



## INTRODUCTION

1. Petitioner, Rely Lopez Domenech (Mr. Lopez) is a citizen of Cuba who Respondents have detained at several detention centers, currently Otay Mesa Detention Center (AKA Otay Mesa) for a total of one hundred and four (104) days or over three (3) months. His continued detention is unlawful due to Respondent's failure to properly interpret and apply the Immigration and Nationality Act (INA) and subsequent failure to adhere to an article III Judge's order on *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner brings this action to seek release or a bond hearing in accordance with the law.
2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification, incorporating declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).
3. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A).
4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
5. Petitioner is a member of the Bond Denial Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Otay Mesa Detention facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about September 24, 2025];
  - b. entered the United States without inspection in 2022 and was not detained immediately after arrival, *cf. id.*; and
  - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
6. Petitioner’s detention on September 24, 2025, is also in violation of Due Process Clause of the Fifth Amendment to the U.S. Constitution Procedural Due Process and Substantive Due Process.
  7. The Court should expeditiously grant this petition.
  8. Respondents are bound by the judgment in *Rodriguez Vazquez*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Denial Class member.
  9. The Court should accordingly order that within one day, Respondent DHS must release Petitioner.
  10. Alternatively, the Court should order Petitioner’s release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

**JURISDICTION**

11. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency with the Department of Homeland Security (DHS). He is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
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, § 9, clause 2 of the United States Constitution (the Suspension Clause).
14. 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.
15. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

#### VENUE

16. 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 California, the judicial district in which the Petitioner is currently in custody.
17. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Arizona.

#### PARTIES

18. Petitioner is a citizen of Cuba who most recently arrived in the United States on or about August 2022. He has been in custody of the Department of Homeland Security (DHS) since

September 2025. Since that time, his case is currently pending before the Board of Immigration Appeals.

19. Christopher J. Larose the Warden of Otay Mesa Detention Center is Petitioner's Immediate Custodian.
20. Gregory J. Archambeault, the Acting Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Archambeault is Petitioner's immediate custodian. He is named in his official capacity.
21. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Gregory J Archambeault and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (OHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
23. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.
25. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

**STATEMENT OF FACTS**

26. Petitioner Rely Lopez Domenech was processed by Immigration Enforcement Authorities on August 3, 2022, while in the United States and placed in removal proceedings.
27. For several years, Petitioner diligently appeared for multiple hearings, made pertinent applications for relief and on August 21, 2024 his applications were tentatively denied by the Houston Immigration Court.
28. The Petitioner timely appealed to the Board of immigrations Appeals on September 6, 2025.
29. On September 23, 3035, Petitioner reported as requested to the Houston Enforcement and Removal Office (ERO). ERO acknowledged Respondent had no criminal history. Petitioner was detained and transferred to a local detention center until he was transferred to Otay Mesa Detention Center.
30. On December 5, 2025, the Petitioner requested a Custody Redetermination by the Executive Office of Immigration Review Otay Mesa, wherein the Judge denied bond alleging a lack jurisdiction under Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025). Although the United States District Court for the Central District of California recently granted class certification in Maldonado Bautista v. Noem, No. 5:25 CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025).
31. The Cour in Maldonado Bautista, subsequently on December 18, 2025, issued a final judgment on the matter. EOIR has continued to deny bond for class members.

**CLAIMS FOR RELIEF**

**Violation fo the INA;**

**First Claim Request for Relief Pursuant to *Maldonado Buatista***

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

33. As members of the Bond Denial Class, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

34. The orders granting partial summary judgment in *Maldonado Bautista* makes holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

35. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MJS Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

36. Respondents are parties to *Maldona Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

37. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioners’ statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution  
Procedural Due Process**

38. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

39. Petitioner has a vested liberty interest in his release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See *Morrissey*, 408 U.S. at 487-488.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.  
Constitution  
Substantive Due Process**

40. The Due Process Clause of the Fifth Amendment forbids the government from depriving any individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.
41. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.
42. Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See Jones, 393 F.3d at 934.
43. Additionally, during those nearly four years at liberty, Petitioner has been working and taking care of his wife and minor children. He has not criminal history and thus poses no danger.
44. The government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioners pray that this Court grant the following relief:

- a. Assume jurisdiction over this matter;

- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner and return him to the position he was in prior to his detention;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- d. Award Petitioner's 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
- e. Grant any other and further relief that this Court deems just and proper.

/s/Lilia Rodriguez  
Attorney Name

*Counsel for Petitioner*

Dated: 1.6.25

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

I represent Petitioner, Rely Lopez Deomenech, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6 day of November 2025.

/s/ Lilia Rodriguez  
Attorney Name

# EXHIBIT 1



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

Respondent Name:

LOPEZ-DOMENECH, RELY

To:

LOPEZ-DOMENECH, RELY  
C/O: RODNEY RICHMOND  
DHS CUSTODY  
SAN DIEGO, CA 92154

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/05/2025

**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 Court continues to lack jurisdiction to redetermine Respondent's custody status. See Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025). Although the United States District Court for the Central District of California recently granted class certification in Maldonado Bautista v. Noem, No. 5:25 CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), Maldonado Bautista remains pending with the District Court. As such, the Court denies Respondent's request for custody redetermination.
- Granted. It is ordered that Respondent be:
  - released from custody on his own recognizance.
  - released from custody under bond of \$
  - other:
- Other:



Immigration Judge: Grande, Guy 12/05/2025

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

Appeal Due: 01/05/2026

**Certificate of Service**

This document was served:

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

Respondent Name : LOPEZ-DOMENECH, RELY | A-Number : 241-865-643

Riders:

Date: 12/05/2025 By: GONZALEZ, EMELY, Court Staff

# EXHIBIT 2



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

Rivera Ortiz, Zahira  
Alonso & de Leef, PLLC  
11011 Richmond Ave.  
Suite 350  
Houston, TX 77042

DHS/ICE Office of Chief Counsel - HOU  
126 Northpoint Drive, Suite 2020  
Houston, TX 77060

Name:  
LOPEZ-DOMENECH, RELY



Riders:

Date of Notice: 09/08/2025

**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 09/06/2025, 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)).



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

Respondent Name:

LOPEZ-DOMENECH, RELY

To:

Alonso, Mairim  
11011 Richmond Ave  
Ste 350  
Houston, TX 77042

A-Number:



Riders:

In Removal Proceedings  
Initiated by the Department of Homeland Security

Date:  
08/21/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 08/21/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent  removable  inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212 (a)(6)(A)(i)

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

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

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

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B. Cancellation of Removal

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

C. Waiver

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

D. Adjustment of Status

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

E. Other

**III. Voluntary Departure**

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

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

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

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

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

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

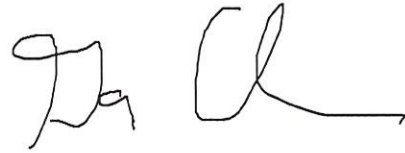
#### IV. Removal

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

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

#### V. Other

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



Immigration Judge: ENDELMAN, GARY 08/21/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved  
Appeal Due: 09/22/2025

**Certificate of Service**

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Respondent Name : LOPEZ-DOMENECH, RELY | A-Number : 241-865-643

Riders:

Date: 08/21/2025 By: Neuse, Georgina, Court Staff

# EXHIBIT 3

U.S. Department of Homeland Security

Subject ID : 400208162

Record of Deportable/Inadmissible Alien


Family Name (CAPS) <b>LOPEZ-DOMENECH, RELY</b>		First	Middle	Sex <b>M</b>	Hair <b>BRO</b>	Eyes <b>BRO</b>	Complexion <b>MED</b>
Country of Citizenship <b>CUBA</b>	Passport Number and Country of Issue	[Redacted]		Height <b>68</b>	Weight <b>180</b>	Occupation <b>LABORER</b>	
U.S. Address [Redacted]				Scars and Marks <b>See Narrative</b>			
Date, Place, Time, and Manner of Last Entry <b>Unknown Date Unknown Time, UNK, WI-Without Inspection</b>				Passenger Boarded at			
Number, Street, City, Province (State) and Country of Permanent Residence				FBI Number [Redacted]			
Date of Birth [Redacted] <b>1993</b>	Age: <b>32</b>	Date of Action <b>09/24/2025</b>	Location Code <b>MTG/HOU</b>	Method of Location/Apprehension <b>NCA</b>			
City, Province (State) and Country of Birth <b>CUBA</b>	AR <input checked="" type="checkbox"/>	Form (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>		Au/Near <b>See I-831</b>	Date/Hour <b>09/24/2025 04:36</b>		
NIV Issuing Post and NIV Number	Social Security Account Name			By <b>J 10108 LEE</b>			
Date Visa Issued	Social Security Number			Status at Entry		Status When Found	
Immigration Record <b>NEGATIVE</b>				Criminal Record			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) <b>CABALLERO, YESEL NATIONALITY: CUBA</b>				Number and Nationality of Minor Children <b>None</b>			
Father's Name, Nationality, and Address, if Known <b>LOPEZ-MARTINEZ, RELY NATIONALITY: CUBA</b>				Mother's Present and Maiden Names, Nationality, and Address, if Known <b>DOMENECH-PERRZ, MARBELI NATIONALITY: CUBA</b>			
Monies Due/Property in U.S. Not in Immediate Possession <b>None Claimed</b>		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks <b>See Narrative</b>	Charge Code Word(s) <b>See Narrative</b>			
Name and Address of (Last)(Current) U.S. Employer		Type of Employment <b>See Narrative</b>	Salary	Employed from/to			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)							
[Redacted]				[Redacted]			
Subject Health Status ----- The subject claims good health.							
Current Administrative Charges ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges _____ (Date/Initials)				for <i>[Signature]</i> <b>BRIAN TREVILLIAN</b> Deportation Officer (Signature and Title of Immigration Officer)			
Distribution <b>A-FILE</b> <b>STATS</b> <b>ERO/LEGL</b>				Received (Subject and Documents) (Report of Interview) for <i>[Signature]</i> Officer <b>BRIAN TREVILLIAN</b> on <b>September 24, 2025</b> (Date) Disposition <b>Other</b> Examining Officer <b>MARINO, D 6829</b> for <i>[Signature]</i> <b>5000 42197</b>			

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name LOPEZ-DOMENECH, RELY	File Number 	Date 09/24/2025
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Due to the Presidential emergency declaration related to our immigration enforcement and removal portfolio the subject will remain in ICE custody pending a decision by the Board of Immigration Appeals. The subject was advised of 236.1(e) communication privileges and the ODLs Privacy Notice; a copy is in file.

The subject is removable pursuant to section 212(a)(6)(A)(i) of the INA.

Other Identifying Numbers  
-----  
ALIEN-241865643

Signature BRIAN TREVILLIAN <i>for O. Han</i>	Title Deportation Officer
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Form I-831 Continuation Page (Rev. 08/01/07)

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