

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:25-cv-04325-MJD-LIB

Yeferson Gonzalez Contreras,

Petitioner,

**DECLARATION OF JAMES
L. VAN DER VAART**

v.

Samuel L. Olson, Kristi Noem, Todd Lyons, Pam
Bondi, and Sheriff Joel Brott

Respondents.

James L. Van Der Vaart, Deportation Officer, United States Immigration and Customs Enforcement (“ICE”), Department of Homeland Security, for his declaration under 28 U. S. C. § 1746 hereby states as follows:


1. The following declaration is based on a review of the Petitioner’s alien file, statements, and emails. I submit this declaration to clarify the events that occurred in connection with the placement of Petitioner in removal proceedings and immigration detention.

2. I have been employed with Immigration and Customs Enforcement (ICE) since April 1, 2007. I began my career as an Immigration Enforcement Agent. On September 20, 2015, I was promoted to Deportation Officer.

3. As a Deportation Officer, my assigned duties are to identify, locate, and arrest aliens illegally present in the United States. Additionally, I am charged with the responsibility of overseeing the cases of aliens in removal proceedings. These duties include the review of alien files for sufficiency, the detention and release of aliens in ICE

custody, monitoring the progress of cases through the hearing process, and enforcement of the immigration court's decision, including the execution of removal orders. I am also responsible for presenting criminal immigration cases to the United States Attorney's Office for possible criminal prosecution.

4. All of the exhibits identified and attached to this declaration are true and accurate copies of documents concerning Petitioner and maintained in the ordinary course of DHS business.

5. Petitioner Yeferson Gonzalez Contreras ("Gonzalez Contreras" or "Petitioner") is a native and citizen of Venezuela. On Saturday, October 26, 2024, Gonzalez Contreras arrived at the Brownsville, Texas port of entry for a scheduled appointment procured through the "CBP One App" issued through the U.S. Customs and Border Protection. As such, Gonzalez Contreras was an "arriving alien." Upon inspection, it was determined that Gonzalez Contreras did not have sufficient documentation for a lawful entry into the United States. He was processed, assigned A Number  issued a Notice to Appear ("NTA"), issued an authorization to work in the United States, and paroled into the United States pending immigration proceedings under Immigration and Nationality Act ("INA"), Section 240, 8 U.S.C. § 1229a. Being paroled into the United States does not alter the status of an individual; rather, when paroled into the United States, the paroled individual maintains his or her

status as it was immediately prior to the parole. Thus, though paroled into the United States, Gonzalez Contreras maintained his status as an “arriving alien.”

6. Attached hereto are true and accurate copies of the following documents: Exhibit A--Record of Deportable/Inadmissible Alien (Form I-213) dated October 26, 2024 (2 pages); Exhibit B—Notice to Appear dated October 26, 2024; Exhibit C—I-94, Parole document in Spanish (no English translation available); Exhibit D, I-765, Approval Notice dated November 1, 2024 approving Application for Employment Authorization dated October 29, 2024, authorizing employment from October 31, 2024 to October 25, 2025.

7. The NTA, Exhibit B, charged Gonzalez Contreras under INA section 212(a)(7)(A)(i)(I) as an immigrant not in possession of a valid unexpired immigrant visa, re-entry permit, border crossing card, or other valid entry document as required by the INA and setting an immigration hearing for September 9, 2025 at Fort Snelling, Minnesota. See Exhibit B.

8. Gonzalez Contreras made his way to Minnesota. He filed a Form I-589, Application for Asylum or Withholding of Removal dated April 9, 2025 with the Executive Office for Immigration Review (“EOIR”), a true and accurate copy of which is attached as Exhibit E.

9. Immigration officials revoked the employment authorization by Revocation Notice dated May 29, 2025, a true and accurate copy of which is attached as Exhibit F.

10. As scheduled in the NTA, the Immigration Court conducted a Master Calendar Hearing on September 9, 2025. At that time DHS officials filed a motion to dismiss the proceedings which motion Gonzalez Contreras opposed. After hearing arguments by both parties, the Immigration Court granted the motion to dismiss by order dated September 9, 2025, a true and accurate copy of which is attached as Exhibit G.

11. Immigration officials then took Gonzalez Contreras into ICE custody. Attached hereto as Exhibit H is a true and accurate copy of a Record of Deportable/Inadmissible Alien (Form I-213) dated September 9, 2025. This Form I-213 contained an error. In the box in the upper left corner of the form it incorrectly states that the manner of Gonzalez Contreras's entry was "WI—Without Inspection." This was inaccurate as Gonzalez Contreras had been paroled into the United States as an "arriving alien." The Form I-213 on page 2 correctly states, "On October 26, 2024, GONZALEZ was released on parole into the United States pending a 240 hearing." Exhibit H, page 2.

12. On October 1, 2025, Gonzalez Contreras appealed the granting of the motion to dismiss to the Board of Immigration Appeals (BIA), a true and accurate copy of which appeal is attached as Exhibit I.

13. Gonzalez Contreras requested a custody redetermination. By Order dated October 21, 2025, the Immigration Court denied that custody redetermination, a true and accurate copy of which is attached as Exhibit J. This decision appears to have been based on the inaccurate notation of Gonzalez Contreras entering "WI—Without Inspection."

14. On November 13, 2025, Gonzalez Contreras filed his Petition for Writ of Habeas Corpus (ECF No. 1) and Petitioner's Emergency Motion for Temporary Restraining Order Under FRCP 65(b) and Preliminary Injunction Under FRCP 65(a). Upon review of these filings, DHS recognized its error in making its motion to dismiss the 240 proceedings in Immigration Court on September 9, 2025.

15. To correct this problem and to return the parties to the status quo of the original Immigration Court proceedings under INA 240, as set forth in the NTA, Exhibit B, on November 14, 2025, DHS officials filed in the BIA a motion for remand to the Immigration Court to allow the DHS to withdraw the previously granted motion to dismiss which Gonzalez Contreras had opposed and which is the subject of Gonzalez Contreras's appeal to the BIA (Exhibit I). A true and accurate copy of DHS's motion filed in the BIA is attached as Exhibit K. As of today's date, November 18, 2025, Petitioner has not opposed DHS's motion to remand and the BIA has not yet ruled on the motion to remand.

16. Assuming the BIA remands the matter back to the Immigration Court, the DHS will withdraw its motion to dismiss and proceed with the current removal proceedings under INA 240 initiated by the filing of the NTA dated October 26, 2024 charging Gonzalez Contreras as an arriving alien subject to inadmissibility under INA § 212(a)(7)(A)(i)(I).

17. Once the Immigration Court reinstates the INA 240 removal proceedings, Gonzalez Contreras will have the opportunity to request another custody redetermination, to pursue his asylum and withholding of removal application, and to pursue any other avenue of relief from removal that may be available to him.

18. Meanwhile, Gonzalez Contreras was and remains in immigration detention as an “arriving alien” under 8 U.S.C. 1226(a) pending any custody redetermination that may occur in Immigration Court. Ordinarily, an Immigration Judge may not redetermine the custody of an arriving alien. 8 C.F.R. § 1003.19(h)(2)(i)(B).

Dated:

JAMES L VAN DER VAART Digitally signed by JAMES L VAN DER
VAART
Date: 2025.11.18 15:05:11 -06'00'

James L. VanDerVaart, Deportation Officer
U.S. Immigration and Customs Enforcement