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7 Attorneys for Respondents

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

10 VARIO FORRESTE,

11 Petitioner,

12 v.

13 PATRICK DIVVER, Field Office Director,  
U.S. Immigration and Customs Enforcement,  
14 San Diego Field Office, *et al.*,

15 Respondents.

Case No.: 26-cv-0139-BAS-DEB

**RESPONDENTS' RESPONSE  
TO PETITION FOR WRIT OF  
HABES CORPUS**

16 **I. INTRODUCTION**

17 Petitioner requests that the Court order his immediate release from Immigration  
18 and Customs Enforcement (ICE) custody or require that he be afforded a bond hearing.  
19 As an arriving alien/applicant for admission whose Temporary Protective Status has  
20 lapsed, however, Petitioner's detention is mandated by 8 U.S.C. § 1225(b)(2) until the  
21 conclusion of his removal proceedings. Accordingly, the Court should deny  
22 Petitioner's requests for relief.

23 **II. FACTUAL AND PROCEDURAL BACKGROUND**

24 Petitioner is a native of Haiti who was initially paroled into the United States at  
25 the San Ysidro Port of Entry on February 15, 2023. See Form I-213 at Ex. 1.<sup>1</sup> He was  
26

27 <sup>1</sup> The Exhibits attached hereto are true and correct copies of agency documents  
28 provided by ICE counsel; they reflect appropriate privacy-related redactions.

1 granted Temporary Protective Status (TPS) on November 7, 2024, valid through  
2 February 3, 2026. See USCIS Approval Notice at Ex. 2. At that time, he was specifically  
3 advised that while under TPS, he “may not depart the United States without prior  
4 approval of the Attorney General of the United States.” *Id.* at p. 2.

5 On February 22, 2025, Petitioner was apprehended at the Port of Entry without a  
6 valid document to enter the United States. See Form I-213, Ex. 1 at p.2. He was  
7 found to be an arriving alien inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and  
8 taken into Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C.  
9 § 1225(b). *Id.* On March 6, 2026, DHS issued a Notice to Appear that initiated removal  
10 proceedings against Petitioner on the basis that he is removable as an arriving alien not  
11 in possession of a valid entry document. See NTA at Ex. 3. The filing of the NTA  
12 initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner, and  
13 those proceedings remain ongoing.

14 On April 28, 2025, USCIS issued a Notice of Intent to Withdraw/Revoke  
15 Petitioner’s TPS due to his failure to maintain physical presence in the United States.  
16 See Ex. 4. On May 23, 2025, he was issued a new I-94 that provided TPS status only  
17 through August 3, 2025. See Ex. 5.

18 Within his removal proceedings under § 1229a, Petitioner has the opportunity to  
19 apply for relief from removal before an immigration judge (IJ), including asylum under  
20 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and relief under  
21 the Convention Against Torture. A master calendar hearing is set for February 17, 2026,  
22 at which point Petitioner can file a brief asserting eligibility for relief and supplemental  
23 evidence. See hearing notice at Ex. 6. Because there is no administratively final order  
24 of removal at this time, Petitioner remains mandatorily detained under 8 U.S.C. §  
25 1225(b)(2)(A).

### 26 **III. STATUTORY BACKGROUND**

27 Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C.  
28 § 1225, applies to an “applicant for admission,” defined as an “alien present in the

1 United States who has not been admitted” or “who arrives in the United States.” 8  
2 U.S.C. § 1225(a)(1). “[A]pplicants for admission fall into one of two categories, those  
3 covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*,  
4 583 U.S. 281, 287 (2018).

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

17 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*,  
18 583 U.S. at 287. It “applies to all applicants for admission not covered by §  
19 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall  
20 be detained for a removal proceeding “if the examining immigration officer determines  
21 that [the] alien seeking admission is not clearly and beyond a doubt entitled to be  
22 admitted.” 8 U.S.C. § 1225(b)(2)(A); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025)  
23 (“for aliens arriving in and seeking admission into the United States who are placed  
24 directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. §  
25 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing  
26 *Jennings*, 583 U.S. at 299). However, DHS has the sole discretionary authority  
27 to temporarily release on parole “any alien applying for admission to the United States”  
28

1 on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”  
2 *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

#### 3 IV. ARGUMENT

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

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

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

12 Here, Petitioner’s claims of unlawful detention necessarily arise from the  
13 Department of Homeland Security’s<sup>2</sup> decision to commence removal proceedings  
14 against him because that decision unavoidably triggers mandatory detention under 8  
15 U.S.C. § 1225(b)(2) until the conclusion of his removal proceedings. *See, e.g., Wang v.*  
16 *United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at \*6 (C.D. Cal. Aug.  
17 18, 2010) (finding section 1252(g) bars judicial review of false imprisonment claim  
18 because the plaintiff’s detention arose from the decision to commence removal  
19 proceedings, and in turn, the “statute mandating detention during removal proceedings  
20 of a person charged as an ‘arriving alien.’”).

21 As explained by another district court, removal proceedings are commenced  
22 when, as occurred here, “the alien is issued a Notice to Appear before an immigration  
23 court.” *Herrera-Correra v. United States*, No. CV 08–2941 DSF (JCx), 2008 WL  
24 11336833, at \*3 (C.D. Cal. Sept. 11, 2008); *see also* Exhibit 6 (Notice to Appear). The  
25 government “may arrest the alien against whom proceedings are commenced and detain  
26

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

1 that individual until the conclusion of those proceedings.” *Herrera-Correra*, 2008 WL  
2 11336833, at \*3. “Thus, an alien’s detention throughout this process arises from the  
3 [government’s] decision to commence proceedings” and review of claims arising from  
4 such detention is barred under section 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d  
5 947, 949 (9th Cir. 2007)); *see also Wang*, 2010 WL 11463156, at \*6.

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

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

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

13 **1. Petitioner is mandatorily detained under 8 U.S.C.**  
14 **§ 1225(b)(2).**

15 Petitioner’s claim fails because he is subject to mandatory detention under 8  
16 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is  
17 defined as an “alien present in the United States who has not been admitted or who  
18 arrives in the United States.” As explained above, applicants for admission “fall into  
19 one of two categories, those covered by § 1225(b)(1) and those covered by §  
20 1225(b)(2).” *Jennings*, 583 U.S. at 287.

21 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*  
22 *applicant for admission*, if the examining immigration officer determines that an alien  
23 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*  
24 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at \*4 (S.D. Cal. Sept. 24, 2025)  
25 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Petitioner contends that he  
26 is entitled to a bond hearing. But the Supreme Court has rejected such contention,  
27 explaining: “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of  
28

1 applicants for admission until certain proceedings have concluded. . . . Nothing in the  
2 statutory text imposes any limit on the length of detention. And neither § 1225(b)(1)  
3 nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at  
4 297. Except for temporary parole granted at the discretion of the Attorney General “for  
5 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),  
6 “there are no *other* circumstances under which aliens detained under § 1225(b) may be  
7 released.” *Id.* at 300 (emphasis in original).

8 As Petitioner’s removal proceedings are pending, and he has not been granted  
9 temporary parole, section 1225(b)(2) mandates his detention until the proceedings have  
10 concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention under  
11 § 1225(b) must end as well.”). Because Petitioner is lawfully detained under  
12 section 1225(b)(2) and the statute does not entitle him to a bond hearing at this time, his  
13 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151  
14 JLS-KSC, 2023 WL 3103811, at \*3 (S.D. Cal. April 25, 2023) (applying *Jennings* to  
15 find that the petitioner had no right to release or a bond hearing).

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

17 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.  
18 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]  
19 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain  
20 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)  
21 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither  
22 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The  
23 Supreme Court added that the sole means of release for noncitizens detained pursuant  
24 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary  
25 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300  
26 (“That express exception to detention implies that there are no *other* circumstances  
27 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis  
28

1 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens  
2 throughout the completion of applicable proceedings[.]” *Id.* at 302.

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

11 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40  
12 (2020), the Supreme Court once again addressed the due process rights of individuals  
13 like Petitioner—inadmissible arriving noncitizens seeking initial entry into the United  
14 States. The Supreme Court stated that such individuals have no due process rights  
15 “other than those afforded by statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in  
16 respondent’s position has only those rights regarding admission that Congress has  
17 provided by statute.”). The Supreme Court noted that its determination was supported  
18 by “more than a century of precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United*  
19 *States*, 142 U.S. 651, 660 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537,  
20 544 (1950); *Mezei*, 345 U.S. at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)).  
21 Because the only process due Petitioner is that afforded under section 1225(b), the  
22 Court must reject his claim that his detention violates the Fifth Amendment’s Due  
23 Process Clause and deny his requested relief. *See Thuraissigiam*, 591 U.S. at 138–40;  
24 *Mendoza-Linares*, 51 F.4th at 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206  
25 (9th Cir. 2022) (“The recognized liberty interests of U.S. citizens and aliens are not  
26 coextensive: the Supreme Court has ‘firmly and repeatedly endorsed the proposition  
27 that Congress may make rules as to aliens that would be unacceptable if applied to  
28 citizens.’”) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*,

1 2023 WL 3103811, at \*4 (“Binding Ninth Circuit and Supreme Court precedents are  
2 clear that Petitioner lacks any rights beyond those conferred by statute, and no statute  
3 entitles Petitioner to a bond hearing.”).

4 Since the Supreme Court’s decision in *Thuraissigiam*, numerous published  
5 decisions have acknowledged *Thuraissigiam*’s impact on the precise Fifth Amendment  
6 Due Process Clause that Petitioner might have raised in this petition: Does an alien  
7 detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond  
8 hearing after being detained for a certain period of time? The answer is no. *See*  
9 *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, \*2  
10 (S.D. Cal. June 10, 2024) (“[T]he Court finds that Petitioner has no Fifth Amendment  
11 right to a bond hearing pending his removal proceedings.”); *Zelaya-Gonzalez*, 2023  
12 WL 3103811. \*3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*,  
13 535 F. Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F.  
14 Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579  
15 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

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

27 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,  
28 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801,

1 at \*5 (“[W]hile the *Mathews* [*v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-  
2 suited to determining whether due process requires a second bond hearing, they are not  
3 particularly dispositive of whether prolonged mandatory detention has become  
4 unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-  
5 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding  
6 “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of  
7 the possible constitutional implications of Petitioner’s ongoing detention without  
8 process.”).

9 Under *Lopez*, to determine whether continued mandatory detention has become  
10 unreasonable, “the Court will look to the total length of detention to date, the likely  
11 duration of future detention, and the delays in the removal proceedings caused by the  
12 petitioner and the government.” 631 F. Supp. 3d at 879.

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

27 Not only does the length of Petitioner’s detention fall comparatively short of the  
28 length courts in this district have found to warrant habeas relief, but the other *Lopez*

1 factors do not favor habeas relief either. Second, the likely duration of future detention  
2 weighs against Petitioner, as a master calendar hearing has been set and there is no  
3 indication of any delay in the removal proceedings on the part of the government.  
4 Balancing the above factors, the record does not support a finding that “detention has  
5 become so unreasonable as to require an initial bond hearing,” *Sanchez-Rivera*, 2023  
6 WL 139801, at \*6, or an order requiring Petitioner’s release.

7 Given that Petitioner’s TPS status has now expired, he is lawfully detained as an  
8 applicant for admission to the United States, and his mandatory detention does not  
9 violate due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL  
10 92069 (S.D. Cal. Jan. 13, 2026) (“Petitioner’s length of detention, without more, does  
11 not render his detention unreasonable.”); *Duran Romero v. LaRose*, No. 25-cv-3567-  
12 AGS-VET, ECF No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-  
13 AGS-KSC, ECF No. 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-  
14 BAS-DDL, ECF No. 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d  
15 at 221; *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020  
16 WL 3452967, at \*6-8.

17 **C. Petitioner’s Requested Relief Exceeds Habeas Jurisdiction**

18 Petitioner asks the Court to “[e]njoin Respondents from removing Petitioner to  
19 Uganda absent (1) written evidence that Uganda has agreed to accept Petitioner and (2)  
20 adequate procedural protections to adjudicate any protection claim in that third  
21 country.” Petition at p.7, ECF No. 1. The Court should deny the petition to the extent  
22 he asserts claims regarding the outcome of his removal proceedings. An individual may  
23 seek habeas relief under 28 U.S.C. § 2241 if he is “in custody” under federal authority  
24 “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §  
25 2241(c). But habeas relief is available to challenge only the legality or duration of  
26 confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*,  
27 599 F.2d 890, 891 (9th Cir. 1979); *Thuraissigiam*, 591 U.S. at 117 (the writ of habeas  
28 corpus historically “provide[s] a means of contesting the lawfulness of restraint and

1 securing release.”). The Ninth Circuit squarely explained how to decide whether a claim  
2 sounds in habeas jurisdiction: “[O]ur review of the history and purpose of habeas leads  
3 us to conclude the relevant question is whether, based on the allegations in the petition,  
4 release is *legally required* irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072  
5 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016)  
6 (The key inquiry is whether success on the petitioner’s claim would “necessarily lead  
7 to immediate or speedier release.”). Here, a review of such claims would not  
8 automatically entitle him to release from detention. *See Guselnikov v. Noem*, No. 25-  
9 cv-1971-BTM-KSC, 2025 WL 2300873, at \*1 (S.D. Cal. Aug. 8, 2025) (finding  
10 petitioners’ claims did not arise under § 2241 because receiving the requested relief  
11 would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025  
12 WL 2300781, at \*3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks  
13 jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as  
14 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065).

15 **V. CONCLUSION**

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

18 DATED: January 21, 2026

Respectfully submitted,

19  
20 ADAM GORDON  
United States Attorney






21 s/ Cindy M. Cipriani  
22 CINDY M. CIPRIANI  
23 Assistant United States Attorney  
24 Attorney for Respondents  
25  
26  
27  
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# Exhibit 1

SIGMA Event:  
Subject ID :

U.S. Department of Homeland Security

Record of Deportable/Inadmissible Alien

Family Name (CAPS) <b>FORESTE, VARRIO</b>		First	Middle	Weight <b>165</b>		Occupation <b>NONE INDICATED</b>	
Country of Citizenship <b>HAITI</b>	Passport Number and Country of Issue <b>10785</b>		Date of Action <b>02/22/2025</b>		Location Code <b>2504 - SYS</b>		<input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated
Date, Place, Time, and Manner of Last Entry <b>02/21/2025, 2504 - SYS, 13:19, Pedestrian</b>				Passenger Boarded at			
Number, Street, City, Province (State) and Country of Permanent Residence				Method of Last Apprehension <b>ISP</b>			
Age: <b>GRAND GOAVE, HAITI</b>		Form: (Type and No.) <input checked="" type="checkbox"/> Lifted <input type="checkbox"/> Not Lifted <input checked="" type="checkbox"/> <b>See Narrative</b>		At/Near <b>SAN YSIDRO, CA</b>		Date/Hour <b>02/21/2025 1653</b>	
NIV Issuing Post and NIV Number <b>None</b>		Social Security Account Name <b>None</b>		By <b>SCHUPP, Ethan M CBP OFFICER</b>		Status at Entry <b>See Narrative</b>	
Date Visa Issued <b>None</b>		Social Security Number <b>None</b>		Status When Found <b>TRAVEL/SEEKING</b>		Length of Time Illegally in U.S. <b>At Entry</b>	
Immigration Record <b>NEGATIVE</b>				Criminal Record <b>None Known</b>			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) <b>NONE</b>				Number and Nationality of Minor Children <b>0</b>			
Father's Name, Nationality, and Address, if Known				Mother's Present and Maiden Name, Nationality, and Address, if Known			
Monies Due/Property in U.S. Not in Immediate Possession <b>See Narrative</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 <b>NONE</b>		Type of Employment <b>NONE</b>		Salary <b>0.0 USD</b>		Employed from/to <b>0/0/00 - 0/0/00</b>	
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.) <b>FINS: Left Index Finger Right Index Finger</b>							
 							
<b>STATUS AT ENTRY</b> Other Applicant for Admission AR Document Employee Authorization Doc - 241010486 ... (CONTINUED ON I-831)							
Digitally Acquired Signature  Alien has been advised of communication privileges <b>02/22/2025</b>				Digitally Acquired Signature SCHUPP, Ethan M CBP OFFICER (Date/Initials) (Signature and Title of Immigration Officer)			
Distribution: <b>A-file</b>				Received: (Subject and Documents) (Report of Interview) SCHUPP, Ethan M - CBP OFFICER Officer:  on: <b>February 22, 2025</b> (time) Digitally Acquired Signature Disposition: <b>NOTICE TO APPEAR (NTA)</b> Examining Officer:  <b>ROSE, CRO08967 - SUPERVISORY CBP OFFICER</b> Digitally Acquired Signature			

U.S. Department of Homeland Security

Continuation Page for Form 1213

Alien's Name FORESTE, VARRIO	File Number c i	Date February 22, 2025
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CLAIMED DOCUMENTS

Employee Authorization Doc - [REDACTED]

RECORDS CHECKED

- ATS-P Neg
- TECS Neg
- NCIC Neg
- CIS Neg
- CLAIM Neg
- CCD Neg
- IAFIS Neg
- EARM Neg

SECTION CODES

Sec212 (a) (7) (A) (i) (I)  
8 USC 1182-ALIEN INADMISSIBILITY UNDER SEC 212(a)

CLAIMED PROPERTY

Personal Property BAGGAGE CHECK: 19485809

Narrative:

On February 22, 2025, at approximately 1319 hours, FORESTE, Varrio (DOB: [REDACTED]) arrived at the United States via the San Ysidro Port of Entry Vehicle lanes. FORESTE presented a Work Authorization card. [REDACTED] and claimed he wanted to travel to San Diego, CA. FORESTE, Varrio is a native and citizen of Haiti, and not in possession of valid documents to enter the United States.

FORESTE, Varrio sponsor in the United States is himself. As he has been living here for 2 years under Temporary Protective Status and left the country by accident.

Sponsor Name: FORESTE, Varrio

Sponsor Address: [REDACTED]

Sponsor Phone: [REDACTED]

ASANOV, Kumarbek submitted a DNA sample on DNA Sample Collector number [REDACTED]

System checks were done through super query, yielding Negative results.


Criminal History:

None

Immigration History:

Subject was paroled into the United States at the San Ysidro Port of Entry on 02/15/2023.

Disposition: FORESTE, Varrio is inadmissible to the United States pursuant to section 212(a) (7) (A) (i) (I) ... (CONTINUED ON NEXT PAGE)

Signature  SCHUPP, Ethan M	Title CBP OFFICER
---	----------------------


Digitally Acquired Signature

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name FORESTE, VARRIO	File Num: SIGMA E Event No:	Date February 22, 2025
---------------------------------	-----------------------------------	---------------------------

of the INA as amended. FORESTE, Varrio was provided a list of free legal services, served an I-862 Notice to Appear, and taken into DHS Custody pending 240 proceedings before an Immigration Judge.

Signature  SCHUPP, Ethan M	Title CBP OFFICER
---	----------------------

*Digitally Acquired Signature*

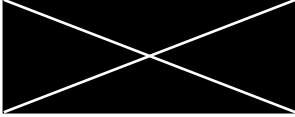
3 of 3 Pages

## Exhibit 2



U 0	Case Type 1821 - APPLICATION FOR TEMPORARY PROTECTED STATUS
Received Date 07/27/2024	Priority Date 07/27/2024
Notice Date 11/07/2024	Page 1 of 2
Applicant FORESTE, VARRIO	

FORESTE, VARRIO 	<b>Notice Type: Approval Notice</b> Valid from: 11/07/2024 to 02/03/2026
--	---

You have been granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act. The benefits of TPS are temporary protection from removal (or deportation), employment authorization in the United States, and the opportunity to apply for travel authorization.

Attached to this notice is a Form I-94 indicating your Temporary Protected Status in the United States. The I-94 is valid until the expiration date shown on it.

If you requested an employment authorization document (EAD) pursuant to your registration for TPS, you will receive a separate notice containing the decision on that request. If your EAD request is approved, you will be issued an EAD that will be valid until the expiration date shown on the EAD itself. The EAD will serve as evidence of your TPS and employment authorization.


If the TPS designation is extended, you must re-register with U.S. Citizenship and Immigration Services (USCIS) within the time period designated for re-registration. If you wish to obtain an EAD valid for the time period of the extended TPS designation, you must also apply for an EAD during the filing period(s) described in the applicable Federal Register notice (FRN). The FRN notice will provide guidance on required forms and application fees to re-register for TPS and to apply for a new EAD. You should also pay close attention to any future FRNs issued by USCIS regarding your country's TPS, including any information that may be included in such notices about possible automatic extensions of the validity date(s) on EADs.

Failure to re-register during a TPS extension re-registration period may result in the withdrawal of your TPS and may result in removal proceedings being initiated against you.

While you are under Temporary Protected Status, you:

Please see the additional information on the back. You will be notified separately about any other cases you filed.

**USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.**

USCIS TSC U.S. CITIZENSHIP & IMMIGRATION SVC 6046 N Belt Line Rd, STE 114 Irving TX 75038-0015	
---	--

USCIS Contact Center: [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter)

PLEASE TEAR OFF FORM I-94 PRINTED BELOW AND STAPLE TO ORIGINAL I-94 IF AVAILABLE

Detach This Half for Personal Records

**Receipt**

I-94#   
 NAME FORESTE, VARRIO  
 CLASS


**VALID FROM** 11/07/2024 **UNTIL** 02/03/2026

**APPLICANT:** FORESTE, VARRIO  


3

**Receipt Number**  
 United States Citizenship and Immigration Services

**I94 Departure Record**

14 Family Name FORESTE	
15 First (Given) Name VARRIO	16 Date of Birth 
17 Country of Citizenship HT	



R- IC		Case Type I821 - APPLICATION FOR TEMPORARY PROTECTED STATUS
Received Date 07/27/2024	Priority Date 07/27/2024	Applicant FORESTE, VARRIO
Notice Date 11/07/2024	Page 2 of 2	

(1) will not be removed from the United States;

(2) have work authorization and will be granted evidence of work authorization, if you have submitted an EAD request with the required fee, that is valid until the expiration of the time period designated for your Temporary Protected Status;

(3) will be considered as being in, and maintaining, lawful status as a nonimmigrant for purposes of adjustment of status under section 245 of the Act and for change of status under section 248 of the Act;

(4) will not be considered to be permanently residing in the United States under the code of law;

(5) may be deemed ineligible for public assistance by a state or any political subdivision thereof which furnishes such assistance; and

(6) may not depart the United States without prior approval of the Attorney General of the United States.


PLEASE NOTE: As long as you remain eligible for Temporary Protected Status and you maintain your status by complying with the registration requirements, you will be allowed to remain and work in the United States until the end of the period of the time designated for your Temporary Protected Status.

NOTICE: Although this application/petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact by correspondence, the internet, or telephone, and site inspections of businesses and residences. Information obtained during the course of verification will be used to determine whether revocation, rescission, and/or removal proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

USCIS TSC  
U.S. CITIZENSHIP & IMMIGRATION SVC  
6046 N Belt Line Rd. STE 114  
Irving TX 75038-0015



USCIS Contact Center: [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter)

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Detach This Half for Personal Records

**INTENTIONALLY LEFT BLANK**  
Receipt

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I-94#  
NAME

**INTENTIONALLY LEFT BLANK**  
CLASS

**INTENTIONALLY LEFT BLANK**  
VALID FROM UNTIL

**INTENTIONALLY LEFT BLANK**  
APPLICANT:

**INTENTIONALLY LEFT BLANK**

**INTENTIONALLY LEFT BLANK**

**INTENTIONALLY LEFT BLANK**

PLEASE TEAR OPEN FORM AS PRINTED BELOW AND STAPLE TO ORIGINAL COPY IF AVAILABLE

**INTENTIONALLY LEFT BLANK**  
Receipt Number

**INTENTIONALLY LEFT BLANK**  
United States Citizenship and Immigration Services

**INTENTIONALLY LEFT BLANK**  
I94 Departure Record

**INTENTIONALLY LEFT BLANK**  
14 Family Name

**INTENTIONALLY LEFT BLANK**  
15 First (Given) Name 16 Date of Birth

**INTENTIONALLY LEFT BLANK**  
17 Country of Origin

# Exhibit 3

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

In removal proceedings under section 235(b)(1) of the Immigration and Nationality Act:	Event No:
Subject ID: 3 FIN #: 11	File No: _____
SIGMA Event: _____ DOB: _____	
In the Matter of: FORESTE, VARRIC	
Respondent: FORESTE, Varric	rently residing at:
IN DHS CUSTODY, SAN DIEGO, CALIFORNIA, UNITED STATES OF AMERICA	
(Number, street, city, state and ZIP code)	(Area code and phone number)
<input checked="" type="checkbox"/> You are an arriving alien.	
<input type="checkbox"/> You are an alien present in the United States who has not been admitted or paroled.	
<input type="checkbox"/> 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 HAITI and a citizen of HAITI;	
3. You applied for admission on 02/21/2025 at SAN YSIDRO, CA, USA;	
4. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act.	
On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law: See Continuation Page Made a Part Hereof	
<input type="checkbox"/> This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.	
<input type="checkbox"/> Section 235(b)(1) order was vacated pursuant to: <input type="checkbox"/> 8CFR 208.30 <input type="checkbox"/> 8CFR 235.3(b)(5)(iv)	
YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA, US 92154	
(Complete Address of Immigration Court, including Room Number, if any)	
on <u>March 6, 2025</u> at <u>08:00 AM</u> to show why you should not be removed from the United States based on the	
(Date) (Time) SCHUPP, Ethan M	
charge(s) set forth above.	CBP OFFICER
	(Signature and Title of Issuing Officer)
Date: <u>February 22, 2025</u>	<u>San Ysidro, CALIFORNIA</u>
	(City and State)

EOIR - 1 of 8

Notice to Respondent

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

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

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

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

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

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

Request for Prompt Hearing

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

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on February 22, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

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

The alien was provided oral notice in the CREOLE 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.

SCHUPP, Ethan M
CBP OFFICER
(Signature of Respondent if Personally Served) (Signature and Title of officer)

EOIR - 2 of 8

**Privacy Act Statement**

**Authority:**

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (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-sorns>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

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

**Disclosure:**

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


U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name FORESTE, VARRIO	File Number  Event No:	Date February 22, 2025
---------------------------------	---	---------------------------

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

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

Signature  SCHUPP, Ethan M	Title CBP OFFICER
---	----------------------

Digitally Acquired Signature

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name <b>FORESTE, Varrio</b>	File Number Event No: _____	Date <b>02/22/2025</b>
--	--------------------------------	---------------------------

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

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

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

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

**CERTIFICATION OF SERVICE**

Notice read by subject.

Notice read to subject by 39573810, in Haitian language.  
Name of Officer/Interpreter



Signature of Subject

**02/22/2025**

Date

Signature



Title

**CBPO**

1 of 1 Pages

# Exhibit 4

April 28, 2025

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Texas Service Center



U.S. Citizenship  
and Immigration  
Services

VARRIO NMN FORESTE



RE: I-821, Application for Temporary Protected Status

**NOTICE OF INTENT TO WITHDRAW/REVOKE**

Dear Sir or Madam,

This notice refers to the Form I-821, Application for Temporary Protected Status (TPS), you filed with this office on July 27, 2024. Your TPS application was approved on November 7, 2024. A review of the record of proceeding in your case has revealed information that may warrant the withdrawal of your TPS.

Section 244(c) of the Immigration and Nationality Act (INA) states in pertinent part:

(3) Withdrawal of temporary protected status.-The Attorney General shall withdraw temporary protected status granted to an alien under this section if- ...

(B) except as provided in paragraph (4) and permitted in subsection (f)(3), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or ...

Allowable travel abroad during a period of TPS is described at Section 244(c)(4) of the INA as:

(4) Treatment of brief, casual, and innocent departures and certain other absences.-

(A) For purposes of paragraphs (1)(A)(i) and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard to whether such absences were authorized by the Attorney General.

(B) For purposes of paragraph (1)(A)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Allowable travel abroad is also described at Section 244(f)(3) of the INA:



(f) Benefits and Status During Period of Temporary Protected Status.-During a period in which an alien is granted temporary protected status under this section- ...

(3) the alien may travel abroad with the prior consent of the Attorney General...

Title 8, Code of Federal Regulations (8 CFR) section 244.15 states:

(a) After the grant of Temporary Protected Status, the alien must remain continuously physically present in the United States under the provisions of section 244(c)(3)(B) of the Act. The grant of Temporary Protected Status shall not constitute permission to travel abroad. Permission to travel may be granted by the director pursuant to the Service's advance parole provisions. There is no appeal from a denial of advance parole.

(b) Failure to obtain advance parole prior to the alien's departure from the United States may result in the withdrawal of Temporary Protected Status and/or the institution or recalendering of deportation or exclusion proceedings against the alien.

Title, 8 Code of Federal Regulations (8 CFR) section 244.1 states:

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were no contrary to law.

USCIS has discovered that after being granted TPS, you failed to obtain advance parole prior to your departure from the United States and it is unclear as to when you departed that United States and the duration of time you resided outside the United States.

Records indicate that you were on February 22, 2025, you were apprehended by the United States Border Patrol via the San Ysidro Port of Entry vehicle lanes. At the time, you had presented your Employment Authorization Document (EAD) and stated that you wanted to travel to San Diego, CA.

In view of the above, it appears that you are no longer eligible for TPS and that your TPS should be withdrawn for failure to maintain continuous physical presence. If you wish to rebut the above information in order to retain your TPS, you must submit evidence that you obtained advance parole prior to your departure from the United States, after your TPS was granted and/or that the departure was "brief, casual, and innocent" in accordance with the definition of that term in 8 CFR 244.1.

In addition, submit a statement explaining the purpose and duration of your absence from the United States. If you did not obtain approval prior to your departure, you must establish that your absence was brief, casual, and innocent, or that it was required by emergency or extenuating circumstances outside your control. Such documentation could include, but is not limited to:

- Plane or other transportation tickets or itinerary showing travel dates,
- Hotel receipts showing dates you were abroad,
- Evidence of the purpose of the travel abroad (Example: attended a wedding or funeral),
- Affidavits of persons who know you and the reasons why you traveled out of the United States and for how long, or
- Any other evidence that could support a brief, casual, and innocent absence.

If you do not respond to this notice with the requested information by May 12, 2025, your application will be considered abandoned, and your Temporary Protected Status may be withdrawn.

**PLACE THE ATTACHED COVERSHEET AND THIS ENTIRE LETTER ON TOP OF YOUR RESPONSE.**

Sincerely,

John M. Allen  
SCOPS Deputy Associate Director of Adjudications



# Exhibit 5



		Case Type 1821 - APPLICATION FOR TEMPORARY PROTECTED STATUS
Received Date 07/27/2024	Priority Date 07/27/2024	Applicant A241 010 486 FORESTE, VARRIO
Notice Date 05/23/2025	Page 1 of 2	
FORESTE, VARRIO : : : :		Notice Type: Approval Notice Valid from: 05/23/2025 to 08/03/2025
<p>You have been granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act. The benefits of TPS are temporary protection from removal (or deportation), employment authorization in the United States, and the opportunity to apply for travel authorization.</p> <p>Attached to this notice is a Form I-94 indicating your Temporary Protected Status in the United States. The I-94 is valid until the expiration date shown on it.</p> <p>If you requested an employment authorization document (EAD) pursuant to your registration for TPS, you will receive a separate notice containing the decision on that request. If your EAD request is approved, you will be issued an EAD that will be valid until the expiration date shown on the EAD itself. The EAD will serve as evidence of your TPS and employment authorization.</p> <p>If the TPS designation is extended, you must re-register with U.S. Citizenship and Immigration Services (USCIS) within the time period designated for re-registration. If you wish to obtain an EAD valid for the time period of the extended TPS designation, you must also apply for an EAD during the filing period(s) described in the applicable Federal Register notice (FRN). The FRN notice will provide guidance on required forms and application fees to re-register for TPS and to apply for a new EAD. You should also pay close attention to any future FRNs issued by USCIS regarding your country's TPS, including any information that may be included in such notices about possible automatic extensions of the validity date(s) on EADs.</p> <p>Failure to re-register during a TPS extension re-registration period may result in the withdrawal of your TPS and may result in removal proceedings being initiated against you.</p> <p>While you are under Temporary Protected Status, you:</p> <ol style="list-style-type: none"> <li>(1) will not be removed from the United States;</li> <li>(2) have work authorization and will be granted evidence of work authorization, if you have submitted an EAD request with the required fee, that is valid until the expiration of the time period designated for your Temporary Protected Status;</li> </ol> <p>Please see the additional information on the back. You will be notified separately about any other cases you filed.</p> <p>USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <a href="https://www.uscis.gov/file-online">https://www.uscis.gov/file-online</a>.</p>		
USCIS TSC U.S. CITIZENSHIP & IMMIGRATION SVC 6046 N Belt Line Rd. STE 114 Irving TX 75038-0015		
USCIS Contact Center: <a href="http://www.uscis.gov/contactcenter">www.uscis.gov/contactcenter</a>		

PLEASE TEAR OFF FORM I-94 PRINTED BELOW AND STAPLE TO ORIGINAL I-94 IF AVAILABLE

Detach This Half for Personal Records

Receipt  
I-94#  
NAME  
CLASS

FORESTE, VARRIO

VALID FROM 05/23/2025 UNTIL 08/03/2025

APPLICANT: FORESTE, VARRIO

236147551 A3

Receipt Number  
United States Citizenship and Immigration Services

I94 Departure Record

14 Family Name  
FORESTE

15 First (Given) Name  
VARRIO

16 Date of Birth

17 Country of Citizenship  
HT



1		ber	Case Type 1821 - APPLICATION FOR TEMPORARY PROTECTED STATUS
Received Date 07/27/2024	Priority Date 07/27/2024	Applicant A241 010 486 FORESTE, VARRIO	
Notice Date 05/23/2025	Page 2 of 2		

(3) will be considered as being in, and maintaining, lawful status as a nonimmigrant for purposes of adjustment of status under section 245 of the Act and for change of status under section 248 of the Act;

(4) will not be considered to be permanently residing in the United States under the code of law;

(5) may be deemed ineligible for public assistance by a state or any political subdivision thereof which furnishes such assistance; and

(6) may not depart the United States without prior approval of the Attorney General of the United States.


PLEASE NOTE: As long as you remain eligible for Temporary Protected Status and you maintain your status by complying with the registration requirements, you will be allowed to remain and work in the United States until the end of the period of the time designated for your Temporary Protected Status.

NOTICE: Although this application/petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact by correspondence, the internet, or telephone, and site inspections of businesses and residences. Information obtained during the course of verification will be used to determine whether revocation, rescission, and/or removal proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

USCIS TSC  
U.S. CITIZENSHIP & IMMIGRATION SVC  
6046 N Belt Line Rd. STE 114  
Irving TX 75038-0015



USCIS Contact Center: [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter)

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NAME

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VALID FROM UNTIL

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APPLICANT:

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Receipt Number

United States Citizenship and Immigration Services

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194 Departure Record

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14 Family Name

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15 First (Given) Name

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15 Date of Birth

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17 Country of Birth

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# Exhibit 6

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

LEAD FILE:  
IN REMOVAL PROCEEDINGS  
DATE: Jan 15, 2026  
EAD Clock: 70 days elapsed

TO: Law office of L. Marcius Joseph & Associates, Llc  
Joseph, Lana  
P.O. Box 941861  
Atlanta, GA 31141

RE: FORESTE, VARRIO

**Notice of In-Person Hearing**

Your case has been scheduled for a MASTER hearing before the immigration court on:

Date: Feb 17, 2026  
Time: 1:00 P.M. PT  
Court Address: 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154

**Representation:** You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

**Failure to Appear:** If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

**Change of Address:** The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by completing the enclosed paper form and mailing it to the immigration court listed above.

**Internet-Based Hearings:** If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

**In-Person Hearings:** If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call 1-800-898-7180 (toll-free) or 304-625-2050.

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY:MAIL[M] PERSONAL SERVICE[P] ELECTRONIC SERVICE[E]  
TO: [ ] Noncitizen | [ ] Noncitizen c/o Custodial Officer |  
E] Noncitizen ATT/REP | [E] DHS  
DATE: 01-15-2026 BY: COURT STAFF VA  
Attachments:[ ] EOIR-33 [ ] Appeal Packet [ ] Legal Services List [ ] Other NH

Use a smartphone's camera to scan the code on this page to read the notice online.

Usa la cámara de un teléfono inteligente para escanear el código de esta página y leer el aviso en línea.

Use a cámara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

使用智能手机摄像头扫描本页面的代码，即可在线阅读该通知。

ঠিকিস তুঁ অনলাইনমা পড়ন যস পৃষ্ঠমা কোড স্ক্যান করি  
সমাৱটইন ঐ ঐমতি সী হবই ববে।

অনলাইনে নোটিশ পড়ার জন্য এই পৃষ্ঠের কোডটি স্ক্যান  
করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন



सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न  
स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane  
kòd ki nan paj sa a pou li avi a sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في  
هذه الصفحة لقراءة الإشعار على الإنترنت

Чтобы прочитать уведомление онлайн, отсканируйте  
код на этой странице с помощью камеры вашего  
смартфона.

Utilisez l'appareil photo d'un téléphone intelligent  
pour scanner le code sur cette page afin de lire  
l'avis en ligne.