


ALE SEBASTIAN BARRIOS MALDONADO-
MOTION TO VACATE VOLUNTARY DEPARTURE

See 8 U.S.C. § 1158.

Federal courts retain habeas jurisdiction over constitutional claims. See *INS v. St. Cyr*, 533 U.S. 289 (2001).

III. ARGUMENT

A. The Voluntary Departure Was Not Knowing or Voluntary

Petitioner signed voluntary departure while detained and under pressure. Petitioner did not fully understand the consequences of signing voluntary departure and did not knowingly waive the right to a hearing before an Immigration Judge.

Because the waiver was not knowing and voluntary, the voluntary departure must be vacated.

B. Petitioner Was Removed While Proceedings Were Pending

Petitioner was removed from the United States while his immigration case and asylum application were still pending and without a full and fair hearing before an Immigration Judge.

Removing a noncitizen while proceedings are pending and before a full hearing violates due process and interferes with the statutory right to apply for asylum.

C. Petitioner Was Denied the Opportunity to Present Relief


At the time of removal, Petitioner had:

- Temporary Protected Status (TPS);
- A pending asylum application;
- A marriage in the United States;
- No criminal record;
- Fear of persecution based on political opinion and sexual orientation.

Petitioner was removed without being allowed to present these forms of relief before an Immigration Judge.

D. Ineffective Assistance of Counsel

Petitioner's prior attorney failed to properly represent Petitioner in his habeas case and removal proceedings. Ineffective assistance of counsel is a recognized basis for relief. See *Matter of Lozada*.

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IV. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. Vacate Petitioner's voluntary departure;
2. Declare that Petitioner's waiver of rights was not knowing and voluntary;
3. Order reopening of removal proceedings;
4. Order the Government to facilitate Petitioner's return to the United States;
5. Alternatively, order the Government to grant Humanitarian Parole;
6. Grant any other relief the Court deems just and proper.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant this Motion to Vacate Voluntary Departure

Respectfully submitted,

Date:03/31/2026

Ale Barrios

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