

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-563

Rudy Alexander Pineda Aguilar

Petitioner,

v.

Pamela Bondi, Attorney General,
Kristi Noem, Secretary, U.S. Department of
Homeland Security,
Department of Homeland Security,
Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,
Immigration and Customs Enforcement,
Daren K. Margolin, Director for Executive
Office for Immigration Review,
Executive Office for Immigration Review,
and,
David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement.

Respondents.

**DECLARATION OF
JAMES L. VAN DER VAART**

James L. Van Der Vaart, Deportation Officer, United States Immigration and Customs Enforcement ("ICE"), Department of Homeland Security, for his declaration under 28 U. S. C. § 1746 hereby states as follows:

1. The following declaration is based on a review of the Plaintiff's alien file and statements.

2. I am and have been employed with Immigration and Customs Enforcement (ICE) since April 1, 2007. I began my career as an Immigration Enforcement Agent. On September 20, 2015, I was promoted to Deportation Officer.

3. As a Deportation Officer, my assigned duties are to identify, locate, and arrest aliens illegally present in the United States. Additionally, I am charged with the responsibility of overseeing the cases of aliens in removal proceedings. These duties include the review of alien files for sufficiency, the detention and release of aliens in ICE custody, monitoring the progress of cases through the hearing process, and enforcement of the immigration court's decision, including the execution of removal orders. I am also responsible for presenting criminal immigration cases to the United States Attorney's Office for possible criminal prosecution.

4. Rudy Alexander Pineda Aguilar (Hereinafter referred to as PINEDA) is a citizen and national of Guatemala.

5. On September 27, 2016, U.S. Border Patrol (USBP) encountered PINEDA near Lukeville, AZ. PINEDA had unlawfully entered the United States of America from Mexico, at a time and place other than as designated by immigration officers of the United States of America. After determining that PINEDA had illegally entered the United States, USBP issued a Notice to Appear per section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA).

6. On November 01, 2016, PINEDA was released from ICE custody on an order of recognizance (OREC).

7. On November 24, 2017, U.S. Citizenship and Immigration Services (USCIS) received application form I-360 petition for Amerasian, Widow(er), or special immigrant, receipt number 

8. On May 18, 2018, an IJ at Fort Snelling, MN denied a motion from PINEDA to administratively close proceedings for pending application form I-360.

9. On December 03, 2018, PINEDA filed application form I-589 application for asylum and for withholding of removal at the Executive Office for Immigration review (EOIR).

10. On May 21, 2019, USCIS sent an approval notice for application form I-360 to PINEDA.

11. On May 30, 2019, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED].

12. On June 24, 2019, USCIS sent a Denial Letter to PINEDA for application from I-765, receipt number [REDACTED].

13. On July 10, 2019, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED].

14. On October 09, 2019, USCIS sent a Denial Letter to PINEDA for application form I-765, receipt number [REDACTED].

15. On March 12, 2020, The Richfield Police Department arrested PINEDA on charges of Criminal Sexual Conduct – 4th degree (609.345.1(b) (MN) Hennepin County District Court case number 27-CR-20-6813.

16. On March 16, 2020, ICE/ERO arrested PINEDA due to the Criminal Sexual Conduct arrest. PINEDA was placed in removal proceedings at Fort Snelling, MN.

17. On July 2, 2020, an IJ at Fort Snelling, granted PINEDA's I-589 application for asylum.

18. On July 10, 2020, DHS filed a notice of appeal of the asylum grant.

19. On October 19, 2020, the Hennepin County District Court convicted PINEDA of Criminal Sexual Conduct 5th degree – Nonconsensual Sexual Contact (609.3451.1) and sentenced PINEDA to 364 days stayed for 2 years. PINEDA was placed on supervised probation for 2 years.

20. On June 07, 2021, The Hennepin County District Court amended the sentencing order in criminal case# 27-CR-20-6813, Criminal Sexual Conduct – 5th degree- Non-consensual Contact, amending the sentence from 364 days to 179 days.

21. On June 07, 2021, ICE/ERO released PINEDA from custody on OREC.

22. On June 15, 2021, The Board of Immigration Appeals (BIA) issued a written decision sustaining the DHS appeal and vacating the asylum grant. The case was remanded to the immigration judge for further proceedings.

23. September 16, 2021, USCIS received application form I-485 Application to register permanent residence or adjust status, receipt number [REDACTED]

24. On July 10, 2024, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED]

25. On October 09, 2024, USCIS sent an approval notice for application form I-765 receipt number [REDACTED] granting work authorization until October 03, 2029.

26. On January 18, 2024, an IJ at Fort Snelling, MN issued a written decision denying adjustment of status, denying asylum, ordering PINEDA removed from the U.S but granting Withholding of Removal to Guatemala.

27. On February 16, 2024, the BIA received a case appeal from DHS appealing the decision granting Withholding of Removal. The appeal is currently pending.

28. On January 22, 2026, ICE arrested PINEDA at Minneapolis, Minnesota.

29. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

30. Further your affiant sayeth not.

**JAMES L VAN
DER VAART**

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VAN DER VAART
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James L. VanDerVaart, Deportation Officer
U.S. Immigration and Customs Enforcement