
3:25-cv-03741-LL-MMP Ramos Gregorio v. Larose et al
Linda Lopez, presiding
Michelle M. Pettit, referral
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History

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

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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 HECTOR ANIVAL RAMOS
12 GREGORIO,

13 Petitioner,

14 v.

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

and

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

Respondents.

Case No.: '25CV3741 LL MMP

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

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

Agency Doc. No.



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

6 **INTRODUCTION**
7

8 1. Petitioner Hector Anival RAMOS GREGORIO (“Mr. RAMOS GREGORIO” or
9 “Petitioner”), by and through his undersigned counsel, files this petition for writ of habeas
10 corpus and complaint for declaratory and injunctive relief to compel his immediate release
11 from immigration detention where he has been held by the U.S. Department of Homeland
12 Security (“DHS”) since being detained on August 8, 2025. *See Exhibit A.* Mr. RAMOS
13 GREGORIO is in the physical custody of Respondents at the Otay Mesa Detention Center
14 in San Diego, California.
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17 2. Mr. RAMOS GREGORIO is unlawfully detained since his arrest on August 8, 2025.
18 Mr. RAMOS GREGORIO was issued a Notice to Appear on March 20, 2019, and was
19 later released on an ankle monitor. *Exhibits A, F.* Mr. RAMOS GREGORIO was then
20 detained by ICE on August 8, 2025, despite being enrolled in an ATD program. He was
21 granted bond at \$10,000 on August 15, 2025; however, the government appealed the
22 determination. *See Exhibit B.* The immigration judge did not determine that Mr. RAMOS
23 GREGORIO was a danger to the community, ultimately determining under the totality of
24 the circumstances that they warranted a \$10,000 bond. *Id.* Mr. RAMOS GREGORIO has
25 since remained in detention.
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1 3. Further, Mr. RAMOS GREGORIO applied for asylum, which was denied in
2 February 2018. *See Exhibit C.* Mr. RAMOS GREGORIO complied with the voluntary
3 departure with safeguards. *Exhibit D.* He later re-entered the U.S. and applied for asylum
4 in April 2021. He appealed the denial on December 11, 2024, and it remains pending with
5 the Board of Immigration Appeals. *See Exhibit D.*
6

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

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

18 JURISDICTION

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

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

2 8. Under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500
3 (1973), venue lies in this judicial district, the one in which Mr. RAMOS GREGORIO is
4 currently detained.
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6 9. Venue is also properly in this Court under 28 U.S.C. § 1391(e) because Respondents
7 are employees, officers, and agents of the United States, and a substantial part of the events
8 or omissions giving rise to the claims occurred in the Southern District of California.
9

10 PARTIES

11 10. Petitioner Hector RAMOS GREGORIO (“Petitioner” or “Mr. RAMOS
12 GREGORIO”) is a 34-year-old-Guatemalan national who most recently entered the U.S.
13 in May 2019. Petitioner initially entered the U.S. in 2006. *Exhibit A*. In August 2017, Mr.
14 RAMOS GREGORIO applied for asylum, a claim which an immigration judge in February
15 2018. *Exhibit C*. Following the IJ’s order, Mr. RAMOS GREGORIO exited the U.S.
16 through a voluntary departure with safeguards. *Exhibits A, D*. Petitioner reentered the
17 United States thereafter. *Exhibit A*.
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20 11. Later, ICE detained Petitioner on March 20, 2019, and issued him a Notice to
21 Appear. *Exhibits F, G*. Mr. RAMOS GREGORIO was later released and placed on an ankle
22 monitor. *Exhibits F, A*. Mr. RAMOS GREGORIO once again applied for defensive asylum
23 in April 2021, a proceeding that is currently pending in the BIA. *Exhibit E*.
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26 12. Mr. RAMOS GREGORIO was arrested by ICE agents on August 8, 2025, outside
27 of his garage on his way home from his AA meeting. *Exhibit A*. He was processed as a
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1 detainee and transferred to Otay Mesa Detention Center. Mr. RAMOS GREGORIO has
2 been in immigration detention since that date. An IJ determined that MR. RAMOS
3 GREGORIO was not a danger to the community and set bond at \$10,000. *Exhibit B*. DHS
4 appealed to the BIA, which was denied. *Id.* Mr. RAMOS GREGORIO is currently in
5 Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego,
6 California. That facility is operated by CoreCivic, Inc., a Maryland corporation.

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

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

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

1 16. Respondent Daren K. MARGOLIN is the Director of EOIR and has ultimate
2 responsibility for overseeing the operation of the immigration courts and the Board of
3 Immigration Appeals, including bond hearings. EOIR is the federal agency responsible for
4 implementing and enforcing the INA in removal proceedings, including for custody
5 redeterminations in bond hearings. He is sued in his official capacity.
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8 17. Respondent Kristi NOEM is the Secretary of the DHS and is named in her official
9 capacity. DHS is the federal agency encompassing ICE, which is responsible for the
10 administration and enforcement of the INA and all other laws relating to the immigration
11 of noncitizens. In her capacity as Secretary, Respondent NOEM has responsibility for the
12 administration and enforcement of the immigration and naturalization laws under Section
13 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25,
14 2002); *see also* 8 U.S.C. § 1103(a). Respondent NOEM is the ultimate legal custodian of
15
16 Mr. RAMOS GREGORIO.
17

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

A. Section 240 Versus Expedited Removal Proceedings and Parole

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

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

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

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

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

8
9 23. In expedited removal proceedings, the noncitizen is subject to mandatory detention.
10 *See* 8 U.S.C. § 1225(B)(iii). The only exception for release through the parole authority is
11 under § 1182(d)(5)(A) – ““for urgent humanitarian reasons or significant public benefit.””
12 *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). If
13 there is a finding of credible fear of persecution, then the proceedings are converted to ones
14 under Section 240. The immigration officer initially decides which type of removal
15 proceedings to initiate. Even if the applicant is inadmissible and intends to seek asylum,
16 officers routinely initiate Section 240 proceedings and issue a Notice to Appear. Once an
17 applicant for admission has been conditionally paroled and issued a Notice to
18 Appear, they cannot be designated for expedited removal at a later date. *Coal. for Humane*
19 *Immigrant Rights v. Noem*, No. 25-cv-872 (JMC), 2025 U.S. Dist. LEXIS 148615 (D.D.C.
20 Aug. 1, 2025).
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25 24. Further, a removal order is automatically stayed during the BIA’s adjudication of
26 the appeal until a final decision issues. 8 C.F.R. § 1003.6(a). It thus follows that a
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1 conditional parole or bond is not automatically revoked after a removal order is issued
2 because proceedings are still pending.

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

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

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

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

4 28. Further, DHS has, in practice, limited its authority and “generally only re-arrests
5 [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances,” not just any
6 changed circumstances. *Id.*
7

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11
12 35. The United States Court of Appeals for the Ninth Circuit adopted the three-factor
13 *Mathews* test to assess adequate safeguards. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189,
14 1206-07 (9th Cir. 2022). The *Mathews* safeguards are “first, the private interest factor that
15 will be affected by the official action; second, the risk of erroneous deprivation of such
16 interest through the procedures used, and the probative value, if any, of additional or
17 substitute procedural safeguards; and finally the government’s interest, including the
18 function involved and the fiscal and administrative burdens that the additional or substitute
19 procedural requirements would entail.” *Mathews v. Eldrige*, 424 U.S. 319, 335 (1976).
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23 36. The Fifth Amendment’s Due Process Clause typically requires a hearing before the
24 government may deprive a person of their liberty interest. *Zinermon v. Burch*, 494 U.S.
25 113, 127 (1990); *see also United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014)
26 (noting “due process always requires, a minimum, notice and an opportunity to respond.”).
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1 Post-deprivation remedies may satisfy the requirements of due process only in a “special
2 case” in which they are “the only remedies the State could be expected to provide” and
3 where “one of the variables in the Mathews equation — the value of post deprivation
4 safeguards — is negligible in preventing the kind of deprivation at issue” such that “the
5 State cannot be required constitutionally to do the impossible by providing post deprivation
6 process.” *Zinermon*, 494 U.S. at 128-29.
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9 **c. Substantial Liberty Interest in Staying Out of Detention**

10 37. A person’s interest in not being detained is “the most elemental of liberty
11 interests[.]” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “Freedom from bodily restraint
12 has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v.*
13 *Louisiana*, 504 U.S. 71, 80 (1992). This liberty interest also exists when ICE decides to
14 nullify unilaterally its own earlier parole decision and take away his physical freedom, such
15 as his “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*,
16 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). Courts have routinely
17 agreed that “a petitioner’s interest in remaining out of custody as ‘substantial.’” *Rodriguez-*
18 *Flores*, No. 2:25-CV-06900 JGB (JCx), at *9 (citing *Diaz v. Kaiser*, No. 3:25-CV-05071,
19 2025 U.S. Dist. LEXIS 113566 (N.D. Cal. June 14, 2025)).
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24 38. The longer a person has been released, the more important his liberty interest grows.
25 *Morrissey*, 408 U.S. at 482.
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d. The Government’s Risk of Erroneously Depriving Petitioner of His Liberty Interest is High, and Providing Petitioner with Procedural Safeguards Would Protect Petitioner’s Liberty Interest

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

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

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

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

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

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

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

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

9 44. The efficient allocation of the government’s limited fiscal resources further supports
10 holding a hearing before re-detaining noncitizens. The “fiscal and administrative burdens”
11 as a result of the due process safeguard are nonexistent. *See Mathews*, 424 U.S. at 334-35.
12 Indeed, judges have long recognized that “[t]he costs to the public of immigration detention
13 are ‘staggering,’” *Hernandez*, 872 F.3d at 996; *Diaz*, 2025 U.S. Dist. LEXIS 113566 at *8.
14 In 2017, immigration detention cost “\$158 each day per detainee, amounting to a total daily
15 cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. These are likely higher today when
16 accounting for inflation. On the other hand, “[i]n immigration court, custody hearings are
17 routine and impose a minimal cost.” *Pinchi*, 792 F. Supp. 3d at *3 (citing *Singh*, 2025 U.S.
18 Dist. LEXIS 132500 (cleaned up)). The expense of re-detaining a noncitizen who was
19 earlier released pending any bond hearing would significantly exceed that of providing a
20 pre-detention hearing. *Id.*
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1 45. ICE’s new policy requiring a minimum number of arrests each day¹ is not a material
2 change in circumstances and cannot supersede Congressional rules that allow the release
3 of noncitizens. It is “arbitrary, capricious [and] an abuse of discretion” and “in excess of
4 statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C.
5 § 706(2)(A)-(C). Even if the government ultimately can demonstrate by clear and
6 convincing evidence to a neutral decisionmaker that Mr. RAMOS GREGORIO’s detention
7 is necessary to prevent danger to the community or flight, then the only potential injury the
8 government faces is a short delay in detaining him. *Pinchi*, 792 F. Supp. 3d at 20-21. When
9 faced with a conflict between a minimal cost and preventable human suffering, the Court
10 should have little difficulty concluding that a balance of the hardships heavily favors Mr.
11 RAMOS GREGORIO.
12

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

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

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

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

9 **FACTS**

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

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

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

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

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

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

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

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

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

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Mr. RAMOS GREGORIO’s Fifth Amendment Due Process Violation

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

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

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

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

SECOND CAUSE OF ACTION

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

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

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

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

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

THIRD CAUSE OF ACTION

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

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

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

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

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

8 **PRAYER FOR RELIEF**

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

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

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

3 Dated: December 23, 2025
4

Respectfully submitted

By: /s Valerie Sigamani

Valerie Sigamani

Attorney for Petitioner

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

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

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

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

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



Hector Anival Ramos Gregorio

12/18/25
Date

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

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

IN BOND PROCEEDINGS

ON BEHALF OF RESPONDENT:
Edward Haase, Esquire
4475 Mission Boulevard, Suite 208
San Diego, California 92109

ON BEHALF OF THE DEPARTMENT
OF HOMELAND SECURITY:
Carl Balediata, Assistant Chief Counsel
P.O. Box 438150
San Diego, California 92143

BOND MEMORANDUM OF THE IMMIGRATION JUDGE

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

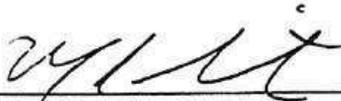
The Court found that it had jurisdiction to conduct a bond hearing, rejecting the Department's argument that the Respondent is an applicant for admission and detained under section 235 of the Immigration and Nationality Act ("INA").¹ See, e.g., *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (rejecting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

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

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

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

Dated: 9/9/25



Mark Sameit
Immigration Judge



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

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

Notice of ICE Intent to Appeal Custody Redetermination

Date: August 15, 2025

Alien Number: A [REDACTED]

Alien Name: RAMIREZ-GREGORIO, Hector Anival

1. Immigration and Customs Enforcement (ICE) has:

- a. Held the respondent without bond.
- b. Set the respondent's bond at \$ _____.

2. The Immigration Judge on _____ (Date)

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

3. Filing this form on August 15, 2025 (Date) automatically stays the Immigration Judge's custody redetermination decision. See 8 C.F.R. §1003.19(i)(2).

4. The stay shall lapse if ICE does not file a notice of appeal along with appropriate certification within ten business days of the issuance of the order of the Immigration Judge, or upon ICE's withdrawal of this notice, or as set forth in 8 C.F.R. §1003.6(c)(4) and (5).
See 8 C.F.R. §1003.6(c)(1).

Michael P. McQuinn
ICE Counsel

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

EOIR - 1 of 1

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



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

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

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

Name:
RAMOS-GREGORIO, HECTOR ANIBAL



Riders:

Date of Notice: 09/05/2025

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 08/29/2025, in the above-referenced case, filed by the Department

Additional Comments
N/A

WARNING FOR APPEALS:

Departure. If you leave the United States after filing this appeal but before the Board issues a decision, your appeal may be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).

Proof of posting voluntary departure bond. If you have been granted voluntary departure by the Immigration Judge, you must submit proof of having posted the voluntary departure bond set by the Immigration Judge to the Board. Your submission of proof must be provided to the Board within 30 days of filing this appeal. If you do not timely submit proof to the Board that the voluntary departure bond has been posted, the Board cannot reinstate the period of voluntary departure. 8 C.F.R. § 1240.2(c)(3)(ii).

Autostay Bond Appeals. Please note that the automatic stay will expire 90 days from the date of receipt of the DHS' appeal. 8 C.F.R. § 1003.6(c)(3). If the Board grants the respondent's request for additional briefing time, then the 90-day automatic stay period will be tolled for the same number of days. 8 C.F.R. § 1003.6(c)(4).

Form EOIR-27. If the appeal was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

WARNING FOR MOTIONS:

Stay of removal. Filing a motion with the Board does not automatically stop the DHS from executing an order of removal. If the respondent/applicant is in DHS detention and is about to be removed, you may request the Board to stay the removal on an emergency basis. For more information, call the Clerk's Office at (703) 605-1007.

Form EOIR-27. If the motion was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

FILING INSTRUCTIONS:

If you have any questions about how to file something at the Board, please review the Board's Practice Manual which is available on EOIR's website at www.justice.gov/coir.

Accepted by: CarterE

CC

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

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

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

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

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

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

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

DECISION AND ORDERS OF THE IMMIGRATION JUDGE

I. INTRODUCTION AND PROCEDURAL HISTORY

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