

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

ARNALDO MENDIBUR CASADO,

Petitioner,

v.

Case No. _____

**Garrett RIPA, in his official capacity as
Field Office Director of Enforcement and
Removal Operations, Miami, Field Office,
Immigration and Customs Enforcement;
KRISTI NOEM, in her capacity
as the Secretary of Homeland Security;
PAMELA JO BONDI, in her official capacity
as the United States Attorney General;
TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement, in
his official capacity;
Warden of Broward Transitional Center, in
his official capacity,**

Respondents.

_____ /

**PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO
SHOW CAUSE**

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ARNALDO MENDIBUR CASADO, hereinafter “Mr. Mendibur” or “Petitioner”, by and through undersigned counsel, files this Petition for Writ of Habeas Corpus, and in support thereof, alleges as follows:

INTRODUCTION

1. Petitioner ARNALDO MENDIBUR CASADO is in the physical custody of Respondents at the Broward County Transitional Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that a person who entered the United States without admission, like Petitioner, is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. On May 15, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1225(b) (2018), and is ineligible for any

subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018).” See *Matter of Q. Li*, 29 I & N. Dec. 66 (BIA 2025).

5. Similarly, on September 5, 2025, the Board issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who were detained upon their entry, processed and released pursuant to 8 U.S.C. § 1226(a), and are re-arrested years later. Instead, such individuals are subject to § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without being admitted or paroled.

7. Respondents’ new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

8. More importantly, the Government itself has made an abrupt about-face on this issue. Respondents should be judicially estopped from asserting their current interpretation of 8 U.S.C. § 1225(b)(2)(A), because they previously prevailed in litigation after asserting the opposite interpretation. As explained in *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies when a party assumes a position in a legal proceeding, succeeds in maintaining that position, and then adopts a contrary position in a subsequent proceeding to gain an unfair advantage. Here, Respondents previously, and successfully, argued that individuals who entered the United States without inspection were subject to detention under §1226(a), and not

§1225(b)(2)(A), and courts accepted that position. Respondents now reverse course and assert that such individuals are subject to mandatory detention under §1225(b)(2)(A), thereby denying them bond hearings. This shift in legal position undermines the integrity of the judicial process and imposes unfair detriment on Petitioner who relied on the prior interpretation. Accordingly, Respondents should be estopped from asserting this inconsistent position.

9. Furthermore, the Government's own issuance of a Warrant for Arrest of Alien, placing Petitioner in custody under 8 U.S.C. § 1226(a), and Order of Release on Recognizance under §1226, reflects discretionary, fact-based determination that Petitioner was not subject to mandatory detention under § 1225(b)(2)(A). This quasi-judicial decision was made by DHS at the outset of proceedings, based on the facts available to both parties and Petitioner's own admissions. This legal determination squarely contradicts the Government's current position – adopted wholesale by the Board of Immigration Appeals – that Petitioner is ineligible to apply for bond before EOIR. This reversal undermines the integrity of the adjudicative process and triggers the principles of issue preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), which require courts to respect agency determinations when the ordinary elements of preclusions are met.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

11. Petitioner further requests this court to order Respondent to show cause demonstrating why he should not be released within three days given his unlawful detention. 28 U.S.C. § 2243.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the

Broward County Transitional Center in Pompano Beach, Florida. *See Exhibit I.*

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. Jurisdiction of the Court is predicated upon 28 U.S.C. §§ 1331 and 1346(a)(2) in that the matter in controversy arises under the Constitution and laws of the United States, and the United States is a Defendant.

15. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

16. Federal Courts also have federal question jurisdiction, through the Administrative Procedures Act (APA), to “hold unlawful and set aside agency action” that is “arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law”. 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action”. 5 U.S.C. § 702. Respondents’ continued detention of Petitioner despite him being in lawful status has adversely and severely affected Petitioner’s liberty and freedom.

VENUE

17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Florida, the judicial district in which Petitioner currently is detained.

18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because

Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Florida.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. Administrative exhaustion of remedies in a § 2241 proceeding is not a jurisdictional requirement. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474-75 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001)).

20. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. Cf. 8 U.S.C § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal).

21. “[W]here Congress has not clearly required exhaustion, sound judicial discretion governs”. *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived “(1) where prejudice to the prisoner’s subsequent court action ‘may result, for example, from an unreasonable or indefinite timeframe for administrative action’; (2) where the administrative agency may not have the authority ‘to grant effective relief’; or (3) ‘where the administrative body is shown to be biased or has otherwise predetermined the issue before it.’” *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). See also *Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting “well-established exceptions to exhaustion” that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

22. In making its discretionary decision, the Court should also consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent”.

Boumediene v. Bush, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

23. Petitioner's constitutional challenge to his detention is exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); see also *Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal quotation omitted) ("Due process claims generally are exempt from exhaustion requirements because the BIA does not have jurisdiction to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("[T]he BIA does not have jurisdiction to adjudicate constitutional issues" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987))).

24. Further, administrative exhaustion before the immigration judge and the BIA would be futile. Exhaustion is futile where the agency has "predetermined the issue before it". *McCarthy*, 503 U.S. at 148. The BIA had predetermined the issue here. The BIA has held that immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This decision is binding on immigration courts across the country. Therefore, exhaustion would be futile, and the Court should waive its requirement as a matter of discretion.

25. A request for release on humanitarian parole under 8 U.S.C. 1182 (d)(5)(A) would also be futile. Parole review is conducted informally by DHS officers – the jailing authority – by checking a box on a form that contains no factual findings, no specific explanation, and no evidence of deliberation. There is no hearing, no record, and no administrative appeal from a negative parole decision, even to correct manifest errors. *See Rodriguez v. Robbins*, 804 F.3d 1060, 1081 (9th Cir. 2015), *cert. granted sub nom. Jennings v. Rodriguez*, 136 S. Ct. 2489, 195 L.

Ed. 2d 821 (2016) (identifying denials of parole “based on blatant errors: In two separate cases . . . officers apparently denied parole because they had confused Ethiopia with Somalia. And in third case, an officer denied parole because he had mixed up two detainee’s files.”); *Nadarajah v. Gonzalez*, 443 F.3d 1069, 1082 (9th Cir. 2006) (finding that DHS abused its authority by denying parole). In the absence of administratively enforceable standards, and in light of recent guidance from the Department of Homeland Security, humanitarian parole is nearly nonexistent at this point. *See* DHS Memorandum: Guidance Regarding How to Exercise Enforcement Discretion (Jan. 23, 2025).

REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

27. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

28. Petitioner ARNALDO MENDIBUR CASADO is a 35-year-old native and citizen of Cuba, with no criminal record. Petitioner entered the United States on May 13, 2022, and has since resided continuously in the country for over three years. During this time, he maintained

stable employment and established strong family ties, including marriage to a United States citizen. On May 15, 2022, the DHS issued a Notice to Appear (NTA), charging him under INA § 212(a)(6)(A)(i) and placing him in § 240 removal proceedings before the Immigration Court. On June 3, 2025, the Immigration Judge dismissed the NTA. Upon retention, Counsel filed an Appeal for this decision, and the appeal remains pending. Immediately thereafter, DHS issued a Form I-860, placing Respondent into expedited removal proceedings under INA § 235, despite his long-term residence and established equities in the United States. Respondent subsequently requested a custody redetermination hearing. On July 8, 2025, however, the Immigration Judge denied jurisdiction, reasoning that Respondent was subject to mandatory detention as an “applicant for admission.” In reaching this decision, the Immigration Judge relied on Matter of M-S- and Matter of Q. Li. Counsel filed a Bond Appeal, and the case remains pending before the BIA.

29. Respondent GARRETT RIPA is the ICE Field Office Director for the Florida, Puerto Rico, U.S. Virgin Islands Area of Responsibility, which includes the State of Florida. As such, GARRETT RIPA is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

30. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

31. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

32. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

33. Respondent, the Warden of the Broward Transitional Center, where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

34. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention is generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

36. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

37. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

38. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

39. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat.

3 (2025).

40. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

41. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

42. In *Jennings v. Rodriguez*, DHS explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). *Jennings v. Rodriguez*, 583 U.S. 281 (2018). During oral argument on November 30, 2016, then-Solicitor General Ian Gershengorn stated: “If they are not detained within 100 miles of the border or within 14 days . . . then they are under 1226(a) and not 1226(c)”. In response to a question regarding “an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border”, the Government confirmed, “The answer is they are held under 1226(a) and that they got a bond hearing . . .” Transcript of Oral Argument at 7-8. DHS further reiterated that such individuals “would be held

under 1226(a)” and cited the administrative record to support that position. *Id.* These statements reflect DHS’s prior litigation position that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States – a position directly contrary to the agency’s current interpretation extending § 1225(b)(2)(A) to those same individuals. Having prevailed in *Jennings* after taking this position, they should be now estopped from reversing course simply due to a shift in political or litigation strategy. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment, as well as to uphold the integrity of the judicial system.

43. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

44. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

45. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

46. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

47. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

48. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. See, e.g., *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-

MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); Zaragoza Mosqueda v. Noem, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); Pizarro Reyes v. Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., Palma Perez v. Berg, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); Jacinto v. Trump, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); Anicasio v. Kramer, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

49. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

50. “Courts have noted that Respondents’ interpretation of the phrase ‘seeking admission’ ‘violates the rules against surplusage and negates the plain meaning of the text’”. *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *27-28 (citing *Soto v. Soto*, et. al., No. 25-16200, 2025 U.S. Dist. LEXIS 207818, at *9 (D.N.J. Oct. 22; *Martinez v. Hyde*, No. 25-11613, 2025 U.S. Dist. LEXIS 141724, at *6 (D. Mass. July 24, 2025); *Zumba v. Bondi*, No. 25-14626, 2025 U.S. Dist. LEXIS 190052, at *8; *Benitez v. Francis*, No. 25-5937, 2025 U.S. Dist. LEXIS 157214, at *16 (S.D.N.Y. Aug. 8, 2025). “The phrase ‘seeking admission’ in § 1225(b)(2)(A) necessarily connotes some affirmative, present-tense action”. *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28. “The verb ‘seeking’ is a present participle, and the ‘present participle is used to signal present and continuing action’”. *Id.* (quoting *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022); *D.L. Markham DDS, MSD, Inc. 401(K) Plan v. Variable Annuity Life Ins.*

Co., 88 F. 4th 602, 610 (5th Cir. 2023) (“The word ‘providing’ used here as a present participle, most commonly describes a person who is currently providing services”) (*emphasis in original*); *United States v. Hull*, 456 F.3d 133, 145 (3d Cir. 2006) (Ackerman, Sr. Dist. J., sitting by designation, concurring) (“Congress’s use of the present participle ‘committing’ connotes present, continuing action”).

51. "The INA defines the term 'admission' as, 'with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.'" *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28-29 (quoting 8 U.S.C. § 1101(a)(13) (A)). "Thus, the INA's own definition of the term 'admission' supports the limited application of § 1225 to encounters with aliens along the borders and at ports of entry." *Id.* at *29.

52. Here, Petitioner cannot be said to be "seeking admission" as defined in § 1101(a)(13) (A). Petitioner "'has already 'entered' the country'- [he] is no longer seeking to enter the United States (lawfully or otherwise)." *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *29 (quoting *Jimenez*, 2025 U.S. Dist. LEXIS 176165, at *22, citing *Benitez*, 2025 U.S. Dist. LEXIS 157214, at* 19). Like the Middle District of Pennsylvania found in *Santana-Rivas*, "while Petitioner "has applied for asylum, that application does not seek "'lawful entry" to the United States, but [rather] a lawful means to remain here.'" *Id.*

53. Indeed, according to the Warrant for Arrest of Alien and document I-220A, Order of Release on Recognizance, issued to Petitioner on May 16, 2022, upon his initial encounter with ICE, as well as the DHS's own factual allegations contained in the Notice to Appear, the DHS itself determined that Petitioner is an alien present in the United States without being admitted or paroled, and thus falls under § 1226(a), not § 1225(b).

54. Section 1226(a) applies by default to all persons “pending a decision on whether

the noncitizen is to be removed from the United States.” These removal hearings are held under § 1229a, to “decide the inadmissibility or deportability of a noncitizen.”

55. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

56. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

57. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

58. In *Jennings*, the Supreme Court describes section 1226 as governing “the process of arresting and detaining” noncitizens who are living “inside the United States” but “may still be removed,” including noncitizens “who were inadmissible at the time of entry.” *Jennings*, 583 U.S.

at 288. In harmonizing sections 1225 and 1226, the Supreme Court explains "in sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c)." *Id.* at 289 (emphasis added).

59. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered, were processed and released previously under 8 U.S.C. § 1226 and were already residing in the United States at the time they were re-apprehended. Petitioner was previously released after a quasi-judicial determination by an immigration official on a form I-220A that he falls under the discretionary arrest provision of § 1226(a). The Government's own issuance of a Warrant for Arrest of Alien placing Petitioner in custody under 8 U.S.C. § 1226(a), and an I-220A, releasing him pursuant to § 1226, reflects a discretionary, fact-based determination that Petitioner was not subject to mandatory detention under § 1225(b)(2)(A). This is significant because mere days after his entry to the U.S., the Government had already recognized that Petitioner was no longer "seeking admission" as described in § 1225, and itself applied the provisions of § 1226 and released Petitioner. This quasi-judicial decision was made by DHS at the outset of proceedings, based on the facts available to both parties and Petitioner's own admissions. This legal determination squarely contradicts the Government's current position-adopted wholesale by the Board of Immigration Appeals-that Petitioner is ineligible to apply for bond before EOIR. This reversal undermines the integrity of the adjudicative process and triggers the principles of issue preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), which require courts to respect agency determinations when the ordinary elements of preclusion are met.

60. It has been the settled practice for decades for immigration officials to issue an I-220A, or an Order of Release on Recognizance, to those who encounter immigration officials at or near the border. The issuance of an I-220A under § 1226 is not a ministerial act but a formal adjudication of custody status, reflecting DHS's determination that the individual falls under the discretionary detention framework of § 1226 rather than the mandatory detention provisions of § 1225(b). The Supreme Court has "long favored application of the common law doctrines of collateral estoppel (as to issues) and res judicata (as to claims) to those determinations of administrative bodies that have attained finality." *Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108 (1991) (citing *United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966)). As the Court explained in *Utah Construction*, "[w]hen an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to enforce repose." 384 U.S. at 422. This presumption applies because "Congress is understood to legislate against a background of common-law adjudicatory principles." *Astoria*, 501 U.S. at 108 (citing *Briscoe v. LaHue*, 460 U.S. 325 (1983); *Jsbrandtsen Co. v. Johnson*, 343 U.S. 779, 783 (1952)). Accordingly, DHS's prior § 236 determination-memorialized in the Warrant for Arrest of Alien and the I-220A-constitutes a binding judgment for purposes of collateral estoppel and cannot be disturbed absent materially changed circumstances or new facts.

61. Therefore, 8 U.S.C. § 1226 is the appropriate governing framework in this case.

UNDERLYING FACTS AND PROCEDURAL HISTORY OF THE CASE

62. Petitioner entered the United States on May 13, 2022.

63. On May 15, 2022, Petitioner was issued a Warrant for Arrest of Alien and detained under section 236 of the INA, 8 U.S.C. § 1226.

64. On May 15, 2022, Petitioner was also issued a Notice to Appear ("NTA"), charging him as an alien present in the United States who has not been admitted or paroled. The NTA was filed with the immigration court on 07/27/2022, thereby commencing removal proceedings. *See Exhibit A*. His removal proceedings were dismissed by the immigration judge at the Orlando Immigration Court on 06/03/2025. *See Exhibit B*. On 07/01/2025, Counsel filed an Appeal of this decision with the BIA, and the appeal remains pending (*See Exhibit C*), and on 10/21/2025, counsel filed a Motion for Emergency Stay of Removal. *See Exhibit D*.

65. On May 15, 2025, Petitioner was issued an Order of Release on Recognizance, indicating that "in accordance with section 236 of the Immigration and Nationality Act . . . you are being released on your own recognizance." He was instructed to report to ICE, and he fully complied.

66. Despite Petitioner's consistent compliance, absence of any new violations, and demonstrated stability, on 06/03/2025, he was unexpectedly issued an order of expedited removal Form I-860 (*See Exhibit F*), and detained, after his case was dismissed by the immigration judge.

67. From the time of his initial release on recognizance in 2022 to his re-detention in 2025, Petitioner committed no criminal offenses, committed no new immigration violations, and remained in compliance with all reporting requirements.

68. Petitioner has significant ties to the United States, including his Lawful Permanent Resident mother and his United States citizen wife. He possesses valid employment authorization and has maintained stable, lawful employment. He also holds a valid driver's license and has never been arrested or convicted of any crime. Furthermore, he has a pending asylum application because he fears returning to his native country. Petitioner's record and history demonstrate that he is neither a flight risk nor a danger to the community.

69. Petitioner is currently detained at Alligator Alcatraz, a facility that is subject to ongoing lawsuits and litigation for alleged inhumane conditions. Without intervention from this Court, he faces the prospect of prolonged detention lasting months or even years, separated from his family and community, despite his full compliance with prior release conditions and absence of any new basis for custody. Counsel has requested bond for Respondent, which has been denied by the court and is currently in appeal before the BIA. *See Exhibit G.*

Further, Counsel has requested Parole to ICE on behalf of the Respondent, and the request has been denied. *See Exhibit H.*

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

70. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

71. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

72. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO

**Violation of Fifth Amendment Right to Procedural Due Process - Unlawful
Detention Without a Pre-Deprivation Hearing**

73. The allegations in the above paragraphs are realleged and incorporated herein.

74. It has long been established that aliens, even if in the United States unlawfully, are entitled to due process of law under the Fifth Amendment. See *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) ("Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to th[e] constitutional protection [of the Due Process Clause]"); see also *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent").

75. The Due Process Clause of the Fifth Amendment prohibits the government from depriving individuals of liberty without notice and a meaningful opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

76. When the Government interferes with a liberty interest, it must provide constitutionally sufficient procedures. *Ky. Dep 't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The adequacy of these procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substantive procedures would entail. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

77. Applying these factors here demonstrates that the procedures attendant upon Petitioner's detention are constitutionally insufficient.

78. First, Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner is being held at Alligator Alcatraz and is far from his family and community.

79. Second, the risk of erroneous deprivation is extraordinarily high. Petitioner has already been found not to be a danger to the community or a flight risk upon his initial entry, when ICE reviewed his custody and issued paperwork releasing him on his own recognizance. Nevertheless, despite not incurring any new criminal or immigration violations, he was summarily re-detained without a bond hearing and without the government identifying any new facts or changed circumstances. Absent a pre-deprivation hearing, there was no safeguard to prevent ICE from arbitrarily re-arresting Petitioner in direct contradiction of the prior determination that release was warranted.

80. Third, the government's interest in detaining Petitioner without a hearing is minimal, if it exists at all. The government has already determined that Petitioner does not pose a risk to the community or a risk of flight. Providing a bond hearing before re-arrest would impose little to no fiscal or administrative burden, while simultaneously protecting core constitutional rights. Respondents' decision to re-detain Petitioner without such a hearing contravenes federal law and violates his procedural due process rights.

81. This arbitrary deprivation of liberty without a pre-deprivation hearing violates the constitutional requirement that detention be accompanied by due process safeguards. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that immigration detention is subject to constitutional limits); *Demore v. Kim*, 538

U.S. 510, 532 (2003) (emphasizing limited scope and justification for immigration

detention).

82. By taking Petitioner back into custody without notice, new facts, or opportunity to be heard, Respondents deprived him of liberty in a manner inconsistent with due process and the fundamental fairness required by the Fifth Amendment.

COUNT THREE

Violation of Fifth Amendment Right to Substantive Due Process

83. The allegations in the above paragraphs are realleged and incorporated herein.

84. The Fifth Amendment's Due Process Clause not only guarantees procedural safeguards but also protects individuals against governmental conduct that "shocks the conscience" or interferes with rights implicit in the concept of ordered liberty. *County of Sacramento v. Lewis*, 523 U.S. 833, 846-47 (1998).

85. Here, Petitioner had been affirmatively determined not to be a danger to the community or a flight risk upon his initial entry, when ICE conducted a custody review and issued paperwork releasing him on his own recognizance.

86. Despite these findings, Petitioner was re-detained without cause. This re-detention occurred without any new facts or changed circumstances that could justify depriving him of liberty.

87. The government's conduct is arbitrary and capricious, amounting to punishment rather than regulation. It transforms ICE's discretionary authority into an unchecked power to re-incarcerate noncitizens at will, untethered to legitimate governmental objectives.

88. By subjecting Petitioner to renewed detention without justification, Respondents violated Petitioner's substantive due process rights under the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (immigration detention is constitutionally limited and must bear

a reasonable relation to its purposes); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (continued confinement is impermissible absent a legitimate basis such as dangerousness or flight risk).

89. Respondents' actions shock the conscience because they reflect arbitrary government conduct that disregards both prior determinations and Petitioner's fundamental right to be free from unjustified physical confinement.

COUNT IV

Violation of the Bond Regulations

90. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

91. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

92. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

93. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT V

Violation of the Administrative Procedure Act ("APA")

94. The allegations in the above paragraphs are realleged and incorporated herein.

95. The Administrative Procedure Act ("APA") provides the framework for judicial review of agency action. While § 701(a)(2) precludes review where "agency action is committed to agency discretion by law," this limitation is narrowly construed considering the language of § 702. *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64-65 (2004); 5 U.S.C. § 551(13). Namely, § 702 expressly authorizes review by any person "suffering legal wrong because of agency action" or "adversely affected or aggrieved by agency action within the meaning of a relevant statute." 5 U.S.C. § 702; 5 U.S.C. § 551(13).

96. Moreover, in *Southern Utah Wilderness Alliance*, the Supreme Court clarified that "agency action" encompasses discrete action, or failure to act when mandated by statute, rather than broad challenges to an agency's overall program management. *Southern Utah Wilderness Alliance*, 542 U.S. at 64-65; 5 U.S.C. § 551(13) (agency action includes the whole or part of an agency's order, relief, or denial of relief).

97. When reviewing the erroneous agency action, section 706 directs courts to resolve all relevant questions of law, interpret statutory provisions, and "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1)-(2). Courts must also "hold unlawful and set aside" agency actions that are arbitrary, capricious, contrary to law, in excess of statutory authority, procedurally defective, unsupported by substantial evidence, or unwarranted by the facts. *Id.*

98. To invoke judicial review of an agency action, and hold unlawful or set aside arbitrary or capricious actions under § 706, a plaintiff must demonstrate Article III standing-an

injury in fact, traceable to the challenged action, and redressable by a favorable decision-and must show that the interest asserted is "arguably within the zone of interests" protected by the statute invoked. *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970); *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399 (1987); *Nat'l Credit Union Admin. v. First Nat'l Bank & Trust Co.*, 522 U.S. 479, 492 (1998). This zone-of-interests requirement is not demanding, and any doubt is resolved in the plaintiff's favor. *Nat'l Credit Union Admin.*, 522 U.S. at 492 (reaffirming the standard established by *Sec. Indus. Ass'n*, 479 U.S. 388 (1987)).

99. Finally, to overcome the allegation of an agency's erroneous actions under § 702, the agency must prove to the satisfaction of the reviewing court, that its actions were not arbitrary and capricious under § 706. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 52 (1983); 5 U.S.C. § 702; 5 U.S.C. § 706(1)-(2). In *State Farm Mut. Auto. Ins. Co.*, the Court defined the arbitrary and capricious standard of § 706 as requiring the agency to show it engaged in reasoned decision-making when deciding the matter at issue. *State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 52; 5 U.S.C. § 706(1)-(2).

100. The APA framework squarely applies to Petitioner's case. ICE's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission," adopted "in coordination with" DOJ, and EOIR's implementation of that guidance-together with the Board's published decision in *Matter of Yajure Hurtado* (Sept. 5, 2025)-constitute "final agency action" because they mark a consummation of the agencies' decision-making process and determine legal rights and obligations by categorically placing noncitizens like Petitioner under 8 U.S.C. § 1225(b)(2)(A) and denying access to IJ bond hearings. *See* 5 U.S.C. § 704.

101. These agency actions are contrary to law and in excess of statutory authority because they disregard the statutory text, structure, and history establishing that detention of

noncitizens already within the United States and placed in § 1229a proceedings is governed by § 1226(a), not § 1225(b)(2). *See* 8 U.S.C. §§ 1226(a), 1229a. Following *Loper Bright Enterprises v. Raimondo*, courts do not defer to an agency's interpretation merely because the statute is ambiguous; rather, courts must exercise independent judgment in interpreting the INA. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). The agencies' interpretation fails on that independent review.

102. The agencies' actions are also arbitrary and capricious under § 706(2)(A) because they (a) represent an unexplained reversal of decades of settled practice and regulatory interpretation without reasoned analysis; (b) fail to consider important aspects of the problem, including Congress's UAC framework in 8 U.S.C. § 1232 and 6 U.S.C. § 279; (c) ignore serious reliance interests of noncitizens and the adjudicatory system, which had long afforded IJ bond review under § 1226(a); and (d) apply a border-inspection scheme designed for "arriving" individuals to persons apprehended well after entry, which lacks a rational connection to the statute's purposes. *See State Farm*, 463 U.S. at 43; *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009) (agency changing policy must provide a reasoned explanation and address reliance interests); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-26 (2020) (failure to consider reliance interests renders rescission arbitrary and capricious).

103. The July 8, 2025, guidance operates as a substantive rule with legal consequences but was issued without notice-and-comment rulemaking as required by 5 U.S.C. § 553. It therefore is unlawful and must be set aside for "failure to observe procedure required by law." 5 U.S.C. § 706(2)(D). *See also Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 96-97 (2015) (distinguishing interpretive from legislative rules and reaffirming § 553 requirements for the latter).

104. Independently, the agencies failed to follow their own binding regulations by

denying Petitioner access to custody review and IJ bond procedures that apply under § 1226(a), violating the *Accardi* doctrine. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267-68 (1954); 8 C.F.R. §§ 236.1, 1236.1, 1003.19. Agency action taken in derogation of binding regulations is unlawful under § 706(2)(A), (C), and (D).

105. As applied to Petitioner, the agencies' actions (a) deprived him of an IJ bond hearing under § 1226(a); (b) subjected him to mandatory detention under § 1225(b)(2)(A) without statutory basis; and (c) foreclosed individualized custody determinations despite a prior government finding that he is neither a danger nor a flight risk. This discrete deprivation is reviewable and unlawful under 5 U.S.C. § 706(2)(A)-(C), and the failure to provide the required bond process is "agency action unlawfully withheld" under § 706(1).

106. Petitioner has standing to challenge these actions: he suffers concrete and ongoing injury (continued detention without access to an IJ bond hearing), traceable to Respondents' policies and decisions, and redressable by vacatur and injunctive relief requiring custody to be governed by § 1226(a) and the implementing regulations. His interests are plainly within the INA's zone of interests, which protects access to § 1226(a) custody determinations for noncitizens in § 1229a proceedings.

107. For all of these reasons, Respondents' actions are arbitrary, capricious, an abuse of discretion, contrary to law, and in excess of statutory authority, and must be set aside under 5 U.S.C. § 706(2).

Judicial Estoppel

108. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

109. Respondents are judicially estopped from asserting that Petitioner is subject to

mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government successfully argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7-8 (Nov. 30, 2016). Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government's reversal undermines the integrity of the judicial process and prejudices Petitioners who relied on the prior interpretation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern Transitional Center while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: December 31, 2025

Respectfully submitted,

TOCADO'S LAW FIRM

/s/Lissette Tocado

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**VERIFICATION BY SOMEONE ACTING ON THE PLAINTIFFS' BEHALF
PURSUANT TO 28 U.S.C. § 2242**

Pursuant to the provisions of 28 U.S.C. § 2242 and 28 U.S.C. § 1746, I declare under penalty of perjury:

I, Lissette Tocado, am submitting this verification on behalf of the named plaintiffs because I am their attorneys. I have discussed with the Plaintiffs the events described in this petition, reviewed papers and declarations provided by them, and have reviewed Freedom of Information Act productions relating to their immigration files. On the basis of those discussions and reviews, I hereby verify that the statements made in the foregoing Class Action Petition for Writ Of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

TOCADO'S LAW FIRM

/s/Lissette Tocado

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Attorneys for Plaintiff

INDEX OF EXHIBITS

Exhibit	Description
A	Respondent's Notice to Appear
B	Order of the Judge Dismissing Respondent's Removal Proceedings
C	Respondent's Notice of Case Appeal pending with the BIA
D	Respondent's Emergency Motion for Stay of Removal
E	Order of the Judge denying Bond
F	Respondent's Notice and Order of Expedited Removal
G	Evidence that the Bond Appeal is pending before the BIA
H	Respondent's Parole Request to DHS and Denial of Parole
I	Online Detainee Locator System printed on December 23, 2025 showing Petitioner's current location

Exhibit A

Uploaded on: 7/27/2022 at 6:35:27 p.m. (Eastern Daylight Time) Base City: MIA

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

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

Subject ID: [REDACTED]

FINS #: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

ARNALDO MENDIBUR CASADO

Respondent:

currently residing at:

550 NE 207TH ST MIAMI, FLORIDA, 33179-3505

+1 (757)-619-0274

(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 CUBA and a citizen of CUBA ;
3. You arrived in the United States at or near LUKEVILLE, AZ , on or about May 13, 2022 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

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

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:

333 SOUTH MIAMI AVE, STE 700 Miami FL US 33130

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

on June 03, 2025 at 09:30 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

JEFF JEFFERIES

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer) (Sign in Ink)

Date: May 15, 2022

Casa Grande, Arizona

(City and State)

EOIR - 1 of 3

Uploaded on: 7/27/2022 at 8:35:27 p.m. (Eastern Daylight Time) Base City: MIA

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:

RICHARD D BAEZ
Date: 2022.05.15 13:09:10 -07:00
CRP

BPA

(Signature and Title of Immigration Officer) (Sign In Ink)

(Signature of Respondent) (Sign In Ink)

Date: 05/15/2022

Certificate of Service

This Notice To Appear was served on the respondent by me on May 15, 2022, 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 SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent If Personally Served) (Sign In Ink)

RICHARD BAEZ-JR, BPA

(Signature and Title of officer) (Sign In Ink)

RICHARD D BAEZ
Date: 2022.05.15 13:09:10 -07:00
CRP

EOIR - 2 of 3

Uploaded on: 7/27/2022 at 6:35:27 p.m. (Eastern Daylight Time) Base City: MIA
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 (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.

EOIR - 3 of 3

Exhibit B



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI IMMIGRATION COURT

Respondent Name:

MENDIBUR CASADO, ARNALDO

To:

Canizares, Claudia
8360 W Flagler St
Ste 200
Miami, FL 33144

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/03/2025

ORDER ON MOTION TO DISMISS

The Respondent the Department of Homeland Security the parties jointly has/have filed a motion to dismiss these proceedings under 8 CFR 1239.2(c). The moving party has given notice of the motion to the non-moving party and the court has provided the non-moving party with an opportunity to respond. The motion is opposed unopposed.

After considering the facts and circumstances, the immigration court orders that the motion to dismiss is:

- Granted without prejudice
 Denied

Further explanation:

8 C.F.R. Section 240.

IT IS SO ORDERED.

McAraneta

Immigration Judge: Araneta, Michelle 06/03/2025

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 : MENDIBUR CASADO, ARNALDO | A-Number : 

Riders:

Date: 06/03/2025 By: Jarquin, Karla, Court Staff

Exhibit C



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

Tocado, Lissette
Tocado's Law Firm
14502 N Dale Mabry Hwy
Suite 200
Tampa, FL 33618

DHS/ICE Office of Chief Counsel - MIA
333 SOUTH MIAMI AVE., SUITE 200
Miami, FL 33130

Name:
MENDIBUR CASADO, ARNALDO



Riders:

Date of Notice: 07/08/2025

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 07/01/2025, in the above-referenced case, filed by the Respondent

Additional Comments
N/A

WARNING FOR APPEALS:

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

IF YOU HAVE QUESTIONS, CONTACT:

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

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

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

WARNING FOR MOTIONS:

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

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

FILING INSTRUCTIONS:

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

Accepted by: AguilarVe

CC


Exhibit D

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

DETAINED

Lissette Tocado, Esq.
Tocado's Law Firm
EOIR ID: OO552041
14502 N Dale Mabry Hwy
Suite 200, Tampa, FL 33618
813-723-6874 (phone)
Lissette@TocadosLaw.com
Counsel for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA**

<p>In the Matter of MENDIBUR CASADO, Arnaldo</p> <p>Respondent – DETAINED</p>	<p>Honorable Judge: T.B.D.</p> <p>File No.: </p> <p>Next Hearing: T.B.D.</p>
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MOTION FOR EMERGENCY STAY OF REMOVAL

COVER LETTER

EOIR 1 of 21

MENDIBUR CASADO, Arnaldo

1 of 8

File No. 

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA**

In the Matter of MENDIBUR CASADO, Arnaldo Respondent – DETAINED	Honorable Judge: T.B.D. File No.: XXXXXXXXXX Next Hearing: T.B.D.
--	--

MOTION FOR EMERGENCY STAY OF REMOVAL

I. INTRODUCTION

COMES NOW the Respondent, by and through undersigned counsel, and respectfully requests that the Board of Immigration Appeals (“Board”) issue a stay of removal pending adjudication of Respondent’s appeal currently before the Board. This request is made pursuant to 8 C.F.R. § 1003.6(b), which authorizes the Board to grant a discretionary stay when necessary to preserve the integrity of the appellate process and ensure meaningful review.

II. FACTUAL AND PROCEDURAL BACKGROUND

Respondent, Arnaldo Mendibur Casado (XXXXXXXXXX), is a native and citizen of Cuba. He entered the United States on or about July 2022 after being paroled as an arriving alien under INA § 212(d)(5). DHS issued a Notice to Appear on July 28, 2022, charging Respondent as removable under INA § 212(a)(6)(A)(i) (*See Exhibit A-Copy of Respondent’s NTA*). On June 3, 2025, the Immigration Judge dismissed the case. Immediately after dismissal, DHS apprehended Respondent outside the courthouse and issued a removal order under INA § 235(b) (expedited removal) (*See Exhibit B-Respondent’s Order of Expedited Removal*).

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Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Respondent is married to a United States citizen, and his spouse's Form I-130, Petition for Alien Relative (Receipt No. [REDACTED] 7), remains pending with USCIS. Respondent has continuously resided in the United States since 2022, has maintained stable employment, and has no criminal history.

Respondent timely filed a Notice of Appeal of the removal order, which remains pending before the Board. DHS has scheduled his removal, creating imminent risk of deportation before the Board can decide the appeal.

III. LEGAL STANDARD

The filing of an appeal does not automatically stay execution of a removal order unless specifically provided by regulation. 8 C.F.R. § 1003.6(b). However, the Board retains discretion to grant a stay where necessary to protect its jurisdiction and to avoid rendering the pending appeal meaningless. See *Matter of G-N-C-*, 22 I&N Dec. 281, 284 (BIA 1998) (noting that a stay may be appropriate to preserve the integrity of the appellate process).

In considering a discretionary stay, the Board looks to (1) likelihood of success on the merits, (2) irreparable harm absent a stay, and (3) whether the equities favor relief.

IV. ARGUMENT

A. A Stay is Necessary to Preserve the Board's Jurisdiction and Prevent Mootness

If Respondent is removed before the Board adjudicates his appeal, the case will be effectively moot, depriving him of the right to meaningful appellate review. A stay is essential to preserve jurisdiction.

B. Respondent Has a Colorable Claim on the Merits

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Respondent's appeal challenges the IJ's dismissal and DHS's subsequent issuance of an expedited removal order despite Respondent's established residence and parole status. He has a pending family-based petition through his U.S. citizen spouse, which, if approved, provides a pathway to adjustment of status under the Cuban Adjustment Act. These claims present a bona fide likelihood of success.

C. Respondent Will Suffer Irreparable Harm Without a Stay

If removed to Cuba before the appeal is resolved, Respondent would lose access to appellate review and be permanently separated from his U.S. citizen spouse. This harm is irreparable and cannot be remedied after removal.

D. Equities Strongly Favor Granting a Stay

Respondent has resided continuously in the United States since 2022, has a pending I-130 petition, and is married to a U.S. citizen. He has no criminal record and has demonstrated good moral character. These equities weigh heavily in favor of the Board exercising its discretion to grant a stay.

V. CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Board:

1. Grant a stay of removal pursuant to 8 C.F.R. § 1003.6(b);
2. Preserve the Board's jurisdiction over Respondent's appeal; and
3. Provide such other relief as the Board deems just and proper.

Respectfully submitted,

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MENDIBUR CASADO, Arnaldo

4 of 8

File No. 


Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)



Lissette Tocado, Esq.
EOIR ID: OO552041
Tocado's Law Firm
14502 N Dale Mabry Hwy
Suite 200 Tampa, FL 33618
813-723-6874 (phone)
Lissette@TocadosLaw.com
Attorney for Respondent
Dated: October 21, 2025

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of MENDIBUR CASADO, Arnaldo	Honorable Judge: T.B.D.
Respondent – DETAINED	File No.: 
	Next Hearing: T.B.D.

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the **Stay of Removal** it is HEREBY ORDERED that the request be

GRANTED DENIED because:

- DHS does not oppose the motion.
- The Respondent does not oppose the motion.
- A response to the motion has not been filed with the Court.
- Good cause has been established for the motion.
- The Court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other:

Deadlines:

- The application(s) for relief must be filed by _____.
- The respondent must comply with DHS biometrics instructions by _____.

Date

Honorable Judge _____
Immigration Judge

Certificate of Service

This document was served by: Mail Personal Service Electronic Service
To: Noncitizen Noncitizen c/o Custodial Officer Noncitizen's Atty/Rep DHS
Date: _____ By: Court Staff _____

MENDIBUR CASADO, Arnaldo


6 of 8

File No. 

EOIR 6 of 21

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

<p>In the Matter of MENDIBUR CASADO, Arnaldo</p> <p>Respondent -- DETAINED</p>	<p>Honorable Judge: T.B.D.</p> <p>File No.: </p> <p>Next Hearing: T.B.D.</p>
---	---

CERTIFICATE OF SERVICE

I, Lissette Tocado, Esq., hereby certify that on **October 21, 2025**, I served a true and correct copy of the **Stay of Removal** upon the following party via ECAS portal.

Office of the Principal Legal Advisor
Immigration and Customs Enforcement
U.S. Department of Homeland Security

by hand-delivery or first-class mail or priority mail or electronically via ECAS.



Lissette Tocado, Esq.
EOIR ID: OO552041

Tocado's Law Firm
14502 N Dale Mabry Hwy
Suite 200 Tampa, FL 33618
813-723-6874 (phone)
Lissette@TocadosLaw.co,
Attorney for Respondent

Dated: October 21, 2025

EOIR 7 of 21

MENDIBUR CASADO, Arnaldo

7 of 8

File No. 

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA**

In the Matter of MENDIBUR CASADO, Arnaldo Respondent – DETAINED	Honorable Judge: T.B.D. File No.:
	Next Hearing: T.B.D.

INDEX OF EXHIBITS

Exhibit	Description
A	Order of the Immigration Judge
B	Respondent's NTA
C	Copy of Respondent's I-130 Receipt Notice
D	Copy of Wife Citizenship Certificate

EOIR 8 of 21

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Exhibit A

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Uploaded on: 7/27/2022 at 8:35:27 p.m. (Eastern Daylight Time) Base City: MIA

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

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

Subject ID: [REDACTED]

FINS #: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

ARNALDO MENDIBUR CASADO

Respondent:

currently residing at:

550 NE 207TH ST MIAMI, FLORIDA, 33179-3585

+1 (757)-619-0274

(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 CUBA and a citizen of CUBA ;
3. You arrived in the United States at or near LUKEVILLE, AZ , on or about May 13, 2022 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

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

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:

333 SOUTH MIAMI AVE, STE 700 Miami FL US 33130

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

on June 03, 2025 at 09:30 AM to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

JEFF JEFFERIES

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer) (Sign in Ink)

Date: May 15, 2022

Casa Grande, Arizona

(City and State)

EOIR 10 of 21

EOIR - 1 of 3

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Uploaded on: 7/27/2022 at 6:35:27 p.m. (Eastern Daylight Time) Base City: MIA

Notice to Respondent

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

Allen 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/aro, 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:

RICHARD D BAEZ
Date: 2022.05.15 13:09:10 -07:00

BPA

(Signature and Title of Immigration Officer) (Sign in Ink)

[Handwritten Signature]

(Signature of Respondent) (Sign in Ink)

Date: 05/15/2022

Certificate of Service

This Notice To Appear was served on the respondent by me on May 15, 2022, 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 SPANISH 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.

[Handwritten Signature]
(Signature of Respondent If Personally Served) (Sign in Ink)

RICHARD BAEZ-JR, BPA

(Signature and Title of officer) (Sign in Ink)

RICHARD D BAEZ
Date: 2022.05.15 13:09:10 -07:00

EOIR - 2 of 3

EOIR 11 of 21

Exh. 1

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Uploaded on: 7/27/2022 at 6:35:27 p.m. (Eastern Daylight Time) Base City: MIA
Privacy Act Statement

Authority:

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Purpose:

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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.

EOIR 12 of 21

EOIR - 3 of 3

Exh. 1 -
DHS Form I-862 (2/20)

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Exhibit B

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Uploaded on: 06/27/2025 at 11:49:21 AM (Central Daylight Time) Base City: OAK

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
NOTICE AND ORDER OF EXPEDITED REMOVAL
DETERMINATION OF INADMISSIBILITY

Event No: [REDACTED]
File No: [REDACTED]
Date: June 3, 2025

In the Matter of: ARNALDO MENDIBUR CASADO

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Department of Homeland Security has determined that you are inadmissible to the United States under section(s) 212(a) (b)(C)(i); (b)(C)(ii); (7)(A)(i)(I); (7)(A)(i)(II); (7)(B)(i)(I); and/or (7)(B)(i)(II); of the Act, as amended, and therefore are subject to removal, in that:

1. You are not a citizen or national of the United States;
2. You are a native of CUBA and a citizen of CUBA;
3. 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; and/or
4. You are an immigrant not in possession of a valid unexpired passport, or other suitable travel document, or document of identity and nationality.
See I-831

J9252 TREMINIO
Deportation Officer
Name and title of immigration officer (Print)

[Signature]
Signature of immigration officer (Sign in ink)

ORDER OF REMOVAL
UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

J9252 TREMINIO
Deportation Officer
Name and title of immigration officer (Print)

[Signature]
Signature of immigration officer (Sign in ink)

2. 7358 RIVERA
Assistant Field Office Director
Name and title of supervisor (Print)

[Signature]
Signature of supervisor, if available (Sign in ink)

Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

CERTIFICATE OF SERVICE	
I personally served the original of this notice upon the above-named person on	<u>6/13/25</u> (Date)
<u>[Signature]</u> Signature of immigration officer (Sign in ink)	

[Signature]
Signature of alien (Sign in ink)

6/13/25
(Date)

EOIR 14 of 21

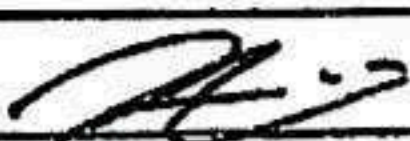
EOIR - 1 of 2

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Uploaded on: 08/27/2025 at 11:49:21 AM (Central Daylight Time) Base City: OAK

U.S. Department of Homeland Security

Continuation Page for Form I-860

Allen's Name MENDIBUR CASADO, ARNALDO	File Number [REDACTED] Event No: [REDACTED]	Date 06/03/2025
<p>NARRATIVE</p> <p>-----</p> <p>5. 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:</p> <p>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.</p>		
Signature J9252 FERMINDO 	Title Department Officer	

2 of 2 Pages

Form I-831 Continuation Page (Rev. 08/01/07)

EOIR 15 of 21

EOIR - 2 of 2

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Dayllght Time)



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI IMMIGRATION COURT

Respondent Name:

MENDIBUR CASADO, ARNALDO

To:

Canizares, Claudia
8360 W Flagler St
Ste 200
Miami, FL 33144

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/03/2025

ORDER ON MOTION TO DISMISS

The Respondent the Department of Homeland Security the parties jointly has/have filed a motion to dismiss these proceedings under 8 CFR 1239.2(c). The moving party has given notice of the motion to the non-moving party and the court has provided the non-moving party with an opportunity to respond. The motion is opposed unopposed.

After considering the facts and circumstances, the immigration court orders that the motion to dismiss is:

- Granted without prejudice
- Denied

Further explanation:

8 C.F.R. Section 240.

IT IS SO ORDERED.

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)



Immigration Judge: Araneta, Michelle 06/03/2025

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 : MENDIBUR CASADO, ARNALDO | A-Number : 

Riders:

Date: 06/03/2025 By: Jarquin, Karla, Court Staff

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Exhibit C

Filed at BIA on: 10/21/2025 at 02:41:59 PM (Eastern Daylight Time)

Exhibit D

Exhibit E



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT

Respondent Name:

MENDIBUR CASADO, ARNALDO

To:

Tocado, Lissette
14105 Lonewood Place
Tampa, FL 33625

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

07/01/2025

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

The evidence in the record reveals that Respondent is not eligible for bond for two reasons. First, he's been placed in expedited removal proceedings. See Matter of M-S-. Second, he is an applicant for admission. See Matter of Q. Li.

Granted. It is ordered that Respondent be:

- released from custody on his own recognizance.
- released from custody under bond of \$
- other:

Other:



Immigration Judge: Jacob D. Bashore 07/01/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved
Appeal Due:08/01/2025

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 : MENDIBUR CASADO, ARNALDO | A-Number : 

Riders:

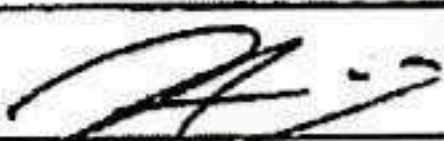
Date: 07/01/2025 By: Manley, Nicole, Court Staff

Exhibit F

Uploaded on: 06/27/2025 at 11:49:21 AM (Central Daylight Time) Base City: OAK

U.S. Department of Homeland Security

Continuation Page for Form I-860

Alien's Name MENDIBUR CASADO, ARNALDO	File Number [REDACTED]	Date 06/03/2025
Event No: [REDACTED]		
<p>NARRATIVE</p> <hr/> <p>5. 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:</p> <p>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.</p>		
Signature J9252 TREMINIO 	Title Deportation Officer	

EOIR - 2 of 2

2 of 2 Pages

Exhibit G



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

Tocado, Lissette
Tocado's Law Firm
14105 Lonewood Place
Tampa, FL 33625

DHS/ICE Office of Chief Counsel - OAK
1010 East Whatley Road
Oakdale, LA 71463-1128

Name:
MENDIBUR CASADO, ARNALDO



Riders:

Date of Notice: 07/07/2025

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 07/01/2025, in the above-referenced case, filed by the Respondent.

Additional Comments
N/A

WARNING FOR APPEALS:

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

FILING QUESTIONS – In General.

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

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

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

WARNING FOR MOTIONS:

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

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

FILING INSTRUCTIONS:


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

Accepted by: LynnJ

CC

Exhibit H

CONFIDENTIALITY: This email contains confidential and/or privileged attorney work-product information. This email is intended to be conveyed only to the designated recipient(s). If you are not the intended recipient of this email, kindly notify sender at 813.723.6874. Unauthorized use, dissemination, distribution, or reproduction of this message is strictly prohibited, and may be unlawful.

From: Bamburg, Larry D <Larry.D.Bamburg@ice.dhs.gov>
Date: Tuesday, November 18, 2025 at 11:40 AM
To: Lissette Tocado <lissette@tocadoslaw.com>
Cc: Polanco, Richard A <Richard.A.Polanco@ice.dhs.gov>
Subject: Subject Parole Request: Mendibur Casado, Arnaldo 

Good morning,

U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), New Orleans Field Office received your request for humanitarian release on parole, that you submitted on behalf of your client.

When adjudicating such requests, ERO takes into consideration the information submitted by the non-citizen and other known mitigating and aggravating factors. After consideration of the totality of circumstances specific to your client and this request, ERO finds they do not support a favorable exercise of discretionary authority for parole release.

Good Day,

Larry D Bamburg
Deportation Officer
New Orleans Field Office
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
1010 E. Whatley Road
Oakdale, LA 71463
Office: 318.335.7500



Wednesday, December 10, 2025 at 1:40:23 PM Eastern Standard Time

Subject: RE: 00061-Mendibur Casado-Request for Parole – Arnaldo Mendibur Casado ([REDACTED])
Date: Tuesday, October 21, 2025 at 6:14:04 PM Eastern Daylight Time
From: ICEOPRIntake
To: Lissette Tocado
Attachments: image001.png, image002.png

Good morning /afternoon,

The ICE OPR Intake Section (ICEOPRIntake@ice.dhs.gov) is **tasked solely with receiving, assessing, and processing allegations of misconduct lodged against employees of U.S. Immigration and Customs Enforcement (ICE)**. OPR or its component partners investigates allegations of employee misconduct impartially, independently, and thoroughly in accordance with OPR guidelines, ICE, and DHS Policies. Should you have an allegation of misconduct, please provide information regarding who, what, when, and where the allegation involves. Please advise if and what specific allegations you are making. ICE OPR has no direct link to EEO allegations and does not handle their investigations. The Executive Office of Immigration Review (EOIR) is part of the DOJ and does not work for or under ICE or DHS. Please note that any official request or demand regarding preservation notices would need to be filed with ICE's Office of the Principal Legal Advisor as they would handle the legal requests.

Due to restrictions from federal privacy laws, Privacy Act, and Agency Policy, and to ensure and maintain the integrity of investigations, complainants are not entitled to receive status updates, Reports of Investigation, or the final adjudication of those reports created as a result of their reporting. The ICE OPR Intake Section is not permitted to provide: the status, the entity conducting the inquiry and/or the final disposition of allegations and/or complaints received.

Requests for further information should be directed to DHS ICE Freedom of Information Office, (866) 633-1182 or via email at ICE-FOIA@dhs.gov. The U.S. Immigration and Customs Enforcement (ICE) Freedom of Information Act (FOIA) Office enables transparency in accordance with the law and Department of Homeland Security policy by overseeing and managing ICE's implementation of the FOIA (5 U.S.C. § 552) and responding to individual requests for information under section (d)(1) of the Privacy Act of 1974 (5 U.S.C. § 552a).

Thanks,

ICE OPR Intake Section



From: Lissette Tocado <lissette@tocadoslaw.com>

Sent: Tuesday, October 21, 2025 5:51 PM

To: richard.baez@ice.dhs.gov; ppipecnotify@geogroup.com; ICEOPRIntake <ICEOPRIntake@ice.dhs.gov>;
DHSOIGHOTLINE@DHS.GOV; willis.cook@ice.dhs.gov; EngageWithEOIR@usdoj.gov

Cc: b56e5d831+matter1811191174@maildrop.clio.com; Outreach, New Orleans
<NewOrleans.Outreach@ice.dhs.gov>; Service Desk, ICE <ice.servicedesk@ice.dhs.gov>

Subject: 00061-Mendibur Casado-Request for Parole – Arnaldo Mendibur Casado ([REDACTED])

Importance: High

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please use the Cofense Report Phishing button to report. If the button is not present, click [here](#) and follow instructions.

Dear Deportation Officer and ERO Team,

I represent **Mr. Arnaldo Mendibur Casado** ([REDACTED]), who is currently detained at **Pine Prairie Correctional Facility since June 3, 2025**. On behalf of my client, I respectfully request that **ERO grant parole under INA § 212(d)(5)(A)**, or alternatively, **release on recognizance with appropriate conditions**.

This request is supported by the following:

1. Humanitarian and Public Benefit Factors:

Mr. Mendibur Casado is married to a **U.S. citizen** and maintains **good moral character**. He has **no known disqualifying criminal history** and suffers from **hypertension**, a condition that requires consistent medical monitoring.

He also holds a **stable job as a technician**, and his **employer has provided a detailed letter of recommendation**, stating that Mr. Mendibur Casado is an **outstanding member of the team**, consistently **demonstrates professionalism and reliability**, and is **urgently needed at his workplace**. His return to employment will not only support his family but also contribute positively to his community.

2. Pending Immigration Relief:

He currently has a **pending Form I-130** (Petition for Alien Relative) and a **pending Form I-485** (Application to Adjust Status) based on his qualifying marriage. Upon release or termination of proceedings, jurisdiction for adjudication will rest with **USCIS**.

As part of the I-485 process, **USCIS requested completion of the Form I-693 (Medical Examination)**. Although the exam has been paid for and coordinated, **Mr. Mendibur Casado has been unable to complete it while in detention**, despite multiple requests to the facility. Completion of this exam is essential to the adjudication of his pending adjustment case.

3. Willingness to Comply & Pay Parole Fee:

Mr. Mendibur Casado is fully willing to **pay the \$1,000 parole fee** recently implemented by DHS (if required) and to comply with all **conditions of release** deemed appropriate by ERO, including ISAP enrollment, routine reporting, and residence verification.

4. Low Flight Risk / No Danger:

He poses **no danger to the community** and presents **minimal flight risk**, given his U.S.

citizen spouse, fixed residence, and ongoing immigration case. His family is ready to **provide transportation, housing, and ongoing supervision** upon release.

Requested Action:

We respectfully request that **ERO approve parole under INA § 212(d)(5)(A)** and coordinate release so that Mr. Mendibur Casado can proceed with his pending adjustment of status. We are prepared to:

- Submit the **\$1,000 parole fee** immediately upon instruction;
- Provide a **verified release plan** (including housing, medical follow-up, and reporting commitments); and
- Ensure full compliance with all **USCIS and ERO requirements**.

Attachments (included with this request) as Exhibits Numbered:

1. Form G-28 (Notice of Entry of Appearance)
2. Marriage evidence (U.S. citizen spouse's proof of citizenship and marriage certificate)
3. Proof of I-485 filing (I-797C receipt and ELIS confirmation)
4. **Employer letter of recommendation** and employment verification confirming stable position and need for his return
5. Identification documents (birth certificate page and A-file identifiers)
6. Evidence of good moral character (letters of support, employer letter and community references)
7. Residence verification and support letter from U.S. citizen spouse

Thanks in advance for your time and consideration to this matter.

Sincerely,



Lissette Tocado, Esq.
Attorney

Office: 813-723-6874

Email: lissette@tocadoslaw.com

14502 North Dale Mabry Highway
Suite 200, Tampa, Florida 33618



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Wednesday, December 10, 2025 at 1:40:01 PM Eastern Standard Time

Subject: RE: URGENT REQUEST - 00061-Mendibur Casado-Request for Parole -- Arnaldo Mendibur Casado (A [REDACTED])
Date: Tuesday, November 18, 2025 at 4:13:44 PM Eastern Standard Time
From: Miami.Outreach
To: Lissette Tocado
Attachments: image001.png

Good afternoon,

Please send your request to NewOrleans.Outreach@ice.dhs.gov

From: Lissette Tocado <lissette@tocadoslaw.com>
Sent: Tuesday, October 21, 2025 7:10 PM
To: Miami.Outreach <Miami.Outreach@ice.dhs.gov>
Subject: URGENT REQUEST - 00061-Mendibur Casado-Request for Parole -- Arnaldo Mendibur Casado ([REDACTED])

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please use the Cofense Report Phishing button to report. If the button is not present, click [here](#) and follow instructions.

Dear Deportation Officer and ERO Team,

I represent Mr. Arnaldo Mendibur Casado ([REDACTED]), who has been detained at Pine Prairie Correctional Facility since June 3, 2025. On behalf of my client, I respectfully request that ERO grant parole pursuant to INA § 212(d)(5)(A) or, in the alternative, release him on his own recognizance under appropriate conditions.

Given that there is currently no deportation officer assigned at Pine Prairie, and my client has now been detained for over five months, I further request his transfer to the Krome Detention Center in Florida to facilitate oversight, case review, and coordination of his pending immigration proceedings.

This request is supported by the following:

1. Humanitarian and Public Benefit Factors:

Mr. Mendibur Casado is married to a **U.S. citizen** and maintains **good moral character**. He has **no known disqualifying criminal history** and suffers from **hypertension**, a condition that requires consistent medical monitoring.

He also holds a **stable job as a technician**, and his employer has provided a detailed letter of

recommendation, stating that Mr. Mendibur Casado is an **outstanding member of the team**, consistently **demonstrates professionalism and reliability**, and is **urgently needed at his workplace**. His return to employment will not only support his family but also contribute positively to his community.

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He currently has a **pending Form I-130** (Petition for Alien Relative) and a **pending Form I-485** (Application to Adjust Status) based on his qualifying marriage. Upon release or termination of proceedings, jurisdiction for adjudication will rest with **USCIS**.

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3. Willingness to Comply & Pay Parole Fee:

Mr. Mendibur Casado is fully willing to **pay the \$1,000 parole fee** recently implemented by DHS (if required) and to comply with all **conditions of release** deemed appropriate by ERO, including ISAP enrollment, routine reporting, and residence verification.

4. Low Flight Risk / No Danger:

He poses **no danger to the community** and presents **minimal flight risk**, given his U.S. citizen spouse, fixed residence, and ongoing immigration case. His family is ready to **provide transportation, housing, and ongoing supervision** upon release.

Requested Action:

We respectfully request that **ERO approve parole under INA § 212(d)(5)(A)** and coordinate release so that Mr. Mendibur Casado can proceed with his pending adjustment of status. We are prepared to:

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Provide a **verified release plan** (including housing, medical follow-up, and reporting commitments); and

Ensure full compliance with all **USCIS and ERO requirements**.

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3. Proof of I-485 filing (I-797C receipt and ELIS confirmation)
4. **Employer letter of recommendation** and employment verification confirming stable position and need for his return
5. Identification documents (birth certificate page and A-file identifiers)
6. Evidence of good moral character (letters of support, employer letter and community references)
7. Residence verification and support letter from U.S. citizen spouse

Thanks in advance for your time and consideration to this matter.

Sincerely,



Lissette Tocado, Esq.
Attorney

Office: 813-723-6874

Email: lissette@tocadoslaw.com

14502 North Dale Mabry Highway
Suite 200, Tampa, Florida 33618



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Exhibit I



Report

Main Menu

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Facility Page

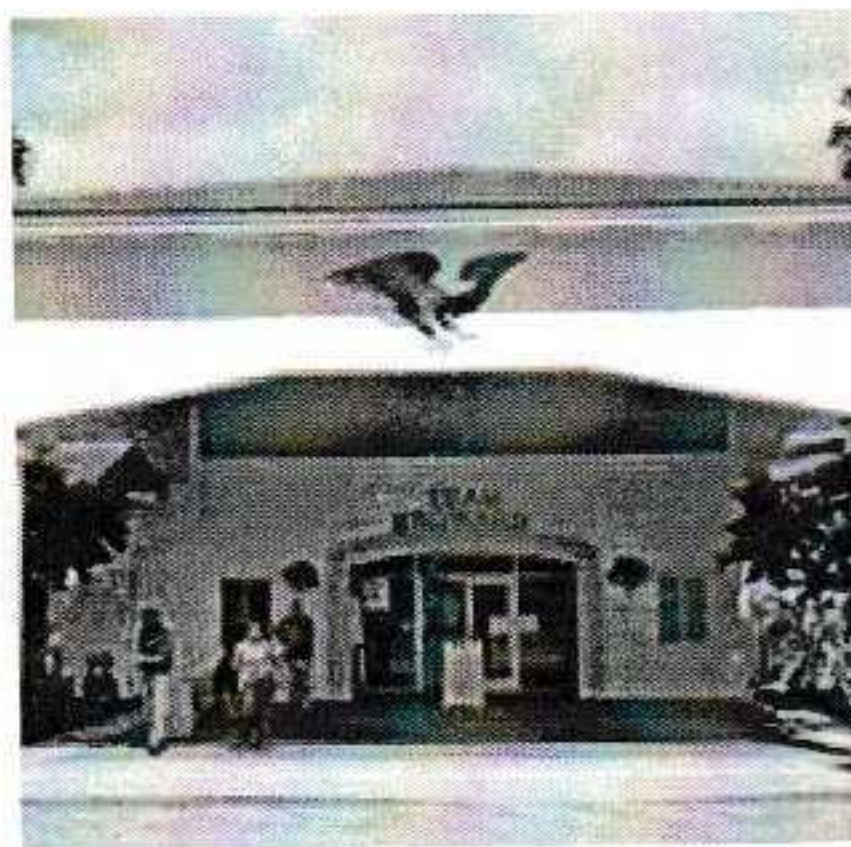
Detention Information For:

ARNALDO MENDIBUR CASADO
Country of Birth: Cuba

Current Detention Facility:

BROWARD TRANSITIONAL CENTER
3900 N. POWERLINE RD
NA
POMPANO BEACH, FL 33073
Visitor Information: (954) 973-4485

MORE INFORMATION >



ERO Office Information

Privacy - Terms

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

KROME, MIAMI, FL, DOCKET CONTROL OFFICE
Phone Number: (305) 207-2101

[BACK TO SEARCH >](#)

Related Information

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

- ### External Links
- Bureau of Prisons Inmate Locator



[DHS.gov](#)
[USA.gov](#)
[OIG](#)
[OpenFOIA](#)
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