

Juan Hilario Serrano De Leon

Name

At

Prison Number

425 Holden St Ave

Bakersfield CA 93301

Address or Place of Confinement

Note: If represented by an attorney, write attorney's name, address & telephone number

FILED

DEC 15 2025

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY af
DEPUTY CLERK

United States District Court
EASTERN DISTRICT OF CALIFORNIA

Juan Hilario Serrano De Leon
Full Name (First, Middle, Last)

Petitioner,

vs.

Name of Warden

(or other authorized person having custody of petitioner)

Respondent.

1:25-cv-1867 JLT-EPG
CASE NO. At (HC)
(to be supplied by the Clerk of the
United States District Court)

**PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN FEDERAL CUSTODY**

PLEASE COMPLETE THE FOLLOWING (check the appropriate number):

This petition concerns:

1. _____ a conviction
2. _____ a sentence
3. _____ jail or prison conditions
4. _____ prison discipline
5. _____ a parole problem
6. X other - Immigration Law

CAUTION: If you are attacking a federal conviction, sentence or judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered judgment.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN FEDERAL CUSTODY

PETITION

- (1) Place of detention: 425 Golden State, Bakersfield CA 93301
- (2) Name and location of court which imposed sentence: James C. Corman Federal Building
1220 Van Nuys Blv Ste 300 Van Nuys CA 91401
- (3) Offense(s) and indictment number(s) (if known) for the sentence imposed:
N/A
- (4) The date the sentence was imposed and the terms of the sentence:
N/A
- (5) What was your plea (check one): Not guilty ☒ Guilty () Nolo contendere ()
- (6) Kind of trial (check one): Jury () Judge only ☒
- (7) Did you appeal from the judgment of conviction or the imposition of sentence: Yes ☒ No ()
- (8) If you did appeal, answer the following for *each* appeal:

FIRST APPEAL:

Name of court: James Corman Federal Building

Grounds raised (list each):

- 1) Pending
- 2) _____

Result/Date of result: _____

SECOND APPEAL:

Name of court: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

GROUND FOR THIS 28 U.S.C. § 2241 PETITION

- (9) State *CONCISELY* every ground on which you claim that your sentence is being executed in an illegal manner. Summarize *briefly* the facts supporting each ground

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Supporting *FACTS* for *GROUND ONE* (tell your story *BRIEFLY* without citing cases or law).

CAUTION: You must state *facts, not conclusions*, in support of your grounds. A rule of thumb to follow is – who did exactly what to violate your rights at what time or place.

On September 4, they called me to notify me that on September 5, 2025, I had to show up to check in at the office that are located at, 2001 N Chester Ave, Bakersfield CA, where upon arrival I was arrested by the ICE officer and I was processing where I am currently detained.

→ **GROUND TWO**

Supporting *FACTS* for *GROUND TWO* (tell your story *BRIEFLY* without citing cases or law).

ADMINISTRATIVE APPEALS

- (10) Have you presented the claims raised in Question #9 of this petition to prison officials in a prison administrations appeal?

Yes (X) No () If your answer is no, explain why not: _____

If your answer is yes, answer the following for *each* administrative appeal:

FIRST ADMINISTRATIVE APPEAL

Level of appeal: Pending

Grounds raised (list each):

1) Pending

2) _____

Result/Date of result: _____

SECOND ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

1) _____

2) _____

Result/Date of result: _____

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN FEDERAL CUSTODY

THIRD ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

FOURTH ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

- (11) Is the grievance process completed? Yes () No (X)

PREVIOUS PETITIONS

- (12) Have you filed previous petitions for habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2255, or any other applications, petitions or motions with respect to the claims raised in Question #9 of this petition?

Yes () No (X)

- (13) If your answer to Question #12 was yes, give the following information for *each* previous petition:

FIRST PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

SECOND PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

- (14) If the claims raised in Question #9 of this petition concern your conviction or sentence, explain why you are filing your petition pursuant to § 2241 instead of § 2255.

N/A

- (15) Are you presently represented by counsel?

Yes () No (X)

If so, provide your attorney's name, address, and telephone number:

Carlos Durado - 800-570-5101
1910 E California Ave Bakersfield CA 93307

- (16) If you are seeking leave to proceed *in forma pauperis*, have you completed the application setting forth the required information?

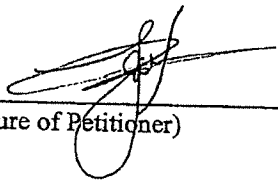
Yes (X) No ()

Note: If your answer is no, you must send a \$5.00 filing fee to the court with your petition.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

12/11/25
(Date)


(Signature of Petitioner)

(Signature of Attorney, if any)

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

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

Subject ID: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: JUAN HILARIO SERRANO-DE LEON

currently residing at:

[REDACTED] BAKERSFIELD, CALIFORNIA, 93305

(Number, street, city, state and ZIP code)

[REDACTED] (Area code and phone number)

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

RECEIVED
DEPARTMENT OF JUSTICE

MAY - 4 2021

EOIR
VAN NUYS, CA

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 entered the United States at or near UNK, on or about April 14, 2021;
4. You were not then admitted or paroled after inspection by an Immigration Officer. OR at that time you arrived at a time or place other than as designated by the Attorney General.

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

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

JUN 27 2023

Soto

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

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

6230 VAN NUYS BLVD STE 300 VAN NUYS CA 91401. VAN NUYS, CA IMMIGRATION COURT

(Complete Address of Immigration Court, including Room Number, if any)

on June 15, 2022 at 8:00 AM to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

IH8023 HERNANDEZ - SDDO

(Signature and Title of Issuing Officer) (Sign in Ink)

Date: April 26, 2021

BAKERSFIELD, CA

(City and State)

EXHIBIT

JUN 27 2023

Notice to Respondent

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

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

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

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

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

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

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

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

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

Request for Prompt Hearing

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

Before:

(Signature of Respondent) (Sign in ink)

Date: _____

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on April 26, 2021, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☒ Attached is a list of organization and attorneys which provide free legal services.

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

(Signature of Respondent if Personally Served) (Sign in ink)

VINCENTE TORRES - DO

(Signature and Title of officer) (Sign in ink)

Privacy Act Statement

Authority:

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

Purpose:

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

Routine Uses:

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

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

Disclosure:

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



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

Payment Receipt

A payment has been processed for the following Board of Immigration Appeals (BIA) case. Please contact the BIA Clerk's Office for questions regarding this payment at (703) 605-1007.

You must include a copy of this receipt in the appeal or motion package you are filing with the BIA Clerk's Office. Failure to include a receipt showing proof of payment will result in rejection of the appeal or motion.

A-Number:



Payment Tracking ID:



Payment Processed On: 1/6/2025 3:08:38 AM EST

Filing Type: Appeal (Form EOIR-26)

Payment Type: PLASTIC_CARD

Payment Amount: \$110.00

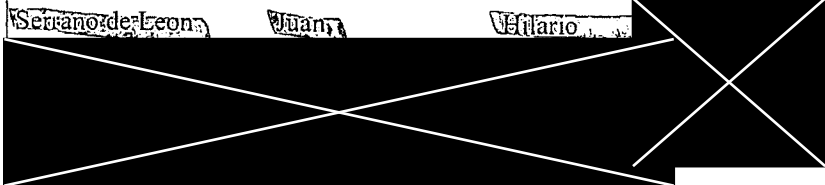
Save or print your receipt immediately. You will not receive a copy of your receipt via email. The tracking ID is required to retrieve a duplicate receipt.

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

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

Serrano de Leon, Juan, Esteban


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 Van Nuys Immigration Court Van Nuys, 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 December 5, 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.)

EOIR 1 of 4

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.

The Judge erred in denying Respondents' applications for asylum, Withholding of Removal and CAT. Respondent established past persecution which creates a rebuttable presumption of a well-founded fear of future persecution based on [REDACTED]

[REDACTED] in Guatemala. Respondents were targeted because of [REDACTED] The persecution was committed by individuals that the Guatemalan government was either unwilling or unable to control.

(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? ☐ Yes ☐ No
(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)

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:** Whitney Jurado

11. **Sign Here:**  X Whitney Jurado 1-6-2025
Signature of Person Appealing Date
(or attorney or representative)

12. Mailing Address of Respondent(s)/Applicant(s) Juan Hilario Serrano de Leon (Name) [Redacted Address] Bakersfield, CA 93305 (City, State, Zip Code) [Redacted Phone Number] (Telephone Number)	11. Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s) Whitney Faye Jurado (Name) 444 W. Ocean Blvd (Street Address) Suite 1010 (Suite or Room Number) Long Beach, CA 90802 (City, State, Zip Code) (800) 570-5101 (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 <i>with this appeal</i> , 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 Whitney Jurado (Name) mailed or delivered a copy of this Notice of Appeal on 1-6-2025 (Date) to DHS/ICE (Opposing Party) at 6230 Van Nuys Blvd., Suite 1011, Van Nuys, CA 91401 (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

Whitney Jurado

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?

- | | |
|--|--|
| <ul style="list-style-type: none">☐ 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. | <ul style="list-style-type: none">☐ 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. |
|--|--|

(Family Name)	(First Name)	(Middle Name)
Serrano de Leon	Juan	Hilario

Question 1 (Continued):

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

Whitney Jurado Bar P83160
Margaret Hellerstein ARN 5294210
The Jurado Firm, LLP
100 Oceangate, Suite 300
Long Beach, CA 90802

TELEPHONE: (562)275-3233

Attorneys for Respondents

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

In the Matter of

SERRANO DE LEON, Hilario, et al

Respondents

)
)
)
)
)
)
)

Alien Numbers:



RESPONDENTS' BRIEF ON APPEAL

I. INTRODUCTION AND ISSUES PRESENTED

The issues presented in this appeal are whether the Immigration Judge erred in concluding that the harm suffered and feared by Respondents does not rise to the level of persecution under applicable law; whether the Immigration Judge erred as a matter of law in finding that Respondents' proposed particular social group is not cognizable; whether the Immigration Judge erred in rejecting Respondents' explanation for failing to file for asylum within one year of arrival; and whether the Immigration Judge erred in denying withholding of removal and protection under the Convention Against Torture in light of the record evidence.

II. PROCEDURAL HISTORY

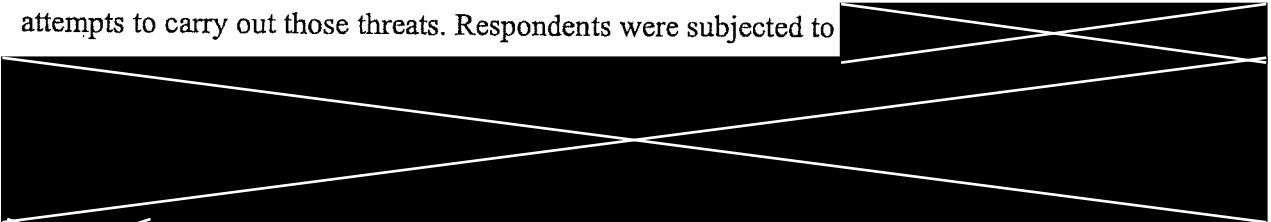
Respondents are natives and citizens of Guatemala. Respondents appeared before the Immigration Court in removal proceedings and applied for asylum, withholding of removal, and protection under the Convention Against Torture based on threats and violence directed at them

 Respondents elected not to testify and instead submitted a detailed written declaration. The Immigration Judge expressly treated Respondents as credible, relying on their declarations as the factual basis for the decision. Nevertheless, the Immigration Judge denied all forms of relief. The Immigration Judge concluded that the harm described in the declarations did not amount to past persecution; that the proposed particular social group was not cognizable; that Respondents had not established an exception to the one-year filing deadline for asylum; and that Respondents had not met the standards for withholding of removal or Convention Against Torture protection. Respondents now appeal those determinations.

III. ARGUMENT

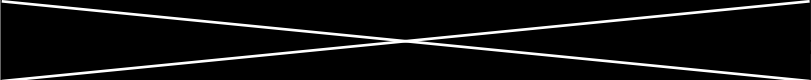
A. The Immigration Judge erred in concluding that the harm suffered by Respondents does not constitute persecution.

The Immigration Judge accepted Respondents' declaration as credible but held that the described harm did not rise to the level of persecution. That conclusion is inconsistent with controlling Ninth Circuit authority. Persecution involves the infliction of suffering or harm upon those who differ in a way regarded as offensive, and includes threats combined with acts of violence or attempts to carry out those threats. Respondents were subjected to



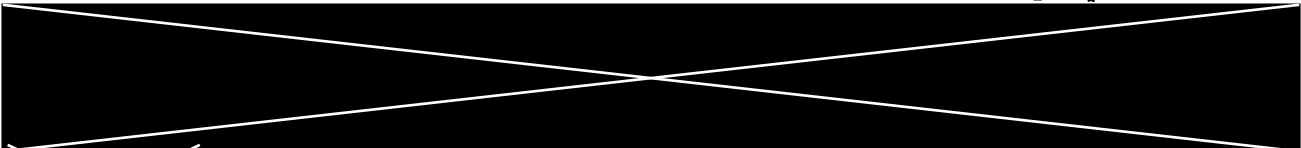
 Ninth Circuit cases have held that comparably severe threats and violent conduct constitute persecution. *See Mashiri v. Ashcroft*, 383 F.3d 1112 (9th Cir. 2004) (Threats combined with vandalism, intimidation, and violence against a family constituted past persecution); *Korablina v. INS*, 158 F.3d 1038 (9th Cir. 1998) (A pattern of threats, assaults, and violence against the respondent and her family amounted to persecution); *Del Carmen Molina v. INS*, 170 F.3d 1247 (9th Cir. 1999) (Death threats accompanied by attempts to carry them out constitute persecution); *Flores Molina v. Garland*, 37 F.4th 626 (9th Cir. 2022) (Gang threats and violent intimidation rise to the level of persecution under Ninth Circuit law); *Navas v. INS*, 217 F.3d 646 (9th Cir. 2000) (Threats connected to the persecutor's animus can constitute persecution); *Aguilera-Cota v. INS*, 914 F.2d 1375 (9th Cir. 1990) (Repeated threats motivated by a protected ground can amount to persecution); and *Singh v. INS*, 94 F.3d 1353 (9th Cir. 1996) (Serious threats accompanied by violence constitute persecution).

In particular, the court has held that threats combined with vandalism and other acts of intimidation can constitute persecution, and it has recognized that repeated and credible threats of violence, especially when coupled with a prior attack, meet the standard. 

 cannot reasonably be dismissed as something less than persecution. The Immigration Judge's conclusion on this point reflects an incorrect application of the legal standard and warrants reversal or remand.

B. The Immigration Judge erred in finding that Respondents' proposed particular social groups are not cognizable.

The Immigration Judge concluded that Respondents' proposed particular social groups—


—were not cognizable under the INA. Respondents acknowledge that the Board and the Ninth Circuit have generally rejected wealth-based and crime-victim-based groups as lacking particularity and social distinction. *See Matter of A-M-E- & J-G-U-*, 24 I&N Dec. 69, 76 (BIA 2007) (finding “wealthy Guatemalans” not a PSG because the group lacked social distinction); *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151 (9th Cir. 2010) (rejecting “returnees from the United States” and persons believed to be wealthy as too broad); *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1229 (9th Cir. 2016) (rejecting “persons perceived to be wealthy because they lived in the U.S.” as lacking cognizability); *Zetino v. Holder*, 622 F.3d 1007, 1015–16 (9th Cir. 2010) (finding “people with money” not a PSG).

Respondents nevertheless maintain that the Immigration Judge erred by failing to apply the correct legal framework in assessing whether the groups, as defined in this specific case and tied

to concrete facts, were particular, socially distinct, and based on immutable or fundamental characteristics. Even within categories the courts have often found non-cognizable, the Board must evaluate a PSG based on the **evidence presented in the record**, *Matter of M-E-V--G-*, 26 I&N Dec. 227, 237–38 (BIA 2014), and may not categorically reject a group without considering whether the applicant provided facts demonstrating that Guatemalan society perceives the defined class as distinct. The IJ’s decision did not address whether Respondents introduced evidence specific to their region or circumstances showing that [REDACTED]

[REDACTED]

Likewise, while [REDACTED] is broad, Respondents respectfully submit that the IJ erred by failing to consider whether their PSG, as applied to their own circumstances and family, could be interpreted as narrower and more particular, such as [REDACTED]

[REDACTED]

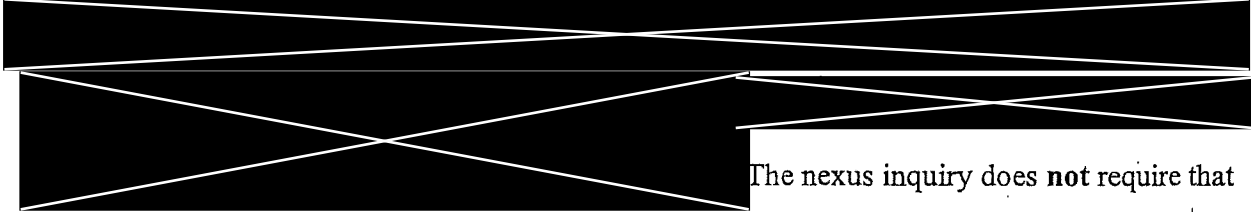
Although Respondents did not present those narrower formulations below, the record nevertheless required the IJ to evaluate whether the proposed formulation reflected a group with definable boundaries in their specific context. See *Matter of W-Y-C- & H-O-B-*, 27 I&N Dec. 189, 191–92 (BIA 2018) (the IJ must analyze PSGs “as defined by the applicant” but must also evaluate them under the correct legal standards).

Finally, Respondents preserve for appeal the argument that the Immigration Judge applied an overly rigid interpretation of “particularity” and “social distinction,” contrary to the flexible analysis described in *Matter of M-E-V--G-*, 26 I&N Dec. at 249–50, and *Matter of W-G-R-*, 26 I&N Dec. 208, 216–18 (BIA 2014). Although Respondents recognize the substantial adverse

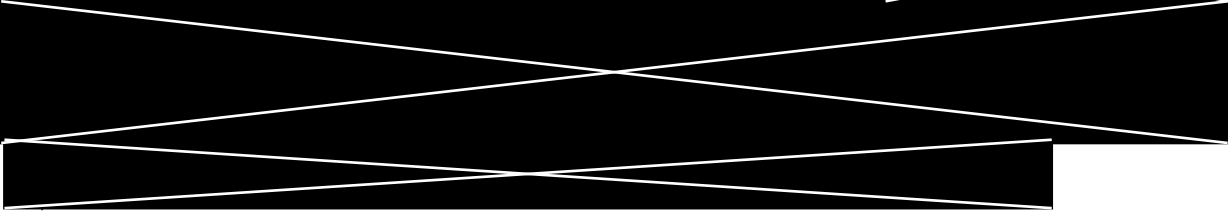
case law regarding these PSGs, they respectfully maintain that the IJ erred by not engaging in the full legally required inquiry, and they preserve this issue for further appellate review.

C. The record establishes the required nexus between the harm and Respondents' membership in the group.

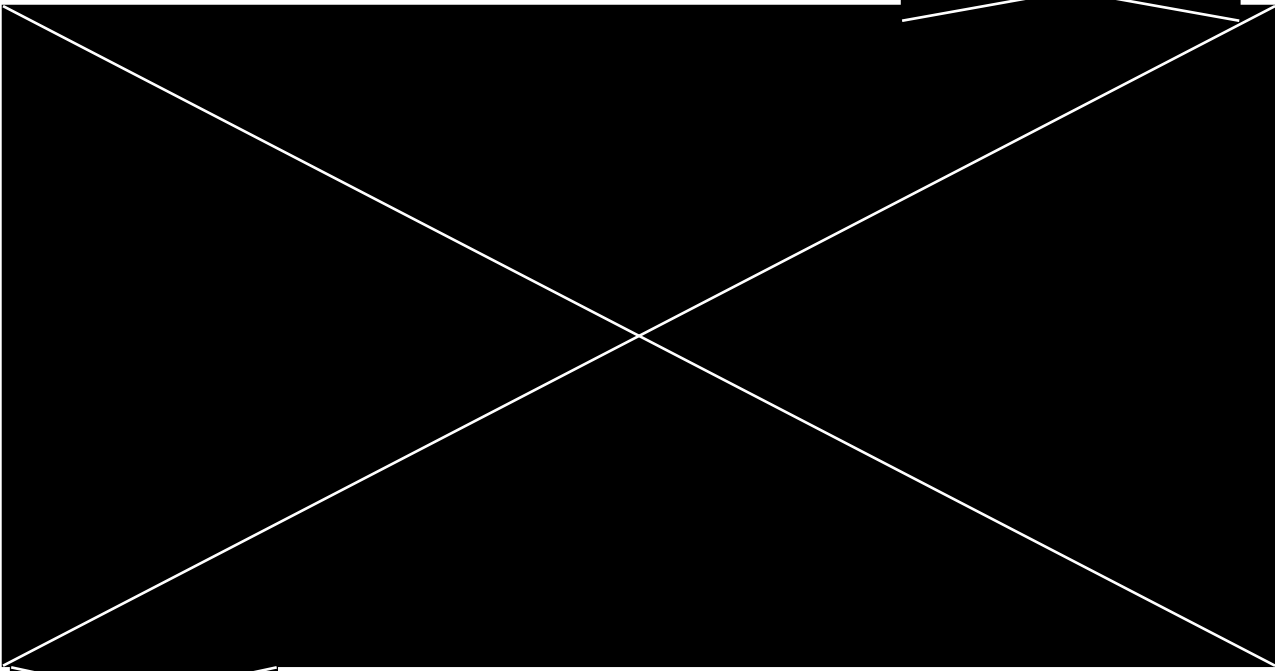
Even assuming arguendo that the Immigration Judge properly concluded that Respondents' proposed particular social groups were not cognizable, the IJ further erred in finding no nexus between Respondents' harm and the protected grounds they articulated. The record compels the conclusion that Respondents were targeted *because of who they were perceived to be*, i.e.

The nexus inquiry does **not** require that the persecutor articulate a political or ideological motive; it requires only that the protected ground be "a reason" for the harm. *Barajas-Romero v. Lynch*, 846 F.3d 351, 360 (9th Cir. 2017).

First, although wealth-imputation groups have often been rejected as PSGs, the Ninth Circuit recognizes that **persecutors' motives may be mixed** and that retaliation for characteristics imputed to an applicant can still establish nexus. *See Baghdasaryan v. Holder*, 592 F.3d 1018, 1023–24 (9th Cir. 2010) (statements by persecutor showing animus tied to applicant's perceived status demonstrate nexus); *Navas v. INS*, 217 F.3d 646, 656–57 (9th Cir. 2000) (persecution motivated by imputed characteristics supports a nexus finding). Here, 



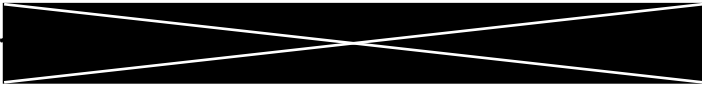
Second, the IJ failed to account for the long-recognized principle that



The IJ erred by characterizing the harm as purely criminal without considering this established framework.

Third, the IJ improperly required Respondents to show that the protected ground was the *primary* or *dominant* cause of their harm. The Ninth Circuit has rejected this standard. Under controlling law, Respondents need only show that a protected ground was “one central reason” for asylum, *Parussimova v. Mukasey*, 555 F.3d 734, 741 (9th Cir. 2009), or in the withholding context, merely “a reason” under *Barajas-Romero*, 846 F.3d at 360. The IJ’s analysis improperly collapsed the nexus inquiry into a motive purity test.

Fourth, the IJ failed to consider circumstantial evidence of motive, which the Ninth Circuit has recognized as sufficient to demonstrate nexus where “direct proof of persecutors’ motives is rarely available.” *INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992); *Garcia-Martinez v. Ashcroft*, 371 F.3d 1066, 1076 (9th Cir. 2004)**



[REDACTED] all
constitute powerful circumstantial evidence that their harm was linked to their perceived status
and roles [REDACTED]

For these reasons, even accepting the IJ's adverse PSG findings, the IJ erred in concluding that
Respondents could not establish nexus. The record establishes that [REDACTED]

[REDACTED] Respondents respectfully request
that the Board reverse the IJ's nexus determination or, in the alternative, remand for a legally
correct analysis.

D. The Guatemalan government was unable or unwilling to protect Respondents.

Respondents twice sought assistance [REDACTED]

[REDACTED]
[REDACTED] No protective measures were offered to Respondents,
and no meaningful steps were taken to deter future harm.

This pattern demonstrates that the Guatemalan authorities were unable or unwilling to provide
effective protection. [REDACTED]

[REDACTED]
[REDACTED] Respondents' belief that the police could not
protect them is supported both by their personal experience and by general conditions in

Guatemala [REDACTED] The Immigration Judge erred in failing to recognize that the state's failure [REDACTED] satisfies the "unable or unwilling" standard. *See Bringas-Rodriguez v. Sessions*, 850 F.3d 1051 (9th Cir. 2017) (en banc) (Police failure to protect despite reports shows government inability or unwillingness); *Afriyie v. Holder*, 613 F.3d 924 (9th Cir. 2010) (The government's inability to prevent repeated harm satisfies the "unable or unwilling" standard); *Rahimzadeh v. Holder*, 613 F.3d 916 (9th Cir. 2010) (A state's ineffective response to threats and violence establishes inability to protect); *Baballah v. Ashcroft*, 367 F.3d 1067 (9th Cir. 2004) (Police inaction despite repeated pleas for help demonstrated unwillingness to protect).

F. The Immigration Judge erred in rejecting Respondents' explanation for not filing for asylum within one year.

Respondents acknowledge that they did not file their asylum application within one year of arrival but explained that their delay was the result of trauma, ongoing fear, and psychological distress arising from the threats and violence they experienced. Under the statute and governing case law, extraordinary circumstances may excuse a late filing where those circumstances were directly related to the failure to file earlier and the application was filed within a reasonable period thereafter.

The Immigration Judge summarily rejected Respondents' explanation without a meaningful analysis of whether their psychological state, fear [REDACTED] and lack of understanding of the legal system constituted extraordinary circumstances. By failing to seriously consider the evidence of trauma and its impact on their ability to initiate an asylum claim promptly, the Immigration Judge misapplied the legal standard. *See Gasparyan v. Holder*, 707 F.3d 1130 (9th

Cir. 2013) (Trauma and psychological conditions may constitute extraordinary circumstances excusing late filing); *Husyev v. Mukasey*, 528 F.3d 1172 (9th Cir. 2008)

(The IJ must analyze whether extraordinary circumstances directly caused the delay); *Alquijay v. Garland*, 40 F.4th 1099 (9th Cir. 2022) (Trauma and instability can justify missing the one-year deadline when application follows within a reasonable time); *Toj-Culpatan v. Holder*, 612 F.3d 1088 (9th Cir. 2010) (Mental and emotional conditions may excuse untimely filing).

The Board should remand for a proper consideration of the one-year exception or, in the alternative, find that Respondents established extraordinary circumstances on this record.

G. Respondents established eligibility for withholding of removal.

Even if the Board were to affirm the denial of asylum, Respondents have met the higher likelihood-of-harm standard required for withholding of removal. The threats, 


 demonstrate a clear probability of future persecution if she is returned. The failure of the Guatemalan authorities to protect her despite her reports, 

support the conclusion that she cannot safely return. The Immigration Judge erred in denying withholding on this record. *Delgado-Ortiz v. Holder*, 600 F.3d 1148 (9th Cir. 2010)

(A clear probability of future harm satisfies withholding) *Nahrvani v. Gonzales*, 399 F.3d 1148 (9th Cir. 2005) (Evidence demonstrating future threats of harm fulfills the withholding standard); *Baballah v. Ashcroft*, 367 F.3d 1067 (9th Cir. 2004) (Severe past harm supports a likelihood of future persecution).

H. The Immigration Judge erred in denying protection under the Convention Against Torture.

Finally, Respondents established that they face a likelihood of torture with the acquiescence of a public official if returned. [REDACTED]

[REDACTED] provide strong evidence that Respondents could be subjected to severe harm amounting to torture. The authorities have already demonstrated that they are unable or unwilling to control him. The Immigration Judge's denial of Convention Against Torture relief does not adequately address this risk and should be reversed or remanded. *Tapia Madrigal v. Garland*, 31 F.4th 1184 (9th Cir. 2022) (Police inability to control violent criminals supported CAT relief); *Cole v. Holder*, 659 F.3d 762 (9th Cir. 2011) (CAT requires considering whether public officials would acquiesce to torture.) *Barajas-Romero v. Lynch*, 846 F.3d 351 (9th Cir. 2017) (CAT acquiescence may be shown through official inaction and inability to protect); *Zheng v. Ashcroft*, 332 F.3d 1186 (9th Cir. 2003) (Government inaction in the face of known harm establishes acquiescence).

VI. CONCLUSION

For the reasons stated above, Respondents respectfully requests that the Board sustain the appeal, vacate the Immigration Judge's decision, and remand the case for further proceedings consistent with correct legal standards. In the alternative, Respondents request any other relief the Board deems just and proper.

Respectfully submitted this 19th day of November, 2025, by:

Margaret Hellerstein

MARGARET HELLERSTEIN

Attorney for Respondents

PROOF OF SERVICE

On NOVEMBER 19, 2025 I, MARGARET HELLERSTEIN, mailed a copy of **RESPONDENTS' BRIEF ON APPEAL** any attached pages to Assistant Chief Counsel of the Department of Homeland Security at the following address:

By: ECAS

Margaret Hellerstein

Signature

November 19, 2025

Date

Juan Hilario Serrano De León

A# 

Mesa Verde Detention Center

425 Golden State Ave

Bakersfield, CA 93301

To:

Honorable Immigration Judge

Immigration Attorney or Officer

RE: Personal Statement of Juan Hilario Serrano De León Regarding His Detention

Honorable Judge:

My name is Juan Hilario Serrano De León, and I respectfully submit this letter to express the profound emotional, psychological, and family impact that my current detention at the Mesa Verde Detention Center has had on my life.

Since the day I was taken into ICE custody, I have experienced overwhelming feelings of injustice, fear, and emotional distress. I never imagined being placed in this situation, as I have not committed any crime, nor have I engaged in any conduct that would warrant being held in detention. I have always lived my life honestly and responsibly, contributing to my family and my community.

This detention has severely affected my mental and emotional well-being. Waking up each day behind bars, uncertain of what will happen to my future, fills me with anxiety, sadness, and fear. It is extremely painful to be treated like a criminal when I know with absolute certainty that I am not one. It is heartbreaking to have my integrity, character, and intentions questioned in this way.

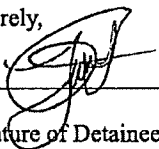
What hurts me the most, however, is the suffering that my family, especially my children, is enduring because of my absence. They depend on me emotionally and financially, and they do not understand why their father is detained. My entire family lives in constant fear, stress, and uncertainty, worried about the possibility of losing me permanently.

This experience has been devastating. I feel powerless, unable to protect or support them as a father, son, and provider should. The emotional weight of this separation is immense and deeply painful.

I respectfully ask that my situation be considered with humanity, fairness, and compassion. My only wish is to return home, to be reunited with my family, and to continue living an honest, responsible, and hardworking life, as I always have.

Thank you for taking the time to read my statement.

Sincerely,



Signature of Detainee

Juan Hilario Serrano De León

Bond Request Letter

A# 

Mesa Verde Detention Center
Bakersfield, California
September 5, 2025

Honorable Immigration Judge Marcus Steven

Immigration Attorney

Or Immigration officer

Subject: Request for Bond – *Juan Hilarlo Serrano De Leon*

Dear Honorable Judge,

My name is **Juan Hilarlo Serrano De Leon**, and I am currently detained at the Mesa Verde Detention Center in Bakersfield, California. I respectfully write this letter to ask for the opportunity to be released on bond while I continue with my immigration case.

I have lived and worked responsibly in this country. I currently work independently in welding, and before my detention I also worked at Jack in the Box. I am the father of two daughters who depend on me emotionally and financially.

Throughout my time in the United States, I have always demonstrated good conduct. I have stayed out of trouble, worked hard, and contributed positively to my community and workplace.

Your Honor, I respectfully ask that you grant me the opportunity to be released on bond so that I may continue supporting my daughters and preparing my case while following all court requirements.

Thank you very much for your time and consideration.



Juan Hilarlo Serrano De Leon
Mesa Verde Detention Center
Bakersfield, California

Carta de Solicitud de Fianza

A# 

Centro de Detención Mesa Verde
Bakersfield, California
5 de septiembre de 2025

Bond Request for Juan Hilario Serrano De Leon

Date: November 3, 2025
Honorable Immigration Judge Marcus Steven
Immigration Attorney / Immigration Officer

Subject: Bond Request for Juan Hilario Serrano De Leon

A# [REDACTED]

Dear Judge Marcus Steven,

My name is **Vicky Christina De La Torre**, and I am the partner of **Juan Hilario Serrano De Leon**, who is currently detained at the Mesa Verde Detention Center.

I am writing this letter to respectfully request that you grant Juan a bond so that he can return home while his immigration case is being processed. I am fully willing and prepared to pay his bond and to ensure that he complies with all of his court hearings and legal requirements.

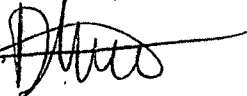
Juan is a hardworking man and a person of strong moral character. He has always been responsible and dedicated to supporting his family. I depend on him emotionally and financially, and his absence has caused deep sadness and hardship in our home. He also has two daughters who love and need him very much.

I work as a driver for **OnTrac**, and I am financially stable and capable of covering the cost of his bond. More importantly, I am fully committed to ensuring that Juan meets all obligations required by the court. I will personally accompany him to his hearings if necessary, and I will make sure he remains in full compliance with the immigration process.

Juan is not a danger to anyone. He is a kind, peaceful, and responsible man who only wishes to work hard and be with his family. I humbly ask that you give him the opportunity to prove this by allowing him to be released on bond.

Thank you, Your Honor, for taking the time to read this letter and for considering my request.

With all due respect,

Sincerely, 

Vicky Christina De La Torre

[REDACTED]
Bakersfield, California

Phone: [REDACTED]

Partner of Juan Hilario Serrano De Leon

Bertha Contreras



Bakersfield, CA 93304

Phone:



Date: December 1, 2025

Honorable Immigration Judge

Mesa Verde Detention Center

Bakersfield, California

Subject: Reference Letter for Juan Hilario Serrano De Leon (A#



Honorable Judge:

I, Bertha Contreras, am writing this letter to offer my personal support for Juan Hilario Serrano De Leon, who is currently detained at the Mesa Verde Detention Center in Bakersfield, California.

I have known Juan since May 20, 2021. During this time, I cared for his children, which allowed me to know him closely. Through this, I have seen his character, dedication, and exemplary behavior as a father. He has always shown himself to be a responsible, respectful, and family-oriented man. His children are clearly his priority, and he consistently demonstrates a strong commitment to them.

I can attest that Juan is an excellent person—hardworking, kind, and respectful. I have never witnessed any negative behavior from him; rather, he has always been polite, considerate, and responsible. I believe Juan represents a minimal risk, and if released, he will comply with all legal obligations and any requirements from the court or ICE.

I respectfully ask that you consider Juan Hilario Serrano De Leon's case favorably. He has strong community support, including mine, and responsible individuals who will help ensure that he meets all his obligations if granted release.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bertha Contreras', followed by a horizontal line.

Bertha Contreras

Support Letter for Juan Hilario Serrano De Leon

Bakersfield, CA
November 4, 2025
Honorable Immigration Judge
Immigration Attorney
Or Immigration Officer

RE: Juan Hilario Serrano De Leon

A# [REDACTED]

Dear Honorable Judge,

My name is **Jorge Alejandro Espaderos Meléndez**, and I am writing this letter in support of **Mr. Juan Hilario Serrano De Leon**, who is currently detained in ICE custody.

I have known Juan for approximately eighteen years, since he was a teenager and we both lived in Guatemala. Over the years, I have also come to know his family, who are very close-knit and faithful Christians. We have shared many moments together as part of our church community, and I can honestly say that Juan has always been a respectful, honest, and responsible person.

He is an excellent man, deeply devoted to God, his family, and his work. Juan has never had problems with anyone; he is humble, hardworking, and committed to building a better future for himself and his loved ones. Unfortunately, the situation in Guatemala is very difficult due to crime and the lack of job opportunities, which is why I sincerely hope that he is given the opportunity to remain in the United States, where he can live and work in safety.

For any additional information, please feel free to contact me at the information below:

Jorge Alejandro Espaderos Meléndez

[REDACTED]
Bakersfield, CA 93307

Cell: [REDACTED]

Respectfully,

(Signature)

Jorge Alejandro Espaderos Meléndez



Date: November 1, 2025

Honorable Immigration Judge

Immigration Attorney

Or immigration officer

Request for Release -- Juan Hilario Serrano De Leon

A# 

Dear Judge Marcus Steven,

My name is Vicky Christina De La Torre, and I am writing this letter in support of my partner, Juan Hilario Serrano De Leon, who is currently detained at the Mesa Verde Detention Center. I respectfully request his release while his immigration case is being processed.

Juan is a hardworking, honest, and caring man. He is the father of two daughters who depend on him emotionally and financially, and he has always been a responsible parent and provider. I also depend on him for emotional and financial support. Without him, I face great hardship and uncertainty.

Juan was planning to adopt my son, and he has treated him as his own since the beginning of our relationship. He has been a positive father figure and role model, and his absence deeply affects all of us.

He has always lived a life of good moral character, staying away from trouble and working diligently to provide for his family. If he were deported, I would face extreme emotional and financial difficulty, and I fear that I would become a burden on the system without his support.

For these reasons, I respectfully ask that you consider releasing Juan Hilario Serrano De Leon on supervision or bond so he can continue supporting his family while complying with all immigration requirements.

Thank you very much for your time and understanding.

Sincerely,



Vicky Christina De La Torre



Bakersfield, California

Partner of Juan Hilario Serrano De Leon

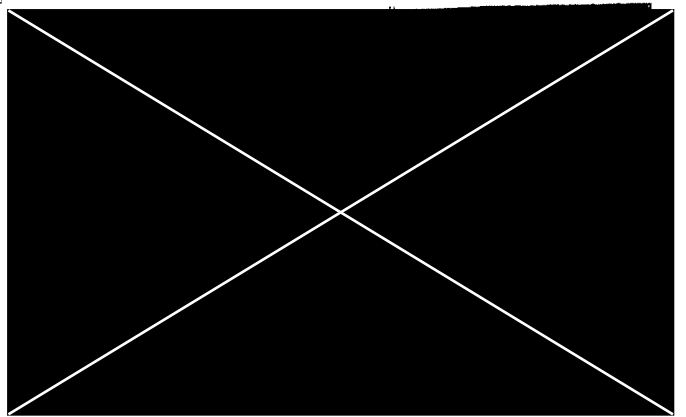
Los Angeles, CA

November 4, 2025

Honorable Immigration Judge

Immigration Attorney

Immigration Officer



RE: Juan Hilario Serrano De León

A#



Dear Honorable Judge,

My name is Victor Enrique López, and I am writing this letter in support of Mr. Juan Hilario Serrano De León, who is currently detained in ICE custody at Mesa Verde Detention Center.

I respectfully ask for your kind consideration in his immigration case so that he is not removed to Guatemala and may remain in the United States. I have known Juan for approximately ten years through our church community, and during this time, I have also come to know his family. Juan has always been a respectful, honest, and hardworking person who actively participates in his church and maintains good relationships with everyone around him.

He is a man of good moral character and strong values. I truly believe he deserves the opportunity to remain in this country, where he has built meaningful relationships and contributes positively to his community. I am confident that he will comply with all immigration requirements if given the chance.

For any additional information, please feel free to contact me at the information below:

Victor Enrique López



Los Angeles, CA 90057



Email: mayaspirit55@gmail.com

Respectfully

Victor Enrique López

Letter of Support for Juan Serrano

Wasco, CA
October 31, 2025

Honorable Immigration Judge Marcus Steven
or Immigration Officer

Dear Honorable Judge,

My name is Ricardo Garcia, and I am employed at Jack in the Box in Wasco, California. I have known my friend **Juan Serrano** for over two years, and we worked together at Jack in the Box for about one year.

During the time I have known Juan, he has always demonstrated responsibility, respect, and dedication to his work. He is an honest, hardworking person who has always stayed out of trouble and contributes positively to our community.

I sincerely hope you allow him to remain in this country so he can continue living and working as a responsible and valuable member of society.

If you have any questions, please feel free to contact me at



Sincerely,

A handwritten signature in black ink, appearing to read 'Ricardo Garcia', written over a horizontal line.

Ricardo Garcia
Jack in the Box – Wasco, CA
Phone: 