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

11 ANDREA ROMERO-SUAREZ,

12 Petitioner,

13 v.

14 KRISTI NOEM, et al.,

15 Respondents.
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Case No.: 25-CV-3789-LL-KSC

RESPONSE TO PETITION

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19 Petitioner entered without inspection around 2016 as a minor and has a pending
20 application for permanent residence, as the spouse of a United States Citizen. On December
21 9, 2025, she was detained and charged as an “alien present in the United States without
22 being admitted or paroled . . .” *See* Ex. 1, NTA. On July 8, 2025, the Department of
23 Homeland Security (“DHS”) instituted a notice titled “Interim Guidance Regarding
24 Detention Authority for Applicants for Admission” (the “Notice”) requiring, in general,
25 that anyone arrested in the United States and charged with being inadmissible to be
26 considered an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A), subject to
27 mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8
28

1 U.S.C. § 1226(a).

2 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d
3 ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice
4 unlawful under the Administrative Procedures Act but did not issue a final judgment. On
5 December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF
6 No. 94. Accordingly, Respondents acknowledge that Petitioner is detained under 8 U.S.C.
7 § 1226(a) and is entitled to an order from this Court directing a bond hearing be held
8 pursuant to 8 U.S.C. § 1226(a).

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

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12 DATED: January 6, 2026

ADAM GORDON
United States Attorney

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14 *s/Juliet M. Keene*
JULIET M. KEENE
Assistant United States Attorney
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DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR



In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS: [REDACTED] File No: [REDACTED]

In the Matter of:

Respondent: ANDREA ROMERO SUAREZ currently residing at:

See Continuation Page Made a Part Hereof [REDACTED]
(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 MEXICO and a citizen of MEXICO;
3. You entered the United States at or near SAN YSIDRO, CA on or about September 1, 2016;
4. You were not then admitted or paroled after inspection by an Immigration Officer, or at that time you arrived at a time or place other than as designated by the Attorney General.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

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

- 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, CALIFORNIA 92154, OTAY MESA DETENTION CENTER
(Complete Address of Immigration Court, including Room Number, if any)

on December 22, 2025 at 8:00 am to show why you should not be removed from the United States based on the

charge(s) set forth above.

J. GONZALEZ - SDDO
(Signature and Title of Issuing Officer)

Date: December 10, 2025

SAN DIEGO, CALIFORNIA
(City and State)

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 8 CFR 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 I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) 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 not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to 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 for 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.

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 of Respondent)

Date: _____

_____ (Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on December 10, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

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

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

X _____ (Signature of Respondent if Personally Served)

WME _____ (Signature of officer)
RICHARDSON - Deportation Officer

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 (8 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.

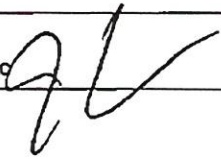
U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name ROMERO SUAREZ, ANDREA		Date 12/10/2025
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CURRENTLY RESIDING AT:

OTAY MESA DETENTION CENTER 7488 Calzada de la Fuente San Diego, CALIFORNIA 92154

Signature J 6912 CORDERO 	Title SDDO
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