



U.S. Department of Justice

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November 26, 2025

The Honorable Elizabeth A. Wolford
Chief United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

Re: Ayala v. Freden, et al.
25-cv-06697-EAW

Dear Chief Judge Wolford:

As this Court knows, the government being served with numerous petitions for writs of habeas corpus and is under enormous logistical burdens in responding. As such, this Office has largely been relying on the facts pleaded in each petition, subject to review by ICE.

In the instant matter, it appeared upon initial review that Mr. Ayala was being detained pursuant to the *Hurtado* framework as an alien who entered the country without admission or inspection and parole. Upon further information obtained by ICE, I just learned that Mr. Ayala was actually ordered removed in 2014 and is subject to a reinstated order of removal issued today, which is enclosed. As such, the authority for his detention is not 8 U.S.C. § 1225(b)(2) (under *Hurtado*), but is in fact 8 U.S.C. § 1231 as an alien with a final order of removal. See *Johnson v. Guzman Chavez*, 594 U.S. 523, 535 (2021) (holding that aliens subject to a reinstated order of removal are detained pursuant to 8 U.S.C. § 1231).

Given this new development, the government withdraws its submission made this morning, ECF No. 5, and intends to move to dismiss the Petition as Mr. Ayala's only challenge to detention must be brought under the framework established in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), requiring him to show good cause to believe his removal is not significantly likely to occur within the reasonably foreseeable future. I intend to make such motion within the original response timeline set by this Court, and thus no extension of time to respond is sought.

Respectfully submitted,

MICHAEL DIGIACOMO
Acting United States Attorney
Western District of New York

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

Encl. – Notice of Intent/Decision to Reinstate Prior Order (3 pages)

U.S. Department of Homeland Security

Notice of Intent/Decision to Reinstate Prior Order

File No. [Redacted]
Event No: [Redacted]
Date: November 26, 2025

FIN: [Redacted]

Name: JOSE RENE MELENDEZ-AYALA

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 April 23, 2014 at Rio Grand Valley, TX

2. You have been identified as an alien who:

- was removed on April 28, 2014 pursuant to an order of deportation / exclusion / removal.
departed voluntarily on [Redacted] 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 PLACE

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.

SECORE, T. 10314
(Printed or typed name of official)

[Signature of officer]
(Signature of officer)

Deportation Officer
(Title of officer)

Acknowledgment and Response

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

(Date)

Refused to sign
(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.

November 26, 2025 Batavia, NY
(Date) (Location)

[Signature of authorized deciding official]
(Signature of authorized deciding official)

OLIVERI, A., 7634
(Printed or typed name of official)

SDDO
(Title)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

Subject ID: 
File No: 
Event: 
Date: November 26, 2025

To any immigration officer of the United States Department of Homeland Security:

JOSE RENE MELENDEZ-AYALA

(Full name of alien)

who entered the United States at UNKNOWN PLACE on Unknown Date
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

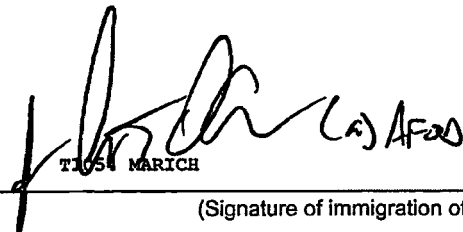
- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

212a9Aii;

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

Salaries and Expenses, Department of Homeland Security 2025



(Signature of immigration officer)

(A) Field Office Director
(Title of immigration officer)

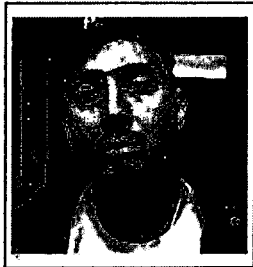
November 26, 2025, Batavia, NY
(Date and office location)

Alien No. 

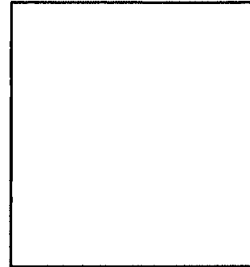
To be completed by immigration officer executing the warrant: Name of alien being removed:

JOSE RENE MELENDEZ-AYALA

Port, date, and manner of removal: _____



Photograph of alien removed



Right index fingerprint of alien removed

(Signature of alien being fingerprinted)

(Signature and title of immigration officer taking print)

Departure witnessed by: _____
(Signature and title of immigration officer)

If actual departure is not witnessed, fully identify source or means of verification of departure:

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here.

Departure Verified by: _____
(Signature and title of immigration officer)