You have been identified as an alien who:

[X] was removed on April 3, 2007 pursuant to an order of deportation / exclusion / removal.

[ ] departed voluntarily on [ ] pursuant to an order of deportation / exclusion / removal on or after the date on which such order took effect (i.e., who self-deported).

3. You illegally reentered the United States on or about Unknown Date at or near Unknown

In accordance with Section 241(a)(5) of the Act, you are removable as an alien who has illegally reentered the United States after having been previously removed or departed voluntarily while under an order of exclusion, deportation or removal and are therefore subject to removal by reinstatement of the prior order.

The facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the alien in the Spanish language.

HUNTER, S 0620
(Printed or typed name of official)

[Signature]
(Signature of officer)

Deportation Officer
(Title of officer)

Acknowledgment and Response

I [ ] do [ ] do not wish to make a statement contesting this determination.

(Date)

[Signature]
(Signature of Alien)

Decision, Order, and Officer's Certification

Having reviewed all available evidence, the administrative file and any statements made or submitted in rebuttal, I have determined that the above-named alien is subject to removal through reinstatement of the prior order, in accordance with section 241(a)(5) of the Act.

September 15, 2025 Batavia, NY
(Date) (Location)

MCCRATH-BOYLE, JENNIFER
(Printed or typed name of official)

[Signature]
(Signature of authorized deciding official)

SDDO
(Title)