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**3:25-cv-03741-LL-MMP** Ramos Gregorio v. Larose et al  
Linda Lopez, presiding  
Michelle M. Pettit, referral  
**Date filed:** 12/23/2025  
**Date terminated:** 01/09/2026  
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## History

<b>Doc. No.</b>	<b>Dates</b>	<b>Description</b>
<u>1</u>	<i>Filed &amp; Entered:</i> 12/23/2025	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed &amp; Entered:</i> 12/24/2025	 Order Setting Briefing Schedule
<u>3</u>	<i>Filed &amp; Entered:</i> 01/06/2026	 Notice of Appearance
<u>4</u>	<i>Filed &amp; Entered:</i> 01/07/2026	 Reply - Other
<u>5</u>	<i>Filed &amp; Entered:</i> 01/08/2026	 X Traverse
<u>6</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Order
<u>7</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Clerk's Judgment



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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 HECTOR ANIVAL RAMOS  
12 GREGORIO,

13 Petitioner,

14 v.

15 CHRISTOPHER J. LAROSE, Senior  
16 Warden, Otay Mesa Detention Center, San  
17 Diego, California in his official capacity;  
18 JOSEPH FREDEN, Field Office Director  
19 of San Diego Office of Detention and  
20 Removal, U.S. Immigration and Customs  
21 Enforcement; U.S. Department of  
22 Homeland Security;  
23 TODD M. LYONS, Acting Director, U.S.  
24 Immigration and Customs Enforcement,  
25 U.S. Department of Homeland Security, in  
26 his official capacity;  
27 DAREN K. MARGOLIN, Director for  
28 Executive Office for Immigration Review,  
in his official capacity;  
KRISTI NOEM, Secretary of U.S.  
Department of Homeland Security, in her  
official capacity;

and

PAMELA BONDI, Attorney General of  
the United States, in her official capacity,

Respondents.

Case No.: '25CV3741 LL MMP

**PETITION FOR WRIT OF HABEAS  
CORPUS AND ORDER TO SHOW  
CAUSE WITHIN THREE DAYS;  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration  
Under Color of Immigration Detention  
Statutes; Request for Declaratory and  
Injunctive Relief

Agency Doc. No.



1 Petitioner Hector Anival RAMOS GREGORIO (“Petitioner” or “Mr. RAMOS  
2 GREGORIO”), by and through his attorney, Valerie Sigamani, petitions this Court for a  
3 writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents’ detaining him  
4 unlawfully, and states as follows:  
5

6 **INTRODUCTION**  
7

8 1. Petitioner Hector Anival RAMOS GREGORIO (“Mr. RAMOS GREGORIO” or  
9 “Petitioner”), by and through his undersigned counsel, files this petition for writ of habeas  
10 corpus and complaint for declaratory and injunctive relief to compel his immediate release  
11 from immigration detention where he has been held by the U.S. Department of Homeland  
12 Security (“DHS”) since being detained on August 8, 2025. *See Exhibit A.* Mr. RAMOS  
13 GREGORIO is in the physical custody of Respondents at the Otay Mesa Detention Center  
14 in San Diego, California.  
15

16  
17 2. Mr. RAMOS GREGORIO is unlawfully detained since his arrest on August 8, 2025.  
18 Mr. RAMOS GREGORIO was issued a Notice to Appear on March 20, 2019, and was  
19 later released on an ankle monitor. *Exhibits A, F.* Mr. RAMOS GREGORIO was then  
20 detained by ICE on August 8, 2025, despite being enrolled in an ATD program. He was  
21 granted bond at \$10,000 on August 15, 2025; however, the government appealed the  
22 determination. *See Exhibit B.* The immigration judge did not determine that Mr. RAMOS  
23 GREGORIO was a danger to the community, ultimately determining under the totality of  
24 the circumstances that they warranted a \$10,000 bond. *Id.* Mr. RAMOS GREGORIO has  
25 since remained in detention.  
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1 3. Further, Mr. RAMOS GREGORIO applied for asylum, which was denied in  
2 February 2018. *See Exhibit C.* Mr. RAMOS GREGORIO complied with the voluntary  
3 departure with safeguards. *Exhibit D.* He later re-entered the U.S. and applied for asylum  
4 in April 2021. He appealed the denial on December 11, 2024, and it remains pending with  
5 the Board of Immigration Appeals. *See Exhibit D.*  
6

7  
8 4. The Due Process Clause of the Fifth Amendment, as well as statutory and regulatory  
9 authorities, require the government to provide noncitizens with notice and a hearing before  
10 re-detaining them.  
11

12 5. Petitioner must be released from custody unless DHS proves to a neutral adjudicator,  
13 by clear and convincing evidence, material changed circumstances, including that he is a  
14 flight risk and/or a danger to the community, that would justify revoking Mr. RAMOS  
15 GREGORIO's conditional release. Mr. RAMOS GREGORIO's rights were violated, and  
16 continue to be, each day he is detained.  
17

### 18 JURISDICTION

19  
20 6. Jurisdiction is proper and relief is available under 28 U.S.C. § 1331 (federal  
21 question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702 (waiver of sovereign  
22 immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and Article I, Section 9, clause  
23 2 of the U.S. Constitution (the Suspension Clause).  
24

25 7. This Court may grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act,  
26 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.  
27  
28

1 VENUE

2 8. Under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500  
3 (1973), venue lies in this judicial district, the one in which Mr. RAMOS GREGORIO is  
4 currently detained.  
5

6 9. Venue is also properly in this Court under 28 U.S.C. § 1391(e) because Respondents  
7 are employees, officers, and agents of the United States, and a substantial part of the events  
8 or omissions giving rise to the claims occurred in the Southern District of California.  
9

10 PARTIES

11 10. Petitioner Hector RAMOS GREGORIO (“Petitioner” or “Mr. RAMOS  
12 GREGORIO”) is a 34-year-old-Guatemalan national who most recently entered the U.S.  
13 in May 2019. Petitioner initially entered the U.S. in 2006. *Exhibit A*. In August 2017, Mr.  
14 RAMOS GREGORIO applied for asylum, a claim which an immigration judge in February  
15 2018. *Exhibit C*. Following the IJ’s order, Mr. RAMOS GREGORIO exited the U.S.  
16 through a voluntary departure with safeguards. *Exhibits A, D*. Petitioner reentered the  
17 United States thereafter. *Exhibit A*.  
18  
19

20 11. Later, ICE detained Petitioner on March 20, 2019, and issued him a Notice to  
21 Appear. *Exhibits F, G*. Mr. RAMOS GREGORIO was later released and placed on an ankle  
22 monitor. *Exhibits F, A*. Mr. RAMOS GREGORIO once again applied for defensive asylum  
23 in April 2021, a proceeding that is currently pending in the BIA. *Exhibit E*.  
24  
25

26 12. Mr. RAMOS GREGORIO was arrested by ICE agents on August 8, 2025, outside  
27 of his garage on his way home from his AA meeting. *Exhibit A*. He was processed as a  
28

1 detainee and transferred to Otay Mesa Detention Center. Mr. RAMOS GREGORIO has  
2 been in immigration detention since that date. An IJ determined that MR. RAMOS  
3 GREGORIO was not a danger to the community and set bond at \$10,000. *Exhibit B*. DHS  
4 appealed to the BIA, which was denied. *Id.* Mr. RAMOS GREGORIO is currently in  
5 Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego,  
6 California. That facility is operated by CoreCivic, Inc., a Maryland corporation.

9 13. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center  
10 where Mr. RAMOS GREGORIO is being held. He oversees the day-to-day operations of  
11 the Otay Mesa Detention Center and acts at the Direction of Respondents FREDEN,  
12 LYONS, and NOEM. Respondent LAROSE is a custodian of Mr. RAMOS GREGORIO  
13 and is named in his official capacity.

16 14. Respondent Joseph FREDEN is the Acting Field Office Director of ICE in San  
17 Diego, California, and is named in his official capacity. ICE is the component of DHS that  
18 is responsible for detaining and removing noncitizens according to immigration law and  
19 oversees custody determinations. In his official capacity, he is Mr. RAMOS GREGORIO's  
20 legal custodian.

22 15. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his  
23 official capacity. Among other things, ICE is responsible for the administration and  
24 enforcement of the immigration laws, including the removal of noncitizens. In his official  
25 capacity as head of ICE, he is the legal custodian of Mr. RAMOS GREGORIO.

1 16. Respondent Daren K. MARGOLIN is the Director of EOIR and has ultimate  
2 responsibility for overseeing the operation of the immigration courts and the Board of  
3 Immigration Appeals, including bond hearings. EOIR is the federal agency responsible for  
4 implementing and enforcing the INA in removal proceedings, including for custody  
5 redeterminations in bond hearings. He is sued in his official capacity.  
6

7  
8 17. Respondent Kristi NOEM is the Secretary of the DHS and is named in her official  
9 capacity. DHS is the federal agency encompassing ICE, which is responsible for the  
10 administration and enforcement of the INA and all other laws relating to the immigration  
11 of noncitizens. In her capacity as Secretary, Respondent NOEM has responsibility for the  
12 administration and enforcement of the immigration and naturalization laws under Section  
13 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25,  
14 2002); *see also* 8 U.S.C. § 1103(a). Respondent NOEM is the ultimate legal custodian of  
15  
16 Mr. RAMOS GREGORIO.  
17

18 18. Respondent Pamela BONDI is the Attorney General of the United States and the  
19 most-senior official in the U.S. Department of Justice (“DOJ”), and is named in her official  
20 capacity. She has the authority to interpret immigration laws and adjudicate removal cases.  
21 The Attorney General delegates this responsibility to the Executive Office for Immigration  
22 Review (“EOIR”), which administers the immigration courts and the BIA.  
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**LEGAL FRAMEWORK**

**A. Section 240 Versus Expedited Removal Proceedings and Parole**

19. Two main forms of immigration proceedings govern the treatment of inadmissible immigrants: (1) Section 240 removal proceedings and (2) expedited removal proceedings. 8 U.S.C. §§ 1229, 1229a; 8 U.S.C. §§ 1225.

20. Section 240 removal proceedings (“full proceedings”) are initiated when DHS issues a Notice to Appear under 8 U.S.C. §§ 1229, 1229a and “take place before an IJ, an employee of the Department of Justice...who must be a licensed attorney and has a duty to develop the record in cases before them.” *Coal. for Humane Immigrant Rights v. Noem*, No. 25-cv-872 (JMC), 2025 U.S. Dist. LEXIS 148615, at \*8 (D.D.C. Aug. 1, 2025).

21. Once a Notice to Appear has been issued, the person is not subject to mandatory detention based on their inadmissibility alone; for example they can be released under 8 U.S.C. § 1226(a)(2)(B) conditional parole after “demonstrat[ing] to the satisfaction of the officer that such release would not pose a danger to property or persons” and that the noncitizen is “likely to appear for any future proceedings.” 8 C.F.R. § 1236.1(c)(8).3. Therefore, a noncitizen’s release reflects the government’s determination that they are neither a danger to the community nor a flight risk. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017); *Saravia v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); *see also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111 (9th Cir. 2007).

22. Under 8 U.S.C. § 1225, expedited removal proceedings are overseen by an immigration officer, instead of an immigration judge. 8 C.F.R. § 235.3(b)(2)(i). When

1 noncitizens are deemed inadmissible when applying for admission because they do not  
2 possess a valid entry document, they are placed in expedited removal proceedings. INA  
3 § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I). They are generally “removed from the  
4 United States without further hearing or review unless [they] indicate[] either an intention  
5 to apply for asylum under section 1158 of this title or a fear of persecution.” 8 U.S.C. §  
6 1225(b)(A)(ii).  
7

8  
9 23. In expedited removal proceedings, the noncitizen is subject to mandatory detention.  
10 *See* 8 U.S.C. § 1225(B)(iii). The only exception for release through the parole authority is  
11 under § 1182(d)(5)(A) – “for urgent humanitarian reasons or significant public benefit.”  
12 *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). If  
13 there is a finding of credible fear of persecution, then the proceedings are converted to ones  
14 under Section 240. The immigration officer initially decides which type of removal  
15 proceedings to initiate. Even if the applicant is inadmissible and intends to seek asylum,  
16 officers routinely initiate Section 240 proceedings and issue a Notice to Appear. Once an  
17 applicant for admission has been conditionally paroled and issued a Notice to  
18 Appear, they cannot be designated for expedited removal at a later date. *Coal. for Humane*  
19 *Immigrant Rights v. Noem*, No. 25-cv-872 (JMC), 2025 U.S. Dist. LEXIS 148615 (D.D.C.  
20 Aug. 1, 2025).  
21

22  
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25 24. Further, a removal order is automatically stayed during the BIA’s adjudication of  
26 the appeal until a final decision issues. 8 C.F.R. § 1003.6(a). It thus follows that a  
27  
28

1 conditional parole or bond is not automatically revoked after a removal order is issued  
2 because proceedings are still pending.

3  
4 **B. Right to an Individualized Determination Before Conditional Parole is  
5 Revoked**

6 25. The Due Process Clause of the Fifth Amendment, federal statutes and agency  
7 implementation of regulations, as well as precedential judicial and BIA decisions, narrow  
8 DHS's authority to revoke unilaterally any noncitizen's immigration bond or conditional  
9 parole and re-arrest the noncitizen. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9).

10  
11 26. Notwithstanding the statutory language granting ICE the authority to revoke an  
12 immigration release "at any time," in *Matter of Sugay*, the BIA recognized an implicit  
13 limitation on DHS's authority to re-arrest noncitizens. 8 U.S.C. § 1226(b); 17 I&N Dec.  
14 637, 640 (BIA 1981). Further, the United States Court of Appeals for the Ninth Circuit has  
15 adopted a rule that under *Matter of Sugay*, DHS does not have authority to re-detain a  
16 noncitizen absent changed circumstances. Once DHS releases a noncitizen on an Order of  
17 Supervision, "ICE's ability to re-detain that noncitizen is constrained by its own  
18 regulations." *Nouri v. Herrera*, SA CV 25-1905-JFW(DBT), 2025 U.S. Dist. LEXIS  
19 171809, at \*11 (C.D. Cal. Sept. 3, 2025); *Panosyan v. Mayorkas*, 854 F. App'x 787, 788  
20 (9th Cir. 2021) (unpublished) ("Thus, absent changed circumstances...ICE cannot re-  
21 detain Panosyan.").

22  
23 27. The government has further clarified in litigation that the showing of changed  
24 circumstances applies "both where the prior bond determination was made by an  
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1 immigration judge *and* where the previous release decision was made by a DHS officer.”  
2 *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added).  
3

4 28. Further, DHS has, in practice, limited its authority and “generally only re-arrests  
5 [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances,” not just any  
6 changed circumstances. *Id.*

7  
8 29. Guidance from *Matter of Sugay* and DHS practices alone – that ICE should not re-  
9 arrest a noncitizen absent changed circumstances – are insufficient to protect Mr. RAMOS  
10 GREGORIO’s weighty interest in his freedom from detention. District court judges in the  
11 Ninth Circuit have routinely held that noncitizens on bond or parole have a protected liberty  
12 interest and a due process constraint on DHS’s authority to revoke bond or parole –  
13 requiring a pre-deprivation hearing for a noncitizen, like Mr. RAMOS GREGORIO, before  
14 ICE re-detains him. *See, e.g., Rodriguez-Flores v. Semaia*, No. CV 25-6900 JGB (JCx),  
15 2025 U.S. Dist. Lexis 192394, at \*8 (C.D. Cal. Aug. 14, 2025); *Pinchi v. Noem*, 792 F.  
16 Supp. 3d 1025 (N.D. Cal. 2025); *Doe v. Becerra*, 787 F. Supp. 3d 1083 (E.D. Cal. 2025);  
17 *Maklad v. Murray*, No. 1:25-cv-00946 JLT SAB, 2025 U.S. Dist. LEXIS 153675 (E.D.  
18 Cal. Aug. 8, 2025); *Jorge M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 U.S. Dist. LEXIS  
19 40823, at \*6, (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020  
20 U.S. Dist. LEXIS 153579 (N.D. Cal. Aug. 23, 2020), at \*8 (N.D. Cal. Aug. 23, 2020);  
21 *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Meza v. Bonnar*, No. 18-cv-  
22 02708-BLF, 2018 U.S. Dist. LEXIS 94664 (N.D. Cal. June 4, 2018).  
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1 30. It follows that before re-detaining Mr. RAMOS GREGORIO, who had been  
2 previously released under to 8 U.S.C. § 1226(b), DHS should have provided him with a  
3 pre-detention hearing and notice thereof, at which DHS had the burden of proving that Mr.  
4 RAMOS GREGORIO’s conditional parole should be canceled because circumstances had  
5 materially changed.  
6

7  
8 31. Instead, Respondents unlawfully arrested and detained Mr. RAMOS GREGORIO  
9 without having an immigration judge or neutral adjudicator assess whether circumstances  
10 have materially changed since his release in 2019, such that detention would now be  
11 warranted.  
12

13 **C. Mr. RAMOS GREGORIO’s Due Process Rights**

14 32. The government cannot deprive any person of “life, liberty, or property, without due  
15 process of law[.]” U.S. Const. Amend. V. “[T]he Due Process Clause applies to all  
16 ‘persons’ within the United States, including [noncitizens], whether their presence here is  
17 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).  
18  
19

20 **a. Petitioner’s Liberty Interest is Protected**

21 33. “Freedom from imprisonment – from government custody, detention, or other forms  
22 of physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects.”  
23 *Id.* at 690.  
24

25 34. That liberty interest also exists when a person was detained and is later released,  
26 even if conditionally released and even when an initial decision was discretionary.  
27  
28 *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972). *Morrissey* noted that “subject to the

1 conditions of his parole, [a parolee] can be gainfully employed and is free to be with family  
2 and friends and to form the other enduring attachments of normal life.” *Id.* at 482. The  
3 parolee relies “on at least an implicit promise that parole will be revoked only if he fails to  
4 live up to the parole conditions.” *Id.*

6 35. *Morrissey* explained that “the liberty of a parolee, although indeterminate, includes  
7 many of the core values of unqualified liberty and its termination inflicts a grievous loss  
8 on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is valuable  
9 and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at  
10 482; *see also Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that persons placed in a  
11 pre-parole program created to reduce prison overcrowding have a protected liberty interest  
12 requiring a pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973)  
13 (holding that persons released on felony probation have a protected liberty interest  
14 requiring a pre-deprivation process). As the First Circuit explained, when analyzing the  
15 whether a specific conditional release implicates a protected liberty interest, “[c]ourts have  
16 resolved the issue by comparing the specific conditional release in the case before them  
17 with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-Fuentes v.*  
18 *Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted).  
19 *See also Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“[A] person  
20 who is in fact free of physical confinement — even if that freedom is lawfully revocable  
21 — has a liberty interest that entitles him to constitutional due process before he is re-  
22 incarcerated”).

1 36. The protectable liberty interest that conditional release creates also applies to  
2 immigration detention. “[T]he government’s discretion to incarcerate non-citizens is  
3 always constrained by the requirements of due process.” *Hernandez v. Sessions*, 872 F.3d  
4 976, 981 (9th Cir. 2017). “Just as people on preparole, parole, and probation status have a  
5 liberty interest, so too does [a noncitizen released from immigration detention] have a  
6 liberty interest in remaining out of custody on bond.” *Ortega*, 415 F. Supp. 3d at 969. Even  
7 where “a decision-making process involves discretion does not prevent an individual from  
8 having a protectable liberty interest.” *Id.* at 970; *see also Romero v. Kaiser*, No. 22-cv-  
9 02508-TSH, 2022 U.S. Dist. LEXIS 82538 (N.D. Cal. May 6, 2022).

10 37. “[R]elease from ICE custody constitute[s] an ‘implied promise’ that [the  
11 noncitizen’s] liberty would not be revoked unless [they] ‘fail[] to live up to the conditions  
12 of [their] release.’ The regulatory framework makes clear that those conditions [a]re that  
13 [the noncitizen] remain[s] neither a danger to the community nor a flight risk.” *Pinchi*, 792  
14 F. Supp. 3d at \*12 (quoting *Morrissey*, 408 U.S. at 482).

15 38. A noncitizen released from custody pending removal proceedings therefore has a  
16 protected liberty interest in remaining at liberty. *See Diaz v. Kaiser*, No. 3:25-CV-05071,  
17 2025 WL 1676854 (N.D. Cal. June 14, 2025); *Romero*, 2022 U.S. Dist. LEXIS 82538 , at  
18 \*6-7; *see also Ramirez Clavijo v. Kaiser*, 25-cv-06248-BLF, at 6 (N.D. Cal. Aug. 21,  
19 2025).

1           **b. Petitioner’s Liberty Interest Mandated a Hearing before Any Arrest and**  
2           **Revocation of Parole**

3 34.       “Adequate, or due, process depends upon the nature of the interest affected. The  
4 more important the interest and the greater the effect of its impairment, the greater the  
5 procedural safeguards the [government] must provide to satisfy due process.” *Haygood v.*  
6 *Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc). This Court must “balance [Mr.  
7 RAMOS GREGORIO’s] liberty interest against the [government’s] interest in the efficient  
8 administration of” its immigration laws to determine what process he necessitates to ensure  
9 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357.  
10

11  
12 35.       The United States Court of Appeals for the Ninth Circuit adopted the three-factor  
13 *Mathews* test to assess adequate safeguards. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189,  
14 1206-07 (9th Cir. 2022). The *Mathews* safeguards are “first, the private interest factor that  
15 will be affected by the official action; second, the risk of erroneous deprivation of such  
16 interest through the procedures used, and the probative value, if any, of additional or  
17 substitute procedural safeguards; and finally the government’s interest, including the  
18 function involved and the fiscal and administrative burdens that the additional or substitute  
19 procedural requirements would entail.” *Mathews v. Eldrige*, 424 U.S. 319, 335 (1976).  
20  
21

22  
23 36.       The Fifth Amendment’s Due Process Clause typically requires a hearing before the  
24 government may deprive a person of their liberty interest. *Zinerman v. Burch*, 494 U.S.  
25 113, 127 (1990); *see also United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014)  
26 (noting “due process always requires, a minimum, notice and an opportunity to respond.”).  
27  
28

1 Post-deprivation remedies may satisfy the requirements of due process only in a “special  
2 case” in which they are “the only remedies the State could be expected to provide” and  
3 where “one of the variables in the Mathews equation — the value of post deprivation  
4 safeguards — is negligible in preventing the kind of deprivation at issue” such that “the  
5 State cannot be required constitutionally to do the impossible by providing post deprivation  
6 process.” *Zinermon*, 494 U.S. at 128-29.  
7  
8

9 **c. Substantial Liberty Interest in Staying Out of Detention**

10 37. A person’s interest in not being detained is “the most elemental of liberty  
11 interests[.]” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “Freedom from bodily restraint  
12 has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v.*  
13 *Louisiana*, 504 U.S. 71, 80 (1992). This liberty interest also exists when ICE decides to  
14 nullify unilaterally its own earlier parole decision and take away his physical freedom, such  
15 as his “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*,  
16 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). Courts have routinely  
17 agreed that “a petitioner’s interest in remaining out of custody as ‘substantial.’” *Rodriguez-*  
18 *Flores*, No. 2:25-CV-06900 JGB (JCx), at \*9 (citing *Diaz v. Kaiser*, No. 3:25-CV-05071,  
19 2025 U.S. Dist. LEXIS 113566 (N.D. Cal. June 14, 2025)).  
20  
21  
22  
23

24 38. The longer a person has been released, the more important his liberty interest grows.  
25 *Morrissey*, 408 U.S. at 482.  
26  
27  
28

**d. The Government’s Risk of Erroneously Depriving Petitioner of His Liberty Interest is High, and Providing Petitioner with Procedural Safeguards Would Protect Petitioner’s Liberty Interest**

39. The government must comport with due process to re-detain a noncitizen, even if it thinks there is a valid reason to do so. *See Guillermo M.R. v. Kaiser*, 791 F. Supp. 3d 1021, 1033-34 (N.D. Cal. 2025) (concluding that “undeniably stark” risk of erroneous deprivation when the government contends that “notwithstanding a neutral arbiter’s determination that Petitioner should be released, ICE is entitled to unilaterally terminate the IJ’s order by re-detaining Petitioner without a hearing for at least six months, based on ICE’s own determination in its sole discretion that additional conditions of release unilaterally set by ICE had been violated”); *see also Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 U.S. Dist. LEXIS 132500 (E.D. Cal. July 11, 2025).

40. When the “[the petitioner] has not received any bond or custody ... hearing,’ ‘the risk of an erroneous deprivation [of liberty] is high’ because neither the government nor [the petitioner] has had an opportunity to determine whether there is any valid basis for her detention.” *Pinchi*, F. Supp. 3d at 13. A pre-detention hearing significantly decreases that risk because the government has to prove to a neutral adjudicator by clear and convincing evidence that circumstances have materially changed to justify re-detention, and a hearing is likelier to produce accurate determinations regarding factual disputes, such as whether a certain occurrence constitutes a “changed circumstance.” *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989) (holding that when “delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement” are at

1 issue, the “risk of error is considerable when just determinations are made after hearing  
2 only one side”).

3  
4 41. Further, the risk of an erroneous deprivation of liberty under *Mathews* can be  
5 decreased when a neutral decisionmaker, rather than ICE alone, makes custody  
6 determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011);  
7  
8 *see also Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other  
9 grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006) (“A neutral judge is one of  
10 the most basic due process protections.”).

11  
12 42. Consequently, ICE was required to provide Mr. RAMOS GREGORIO with an  
13 individualized determination, through a notice and a hearing prior to any revocation of his  
14 conditional parole. *See Zinermon*, 494 U.S. at 985; *Morrissey*, 408 U.S. at 481-82;  
15  
16 *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *see also Youngberg v. Romeo*, 457  
17 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that  
18 persons awaiting involuntary civil commitment proceedings may not constitutionally be  
19 held in jail pending the determination as to whether they can ultimately be recommitted).  
20 Under *Mathews*, “the balance weighs heavily in favor of [Mr. RAMOS GREGORIO’s]  
21 liberty” and required a pre-deprivation hearing before a neutral adjudicator, which ICE  
22 failed to provide. *Haygood*, 769 F.2d at 1357.

23  
24  
25 43. Also, immigration detention is civil, as opposed to criminal, and its primary purpose  
26 is to ensure a noncitizen’s appearance during removal proceedings and protect against  
27 danger to the community; it cannot be punitive. *Zadvydas*, 533 U.S. at 690, 697. Due  
28

1 process also requires consideration of alternatives to detention at any custody  
2 redetermination hearing that may occur, and when they that could mitigate the risk of flight,  
3 detention is not warranted. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Here, Mr.  
4 RAMOS GREGORIO was released with an order for conditional parole.  
5

6 **e. The Government’s Interest in Detaining Petitioner is Minimal, and the**  
7 **Procedural Requirements of a Hearing Would Promote Judicial and**  
8 **Administrative Efficiency Given the Government’s Limited Resources**

9 44. The efficient allocation of the government’s limited fiscal resources further supports  
10 holding a hearing before re-detaining noncitizens. The “fiscal and administrative burdens”  
11 as a result of the due process safeguard are nonexistent. *See Mathews*, 424 U.S. at 334-35.  
12 Indeed, judges have long recognized that “[t]he costs to the public of immigration detention  
13 are ‘staggering,’” *Hernandez*, 872 F.3d at 996; *Diaz*, 2025 U.S. Dist. LEXIS 113566 at \*8.  
14 In 2017, immigration detention cost “\$158 each day per detainee, amounting to a total daily  
15 cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. These are likely higher today when  
16 accounting for inflation. On the other hand, “[i]n immigration court, custody hearings are  
17 routine and impose a minimal cost.” *Pinchi*, 792 F. Supp. 3d at \*3 (citing *Singh*, 2025 U.S.  
18 Dist. LEXIS 132500 (cleaned up)). The expense of re-detaining a noncitizen who was  
19 earlier released pending any bond hearing would significantly exceed that of providing a  
20 pre-detention hearing. *Id.*  
21  
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1 45. ICE’s new policy requiring a minimum number of arrests each day<sup>1</sup> is not a material  
2 change in circumstances and cannot supersede Congressional rules that allow the release  
3 of noncitizens. It is “arbitrary, capricious [and] an abuse of discretion” and “in excess of  
4 statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C.  
5 § 706(2)(A)-(C). Even if the government ultimately can demonstrate by clear and  
6 convincing evidence to a neutral decisionmaker that Mr. RAMOS GREGORIO’s detention  
7 is necessary to prevent danger to the community or flight, then the only potential injury the  
8 government faces is a short delay in detaining him. *Pinchi*, 792 F. Supp. 3d at 20-21. When  
9 faced with a conflict between a minimal cost and preventable human suffering, the Court  
10 should have little difficulty concluding that a balance of the hardships heavily favors Mr.  
11 RAMOS GREGORIO.  
12

13  
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16 46. Further, the government’s interest in detaining Mr. RAMOS GREGORIO without a  
17 due process hearing is outweighed by Petitioner’s significant interest in his liberty. The  
18 scale tips sharply in favor of releasing Mr. RAMOS GREGORIO from custody unless the  
19 government demonstrates by clear and convincing evidence that he is a flight risk or danger  
20 to the community.  
21

22  
23 47. It becomes clear that the *Mathews* test favors Mr. RAMOS GREGORIO when the  
24 Court considers that the process Petitioner seeks — release from custody pending notice  
25 and a hearing regarding whether his conditional parole should be revoked and, if so,  
26

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27 <sup>1</sup> See “Trump officials issue quotas to ICE officers to ramp up arrests,” Washington Post (January 26,  
28 2025), available at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trumpquota/>.

1 whether a new bond amount should be set — is a standard course of action for the  
2 government. Alternatively, providing Mr. RAMOS GREGORIO with a hearing before this  
3 Court (or a neutral decisionmaker) to determine whether there is clear and convincing  
4 evidence that Mr. RAMOS GREGORIO is a flight risk or danger to the community would  
5 impose only a *de minimis* burden on the government because it routinely provides this sort  
6 of hearing to detained persons like Mr. RAMOS GREGORIO.  
7  
8

9 **FACTS**

10 48. Mr. RAMOS GREGORIO is a 34-year-old devoted husband and father who has  
11 been residing in San Diego, California, since March 2019, when he most recently entered  
12 the United States without inspection. *Exhibit A*.

14 49. Mr. RAMOS GREGORIO and his wife have been married since 2017. *Exhibit A*.  
15 Mr. RAMOS GREGORIO has three children, one of whom is a U.S. citizen. *Id.* Mr.  
16 RAMOS GREGORIO's daughter from an earlier relationship relies heavily on his support  
17 because her mother is no longer a presence in her life. *Id.* His children have been unable to  
18 see their father since his detention.  
19

21 50. Mr. RAMOS GREGORIO has a pending asylum application. *Exhibit E*.

22 51. He has multiple vehicle code violations under California Vehicle Code § 23152(b)  
23 (Driving Under the Influence), with the last offense occurring in 2023. *Exhibit H*. Mr.  
24 RAMOS GREGORIO complied with all court requirements, and he has not reoffended  
25 since his last conviction on March 9, 2023. Mr. RAMOS GREGORIO is deeply remorseful  
26 for his actions and has remained sober since that incident. *Exhibit A*.  
27  
28

1 52. Mr. RAMOS GREGORIO entered the United States in March 2019 after fleeing  
2 from Guatemala in fear for his life. Since 2009, [REDACTED]

3 [REDACTED]  
4 [REDACTED]  
5 departure. *Exhibit A*. After his voluntary departure and return to Guatemala in 2018, Mr.  
6 RAMOS GREGORIO spent seven months hiding in his hometown, prompting his return  
7 to the United States. *Id.*

8  
9 53. Mr. RAMOS GREGORIO was issued a Notice to Appear on March 20, 2019, thus  
10 initiating Section 240 removal proceedings under INA § 240A, 8 U.S.C. § 1229a, instead  
11 of expedited removal proceedings. *Exhibit G*. He was charged with an inadmissibility  
12 ground under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), the section governing  
13 persons who are present in the U.S. without being admitted or paroled. Mr. RAMOS  
14 GREGORIO was placed in removal proceedings, applied for asylum, and timely appealed  
15 an adverse decision on December 11, 2024. *Exhibit E*. Mr. RAMOS GREGORIO was  
16 enrolled in an alternative to detention (ATD) program that required ICE house checks and  
17 an ankle monitor. *Exhibit A*.

18  
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20  
21 54. On August 8, 2025, Mr. RAMOS GREGORIO was detained by ICE while returning  
22 home from an AA meeting. *Exhibit A*. Mr. RAMOS GREGORIO was issued a bond  
23 determination of \$10,000. *Exhibits A, B*. The government appealed that order, which was  
24 later denied. *Exhibit B*.

25  
26 55. Mr. RAMOS GREGORIO has been detained at Otay Mesa Detention Center since  
27 August 8, 2025.  
28

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**Mr. RAMOS GREGORIO’s Fifth Amendment Due Process Violation**

56. Mr. RAMOS GREGORIO incorporates by reference the factual allegations set forth in the preceding paragraphs.

57. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty that the Clause protects.” *Zadvydas*, 533 U.S. at 690.

58. Mr. RAMOS GREGORIO has a vested liberty interest in his conditional parole. Due Process does not permit the government to strip him of that liberty without an individualized determination that Mr. RAMOS GREGORIO violated the terms of his conditional parole, through a hearing before a neutral adjudicator. *See Morrissey*, 408 U.S. at 487-88.

59. Mr. RAMOS GREGORIO’s re-arrest without a hearing violated the Due Process Clause of the Fifth Amendment because Respondents do not have a valid interest in detaining him because circumstances have not changed – and procedurally because he did not receive with a pre-detention hearing.

**SECOND CAUSE OF ACTION**

**Mr. RAMOS GREGORIO’s Detention Violates 8 U.S.C. § 1226(a)-(b)**

60. Mr. RAMOS GREGORIO incorporates by reference the factual allegations set forth in the preceding paragraphs.

61. Once ICE has determined a noncitizen is neither a flight risk nor a danger to the community, and it decides to release him on conditional parole under § 1226(a), the agency can only re-detain him if circumstances have materially changed. The agency must demonstrate such changes at a hearing.

62. Respondents violated Petitioner’s statutory and regulatory rights by detaining him when circumstances have not changed since his release, and without providing him notice, a hearing, and an opportunity to be heard.

63. Mr. RAMOS GREGORIO’s detention is arbitrary and capricious, an abuse of discretion, violates the Constitution, and is without statutory authority, therefore violating 5 U.S.C. § 706(2).

**THIRD CAUSE OF ACTION**

**Mr. RAMOS GREGORIO’s Detention Violates the Administrative Procedure Act,  
5 U.S.C. § 706(2)**

64. Mr. RAMOS GREGORIO incorporates by reference the factual allegations set forth in the preceding paragraphs.

65. Under the Administrative Procedure Act, a court must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” “contrary to constitutional right [or] power,” or “in excess of

1 statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C.  
2 § 706(2)(A)-(C).  
3

4 66. Respondents’ re-detention of Mr. RAMOS GREGORIO without an individualized  
5 determination directly contradicts the INA and long-established case law. 8 U.S.C.  
6 § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981).  
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Mr. RAMOS GREGORIO respectfully asks that this Court take  
10 jurisdiction over this matter and grant the following relief:  
11

- 12 a. Issue an Order to Show Cause ordering Respondents to show cause why this  
13 Petition should not be granted within three days;
- 14 b. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner, or  
15 in the alternative, issue an order that requires an IJ to conduct a bond hearing  
16 for Petitioner, and that Respondents’ must honor any bond that an IJ may set  
17 and to release Petitioner thereafter from their custody upon the payment of the  
18 bond;  
19
- 20 c. Issue an Order prohibiting the Respondents from transferring Petitioner from  
21 the district without the Court’s approval;  
22
- 23 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice  
24 Act (“EAJA”), 28 U.S.C. § 2412, and on any other basis justified under law;  
25  
26 and  
27  
28

1 e. Grant any other and further relief that this Court deems just and proper.  
2

3 Dated: December 23, 2025  
4

Respectfully submitted

By: /s Valerie Sigamani

Valerie Sigamani

Attorney for Petitioner

E-mail: valerie@jsslegal.com  
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**VERIFICATION UNDER 28 U.S.C. 2242**


1  
2 I represent Petitioner Hector Anival RAMOS GREGORIO in these habeas corpus  
3 proceedings. Mr. RAMOS GREGORIO is currently being held in detention at the Otay  
4 Mesa Detention Center and is not able to appear in my office to sign this Verification. I  
5 have reviewed his attached declaration, the documents annexed to the petition, and  
6 discussed his case with colleagues from my office who have worked closely with him,  
7 but they are not eligible to be admitted to this Court's Bar and therefore cannot sign this  
8 Verification. Based on their representations to me, I verify that the information contained  
9 in the foregoing petition is true and correct to the best of my knowledge and belief.  
10  
11  
12

13 Executed on this December 23, 2025, in San Diego, California.

14  
15 By: /s Valerie Sigamani  
16 Valerie Sigamani  
17 Attorney for Petitioner  
18 E-mail: valerie@jsslegal.com  
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### DECLARATION OF HECTOR ANIVAL RAMOS GREGORIO

1. My full name is Hector Anival RAMOS GREGORIO. I was born on [REDACTED], in Huehuetenango, Guatemala.
2. I first entered the United States in 2006, without inspection. I have entered and exited the U.S. at various times since then.
3. In November 2017, I married my wife in Otay Mesa, California.
4. I made a voluntary departure in March 2018 to Guatemala. Since 2009, when I was 19, a [REDACTED] kill me. I spent seven months in hiding before returning to the U.S. in March 2019 in fear for my life.
5. I was detained on March 20, 2019, and issued a Notice to Appear that same day. I was detained for about a week before being released on an ankle monitor.
6. In April 2021, I applied for asylum in court. My asylum application was denied.
7. I appealed the Immigration Judge's decision on December 11, 2024. It is currently pending with the BIA.
8. I was enrolled in an alternative to detention program with ICE where they were conducting house visits and placed me on an ankle monitor.
9. I had multiple DUIs, with my last offense occurring on March 9, 2023. I complied with my probation and was completing alcohol classes. I was on track to complete my classes in November 2025 before I was detained. Neither people nor property were injured.
10. I have not reoffended since my last offense. I have been sober since then and was attending AA meetings prior to my detention. I am deeply sorry for my actions and I am truly sorry for my actions.
11. I obtained my work permit through my application for asylum.
12. I was living with my wife and three children, one of whom is a U.S. citizen. My son is struggling with a terminal illness and requires additional support. My daughter from a prior relationship also relies heavily on me because her mother is no longer in her life.
13. August 8, 2025, I was detained at my house on my way back from an AA meeting. I was not told why I was being detained, despite having an ankle monitor. I asked to call my lawyer, but they did not let me.
14. I had a bond hearing where the immigration judge set bond at \$10,000. The government appealed the bond.
15. I have been detained for over four months.
16. Since my arrest, ICE has not informed me about my case or told me why they are detaining me.
17. This statement was read to me in Spanish.

  
\_\_\_\_\_  
Hector Anival Ramos Gregorio

12/18/25  
Date

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OTAY MESA IMMIGRATION COURT  
7488 Calzada de la Fuente  
San Diego, California 92154

File No.: A  )  
In the Matter of )  
Hector Anibal RAMOS-GREGORIO. )  
Respondent. )

IN BOND PROCEEDINGS

ON BEHALF OF RESPONDENT:

Edward Haase, Esquire  
4475 Mission Boulevard, Suite 208  
San Diego, California 92109

ON BEHALF OF THE DEPARTMENT  
OF HOMELAND SECURITY:

Carl Balediata, Assistant Chief Counsel  
P.O. Box 438150  
San Diego, California 92143

BOND MEMORANDUM OF THE IMMIGRATION JUDGE

On August 8, 2025, the Respondent filed a bond redetermination request with this Court. On August 15, 2025, the Court conducted a custody redetermination hearing. After determining the Court had jurisdiction, it found that the Respondent had met his burden to show that he does not pose a danger to the community but found that he did present a risk of flight which could be mitigated with bond and Alternatives to Detention. The Court granted Respondent's release with a \$10,000 bond. *See* Order of the Immigration Judge, August 15, 2025. On August 15, 2025, the Department filed form EOIR-43, indicating its intent to appeal the Court's custody order. The Board of Immigration Appeals notified the Court of the Department's appeal on September 5, 2025. The Court provides this memorandum to facilitate review of the Department's appeal. *See* 8 C.F.R. § 1003.6(c)(2); EOIR Policy Man., Part II, Ch. 9.3(e)(7).

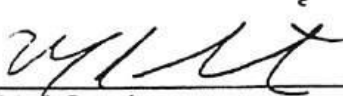
The Court found that it had jurisdiction to conduct a bond hearing, rejecting the Department's argument that the Respondent is an applicant for admission and detained under section 235 of the Immigration and Nationality Act ("INA").<sup>1</sup> *See, e.g., Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (rejecting the theory that any applicant for admission should be "treated as having made a continuing application for admission that does not terminate 'until it [is] considered by an immigration officer.'"); *see also United States v. Gambino-Ruiz*, 91 F.4th 981, 989 (9th Cir. 2024) (stating that "*Torres* merely rejected the view that an alien remains in a perpetual state of applying for admission."). The Court further found that Respondent did not pose a danger to the community because the only adverse criminal history was a prior DUI 8 years ago

<sup>1</sup> The DHS also made the argument that Respondent was subject to mandatory detention under INA § 241(a). The Court rejected this argument because Respondent's case is on appeal with the Board of Immigration Appeals; therefore, Respondent does not have an administratively final removal order. *See Padilla-Ramirez*, 882 F.3d 826, 830 (9th Cir. 2017).

and the Respondent did not have any subsequent arrests. Finally, the Court found that any risk of flight could be mitigated with a bond of \$10,000 and alternatives to detention at the DHS' discretion.

Subsequent to the Court's decision, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that the plain language of INA 235(b)(2)(A) divests jurisdiction from Immigration Judges to hear bond requests or to grant bond to aliens who are present in the United States without admission. Here, the record does not contain evidence that Respondent was admitted to the United States. Therefore, under intervening Board precedent, the Court lacks jurisdiction to redetermine Respondent's custody.

Dated: 9/9/25

  
\_\_\_\_\_  
Mark Sameit  
Immigration Judge

Uploaded on: 08/15/2025 at 05:08:41 PM (Pacific Daylight Time) Base City: OTM

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

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

Date: August 15, 2025

Alien Number: A [REDACTED]

Alien Name: RAMIREZ-GREGORIO, Hector Anival

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 \_\_\_\_\_ (Date)

- a. Authorized the respondent's release.
- b. Redetermined the ICE bond to \$ 10,000.

3. Filing this form on August 15, 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).

Michael P. McQuinn  
ICE Counsel

I, Michael P. McQuinn (Name), served the Notice of ICE Intent to Appeal Custody Redetermination on Edward Haase, Esq., via ECAS (Respondent or Respondent's Representative), on August 15, 2025 (Date).

EOIR - 1 of 1

MICHAEL P MCQUINN Digitally signed by MICHAEL P MCQUINN  
Date: 2025.08.15 17:07:17 -07'00'  
Signature



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

RAMOS-GREGORIO, HECTOR ANIBAL  
A [REDACTED]  
C/O : OTAY MESA DETENTION CENTER  
7488 CALZADA DE LA FUENTE  
SAN DIEGO, CA 92154

DHS/ICE Office of Chief Counsel - OTM  
P.O.Box 438150  
San Diego, CA 92143

Name:  
RAMOS-GREGORIO, HECTOR ANIBAL



Riders:

Date of Notice: 09/05/2025

**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 08/29/2025 , 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/coir](http://www.justice.gov/coir).

Accepted by: CarterE

CC

Edward Haase  
4475 Mission Blvd, Ste 208  
San Diego, CALIFORNIA 92109

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
Otay Mesa Detention Center  
7488 Calzada de la Fuente  
San Diego, California 92154

File No.: A  ) Date: February 16, 2018  
)  
In the Matter of )  
)  
Hector Anival Ramos GREGORIO, ) IN REMOVAL PROCEEDINGS  
)  
)  
DETAINED Respondent )  
)  
)

**ON BEHALF OF  
RESPONDENT:**  
Eduardo Perez, Esquire  
600 West Broadway, Ste. 700  
San Diego, CA 92101

**ON BEHALF OF THE DEPARTMENT  
OF HOMELAND SECURITY:**  
Office of Chief Counsel  
David Palmer, Assistant Chief Counsel  
880 Front Street, Ste. 2246  
San Diego, California 92101

**CHARGE:** § 212(a)(6)(A)(i)  
(Present in the United States without Admission or Parole)

**APPLICATIONS:** Asylum pursuant to § 208 of the Immigration and Nationality Act;  
Withholding of Removal pursuant to § 241(b)(3) of the Act; and  
Protection under the United Nations Convention Against Torture; Post  
Conclusion Voluntary Departure under INA § 240B(b) (**in the  
alternative**).

**DECISION AND ORDERS OF THE IMMIGRATION JUDGE**

**I. INTRODUCTION AND PROCEDURAL HISTORY**

Hector Anival Ramos Gregorio (“the respondent”) was personally served with a Notice to Appear (“NTA”) by the Department of Homeland Security (“DHS”) on June 13, 2017. *See* Exh. 1: NTA. In the NTA, DHS alleged that the respondent (1) is not a citizen or national of the United States; (2) is a native and citizen of Guatemala; (3) entered the United States at or near Tecate, California, on or about January 1, 2012; (4) was not then admitted or paroled by an immigration officer. *Id.* Accordingly, DHS charged the respondent as removable under § 212(a)(6)(A)(i) (present in the United States without admission or parole) of the Immigration and Nationality Act

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("Act"), as amended. DHS filed the NTA with the United States Immigration Court at Otay Mesa, California, on June 16, 2017, thereby vesting this Court with jurisdiction. See 8 C.F.R. § 1003.14(a) (2015).

On July 11, 2017, the respondent appeared before the Court for an initial master calendar hearing in which he was represented by counsel. At that hearing, the respondent, through counsel, admitted all of the factual allegations and conceded removability based on the charge contained within the NTA. See Exh. 2: Record of Master Calendar (July 11, 2017). As such, the Court sustained the charge of removability under Section 212(a)(6)(A)(i) of the Act. *Id.* The respondent declined to designate a country of removal and the Court directed Guatemala. *Id.* The respondent waived relief in the form of pre-conclusion voluntary departure pursuant to Section 240B(a)(1) of the Act, but indicated he would seek asylum, withholding of removal pursuant to Section 241(b)(3) of the Act, protection under the Convention Against Torture, and post-conclusion voluntary departure pursuant to Section 240B(b) of the Act. *Id.* The Court then reset the case to August 28, 2017. *Id.*

At the August 28, 2017, reset master calendar hearing, the respondent, appearing with new counsel, submitted a Form I-589, Application for Asylum and Withholding of Removal, and supporting evidence. See Exh. 3, 4A. The Court directed the respondent to file a statement as to any statutory bars to the relief sought as well as an outline of the respondent's proposed particular social group or political opinion. See Exh. 7: Record of Master Calendar (Aug. 28, 2017). The Court reserved an individual merits hearing for October 26, 2017 and reset the respondent's case to a reset master calendar hearing on October 20, 2017, for further filings. *Id.* At the October 20, 2017, reset master calendar hearing, the respondent sought additional time as he was still waiting for medical documents from Guatemala and needed those documents to craft a pre-hearing statement. See Exh. 8: Record of Master Calendar (Oct. 20, 2017). The Court set filing deadlines, vacated the scheduled October 26, 2017, individual merits hearing, and rescheduled it to January 25, 2018. *Id.* On November 25, 2017, the respondent filed an amended I-589 application. See Exh. 4B.

On January 25, 2017, the respondent appeared before the Court with counsel for his individual merits hearing. At that hearing, the respondent testified under oath as to his fears of returning to Guatemala. At the conclusion of the hearing, the Court scheduled a master calendar hearing for the issuance of a decision in the respondent's case.

**II. EVIDENCE PRESENTED**

**A. Testimonial Evidence**

At his January 25, 2017, individual merits hearing, the respondent, through the assistance of a Spanish interpreter and under oath, testified to the following<sup>1</sup>:

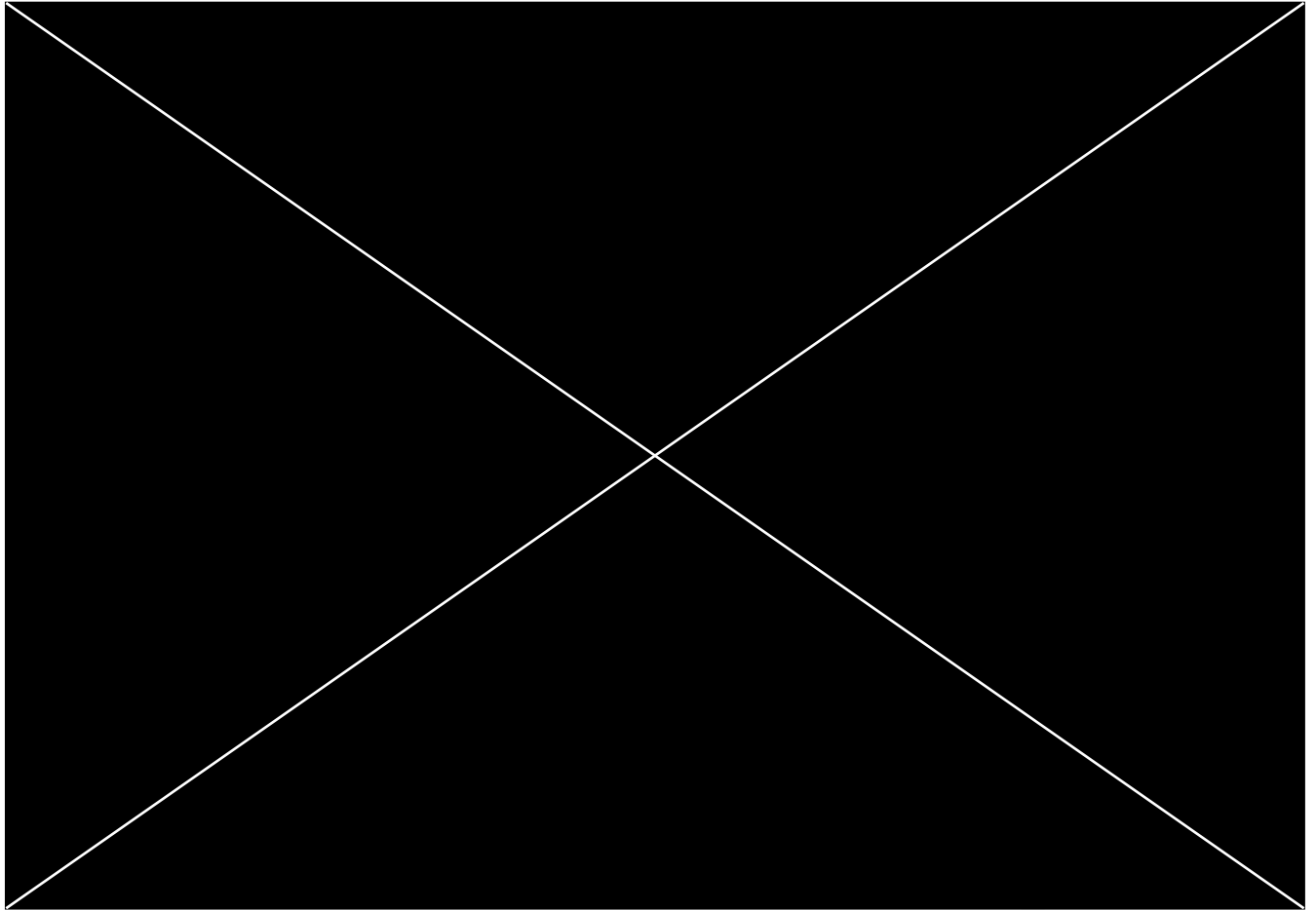
The respondent is from a village called Toquia (also called Chanchocal) in the country of Guatemala. That village consists of approximately 2500 individuals, does not have paved roads,

<sup>1</sup> The Court herein provides an abbreviated summary of the testimony that is material to the respondent's claims for relief. The Court nevertheless fully considered the entirety of the respondent's testimony in coming to its decision.

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On re-cross examination, the respondent testified that while he listed his race/ethnicity as Hispanic on his I-589, he is Indigenas. However, the respondent then indicated that he sees himself as Hispanic.

**B. Documentary Evidence**

- Exhibit 1: Notice to Appear.
- Exhibit 2: Record of Master Calendar (July 11, 2017).
- Exhibit 3: Respondent's Supporting Documents, pp. 2-45 (Aug. 28, 2017).
- Exhibit 4a: Form I-589, Application for Asylum and Withholding of Removal.
- Exhibit 4b: Amended Form I-589, Application for Asylum and Withholding of Removal.
- Exhibit 5: Frivolous Filing Notice.
- Exhibit 6a: Order of the Immigration Judge (Aug. 28, 2017).

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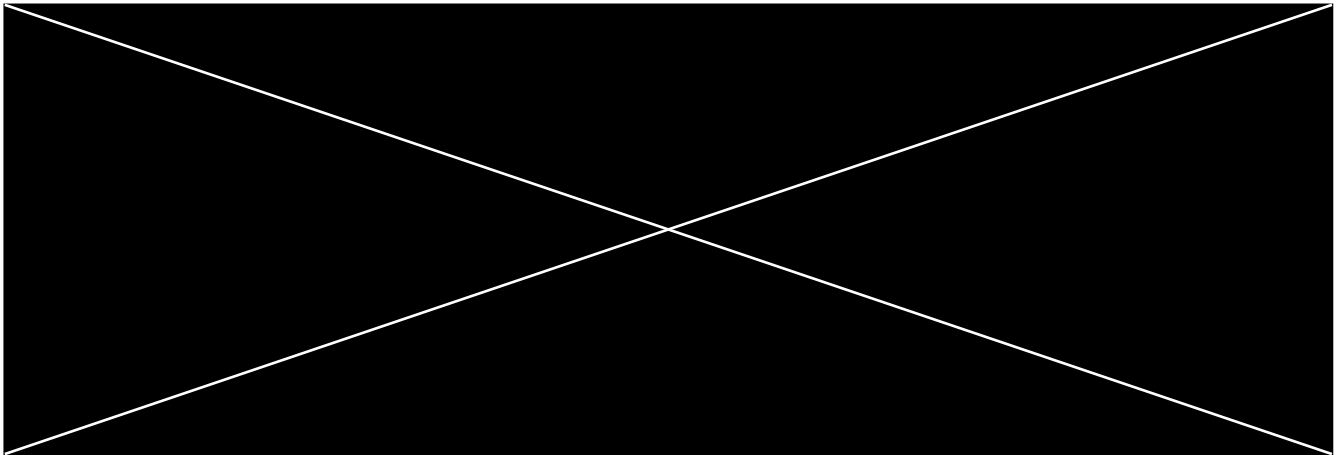
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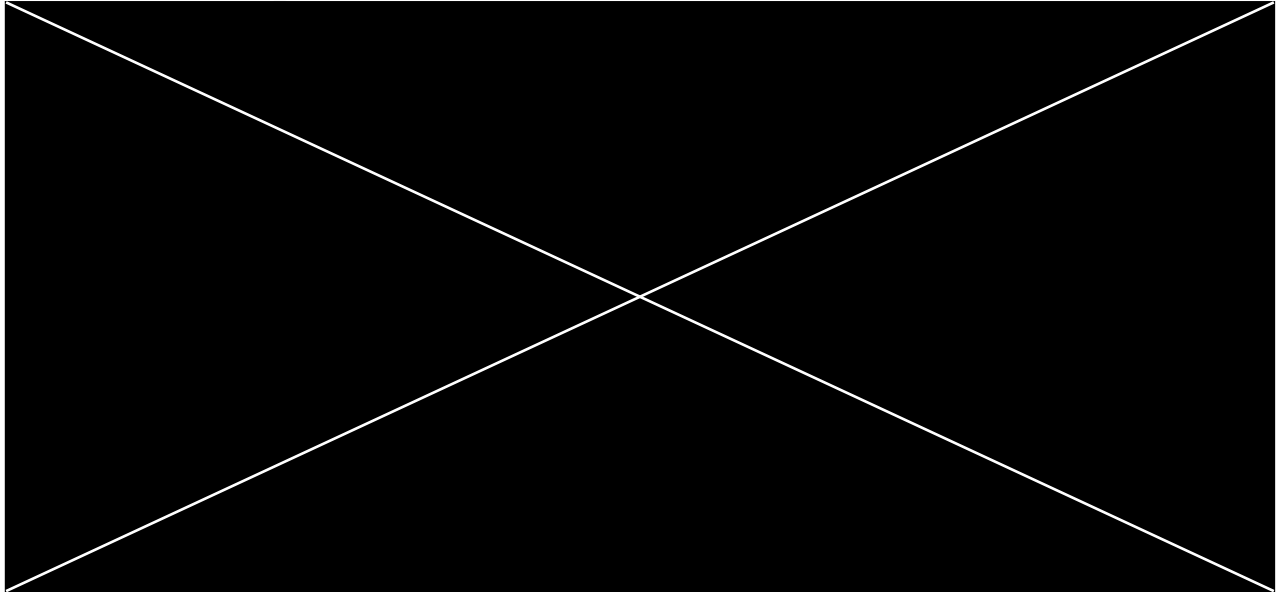
- Exhibit 6b: Motion to Withdraw as Counsel (Identification Purposes Only).
- Exhibit 7: Record of Master Calendar (Aug. 28, 2017).
- Exhibit 8: Record of Master Calendar (Oct. 20, 2017).
- Exhibit 9: Respondent's Pre-Hearing Statement (Identification Purposes Only).
- Exhibit 10: Respondent's Supplemental Filing, pp.19-25 (Jan. 25, 2018).
- Exhibit 11: Motion to Submit Amended and Additional Documents (Nov. 17, 2017) (Identification Purposes Only).
- Exhibit 12: Order of the Immigration Judge (Nov. 21, 2017).

### III. CREDIBILITY DETERMINATIONS, FINDINGS, AND CONCLUSIONS

#### A. Credibility Determination

As a threshold matter, the Court must make a determination of Respondent's credibility. *See Kalubi v. Ashcroft*, 364 F.3d 1134, 1137-38 (9th Cir. 2014). Respondent's application was filed after the effective date of the REAL ID Act of 2005, and therefore the credibility determination standard created by the REAL ID Act applies. The Court may therefore consider the totality of the circumstances and all relevant factors. It may base its credibility determination on the demeanor, candor, or responsiveness of the applicant, the inherent plausibility of the applicant's account, the consistency between the applicant's written and oral statements, the internal consistency of each such statement with other evidence of record, and any inaccuracy, or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor. INA § 208(b)(1)(B)(iii). The Court concludes as a matter of fact that the respondent is not credible. The Court bases its finding on inconsistencies within the respondent's own testimony; inconsistencies between the respondent's testimony, and his I-589 application and supporting documents; and increasing embellishments as to the threats allegedly made against the respondent and his family.

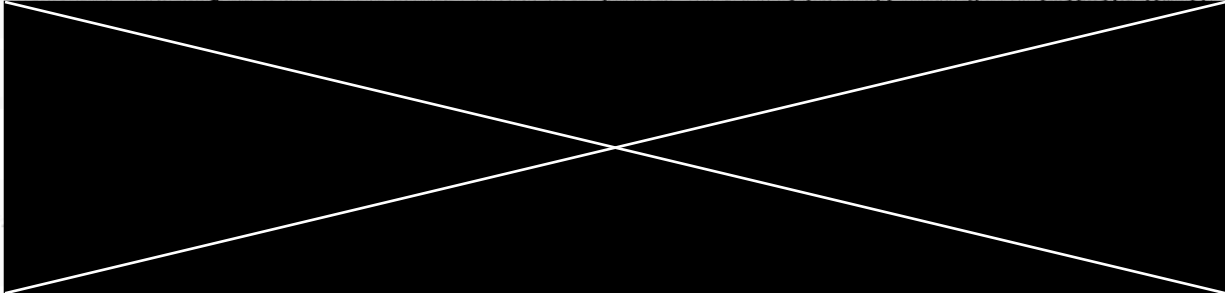




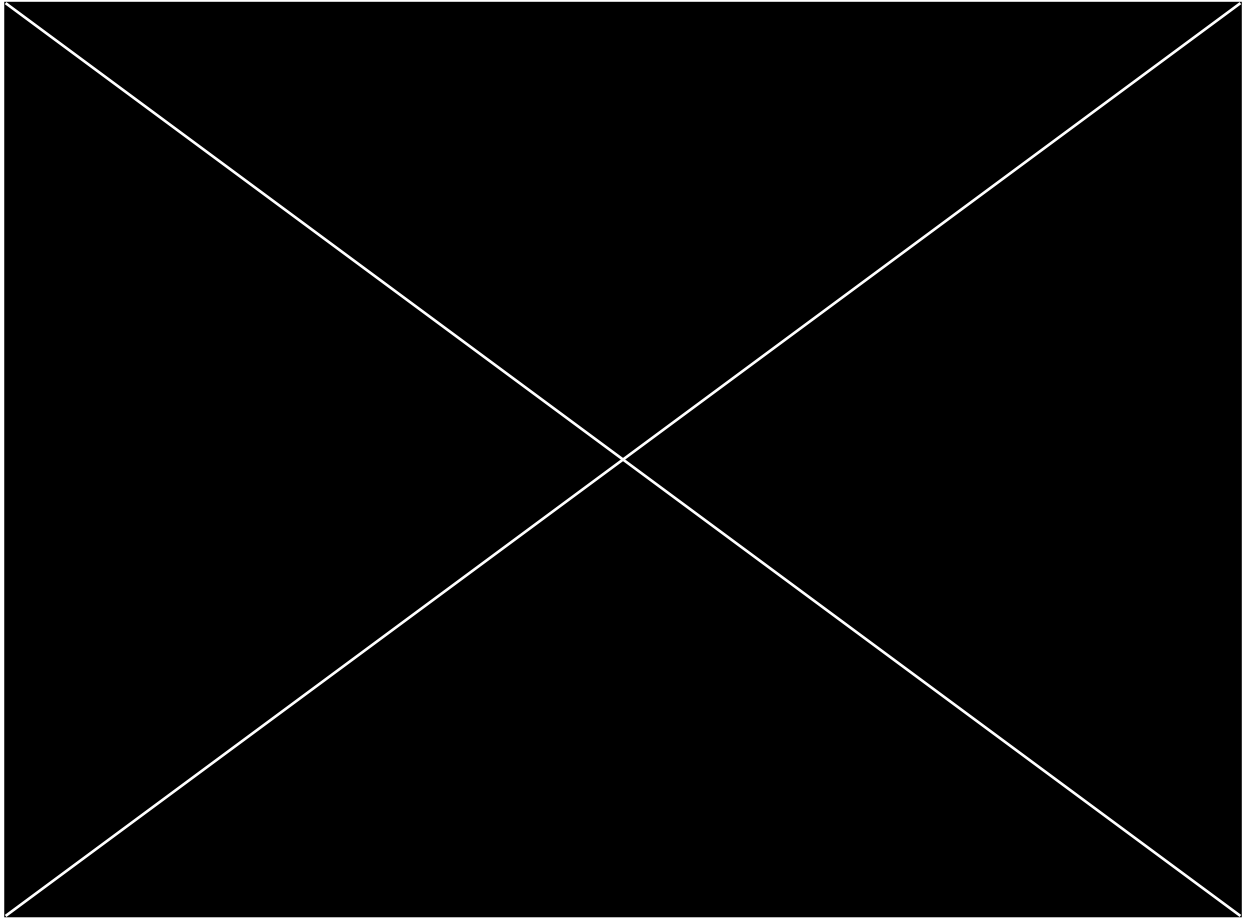
In all, the Court is not convinced that the respondent’s testimony—both in court and in writing—have “about it the ring of truth.” *See Sarvia-Quintanilla v. U.S. I.N.S.*, 767 F.3d 1387, 1395 (9th Cir. 1985). The respondent’s counsel made repeated attempts to couch the respondent’s inconsistencies and omissions as resulting from mistakes made by his counsel or the errors of other individuals. However, the respondent’s counsel did not claim that he provided ineffective assistance of counsel or provide affidavits of the individuals allegedly responsible for the supposed mistakes. *See Nehad v. Mukasey*, 535 F.3d 962, 967 (2008). As such, the Court concludes as a matter of fact that the respondent is not credible.

**B. Corroboration**

As this Court has found the respondent to not be credible, it is not required to give the respondent notice of the need for corroborating evidence that might bolster otherwise *credible* testimony. *See Yali Wang v. Sessions*, 861 F.3d 1003, 1008-09 (9th Cir. 2017) (referencing the rule laid out in *Ren v. Holder*, 648 F.3d 1079 (9th Cir. 2011)). The Ninth Circuit has made clear, “an IJ does not ‘have to engage in multiple iterations of the opportunity to explain’” and the Court “therefore had no obligation to give [the respondent] an additional opportunity to bolster [his] case by submitting further evidence.” *Id.* at 1009 (quoting *Rizk v. Holder*, 629 F.3d 1083, 1088 (9th Cir. 2011)). Because the respondent is not credible, the Court may look to “the evidence . . . submitted, along with ‘the totality of the circumstances, and all relevant factors’” to see if enough exists for the respondent to meet his burden of proof. *See id.* (quoting INA § 208(b)(1)(B)(iii)).



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**C. Asylum under Section 208 of the Act**

A respondent seeking asylum within the United States must apply for that protection within one year of arriving in the United States. INA § 208(a)(2)(B). The one-year requirement may be waived upon a showing of changed circumstances in a respondent's home country that materially affects his eligibility for asylum or extraordinary circumstances that would explain a respondent's failure to apply for asylum within one year. INA § 208(a)(2)(D).

Here, the respondent last entered the United States on January 1, 2012. Exh. 4b at 6. He did not apply for asylum until August 28, 2017, which is more than one year after the respondent arrived in the United States. *See* Exh. 4a at 1. Accordingly, the respondent is time barred from applying for asylum unless he demonstrates an applicable exception to the rule.

The respondent did not demonstrate extraordinary circumstances or materially changed circumstances, as his sole explanation for failing to file within one year of arriving in the United States is that he did not know of asylum due to his limited education. Lack of knowledge of the law does not fall within any of the available exceptions to the one-year rule that would excuse his untimely filing. The respondent's counsel sought to argue that ongoing threats against the respondent's family constitute materially changed circumstances in accordance with Section 208(a)(2)(D) of the Act. However, this argument is not persuasive. First, the respondent testified

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that his only reason for failing to file for asylum within one year of arriving in the United States was because he did not know about asylum. Second, the changed circumstances must “materially affect the applicant’s eligibility for asylum,” not merely provide additional support for a pre-existing claim of fear. Here, the respondent already had a basis of fear to return to Guatemala based on threats and harm he allegedly experienced in that country; that the threats continued against his family may provide support for the respondent’s claims, but they do not bear on the respondent’s eligibility for asylum. As such, the respondent has not demonstrated the applicability of an exception to the one-year rule and is thus barred from applying for asylum. See INA § 208(a)(2)(D).

**D. Withholding of Removal<sup>3</sup>**

To qualify for withholding of removal under Section 241(b)(3) of the Act, the applicant must show that it is more likely than not that his life or freedom will be threatened in the country designated or directed for removal on account of race, religion, nationality, membership in a particular social group, or political opinion. See 8 C.F.R. § 1208.16(b). Eligibility for withholding requires only that the applicant’s membership in a protected group be “a reason” for his persecution, while a “one central reason” standard is imposed on asylum applicants. See *Barajas-Romero v. Lynch*, 846 F.3d 351, 358-59 (9th Cir. 2017). Despite the looser nexus requirement, the standard of proof for asylum remains “more generous” than the withholding of removal standard. *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987). The question under the withholding of removal standard is “whether it is more likely than not that the alien would be subject to persecution.” *Al-Harbi v. INS*, 242 F.3d 882, 888 (9th Cir. 2001); *INS v. Stevic*, 467 U.S. 407, 424 (1984). The applicant may demonstrate this likelihood either (1) “by establishing a presumption of fear of future persecution based on past persecution” or (2) “through an independent showing of clear probability of future persecution.” *Tamang v. Holder*, 598 F.3d 1083, 1091 (9th Cir. 2010). Finally, the agent of persecution must be “the government or . . . persons or organizations which the government is unable or unwilling to control.” *Reyes-Reyes v. Ashcroft*, 384 F.3d 782, 788 (9th Cir. 2004).

In the present case, the respondent asserts he suffered persecution, and fears future persecution, on account of his membership in two particular social groups. The respondent defined

[REDACTED]

<sup>3</sup> As the Court has previously found the respondent to not be credible and has made note of the lack of crucial corroborating evidence, the Court concludes as a matter of law that the respondent has not met his burden of proof in establishing eligibility for withholding of removal. However, the Court addresses the merits of the respondent’s claims as an alternate basis for its decision.

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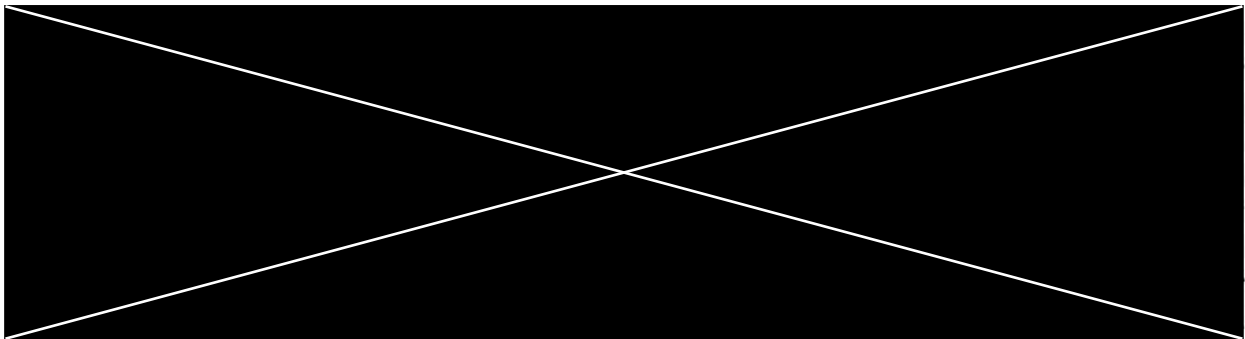
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i. Past Persecution

To establish past persecution, applicants must demonstrated that (1) their experiences rise to the level of persecution, (2) the persecution was on account of one or more of the five protected grounds, and (3) the persecution was committed either by the government or by forces that the government was unable or unwilling to control. *Lanza v. Ashcroft*, 389 F.3d 917, 933-34 (9th Cir. 2004); *see also* 8 C.F.R. § 1208.16(b)(1).

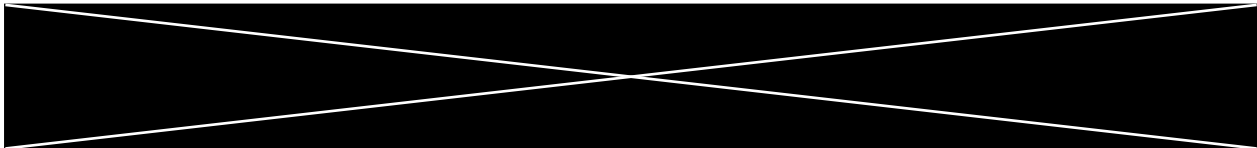
1. *Incidents Rising to the level of Persecution*

The first step in analyzing past persecution is to determine whether the harm that the respondent allegedly suffered rises to the level of persecution. *See Deloso v. Ashcroft*, 393 F.3d 858, 864 (9th Cir. 2005). In deciding whether the treatment of an applicant rises to the level of persecution, a court examines “the totality of the circumstances.” *Guo v. Ashcroft*, 361 F.3d 1194, 1203 (9th Cir. 2004). Persecution is an “extreme concept” and does not encompass all treatment that society regards as unfair, unjust, or even unlawful or unconstitutional. *Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006); *see also Matter of V-T-S-*, 21 I&N Dec. 792, 798 (BIA 1997). Persecution is usually characterized as severe, sustained, and “marked by the infliction of suffering or harm . . . in a way regarded as offensive.” *Halim v. Holder*, 590 F.3d 971, 975 (9th Cir. 2009) (quoting *Li v. Ashcroft*, 356 F.3d 1153, 1158 (9th Cir. 2004) (en banc)). Various forms of physical violence, including rape, torture, assault, and beatings, constitute persecution. *See, e.g., Chand v. INS*, 222 F.3d 1066, 1073 (9th Cir. 2000) (holding that “[p]hysical harm has consistently been treated as persecution”). Ordinarily, threats alone “constitute harassment rather than persecution.” *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003).



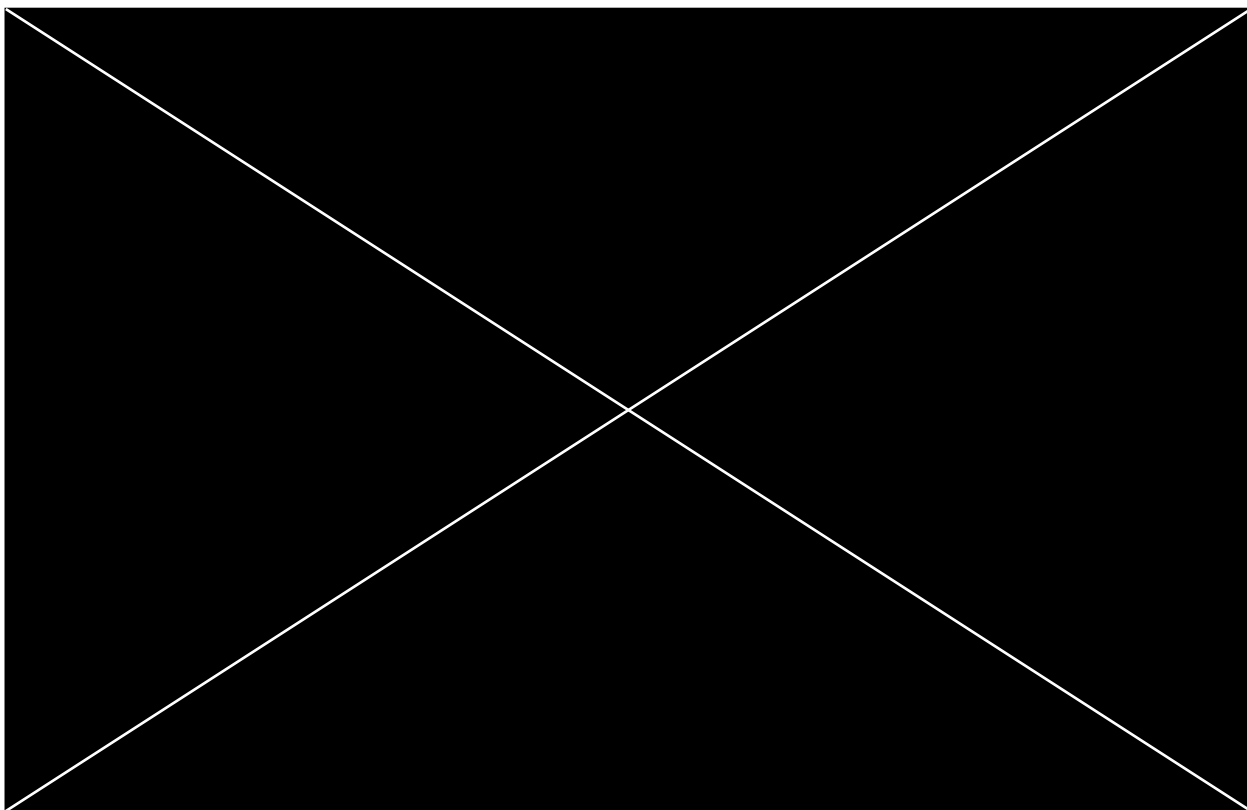
been threatened, the Court “generally treats unfulfilled threats, without more, as within that category of conduct indicative of a danger of future persecution, rather than as past persecution itself.” *Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000). However, the fact that threats are unfulfilled is not necessarily dispositive. *See Kaiser v. Ashcroft*, 390 F.3d 653, 658 (9th Cir. 2004). *But see Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003). “Threats standing alone [. . .] constitute past persecution in only a small category of cases, and only when the threats are so menacing as to cause significant actual suffering or harm.” *Lim*, 224 F.3d at 936. The respondent’s case does not present such a scenario.



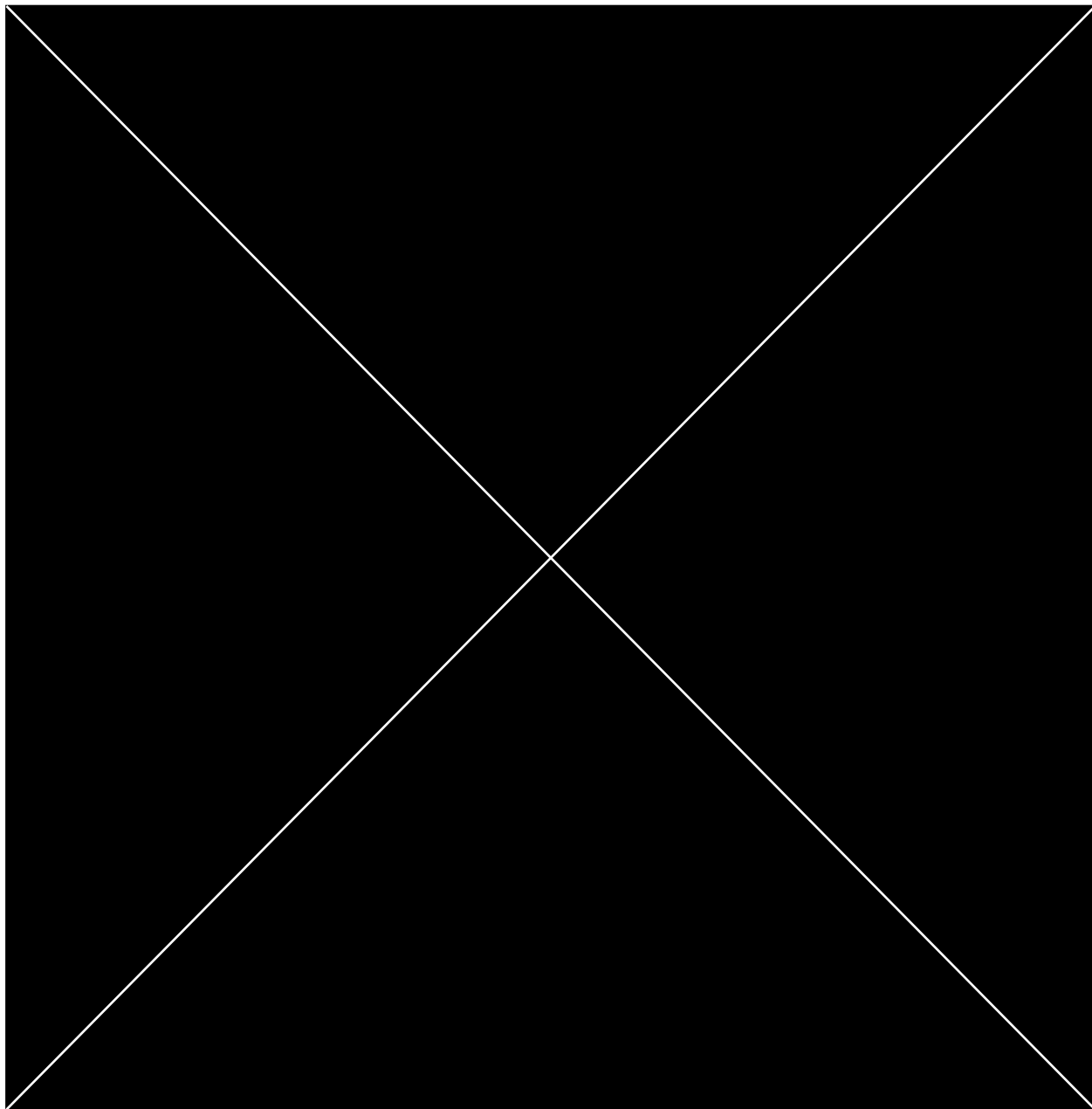


## 2. Nexus to a Particular Social Group

Assuming the respondent was able to show harm rising to the level of persecution, he must also show that his past persecution was “on account of” his race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A); see also *Baghdasaryan v. Holder*, 592 F.3d 1018, 1023 (9th Cir. 2010); *INS v. Elias-Zacarias*, 502 U.S. 478, 482 (1992). Eligibility for withholding requires only that the applicant’s membership in a protected group be “a reason” for his persecution, while a “one central reason” standard is imposed on asylum applicants. See *Barajas-Romero v. Lynch*, 846 F.3d 351, 358-59 (9th Cir. 2017). A particular social group (“PSG”) is defined as being (1) particular, (2) socially distinct, and (3) one whose members share immutable characteristics. See *Matter of Acosta*, 19 I&N Dec. 211, 233-34 (BIA 1985). To be particular, the group’s boundaries must be ascertainable and membership in the group cannot be too vague, uncertain, or subjective. See generally *Matter of A-M-E & J-G-U-*, 24 I&N Dec. 69 (BIA 2007). Social distinction requires that the group be regarded as a discrete segment of society, but literal, ocular visibility of the group is not determinative. *Matter of W-G-R-*, 26 I&N Dec. 208, 213-18 (BIA 2014); *Matter of M-E-V-G-*, 26 I&N Dec 227, 228 (BIA 2014). Finally, in order to establish immutability, the respondent must demonstrate that the members of the group share a common immutable characteristic that they “either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.” *Acosta*, 19 I&N Dec. at 233.



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ii. Clear Probability of Future Persecution

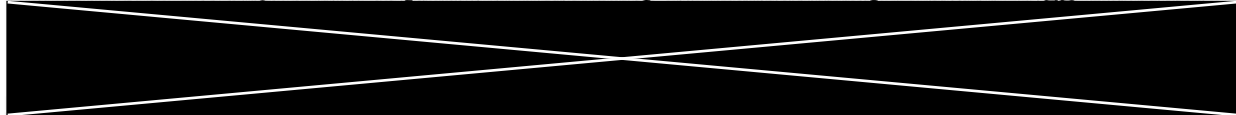
An applicant who fails to establish past persecution “may also qualify for withholding of removal based on a clear probability of future persecution.” *Tamang*, 598 F.3d at 1094; *see also* 8 C.F.R. § 1208.16(b)(2). The applicant must demonstrate that it is “more likely than not” he would be persecuted on account of one of the five protected grounds of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country. 8 C.F.R. § 1208.16(b)(2). The clear probability standard for withholding of removal is “more stringent than the well-founded fear standard governing asylum.” *Viridiana*, 646 F.3d at 1239 (quoting *Al-Harbi v. INS*, 242 F.3d 882, 888 (9th Cir. 2001)). To establish eligibility for

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withholding of removal based on a fear of future persecution, a respondent must demonstrate both that he has a subjective fear of persecution in the future, and that this fear is objectively reasonable, meaning that future persecution is "more likely than not." *Wakkary*, 558 F.3d at 1052.

Here, the respondent is not entitled to a rebuttable presumption that his life or freedom would be threatened in the future because he has not demonstrated that he experienced past persecution on account of a protected ground. *See* 8 C.F.R. § 1208.16(b)(1). Thus, the Court considers whether the respondent has independently satisfied the subjective and objective components of establishing a fear of future persecution. First, because he did not testify credibly, the Court finds that the respondent has not satisfied the subjective component of establishing that he fears persecution in Guatemala. *Ladha v. INS*, 215 F.3d 889, 897 (9th Cir. 2000), *overruled on other grounds by Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (The subjective component is satisfied by credible testimony that the applicant genuinely fears persecution).

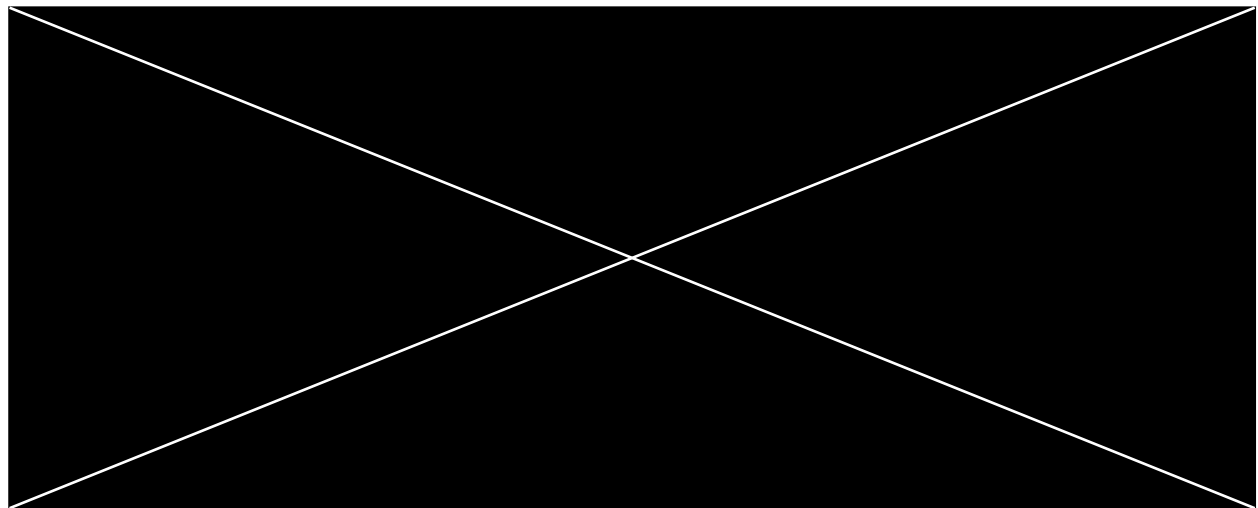
Second, assuming *arguendo* that he testified credibly, the Court finds that there is no objective basis for the respondent's fear of future persecution in Guatemala. The respondent's testimony and accompanying documentary evidence are insufficient for the Court to find that it is more likely than not that he would be subject to persecution in Guatemala. As the Court previously indicated, the totality of the respondent's testimony and documentary evidence suggests that the



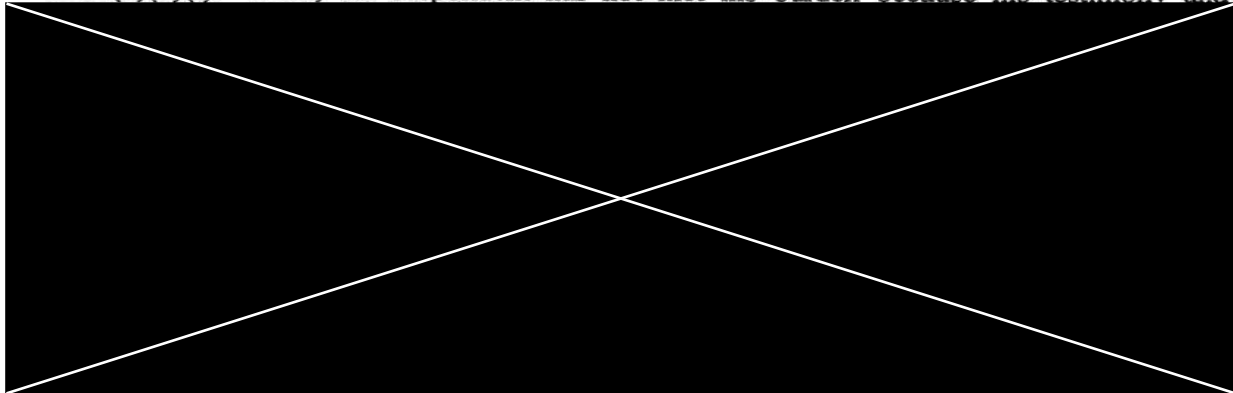
is supported by the respondent's own testimony that indicates that while his family has continued to receive threats, they have not been harmed. *See Matter of A-E-M-*, 21 I&N Dec. 1157, 1160 (BIA 1998) (finding that the reasonableness of an applicant's fear of persecution is reduced when his family remains in his native country unharmed). Nor does the record suggest that these



*Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995) (holding no objectively reasonable fear of future persecution where the record did not compel the conclusion that the persecutor had a continuing interest in the respondent).



Additionally, as the respondent has not demonstrated past persecution and the future persecution he fears is from non-government actors, the respondent must demonstrate that it would be unreasonable for him to relocate within Guatemala to escape his claimed fear. 8 C.F.R. § 1208.16(b)(3)(i). Here, the respondent has not met his burden because his testimony and



Last, the respondent's claims of future persecution fail because he cannot establish that the persecution he would face would be on account of a protected ground. Indeed, as the Court understands it, the respondent's claimed fear is based on persecution due to the same particular social groups previously articulated. See Exh. 4b at 10. Having reviewed their merit and determining they do not permit the respondent to meet his burden with respect to past persecution, the Court similarly applies the same analysis prospectively to conclude that they do not permit the respondent to meet his burden with respect to future persecution. As such, the Court concludes as a matter of law that the respondent did not meet his burden to obtain Withholding of Removal under § 241(b)(3) of the Act.

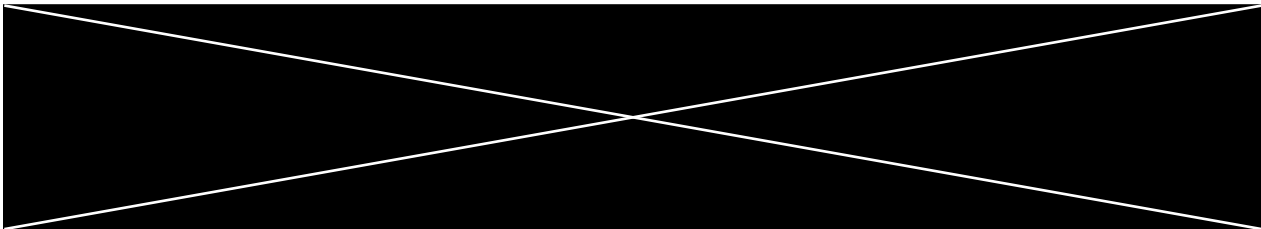
#### **E. Protection under the Convention Against Torture (“CAT”)**

The respondent has also failed to establish eligibility for protection under the Convention Against Torture (“CAT”). See 8 C.F.R. § 1208.16(c). CAT claims are analytically separate from withholding of removal claims under the Act. *Kamalthas v. INS*, 251 F.3d 1279, 1282-83 (9th Cir. 2001). The CAT prohibits any signatory country from returning a person to a country where it is more likely than not that the person will be subjected to torture at the instigation of or with the consent or acquiescence of his own government or public official or other person acting in an official capacity. 8 C.F.R. §§ 1208.17(a), 1208.18(a)(1)-(7); *Matter of J-Y-C*, 24 I&N Dec. 260, 266 (BIA 2007). Torture is “an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture.” See 8 C.F.R. § 1208.18(a)(2). Torture includes, but is not limited to, severe mental or physical pain or suffering intentionally inflicted for intimidation, coercion, or any other reason, based on discrimination of any kind. See 8 C.F.R. § 1208.18(4).

A respondent has the burden to prove eligibility for protection under the CAT by a “clear probability.” 8 C.F.R. § 1208.16(c)(2). In determining whether an alien is entitled to protection under the CAT, all evidence relevant to the possibility of future torture shall be considered, including: past torture inflicted upon the applicant; evidence that the applicant could relocate to another part of the country of removal where he or she is not likely to be tortured; gross, flagrant,

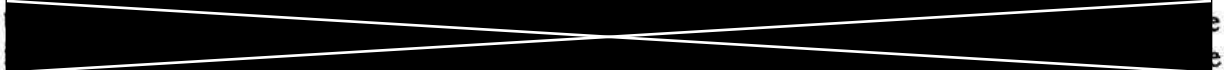


or mass violations of human rights; and other relevant information regarding conditions in the country of deportation. *Matter of G-A-*, 23 I&N Dec. 366, 367-68 (BIA 2002) (citing 8 C.F.R. § 208.16(c)(3)). The credible testimony of an applicant may be sufficient without corroboration to sustain his burden under the CAT, and evidence of country conditions “can play a decisive role in determining eligibility.” *Zhang v. Ashcroft*, 388 F.3d 713, 721 (9th Cir. 2004); 8 C.F.R. § 1208.16(c)(2). However, an applicant cannot meet his burden to establish eligibility for protection under the CAT by stringing together a series of suppositions. *Matter of J-F-F-*, 23 I&N Dec. 912, 917-18 (AG 2006). Instead, the applicant must show “specific grounds” indicating that he would be personally at risk. *Matter of J-E-*, 23 I&N Dec. 291, 302 (BIA 2002). The applicant must also show that if the alleged torture comes from a private actor, that (1) government officials were aware of the torture, or intentionally closed their eyes to it, and (2) thereafter they breached their duty to intervene because they are unable or unwilling to stop it. *Barajas-Romero*, 846 F.3d at 363; 8 C.F.R. § 1208.18(a)(7).



to CAT protection.”). Nevertheless, as the Court previously found that the harm allegedly experienced by the respondent in Guatemala does not rise to the level of persecution, it most certainly cannot rise to the level of torture, as torture constitutes extreme types of harm that often shocks the conscience. *See, e.g.*, 8 C.F.R. § 1208.18(a)(2). Accordingly, the Court does not take into account past torture in evaluating the probability of future torture.

As to the likelihood of future torture, the Court herein incorporates its analysis and conclusions *supra* concerning the possibility of the respondent relocating within Guatemala, as that inquiry is also relevant here. *Kamalthas*, 251 F.3d at 1282 (quoting 8 C.F.R. § [1]208.16(c)(3)). It would be entirely reasonable for the respondent to relocate within Guatemala



the respondent does not bear the burden to demonstrate that relocation is impossible, *see Maldonado v. Lynch*, 786 F.3d 1155, 1163-64 (9th Cir. 2015) (en banc), in evaluating the entirety of the record the Court is convinced that the respondent would not face significant barriers in relocating to another area of Guatemala.

There is no doubt that there is evidence of harm and mistreatment that may rise to torture taking place within Guatemala. *See* Exh. 3 at 12-13. Notwithstanding that observation, neither the country conditions evidence, nor the evidence of record particular to the respondent, establishes that it is more likely than not that the respondent would be tortured upon return to Guatemala. The evidence before the Court does not suggest—let alone demonstrate that it is more likely than not—that the respondent would face torture at the hands of Guatemalan officials or at the hands of private individuals with the acquiescence or instigation of the Guatemalan government. Even



that it is more likely than not that the respondent would be tortured on that basis. *See J-E-*, 23 I&N Dec. at 302. In sum, the evidence of record does not show any particularized risk of torture for the respondent beyond that faced by the general population of Guatemala, which certainly does not rise to a “clear probability” of occurrence. *See* 8 C.F.R. § 1208.16(c)(2).

Based on the foregoing, the Court concludes as a matter of law that the respondent has not met his burden of proof to warrant protection under the CAT and the Court accordingly denies his applications brought herein.

**F. Voluntary Departure**

To obtain voluntary departure, an applicant bears the burden of establishing both that he is statutorily eligible for relief and that he merits a favorable exercise of discretion. *See Matter of Gamboa*, 14 I&N Dec. 244, 248 (BIA 1972).

Eligibility for post-conclusion voluntary departure requires the applicant show that he: (1) has been physically present in the United States for a period of one year immediately preceding the date the NTA was served; (2) is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure; (3) is not an aggravated felon or subject to the security-related grounds of removal; and (4) has established by clear and convincing evidence that he has the means to depart the United States and intends to do so. *See* INA § 240B(b)(1)(A)-(D).

DHS opposes the granting of voluntary departure on the basis of the respondent’s past immigration history. However, it indicated that were the Court inclined to grant voluntary departure, its preference would be a limit of 30 days for the respondent to leave the United States.

Upon review of the entirety of the circumstances surrounding the respondent, including his criminal and immigration history, the Court concludes that the respondent is statutorily eligible for and warrants the granting of voluntary departure. The Court notes that voluntary departure is a minimal form of relief that still requires the respondent to leave the United States. The Court is convinced that permitting the respondent time to arrange for his departure and not causing the imposition of certain immigration consequences is in the best interest of the United States. As such, the Court will grant the respondent’s request for post-conclusion voluntary departure in accordance with Section 240B(b)(1) of the Act.

**IV. ORDERS OF THE COURT**

In light of the foregoing findings of fact and conclusions of law, the Court hereby enters the following:

**ORDERS**

**IT IS HEREBY ORDERED** that the respondent’s application for asylum pursuant to Section 208(b) of the Act be **DENIED**.

**IT IS FURTHER ORDERED** that the respondent’s application for withholding of removal pursuant to Section 241(b)(3) of the Act be **DENIED**.

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February 16, 2018

**IT IS FURTHER ORDERED** that the respondent's request for protection under the CAT be **DENIED**.

**IT IS FURTHER ORDERED** that the respondent is permitted to voluntarily depart the United States **under safeguards**, in lieu of removal, without expense to the United States government, on or before March 17, 2018, or any extension thereof as may be granted by DHS and under whatever conditions DHS may direct as part of such an extension.

**IT IS FURTHER ORDERED** that if any of the conditions set by the Court or DHS are not met, the above order granting voluntary departure **under safeguards** shall be withdrawn without further notice or proceedings, and the following order shall become immediately effective: the respondent shall be removed to Guatemala on the charge specified in his NTA.

**IT IS FURTHER ORDERED** that the hearing scheduled for February 23, 2018, is hereby vacated.

Date: February 16, 2018

  
2/16/18  
ANA PARTIDA  
Immigration Judge

**APPEAL RIGHTS:** Both parties have the right to appeal the decision of the Immigration Judge in this case. Any appeal is due in the hands of the Board of Immigration Appeals on or before thirty calendar days from the date of service of this decision.

cc: Mr. Perez for the respondent.  
David Palmer, Assistant Chief Counsel for DHS.



U.S. Department of Homeland Security  
U.S. Immigration and Customs Enforcement

**VOLUNTARY DEPARTURE AND VERIFICATION OF DEPARTURE**

To: (Alien's Last Name, First Name, Address) Ramos-Gregorio, Hector Anival	Alien's Phone Number	A: Number
	IN CUSTODY	FIN Number

You have violated the terms of your admission as a nonimmigrant. Consequently, the permission previously granted you to remain in the United States is rescinded. You are required to depart from the United States at your own expense on or before \_\_\_\_\_.

On 02/16/2018 you were granted voluntary departure by the  IJ  BIA  DHS. You are required to depart from the United States on or before 03/17/2018  at your expense.  at government expense.  under safeguard.

Your request for an extension of time to depart from the United States has been \_\_\_\_\_ . You are required to depart on or before \_\_\_\_\_ (Granted/Denied)

You state that you will be departing the United States on \_\_\_\_\_ through \_\_\_\_\_ (Port of Departure) on \_\_\_\_\_ (Give Airlines, Flight Number and Time or Other Manner of Departure)

**NOTICE:** The Immigration Judge's Alternate Order of Removal will take effect if the alien does not depart within the time specified. Failure to depart on or before the specified date may result in the withdrawal of voluntary departure and action being taken to effect your removal. A warrant for your arrest will be issued if this office has not received verification of your departure by the specified date. Failure to depart on or before the specified date may also subject you to a possible civil penalty of not less than \$1,000 and not more than \$5,000, and render you ineligible for a period of 10 years for any further authorization for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Immigration and Nationality Act.

Additionally, if an Immigration Bond has been posted on the alien, the DHS will initiate the appropriate action in accordance with the terms of the executed bond and any attached rider or riders specified.

To any U.S. official: This document can be completed and transmitted to DHS/ICE Headquarters Office of Detention and Removal via \_\_\_\_\_

x [Signature] Alien's Acknowledgement of Conditions and Receipt of Form 03/06/18 Date

[Signature] Signature of Authorized DHS Official 03/06/18 Date

Billy Brickett Deportation Officer Otay Mesa Detention Center  
DHS Official Serving Form (Name and Title) Office



If Available



(Right Index Fingerprint)

**Verification of Departure**  
(Completion by an official of the Department of Homeland Security or the U.S. Department of State)


Printed Name Michael Smith Deportation Officer	Signature of Official Verifying Identity <u>[Signature]</u>	Office PHOENIX-MESA GATEWAY AIRPORT MESA, ARIZONA	Date <u>3-7-18</u>
U.S. Departure Place	DATE: <u>3-7-18</u>		
Method of Departure	ICE AIR CHARTER FLIGHT		
<input checked="" type="checkbox"/> Air <input type="checkbox"/> Train <input type="checkbox"/> Boat <input type="checkbox"/> Other:			
Comments			

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

OMB# 1125-0002  
Notice of Appeal from a Decision of an  
Immigration Judge

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

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

Hector Anival Ramos Gregorio 

For Official Use Only

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

2. I am  the Respondent/Applicant  DHS-ICE (Mark only one box.)
3. I am  DETAINED  NOT DETAINED (Mark only one box.)
4. My last hearing was at San Diego, California (Location, City, State)

5. **What decision are you appealing?**

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

I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated 11/13/2024.

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

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

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

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

- 1. The Immigration Judge erred in finding that the Respondent abandoned his asylum application.
- 2. Any other basis that is determined upon review of the transcript and IJ's order which has not yet been issued.

(Attach additional sheets if necessary)

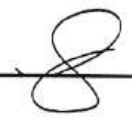
**!** **WARNING:** You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

- 7. Do you desire oral argument before the Board of Immigration Appeals?  Yes  No
- 8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal?  Yes  No
- 9. If you are unrepresented, do you give consent to the BIA Pro Bono Project to have your case screened by the Project for potential placement with a free attorney or accredited representative, which may include sharing a summary of your case with potential attorneys and accredited representatives? *(There is no guarantee that your case will be accepted for placement or that an attorney or accredited representative will accept your case for representation)*  Yes  No

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

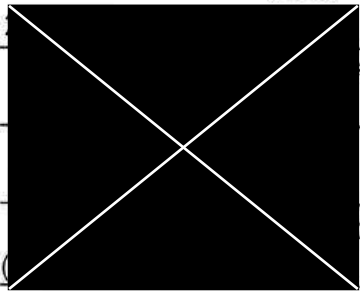
If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

10. **Print Name:** Melissa S. Sandoval, Esq.

11. **Sign Here:**  X  12/11/2024  
 Signature of Person Appealing (or attorney or representative) Date

12. Mailing Address of Respondent(s)/Applicant(s)

Hector Anival Ramos Gregorio  
 \_\_\_\_\_  
 (Name)

  
 \_\_\_\_\_  
 (Address)

\_\_\_\_\_  
 (City, State, Zip Code)

\_\_\_\_\_  
 (Telephone Number)

11. Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)

Melissa S. Sandoval  
 \_\_\_\_\_  
 (Name)

300 West Grand Avenue  
 \_\_\_\_\_  
 (Street Address)

Sterger Law Group  
 \_\_\_\_\_  
 (Suite or Room Number)

Escondido, CA 92025  
 \_\_\_\_\_  
 (City, State, Zip Code)

(760)260-8158  
 \_\_\_\_\_  
 (Telephone Number)

**NOTE:** You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

**NOTE:** If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

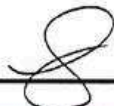
13. **PROOF OF SERVICE (You Must Complete This)**

I Melissa S. Sandoval \_\_\_\_\_ mailed or delivered a copy of this Notice of Appeal  
 \_\_\_\_\_  
 (Name)

on \_\_\_\_\_ to \_\_\_\_\_  
 (Date) (Opposing Party)

at \_\_\_\_\_  
 (Number and Street, City, State, Zip Code)

No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

**SIGN HERE** → X  \_\_\_\_\_  
 Signature

**NOTE:** If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

**WARNING:** If you do not complete this section properly, your appeal will be rejected or dismissed.

**WARNING:** If you do not attach the fee payment receipt, fee, or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.




**HAVE YOU?**

- Read all of the General Instructions.
- Provided all of the requested information.
- Completed this form in English.
- Provided a certified English translation for all non-English attachments.
- Signed the form.
- Served a copy of this form and all attachments on the opposing party, if applicable.
- Completed and signed the Proof of Service
- Attached the required fee payment receipt, fee, or Fee Waiver Request.
- If represented by attorney or representative, attach a completed and signed EOIR-27 for each respondent or applicant.

U.S. Department of Homeland Security

Subject ID : 383499516

Record of Deportable/Inadmissible Alien

Family Name (CAPS) <b>RAMOS-GREGORIO, HECTOR ANIVAL</b>		First	Middle	Sex <b>M</b>	Hair <b>BLK</b>	Eyes <b>BRO</b>	Complexion <b>MED</b>
Country of Citizenship <b>GUATEMALA</b>	Passport Number and Country of Issue	[REDACTED]		Height <b>66</b>	Weight <b>155</b>	Occupation <b>LABORER</b>	
U.S. Address [REDACTED]				Scars and Marks <b>See Narrative</b>			
Date, Place, Time, and Manner of Last Entry <b>03/20/2019, OTM, WI - Without Inspection</b>			Passenger Boarded at	F.D.I. Number [REDACTED]			
Number, Street, City, Province (State) and Country of Permanent Residence <b>COLONIA CHINCHOCAL HUEHUETENANGO, GUATEMALA</b>				Method of Location/Apprehension <b>NCA NA</b>			
Date of Birth [REDACTED]	Age: <b>31</b>	Date of Action <b>03/02/2023</b>	Location Code <b>SND/SND</b>	Av/Near <b>See I-831</b>		Date/Hour <b>03/02/2023 10:20</b>	
City, Province (State) and Country of Birth <b>HUEHUETENANGO, GUATEMALA</b>		AR <input checked="" type="checkbox"/>	Form: (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>	By <b>LEONARD JOHNSON</b>			
NTV Issuing Post and NIV Number		Social Security Account Name		Status at Entry		Status When Found	
Date Visa Issued		Social Security Number		Length of Time Illegally in U.S.			
Immigration Record <b>POSITIVE - See Narrative</b>			Criminal Record <b>None Known</b>				
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)						Number and Nationality of Minor Children <b>1 - GUATEMALA</b>	
Father's Name, Nationality, and Address, if Known <b>DOMINGO NATIONALITY: GUATEMALA ADDRESS: SAN JUAN TACHOI, HUEHUETENANGO, GUATEMALA</b>			Mother's Present and Maiden Names, Nationality, and Address, if Known <b>PELICITA NATIONALITY: GUATEMALA ADDRESS: SAN JUAN TACHOI, HUEHUETENANGO, GUATEMALA</b>				
Monies Due Property in U.S. Not in Immediate Possession <b>None Claimed</b>		Fingerprinted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Systems Checks	Charge Code Words(s) <b>See Narrative</b>			
Name and Address of (Last) Current U.S. Employer		Type of Employment	Salary	Employed from/to [REDACTED]			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) <b>Left Index fingerprint</b> <b>Right Index fingerprint</b>							
							
SCARS MARKS AND TATTOOS ----- <b>None Indicated - NONE INDICATED</b>							
Subject Health Status ----- <b>The subject claims good health.</b>							
Current Administrative Charges ----- <b>... (CONTINUED ON I-831)</b>							
Alien has been advised of communication privileges <b>3/2/23</b> (Date/Initials)			LEONARD JOHNSON Deportation Officer (Signature and Title of Immigration Officer)				
Distribution: <b>A-File</b> <b>EOIR</b> <b>Records</b>			Received (Subject and Documents) (Report of Interview) Officer: <b>LEONARD JOHNSON</b> on: <b>March 2, 2023</b> (Date) Disposition: <b>Warrant of Arrest/Notice to Appear</b> Examining Officer: <b>SAXON, S 2163</b>				

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name RAMOS-GREGORIO, HECTOR ANIVAL	File Number [REDACTED]	Date 03/02/2023
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03/02/2023 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

Previous Criminal History

Subject has no criminal history

At/Near

SAN DIEGO, CALIFORNIA

Record of Deportable/Excludable Alien:  
FAMILY UNIT:

FATHER: Hector Anival RAMOS-Gregorio A# [REDACTED]

DAUGHTER: [REDACTED]

On March 20, 2019, Hector Anival RAMOS-Gregorio and his daughter S. [REDACTED] were encountered by Border Patrol Agent S. Rocha, and taken into custody. The two RAMOS's were transported to the Chula Vista Border Patrol Station for further processing.

Border Patrol Agent Rocha's statement is documented in the attached G-166C.

At the station, as a routine step, the subject's biographical and biometric information was entered into the Department of Homeland Security processing systems. These systems, along with record checks, revealed prior immigration, and criminal histories for RAMOS under the following reference numbers:

A#: [REDACTED]

FINS#: [REDACTED]

FBI#: [REDACTED]

SID#: N/A

At the Chula Vista Border Patrol Station, RAMOS once again freely admitted, that him and his daughter, are citizens and nationals of Guatemala without any immigration documents entitling them to enter or remain in the United States legally.

RAMOS further stated him and his daughter illegally crossed the United States/Mexico International Boundary, on March 20, 2019, by jumping over the International Border fence, east of the Otay Mesa, California, Port of Entry at approximately 6:10 a.m., and they were not inspected by an Immigration Officer.

On March 20, 2019 at approximately 7:15 p.m., I, Border patrol Agent R. Morales advised RAMOS of his right to speak to the Guatemalan Consulate in the Spanish language. RAMOS stated he did not wish to speak to the Guatemalan Consulate at that time. This advisement was witnessed by Border Patrol Agent k. Ayala.

RAMOS stated he did not apply for asylum in the country of Mexico because that country is

Signature LEONARD JOHNSON	Title Deportation Officer
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EOIR - 2 of 4

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name RAMOS-GREGORIO, HECTOR ANIVAL	File Number [REDACTED]	Date 03/02/2023
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very dangerous. RAMOS has been apprehended by the Border Patrol a total of nine times, eight times out of nine, RAMOS claimed to be a citizen and national of Mexico. RAMOS has been deported to Mexico eight times.

RAMOS admitted to have lied about his citizenship in the past because he did not want to go back to his native country of Guatemala. He stated is a lot easier to come back to the United States from Mexico than from Guatemala. RAMOS was unable to provide any documentation to prove that [REDACTED] is his daughter. RAMOS stated he did not care if the United States government deports him and his family to Guatemala because he is going to return no matter what. RAMOS was misleading, and deceptive while being interviewed.

RAMOS' point of contact, Esperanza Margarita Hernandez Gomez, was contacted on March 20, 2019, at approximately 8:00 PM. She stated she was legally married to RAMOS, and that they do not have any children together. RAMOS stated his daughter was abandoned by her mother approximately one year ago, but RAMOS was unable to provide any documentation to corroborate any of his claims. We were unable to confirm that Hector Anival RAMOS-Gregorio, is the father of [REDACTED].

This time, RAMOS claimed him and his daughter to be citizens and nationals of Guatemala by virtue of birth.

RAMOS does not have any immigration or criminal charges that would warrant criminal prosecution.

RAMOS stated him and his daughter did not present themselves to immigration officers at any port of entry.

RAMOS stated him and his daughter do not have any petitions filed on their behalf.

RAMOS and his daughter claimed fear of persecution or torture if returned to their native country of Guatemala.

RAMOS was served with Agency forms I-862, I-200, I-286, I-826 and list of free legal services.

[REDACTED] was served with Agency forms I-862, I-200, I-826, I-770 and list of free legal services.

The father (Not confirmed to be the father), Hector Anival RAMOS-Gregorio will sign all the Agency forms served to his daughter.

RAMOS and his daughter are being held in the custody of the Department of Homeland Security pending Removal Proceedings/Credible Fear.


POC:

Esperanza Margarita Hernandez Gomez

505 Grand St.

Oceanside CA, 92054

Phone# 760-829-2231 \*\*\* ADDENDUM on 05/218/2020, for ACRIME case review, subject is

Signature  LEONARD JOHNSON	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name RAMOS-GREGORIO, HECTOR ANIVAL	File Number [REDACTED]	Date 03/02/2023
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currently enrolled at SND-ATD C (000-142) and master hearing scheduled on 01/05/2021 at 13:00 hours. Due to arrest/charge, no further action at this time.

\*\*\*\*Addendum created by Deportation Officer Johnson, L. ATD Unit\*\*\*\*

On 03/02/2023, RAMOS-GREGORIO, Hector Aniva (hereafter referred to as RAMOS-GREGORIO), A095 763 052, reported to Immigration and Customs Enforcement (ICE) office San Diego, CA.

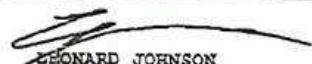
The immigration case for RAMOS-GREGORIO was dismissed, by an Immigration Judge, without prejudice, on 03/02/2023.

RAMOS-GREGORIO provided his address as 3233 Carolyn Crl, San Diego, CA 92054, and a phone number of [REDACTED].

DISPOSITION: On 03/02/2023 DO Johnson served RAMOS-GREGORIO a Notice to Appear with a master hearing scheduled on 04/05/2023 at 08:30 a.m. with the San Diego EOIR, served an Order of Recognizance and was provided a local list of legal service providers and EOIR-33 change of address form. RAMOS-GREGORIO sign both NTA and OREC documents. RAMOS-GREGORIO remains on release on Order of Recognizance with continuous enrollment in the Alternative to Detention Program.

Other Identifying Numbers

ALIEN- [REDACTED]

Signature  LEONARD JOHNSON	Title Deportation Officer
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ORIGINAL

U.S. Department of Homeland Security

Notice to Appear

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

Subject ID: [REDACTED] FINS # [REDACTED] File No: [REDACTED]
DOB: [REDACTED] Event: [REDACTED]

In the Matter of:

Respondent: HECTOR ANIVAL RAMOS-GREGORIO currently residing at:

[REDACTED ADDRESS] (760) 829-2231
(Number, street, city and ZIP code) (Area code and phone number)

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

DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION AND CUSTOMS ENFORCEMENT

APR 09 2019

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 GUATEMALA and a citizen of GUATEMALA;
3. You arrived in the United States at or near OTAY MESA, CALIFORNIA, on or about March 20, 2019;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

U.S. IMMIGRATION COURT
SAN DIEGO, CA

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: null

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(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: 401 West A Street Suite 800 San Diego CA US 92101

on a date to be set at a time to be set to show why you should not be removed from the United States based on the charges set forth above.

Date: March 20, 2019

[Signature] WATCH COMMANDER
SAN DIEGO, CALIFORNIA
(Complete Address of Immigration Court, including Room Number, if any)
(City and State)

See reverse for important information

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 under 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 3.16. 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, which 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 and that you are inadmissible or removable on the charges contained in the Notice to Appear. 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 departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court 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 one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at http://www.ice.gov/about/dro/contact.htm. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 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 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 Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

Ran J uA BPA

(Signature and Title of Immigration Officer)

[Handwritten Signature]

(Signature of Respondent)

Date: 3.20.19

Certificate of Service

This Notice To Appear was served on the respondent by me on March 20, 2019, in the following manner and in compliance with section 239(a)(1)(F) 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 organizations 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.

[Handwritten Signature]

(Signature of Respondent if Personally Served)

RAMON MORALES

BORDER PATROL AGENT

(Signature and Title of officer)



U.S. Department of Justice  
Federal Bureau of Investigation  
Criminal Justice Information Services Division  
Clarksburg, WV 26306

DATE: 05-04-2024

HECTOR ANIVAL RAMOS GREGORIO  
116 QUAIL GARDENS DR 121 ENCINITAS CA 92024

[REDACTED]  
The Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation has completed the following fingerprint submission:

Subject Name [REDACTED]

HECTOR ANIVAL RAMOS GREGORIO

Search Completed Result 05-04-2024 E2024124000000378490

A SEARCH OF THE FINGERPRINTS PROVIDED BY THIS INDIVIDUAL HAS REVEALED PRIOR ARREST DATA AT THE FBI. THIS DOES NOT PRECLUDE FURTHER CRIMINAL HISTORY AT THE STATE OR LOCAL LEVEL.

Social Security number: XXX-XX-XXXX

The result of the above response is only effective for the date the submission was originally completed. For more updated information, please submit new fingerprints of the subject.

In order to protect Personally Identifiable Information, as of August 17, 2009, FBI policy has changed to no longer return the fingerprint cards. This form will serve as the FBI's official response.

This Identity History Summary (IdHS) is provided pursuant to 28 CFR 16.30-16.34 solely for you to conduct a personal review and/or obtain a change, correction, or updating of your record. This IdHS is not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33.

Any questions may be addressed to the Customer Service Group at (304) 625-5590. You may also visit the Web site at [www.fbi.gov](http://www.fbi.gov) for further instructions.

Chris Ormerod  
Section Chief  
Biometric Services Section  
Criminal Justice Information  
Services Division

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
TCN CAK34-AD5T93M9

THE FBI IDENTIFIED YOUR TEN-PRINT SUBMISSION WHICH  
CONTAINED THE FOLLOWING DESCRIPTORS:

NAME RAMOS GREGORIO, HECTOR ANIVAL

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR
M	W	[REDACTED]	505	180	BROWN	BLACK

STATE ID	BIRTH PLACE
NULL	GUATEMALA

OTHER BIRTH DATES	SCARS-MARKS-TATTOOS	SOCIAL SECURITY	MISC NUMBERS
NONE	NONE	NONE	NONE

ALIAS NAME(S)  
NONE

END OF COVER SHEET

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z

NCN E2024124000000378490

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

THIS RECORD IS SUBJECT TO THE  
FOLLOWING USE AND DISSEMINATION RESTRICTIONS

UNDER [REDACTED] SET FORTH IN TITLE 28, CODE OF FEDERAL REGULATIONS (CFR), SECTION 50.12, BOTH GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES AUTHORIZED TO SUBMIT FINGERPRINTS AND RECEIVE FBI IDENTIFICATION RECORDS MUST NOTIFY THE INDIVIDUALS FINGERPRINTED THAT THE FINGERPRINTS WILL BE USED TO CHECK THE CRIMINAL HISTORY RECORDS OF THE FBI. IDENTIFICATION RECORDS [REDACTED] FROM THE FBI MAY BE USED SOLELY FOR THE PURPOSE REQUESTED AND MAY NOT BE DISSEMINATED OUTSIDE THE RECEIVING DEPARTMENT, RELATED AGENCY OR OTHER AUTHORIZED ENTITY. IF THE INFORMATION ON THE RECORD IS USED TO DISQUALIFY AN APPLICANT, THE OFFICIAL MAKING THE DETERMINATION OF SUITABILITY FOR LICENSING OR EMPLOYMENT SHALL PROVIDE THE APPLICANT THE OPPORTUNITY TO COMPLETE, OR CHALLENGE THE ACCURACY OF, THE INFORMATION CONTAINED IN THE FBI IDENTIFICATION RECORD. THE DECIDING OFFICIAL SHOULD NOT DENY THE LICENSE OR EMPLOYMENT BASED ON THE INFORMATION IN THE RECORD UNTIL THE APPLICANT HAS BEEN AFFORDED A REASONABLE TIME TO CORRECT OR COMPLETE THE INFORMATION, OR HAS DECLINED TO DO SO. AN INDIVIDUAL SHOULD BE PRESUMED NOT GUILTY OF ANY CHARGE/ARREST FOR WHICH THERE IS NO FINAL DISPOSITION STATED ON THE RECORD OR OTHERWISE DETERMINED. IF THE APPLICANT WISHES TO CORRECT THE RECORD AS IT APPEARS IN THE FBI'S CJIS DIVISION RECORDS SYSTEM, THE APPLICANT SHOULD BE ADVISED THAT THE PROCEDURES TO CHANGE, CORRECT OR UPDATE THE RECORD ARE SET FORTH IN TITLE 28, CFR, SECTION 16.34.

- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

END OF PART 1 - PART 2 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 2

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN [REDACTED]

NAME DUARTE-LOPEZ, EVARISTO FBI UCN [REDACTED] DATE REQUESTED 2024/05/03

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR  
M W [REDACTED] 503 160 BRO BLK

BIRTH PLACE  
MEXICO

PATTERN CLASS [REDACTED] CITIZENSHIP  
LS LS LS LS LS LS LS LS LS LS UNKNOWN  
PARACEL ISLANDS  
MEXICO  
GUATEMALA

1-ARRESTED OR RECEIVED 2012/08/19  
AGENCY-CBP-OBP STATION SAN CLEMENTE (CACBP3000)  
AGENCY CASE-095763052

FINGERPRINT INFORMATION  
BSI/1000091834983  
PRINT DATE/2012/08/19

PHOTO INFORMATION - 1 PHOTOS AVAILABLE  
BSI/40000695066  
POSE/ DESC/  
PHOTO DATE/2012/08/19

CHARGE 1-ENTRY OF ALIEN AT IMPROPER TIME OR PLACE MISREP  
CHARGE 2-ENTRY OF ALIEN AT IMPROPER TIME OR PLACE MISREP

COURT- ()  
CHARGE-ENTRY OF ALIEN AT IMPROPER TIME OR PLACE MISREP  
VOLUNTARY RETURN

END OF PART 2 - PART 3 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 3

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN-471853RD4  
2-ARRESTED OR RECEIVED 2017/06/08 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-17136105A

FINGERPRINT INFORMATION  
BSI/40 [REDACTED]  
PRINT DATE/2017/06/08

PALMPRINT INFORMATION  
BSI/40174747948  
PRINT DATE/201 [REDACTED]

NAME USED-RAMOS, HECTOR  
CHARGE 1-001 COUNTS OF DUI ALCOHOL/DRUGS  
CHARGE 2-001 COUNTS OF DRIVE W/O LICENSE

3-ARRESTED OR RECEIVED 2017/06/13A  
AGENCY-ICE/ERO SAN DIEGO SAN DIEGO (CAICE1200)  
AGENCY CASE-176097260

FINGERPRINT INFORMATION  
BSI/40175169345  
PRINT DATE/2017/06/13

NAME USED-RAMOS GREGORIO, HECTOR ANIVAL  
CHARGE 1-ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAS)

COURT- ()  
DISPOSITION-OTHER  
CHARGE-DSPE/ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAS)  
DSPE/SUBJECT DEPARTED THE UNITED STATES VOLUNTARILY ON OR ABOUT  
03/07/2018

END OF PART 3 - PART 4 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 4

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN-471853RD4

4-ARRESTED OR RECEIVED 2019/03/20  
AGENCY-CBP OBP CHULA VISTA SAN YSIDRO (CACBP1900)  
AGENCY CASE-5622508879

FINGERPRINT INFORMATION

BSI/40 [REDACTED]  
PRINT DATE/2019/03/20

PHOTO INFORMATION - 1 PHOTOS AVAILABLE

BSI/40260916499 [REDACTED]  
POSE/ DESC/ [REDACTED]  
PHOTO DATE/2019/03/20

IRIS INFORMATION -

BSI/40328749072  
IRIS DATE/2019/03/21

NAME USED-RAMOS-GREGORIO, HECTOR ANIVAL  
CHARGE 1-03/20/2019 00:03:00 ALIEN REMOVAL UNDER SECTION 212 AND 23  
7

5-ARRESTED OR RECEIVED 2019/11/22 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-19772919A

FINGERPRINT INFORMATION

BSI/40297407272  
PRINT DATE/2019/11/22

NAME USED-RAMOS, HECTOR GREGORIO  
CHARGE 1-001 COUNTS OF DUI, ALCOHOL/DRUGS

END OF PART 4 - PART 5 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 5

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN-471853RD4  
6-ARRESTED OR RECEIVED 2020/05/28 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-20923066A

FINGERPRINT INFORMATION  
BSI/40 [REDACTED]  
PRINT DATE/2020/05/28

PALMPRINT INFORMATION  
BSI/40320298038  
PRINT DATE/202 [REDACTED]

NAME USED-RAMOS, HECTOR  
CHARGE 1-001 COUNTS OF DUI ALCOHOL/0.08 PERCENT

7-ARRESTED OR RECEIVED 2021/09/30 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-21137921A

FINGERPRINT INFORMATION  
BSI/40383228799  
PRINT DATE/2021/09/30

PALMPRINT INFORMATION  
BSI/40383228795  
PRINT DATE/2021/09/30

NAME USED-RAMOS, HECTOR ANIBAL  
CHARGE 1-001 COUNTS OF OBSTRUCT/ETC PUB OFCR/ETC  
CHARGE 2-001 COUNTS OF DUI ALCOHOL/DRUGS  
CHARGE 3-001 COUNTS OF DUI ALCOHOL/0.08 PERCENT

END OF PART 5 - PART 6 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 6

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN-471853RD4

8-ARRESTED OR RECEIVED 2021/12/03 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-21147314A

FINGERPRINT INFORMATION

BSI/40 [REDACTED]  
PRINT DATE/2021/12/03

PALMPRINT INFORMATION

BSI/40391519353  
PRINT DATE/202 [REDACTED]

NAME USED-RAMOS, HECTOR

CHARGE 1-001 COUNTS OF DUI ALCOHOL/DRUGS  
CHARGE 2-001 COUNTS OF DUI ALCOHOL/0.08 PERCENT  
CHARGE 3-001 COUNTS OF OBSTRUCT/ETC PUB OFCR/ETC  
CHARGE 4-001 COUNTS OF EVADING PEACE OFFICER

9-ARRESTED OR RECEIVED 2023/03/02A

AGENCY-ICE/ERO SAN DIEGO SAN DIEGO (CAICE1200)  
AGENCY CASE-8057684352

FINGERPRINT INFORMATION

BSI/40456855215  
PRINT DATE/2023/03/02

PHOTO INFORMATION - 1 PHOTOS AVAILABLE

BSI/40456855212  
POSE/ DESC/  
PHOTO DATE/2023/03/02

NAME USED-RAMOS-GREGORIO, HECTOR ANIVAL

CHARGE 1-2023-03-02 212A6AI ALIEN PRESENT WITHOUT ADMISSION OR PARO  
LE - (PWAS)

END OF PART 6 - PART 7 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION  
CLARKSBURG, WV 26306

USIDSD09Z  
PART 7

NCN E2024124000000378490

- FBI IDENTIFICATION RECORD - FBI UCN-471853RD4  
10-ARRESTED OR RECEIVED 2023/03/09 SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-23709508B

FINGERPRINT INFORMATION  
BSI/40 [REDACTED]  
PRINT DATE/2023/03/09

PALMPRINT INFORMATION  
BSI/40458100939  
PRINT DATE/202 [REDACTED]

NAME USED-RAMOS, HECTORUARTE  
CHARGE 1-001 COUNTS OF DUI ALCOHOL/0.08 PERCENT

11-ARRESTED OR RECEIVED 2023/03/09A SID- CA36877730  
AGENCY-SHERIFF'S OFFICE SAN DIEGO (CA0370000)  
AGENCY CASE-23709508A

FINGERPRINT INFORMATION  
BSI/40458101049  
PRINT DATE/2023/03/09

PALMPRINT INFORMATION  
BSI/40458101046  
PRINT DATE/2023/03/09

NAME USED-RAMOS, HECTORUARTE  
CHARGE 1-001 COUNTS OF DUI ALCOHOL/0.08 PERCENT  
CHARGE 2-001 COUNTS OF DUI W/PR SPEC CONVICTIONS

RECORD UPDATED 2024/05/03

ALL ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON  
FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

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