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5 Attorney for Petitioner  
6 GUMERCINDO RAMOS RAMOS

7 UNITED STATE DISTRICT COURT  
8 SOUTHER DISTRICT OF CALIFORNIA

9 GUMERCINDO RAMOS RAMOS,  
10

11 Plaintiff,

12 v.

13 CHRISTOPHER J. LAROSE, Senior  
14 Warden, Otay Mesa Detention Center;  
15 DANIEL A. BRIGHTMAN, San Diego  
16 Field Office Director, Immigration and  
17 Customs Enforcement and Removal  
18 Operations ("ICE/ERO"); TODD M.  
19 LYONS, Acting Director of Immigration  
20 Customs Enforcement ("ICE"); U.S.  
21 Immigration and Customs Enforcement;  
KRISTI NOEM, Secretary of the  
Department of Homeland Security  
("DHS"); U.S. Department of Homeland  
Security; and PAMELA BONDI,  
Attorney General of the United States,

22 Respondents.  
23 .  
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CASE NO.: '25CV3726 JLS DEB

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

Challenge to Unlawful Incarceration;  
Request for Declaratory and Injunctive  
Relief

STERGER LAW GROUP  
P.C.  
SLG

1 Petitioner Gumercido Ramos Ramos petitions this Court for a writ of habeas  
2 corpus under 28 U.S.C. section 2241 to remedy Respondents' detaining him  
3 unlawfully, and states as follows:

4 **INTRODUCTION**

- 5
- 6 1. Petitioner Gumercindo Ramos Ramos ("Petitioner" or "Mr. Ramos Ramos") is a  
7 forty-eight-year-old, Guatemalan, asylum seeker detained at Oaty Mesa Detention  
8 Center in San Diego, California. He was persecuted in Guatemala including  
9 threats of harm and violence because of his particular social group and religion.  
10
- 11 2. On or about April 28, 2018, Petitioner came to or near the port of entry at or near  
12 Tecate, California to seek asylum. Respondents arrested and detained Petitioner.  
13 On information and belief, based on the individualized facts of Petitioner's case,  
14 Respondent DHS released Petitioner from its custody on an Order of Release on  
15 Recognizance pursuant to 8 U.S.C. § 1226(a).  
16
- 17 3. On or about March 13, 2019, Respondents initiated removal proceedings against  
18 Petitioner under 8 U.S.C. §1229a.  
19
- 20 4. Respondents alleged that Petitioner is an alien present in the United States  
21 without being admitted or paroled, or who arrived in the United States at a time  
22 or place other than as designated by the Attorney General pursuant to  
23 212(a)(6)(A)(i) of the Immigration and Nationality Act.  
24
- 25 5. Petitioner applied for asylum before the San Diego Immigration Court on  
26 February 13, 2020.  
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6. On January 6, 2022, Petitioner’s removal proceedings were administratively closed.

7. On December 3, 2025, , Mr. Ramos Ramos was arrested and detained by Immigration and Customs Enforcement (ICE) officers.

8. On December 6, 2025, an attempt was made to initiate removal proceedings against Mr. Ramos Ramos, alleging no new allegations, despite there being a pending but administratively closed matter.

9. On December 8, 2025, the Department of Homeland Security (DHS) filed a motion to re-calendar the administratively closed proceedings.

10. On December 12, 2025, the previously administratively closed proceedings were reopened.

11. On December 18, 2025, the newly filed case was dismissed due to failure to prosecute.

12. Immigration detention is civil in nature and it’s permissible only to ensure a noncitizen’s appearance at immigration proceedings or to protect the community from danger. DHS did not arrest or detain Mr. Ramos Ramos for either of these legitimate purposes as he plainly poses neither a flight risk nor a danger to the community.

**JURISDICTION**

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

1 14. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),  
2 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States  
3 Constitution (Suspension Clause).

4 15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.  
5 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28  
6 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

### 7 VENUE

8  
9  
10 16. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa,  
11 California Venue is further proper because a substantial part of the events or  
12 omissions giving rise to Petitioner's claims occurred in this District, where  
13 Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

14  
15 17. Courts have long recognized the significance of the habeas statute in protecting  
16 individuals from unlawful detention. The Great Writ has been referred to as  
17 "perhaps the most important writ known to the constitutional law of England,  
18 affording as it does a swift and imperative remedy in all cases of illegal restraint  
19 or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

20  
21 18. Petitioner is "in custody" for the purpose of § 2241 because Petitioner was arrested  
22 and is detained by Respondents.

### 23 PARTIES

24  
25 19. Petitioner is a 48-year-old citizen of Guatemala. Petitioner is present within the  
26 state of California at the time of the filing of this petition.

27  
28 20. Respondent Christopher LaRose ("LaRose") is the Senior Warden at Otay Mesa

1 Detention Center in San Diego, California, where Mr. Ramos Ramos is detained.

2 LaRose is responsible for the day-to-day operations and confinement of noncitizens  
3 detained at that facility. He acts at the direction of Respondents Brightman,  
4 Lyons, and Noem. LaRose is a custodian of Mr. Ramos Ramos. and is named in his  
5 official capacity.  
6

7 21. Respondent, Daniel A. Brightman, is the Field Office Director for the San Diego  
8 Field Office, Immigration and Customs Enforcement and Removal Operations  
9 (“ICE”). The San Diego Field Office is responsible for local custody decisions  
10 relating to non-citizens charged with being removable from the United States,  
11 including the arrest, detention, and custody status of noncitizens. The San Diego  
12 Field Office’s area of responsibility includes San Diego and Imperial Counties in  
13 California. Respondent Daniel Brightman is a legal custodian of Petitioner.  
14  
15

16 22. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs  
17 Enforcement, and he has authority over the actions of respondent Daniel  
18 Brightman and ICE in general. Respondent Daniel Brightman is a legal custodian  
19 of Petitioner.  
20

21 23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security  
22 (DHS) and has authority over the actions of all other DHS Respondents in this  
23 case, as well as all operations of DHS. Respondent Noem is a legal custodian of  
24 Petitioner and is charged with faithfully administering the immigration laws of  
25 the United States.  
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1 24. Respondent Pamela Bondi is the Attorney General of the United States, and as  
2 such has authority over the Department of Justice and is charged with faithfully  
3 administering the immigration laws of the United States.

4 25. Respondent U.S. Immigration Customs Enforcement is the federal agency  
5 responsible for custody decisions relating to non-citizens charged with being  
6 removable from the United States, including the arrest, detention, and custody  
7 status of non-citizens.  
8

9 26. Respondent U.S. Department of Homeland Security is the federal agency that has  
10 authority over the actions of ICE and all other DHS Respondents.  
11

12 27. This action is commenced against all Respondents in their official capacities.  
13

14 **LEGAL FRAMEWORK**

15 28. Immigration detention should not be used as a punishment and should only be  
16 used when, under an individualized determination, a noncitizen is a flight risk  
17 because they are unlikely to appear for immigration court or a danger to the  
18 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
19

20 29. Noncitizens in immigration proceedings are entitled to Due Process under the  
21 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306  
22 (1993).  
23

24 30. The Immigration and Nationality Act (INA) sets the rules for detaining  
25 noncitizens while the government decides whether they are removable. See 8  
26 U.S.C. § 1226(a).  
27  
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**SLG**  
STERGER LAW GROUP  
—PHILADELPHIA ATTORNEYS—

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31. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

32. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

33. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual’s release when the facts and circumstances warrant it.

34. Revocation and return to custody is authorized only based on individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

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**FACTUAL BACKGROUND**

1  
2 35. Petitioner, Gumercindo Ramos Ramos, fled a fear of persecution in his home  
3 country of Guatemala and entered the United States of America seeking  
4 protection as a refugee under its asylum laws.  
5

6 36. On or about April 30, 2018, Respondents, having conducted an individualized  
7 assessment of Petitioner Ramos Ramos' particular circumstances, authorized his  
8 release into the United States.  
9

10 37. Respondents commenced removal proceedings against Petitioner in immigration  
11 court, entitling Petitioner to present an asylum claim with the due process rights  
12 under 8 U.S.C. § 1229a.  
13

14 38. While released from ICE custody on his own recognizance on April 30, 2018, he  
15 remained free for over seven years. During that time, Petitioner Ramos Ramos  
16 complied with every request, demand and requirement imposed by Respondents,  
17 in addition to complying with all the court and legal timelines in pursuing  
18 immigration relief.  
19

20 39. ICE detained Mr. Ramos Ramos for no reason or basis while he was eating lunch  
21 on his work break. Mr. Ramos Ramos has a valid work authorization.  
22

23 40. Mr. Ramos Ramos is being detained without explanation.  
24

25 41. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant  
26 petition for a writ of habeas corpus. Petitioner asks this Court to find that  
27 Respondents' attempts to detain the Petitioner are arbitrary and capricious and in  
28

1 violation of the law, and to immediately issue an order releasing Petitioner from  
2 ICE custody.

3  
4 **CLAIMS FOR RELIEF**

5 **COUNT ONE**

6 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

7 **Abuse of Discretion**

8 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

9 42. Petitioner restates and realleges all paragraphs as if fully set forth here.

10 43. Under the APA, a court shall “hold unlawful and set aside agency action” that is  
11 an abuse of discretion. 5 U.S.C. § 706(2)(A).

12 44. An action is an abuse of discretion if the agency “entirely failed to consider an  
13 important aspect of the problem, offered an explanation for its decision that runs  
14 counter to the evidence before the agency, or is so implausible that it could not be  
15 ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of*  
16 *Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
17 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

18 45. To survive an APA challenge, the agency must articulate “a satisfactory  
19 explanation” for its action, “including a rational connection between the facts  
20 found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569  
21 (2019) (citation omitted).

22 46. By categorically revoking Petitioner’s release without consideration of his  
23 individualized facts and circumstances, Respondents have violated the APA.  
24  
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1 47. By detaining the Petitioner categorically, Respondents have further abused their  
2 discretion because there have been no changes to his facts or circumstances since  
3 the agency made its initial custody determinations that support the revocation of  
4 his release from custody.

5  
6 48. Respondents have already considered Petitioner's facts and circumstances and  
7 determined that he was not a flight risk or danger to the community. There have  
8 been no changes to the facts that justify this revocation of his release on his own  
9 recognizance.

10  
11 49. The fact that Petitioner has already been granted release by Respondents under  
12 the same facts and circumstances shows that Respondents do not consider him, on  
13 an individualized basis, to be a danger to the community or a flight risk.

14  
15 **COUNT TWO**

16 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**  
17 **Not in Accordance with Law and in Excess of Statutory Authority**  
18 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

19 50. Petitioner restates and realleges all paragraphs as if fully set forth here.

20 51. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in  
21 accordance with law;” “contrary to constitutional right;” “in excess of statutory  
22 jurisdiction, authority, or limitations;” or “without observance of procedure  
23 required by law.” 5 U.S.C. § 706(2)(A)-(D).

24  
25 52. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke  
26 a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen  
27 under the initial warrant. In implementing this statutory provision, 8 C.F.R. §  
28

1 1236.1(c)(9) clarifies that such revocations of release from custody may only be  
2 carried out in the “discretion of the district director, acting district director,  
3 deputy district director, assistant district director for investigations, assistant  
4 district director for detention and deportation, or officer in charge (except  
5 foreign).”  
6

7 53. It is a well-established administrative principle that “agency action taken without  
8 lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*,  
9 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67,  
10 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d  
11 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by  
12 unauthorized official).  
13

14 54. On information and belief, Respondents have revoked or are revoking Petitioner’s  
15 prior custody determination as a result of a categorical policy prepared by and  
16 implemented by unidentified government officials in Washington, not through the  
17 individual exercise of discretion required by law or by the individuals enumerated  
18 by regulation to do so.  
19  
20

21 55. Because Petitioner’s revocation of release from custody has been made or will be  
22 categorically directed by government officials not authorized by law to make this  
23 determination, Respondents’ detention of Petitioner is not in accordance with law  
24 and in excess of statutory authority.  
25

26 ///

27 ///

28

COUNT THREE

Violation of Fifth Amendment Right to Due Process  
Procedural Due Process

56. Petitioner restates and realleges all paragraphs as if fully set forth here.

57. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306. 62. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

58. While the government has discretion to detain individuals under 8 U.S.C. §1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

59. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates his right to procedural due process.

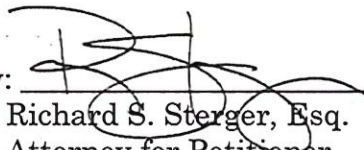
**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Petitioner’s detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner’s revocation of parole from custody was made in violation of statute and regulation;
5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
6. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Date: 12/22/2025

**STERGER LAW GROUP, P.C.**

By:   
 Richard S. Sterger, Esq.  
 Attorney for Petitioner  
 Gumercindo Ramos Ramos

**SLG**  
STERGER LAW GROUP  
—P.C. ATTORNEYS—

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8 GUMERCINDO RAMOS RAMOS

9 UNITED STATE DISTRICT COURT  
10 SOUTHER DISTRICT OF CALIFORNIA

11 GUMERCINDO RAMOS RAMOS,

12 Plaintiff,

13 v.

14 CHRISTOPHER J. LAROSE, Senior  
15 Warden, Otay Mesa Detention Center;  
16 DANIEL A. BRIGHTMAN, San Diego  
17 Field Office Director, Immigration and  
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20 LYONS, Acting Director of Immigration  
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23 KRISTI NOEM, Secretary of the  
24 Department of Homeland Security  
25 ("DHS"); U.S. Department of Homeland  
26 Security; and PAMELA BONDI,  
27 Attorney General of the United States,

28 Respondents.

CASE NO.: '25CV3726 JLS DEB

EXHIBIT LIST

EXHIBIT LIST



**EXHIBIT “A”**



Re

Main Menu

# Search Results: 1

**GUMERCINDO RAMOS-RAMOS**

**Country of Birth :** Guatemala

**A-Number:**

**Status :** In ICE Custody

**State:** CA

**Current Detention Facility:** OTAY MESA DETENTION CENTER

*\* Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

## Related Information

- Helpful Info
- Status of a Case
- About the Detainee Locator
- Brochure
- ICE ERO Field Offices
- ICE Detention Facilities
- Privacy Notice

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External Links  
Bureau of Prisons Inmate  
Locator



[DHS.gov](#) [USA.gov](#) [OIG](#) [OpenFOIA](#) [Metrics](#) [No Site](#) [Site](#)  
[Gov](#) [FearMap](#) [Policies](#)  
[Act](#) [&](#)  
[Plug-](#)  
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# EXHIBIT “B”

File No:

Date: April 30, 2018

Alien: RAMOS RAMOS, GUMERCINDO

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

You must report for any hearing or interview as directed by the Immigration and Customs Enforcement or the Executive Office for Immigration Review.

You must surrender for removal from the United States if so ordered.

You must report in (person) to Non-Detained Office (619) 557-6343  
(Name and Title of Case Officer), Deportation Officer

At 880 Front Street, Suite 2232 on MAY 15, 2018 at 10:00 a.m.  
San Diego, CA 92101 (Location of ICE Office) (Day of each week or month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

You must not change your place of residence without first securing written permission from the officer listed above.

You must not violate any Local, State, or Federal laws or ordinances.

You must assist the Immigration and Customs Enforcement in obtaining any necessary travel document.

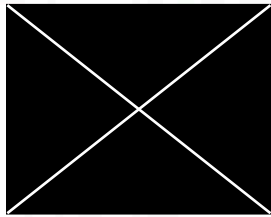
Other: Your first reporting date will be MAY 15, 2018@ 10:00 A.M.

See attached sheet containing other specified conditions (Continue on separate sheet if required)

**NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Immigration and Customs Enforcement.**



Alien's Rt Index



(Signature of ICE Official)

Michael J. Maresca, Supervisory  
Detention and Deportation Officer/SND

(Printed Name and Title of Official)

**Alien's Acknowledgment of Conditions of Release on Recognizance**

I hereby acknowledge that I have (read)(had interpreted and explained to me in the SPANISH Language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the ICE may revoke my release without further notice.

A. DYRASCO/DO

(Signature of ICE Official Serving Order)



(Signature of Alien)

April 30, 2018

(Date)

**Cancellation of Order**

I hereby cancel this order of release because:  The alien failed to comply with the conditions of release.

The alien was taken into custody for removal.

(Signature of ICE Canceling Order)

(Date)


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

**Order of Release on Recognizance-Addendum**File No: 

Date: April 30, 2018

Name: RAMOS RAMOS, GUMERCINDO

- Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the Department of Homeland Security. Electronic monitoring is a requirement and a curfew may be imposed. Failure to comply with the conditions of your release or the requirements of the ATD program may result in a redetermination of your release conditions or your arrest and detention.
- That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a program counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide the ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide the ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Release on Recognizance.
- That you report to any parole or probation officer as required within 5 business days and provide the ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medications.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.

  
(Signature of Alien)

U. S. Immigration and Customs Enforcement

Notice to EOIR: Alien Address

Date: April 30, 2018

File No: 

To: Office of the Immigration Judge  
Executive Office for Immigration Review  
401 West A Street, Suite 800  
San Diego, CA 92101

From: Office of the Field Director  
U. S. Immigration and Customs Enforcement  
880 Front Street, Suite 2232  
San Diego, CA 92101

Respondent: RAMOS RAMOS, GUMERCINDO

**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: \_\_\_\_\_  
\_\_\_\_\_

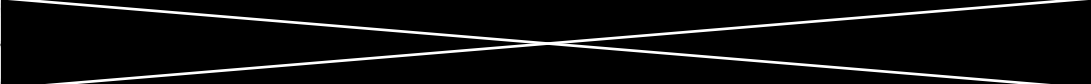
ICE Motion for Change of Venue attached.  Yes  NO

Released from ICE custody on the following condition(s):

- Personal Recognizance
- Order of Recognizance (Form I-220A)
- Bond in the amount of \$ \_\_\_\_\_  Surety bond  Cash bond
- Other \_\_\_\_\_

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

RAMOS RAMOS, GUMERCINDO



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*

A. DYDASCO/DO  
*Printed Name of ICE Officer*

DEPORTATION OFFICER

*Title-ICE Officer*

San Diego, CA

*Location*

# EXHIBIT “C”

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] 1977 Event No: [REDACTED]

In the Matter of:

ORIGINAL

Respondent: GUMERCINDO RAMOS-RAMOS currently residing at:

[REDACTED ADDRESS]

(Number, street, city and ZIP code)

(Area code and phone number)

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

DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

MAR 13 2019

The Department of Homeland Security alleges that you:

IMMIGRATION COURT SAN DIEGO, CA

- 1. You are not a citizen or national of the United States;
2. You are a native of GUATEMALA and a citizen of GUATEMALA ;
3. You arrived in the United States at or near TECATE, CALIFORNIA, on or about April 28, 2018;
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:

null

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

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(l)(2) 8CFR 235.3(b)(5)(iv)

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

401 West A Street Suite 800 San Diego CA 92101. EOIR San Diego, CA

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

on March 26, 2019 at 1:00 PM to show why you should not be removed from the United States based on the charge(s) set forth above.

VICTOR DANIELS SDDO (Signature and Title of Issuing Officer)

Date: February 10, 2019 San Diego, California

This Notice to Appear Supersedes the Notice to Appear issued on April 28, 2018 (City and State)

See reverse for important information

Notice to Respondent

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

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

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

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

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at http://www.ice.gov/about/dro/contact.htm. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

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

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on MAR 08 2019, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

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

The alien was provided oral notice in the 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)

Signature and Title of officer: H 002982 TAPIA, Deportation Officer

- \* Non Profit Organization
- \*\* Referral Service
- \*\*\* Private Attorney

## List of Pro Bono Legal Service Providers

Updated January 2019

<http://www.justice.gov/eoir/list-pro-bono-legal-service-providers>

### San Diego Immigration Court

<b>San Diego, California</b>	
<p><b>ABA Immigration Justice Project*</b></p> <p>2727 Camino del Rio South, Suite 223 San Diego, CA 92108 Tel: (619) 255-8817 Fax: (619) 255-8792</p> <ul style="list-style-type: none"> <li>Services limited to San Diego, CA</li> <li>Office is not open to the public. Please call for appointment.</li> <li>Offer legal orientations to individuals in removal proceedings at the San Diego Immigration Court, Wednesdays 8:30 am - 10:00 am (English and Espanol). Call for more information.</li> </ul>	<p><b>Jewish Family Service of San Diego*</b></p> <p>8788 Balboa Avenue San Diego, CA 92123 Tel: (858) 637-3365 Fax: (858) 637-3011 immigration@jfssd.org <a href="http://www.jfssd.org/site/PageServer?pagename=programs_refugee_main">http://www.jfssd.org/site/PageServer?pagename=programs_refugee_main</a></p> <ul style="list-style-type: none"> <li>Languages: Spanish, Arabic, multilingual interpretation may be available</li> <li>Please call for appointment</li> <li>Services include: Bond Hearings, Removal Defense, Cancellation of Removal, Asylum, Adjustment of Status</li> </ul>
<p><b>Legal Aid Society of San Diego*</b></p> <p>110 South Euclid Avenue San Diego, CA 92114 Tel: (877) 534-2524 Fax: (619) 263-5697 <a href="http://www.lassd.org">www.lassd.org</a></p> <ul style="list-style-type: none"> <li>Walk-In Deportation Clinic Wednesdays 8-9:30 a.m. or call for appointment</li> <li>Accept detained and non-detained cases</li> <li>Languages: Spanish; can provide interpretation in most languages</li> </ul>	<p><b>Catholic Charities, Diocese of San Diego*</b></p> <p>4575-B Mission Gorge Place San Diego, CA 92103 Tel: (619) 287-1270 immhelp@ccdsd.org <a href="https://www.ccdsd.org/programs/immigrant-services/">https://www.ccdsd.org/programs/immigrant-services/</a></p> <ul style="list-style-type: none"> <li>Mon-Fri 8am-5pm</li> <li>Languages: Spanish, Arabic, Russian, Ukrainian, Laotian and Tagalog</li> </ul>
<p><b>Casa Cornelia Law Center*</b></p> <p>2760 Fifth Avenue, Suite 200 San Diego, CA 92103 Tel: (619) 231-7788 Fax: (619) 231-7784 <a href="http://www.casacornelia.org">www.casacornelia.org</a> <a href="mailto:LawCenter@CasaCornelia.org">LawCenter@CasaCornelia.org</a></p> <ul style="list-style-type: none"> <li>Asylum, unaccompanied minors, victims of serious crime</li> </ul>	

**Disclaimer:** As required by 8 C.F.R. § 1003.61, the Executive Office for Immigration Review (EOIR), Office of the Director, Office of Legal Access Programs maintains a list of organizations and attorneys qualified under the regulations who provide pro bono or free legal services. The information posted on this list is provided to EOIR by the Providers. EOIR does not endorse any of these organizations or attorneys. Additionally, EOIR does not participate in, nor is it responsible for, the representation decisions or performance of these organizations or attorneys.

- Non Profit Organization
- \*\* Referral Service
- \*\*\* Private Attorney

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Case Type is Removal

DHS Loc. : SND

Alien # [REDACTED]

Name (L,F) : RAMOS-RAMOS, GUMERCINDO

AKA (L,F) :

Lead A# : [REDACTED]

NTA Date : 2/10/2019

Input Date : 2/10/2019 1:39:44 PM

Rec'd Date :

Entry Date : 4/28/2018

Natl'ty : GUATEMALA Lang. : SPANISH

Address : [REDACTED]  
City [REDACTED] State CA

Zip [REDACTED]

Phone [REDACTED]

Charges (1)  
(212)(a)(06)(A)(i) ( )

Findings (S/N/W/O)

(I)n Person (M)ail : M

Base City : SND

Hearing Date : 3/26/2019

Location : SND

Time : 01:00

Battered Spouse (Y/N) : N

Correspondence Title : IMMIGRATION COURT

Hearing Location : SAN DIEGO, CALIFORNIA

Address : 401 WEST A STREET, SUITE #800

City : SAN DIEGO State : CA Zip : 92101

DHS Asylum Received Date :  
(Complete Applications ONLY)

Elapsed Number of Days at Entry : 0  
Projected 180th Date:

Referred after interview

Expedited —

Not Expedited —

Clock has stopped Due to

No Show at Interview —

Failure to Pick-Up NTA —

Failure To Complete —

Biometrics —

No Clock

Asylum Rcvd prior 01/04/95 —

ABC Case —

Signature of DHS Official Forwarding Application

TapiaHDHS

Date Entered in CASE : 2/10/2019

**PETITIONER'S EXHIBIT LIST**

(In Support of Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241)

Exhibit A — ICE Detainee Locator

Exhibit B — Order of Release

Exhibit C — EOIR Notice to Appear (NTA)

**CERTIFICATE OF SERVICE**

I certify that on December 22, 2025, a true and correct copy of the foregoing  
Petitioner's Exhibit List was served on Respondents or Respondents' counsel via:

- CM/ECF
- U.S. Mail
- Other: \_\_\_\_\_

/s/ Richard S. Sterger, Esq.

December 22, 2025

Richard S. Sterger, Esq.  
Sterger Law Group  
300 West Grand Avenue, Suite 200  
Escondido, CA 92025  
Phone: 760-200-7900  
Email: rick@stergerlawgroup.com

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1 ADAM GORDON  
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2 ROBBIN O. LEE  
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5 Telephone: (619) 546-7462  
Email: robbin.lee@usdoj.gov

6 Attorneys for Respondents  
7  
8

9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11  
12 GUMERCINDO RAMOS RAMOS,

13 Petitioners,

14 v.

15 CHRISTOPHER J. LAROSE, et al,

16 Respondents.  
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Case No.: 3:25-cv-3726-JL-DEB

**RESPONSE TO PETITION**

1 On July 8, 2025, the Department of Homeland Security (“DHS”) instituted a notice  
2 titled “Interim Guidance Regarding Detention Authority for Applicants for Admission”  
3 (the “Notice”) requiring, in general, that anyone arrested in the United States and charged  
4 with being inadmissible to be considered an “applicant for admission” under 8 U.S.C.  
5 § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not  
6 subject to detention under 8 U.S.C. § 1226(a).

7 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----  
8 , 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice  
9 unlawful under the Administrative Procedures Act but did not issue a final judgment. On  
10 December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF  
11 No. 94. Accordingly, Respondents acknowledge that Petitioner is detained under 8 U.S.C.  
12 § 1226(a) and is entitled to an order from this Court directing a bond hearing be held  
13 pursuant to 8 U.S.C. § 1226(a).

14 Respondents reserve the right to supplement this response in the event of a stay of  
15 enforcement of the *Bautista* final judgment, appellate relief, or a change in DHS policy.

16 DATED: December 29, 2025

ADAM GORDON  
United States Attorney

17  
18 *s/Robbin O. Lee*  
Robbin O. Lee  
Assistant United States Attorney  
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1 Richard S. Sterger, Esq. (SBN 335832)  
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(760) 546-2111  
rick@stergerlawgroup.com

5 Attorney for Petitioner  
6 GUMERCINDO RAMOS RAMOS

7 UNITED STATE DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA

9 GUMERCINDO RAMOS RAMOS,  
10

11 Plaintiff,

12 v.

13 CHRISTOPHER J. LAROSE, Senior  
14 Warden, Otay Mesa Detention Center;  
15 DANIEL A. BRIGHTMAN, San Diego  
16 Field Office Director, Immigration and  
17 Customs Enforcement and Removal  
18 Operations ("ICE/ERO"); TODD M.  
19 LYONS, Acting Director of Immigration  
20 Customs Enforcement ("ICE"); U.S.  
21 Immigration and Customs  
22 Enforcement; KRISTI NOEM, Secretary  
23 of the Department of Homeland  
24 Security ("DHS"); U.S. Department of  
25 Homeland Security; and PAMELA  
26 BONDI, Attorney General of the United  
27 States,

28 Respondents.

CASE NO.: 3:25-cv-03726-JLS-DEB

**PETITIONER'S TRAVERSE IN SUPPORT  
OF PETITION FOR WRIT OF HABEAS  
CORPUS**



## INTRODUCTION

1  
2 This case concerns the limits of the Government’s detention authority and the judiciary’s  
3 duty to enforce those limits. Respondents contend that, because Mr. Ramos Ramos is detained  
4 pursuant to 8 U.S.C. § 1226(a), the appropriate remedy is a bond hearing under *Maldonado*  
5 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, — F.R.D. —, 2025 WL 3289861 (C.D. Cal.  
6 Nov. 20, 2025). That contention ignores the question actually presented. Mr. Ramos Ramos was  
7 previously released following an individualized determination that he posed neither a danger to the  
8 community nor a flight risk, and the Government has never lawfully rescinded that determination.  
9 His present confinement is therefore not a discretionary custody decision subject to ordinary bond  
10 procedures. It is an unlawful re-detention, undertaken without statutory authority, regulatory  
11 compliance, or due process.

12 Respondent’s attempt at reframing this case as one about bond eligibility, misapprehends  
13 both the nature of the detention and the scope of this Court’s review. When the Government  
14 restrains liberty without lawful authority, habeas relief does not lie in further administrative  
15 reconsideration, but in release.

## ARGUMENT

### I. Mr. Ramos Ramos Is Detained Under 8 U.S.C. § 1226(a)

16  
17 Mr. Ramos Ramos’s detention is governed by 8 U.S.C. § 1226(a). Respondents argue that  
18 because § 1226(a) applies, the appropriate remedy is to afford Mr. Ramos Ramos a bond hearing.  
19 That argument misses the point. Section 1226(a) authorizes discretionary detention in the first  
20 instance. It does not validate detention that results from an unlawful revocation of a prior release  
21 decision.

22 Mr. Ramos Ramos was previously released on his own recognizance after DHS conducted  
23 an individualized assessment of his circumstances. The Government has identified no intervening  
24 change in facts or circumstances that would justify his re-arrest.

25 ///

26 ///


27 ///



Habeas corpus exists precisely to remedy this kind of unlawful restraint. Where detention is not lawfully authorized, the Constitution does not require a detained person to pursue further administrative process. It requires the Court to restore liberty. For these reasons, the Court should grant the petition and order Mr. Ramos Ramos's immediate release from custody.

Date: 12/30/2026

**STERGER LAW GROUP, P.C.**

By:   
Richard S. Sterger, Esq.  
Attorney for Petitioner  
GUMERCINDO RAMOS RAMOS

**SLG**  
STERGER LAW GROUP  
P.C.  
ATTORNEYS AT LAW

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