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7 Attorneys for Respondents

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

10 E.S.,

11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, Warden,  
Otay Mesa Detention Center, *et al.*,

14 Respondents.  
15

Case No.: 25-cv-03783-AGS-JLB

**RETURN TO PETITION FOR  
WRIT OF HABEAS CORPUS**

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1 **I. INTRODUCTION**

2 Petitioner requests the Court to order his immediate release from Immigration  
3 and Customs Enforcement (ICE) custody or require that he be afforded a bond hearing.  
4 As an arriving alien and applicant for admission, however, Petitioner's detention is  
5 mandated by 8 U.S.C. § 1225(b)(2) until the conclusion of his removal proceedings.  
6 Accordingly, the Court should deny Petitioner's requests for relief.

7 **II. FACTUAL AND PROCEDURAL BACKGROUND**

8 Petitioner is a native of Ukraine and citizen of Russia. On September 27, 2024,  
9 he applied for admission to the United States at a port of entry. He did not then possess  
10 legal documentation to be in or enter the United States. He was determined to be an  
11 arriving alien inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and taken into  
12 Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C.  
13 § 1225(b)(2)(A).

14 On September 28, 2024, Petitioner was issued a Notice to Appear (NTA). *See*  
15 NTA, attached as Exhibit 1. The filing of the NTA initiated removal proceedings against  
16 Petitioner, and those proceedings remain ongoing. Within his removal proceedings  
17 under 8 U.S.C. § 1229a, Petitioner has the opportunity to apply for relief from removal  
18 before an immigration judge (IJ), including asylum under 8 U.S.C. § 1158, withholding  
19 of removal under 8 U.S.C. § 1231(b)(3), and relief under the Convention Against  
20 Torture.

21 Petitioner filed his relief application with the immigration court on January 28,  
22 2025, and his individual merits hearing occurred on May 30, 2025. *See* ECF No. 1-2 at  
23 8-19; *see* Order of Immigration Judge, attached as Exhibit 2. On that date, the  
24 immigration judge conducted the hearing, denied Petitioner's applications for relief,  
25 and ordered him removed to Russia, and in the alternative, Ukraine. *See* Ex. 2. On June  
26 9, 2025, Petitioner appealed the IJ's decision to the Board of Immigration Appeals  
27 (BIA). *See* Excerpt of Notice of Appeal, attached as Exhibit 3. Because Petitioner's  
28 appeal remains pending, there is no administratively final order of removal at this time.

1 On October 17, 2025, the immigration judge held a bond hearing and denied him  
2 bond. *See* ECF No. 1-2 at 56-57. Petitioner remains mandatorily detained at the Otay  
3 Mesa Detention Center (“OMDC”) under 8 U.S.C. § 1225(b)(2)(A). Should the BIA  
4 affirm the IJ’s decision, ICE will commence efforts to execute his removal to Russia or  
5 Ukraine.

6 **III. STATUTORY BACKGROUND**

7 Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C.  
8 § 1225, applies to an “applicant for admission,” defined as an “alien present in the  
9 United States who has not been admitted” or “who arrives in the United States.” 8  
10 U.S.C. § 1225(a)(1). “[A]pplicants for admission fall into one of two categories, those  
11 covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*,  
12 583 U.S. 281, 287 (2018).

13 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially  
14 determined to be inadmissible due to fraud, misrepresentation, or lack of valid  
15 document.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). These aliens are generally subject  
16 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if “the alien  
17 indicates an intention to apply for asylum . . . or a fear of persecution,” immigration  
18 officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).  
19 “If the officer determines at the time of the interview that [the] alien has a credible fear  
20 of persecution . . . , the alien *shall be detained* for further consideration of the  
21 application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). If the alien  
22 does not indicate an intent to apply for asylum, does not express a fear of persecution,  
23 or is “found not to have such a fear,” they “shall be detained . . . until removed” from  
24 the United States. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

25 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*,  
26 583 U.S. at 287. It “applies to all applicants for admission not covered by §  
27 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall  
28 be detained for a removal proceeding “if the examining immigration officer determines

1 that [the] alien seeking admission is not clearly and beyond a doubt entitled to be  
2 admitted.” 8 U.S.C. § 1225(b)(2)(A); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025)  
3 (“for aliens arriving in and seeking admission into the United States who are placed  
4 directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. §  
5 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing  
6 *Jennings*, 583 U.S. at 299). However, DHS has the sole discretionary authority  
7 to temporarily release on parole “any alien applying for admission to the United States”  
8 on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”  
9 *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

#### 10 IV. ARGUMENT

11 Petitioner’s habeas petition should be denied because 28 U.S.C. § 1252(g) bars  
12 judicial review over his claim, and because he is lawfully detained under the INA and  
13 the Constitution.

##### 14 A. Petitioner’s Claim is Barred Under 8 U.S.C. § 1252(g).

15 Respondents contend that judicial review over Petitioner’s claim is barred by 28  
16 U.S.C. § 1252(g), which states that “[n]o court shall have jurisdiction to hear any cause  
17 or claim by or on behalf of any alien arising from the decision or action by the Attorney  
18 General to commence proceedings, adjudicate cases, or execute removal orders.”

19 Here, Petitioner’s claims of unlawful detention necessarily arise from the  
20 Department of Homeland Security’s<sup>1</sup> decision to commence removal proceedings  
21 against him because that decision unavoidably triggers mandatory detention under 8  
22 U.S.C. § 1225(b)(2)(a) until the conclusion of his removal proceedings. See, e.g., *Wang*  
23 *v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at \*6 (C.D. Cal.  
24 Aug. 18, 2010) (finding section 1252(g) bars judicial review of false imprisonment  
25 claim because the plaintiff’s detention arose from the decision to commence removal  
26

27  
28 <sup>1</sup> “In 2002, Congress transferred the Attorney General’s immigration enforcement responsibilities to the Secretary of Homeland Security.” *Ibarra-Perez v. United States*, 154 F.4th 989, 995 n.2 (9th Cir. 2025).

1 proceedings, and in turn, the “statute mandating detention during removal proceedings  
2 of a person charged as an ‘arriving alien.’”).

3 As explained by another district court, removal proceedings are commenced  
4 when, as occurred here, “the alien is issued a Notice to Appear before an immigration  
5 court.” *Herrera-Correra v. United States*, No. CV 08–2941 DSF (JCx), 2008 WL  
6 11336833, at \*3 (C.D. Cal. Sept. 11, 2008); *see also* Exhibit 1 (Notice to Appear). The  
7 government “may arrest the alien against whom proceedings are commenced and detain  
8 that individual until the conclusion of those proceedings.” *Herrera-Correra*, 2008 WL  
9 11336833, at \*3. “Thus, an alien’s detention throughout this process arises from the  
10 [government’s] decision to commence proceedings” and review of claims arising from  
11 such detention is barred under section 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d  
12 947, 949 (9th Cir. 2007)); *see also Wang*, 2010 WL 11463156, at \*6.

13 Because this habeas petition brings a claim “arising from the decision or action  
14 by the [government] to commence proceedings,” review of Petitioner’s claim is barred  
15 under 8 U.S.C § 1252(g). Thus, the Court must dismiss the petition.

16 **B. Petitioner is Lawfully Detained Under the INA and the Constitution.**

17 Even if the Court assumed jurisdiction to review Petitioner’s claim, the Court  
18 must deny his habeas petition because Petitioner’s detention is statutorily mandated  
19 under 8 U.S.C. § 1225(b)(2)(A).

20 **1. Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2).**

21 Petitioner’s claim fails because he is subject to mandatory detention under 8  
22 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is  
23 defined as an “alien present in the United States who has not been admitted or who  
24 arrives in the United States.” As explained above, applicants for admission “fall into  
25 one of two categories, those covered by § 1225(b)(1) and those covered by §  
26 1225(b)(2).” *Jennings*, 583 U.S. at 287.

27 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*  
28 *applicant for admission*, if the examining immigration officer determines that an alien

1 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*  
2 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at \*4 (S.D. Cal. Sept. 24, 2025)  
3 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Petitioner contends that he  
4 is entitled to a bond hearing. But the Supreme Court has rejected such contention,  
5 explaining: “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of  
6 applicants for admission until certain proceedings have concluded. . . . Nothing in the  
7 statutory text imposes any limit on the length of detention. And neither § 1225(b)(1)  
8 nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at  
9 297. Except for temporary parole granted at the discretion of the Attorney General “for  
10 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),  
11 “there are no *other* circumstances under which aliens detained under § 1225(b) may be  
12 released.” *Id.* at 300 (emphasis in original).

13 As Petitioner’s removal proceedings are pending, and he has not been granted  
14 temporary parole, section 1225(b)(2) mandates his detention until the proceedings have  
15 concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention under  
16 § 1225(b) must end as well.”). Because Petitioner is lawfully detained under  
17 section 1225(b) and the statute does not entitle him to a bond hearing at this time, his  
18 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151  
19 JLS-KSC, 2023 WL 3103811, at \*3 (S.D. Cal. April 25, 2023) (applying *Jennings* to  
20 find that the petitioner had no right to release or a bond hearing under 1225(b)(1)  
21 because “[b]inding Ninth Circuit and Supreme Court precedents are clear that Petitioner  
22 lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to  
23 a bond hearing”).

24 **2. Petitioner’s detention does not violate due process.**

25 Petitioner also argues that his mandatory detention under the INA violates the  
26 due process clause of the Fifth Amendment to the U.S. Constitution. The Court should  
27 reject this argument.

28 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.

1 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]  
2 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain  
3 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)  
4 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither  
5 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The  
6 Supreme Court added that the sole means of release for noncitizens detained pursuant  
7 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary  
8 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300  
9 (“That express exception to detention implies that there are no *other* circumstances  
10 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis  
11 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens  
12 throughout the completion of applicable proceedings[.]” *Id.* at 302.

13 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a  
14 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged  
15 detention without a hearing violated his constitutional rights. The Supreme Court  
16 rejected the petition, concluding that the noncitizen’s continued detention did not  
17 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial  
18 entry stands on a different footing: ‘Whatever the procedure authorized by Congress  
19 is, it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation  
20 omitted).

21 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40  
22 (2020), the Supreme Court once again addressed the due process rights of individuals  
23 like Petitioner—inadmissible arriving noncitizens seeking initial entry into the United  
24 States. The Supreme Court stated that such individuals have no due process rights  
25 “other than those afforded by statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in  
26 respondent’s position has only those rights regarding admission that Congress has  
27 provided by statute.”). The Supreme Court noted that its determination was supported  
28 by “more than a century of precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United*

1 *States*, 142 U.S. 651, 660 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537,  
2 544 (1950); *Mezei*, 345 U.S. at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)).  
3 Because the only process due Petitioner is that afforded under section 1225(b), the  
4 Court must reject her claim that her detention violates the Fifth Amendment’s Due  
5 Process Clause and deny her requested relief. *See Thuraissigiam*, 591 U.S. at 138–40;  
6 *Mendoza-Linares*, 51 F.4th at 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206  
7 (9th Cir. 2022) (“The recognized liberty interests of U.S. citizens and aliens are not  
8 coextensive: the Supreme Court has ‘firmly and repeatedly endorsed the proposition  
9 that Congress may make rules as to aliens that would be unacceptable if applied to  
10 citizens.’”) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*,  
11 2023 WL 3103811, at \*4 (“Binding Ninth Circuit and Supreme Court precedents are  
12 clear that Petitioner lacks any rights beyond those conferred by statute, and no statute  
13 entitles Petitioner to a bond hearing.”).

14 Even if the Court infers a constitutional right against prolonged mandatory  
15 detention, Petitioner’s claim still fails. “In general, as detention continues past a year,  
16 courts become extremely wary of permitting continued custody absent a bond hearing.”  
17 *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at \*4 (S.D. Cal.  
18 April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-  
19 BGS, 2024 WL 711607, at \*5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half  
20 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL  
21 139801, at \*6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,  
22 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at \*2 (S.D. Cal. March 29, 2019) (two  
23 years). Petitioner’s detention falls significantly short of the length courts have found to  
24 raise due process concerns.

25 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,  
26 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801,  
27 at \*5 (“[W]hile the *Mathews v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-  
28 suited to determining whether due process requires a second bond hearing, they are not

1 particularly dispositive of whether prolonged mandatory detention has become  
2 unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-  
3 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding  
4 “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of  
5 the possible constitutional implications of Petitioner’s ongoing detention without  
6 process.”). Under *Lopez*, to determine whether continued mandatory detention has  
7 become unreasonable, “the Court will look to the total length of detention to date, the  
8 likely duration of future detention, and the delays in the removal proceedings caused by  
9 the petitioner and the government.” 631 F. Supp. 3d at 879.

10 Petitioner has been detained for less than fifteen months. Courts in this district  
11 have found detention for much longer periods to be unreasonably prolonged. *See*  
12 *Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at \*5 (S.D. Cal.  
13 Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL 3028093, at \*4 (19 months);  
14 *Sanchez-Rivera*, 2023 WL 139801 at \*6 (three years); *Kydyrali v. Wolf*, 499 F. Supp.  
15 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at \*1 (42  
16 months). The length of detention “is the most important factor.” *Sanchez-Rivera*, 2023  
17 WL 139801, at \*6 (citation omitted). And Petitioner’s current detention does not fall  
18 within the range those courts have found to be unreasonable. Moreover, the length of  
19 Petitioner’s detention, by itself, does not favor granting habeas relief. *See Sadeqi v.*  
20 *LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at \*3 (S.D. Cal. Nov. 12,  
21 2025) (“The Court agrees with Respondents that the length of Petitioner’s detention to  
22 date—almost 12 months—does not by itself, without more, establish prolonged  
23 detention in violation of due process.”). Not only does the length of Petitioner’s  
24 detention fall comparatively short of the length courts in this district have found to  
25 warrant habeas relief, but the other *Lopez* factors do not favor habeas relief either.

26 Petitioner was detained when he applied for admission to the United States.  
27 Thus, Petitioner is rightly considered an applicant for admission, and his mandatory  
28 detention does not violate due process. *See Shahin v. Noem*, No. 25-cv-2496-AGS-

1 KSC, ECF No. 12 (S.D. Cal. Dec. 23, 2025).

2 **V. CONCLUSION**

3 For the reasons stated herein, Respondents respectfully request that the Court  
4 dismiss this petition for lack of jurisdiction or deny it on the merits.

5 DATED: January 6, 2026

Respectfully submitted,

6 ADAM GORDON  
7 United States Attorney

8 *s/ Mary Cile Glover-Rogers*  
9 MARY CILE GLOVER-ROGERS  
10 Assistant United States Attorney  
11 Attorney for Respondents  
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# EXHIBIT 1

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act: Event No: [REDACTED]  
 Subject ID: [REDACTED] FIN #: [REDACTED] File No: [REDACTED]  
 SIGMA Event: [REDACTED] DOB: [REDACTED]  
 In the Matter of: [REDACTED]  
 Respondent: [REDACTED] currently residing at:  
 7488 Calzada de la Fuente, San Diego, CALIFORNIA 92154, UNITED STATES OF AMERICA 619-661-8700  
 (Number, street, city, state and ZIP code) (Area code and phone number)

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

The Department of Homeland Security alleges that you:  
 1. You are not a citizen or national of the United States;  
 2. You are a native of UKRAINE and a citizen of RUSSIA;  
 3. You applied for admission on 09/27/2024 at SAN YSIDRO, CA, USA;  
 4. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:  
 See Continuation Page Made a Part Hereof

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

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:  
 7488 CALZADA DE LA FUENTE SAN DIEGO

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

on October 10, 2024 at 08:00 AM to show why you should not be removed from the United States based on the  
 (Date) (Time) KID, CAR34018  
 charge(s) set forth above. CBP OFFICER  
 (Signature and Title of Issuing Officer)  
 Date: September 28, 2024 SAN YSIDRO, CALIFORNIA  
 (City and State)

EOIR - 1 of 8

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (5 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

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

Routine Uses:

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

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

Disclosure:

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

Notice to Respondent

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

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

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

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

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form 1-589, Application for Asylum and for Withholding of Removal. The Form 1-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/1-589. Failure to file the Form 1-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(E) of the Immigration and Nationality Act.

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

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

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

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

Upon information and belief, the language that the alien understands is RUSSIAN

Request for Prompt Hearing

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

Before: [Signature]

(Signature of Respondent)

Date: \_\_\_\_\_

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on September 28, 2024, in the following manner and in compliance with section 239(a)(1) of the Act.

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

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

[Redacted Signature]

LANDEROS, CAR29899
CBP OFFICER

(Signature and Title of officer)

EOIR - 3 of 8

U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name [REDACTED]	[REDACTED]	Date September 28, 2024
----------------------------	------------	----------------------------

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a) (7) (A) (i) (I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Alien's Name  
SKAFENKO

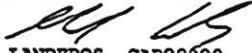
ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212

Alien's Name  
SKAFENKO

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212

Signature  LANDEROS, CAR29899	Title CSP OFFICER
--	----------------------

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name [Redacted]	File Number [Redacted]	Date 9/28/24
Event No: [Redacted]		

**Notice of Rights in Accordance with the Cancino Castellar Settlement Agreement**

The Department of Homeland Security has determined you will remain in custody for your removal proceedings.

You have the right to a prompt first appearance before the immigration court. The date of your first appearance will be at least 10 days from now so you can have an opportunity to find an attorney. But you can request an earlier hearing date if you give up your right to that 10-day period by signing where indicated on the NTA form.

At your first appearance, you can request more time to prepare your case or to seek an attorney. You can also ask the court about the process for seeking your release.

В Министерстве внутренней безопасности США (Department of Homeland Security) было вынесено решение о необходимости Вашего содержания под стражей в ходе процедуры Вашего выдворения. Вы имеете право на оперативное проведение слушания Вашего дела в иммиграционном суде. Чтобы предоставить Вам возможность найти адвоката, дата проведения первого слушания будет назначена как минимум через 10 дней от сегодняшнего числа. Однако Вы можете попросить о более ранней дате проведения слушания, если откажетесь от своего права на данный 10-дневный срок, поставив подпись там, где указано в повестке о явке в суд (NTA).

В ходе первого судебного слушания Вы можете запросить дополнительное время для подготовки своего дела или поиска адвоката. Вы также можете задать судье вопрос о порядке подачи заявления о Вашем освобождении.

**CERTIFICATION OF SERVICE**

Notice read by subject.  
 Notice read to subject by \_\_\_\_\_, in \_\_\_\_\_ language.  
Name of Officer/Interpreter

[Redacted Signature]  
Signature of Subject

9/28/24  
Date

Signature \_\_\_\_\_ Title CSPO

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**of Pro Bono Legal Service Providers**

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

**Otay Mesa Immigration Court**

<b>Otay Mesa, California (page 1 of 3)</b>	
<p><b>La Maestra Community Health Centers*</b></p> <p>4060 Fairmount Avenue                      San Diego, CA 92105                      Tel: (619) 280-4213                      Fax: (619) 961-0805                      mportugal@lamaestra.org; ecedillo@lamaestra.org                      www.lamaestra.org</p> <ul style="list-style-type: none"> <li>• Bond hearings: only</li> <li>• All Ukrainians cases</li> <li>• All Afghan cases</li> <li>• All victims of trafficking cases (U-Visa, T-Visa, and VAWAs)</li> <li>• Languages: Spanish, Dari, and Pashto</li> </ul>	<p><b>American Bar Association Detention and LOP Information Line**</b></p> <p>immcenter@americanbar.org                      www.americanbar.org/groups/public_interest/immigration/</p> <ul style="list-style-type: none"> <li>• Pro se case assistance for detained respondents only</li> <li>• Dial 2150# from the detention center</li> <li>• To contact on behalf of a detained individual, email immcenter@americanbar.org.</li> <li>• The American Bar Association Commission on Immigration Detention and LOP Information Line is not available to provide free legal services for noncitizens scheduled for Credible Fear Interviews and/or Asylum Merits Interviews</li> </ul>
<p><b>Jewish Family Service of San Diego*</b></p> <p>8788 Balboa Avenue                      San Diego, CA 92123                      Tel: (858) 637-3365                      Fax: (858) 637-3011                      immigration@jfssd.org                      www.jfssd.org/site/PageServer?pagename=programs_refugee_main</p> <ul style="list-style-type: none"> <li>• Please call for an appointment</li> <li>• Please leave a voicemail any time day or night. Calls returned in the order received. If currently detained and you reach our voicemail, leave your full name and A-number in a voicemail and we will schedule a meeting in person or remote.</li> <li>• Specialize in Bond Hearings, Removal Defense, Cancellation of Removal, Asylum, Withholding of Removal, UN Convention Against Torture, Adjustment of Status, VAWA, U Visa, SIJS and T visa.</li> <li>• Languages: Spanish and multilingual interpretation may be available</li> </ul>	<p><b>Casa Cornelia Law Center*</b></p> <p>Post Office Box 12666                      San Diego, CA 92112                      Tel: (619) 231-7788                      Fax: (619) 231-7784                      www.casacornelia.org                      services@casacornelia.org</p> <ul style="list-style-type: none"> <li>• Services include: Asylum, Withholding of Removal, UN Convention Against Torture, Defensive VAWA, U, T Visas, and SIJS, Bond Hearings.</li> <li>• Focus on asylum seekers, and victims of serious crime.</li> <li>• Will accept detained cases</li> <li>• Call for assistance</li> <li>• Languages: Spanish; multilingual interpretation may be available.</li> </ul>

Individuals must contact the providers on this list directly to request legal services. Although the providers on this list offer pro bono (free) legal representation, they may not have the capacity at this time to accept new cases.

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

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

**of Pro Bono Legal Service Providers**

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

**Otay Mesa Immigration Court**

<b>Otay Mesa, California (page 3 of 3)</b>	
<p><b>Immigrant Defenders Law Center*</b></p> <p>303 A Street, Suite 305                      San Diego, CA 92101                      Tel: (213) 314-0701                      Fax: (213) 282-3133                      sdinfo@immdef.org</p> <ul style="list-style-type: none"> <li>• Must be low income</li> <li>• No walk-ins, appointment only</li> <li>• Languages: Spanish and other languages available upon request</li> </ul>	<p><b>Southern California Immigration Project*</b></p> <p>2534 State Street, Suite 208                      San Diego, CA 92101                      Tel: (619) 516-8119                      sparacoscip@gmail.com                      www.socalimmigrationproject.org</p> <ul style="list-style-type: none"> <li>• African countries preferred</li> <li>• Asylum cases only, including LGBTQ</li> <li>• No hablamos español</li> </ul>

Individuals must contact the providers on this list directly to request legal services. Although the providers on this list offer pro bono (free) legal representation, they may not have the capacity at this time to accept new cases.

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

**of Pro Bono Legal Service Providers**  
<http://www.justice.gov/eoir/list-pro-bono-legal-service-providers>  
**Otay Mesa Immigration Court**

<b>Otay Mesa, California (page 2 of 3)</b>	
<p><b>ABA Immigration Justice Project*</b></p> <p>2727 Camino del Rio South, Suite 320                      San Diego, CA 92108                      Tel: (619) 255-8810                      Fax: (619) 255-8849                      contact@abaijp.org  <a href="http://www.americanbar.org/groups/public_services/immigration/projects_initiatives/immigration_justice_project_ijp_of_san_diego.html">www.americanbar.org/groups/public_services/immigration/projects_initiatives/immigration_justice_project_ijp_of_san_diego.html</a></p> <ul style="list-style-type: none"> <li>• Services limited to San Diego, CA</li> <li>• Office is not open to the public, please call for appointment</li> </ul>	<p><b>RusCrane Law Firm, A.P.C.*</b></p> <p>Agee Street                      San Diego, CA 92122                      Tel: (858) 208-3708                      services@ruscranelaw.org                      www.ruscranelaw.org</p> <ul style="list-style-type: none"> <li>• No walk-ins</li> <li>• Please call for an appointment</li> <li>• Detained and non-detained cases</li> <li>• Household income must be at or below the federal poverty guidelines</li> <li>• Languages: Russian and multilingual interpretation may be available</li> </ul>
<p><b>Alliance for African Assistance*</b></p> <p>5952 El Cajon Blvd.                      San Diego, CA 92115                      Tel: (619) 286-9052                      Fax: (619) 286-9052                      info@alliance-for-africa.org                      www.alliance-for-africa.org</p> <ul style="list-style-type: none"> <li>• No walk-ins</li> <li>• U-Visas, T-Visas, SIJS, VAWA, DACA, family-based petitions, adjustment of status, asylum, and other remedies</li> <li>• Call or email for an appointment</li> <li>• Must be low-income</li> <li>• Languages available upon request</li> </ul>	<p><b>Al Otro Lado*</b></p> <p>634 S. Spring Street, Suite 908                      Los Angeles, CA 90014                      Tel: (323) 238-9935                      info@alotrolado.org                      www.abtrolado.org</p> <ul style="list-style-type: none"> <li>• Asylum, WOR, CAT, Defensive VAWA, T Visa, U Visa, Cancellation, and Bond; Please call and leave a message to schedule an appointment</li> <li>• Languages: Spanish, English, and others with interpretation services</li> </ul>

Individuals must contact the providers on this list directly to request legal services. Although the providers on this list offer pro bono (free) legal representation, they may not have the capacity at this time to accept new cases.

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# EXHIBIT 2



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

Respondent Name:

[Redacted]

To:

[Redacted]

A-Number:

[Redacted]

Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

05/30/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 05/30/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

**I. Removability**

The immigration court found Respondent  removable  inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(I)

The immigration court found Respondent  not removable  not inadmissible under the following Section(s) of the Act:

**II. Applications for Relief**

Respondent's application for:

**A. Asylum/Withholding/Convention Against Torture**

- Asylum was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under INA § 241(b)(3) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Deferral of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

**B. Cancellation of Removal**

- of 16
- Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
  - Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
  - Special Rule Cancellation of Removal under INA § 240A(b)(2) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

C. Waiver

- A waiver under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

D. Adjustment of Status

- Adjustment of Status under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

E. Other

**III. Voluntary Departure**

- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  denied.
- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
  - Further information regarding voluntary departure has been added to the record.
  - Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- the presumptive civil monetary penalty amount of \$3,000.00 USD
- \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of

nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

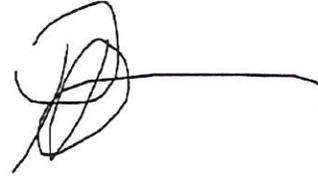
#### IV. Removal

- Respondent was ordered removed to Russia
- In the alternative, Respondent was ordered removed to Ukraine
- Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

#### V. Other

- Proceedings were  dismissed  terminated with prejudice  
 terminated without prejudice  administratively closed.
- Respondent's status was rescinded under INA § 246.
- Other:



Immigration Judge: DIXON, PAULA 05/30/2025

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

Appeal Due: 06/30/2025

### Certificate of Service

This document was served:

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

To: [ ] Noncitizen | [ ] Noncitizen c/o custodial officer | [ E ] Noncitizen's atty/rep. | [ E ] DHS

Respondent Name : [REDACTED] | A-Number : [REDACTED]

Riders:

Date: 05/30/2025 By: Alilin, Vanessa, Court Staff

# EXHIBIT 3

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

OMB# 1125-0002  
**Notice of Appeal from a Decision of an  
Immigration Judge**

Staple Check or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

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

██████████ ██████████

**! WARNING:** Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

For Official Use Only

2. I am  the Respondent/Applicant  DHS-ICE (Mark only one box.)
3. I am  DETAINED  NOT DETAINED (Mark only one box.)
4. My last hearing was at 5/20/2025 (Location, City, State)

5. **What decision are you appealing?**

*Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).*

I am filing an appeal from the Immigration Judge's decision in **merits proceedings** (example: removal, deportation, exclusion, asylum, etc.) dated 5/30/2025.

I am filing an appeal from the Immigration Judge's decision in **bond proceedings** dated \_\_\_\_\_ . (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court?  Yes.  No.)

I am filing an appeal from the Immigration Judge's decision **denying a motion to reopen or a motion to reconsider** dated \_\_\_\_\_ .

*(Please attach a copy of the Immigration Judge's decision that you are appealing.)*

EOIR 1 of 10