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

ELFEGO ARMANDO MONTENEGRO)
-DE LEON)

Petitioner,)

v.)

CHRISTOPHER LAROSE, in his)
official capacity as Warden of Otay Mesa Detention Center)
Detention Center; **GREGORY J. ARCHAMBEAULT**, in)
his official capacity as San Diego Field)
Office Director, ICE Enforcement)
Removal Operations; **TODD LYONS**, in)
his official capacity as Acting Director of)
Immigration and Customs Enforcement;)
KRISTI NOEM, in her official)
capacity as Secretary of Homeland)
Security; and **PAMELA BONDI**, in her)
official capacity as Attorney General of)
the United States,)

Respondents.)
_____)

Case No. '25CV3780 LL DDL

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. This is a Petition for a Writ of Habeas Corpus file on behalf of Petitioner Elfego Armando Montenegro De Leon to remedy his unlawful detention. On August 17, 2023, the Immigration Judge in Otay Mesa, California granted Mr. Montenegro De Leon Withholding of Removal under the Convention Against Torture.

2. Mr. Montenegro De Leon is a fifty-three (53) year-old citizen and national of Guatemala currently detained at the Otay Mesa Detention Center.
3. Mr. Montenegro De Leon initially entered the United States on or about March of 1992 without inspection. On June 25, 1992, Mr. Montenegro De Leon was arrested by the San Diego Police for the charge of possession of a controlled substance pursuant to California Health and Safety Code section 11351.5 and for possession of narcotic controlled substance pursuant to California Health and Safety Code section 11350(a).
4. Mr. Montenegro De Leon was convicted of HS §11351.5, and he was sentenced to 180 days in jail and three-year probation. On December 11, 2012, Mr. Montenegro De Leon's felony conviction for HS §11351.5 was reduced to a misdemeanor. This is the sole conviction on Mr. Montenegro De Leon's record, and he has been over thirty-three (33) years crime free.
5. On March 20, 2023, Mr. Montenegro De Leon was detained by ICE agents when he was leaving his home and placed in removal proceedings in Otay Mesa, California. Mr. Montenegro De Leon was detained at the Otay Mesa Detention Facility for the duration of his Withholding of Removal case.
6. On August 17, 2023, Mr. Montenegro De Leon was granted CAT Withholding by an Immigration Judge in Otay Mesa, California Immigration Court. The Immigration Judge, Eugene H. Robinson Jr., found that Mr. Montenegro De Leon "ha[d] not committed a particular serious crime that would bar him from withholding of removal under the Convention Against Torture."

7. The Immigration Judge denied withholding of removal under the INA, but granted Withholding under CAT. On August 18, 2023, Mr. Montenegro De Leon was released from detention and was placed under Order of Supervision by U.S. Immigration and Customs Enforcement.
8. Mr. Montenegro De Leon reported with ICE every year without an incident.
9. On September 13, 2023, Mr. Montenegro De Leon appealed the judge's denial of withholding of removal under the INA and agreed that the Immigration Judge was correct in granting him CAT Withholding. Mr. Montenegro De Leon's appeal is pending with the Board of Immigration Appeals.
10. On September 25, 2025, Mr. Montenegro De Leon went to his check-in with ICE in San Diego, California. ICE re-detained Mr. Montenegro De Leon stating that due to his 1992 criminal conviction he would be detained in federal custody.
11. Mr. Montenegro De Leon has been detained for eight-one (81) days in Otay Mesa, California without a court hearing date because his appeal is pending with the BIA. Mr. Montenegro De Leon requested a bond redetermination hearing.
12. The Immigration Judge who previously granted Mr. Montenegro De Leon's Withholding under CAT denied Mr. Montenegro De Leon bond release stating that he has been convicted of a controlled substance offense (methamphetamine) the 1992 case.
13. Petitioner is challenging his detention as unlawful based on ICE's decision to revoke his release without providing the required notice or opportunity to be heard.

14. An order of supervision may be revoked under 8 C.R.R. § 241.4, “on account of changed circumstances, the Service determines that there is significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.”
15. Mr. Montenegro De Leon has not committed any crimes since his last conviction from 1992. He has complied with ICE’s Order of Supervision since he was last released from custody and granted Withholding under CAT.
16. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus, and order Respondents to immediately release him from custody.

PARTIES

17. Petitioner, Elfego Armando Montenegro De Leon, is a native and citizen of Guatemala who is currently in the custody of the DHS at the Otay Mesa Detention Facility in San Diego, California.
18. Respondent Pamela Bondi is the Attorney General of the United States and is the most senior official in the United States Department of Justice (“DOJ”). She has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the Board of Immigration Appeals (“BIA”). She is named as a party in her official capacity.
19. Respondent, Kristi Noem, is the Secretary of the DHS and she has authority over the detention and departure of noncitizens, like Petitioner, because she administers and enforces immigration laws pursuant to section 402 of the Homeland Security Act of

2002. In this role, Respondent Noem has “control direction, and supervision” of all employees of DHS, including Respondent Cantu. See U.S.C. § 1003(a)(2). Ms.

Noem, is named as a party in her official capacity.

20. Respondent, Gregory J. Archambeault, is the San Diego Filed Office Director for ICE/ERO, which has administrative jurisdiction over Petitioner’s case. As such, Respondent Archambeault is the federal official most directly responsible for overseeing the Otay Mesa Detention Center. He is a legal custodian of Petitioner and is named in his official capacity.
21. Respondent, Christopher Larose, is the Warden of the Otay Mesa Detention Center, which is operated by CoreCivic and contracted by DHS. As such, he is the immediate physical custodian of Petitioner and he is named in his official capacity.

FACTUAL ALLEGATIONS

22. Petitioner is a fifty-three (53) year-old male and citizen of Guatemala. Petitioner was granted Withholding under the Convention Against Torture (“CAT”) because he suffered persecution and torture in Guatemala. (“Exhibit A”, Order of the Immigration Judge Granting Withholding CAT.)
23. In 1997, after Petitioner was deported back to Guatemala, Petitioner was a victim of kidnapping [REDACTED] [REDACTED] brutally beat Petitioner and threatened him to death because he had previously witnessed a crime committed by influential individuals and wanted him to leave the country.

24. Petitioner last entered the United States in 1997 without inspection and has remained in the United States for twenty-eight (28) years. (“Exhibit B”, Form I-213 Record of Deportable/ Inadmissible Alien.)
25. Petitioner has four U.S. citizen children ages nine (9), seventeen (17), twenty (20), and twenty-three (23). One of them is attending Cuyamaca Community College and another one recently graduated from Concorde Career College as a dental assistant. Petitioner has provided financially for his two daughters’ education and living expenses. (“Exhibit C”, Birth Certificates of Petitioner’s Children.)
26. Petitioner’s parents are both U.S. citizens. Petitioner has a U.S. citizen brother. Petitioner runs his own landscaping business and owns two houses in San Diego, California.
27. Petitioner has deep ties to the San Diego, California area, where he has run his landscaping company, for over twenty-years. Petitioner attends church at Our Lady of Sacred Heart Parish in San Diego, California where he has been a member for over twenty (20) years. As support letters from his submission in support of bond attest, he is a ward worker who is loving, respectful, and missed dearly by his family and community.
28. On September 25, 2025, Petitioner reported to his ICE check-in in San Diego, California pursuant to his Order of Supervision when ICE agents took him into custody. (“Exhibit D”, ICE Form I-220B Order of Supervision.)
29. Petitioner has now been detained at the Otay Mesa Detention Center for 92 days.

30. Petitioner's case is pending with the BIA, where he is appealing the denial of his Withholding of Removal under INA § 241(b)(3). ("Exhibit E", BIA Filing Receipt for Appeal.) Petitioner is not appealing his grant of Withholding under CAT.
31. On November 17, 2025, the Immigration Judge denied Petitioner's bond release because Petitioner has been convicted of a controlled substance offense from 1992. ("Exhibit F", Order of the Immigration Judge Denying Bond; "Exhibit G", Superior Court of California Sentencing Form.)
32. Petitioner's conviction was reduced to a misdemeanor on December 11, 2012. ("Exhibit H", SDSC CRM-208, Order Granting Petition for Dismissal.)
33. The Immigration judge denied Petitioner's bond due to his controlled substance conviction, however the same judge stated in his oral decision back in 2023 that Petitioner's conviction was not a particular serious offense. ("Exhibit I", Immigration Judge's Oral Decision Transcript at 62.)
34. As a result, Petitioner remains in detention without a future hearing date in a case that has already been adjudicated and where relief has been granted.
35. There are no changed circumstances which warrant his detention. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and opportunity to apply for protections to that country but while Petitioner awaits decision from the BIA no such action can be taken. The Respondents have arrested Petitioner without a reason or due notice and without observance of procedures required by regulation and are now detaining him indefinitely. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from his family and community.

JURISDICTION

36. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). He is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.
37. Petitioner challenges his custody as such jurisdiction is proper in this Court. While the courts of appeals have jurisdiction to review removal orders through petitions for review pursuant to 8 U.S.C. § 1252(a)(1) and (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241, to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075-76 (9th Cir. 2006).
38. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
39. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
40. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
41. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to

prolonged immigration detention. *See Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

42. Venue is proper with the Southern District of California pursuant to 28 USC § 1391(e) because Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, which is within the geographical jurisdiction of the U.S. District Court for the Southern District of California, and because the events or omissions giving rise to this claim occurred in this District. Further, this is a civil action in which the Respondents are employees or officers of the United States or, as in the case of Respondent Larose, contracted by the United States.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

43. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

44. Here, Petitioner argues that he has exhausted his administrative remedies, and any further requests for parole or reconsideration would be futile. Moreover, an immigration judge denied Petitioner bond on November 17, 2025. Therefore, Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

LEGAL FRAMEWORK

45. A writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). The petitioner bears the burden of demonstrating that “[h]e is in custody in violation of the Constitution or laws or treaties of the United States.” *Id.* § 2241(c)(3).

Due Process Clause

46. The Due Process Clause of the Fifth Amendment provides Petitioner with important
The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical

restraint— lies at the heart of the liberty” that the Due Process Clause protects.

Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

47. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c).
48. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA’s detention authorities).
49. Since the Supreme Court’s *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed “grave doubt” that “any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government’s arbitrary deprivation of liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).
50. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).
51. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to

prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification. Petitioner’s case was already been adjudicated and the Immigration Judge granted relief under Withholding CAT where he found that Petitioner’s 1992 conviction was not a “serious crime” as such is should not deem him a danger to the community.

52. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249- 50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).
53. Courts have found that automatic detention pending appeal “after a judicial officer has determined that release [] is appropriate,” where the government has made no “showing of dangerousness or flight risk,” “renders the continued detention arbitrary” and “raises a substantial Fifth Amendment claim.” *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Whilst this case is in the context of the

automated stay of bond on appeal, the same reasoning applies here: “... no special justification exists that outweighs the individual’s constitutionally protected interest in avoiding physical restraint . . .” *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004).

54. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a “function of the length of the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a substantial amount of time, making his already lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

55. Due process also requires certain minimal procedures at bond hearings. First, the to justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and

convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody government must bear the burden of proof by clear and convincing evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen’s ability to pay a bond when determining the appropriate conditions of release.

56. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enf’t*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of

proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v. McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

57. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
58. First, incarceration deprives noncitizens of a “profound” liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).
59. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. *See infra* ¶ 66.

60. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.
61. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process." *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).
62. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying her any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).
63. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991

(9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

64. Due process likewise requires consideration of a noncitizen’s ability to pay a bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires “consideration of financial circumstances and alternative conditions of release” to prevent against detention based on poverty. *Id.*
65. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.
66. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General

(OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

67. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.
68. Here, the Respondents can neither show that the continued detention of petitioner following his detention is reasonably related to the original purpose and the *Mathews* tests are satisfied. Similarly, no procedural safeguards are offered to those who remain in custody pending an appeal of a decision on termination of removal proceedings.

Agency Regulations

69. In Relevant part, an individual's release may be revoked under 8 C.F.R. § 241.4 when the Executive Associate Commissioner or a district director believes revocation "is appropriate to enforce a removal order or to commence removal proceedings against [a noncitizen]." 8 C.F.R. § 241.4(1)(2)(iii).
70. Section 241.13 provides "special review procedures" that apply where a noncitizen "has provided a good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed ... in the reasonably foreseeable

future.” 8 C.F.R. § 241.13(a) Release may be revoked under this section if, “on account of changed circumstances, the Service determines that there is significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

71. Under both regulations, “[u]pon revocation,” the noncitizen “will be notified of the reasons for revocation stated in the notification.” 8 C.F.R. § 241.4(I)(I); § 241.13(i)(3).

Grant of Withholding of Removal Under CAT

72. Federal regulations provide a procedure by which a grant of Withholding of Removal under CAT issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge or in this case the BIA and must prove by a preponderance of the evidence that the individual would no longer face torture. *See* 8 C.F.R. § 1208.24(f).

73. However, CAT deferral is a country-specific form of relief. Should the government wish to remove an individual with a grant of Withholding of removal under CAT to some other country, it must first provide that individual with notice and an opportunity to apply for CAT deferral as to that country as well, if appropriate. *See* 8 C.F.R. § 1231(b)(3)(A); *see also, Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *El Himri V. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004).

74. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is ‘weak or nonexistent.’” *Zadvydas*, 535 U.S. AT 690-92.

CLAIM FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

75. Petitioner repeats and realleges the foregoing paragraphs as if fully set forth and incorporated herein by reference.
76. Petitioner is in custody “under or by color of the authority of the United States” and in custody “in violation of the Constitution or laws . . . of the United States.” 28 U.S.C. § 2241.
77. The Fifth Amendment’s Due Process Clause provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” It specifically “entitles aliens to due process of law in deportation proceedings.” *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). The Supreme Court held more than a century ago that civil detention of a removable noncitizen violates the Constitution if it is punitive. *Wong Wing v. United States*, 163 U.S. 228, 237-38, 16 S. Ct. 977, 41 L. Ed. 140 (1896).
78. Noncitizens subject to civil immigration detention “cannot be subjected to conditions that ‘amount to punishment.’” See *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)). At some point, civil detention can become punitive, resulting in a due process violation. *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021).

79. Petitioner has been granted immigration relief in the form of Withholding of removal under CAT and he has not committed any new crimes that would justify his re-detention.
80. Nonetheless, the Otay Immigration Court Immigration Judge, Eugene H. Robinson Jr., has denied Petitioner's bond based on a 1992 criminal conviction for possession of drugs which he had previously found back in 2023 as a not particularly serious crime.
81. The aforementioned facts demonstrate that Petitioner poses no flight risk, nor that the Government has any other compelling interest in further detaining him pending the outcome of his removal proceedings.
82. Petitioner's prolonged § 1226(c) detention is impermissible because it bears no reasonable relation to its purpose. *See Nielsen v. Preap*, 139 S. Ct. 954, 972 (2019) ("Our decision today on the meaning of that statutory provision does not foreclose as-applied challenge – that is, constitutional challenges to applications of the statute as we have now read it."); *Zadvydas*, 533 U.S. at 690.
83. Petitioner's civil immigration confinement under § 1226(c) is excessive in relation to its regulatory purpose – preventing flight and danger to the community – and the effective alternatives to detention that are available. His civil detention is therefore punitive. *See United States v. Salerno*, 481 U.S. 739, 747 (1987).
84. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

COUNT II

**VIOLATION OF DUE PROCESS REGULATIONS, 8 CFR § 241.4, AND § 241.13,
SUBSTANTIAL PREJUDICE**

85. Petitioner repeats and realleges all the foregoing paragraphs as if fully set forth and incorporated herein by reference.

86. Petitioner has been prejudiced by ICE violation § 241.4 and § 241.13. Where there is a regulation violation, the Court should assess “whether violation of the regulation prejudiced the party involved.” *Carnation Co.*, 641 F.2d at 804 n.4. In the immigration context, “violation of a regulation does not invalidate a deportation proceeding unless the regulation serves a purpose of benefit to the [noncitizen].” *United States v. Calderon-Medina*, 591 F.2d 529, 531 (9th Cir. 1979).

87. ICE failed to comply with the requirements of § 241.4 and § 241.13, and their failure has “prejudiced interests of [Petitioner] which were protected by the regulations[s].” *Id.* Both § 241.4 and § 241.13 were intended “to provide due process protections to [noncitizens] following the removal period as they are considered for continued detention, release, and then possible revocation of release.” *Orellana v. Baker*, Civil Action No. 25-1788-TDC, WL 22444087, at *6 (D. Md. Aug. 25, 2025).

88. ICE deprived Petitioner of these due process protections when it failed to provide him with sufficient notice or a prompt interview to respond to the reasons for revocation of his release. “It is well established that the deprivation of constitutional rights unquestionably constitute irreparable injury.” *Melenderes v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *see also*

Hernandez v. Sessions, 872 F.3d 976, 995, 1000 (9th Cir. 2017) (holding that “[unlawful detention” by immigration officials constituted “irreparable harm”)

89. Therefore, Petitioner is being prejudiced by ICE’s failure to comply with its own regulations.

COUNT III

VIOLATION OF GOVERNMENT REGULATIONS AND PROCEDURES/RELIEF

90. Petitioners incorporate by reference the allegations of fact set forth in paragraphs 1-35 as if fully set forth herein.

91. As set forth above, government regulations and procedures do not allow Petitioner to be removed to Guatemala, the country from which he has been granted deferral of removal under CAT, without an immigration judge first carrying out the procedures set forth in federal regulations.

COUNT IV

VIOLATION OF 8 C.F.R. § 241.4(l)

92. Petitioners incorporate by reference the allegations of fact set forth in paragraphs 1-35 as if fully set forth herein.

93. As set forth above, Respondents’ actions in cancelling Petitioner’s release on supervision and re-arresting Petitioner without any advance or contemporaneous

explanation of the legal or factual basis for re-detention violated 8 C.F.R. §241.4(l), a regulation designed to protect the due process rights of noncitizens like Petitioner.

94. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

95. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect his due process rights.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

96. Assume jurisdiction over this matter;

97. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

98. Preliminarily and permanently enjoin Respondents from removing Petitioner, unless and until his order of removal under CAT is terminated, including all appeals;

99. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

100. Issue a Writ of Habeas Corpus ordering the Respondents to release
Petitioner

from custody; hold a hearing if warranted; determine that Petitioner's detention is not justified because the government has not established by clear and convincing

evidence that he presents a risk of flight or a danger to the community in light of the available alternatives;

101. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
102. Declare that Petitioner's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;
103. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Petitioner's an individualized bond hearing before an impartial immigration judge within 14 days, at which the government bears the burden to justify continued detention by clear and convincing evidence;
104. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
105. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Carlos A. Garcia
Carlos A. Garcia, Esq. (CA SBN 314732)
Law Office of Marisol Rogel, P.C.
2424 W. 1st St. #330
Santa Ana, CA 92703
Telephone: (714) 805-6075
E-mail: Marisol@Rogellawoffice.com

Counsel for Petitioner

Dated: December 26, 2025

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Exhibit A



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:
MONTENEGRO DE LEON, ELFEGO
ARMANDO

To:
Marisol Rogel Pineda, Esq.
2424 W. 1st St #330
Santa Ana, CA 92703

A-Number:



Riders:

In Withholding Only Proceedings
Initiated by the Department of Homeland Security

Date:

08/17/2023

AMENDED

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 08/17/2023.
- Both parties waived the issuance of a formal oral decision in this proceeding.

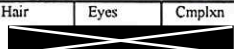
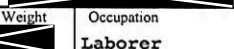
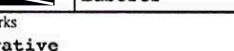



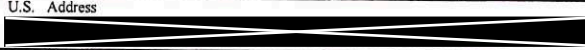
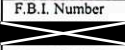
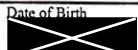
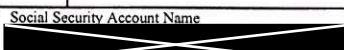

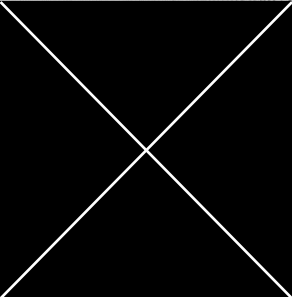
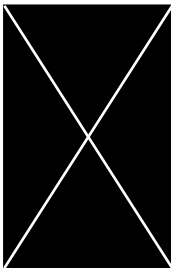
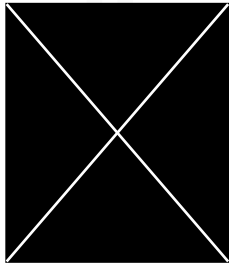
The noncitizen's request for:

- Withholding of Removal under Immigration and Nationality Act § 241(b)(3) is:
 granted denied withdrawn.
- Withholding of Removal under the Convention Against Torture is:
 granted denied withdrawn
- Deferral of Removal under the Convention Against Torture is:
 granted denied withdrawn.

Immigration Judge: ROBINSON, EUGENE 08/17/2023

Exhibit B

U.S. Department of Homeland Security Subject ID :  Record of Deportable/Inadmissible Alien

Family Name (CAPS) MONTENEGRO DE LEON, ELFEGO ARMANDO		First	Middle	Sex M	Hair 	Eyes 	Cmplxn 
Country of Citizenship GUATEMALA	Passport Number and Country of Issue 			Height 	Weight 	Occupation Laborer	
U.S. Address 				Scars and Marks See Narrative			
Date, Place, Time, and Manner of Last Entry Unknown Date Unknown Time,			Passenger Boarded at				
Number, Street, City, Province (State) and Country of Permanent Residence FAILED TO PROVIDE ADDRESS GUATEMALA, GUATEMALA				F.B.I. Number 			
Date of Birth 				Age: 53		Date of Action 09/25/2025	
City, Province (State) and Country of Birth Guatemala, GUATEMALA				Form: (Type and No.) <input checked="" type="checkbox"/> AR <input type="checkbox"/> Form: (Type and No.) <input type="checkbox"/> Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>		Location Code SND/SND	
NIV Issuing Post and NIV Number				Social Security Account Name 			
Date Visa Issued				Social Security Number 			
Immigration Record POSITIVE - See Narrative				Criminal Record See Narrative			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)						Number and Nationality of Minor Children None	
Father's Name, Nationality, and Address, if Known MONTENEGRO, ELFEGO NATIONALITY: UNITED STATES				Mother's Present and Maiden Names, Nationality, and Address, if Known STODDARD, JOSEFINA NATIONALITY: UNITED STATES			
Monies Due/Property in U.S. Not in Immediate Possession None Claimed				Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Systems Checks See Narrative	
Name and Address of (Last)(Current) U.S. Employer See Narrative				Type of Employment See Narrative		Salary 60000 Yearly <input checked="" type="checkbox"/> Hr	
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)				Charge Code Words(s) See Narrative			
				Left Index fingerprint		Right Index fingerprint	
							
							
SCARS MARKS AND TATTOOS None Visible - None visible							
IMMIGRATION RECORD 1992-09-25 Los Angeles, CA/Air - V: ER Expedited Removal (I-860) ...(CONTINUED ON I-831)							
Alien has been advised of communication privileges _____ (Date/Initials)				A 11782 PADILLA Deportation Officer _____ (Signature and Title of Immigration Officer)			
Distribution:				Received: (Subject and Documents) (Report of Interview) Officer: A 11782 PADILLA on: September 25, 2025 (time) Disposition: Other Examining Officer: BARILE, JOHN			

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name MONTENEGRO DE LEON, ELFEGO ARMANDO		File Number [REDACTED] Event No: [REDACTED]	Date 09/25/2025
Subject Health Status ----- The subject claims good health.			
Current Administrative Charges ----- 09/25/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)			
RECORDS CHECKED ----- CIS Pos EARM Pos IAFIS Pos NCIC Pos TECS Pos			
NAME AND ADDRESS OF US EMPLOYER ----- Self- Employed , 650 Morrison St San Diego, CALIFORNIA, 92102, UNITED STATES			
TYPE OF EMPLOYMENT ----- Operators, Fabricators, and Laborers			
AT/NEAR ----- SAN DIEGO, CALIFORNIA			
Record of Deportable/Excludable Alien: ----- FUGITIVE OPERATIONS TEAM ZULU			
NAME: MONTENEGRO De Leon, Armando			
A#: [REDACTED]			
DOB: [REDACTED] COB: GUATEMALA FBI: [REDACTED] SID: [REDACTED]			
CASE TYPE: Remand AGENCY: ICE - FUG OPS I, Deportation Officer, C. Santiago am currently assigned to the San Diego Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Fugitive Operations Unit, with an area of operational enforcement to include, but not limited to, the San Diego County area. In part, this unit is responsible for locating and identifying criminal aliens and processing them for removal proceedings in most cases when applicable under the law. ENCOUNTER DATA On September 23, 2025, at approximately 9:00am, San Diego ERO Deportation Officers (DO) C. Santiago and DO C. Pagaza responded to the non-detained Office located at 880 Front St., Suite 2242, San Diego, CA 92101. Officers were notified by non-detained officers that MONTENEGRO De Leon, Elfego Armando, DOB: [REDACTED] had presented himself to the non-detained office and was waiting in the lobby. MONTENEGRO De Leon had due his criminal convictions MONTENEGRO De Leon will be sustain in federal custody. I-200 (Warrant for Arrest of Alien) had been issued and signed by Supervisory Detention and Deportation Officer (SDDO) K. Sheffield. At approximately 9:15 am, Officers approached a Male Subject matching the physical description			
Signature A 11782 PADILLA		Title Deportation Officer	

EOIR - 9 of 12

Alien's Name MONTENEGRO DE LEON, ELFEGO ARMANDO	File Number [REDACTED] Event No: [REDACTED]	Date 09/25/2025
<p>of MONTENEGRO De Leon, Elfego Armando and introduced themselves as Immigration Officers. I, DO Santiago conducted a field interview and verified that the Male Subject was the intended target by verifying his name and DOB.</p> <p>MONTENEGRO De Leon, Elfego Armando was advised of the warrant for his arrest and was being placed under arrest per the I-200, Warrant for Arrest of Alien.</p> <p>MONTENEGRO De Leon, Elfego Armando was asked of any known medical conditions and was taken to SND staging by DO Santiago and DO Pagaza for processing without incident.</p> <p>MONTENEGRO De Leon, Elfego Armando was escorted and turned over to Officers in the San Diego Field Office (SDFO) for further processing.</p> <p>*****Addendum created by SND-ERO On 09/25/2025*****</p> <p>PROCESSING On September 23, 2025, Deportation Officer Padilla, A. was assigned processing duties located at Immigration and Customs Enforcement, Enforcement Removal Operation Staging 880 Front Street San Diego California 92101. While performing my duties, I was tasked with the processing of MONTENEGRO-De Leon, Elfego [REDACTED]</p> <p>IMMIGRATION: MONTENEGRO-De Leon entered without inspection on 09/25/1992 and was deported to Guatemala on 10/02/1992 via air in Los Angeles, CA MONTENEGRO-De Leon was granted CAT withholding by an Immigration Judge in San Diego, CA on 08/17/2023. MONTENEGRO-De Leon has an active BIA case appeal pending since 09/13/2023.</p> <p>CRIMINAL: Arrest Date 1992-06-25 Arrest Case Number [REDACTED] Arresting Agency CA0370000 CASOSAN DIEGO Arresting Agency CA0371100 CAPDSAN DIEGO Name MONTENEGRO,ARMANDO ELFEGO Comment(s) ARREST/DETAINED/CITED Charge 1 Statute POSS/PURCHASE COCAINE BASE F/SALE (11351.5 HS) State Offense Code 35254 Severity Felony Charge 2 Statute POSSESS NARC CONTROL SUBSTANCE (11350(A) HS) State Offense Code 35152 Severity Felony Disposition ([REDACTED]) PROS REJ-COMBINED W/OTHER COUNTS/CASES)</p> <p>----- Court Disposition (Cycle 001) Court Case Number [REDACTED] Final Disposition Date 1992-08-05 Court Agency CA037013J CASCSAN DIEGO Name MONTENEGRO, ARMANDO ELFEGO Charge 1 Statute POSS/PURCHASE COCAINE BASE F/SALE (11351.5 HS) State Offense Code 35254 Severity Felony</p>		
Signature A 11782 PADILLA	Title Deportation Officer	

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FOIR - 1

Alien's Name MONTENEGRO DE LEON, ELFEGO ARMANDO		File Number [REDACTED]	Date 09/25/2025
		Event No: [REDACTED]	
Disposition (CONVICTED-PROB/JAIL) Court Comment (2012-12-11) REDUCED TO MISD &; DISM PER 1203.4 PC Court Comment (2025-02-01) CONVICTION RELIEF GRANTED PER 1203.425PC Sentencing (Cycle 001) Sentence 180 DAYS JAIL; 003 YEARS PROBATION			
CONSULAR NOTIFICATION, LEGAL AND PHONE RIGHTS: MONTENEGRO-De Leon was advised of his right to make contact to the Consulate of Guatemala. A copy of the consular notification was placed on file. MONTENEGRO-De Leon was advised and provided with the list of free legal services. MONTENEGRO-De Leon was advised of his right to make a free phone call. A copy of the signed phone call rights was placed on file			
MEDICAL/HEALTH: MONTENEGRO-De Leon claimed to be in good health.			
DISPOSITION: MONTENEGRO-De Leon will be processed as a T-Other(i-830) and remanded back to custody. MONTENEGRO-De Leon will be transported to OMDC pending Immigration proceedings.			
Other Identifying Numbers ----- ALIEN [REDACTED] Driver's License (State and Country) [REDACTED] (UNITED STATES) State Criminal Number/State Bureau Number [REDACTED] (UNITED STATES)			
Signature A 11782 PADILLA		Title Deportation Officer	

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Exhibit C

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

COUNTY OF SAN DIEGO
GREGORY J. SMITH
ASSESSOR/RECORDER/COUNTY CLERK

CERTIFICATE OF LIVE BIRTH
STATE OF CALIFORNIA
USE BLACK INK ONLY

STATE FILE NUMBER		LOCAL REGISTRATOR NUMBER	
THIS CHILD	1A. NAME OF CHILD - FIRST	1B. MIDDLE	1C. LAST
	2. SEX MALE	3A. THIS BIRTH, SINGLE, TWIN, ETC. SINGLE	3B. MULTIPLE, THIS CHILD 1ST, 2ND, ETC. -
1324 PLACE OF BIRTH	5A. PLACE OF BIRTH - NAME OF HOSPITAL OR FACILITY UCSD - MEDICAL CENTER	5B. STREET ADDRESS - STREET AND NUMBER, OR LOCATION [REDACTED]	
	5C. CITY SAN DIEGO	5D. COUNTY SAN DIEGO	
FATHER'S RESIDENT	6A. NAME OF FATHER/PARENT - FIRST ELPEGO	6B. MIDDLE ARMANDO	6C. LAST MONTENEGRO DE LEON
	7. BIRTH PLACE - STATE/COUNTRY GUATEMALA	8. DATE OF BIRTH - MM/DD/YYYY [REDACTED] 1972	
MOTHER'S RESIDENT	9A. NAME OF MOTHER/PARENT - FIRST [REDACTED]	9B. MIDDLE [REDACTED]	9C. LAST - BIRTH NAME [REDACTED]
	10. BIRTH PLACE - STATE/COUNTRY MEXICO	11. DATE OF BIRTH - MM/DD/YYYY [REDACTED] 1975	
OFFICER AND BIRTH CERTIFICATION	1. I CERTIFY THAT I HAVE REVIEWED THE STATED INFORMATION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.	12A. PARENT	12B. RELATIONSHIP TO CHILD PARENT
	2. I CERTIFY THAT THE CHILD WAS BORN ALIVE AT THE DATE, HOUR, AND PLACE STATED.	13A. ATTENDING PHYSICIAN - SIGNATURE AND COMPLETE DR. TITLE <i>M. Rojas, Birth Clerk</i>	13B. LICENSE NUMBER G 40602
	3. I CERTIFY THAT THE CHILD WAS BORN ALIVE AT THE DATE, HOUR, AND PLACE STATED.	14. TYPED NAME AND MAILING ADDRESS OF ATTENDANT STEPHEN HERBERT, MD, 200 W ARBOR DR, SAN DIEGO	14. TYPED NAME AND TITLE OF CLERK OR OTHER THAN ATTENDANT M. ROJAS, BIRTH CLERK
	4. I CERTIFY THAT THE CHILD WAS BORN ALIVE AT THE DATE, HOUR, AND PLACE STATED.	15A. ATTENDING PHYSICIAN - SIGNATURE AND COMPLETE DR. TITLE [REDACTED]	15B. LICENSE NUMBER [REDACTED]
LOCAL REGISTRATOR	16. LOCAL REGISTRATOR - SIGNATURE WILMA J. WOOTEN, MD	17. DATE ACCEPTED FOR REGISTRATION - MM/DD/YYYY 09/05/2008	

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G. J. Smith

November 13, 2008

Gregory J. Smith
Assessor/Recorder/County Clerk

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002461933



CERTIFICATE OF VITAL RECORD
COUNTY OF SAN DIEGO
 ASSESSOR/RECORDER/COUNTY CLERK

CERTIFICATE OF LIVE BIRTH
 STATE OF CALIFORNIA

STATE FILE NUMBER		LOCAL REGISTRATION DISTRICT AND CERTIFICATE NUMBER	
1A. NAME OF CHILD — FIRST (GIVEN)		1B. MIDDLE	1C. LAST (FAMILY)
[REDACTED]			MONTENEGRO
THIS CHILD 0176	2A. THIS BIRTH SINGLE TWIN, ETC.	3B. IF MULTIPLE THIS CHILD 1ST, 2ND, ETC.	4A. DATE OF BIRTH — MM/DD/YYYY
	FEMALE	SINGLE	[REDACTED]
5A. PLACE OF BIRTH — NAME OF HOSPITAL OR FACILITY		5B. STREET ADDRESS — STREET, NUMBER, OR LOCATION	
UCSD MEDICAL CENTER		[REDACTED]	
PLACE OF BIRTH	5C. CITY	5D. COUNTY	5E. PLANNED PLACE OF BIRTH
	SAN DIEGO	SAN DIEGO	HOSPITAL
FATHER OF CHILD	6A. NAME OF FATHER — FIRST (GIVEN)	6B. MIDDLE	6C. LAST (FAMILY)
	ELFEGO	ARMANDO	MONTENEGRO
MOTHER OF CHILD	8A. NAME OF MOTHER — FIRST (GIVEN)	8B. MIDDLE	8C. LAST (MAIDEN)
	[REDACTED]	[REDACTED]	[REDACTED]
INFORMANT CERTIFICATION	I CERTIFY THAT I HAVE REVIEWED THE STATE INFORMATION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.		12A. PARENT OR OTHER INFORMANT — SIGNATURE
	[REDACTED]		[REDACTED]
CERTIFICATION OF BIRTH	12B. RELATIONSHIP TO CHILD		12C. DATE SIGNED
	MOTHER		02/08/2005
	13A. ATTENDANT OR CERTIFIER — SIGNATURE — DEGREE OR TITLE		13B. LICENSE NUMBER
	M. Rojas, Birth Clerk		NMDW 1527
	13C. DATE SIGNED		14. TYPED NAME AND TITLE OF CERTIFIER IF OTHER THAN ATTENDANT
	02/08/2005		M. ROJAS, BIRTH CLERK
LOCAL REGISTRAR	15A. DATE OF DEATH		15B. STATE FILE NO. (STATE USE ONLY)
			16. LOCAL REGISTRAR — SIGNATURE
			NANCY L. BOWEN, MD
			17. DATE ACCEPTED FOR REGISTRATION
			02/17/2005

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Ernest J. Dronenburg, Jr.

December 29, 2011

Ernest J. Dronenburg, Jr.
 Assessor/Recorder/County Clerk

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ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

COUNTY OF SAN DIEGO
ASSESSOR/RECORDER/COUNTY CLERK

CERTIFICATE OF LIVE BIRTH
STATE OF CALIFORNIA

STATE FILE NUMBER		USE BLACK INK ONLY		LOCAL REGISTRATION DISTRICT AND CERTIFICATE NUMBER	
THIS CHILD 0293	1A. NAME OF CHILD — FIRST (GIVEN)	1B. MIDDLE	1C. LAST (FAMILY)		
	[REDACTED]		MONTENEGRO		
PLACE OF BIRTH	2A. THIS BIRTH, SINGLE TWIL, ETC.	2B. IF MULTIPLE, THIS CHILD 1ST, 2ND, ETC.	4A. DATE OF BIRTH — MM/DD/YYYY	4B. HOUR — (24 HOUR CLOCK TIME)	
	FEMALE	SINGLE	[REDACTED]	1757	
FATHER OF CHILD	5A. PLACE OF BIRTH — NAME OF HOSPITAL OR FACILITY		5B. STREET ADDRESS — STREET NUMBER, OR LOCATION		
	UCSD MEDICAL CENTER		[REDACTED]		
MOTHER OF CHILD	5C. CITY	5D. COUNTY	5E. PLACED PLACE OF BIRTH		
	SAN DIEGO	SAN DIEGO	HOSPITAL		
INFORMANT CERTIFICATION	6A. NAME OF FATHER — FIRST (GIVEN)	6B. MIDDLE	6C. LAST (FAMILY)	7. STATE OF BIRTH	8. DATE OF BIRTH
	ELFEGO	ARMANDO	MONTENEGRO	GUATEMALA	[REDACTED] 1972
CERTIFICATION OF BIRTH	9A. NAME OF MOTHER — FIRST (GIVEN)	9B. MIDDLE	9C. LAST (MAIDEN)	10. STATE OF BIRTH	11. DATE OF BIRTH
	[REDACTED]	[REDACTED]	[REDACTED]	MEXICO	[REDACTED] 1975
LOCAL REGISTRAR	12A. PARENT OR OTHER INFORMANT — SIGNATURE		12B. RELATIONSHIP TO CHILD	12C. DATE SIGNED	
	[REDACTED]		FATHER	04/16/2002	
LOCAL REGISTRAR	13A. ATTENDANT OR CERTIFIER — SIGNATURE — DEGREE OR TITLE		13B. LICENSE NUMBER	13C. DATE SIGNED	
	T. Burrola		G74729	04/16/2002	
LOCAL REGISTRAR	13D. TYPED NAME, TITLE AND MAILING ADDRESS OF ATTENDANT			14. TYPED NAME AND TITLE OF CERTIFIER IF OTHER THAN ATTENDANT	
	WILLIAM SIMPSON, MD, 200 W. ARBOR DR. SAN DIEGO, CA			T. BURROLA, BIRTH CLERK	
LOCAL REGISTRAR	15A. DATE OF DEATH	15B. STATE FILE NO. (STATE USE ONLY)	16. LOCAL REGISTRAR — SIGNATURE	17. DATE ACCEPTED FOR REGISTRATION	
			GEORGE R FLORES, MD	04/24/2002	

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Ernest J. Dronenburg, Jr.

December 29, 2011

Ernest J. Dronenburg, Jr.
Assessor/Recorder/County Clerk

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ANY ALTERATION OR EFASURE VOIDS THIS CERTIFICATE

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

COUNTY OF SAN DIEGO

ERNEST J. DRONENBURG, JR.
 ASSESSOR/RECORDER/COUNTY CLERK

CERTIFICATE OF LIVE BIRTH
 STATE OF CALIFORNIA
 USE BLACK INK ONLY

STATE FILE NUMBER		[REDACTED]	
THIS CHILD	1A. NAME OF CHILD - FIRST	1B. MIDDLE	1C. LAST
	[REDACTED]	-	MONTENEGRO CERVANTES
SEX	2A. THIS BIRTH, SINGLE, TWIN, ETC.	2B. IF MULTIPLE, THIS CHILD 1 ST , 2 ND , ETC.	2C. DATE OF BIRTH - MM/DD/YYYY
	FEMALE	SINGLE	[REDACTED]
PLACE OF BIRTH	3A. PLACE OF BIRTH - NAME OF HOSPITAL OR FACILITY	3B. STREET ADDRESS - STREET AND NUMBER, OR LOCATION	3C. HOUR - 24 HOUR CLOCK TIME
	UCSD MEDICAL CENTER	[REDACTED]	1317
CITY	4A. NAME OF CITY	4B. COUNTY	
	SAN DIEGO	SAN DIEGO	
NAME OF FATHER	5A. NAME OF FATHER - FIRST	5B. MIDDLE	5C. LAST - BIRTH NAME
	ELVEGO	ARMANDO	MONTENEGRO DE LEON
NAME OF MOTHER	6A. NAME OF MOTHER - FIRST	6B. MIDDLE	6C. LAST - BIRTH NAME
	[REDACTED]	-	[REDACTED]
DATE OF BIRTH	7. BIRTH PLACE - STATE COUNTRY	8. DATE OF BIRTH	
	GUATEMALA	[REDACTED] 1972	
DATE OF BIRTH	9. BIRTH PLACE - STATE COUNTRY	10. DATE OF BIRTH	
	MEXICO	[REDACTED] 1975	
REGISTRAR AND BIRTH CERTIFICATION	11. I CERTIFY THAT I HAVE REVIEWED THE STATED INFORMATION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE	12A. PARENT SIGNATURE AND TITLE	12B. RELATIONSHIP TO CHILD
	I CERTIFY THAT THE CHILD WAS BORN ALIVE AT THE DATE, HOUR AND PLACE STATED	[REDACTED]	PARENT
LOCAL BIRTH	13. TYPED NAME, TITLE AND MAILING ADDRESS OF REGISTRAR	14. TYPED NAME AND TITLE OF CERTIFIER IF OTHER THAN ATTENDANT	15. DATE ACCEPTED FOR REGISTRATION - MM/DD/YYYY
	JENNIFER HIRSCH, CNM, 200 W ARBOR DR, SAN DIEGO	S. EBBERT, BIRTH CLERK	01/03/2016
16A. DATE OF DEATH - MM/DD/YYYY	16B. STATE FILE NO. - STATE USE ONLY	16C. LOCAL REGISTRAR - SIGNATURE	16D. DATE ACCEPTED FOR REGISTRATION - MM/DD/YYYY
		WILMA J. WOOTEN, M.D., M.P.H.	01/04/2016

This is a true and exact reproduction of the document officially registered and placed on file in the office of the San Diego County Recorder/Clerk.

Ernest J. Dronenburg, Jr.

May 30, 2017

Ernest J. Dronenburg, Jr.
 Assessor/Recorder/County Clerk

This copy is not valid unless prepared on an engraved border displaying date, seal and signature of the Recorder/County Clerk.



004416512

CASANDIEDE



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

Exhibit D

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION

File No. 

Name: MONTENEGRO DE LEON, ELFEGO ARMANDO

Date: August 18, 2023

On August 17, 2023, you were ordered:
(Date of Final Order)

- Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
- Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- That you appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal.
- That upon request of the agency, you appear for medical or psychiatric examination at the expense of the United States Government.
- That you provide information under oath about your nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate.
- That you do not travel outside _____ for more than 48 hours without first having notified this agency office of the dates and places, and obtaining approval from this agency office of such proposed travel.
(Specify geographic limits, if any)
- That you furnish written notice to this agency office of any change of residence or employment 48 hours prior to such change.
- That you report in person on 08/31/2023 at 10:00 AM to this agency office at:
(Date/Time)

ICE/ERO-San Diego, 880 Front Street, Suite 2242, San Diego, CA 92101 (619) 436-0410
(Reporting Address)

- That you assist U.S. immigration and Customs Enforcement in obtaining any necessary travel documents.
- Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.

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


(Signature of ICE Official)

ROLOFF, B 7694, SDDO
(Print Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

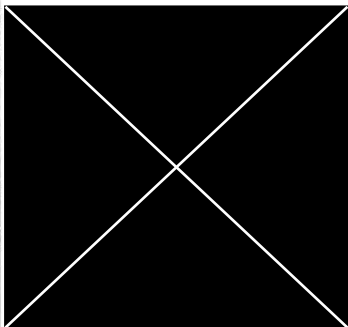
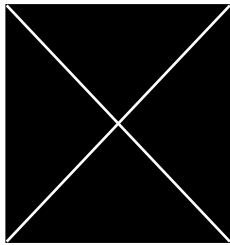

(Signature of ICE Official Serving Order)


(Signature of Alien)

08/18/2023
(Date)


DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (CONTINUATION PAGE)

Alien Name MONTENEGRO DE LEON, ELFEBO ARMANDO	Picture	Right Index Print		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 5px;">File Number [Redacted]</td> <td style="width: 30%; padding: 5px;">Date August 18, 2023</td> </tr> </table>	File Number [Redacted]	Date August 18, 2023		
File Number [Redacted]	Date August 18, 2023			
Alien's Signature [Redacted]				
Alien's Telephone Number (if any) [Redacted]				
Alien's Address [Redacted]				

PERSONAL REPORT RECORD

Date	Officer	Comment/Changes

Signature <div style="text-align: center;">  FLORES, O 8159 </div>	Title Deportation Officer
---	----------------------------------

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (ADDENDUM)

File No.: 

Name: MONTENEGRO DE LEON, ELFEGO ARMANDO

Date: August 18, 2023

- That you do not associate with know 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 counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide 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 ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Supervision.
- That you report to any parole or probation officer as required within 5 business days and provide 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 medication.
- 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 Service custody and you being criminally prosecuted.
- Other:

X 
Alien's Signature

Exhibit E



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

Rogel Pineda, Marisol
Law Office of Marisol Rogel
2424 W. 1st St #330
Santa Ana, CA 92703

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

Name:
MONTENEGRO DE LEON, ELFEGO ARMANDO



Riders:

Date of Notice: 09/14/2023

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 09/13/2023, in the above-referenced case, filed by the Respondent

Additional Comments
N/A

PLEASE NOTE:

NOTICE TO PARTIES – DHS/ICE prosecutorial discretion: The Board is aware that DHS has issued memoranda regarding its enforcement priorities and framework to exercise prosecutorial discretion (memoranda are available on U.S. Immigration and Customs Enforcement (ICE) website at www.ice.gov). See EOIR PM 21-25, Effect of Department of Homeland Security Enforcement Priorities, available at www.justice.gov/eoir. The parties may wish to assess whether this matter remains an enforcement priority and whether the exercise of prosecutorial

discretion is warranted. However, as there are prohibitions on DHS's authority to exercise its prosecutorial discretion (e.g., individuals subject to mandatory detention pursuant to sections 236(c) and 241 of the Immigration and Nationality Act, 8 U.S.C. 1226(c) and 1231), all inquiries regarding an individual respondent/applicant's eligibility for prosecutorial discretion must be made directly with DHS/ICE. If the parties jointly agree to the exercise of prosecutorial discretion, or if ICE otherwise intends to exercise some form of prosecutorial discretion, a motion should be filed with the Board to this effect, and it should clearly contain the caption "EXERCISE OF PROSECUTORIAL DISCRETION" on the front of the motion.

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 alien 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/eoir.

Accepted by: LynnJ

CC

Exhibit F



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:

MONTENEGRO-DE LEON, ELFEGO
ARMANDO

To:

Rogel Pineda, Marisol
2424 W. 1st St #330
Santa Ana, CA 92703

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

11/17/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because
Respondent has been convicted of a controlled substance offense (methamphetamine).
- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:
- Other:



Immigration Judge: ROBINSON, EUGENE 11/17/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved


Appeal Due: 12/17/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [P] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : MONTENEGRO-DE LEON, ELFEGO ARMANDO | A-Number : 

Riders:

Date: 11/17/2025 By: CHRISTINA GOOSBY, Court Staff

Exhibit H

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		(COURT USE ONLY) FILED Clerk of the Superior Court DEC 11 2012 By: G. Carrillo, Deputy
TELEPHONE NO.:	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910		
PLAINTIFF		
PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT		
ARMANDO MONTENEGRO ELFEGO (ELFEGO ARMANDO MONTENEGRO)		
ORDER GRANTING PETITION FOR DISMISSAL (FELONY/MISDEMEANOR)		
SUPERIOR COURT CASE NUMBER		
CITY/DISTRICT ATTORNEY NUMBER		
P1492201		

After reviewing the petition and records in this case, the court finds that the defendant is statutorily eligible for the relief requested.

THE PETITION IS GRANTED. IT IS HEREBY ORDERED THAT:

Defendant's previously entered plea of guilty or nolo contendere is hereby withdrawn and a plea of not guilty entered; or, if defendant was convicted after a plea of not guilty, the verdict of guilty is hereby set aside. The accusation or information against the defendant is dismissed and the defendant is released from all penalties and disabilities resulting from the offense of which he or she had been convicted, except:

- This order does not permit a person prohibited from holding public office as a result of the conviction to hold public office.
- This order does not permit the defendant to own, possess, or have custody or control over any firearm nor does it prevent conviction of the defendant under Chapter 2 (commencing with § 29800) of Division 9 of Title 4 of Part 6 of the Penal Code.
- This order does not affect any revocation or suspension of the defendant's privilege to drive a motor vehicle. The conviction in this case shall be considered a conviction for the purpose of revoking or suspending or otherwise limiting such privilege on the ground of two or more convictions (Veh. Code § 13555).
- In any subsequent prosecution for any other offense, the conviction in this case may be pleaded and proved as a prior conviction and shall have the same effect as if this petition has not been granted.
- The conviction in this case remains a part of the court file which can be viewed by the public.
- Relief granted pursuant to Pen. Code § 1203.4 does not relieve a defendant of the duty to register pursuant to Pen. Code 290 et. seq. (Pen. Code § 290.007) or exclude a defendant from the internet publication provisions of Megan's Law.
- Relief granted pursuant to Pen. Code § 1203.4 does not relieve defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

Misdemeanor: The defendant pay a court cost of \$60.00 to the court. **Paid 10-23-12**
 Forthwith Due: _____ If not paid by the date due, the account will be referred to the court's contracted collection agency to pursue collection of the unpaid balance.

Felony: The defendant pay a court cost of \$120.00. Defendant to report to the Department of Revenue and Recovery within two weeks of the date of this order to pay the court cost. Contact Revenue and Recovery for office locations. Central: (619) 515-6200 East County: (619) 441-4807 North County: (760) 806-6396 South County: (619) 691-4505

Court finds the defendant does not have the ability to pay. The court cost is waived.

Date: 12-11-12


 Theodore M. Weathers
 Judge/Commissioner of the Superior Court

You may have the right to petition for a Certificate of Rehabilitation and Pardon pursuant to Pen. Code § 4852 et seq. An instruction packet (SDSC Form #PKT-016) may be obtained from the court or found at www.sdcourt.ca.gov.

CLERK'S CERTIFICATE

The foregoing document, consisting of 1 pages, is a full, true, and correct copy of the original copy on file in this office.

Clerk of the Superior Court

Date: 12-17-12 by [Signature] Deputy



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stephen G. Cline SBN # 169828 533 F Street, Suite 200 San Diego CA 92101 TELEPHONE NO.: 619-235-5638 FAX NO. (Optional): 619-234-8770		(FOR COURT USE ONLY) FILED 2012 OCT 23 AM 11:29
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Efego Armando Montenegro		CLERK OF COURT SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92108 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910		
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA		SUPERIOR COURT CASE NUMBER [REDACTED]
DEFENDANT Efego Armando Montenegro		CITY/DISTRICT ATTORNEY NUMBER P14922
PETITION FOR DISMISSAL		

PETITION

Defendant hereby petitions for dismissal pursuant to Pen. Code § 1203.4 1203.4a.

STATEMENT OF FACTS

Defendant's date of birth: 6/27/72

Defendant was convicted on 7/8/92 of the following charges: HS11377(a)

Probation was NOT granted granted by the court for a period of 5 year(s) and ended on or about 7/8/97

Defendant is entitled to the relief requested based on the following:

Defendant has fulfilled the conditions of probation for the entire period of probation, OR Defendant has been granted early termination of probation,

AND all of the following:

- (1) Defendant is not now serving a sentence on any offense.
- (2) Defendant is not on probation for any offense.
- (3) Defendant is not now charged with committing any offense.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 9-24-2012 at San Diego CA by [Signature]
 (City) (State) Petitioner / Attorney for Petitioner

Petition filed must be served on the prosecuting agency.

If the court grants the relief herein requested, defendant may have the right to petition for a Certificate of Rehabilitation and Pardon pursuant to Pen. Code § 4852 et. seq. An information packet (SDSC #PKT-016) regarding this may be obtained from the court or found at www.sdcourt.ca.gov.

NOTICE OF HEARING


Defendant's petition will be heard on _____ at _____ in Dept. _____.

Clerk of the Superior Court

Date: _____ by _____ Deputy

Distribution by: _____ on _____ to Prosecutor - Courtesy Copy Defendant Probation Pre-trial Services

POS-030

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stephen G. Cline, Esq. SBN 169828 Law Offices of Stephen G. Cline The Hill Building 533 F Street, Ste 200, San Diego CA 92101 TELEPHONE NO.: (619) 235-5638 FAX NO. (Optional): (619) 234-8770 E-MAIL ADDRESS (Optional): steve@sandiegotrialattorney.com ATTORNEY FOR (Name): ELFEGO ARMADO MONTENEGRO</p>	<p style="text-align: center;">FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 220 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Division</p>	
<p>PETITIONER/PLAINTIFF: People of the State of California RESPONDENT/DEFENDANT: Elfego Armando Montenegro</p>	
<p style="text-align: center;">PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</p> <p style="text-align: right;">CASE NUMBER: </p>	

(Do not use this Proof of Service to show service of a Summons and Complaint.)

- I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
- My residence or business address is:
533 F Street, Suite 200 San Diego CA 92101
- On (date): 09/27/2012 I mailed from (city and state): San Diego, CA
the following documents (specify):
Petition for Dismissal for Elfego Armando Montenegro

The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).

- I served the documents by enclosing them in an envelope and (check one):
 - depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- The envelope was addressed and mailed as follows:
 - Name of person served: Dept of Appeals, San Diego County District Attorney
 - Address of person served:
Hall of Justice
330 West Broadway
San Diego, CA 92101

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 27, 2012

Trisha Phillips
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


(SIGNATURE OF PERSON COMPLETING THIS FORM)

Form Approved for Optional Use
Judicial Council of California
POS-030 (New January 1, 2005)

PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL
(Proof of Service)

Code of Civil Procedure, §§ 1013, 1013a
www.courtinfo.ca.gov

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> FAMILY COURT, 1555 6TH AVE, SAN DIEGO, CA 92101-3284 <input type="checkbox"/> MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105 <input type="checkbox"/> KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92083-6643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649 <input type="checkbox"/> JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792 <input type="checkbox"/> JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92083-6634	FOR COURT USE ONLY FILED San Diego Superior Court DEC 17 2012 L. SANTINO
PLAINTIFF(S)/PETITIONER(S) PEOPLE OF THE STATE OF CALIFORNIA	JUDGE: THEODORE WEATHERS DEPT: 39
DEFENDANT(S)/RESPONDENT(S) ARMANDO MONTENEGRO ELFEGO	CASE NUMBER CR132591
CLERK'S CERTIFICATE OF SERVICE BY MAIL (CCP 1013a(4))	

I, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s): **ORDER GRANTING PETITION FOR RELIEF (PC1203.4 & PC1203.4a)**

on the parties shown below by placing a true copy in a separate envelope, addressed as shown below, each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at: San Diego Vista El Cajon Chula Vista Ramona, California.

NAME & ADDRESS

OFFICE OF THE DISTRICT ATTORNEY
ATTN: BELLE PERLE, CASE ISSUING
330 WEST BROADWAY
SAN DIEGO, CA 92101

NAME & ADDRESS

THE HILL BUILDING
LAW OFFICES OF STEPHEN G CLINE
STEPHEN G. CLINE, ESQ., SBN. 169828
533 F ST STE 200
SAN DIEGO CA 92101-6319

CLERK OF THE SUPERIOR COURT

L. Santino

Date: 12/17/12 by _____ Deputy
L. SANTINO

Exhibit I

1 involved, which the Respondent described as approximately the size of a large coin. He
2 described being paid 100 dollars for that package. And he describes that the incident
3 occurred in an area that was not near a school.

4 So, considering all of the relevant factors under prevailing cases from the Board
5 of Immigration Appeals, the Court finds that he has not committed a particularly serious
6 crime that would bar him from withholding of removal under the Convention Against
7 Torture.

8 To the extent that a reviewing Court might find that the offense does constitute a
9 particularly serious crime, then the Court would, in the alternative, GRANT deferral of
10 removal under the Convention Against Torture. He would be eligible for that relief if he
11 is subject to mandatory denial of withholding under the Convention Against Torture.

12 The Court has considered all evidence in the aggregate relevant to the possibility
13 of future torture, including evidence of past torture of the Respondent as the Court
14 described Respondent experienced in 1997 at the hands of the gang members whom --
15 to whom he was delivered by local police. The Court has considered evidence
16 Respondent could safely relocate in his home country. He did attempt to move back to
17 his country on several occasions and again, was -- that second occasion he went back,
18 he again, was abducted or detained by the police officers who delivered him to the gang
19 members.

20 The Court has also considered evidence of gross, flagrant and mass human
21 rights violations in the country of removal as depicted in the exhibits that made it into
22 evidence, as well as other evidence relevant to country conditions in Guatemala. Again,
23 reflected in the exhibits provided by Respondent's counsel.

24 So, the Court would find again that if withholding is denied by the Board of
25 Immigration Appeals, he would qualify for deferral of removal in that he has established,



VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Elfego Armando Montenegro De Leon, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 26th day of December 2025.

/s/ Carlos A. Garcia
Carlos A. Garcia, Esq.
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Carlos A. Garcia, hereby certify that on December 26, 2025, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. A copy of the Petition for Writ of Habeas Corpus and all attachments was mailed on December 26, 2025, by USPS Certified Priority Mail with Return Receipts to each of the following individuals:

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Dated: 12/26/2025

/s/ Carlos A. Garcia
Carlos A. Garcia, Esq.