

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>Juan Rafael Cabreja Bueno</p> <p>(b) County of Residence of First Listed Plaintiff <u>Philadelphia</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) David M Bercovitch, Bercovitch Law Offices, 100 S. Broad Street, Suite 1902, Philadelphia PA 19102, 215-220-6310</p>	<p>DEFENDANTS</p> <p>Warden, Philadelphia Federal Detention Center, et al.</p> <p>County of Residence of First Listed Defendant <u>Philadelphia</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>PTF</td> <td>DEF</td> <td></td> <td>PTF</td> <td>DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>				Click here for: Nature of Suit Code Descriptions.			
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	INTELLECTUAL PROPERTY RIGHTS	OTHER STATES		
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 375 False Claims Act		
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))		
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander			<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 400 State Reapportionment		
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 410 Antitrust		
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 430 Banks and Banking		
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability				<input type="checkbox"/> 450 Commerce		
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR			<input type="checkbox"/> 460 Deportation		
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations		
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations			<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)		
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act			<input type="checkbox"/> 485 Telephone Consumer Protection Act		
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act			<input type="checkbox"/> 490 Cable/Sat TV		
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 790 Other Labor Litigation			<input type="checkbox"/> 495 Securities/Commodities/Exchange		
		<input type="checkbox"/> 791 Employee Retirement Income Security Act			<input type="checkbox"/> 890 Other Statutory Actions		
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			<input type="checkbox"/> 891 Agricultural Acts		
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:			<input type="checkbox"/> 893 Environmental Matters		
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input checked="" type="checkbox"/> 463 Alien Detainee			<input type="checkbox"/> 895 Freedom of Information Act		
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence			<input type="checkbox"/> 896 Arbitration		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 950 Constitutionality of State Statutes		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:					
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other					
		<input type="checkbox"/> 550 Civil Rights					
		<input type="checkbox"/> 555 Prison Condition					
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement					

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
28 U.S.C. 2241

Brief description of cause:
Illegal detention of a foreign national by Immigration and Customs Enforcement

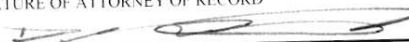
VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE: January 16, 2026

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: ICE ERO, Philadelphia Field Office

RELATED CASE IF ANY: Case Number: Judge:

- 1. Does this case involve property included in an earlier numbered suit? Yes
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes
If yes, attach an explanation.

I certify that, to the best of my knowledge and belief, the within case is / is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. Cases Seeking Systemic Relief *see certification below*
16. All Other Federal Question Cases. (Please specify):

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
8. All Other Diversity Cases: (Please specify):

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / does not have implications beyond the parties before the court and does / does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

[X] Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

[] None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

Juan Rafael Cabreja Bueno,

Petitioner,

v.

Warden, Philadelphia Federal Detention Center,
Philadelphia, PA,

David O’Neill, Acting Field Office Director,
Philadelphia Field Office Immigration and
Customs Enforcement,

Kristi Noem, Secretary U.S. Department of
Homeland Security

Pam Bondi, Attorney General, U.S. Department
of Justice,


Executive Office for Immigration Review,

Respondents.

Case No. 2:26-cv-00304-NIQA

**AMENDED PETITION
FOR WRIT OF
HABEAS CORPUS
(UNDER 28 U.S.C. § 2241)**

INTRODUCTION

1. Petitioner Juan Rafael Cabreja Bueno (“Mr. Cabreja”),  seeks a writ of habeas corpus under 28 U.S.C. § 2241 challenging his unlawful detention by Immigration and Customs Enforcement (“ICE”). Mr. Cabreja does not raise any issues of removability or the merits and/or adjudication of immigration applications.

2. This Amended Petition challenges the legality of Mr. Cabreja’s detention.

3. Respondents are detaining Mr. Cabreja as if he were subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), and take the position that he is ineligible for a bond (custody redetermination) hearing before an Immigration Judge.

4. Mr. Cabreja is properly detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), and therefore is entitled to a prompt custody redetermination (bond) hearing.

5. In the alternative, Mr. Cabreja is properly detained under 8 U.S.C. § 1231(a)(6) and therefore is entitled to a prompt custody redetermination (bond) hearing.

6. Absent an order from this Court, Mr. Cabreja will continue to be detained without the bond-hearing procedures Congress provided in § 1226(a) or in violation of the Respondents' own procedures under 1231(a)(6).

7. Mr. Cabreja asks this Court to issue an Order to Show Cause, declare that § 1226(a) or § 1231(a)(6) governs his detention, order Respondents to release Petitioner (or, in the alternative, order Respondents to provide him a prompt bond hearing before an Immigration Judge).

JURISDICTION AND VENUE


8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*

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

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, and the All Writs Act, 28 U.S.C. § 1651.

11. Venue is proper because Petitioner is detained at the Philadelphia Federal Detention Center in Philadelphia, PA, which is within the jurisdiction of this District.

PARTIES

12. Petitioner Mr. Cabreja is a citizen and national of the Dominican Republic (See attached “**Exhibit A**”). His A-Number is 

13. Mr. Cabreja is currently in civil immigration detention. ICE is holding Mr. Cabreja at the Philadelphia Federal Detention Center, 700 Arch Street, Philadelphia PA 19106 (See attached “**Exhibit B**”).

14. Respondent Warden, Philadelphia Federal Detention Center, Philadelphia, PA is Mr. Cabreja’s immediate custodian at the facility where he is confined and has day-to-day control over him.

15. Respondent David O’Neill, Acting Field Office Director, Philadelphia Field Office Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”), is responsible for ICE detention operations and custody decisions in the Philadelphia area.

16. Respondent, Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”) is sued in her official capacity and has authority to effectuate the relief requested.

17. Respondent, Pam Bondi, Attorney General of the United States is sued in her official capacity and has authority to effectuate the relief requested.

18. Respondent Executive Office for Immigration Review (“EOIR”) is a federal government agency responsible for adjudicating immigration proceedings. EOIR has the authority to release and/or schedule a bond hearing for the unlawfully detained Petitioner Mr. Cabreja.

FACTUAL BACKGROUND

19. Mr. Cabreja entered the United States at or near the U.S.-Mexico border on or about November 11, 2022.

20. On November 11, 2022, U.S. Customs and Border Protection (CBP) officials issued Mr. Cabreja a Notice and Order of Expedited Removal (Form I-860) pursuant to INA § 235(b)(1), 8 U.S.C. § 1225(b)(1). (See attached "**Exhibit C**").

21. The Form I-860 determined that Mr. Cabreja was inadmissible under INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant not in possession of a valid unexpired immigrant visa or other entry document.

22. The Form I-860 was approved and signed by Acting/Patrol Agent in Charge Richard Herrera as the supervising officer and served on Mr. Cabreja on November 11, 2022.

23. Notwithstanding the issuance of the expedited removal order, Respondents did not effectuate Mr. Cabreja's immediate removal. Instead, Respondents released Mr. Cabreja on his own recognizance via a Notice of Custody Determination (Form I-286), treating him as if under discretionary custody authority pursuant to INA § 236(a), 8 U.S.C. § 1226(a), and requiring periodic check-ins with ICE Enforcement and Removal Operations (ERO) at the Philadelphia Field Office.

24. Following his release, Mr. Cabreja resided in Philadelphia, Pennsylvania, and complied fully with all supervision conditions, including regular in-person check-in appointments at the ICE ERO Philadelphia Field Office for over three years (from November 2022 through January 2026).

25. During this period of over three years, Mr. Cabreja integrated into the community, maintained stable residence and employment in Philadelphia, and developed significant family and social ties in the United States. Mr. Cabreja has no criminal history or other factors indicating he poses a danger to the community or a flight risk.

26. Respondents took no steps to obtain travel documents from the Dominican Republic or otherwise execute the expedited removal order during this three-year period, rendering Mr. Cabreja's removal not reasonably foreseeable.

27. On January 16, 2023, Mr. Cabreja appeared for and complied with his check-in appointment at ICE ERO, Philadelphia Field Office.

28. On January 16, 2024, Mr. Cabreja appeared for and complied with his check-in appointment at ICE ERO, Philadelphia Field Office.

29. On January 16, 2025, Mr. Cabreja appeared for and complied with his check-in appointment at ICE ERO, Philadelphia Field Office.

30. On January 16, 2026, Mr. Cabreja appeared for his check-in appointment at ICE ERO, Philadelphia Field Office. However, Respondents revoked Mr. Cabreja's release and re-detained him without prior notice, an opportunity to respond, or an explanation of changed circumstances justifying the revocation.

31. Mr. Cabreja's re-detention occurred more than three years after the expedited removal order became administratively final, well beyond the 90-day removal period prescribed by INA § 241(a)(1), 8 U.S.C. § 1231(a)(1).

32. Respondents' actions in releasing Mr. Cabreja and permitting over three years of supervised community residence are inconsistent with treating him as subject to mandatory detention under INA § 235(b)(1), and instead reflect an election to proceed under discretionary custody authority akin to INA § 236(a), 8 U.S.C. § 1226(a), or post-final-order supervision under INA § 241(a)(3), 8 U.S.C. § 1231(a)(3).

33. Respondents' revocation of Mr. Cabreja's release violated applicable regulations, including 8 C.F.R. § 241.4(l), which require notice, an informal interview, consideration of individual factors (such as compliance history, community ties, and removal foreseeability), and authorization by a senior official before revoking supervision.

34. Respondents' have failed to follow their own procedures in revoking the release of Mr. Cabreja, a foreign national who has an expedited removal Order but was not removed within 90 days of the Order.

“Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1).

35. Mr. Cabreja's continued detention is arbitrary and punitive, as removal remains not significantly likely in the reasonably foreseeable future, given Respondents' inaction over three years and lack of evidence of ongoing efforts to secure travel documents.

36. Mr. Cabreja has exhausted all available administrative remedies, as there is no administrative process for challenging the revocation of release or obtaining a bond hearing for individuals with expedited removal orders who have been released and re-detained after prolonged delays.

LEGAL FRAMEWORK

28 U.S.C. § 2241

37. This court has authority to grant habeas relief under 28 U.S.C. § 2241, which empowers federal courts to issue the writ to a person “in custody” in violation of the Constitution or laws of the United States. A noncitizen held in immigration detention satisfies the “in custody” requirement, and § 2241 is the proper vehicle to challenge the fact and legality of detention and to seek release or other relief directed to the custodian.

28 U.S.C. § 2243

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

39. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and

imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

CLAIMS FOR RELIEF

COUNT I (Statutory/Ultra Vires): DHS Lacks Authority to Detain Under § 1225(b)(1); Detention Is Governed by § 1231(a)(6) or, Alternatively, § 1226(a); Refusal to Provide Bond Hearing or Custody Review Violates the INA/Regulations

40. The averments contained in the preceding paragraphs one (1) – thirty-nine (39) are incorporated by reference as if fully contained herein.

41. Section 1225(b)(1) (INA § 235(b)(1)) governs expedited removal for certain inadmissible arriving aliens.

42. However, once an expedited removal order becomes final, the 90-day removal period under § 1231(a)(1) (INA § 241(a)(1)) commences.

43. Beyond that period, detention authority shifts to § 1231(a)(6) (INA § 241(a)(6)), which permits discretionary detention or release under supervision only if removal is reasonably foreseeable and the individual poses a flight risk or danger.

44. DHS issued an expedited removal order under § 1225(b)(1) on November 11, 2022, but failed to execute it within the 90-day removal period or the subsequent three-plus years.

45. Instead, DHS released Mr. Cabreja on his own recognizance treating him as under discretionary supervision.

46. This prolonged delay and inconsistent treatment reclassifies Mr. Cabreja's current detention under § 1231(a)(6), entitling him to a prompt custody review hearing where DHS bears the burden to prove by clear and convincing evidence that he is a significant flight risk or danger

to the community. See *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224-25 (3d Cir. 2018) (requiring bond hearings for prolonged detention under § 1231(a)(6) analogous to reinstated removal orders).

47. Alternatively, by releasing Mr. Cabreja and requiring check-ins for over three years, DHS waived strict application of § 1225(b)(1)'s mandatory detention and elected to proceed under § 1226(a) (INA § 236(a)), as evidenced by their prior exercise of discretionary custody authority.

48. This is consistent with federal courts rejecting attempts to reclassify interior detainees under arriving-alien provisions. See, e.g., *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (order granting petitioners' motion for partial summary judgment, rejecting Matter of Yajure Hurtado).

49. Under either § 1231(a)(6) or § 1226(a), Mr. Cabreja is entitled to a prompt bond or custody redetermination hearing before an Immigration Judge pursuant to 8 C.F.R. §§ 241.4 or 236.1(d) and related regulations.

50. This Court should declare that § 1231(a)(6) or § 1226(a) governs Mr. Cabreja's detention and order Respondents to release Mr. Cabreja unless and until such a hearing is provided.

**COUNT II (Due Process): Arbitrary Revocation of Release and Prolonged Post-Order
Delay Deprive Liberty Without Due Process**

51. The averments contained in the preceding paragraphs one (1) – fifty (50) are incorporated by reference as if fully contained herein.

52. Civil immigration detention must comport with due process. By abruptly revoking Mr. Cabreja's release after over three years of compliance—without notice, an informal

interview, or consideration of factors such as community ties and removal foreseeability— Respondents violated procedural due process and applicable regulations. See 8 C.F.R. § 241.4(l) (requiring notice, opportunity to respond, and discretionary determination by senior official for revocation); United States ex rel. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (agencies bound by their regulations).

53. Moreover, the extreme delay in enforcing the 2022 expedited removal order renders current detention arbitrary and punitive, as removal is not significantly likely in the reasonably foreseeable future. See *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention presumptively unconstitutional after six months if removal not foreseeable); *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 222 (3d Cir. 2018) (due process requires bond hearing for prolonged § 1231 detention, with government bearing burden).

54. Due to Respondents' deliberate and illegal actions, this Honorable Court should order Respondents to immediately release Mr. Cabreja from custody.

55. At a minimum, due process requires that Mr. Cabreja receive a prompt hearing at which an Immigration Judge may consider whether detention is necessary based on flight risk or danger and may impose conditions of release if appropriate.

56. This Court should grant any additional relief necessary to remedy the due process violation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an Order to Show Cause under 28 U.S.C. § 2243 directing Respondents to respond promptly to this Petition;

B. Declare that Respondents are unlawfully detaining Mr. Cabreja under 8 U.S.C. § 1225(b) and that 8 U.S.C. § 1231(a)(6) or, alternatively, § 1226(a) governs his detention;

C. Order Respondents to immediately release Mr. Cabreja from custody on his prior conditions of supervision or, in the alternative until such a hearing is provided;

D. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: January 28, 2026

/s/ David M. Bercovitch
David M. Bercovitch, Esq.
PA Bar No. 315026
Bercovitch Law Offices, P.C.
100 S. Broad Street,
Land Title Building, Suite 1902
Philadelphia, PA 19110
Tel.: (215) 220-6310
Email: david@berclaw.com
Counsel for Petitioner Juan Rafael Cabreja
Bueno

EXHIBIT A

EXHIBIT B



Main Menu

Search Results: 1

JUAN RAFAEL CABREJA-BUENO

Country of Birth : Dominican Republic

A-Number:

Status : In ICE Custody

State: PA

Current Detention Facility: [Philadelphia Federal Detention Center](#)

** Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

Related Information

Helpful Info

[Status of a Case](#)

[About the Detainee Locator](#)

[Brochure](#)

[ICE ERO Field Offices](#)

[ICE Detention Facilities](#)

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External Links

Bureau of Prisons Inmate
Locator



[DHS.gov](#)[USA.gov](#)[OIG](#)[OpenFOIA](#)[Metrics](#) [No](#) [Site](#) [Site](#)
[Gov](#) [FearMap](#)[Policies](#)
[Act](#) [& Plug-](#)
[Ins](#)



EXHIBIT C

U.S. Department of Homeland Security

Notice and Order of Expedited Removal

DETERMINATION OF INADMISSIBILITY

Event No. [Redacted]

File No. [Redacted]

Date: November 11, 2022

In the Matter of: JUAN RAFAEL CABREJA-BUENO

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Department of Homeland Security has determined that you are inadmissible to the United States under section(s) 212(a) [] (6)(C)(i); [] (6)(C)(ii); [x] (7)(A)(i)(I); [] (7)(A)(i)(II); [] (7)(B)(i)(I); and/or [] (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

- 1. You are not a citizen or national of the United States;
2. You are a native of DOMINICAN REPUBLIC and a citizen of DOMINICAN REPUBLIC ;
3. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

WILLIAM CARUFEL

Border Patrol Agent

Name and title of immigration officer (Print)

WILLIAM D CARUFEL

Date: 2022.11.11 23:23:09 [Stamp]
0647270642.CBP

Signature of immigration officer

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

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

WILLIAM CARUFEL

Border Patrol Agent

Name and title of immigration officer (Print)

WILLIAM D CARUFEL

Date: 2022.11.11 23:23:13 [Stamp]
0647270642.CBP

Signature of immigration officer

RICHARD HERRERA

ACTING/PATROL AGENT IN CHARGE

Name and title of supervisor (Print)

Signature of supervisor, if available

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

CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on 11/11/2022

WILLIAM D CARUFEL [Stamp]
Date: 2022.11.11 23:23:13
0647270642.CBP

(Date)

Signature of immigration officer