

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RIGOBERTO FIGUEROA-HERNANDEZ

Petitioner,

v.

GREGORY J. ARCHAMBEAULT, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement, in his official capacity;
CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center, San Diego, CA in his official capacity,
U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity;
TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity
PAMELA BONDI, U.S. Attorney General, in her official capacity,

Respondents.

Case No. '25CV3669 JLS VET

**PETITION FOR A WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Rigoberto Figueroa-Hernandez is in the physical custody of Respondents at Otay Mesa Detention Center in San Diego, California. He has been detained since October 21, 2025, when he was taken into ICE custody immediately after he appeared for a hearing in his immigration court proceedings.
2. This case challenges DHS's unlawful re-detention of Petitioner after an Immigration Judge granted him bond in July 2011. The government thereafter administratively closed his removal proceedings in 2012 and permitted Petitioner to live at liberty in the United States for approximately 13 years without supervision, reporting requirements, or contact with immigration authorities.
3. Petitioner is a native and citizen of Honduras. He entered the United States without inspection in or about 1998 and has lived continuously in the United States since that time, a period of approximately 27 years. He has never voluntarily or involuntarily departed the United States and has only one unlawful entry.
4. In 2011, Petitioner first came into contact with immigration authorities following a traffic stop and was placed into removal proceedings. He was released on bond in 2011, and he appeared for immigration court hearings on June 29, 2011, July 25, 2011, and April 27, 2012. His case was later administratively closed by order of the Immigration Court in October 2012 pursuant to a joint request by the government.
5. In 2025, DHS moved to recalendar the long-closed proceedings. The Immigration Court granted the motion on June 10, 2025. Petitioner complied and appeared for the recalendared hearings on October 21, 2025.

6. After the October 21, 2025 hearing concluded, Petitioner was asked to meet with an ICE officer and was taken into custody. He has remained detained since that date. Petitioner's re-detention occurred despite: (a) after living in liberty for 14 years following government-initiated administrative closure, (b) his consistent compliance with immigration court hearings, and (c) the absence of criminal history.
7. Petitioner is the father of two United States citizen children, [REDACTED]. [REDACTED] is 19 years old, is enrolled in college, and is financially supported by Petitioner. [REDACTED] has filed a Form I-130 petition on Petitioner's behalf, which is currently pending before USCIS (Receipt [REDACTED]). Petitioner is also eligible for cancellation of removal for certain nonpermanent residents under INA § 240A(b) and has pursued relief in removal proceedings.
8. Respondents' actions violate the Immigration and Nationality Act's detention scheme and the Due Process Clause of the Fifth Amendment. DHS cannot treat Petitioner as subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), as though he were a newly arriving noncitizen "seeking admission," years after the government itself released him, administratively closed his case, and permitted him to live freely in the community. The July 8, 2025 ICE interim guidance and the BIA decision in *Matter of Yajure Hurtado* have been used to deny bond hearings to people like Petitioner, but multiple federal courts have rejected the government's statutory theory and required bond hearings under INA § 236(a), 8 U.S.C. § 1226(a).
9. Independently, due process prohibits DHS from stripping a released person of settled liberty without constitutionally adequate procedures. The Supreme Court has explained that "freedom from physical restraint lies at the core of the liberty protected by the Due

Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When the government seeks to deprive a person of liberty, due process requires “the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Where the government revokes conditional liberty, due process requires a hearing before “a neutral and detached hearing body.” *Morrissey v. Brewer*, 408 U.S. 471, 489 (1972).

10. Petitioner therefore seeks a writ of habeas corpus ordering his immediate release. In the alternative, Petitioner seeks an order requiring a prompt bond hearing pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge, with the government bearing the burden to justify detention and to show why conditions of release cannot mitigate any risk.

Petitioner is in the physical custody of Respondents. Petitioner is detained at Otay Mesa Detention Center, San Diego California.

JURISDICTION

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Southern District of California because Petitioner is currently detained at Otay Mesa Detention Center in San Diego, California

VENUE

13. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.
14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Southern District of California because Petitioner is currently detained at Otay Mesa Detention Center in San Diego, California.
15. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
17. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who

entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

18. Petitioner Rigoberto Figueroa-Hernandez is a native and citizen of Honduras who has resided in the United States since about 1998. He has been in immigration detention since October 21, 2025. Petitioner is currently detained at Otay Mesa Detention Center in San Diego, California.
19. Respondent Gregory J. Archambeault is the Immigration and Customs Enforcement Field Office Director for the San Diego Field Office, which has responsibility over immigration detention facilities in the Southern District of California, including Otay Mesa Detention Center. As Field Office Director, Respondent Archambeault is a legal custodian of Petitioner and is responsible for Petitioner’s detention. He is sued in his official capacity.
20. Christopher J. Larose, Senior Warden, Otay Mesa Detention Center, San Diego, CA in his official capacity
21. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement. As the head of ICE, he is responsible for policies and decisions governing the detention of noncitizens, including Petitioner. He is a legal custodian of Petitioner and is sued in his official capacity
22. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is responsible for the administration and enforcement of the Immigration and Nationality Act and oversees Immigration and Customs Enforcement, the agency

responsible for Petitioner's detention. She has ultimate custodial authority over Petitioner and is sued in her official capacity

23. Respondent Pam Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Offices for Immigration Review and the immigration court system are component agencies. She is sued in her official capacity.

FACTUAL BACKGROUND

24. Petitioner Rigoberto Figueroa-Hernandez is a native and citizen of Honduras. He entered the United States without inspection in or about 1998 and has lived continuously in the United States since that time, a period of approximately 27 years. He has never voluntarily or involuntarily departed the United States. Prior to his detention, Petitioner resided in California.
25. On or about June 26, 2011, Mr. Figueroa-Hernandez was encountered by immigration authorities following a traffic stop and was arrested by the Department of Homeland Security (DHS). DHS placed Petitioner in immigration custody.
26. Following his arrest, DHS initiated removal proceedings by filing a Notice to Appear pursuant to 8 U.S.C. § 1229a, charging Petitioner, inter alia, as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) based on entry without inspection. Petitioner appeared for scheduled immigration court hearings on June 29, 2011 and July 25, 2011. On July 15, 2011, an Immigration Judge granted Petitioner bond in the amount of \$1,500, and Petitioner was released from immigration custody. Petitioner thereafter continued to comply with all immigration court requirements and appeared for a further hearing on April 27, 2012.

27. In October 2012, the Immigration Court administratively closed Petitioner's removal proceedings pursuant to a joint request by the government. Following administrative closure, DHS allowed Petitioner to remain at liberty in the community for more than ten years without supervision, reporting requirements, or contact with immigration enforcement authorities.
28. On May 29, 2025, DHS filed a motion to re-calendar Petitioner's long-closed removal proceedings, asserting that the Immigration Court had administratively closed the case on October 15, 2012, and that DHS had determined Petitioner had not obtained lawful permanent resident status during the period of closure. On June 10, 2025, the Immigration Court granted DHS's motion to re-calendar.
29. Petitioner complied with the re-calendared proceedings and appeared for all scheduled hearings before the Immigration Court on October 21, 2025. After the conclusion of the October 21, 2025 hearing, Petitioner was asked to meet with an Immigration and Customs Enforcement officer, at which time ICE took him into custody. Petitioner has remained detained at the Otay Mesa Detention Center since October 21, 2025.
30. Mr. Figueroa-Hernandez has no criminal history. He is the father of two United States citizen children, [REDACTED] and [REDACTED]. [REDACTED] is 19 years old, enrolled in college, and financially supported by Petitioner. Petitioner has lived in the community for 27 years without incident and has maintained strong family and community ties in the United States.
31. Petitioner is represented by counsel in his removal proceedings. His United States citizen son, [REDACTED], has filed a Form I-130 petition on Petitioner's behalf (Receipt No. [REDACTED]), which is currently pending with U.S. Citizenship and Immigration

Services. Petitioner is eligible for cancellation of removal for certain nonpermanent residents under INA § 240A(b).

32. Petitioner has also been informed that an employment-based immigrant petition may have been filed on his behalf by a former employer, although he has no documentation or confirmation of such filing. A request under the Freedom of Information Act has been submitted to obtain any related records.
33. Pursuant to Respondents' current detention position, Petitioner remains in immigration custody without release. Absent relief from this Court, Petitioner faces continued detention despite his long-term residence in the United States, his family ties, his lack of criminal history, his prior release on bond, and his full compliance with immigration court proceedings.

EXHAUSTION OF REMEDIES

34. No statutory requirement of administrative exhaustion applies to Petitioner's habeas petition challenging the legality of his immigration detention and the constitutionality of the procedures used to impose and maintain that detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply where no adequate administrative remedies are available. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).
35. Here, there are no administrative remedies available to Petitioner. The Department of Homeland Security has taken the position that a noncitizen who entered the United States without inspection is subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has adopted and enforced that position. In a

published decision, the Board of Immigration Appeals has held that “Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Under this binding agency interpretation, Petitioner is categorically ineligible for bond, leaving him with no administrative avenue to seek release.

36. Because the agency has definitively determined that Immigration Judges lack authority to consider bond for individuals in Petitioner’s position, any attempt to pursue administrative relief would be futile. Where the government’s position forecloses relief as a matter of law, exhaustion is not required. *McCarthy*, 503 U.S. at 148 (exhaustion excused where administrative remedies are inadequate or futile).
37. Further, neither an Immigration Judge nor the Board of Immigration Appeals has authority to adjudicate Petitioner’s constitutional claims. *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that Immigration Judges and the BIA lack authority to consider the constitutionality of statutes or regulations they administer); *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992).

LEGAL FRAMEWORK

I. Detention Is Governed by § 1226(a), Not § 1225(b)(2)

38. The government bears the burden of establishing that a non-citizen’s detention is authorized by statute. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). Where no provision of the Immigration and Nationality Act authorizes detention under the facts presented, continued custody is unlawful and habeas relief must issue. *Id.*
39. The record does not support Respondents’ continued detention of Mr. Figueroa-Hernandez under any provision of the INA. Mr. Figueroa-Hernandez entered the United

States in or about 1998. He was not apprehended at the border, inspected by immigration officers, or processed as an arriving noncitizen. He lived continuously in the interior of the United States for over 13 years before DHS initiated removal proceedings in 2011.

40. When DHS initiated proceedings, it did not invoke any statutory scheme governing arriving noncitizens. Instead, DHS placed Petitioner into removal proceedings under 8 U.S.C. § 1229a and detained him pursuant to 8 U.S.C. § 1226(a), the provision that governs discretionary detention of noncitizens already present in the United States pending a decision on removal. An Immigration judge granted a bond, and Petitioner was released. That release is legally incompatible with mandatory detention under 8 U.S.C. § 1225(b)(2), which does not permit release on a bond and allows release only through parole for limited humanitarian or public-interest reasons. See 8 U.S.C. § 1182(d)(5)(A).
41. In 2012, after Petitioner appeared for all scheduled hearings, DHS jointly moved for administrative closure. The Immigration Court granted that request. For about 14 years thereafter, DHS permitted Mr. Figueroa-Hernandez to live at liberty in the community without supervision, reporting requirements, or immigration enforcement contact. During that entire period, DHS did not assert that Petitioner was subject to mandatory detention, did not invoke § 1225(b)(2), and did not contend that he was ineligible for bond.
42. This procedural history matters. It reflects the statutory framework DHS itself selected and applied. It also forecloses Respondents' present effort to justify detention by reference to a provision of the INA that does not fit Petitioner's posture.
43. Section 1225 governs the inspection and detention of noncitizens "seeking admission" at the border or ports of entry. The Supreme Court has made clear that § 1225 applies "at the Nation's borders and ports of entry," whereas § 1226 applies to noncitizens "already

present in the United States.” *Jennings v. Rodriguez*, 583 US 281 583 U.S. 281 (2018).

That distinction is not incidental. It is foundational to the INA’s detention scheme.

44. Mr. Figueroa-Hernandez does not fall within § 1225(b)(2) under any plausible reading of the statute. He was not seeking admission at the time of his arrest. He was not apprehended at or near a border. He had been living in the United States for about 27 years when he was taken into custody in 2025. Courts addressing similar facts have consistently held that § 1225(b)(2) does not apply to long-resident non-citizens apprehended in the interior. *In Nadarajah v. Gonzales*, 443 F.3d 1069, 1079–80 (9th Cir. 2006), the Ninth Circuit has made clear that immigration detention must be authorized by the specific statutory provision governing the noncitizen’s procedural posture, and that detention is unlawful where the government relies on an inapplicable statute or fails to identify any statutory authority for continued custody.
45. Allowing Respondents to treat § 1225(b)(2) as governing all long-resident noncitizens arrested in the interior would collapse the statutory distinction Congress drew between §§ 1225 and 1226 and would render § 1226(a) largely superfluous for noncitizens apprehended well after entry. The INA must be read as a coherent detention scheme in which § 1225 governs inspection and detention at the border or ports of entry, while § 1226 governs detention of noncitizens already present in the United States pending removal proceedings. Courts avoid interpretations that render statutory provisions inoperative or superfluous. *Corley v. United States*, 556 U.S. 303, 314 (2009).
46. Respondents may contend that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), supports denial of bond and continued detention. It does not. An administrative decision of the Board of Immigration Appeals does not bind this Court on questions of statutory

interpretation. The Supreme Court states that courts must exercise their independent judgment in interpreting statutes and may not defer to agency interpretations merely because a statute is ambiguous. *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024); see also *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018).

47. More importantly, *Matter of Yajure Hurtado* arose in a materially different procedural posture and does not govern the circumstances presented here. That decision did not involve a noncitizen who had been released on bond, whose removal proceedings were administratively closed at the government's request, and who then lived at liberty for more than 14 years with the government's acquiescence. It did not address re-detention following government-created liberty, nor did it consider whether DHS may retroactively reclassify a long-released individual as subject to mandatory detention. Accordingly, *Yajure Hurtado* does not speak to, and does not resolve, the legality of Mr. Figueroa-Hernandez's re-detention in this case..
48. Courts have rejected the government's attempt to justify detention by invoking statutory provisions that do not apply to the noncitizen's actual procedural posture. Although *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), postdates *Nadarajah v. Gonzales*, the same controlling principle applies. In *Nadarajah*, the Ninth Circuit granted habeas relief where the government failed to identify any statutory provision authorizing continued detention and held that the government cannot justify indefinite detention by reference to a statutory provision that does not authorize it. The government's authority to detain must derive from the statute that actually governs the noncitizen's circumstances, not from a later administrative interpretation applied retroactively.

49. At minimum, if any detention authority applies to Petitioner, it is § 1226(a). That provision governs discretionary detention of noncitizens already present in the United States pending removal proceedings and expressly authorizes release on bond or conditional parole. 8 U.S.C. § 1226(a)(2). The Supreme Court has described § 1226(a) as the “default rule” governing immigration detention, with mandatory detention existing only where Congress has clearly carved out exceptions.
50. The Ninth Circuit has repeatedly emphasized that detention under 8 U.S.C. § 1226(a) requires an individualized custody determination. In *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011), the court reaffirmed that noncitizens detained under § 1226(a) are entitled to a bond hearing at which the government bears the burden of establishing that detention is necessary to prevent flight or danger to the community, relying on its earlier decisions in *Casas-Castrillon v. Department of Homeland Security*, 535 F.3d 942, 949–51 (9th Cir. 2008) and *Tijani v. Willis*, 430 F.3d 1241, 1242 (9th Cir. 2005). The court made clear that detention under § 1226(a) is discretionary and regulatory, not categorical, and must be justified based on the particular facts of the individual’s case.
51. Under settled Ninth Circuit precedent, the government must not detain Mr. Figueroa-Hernandez without an individualized bond determination. Unlike the petitioner in *Casas-Castrillon v. Department of Homeland Security*, 535 F.3d 942 (9th Cir. 2008), Mr. Figueroa-Hernandez has no criminal history, was previously granted bond following an individualized custody determination, lived at liberty for about 14 years with the government’s knowledge and consent after administrative closure of his removal proceedings, and appeared for every immigration court hearing both before and after re-calendar. Under binding Ninth Circuit precedent, detention in these circumstances

cannot be justified by status alone. Rather, detention under 8 U.S.C. § 1226(a) requires, at minimum, an individualized bond hearing at which the government bears the burden of establishing that continued detention is necessary to prevent flight or danger to the community. *Casas-Castrillon*, 535 F.3d at 951; *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

52. Recent congressional action confirms this framework. In 2025, Congress enacted the Laken Riley Act, amending § 1226(c) to require mandatory detention of certain noncitizens who are inadmissible under specified provisions and who have been arrested for, charged with, or convicted of designated criminal offenses. Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). Congress chose to place these new mandatory detention provisions within § 1226(c), not § 1225(b). In doing so, Congress confirmed that noncitizens who are present in the United States without admission are ordinarily governed by § 1226(a) unless Congress expressly mandates otherwise.
53. In addition, if § 1225(b)(2) already subjected all such individuals to mandatory detention, the Laken Riley Act would have been unnecessary. Statutes must be construed to give effect to every provision. *Corley*, 556 U.S. The Laken Riley Act reinforces, rather than undermines, the conclusion that § 1226(a) governs Mr. Figueroa-Hernandez’s detention.
54. Mr. Figueroa-Hernandez does not fall within § 1226(c) as amended. He has no criminal history. Congress has not mandated his detention. The only detention authority that could apply is § 1226(a), which requires an individualized custody determination.
55. The Supreme Court has made clear that immigration detention is lawful only to the extent authorized by statute. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). Because Mr. Figueroa-Hernandez’s detention is governed by 8 U.S.C. § 1226(a), and Respondents

have not justified continued detention under that provision, his custody exceeds the authority granted by statute. Accordingly, the Court should grant the petition for a writ of habeas corpus and order Petitioner's immediate release, or, in the alternative, order a prompt bond hearing.

II. Due Process

56. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause of the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That protection extends fully to noncitizens present in the United States. As the Supreme Court explained in *Zadvydas*: “Once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
57. Because immigration detention is civil rather than criminal, it is constitutionally permissible only so long as it remains nonpunitive and reasonably related to a legitimate governmental purpose. *Demore v. Kim*, 538 U.S. 510, 527 to 528 (2003). When detention no longer bears a reasonable relation to its regulatory purpose, it becomes arbitrary and unconstitutional. *Id.*; *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).
58. In *Zadvydas*, the Supreme Court articulated the governing constitutional rule for all forms of civil immigration detention. The Court held that due process requires a “special justification” for physical detention that “outweighs the individual’s constitutionally protected interest in avoiding physical restraint” and that detention must be accompanied by “adequate procedural protections.” Thus, absent such justification and process, detention violates the Constitution.

59. The record establishes that Mr. Figueroa-Hernandez possessed a settled liberty interest created and maintained by the government itself for more than a decade. In 2011, DHS issued a Notice to Appear and placed Mr. Figueroa-Hernandez into removal proceedings pursuant to 8 U.S.C. § 1229a, charging him as inadmissible under INA § 212(a)(6)(A)(I) and detained him pursuant to 8 U.S.C. § 1226(a), the discretionary detention framework applicable to noncitizens already present in the United States. On July 14, 2011, Immigration Judge granted Mr. Figueroa-Hernandez a bond and he was released from custody. That release was not informal or provisional. It was a formal custodial determination made under statute and regulation.
60. In 2012, after Mr. Figueroa-Hernandez appeared for all required hearings, the government jointly moved for administrative closure, and on October 15, 2012, the Immigration Court granted that request. For more than ten years thereafter, DHS permitted Mr. Figueroa-Hernandez to live freely in the community without supervision, reporting requirements, or immigration enforcement contact. During that entire period, DHS did not invoke mandatory detention, did not classify Petitioner as an arriving applicant for admission, and did not assert that he was ineligible for bond.
61. That 14 years of liberty was the direct product of the government's custodial choices under § 1226(a), implemented through regulations that expressly contemplate release and custody redetermination. See 8 C.F.R. §§ 1003.19(a), 1236.1©.
62. The Supreme Court has made clear that conditional liberty conferred by the government is constitutionally protected. In *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), the Court held that “[t]he liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty,” and that its termination “inflicts a grievous loss.” Because

of that loss, the Court held that “the parolee is entitled to due process before his parole may be revoked.” *Id.* The Court further explained that due process requires, at minimum, notice and an opportunity to be heard before liberty is withdrawn. *Id.*

63. Mr. Figueroa-Hernandez’s liberty interest is at least as substantial as the conditional liberty at issue in *Morrissey*. Petitioner was released on bond following a judicial custody determination, his case was administratively closed at the government’s request, and he remained at liberty for more about 14 years with the government’s knowledge and consent.
64. That liberty interest was not extinguished by the government’s later decision to recalendar proceedings. When DHS chose to reactivate the case in 2025, Petitioner complied. He appeared as ordered at hearings on October 21, 2025. He did not evade proceedings or miss court dates. He was taken into custody only after demonstrating compliance.
65. Despite this history, Respondents revoked Mr. Figueroa-Hernandez’s liberty without written notice explaining the basis for detention and without any hearing at which the government was required to justify confinement based on individualized evidence of flight risk or danger.
66. Procedural due process requires notice and a meaningful opportunity to be heard before the government deprives a person of liberty. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). The Supreme Court has explained that “[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* These protections apply fully in the immigration detention context. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

67. Under *Mathews*, courts balance three factors: (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used and the value of additional safeguards; and (3) the government's interest, including administrative burdens.
68. The private interest at stake is profound. "[T]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Here, Petitioner has lived in the United States for more than twenty-seven years, has no criminal history, supports his U.S. citizen son, [REDACTED], who is currently enrolled in college, and lived at liberty for approximately fourteen years with the government's knowledge and consent.
69. The risk of erroneous deprivation is substantial where detention is imposed without an individualized assessment. In *Singh v. Holder*, 638 F.3d 1196, 1203 to 1205 (9th Cir. 2011), the Ninth Circuit held that due process requires an individualized bond hearing under 8 U.S.C. § 1226(a) at which the government bears the burden of justifying continued detention by demonstrating that the noncitizen poses a flight risk or a danger to the community. Detention imposed without such an individualized determination presents a significant risk of erroneous deprivation of liberty.
70. Here, the government has not established that Mr. Figueroa-Hernandez is either a flight risk or a danger to the community. He has lived in the United States for approximately 27 years and has deep family and community ties, including two United States citizen children. His son, [REDACTED], has filed a Form I 130 petition on his behalf. Mr. Figueroa-Hernandez is also eligible for cancellation of removal for certain nonpermanent residents under INA § 240A(b)). He has no criminal history and no record suggesting

dangerousness. Given his long residence, strong equities, and viable forms of relief, he has every incentive to appear for future proceedings and no reason to abscond.

71. The government's interest in bypassing pre-deprivation process cannot be justified under these circumstances. Mr. Figueroa-Hernandez appeared voluntarily for every immigration court hearing, both before and after re-calendar, including hearings on June 29, 2011; July 25, 2011; April 27, 2012; October 21, 2025; November 12, 2025; November 14, 2025, and December 12, 2025. There is no allegation that he poses a danger to the community. Where an individual has demonstrated consistent compliance and poses no identified risk, administrative convenience cannot justify the risk of erroneous deprivation of liberty. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

a. Agency Failed to Follow Its Own Regulations

72. Independent of the Mathews analysis, Respondents' actions violate due process because the agency failed to follow its own detention framework and implementing regulations. The Supreme Court has long held that when an agency promulgates regulations governing the exercise of its authority, it must adhere to those rules where they are intended to protect individual rights. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).
73. The Ninth Circuit has applied this principle in the immigration context and has made clear that agency noncompliance with its own regulations can rise to the level of a due process violation. In *Montilla v. INS*, 926 F.2d 162, 169 (9th Cir. 1991), the court held that where an agency fails to adhere to regulations intended to benefit the noncitizen, relief is warranted without a showing of prejudice.

74. Here, Respondents themselves selected and applied the discretionary detention framework set forth in 8 U.S.C. § 1226(a) and its implementing regulations in 2011, obtained Petitioner's release on bond, and later acquiesced in administrative closure and long-term liberty. Those regulations expressly provide for individualized custody determinations by an Immigration Judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(c). Respondents' subsequent decision to re-detain Petitioner in 2025 without notice and without affording the custody procedures required under the very framework they had previously invoked constitutes a departure from their own regulatory regime.
75. Under *Accardi* and *Montilla*, the government may not disregard the procedural protections it has chosen to establish when doing so results in the deprivation of physical liberty. That failure independently renders Petitioner's detention unlawful under the Due Process Clause.
76. Finally, Mr. Figueroa-Hernandez's detention serves no legitimate civil purpose. Civil immigration detention must bear a "reasonable relation to the purpose for which the individual is confined." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The only permissible purposes of civil immigration detention are ensuring appearance at proceedings and protecting the community. *Demore v. Kim*, 538 U.S. 510, 523 (2003).
77. The record affirmatively negates both justifications. Mr. Figueroa-Hernandez has appeared for every immigration court hearing, both before and after re-calendaring. He has no criminal history. He has worked continuously in the United States and has supported his U.S. citizen children for years, including his 19-year-old son, who is currently enrolled in college and depends on his father's support. Mr.

Figuroa-Hernandez was taken into custody only after complying with a hearing requirement and appearing as ordered.

78. Where detention does not serve its asserted civil purpose, it becomes arbitrary and unconstitutional. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Continued detention under these circumstances bears no reasonable relation to ensuring appearance or protecting the community and therefore violates the Due Process Clause.
79. Courts have granted habeas relief on due process grounds. See *N.N. v. McShane*, 2025 WL 3143594, at *1 (E.D. Pa. Nov. 10, 2025) (granting habeas relief for procedural due process violations in prolonged detention and imposing unwarranted conditions); *Savane v. Francis*, No. 1:25-cv-06666, 2025 WL 2774452, at *1 (S.D.N.Y. Sept. 28, 2025) (granting petition for writ of habeas corpus and ordering immediate release where government failed to provide procedural safeguards before re-detaining petitioner); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8–*9 (E.D. Mich. Aug. 29, 2025) (finding due process violation in mandatory detention).
80. Because Petitioner’s liberty was revoked without notice, without an individualized hearing, in violation of the agency’s own detention framework, and without any legitimate civil justification, habeas relief is required. Immediate release is warranted. In the alternative, due process requires a prompt bond hearing under 8 U.S.C. § 1226(a), at which the government bears the burden of justifying continued detention.

CONCLUSION

81. Mr. Figuroa-Hernandez’s detention is unlawful. It is not authorized by the Immigration and Nationality Act as applied to his circumstances, and it independently violates the Due Process Clause of the Fifth Amendment.

82. For more a decade, the government itself created, affirmed, and maintained Petitioner's liberty through bond, administrative closure, and acquiescence in his continued presence in the community. Petitioner complied with every immigration court requirement before and after re-calendaring. He was re-detained only after appearing as ordered, without notice, without an individualized custody determination, and without any showing that detention was necessary to serve a legitimate civil purpose.
83. The Constitution does not permit the government to revoke long-standing liberty through summary detention untethered to flight risk or danger. Nor may the agency abandon the detention framework it previously selected and applied, without process, when doing so results in the deprivation of physical liberty.
84. Under binding Supreme Court and Ninth Circuit precedent, detention in these circumstances cannot stand.
85. Because Petitioner's continued custody lacks statutory authorization and violates due process, habeas relief is required.

PRAYER FOR RELIEF

86. WHEREFORE, Mr. Figueroa-Hernandez respectfully requests that this Court:
87. Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from immigration custody;
88. In the alternative, order Respondents to provide Petitioner with a prompt individualized bond hearing pursuant to 8 U.S.C. § 1226(a), at which the government bears the burden of proving by clear and convincing evidence that continued detention is justified based on flight risk or danger;

89. Declare that Petitioner's continued detention without notice and without an individualized custody determination violates the Due Process Clause of the Fifth Amendment;
90. Enjoin Respondents from continuing to detain Petitioner absent compliance with the statutory and constitutional requirements governing discretionary immigration detention; and
91. Grant such other and further relief as the Court deems just and proper.

Dated: December 17, 2025

Respectfully Submitted,

/s/ Theodora E. Adoghe
Theodora E. Adoghe, Esq., CASBN358199
Law Offices Of Mariana L. Hanna
402 West Broadway, Suite 1730
Phone: 619-234-3635
Email: theodoraadoghe@gmail.com

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 12 day of December, 2025.

/s/ Theodora E. Adoghe
Theodora E. Adoghe, Esq., CASBN358199
Law Offices Of Mariana L. Hanna
402 West Broadway, Suite 1730
Phone: 619-234-3635
Email: theodoraadoghe@gmail.com

INDEX OF EXHIBITS

Exhibit	Description
Exhibit A	Notice to Appear
Exhibit B	Arrest Report
Exhibit C	Bond Order
Exhibit D	Order to Recalendar
Exhibit E	Administrative Closure Order
Exhibit F	Release Order

EXHIBIT A

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 No: [REDACTED]

In the Matter of:

Respondent: RIGOBERTO FIGUEROA-HERNANDEZ currently residing at:

IN DHS CUSTODY UNITED STATES

(Number, street, city and ZIP code)

DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

JUN 29 2011

IMMIGRATION COURT EAST MESA, CA (CCA)

- 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.

- 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 HONDURAS and a citizen of HONDURAS;
3. You arrived in the United States at or near OTAY MESA, CALIFORNIA, on or about May 15, 1998;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

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.

EXHIBIT# 1

- 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)

RENEE L. RENNER IMMIGRATION JUDGE

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: A TIME AND PLACE TO BE SET

To be set

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 charge(s) set forth above.

Date: June 26, 2011 Marrieta, California (Signature and Title of Issuing Officer) Field Operations Supervisor

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: [Signature] (Signature of Respondent)
[Signature] Border Patrol Agent (Signature and Title of Immigration Officer)
Date: 6/26/2011

Certificate of Service

This Notice To Appear was served on the respondent by me on June 26, 2011, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

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

The alien was provided oral notice in the ENGLISH 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] (Signature of Respondent if Personally Served)
ALEC F. ETHERIDGE BORDER PATROL AGENT (Signature and Title of officer)



U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. [REDACTED]
Event No: [REDACTED]
Date: June 26, 2011

FINS #: [REDACTED]

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:
RIGOBERTO FIGUEROA-HERNANDEZ

(Full name of alien)

an alien who entered the United States at or near OTAY MESA, CALIFORNIA on May 15, 1998 is within the country in violation of the immigration laws and is

OTAY MESA, CALIFORNIA

(Port)

(Date)

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

[Handwritten Signature]
(Signature of Designated Immigration Officer)
James R. Penny
(Print name of Designated Immigration Officer)

Field Operations Supervisor
(Title)

Certificate of Service

Served by me at Murrieta, California on June 26, 2011 at 08:21 AM. I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

ALEC F. ETHERIDGE
(Signature of officer serving warrant)
BORDER PATROL AGENT
(Title of officer serving warrant)

U.S. Department of Homeland Security

Notice of Custody Determination

RIGOBERTO FIGUEROA-HERNANDEZ

File No: [Redacted] Event No: [Redacted] Date: 06/26/2011 FINS #: [Redacted]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that pending a final determination by the immigration judge in your case, and in the event you are ordered removed from the United States, until you are taken into custody for removal, you shall be:

- [X] detained in the custody of the Department of Homeland Security.
[] released under bond in the amount of \$ No BOND
[] released on your own recognizance.

- [X] You may request a review of this determination by an immigration judge.
[] You may not request a review of this determination by an immigration judge because the Immigration and Nationality Act prohibits your release from custody.

[Signature]
(Field Operations Supervisor)
Murrieta, California
(Office location)

- [X] I do [] do not request a redetermination of this custody decision by an immigration judge.
[X] I acknowledge receipt of this notification.

[Redacted Signature]

6/26/2011
(Date)

RESULT OF CUSTODY REDETERMINATION

On _____, custody status/conditions for release were reconsidered by:

- [] Immigration Judge [] DHS Official [] Board of Immigration Appeals

The results of the redetermination/reconsideration are:

- [] No change - Original determination upheld. [] Release - Order of Recognizance
[] Detain in custody of this Service. [] Release - Personal Recognizance
[] Bond amount reset to _____ [] Other: _____

(Signature of officer)



U.S. Department of Justice
Executive Office for Immigration Review
Immigration Court
401 West A Street, Suite 800
San Diego, California 92101

LIST OF FREE LEGAL SERVICE PROVIDERS

The following organizations and attorneys provide free legal services and/or referrals for such services to indigent individuals in immigration removal proceedings, pursuant to 8 CFR §1003.61. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

<p>ABA IMMIGRATION JUSTICE PROJECT 401 "B" Street, Ste 1700 San Diego, CA 92101 Tel: (619) 699-2930; Fax: (619) 568-3674 http://www.abanet.org/publicserv/immigration/ijp/home.html -Will represent detained aliens, and non-detained aliens in Deportation or Removal Proceedings -Offers Legal Orientations ("Know-Your-Rights" presentations) for those with cases at the San Diego Immigration Court on Monday at 1:30pm (Español) and Wednesday at 8:30am (English). Call (202) 442-3440 for more information.</p>	<p>MATTHEW G. HOLT, ESQ. Law Offices of Leah W. Hurwitz, APLC 3230 Fifth Avenue, Suite 200, San Diego, CA 92103 Tel: (619) 239-7855 Fax: (619) 238-5544 www.sandiegoimmigration.com -Will represent detained and non-detained aliens in Deportation or Removal Proceedings; -Will represent detained and non-detained aliens in Asylum cases; and Staff is fluent in Russian, French, Spanish, Portuguese, and English.</p>
<p>DARIO AGUIRRE, ESQ. Law Offices of Dario Aguirre 1010 2nd Avenue, Ste. 1700 San Diego, CA 92101 (619) 239-9990; (619) 239-0004, Fax -No charge. -Will represent aliens in asylum cases.</p>	<p>TAMMY LIN, ESQ. Jewish Family Service Turk Family Center 8804 Balboa Ave., San Diego, CA 92123-1506 (858) 637-3000; (858) 637-3001, Fax -Will provide free legal representation for aliens in asylum cases if meets program criteria. -Must be a professional, scientist, scholar, musician, or artist to qualify.</p>
<p>CASA CORNELIA LAW CENTER 2760 Fifth Avenue, Suite 200, San Diego, CA 92103 1-800-704-4041 (phone); 619-231-7784 (fax) LawCenter@CasaCornelia.org -No Charge -Will represent detained and non-detained aliens in asylum cases -Will represent detained and non-detained unaccompanied children in deportation or removal proceedings</p>	<p>LEGAL AID SOCIETY OF SAN DIEGO 110 South Euclid Ave. San Diego, CA 92114 1-877 Legal Aid (877-534-2524), Toll Free -No charge. -Will not represent asylum cases.</p>
<p>COOPERATIVA HISPANA 231 E Alessandro Blvd., Ste A-240 Riverside, CA 92508 (951) 213-2241 info@chispana.com or www.chispana.com -Hablamos español -Todo Tipo de Casos/All Immigration Matters</p>	<p>CHRISTOPHER J. STENDER, ESQ. Stender & Lappin, PC 1010 Second Ave., Ste. 2300 San Diego, CA 92101-4999 (619) 238-8080; (619) 238-9080, Fax www.StenderLappin.com</p>
<p>ALI GOLCHIN, ESQ. Golchin and Associates 1251 Third Ave., Ste. 203, Chula Vista, Ca 91911 (619) 325-7555 -Will not represent aliens in asylum cases. -Representation limited to the San Diego District.</p>	<p>CARLOS VELLANOWETH Vellanoweth & Gehart, LLP 1625 W. Olympic Blvd., Suite 702 Los Angeles, CA 90015-3811 Phone: (213) 382-8380; Fax: (213) 427-2525</p>

DETAINEE CALENDAR SCREENING QUESTIONNAIRE

ALIEN'S NAME: FIGUEROA-Hernandez Rigoberto

A Number: [REDACTED]

YOU SPEAK: ENGLISH SPANISH OTHER (Include Dialects):
VD. HABLA: ENGLÉS ESPAÑOL OTRA (Incluye Dialectos):

- 1. DID YOU RECEIVE A COPY OF THE I-862? YES NO
RECIBIO COPIA DEL I-862? SI NO
- 2. DO YOU WANT TIME TO OBTAIN AN ATTORNEY? YES NO
QUIERE TIEMPO PARA OBTENER UN ABOGADO? SI NO
- 3. ARE YOU AFRAID TO RETURN TO YOUR HOME COUNTRY? YES NO
TIENE USTED MIEDO DE REGRESAR A SU PAIS? SI NO
- 4. DO YOU WANT TO FIGHT YOUR REMOVAL CASE? YES NO
QUIERE USTED PELEAR SU CASO DE EXPULSION? SI NO
- 5. DO YOU WANT A PRIVATE REMOVAL HEARING? YES NO
QUIERE UNA AUDIENCIA DE EXPULSION EN PRIVADO? SI NO
- 6. ARE YOU A PERMANENT OR TEMPORARY RESIDENT THE U.S.? YES NO
ES RESIDENTE PERMANENTE O TEMPORAL DE LOS E.E.U.U.? SI NO
- 7. DO YOU HAVE A PETITION FOR LEGAL STATUS PENDING? YES NO
TIENE UNA PETICION PENDIENTE CON INMIGRACION? SI NO
- 8. DO YOU HAVE ANY OF THE FOLLOWING (AIDS, HEPATITIS, TUBERCULOSIS)? YES NO
PADECE DE LO SIGUIENTE (AIDS, HEPATITIS, TUBERCULOSIS)? SI NO

A RESPONSE OF YES TO QUESTIONS 2, 3 OR 4, RENDERS THE DETAINEE INELIGIBLE FOR A NON-CONTESTED HEARING.

[REDACTED]
ALIEN'S SIGNATURE

I CERTIFY THAT I HAVE EXPLAINED THE ABOVE QUESTIONS
TO: RESPONDENT IN THE ENGLISH/SPANISH LANGUAGE.

[Signature] Border Patrol Agent 6/26/2016
OFFICER'S SIGNATURE & TITLE DATE

Effective date of this form is April 26, 2007 (all earlier versions of this questionnaire are obsolete and will be rejected by the Court) BLP

EXHIBIT B

U.S. Department of Homeland Security

Subject ID:

Record of Deportable/Inadmissible Alien

Family Name (CAPS) FIGUEROA-HERNANDEZ, RIGOBERTO		First	Middle	Sex M	Hair 	Eyes 	Cmpbn
Country of Citizenship HONDURAS	Passport Number and Country of Issue	File Number CASE No: 		Height 	Weight 	Occupation LABORER	
U.S. Address IN DHS CUSTODY				Scars and Marks NONE INDICATED			
Date, Place, Time, and Manner of Last Entry 05/15/1998, 0821, 3 mile(s) E of OTM, PWA (Afoot)			Passenger Boarded at				
Number, Street, City, Province (State) and Country of Permanent Residence DOMICILIO CONOCIDO EL PROGRESO YORO, HONDURAS				F.B.I. Number 			
U.S. Address IN DHS CUSTODY				<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth 				Age: 31		Date of Action 06/26/2011	
City, Province (State) and Country of Birth See Narrative				Date of Action		Location Code SDC/MUR	
NIV Issuing Post and NIV Number		Social Security Account Name		Method of Location/Apprehension TRC			
Date Visa Issued		Social Security Number		At/Near FALLBROOK, CA		Date/Hour 06/26/2011 0730	
Immigration Record NEGATIVE		Criminal Record None Known		By ALEC F. ETHERIDGE ADRIAN GONZALEZ			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)				Number and Nationality of Minor Children TWO: UNITED STATES			
Father's Name, Nationality, and Address, if Known See Narrative				Mother's Present and Maiden Names, Nationality, and Address, if Known See Narrative			
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Systems Checks See Narrative		Charge Code Word(s) I6A	
Name and Address of (Last/Current) U.S. Employer		Type of Employment		Salary		Employed from/to Hr	
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.) FINS #: 							
		Left Index Print				Right Index Print	
ARREST COORDINATES: ----- Latitude: 33.3331 Longitude: -117.158		OTM		<div style="text-align: right;"> RECEIVED APR 27 2012 RENEEL RENNER IMMIGRATION JUDGE </div>			
BIRTH PLACE: ----- VICTORIA YORO, STATE OTHER THAN MEXICO, HONDURAS							
FATHER NAME AND ADDRESS: -----							
Alien has been advised of communication privileges		6/26/2011 (Date/Initials)		ALEC F. ETHERIDGE BORDER PATROL AGENT (Signature and Title of Immigration Officer)			
Distribution: A File SDC MUR		PROCESSED FOR REMOVAL PROCEEDINGS DATE: 6/26/11		Received: (Subject and Documents) (Report of Interview) Officer: ALEC F. ETHERIDGE on: June 26, 2011 at 0821 (time) Disposition: Warrant of Arrest/Notice to Appear Examining Officer: CHRISTIAN M. STONE 1/9/11			

EOIR - 1 of 8

Reviewed by Prosecutions
Days

DEPARTMENT OF HOMELAND SECURITY

I hereby certify that the foregoing documents are originals or copies thereof from the records of the Department of Homeland Security of which the Secretary of Homeland Security is the legal custodian by virtue of Section 103, as amended, of the Immigration and Nationality Act.

Authorized Certifying Designee of the
Secretary of Homeland Security
San Diego, California

U.S. Department of Homeland Security

Continuation Page for Form 1213

Alien's Name FIGUEROA-HERNANDEZ, RIGOBERTO	File Number [REDACTED] Event No: [REDACTED]	Date 06/26/2011
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Nationality:HONDURAS FIGUEROA, RIGOBERTO
EL PROGRESO YORO, STATE OTHER THAN MEXICO, HONDURAS

MOTHER NAME AND ADDRESS:

Nationality:HONDURAS HERNANDEZ, MARIBEL
EL PROGRESO YORO, STATE OTHER THAN MEXICO, HONDURAS

FUNDS IN POSSESSION:

United States Dollar 112.00

x 

RECORDS CHECKED:

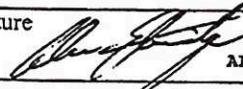
- AFIS Negative
- CIS Negative
- CLAIM Negative
- IAFIS Negative
- NCIC Negative
- TECS Negative

NARRATIVE:

ZONE: 61

On June 26, 2011, Border Patrol Agents Adrian Gonzalez and I, Alec Etheridge, were assigned I-15/Corridor duties on the 6A-2P shift, within the Murrieta / Newton-Azrak Station's Area of Responsibility. At approximately 7:00 a.m., Agent Gonzalez and I were observing northbound vehicle traffic on I-15, from the shoulder of the Old Highway 395 onramp, in a fully marked Border Patrol sedan.

At approximately 7:25 a.m., Agent Gonzalez and I noticed a green Ford F-150 pick-up pass by our location traveling northbound on Interstate 15. There were two subjects inside the vehicle and they appeared to be nervous, for they did not make eye contact with us and were sitting in a very oddly erect manner as they passed by. As the driver of the fully marked Border Patrol sedan, I pulled out onto the highway in order to catch up to the aforementioned vehicle to get a better look. While traveling northbound in the number four lane, I pulled alongside of the truck which was in the number 3 lane. Agent Gonzales and I both noticed that the right passenger kept sitting in an erect manner while looking straight ahead and refusing to make eye contact with us. Agent Gonzalez then performed a vehicle registration check on the truck [REDACTED]. The registration check returned not stolen out of Spring Valley, California. I then maneuvered into the number two lane and noticed that the driver, later identified as FIGUEROA-Hernandez, Rigoberto, appeared

Signature  ALEC F. ETHERIDGE	Title BORDER PATROL AGENT
---	------------------------------

U.S. Department of Homeland Security

Continuation Page for Form

I213

Alien's Name FIGUEROA-HERNANDEZ, RIGOBERTO	File Number [REDACTED]	Date 06/26/2011
Event No: [REDACTED]		
<p>nervous as he was visually shaking and avoiding eye contact with us. Agent Gonzalez and I continued following the truck northbound on Interstate 15 when suddenly the pickup truck quickly and unsafely exited the highway as FIGUEROA crossed the number four lane and onto the off ramp without using a turn signal. Such an extreme maneuver has been commonly used by undocumented aliens and contraband smugglers in the past in an attempt to evade law enforcement. I quickly exited the highway behind the truck and continued to follow the green pickup truck onto the Highway 76 onramp. Agent Gonzalez then advised dispatch that we were going to initiate a vehicle stop in order to conduct an immigration inspection. I activated my vehicle's emergency equipment and FIGUEROA pulled over and yielded on the right shoulder of the off ramp to I-15 and Highway 76.</p> <p>Agent Gonzalez and I both approached the truck and identified ourselves as United States Border Patrol Agents to FIGUEROA and his passenger, and then began to question both occupants as to their citizenship. FIGUEROA and the passenger freely stated to being citizens and nationals of Honduras. FIGUEROA and the passenger further claimed to have entered the United States illegally near Otay Mesa, California and did not possess any proper documentation affording them the right to remain in the United States. FIGUEROA and the passenger were then arrested and transported to the Murrieta / Newton-Azrak Border Patrol Station for further processing. The vehicle was left on scene as per FIGUEROA's request (DHS Service Form I-43 on file).</p> <p>At the station, FIGUEROA was asked a second time as to his citizenship. FIGUEROA freely admitted to being a citizen and national of Honduras, as well as being in the United States illegally without having proper or valid immigration documents. During processing, a set of fingerprints were taken from FIGUEROA and were submitted into the IAFIS Biometric System. Record checks yielded no prior immigration or criminal history.</p> <p>FIGUEROA was issued the following numbers:</p> <p>FINS#: [REDACTED]</p> <p>A#: [REDACTED]</p> <p>FBI#: [REDACTED]</p> <p>FIGUEROA made the following statement regarding his travel from Honduras to the United States:</p> <p>FIGUEROA states that he made the decision to come to the United States in May of 1998. FIGUEROA states that he entered Guatemala illegally by walking across the border. FIGUEROA them states that after traveling by bus for two days and two nights, he crossed the border of Mexico illegally on foot.</p> <p>Once in Mexico, FIGUEROA states that he traveled by train for nearly two weeks until he arrived in Tijuana, Baja California. During FIGUEROA'S travels, he states that he was robbed once in Mexico by bandits and did not accept or pay any bribes to any Guatemalan, Mexican, or U.S. Officials.</p>		
Signature 	ALEC F. ETHERIDGE	Title BORDER PATROL AGENT

U.S. Department of Homeland Security

Continuation Page for Form I213

Alien's Name FIGUEROA-HERNANDEZ, RIGOBERTO	File Number [REDACTED] Event No: [REDACTED]	Date 06/26/2011
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In May of 1998, FIGUEROA made his illegal entry into the United States, near Otay Mesa, California through the mountains. FIGUEROA claims to have not used the services of a smuggler in order to gain his illegal entry into the United States.

FIGUEROA states that he has been working in construction since residing in the United States. He also states that he has been residing in San Diego, California. FIGUEROA claims that his current address is 3738 Swift Ave., San Diego, CA.

On June 26, 2011, at approximately 11:00 a.m., I advised FIGUEROA in the English language of his right to speak with the Honduran Consul. This was witnessed by Agent Gonzalez. FIGUEROA chose to decline.

As per station policy, FIGUEROA was booked under 8 USC 1325 (Entry without Inspection). He was issued FBI#: [REDACTED]

FIGUEROA was served with DHS service forms I-200, I-862, I-286, I-826, and a list of free legal services.

FIGUEROA is being held in DHS custody pending removal proceedings.

Vehicle Information:

Green 2002 Ford F-150 Pick-up Truck

Registered Owner:
CERVANTES CARLOS

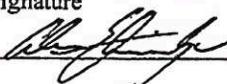
Signature 	ALEC F. ETHERIDGE	Title BORDER PATROL AGENT
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EXHIBIT C

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN DIEGO, CA

FILE: ~~XXXXXXXXXX~~

IN THE MATTER OF:

FIGUEROA-HERNANDEZ, RIGOBERTO

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE
WITH RESPECT TO CUSTODY

Request having been made for a change in the custody status of respondent pursuant to 8 CFR 236.1(c), and full consideration having been given to the representations of the Department of Homeland Security and the respondent, it is hereby

ORDERED that the request for a change in custody status be denied.

ORDERED that the request be granted and that respondent be:

released from custody on his own recognizance

released from custody under bond of \$ 1,500

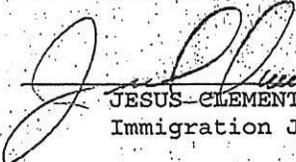
OTHER _____

Copy of this decision has been served on the respondent and the Department of Homeland Security.

APPEAL: ²⁰¹⁶ waived -- reserved

SAN DIEGO -- CORRECTIONS CORPORATION OF AMERICA

Date: Jul 14, 2011



JESUS CLEMENTE
Immigration Judge

XS

EXHIBIT D

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN DIEGO, CALIFORNIA

In the Matter of:

FIGUEROA-HERNANDEZ, RIGOBERTO

In Removal Proceedings

NON-DETAINED

File No. 

ORDER OF THE IMMIGRATION JUDGE

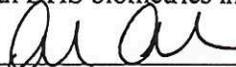
Upon consideration of the U.S. DEPARTMENT OF HOMELAND SECURITY MOTION TO RECALENDAR ADMINISTRATIVELY CLOSED PROCEEDINGS, it is HEREBY ORDERED that the motion be: GRANTED.

- Good cause has been established for this motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- The court agrees with the reasons stated in the opposition to the motion.
- Other: Per facts at 8 CFR § 1003.18(c)(3)(i).

Deadlines:

- The application(s) for relief must be filed by _____.
- The respondent must comply with DHS biometrics instructions by _____.

6/27/2025
Date



Amelia Anderson
Immigration Judge

CERTIFICATE OF SERVICE

This document was served by: Mail; Personal Service; Other: _____

To: Alien; Alien c/o Custodial Officer; Alien's Atty/Rep.; DHS

Date: 7/10/2025

By: Court Staff 

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
880 FRONT STREET, SUITE 4240
SAN DIEGO, CA 92101

LAW OFFICES OF THOMAS A. LAPPIN
LAPPIN, THOMAS, ESQ.
1010 SECOND AVENUE, SUITE 2300
SAN DIEGO, CA 92101

CC:ATTY JORDAN SCHWELLER, ESQ.
1010 SECOND AVE. STE. 1210
SAN DIEGO, CA 92101

In the matter of File  DATE: Jul 10, 2025
FIGUEROA-HERNANDEZ, RIGOBERTO

- ___ Unable to forward - No address provided.
- ___ Attached is a copy of the decision of the Immigration Judge. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:
Board of Immigration Appeals
Office of the Clerk
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041
- ___ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242b(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252b(c)(3) in deportation proceedings or section 240(b)(5)(C), 8 U.S.C. § 1229a(b)(5)(C) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:
IMMIGRATION COURT
880 FRONT STREET, SUITE 4240
SAN DIEGO, CA 92101
- ___ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA §242.
- ___ Attached is a copy of the decision of the immigration judge relating to a Credible Fear Review. This is a final order. No appeal is available.
- XX Other: IJ Order and Notice of Hearing.

L. McFedries
COURT CLERK
IMMIGRATION COURT

FF

cc: YAMADA, TED, DEPUTY CHIEF COUNSEL
880 FRONT STREET, ROOM #2246
SAN DIEGO, CA, 921018834

EXHIBIT E

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN DIEGO, CALIFORNIA

In the Matter of:  Rigoberto Figueroa-Hernandez

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the Department's "JOINT MOTION TO ADMINISTRATIVELY CLOSE CASE AS A MATTER OF PROSECUTORIAL DISCRETION", the Court states the following:

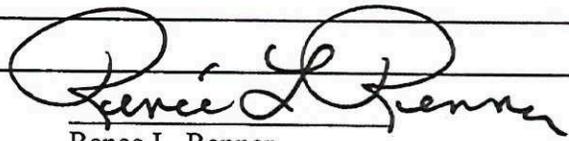
1. The parties have agreed to the administrative closure of the instant proceedings without prejudice as a matter of the Department's prosecutorial discretion.
2. Other: _____

THEREFORE, it is HEREBY ORDERED that the motion be:

GRANTED. Good cause has been established for this motion. These proceedings are hereby administratively closed. This administrative closure order does not constitute a final judgment rendered on the merits of these proceedings.

DENIED. _____

Oct 15, 2012
Date



Renee L. Renner
Immigration Judge

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
401 WEST A STREET, SUITE #800
SAN DIEGO, CA 92101

LAW OFFICES OF THOMAS A. LAPPIN
LAPPIN, THOMAS, ESQ.
1010 SECOND AVENUE, SUITE 2400
SAN DIEGO, CA 92101

Date: Oct 16, 2012

File 

In the Matter of:
FIGUEROA-HERNANDEZ, RIGOBERTO

_____ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

_____ Enclosed is a copy of the oral decision.

_____ Enclosed is a transcript of the testimony of record.

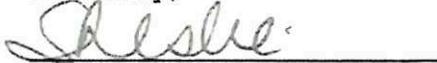
_____ You are granted until _____ to submit a brief to this office in support of your appeal.

_____ Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

✓ _____ Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,



Immigration Court Clerk

UL

cc: REEBER, CHRIS, ASSISTANT CHIEF COUNSEL
880 FRONT STREET, ROOM 2246
SAN DIEGO, CA 921010000

EXHIBIT F



Notice of Release and Proof of Service

To: RIGOBERTO FIGUEROA-HERNANDEZ
3936 58TH ST. #B
SAN DIEGO, CA. 92115

Date: JULY 15, 2011
File: [Redacted]
Bond Number: [Redacted]
Amount: \$ 1,500.00

You have been released from service custody pending a final decision in your exclusion/deportation hearing. It is understood that you will be residing at the above address. The law requires you notify the Immigration Judge (at the address shown below) of any address correction or address change. When doing so, be sure to include your name and the File Number shown above in your written communication. The attached form, EOIR-33 can be used for this purpose.

Office of the Immigration Judge
401 W. "A" Street, Suite 800
San Diego, CA 92101

If you have already appeared before the Immigration Judge, you have been told when to appear for a further hearing. If you have yet to appear before the Judge, a notice of hearing will soon be sent to you at the above address. If you do not appear for the hearing, three (3) actions can be taken in your case:

1. Your deportation hearing may be held in your absence.
2. If a bond has been paid, it may be breached.
3. A warrant for your arrest may be issued.

I certify that the address listed above, furnished by me to the Service, is correct, and that a copy of this notice has been received by me this date

RIGOBERTO FIGUEROA-HERNANDEZ

[Redacted Signature] Signature of Respondent

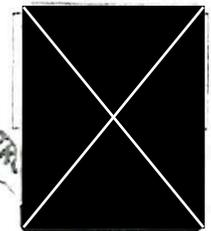
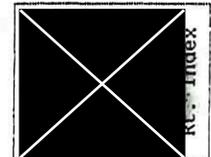
Date 07/15/2011

PROOF OF SERVICE

I certify that, on this date, I served the attached Form I-830 and release notice on the respondent by the following method (as checked):

- Hand delivery.
- By first class mail, postage prepaid, to the following address:

- Service by mail on respondent's counsel of record at the following address:



UNDER DOCKET CONTROL

SAN DIEGO

M. E. J. IEA 7-15-11
Signature and Title of ICE Employee Date

Date: JULY 15, 2011

File No:

To: Office of the Immigration Judge
Executive Office for Immigration Review
401 W. "A" STREET SUITE 800
SAN DIEGO, CA 92101

From: Office of the District Director
Immigration and Naturalization Service
880 Front Street, Ste. 2242
San Diego, CA 92101

Respondent: RIGOBERTO FIGUEROA-HERNANDEZ

This is to notify you that this respondent is:

Currently incarcerated by other than ICE. A charging document has been served on the respondent, and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

His/her anticipated release date is: _____

Currently detained by ICE at: _____

Currently detained by ICE and transferred this date to a new location: _____

ICE Motion for Change of Venue attached. Yes NO

Released from ICE custody on the following condition(s):
 Personal Recognizance
 Order of Recognizance (Form I-220A)
 Bond in the amount of \$ 1,500.00 Surety bond Cash bond
 Other _____

Upon release from ICE custody, the respondent reported his/her address and telephone number will be:

3936 58TH ST. #B

SAN DIEGO, CA 92115

619-288-0377

Upon release from ICE custody, the respondent was reminded of the requirements contained in Section 239 (a)(1)(F)(ii) of the Immigration and Nationality Act and was provided with an EOIR change of address form (EOIR-33).

Signature-ICE officer

M. Gracia

Printed Name of ICE Officer

Deportation Officer

Title-ICE Officer

San Diego, CA

Location