

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

<hr/>		:
Jose Ademilson Martins Pereira		:
		:
	Petitioner,	: Case No. 2:26-cv-00508
v.		:
		: Before the
		: Honorable Mia Roberts Perez
J.L. JAMISON, et al.		:
	Respondents.	:
<hr/>		:

**PETITIONER’S TRAVERSE TO RESPONDENTS’ RESPONSE
IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, Jose Ademilson Martins Pereira (hereinafter, “Petitioner”), by and through undersigned counsel, respectfully submits this Traverse in reply to Respondents’ Response in Opposition to the Petition for Writ of Habeas Corpus.

Respondents attempt to justify mandatory detention under 8 U.S.C. § 1225(b)(1) by invoking expedited removal, yet the record—and Respondents’ own exhibits—demonstrate that expedited removal was never lawfully executed.¹

The Eastern District of Pennsylvania has recently issued a ruling in a similar habeas matter with a defective and unexecuted Form I-860 and granted habeas

¹ Please see Respondent’s Exhibit A, which consists of an unexecuted, unserved and incomplete Form I-860, Notice and Order of Expedited Removal, which illustrates that the purported order was never completed and signed by DHS officials or served on the Petitioner.

relief. See *Seminario-Marcos v JL Jamison, et. al.*, 2:26-cv-00421-MAK (E.D.Pa. February 6, 2026) (slip op.), granting habeas relief and determining that the Petitioner with a defective Form I-860 and re-detention subsequent to humanitarian parole is detained pursuant to 8 U.S.C. § 1226(a).

ARGUMENT IN RESPONSE TO RESPONDENT'S OPPOSITION

Similar to *Seminario-Marcos*, the documents provided by the Respondents in this case, which were not previously available to the Petitioner, clearly demonstrate an expedited removal order was never properly issued nor lawfully executed against him².

The Notice and Order of Expedited Removal, Form I-860 is dated September 3, 2024 Res. Exh A. It is unsigned by the immigration officer, unsigned by the supervisor, and unsigned by the Petitioner. Additionally, the document indicates that service on the Petitioner was never made, as is legally required. The bottom portion is entitled, "Order of Removal Under Section 235(b)(1) of the Act." The top half is the Department of Homeland Security finding that Petitioner was inadmissible and subject to removal, however, the operative portion of Form I-

² The only questions this court can consider regarding the Petitioner's putative expedited removal order are (1) whether the petitioner is an alien; (2) whether the petitioner was ordered removed; and (3) whether the petitioner can prove by a preponderance of the evidence that he or she was granted asylum or admitted as a lawful permanent resident or refugee. See 8 U.S.C. § 1252(e)(2)(A)-(C). Question (2) is the only relevant question this Court needs to evaluate.

860 including the effectuation of the Order of Removal, is blank.

This is evidence that no expedited removal order actually exists against Petitioner. The controlling regulations support this position. 8 C.F.R. § 235.3(b) lays out the procedures which must be followed in order to issue an Expedite Removal. The relevant part of this regulation, as it relates to Form I-860, is as follows:

“...The examining immigration officer shall advise the alien of the charges against him or her on Form I-860, Notice and Order of Expedited Removal, and the alien shall be given an opportunity to respond to those charges in the sworn statement. After obtaining supervisory concurrence in accordance with paragraph (b)(7) of this section, the examining immigration official shall serve the alien with Form I-860 and the alien shall sign the reverse of the form acknowledging receipt. Interpretative assistance shall be used if necessary to communicate with the alien.” See 8 C.F.R. § 235.3(b)(2)(i).

Obtaining supervisory concurrence in accordance with paragraph (b)(7) is also required and was clearly not done in this case. *See* 8 C.F.R. § 235.3(b)(7)³. The bottom half of the I-860 is completely blank, including the supervisor line and even a box to indicate supervisory concurrence, whether obtained by telephone or other means, is left unchecked. These are key components woven into the regulations. When they are not followed, they are clearly more than procedural

³ *“Review of expedited removal orders. Any removal order entered by an examining immigration officer pursuant to section 235(b)(1) of the Act must be reviewed and approved by the appropriate supervisor before the order is considered final. See 8 C.F.R. § 235.3(b)(7)*

defects—they are substantive defects which are necessary for the execution of a removal order under INA § 235(b)(1).

As a result, the Petitioner is not subject to a proper 235(b)(1) order and therefore cannot be subject to the detention provisions thereto. Nearly identical to the Form I-860 in this case, a similarly blank Form I-860 was the Respondent's evidence against the Petitioner in *Seminario-Marcos v JL Jamison, et. al.*, 2:26-cv-00421-MAK (E.D.Pa. February 6, 2026) (slip op.). The existence of repetitive defective actions by the Respondents demonstrates a pattern in matters that are gravely serious, and results in unlawful detentions.

II. Petitioner's Detention is Unlawful

As explained above, Petitioner is not subject to a properly-executed Expedited Order of Removal. If this is the case, should Respondents assert he is detained under 8 U.S.C. § 1225(b)(1), this is unlawful. He may only rightfully be detained pursuant to 8 U.S.C. § 1226(a) and the Petitioner remains in active removal proceedings pursuant to 8 U.S.C. § 1229a.

DHS paroled Petitioner into the United States pursuant to INA § 212(d)(5) in September of 2024, releasing him from custody into the interior under conditions of supervision. *See* Res. Exh. B, and DHS Response, pg. 3. Petitioner complied with all reporting requirements, lived openly in the community, applied for asylum, and was later detained without a change in circumstances warranting

detention. Upon re-detention, DHS was required to proceed under INA § 240 Removal Proceedings and 8 U.S.C. § 1226(a) to provide him with an individualized custody determination. Moreover, despite the Respondents' assertions, Expedited Removal proceedings were never lawfully initiated in this case, as exhibited by the lack of a properly completed Form I-860.

Had DHS believed expedited removal remained operative, it could have produced a signed Form I-860; its failure to do so confirms that expedited removal was never lawfully executed. Instead, the Petitioner was provided with parole, release, and the ability to apply for protection-based relief.

Because Form I-860 is the operative document that creates expedited removal under §1225(b)(1), the absence of a valid I-860 is fatal to Respondents' claim that Petitioner is subject to mandatory detention under that provision.

The Respondents assert that parole termination under 8 C.F.R. § 212.5(e) returns a noncitizen only to the status held at the time parole was granted. However, here, that status was never under §1225(b)(1). Where DHS cannot demonstrate that a valid expedited removal order existed at that time of apprehension, parole termination cannot retroactively create one. DHS must therefore proceed under the arrest authority at § 1226(a). Further, and importantly, the Petitioner was not noticed of the reasons for his change in custody – until Respondents responded to his petition for habeas relief.

CONCLUSION

The lack of the Respondents ability to produce a properly executed order of expedited removal resolves the issue, because, but for that completed action at the time of apprehension, no order exists to sustain a continuing detention authority under §1225(b)(1). As a result, we are governed by §1226(a), and he is currently detained without bond by the Respondents under an inappropriate detention authority.

For the foregoing reasons, the Petition for Writ of Habeas Corpus should be granted and an order of release should be entered or, at minimum, the Court should order an immediate bond hearing at which DHS bears the burden of justifying continued detention.

Dated: February 6, 2026

Respectfully submitted,
/s/ Bridget Cambria, Esq.
Bridget Cambria, Esq.
Pa 205271
532 Walnut Street
Reading, PA 19601
Phone: 484-926-2014
Email: bridget.cambria@cambriaklinelaw.com