

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DENIS DAGOBERTO DUARTE
CANTARERO,

Petitioner,

Case No. 2:26-cv-189-SPC-NPM

v.

ACTING DIRECTOR TODD
LYONS, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Denis Duarte Cantarero challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to a bond hearing under 8 U.S.C. § 1226. While reserving all rights, including the right to appeal, Respondents submit this abbreviated brief in lieu of an exhaustive memorandum to preserve the Respondents' arguments and to conserve judicial resources. Should the Court prefer a more exhaustive discussion, Respondents request leave to submit additional briefing.¹

¹ The only appropriate respondent to a habeas case is the official with physical custody of Duarte Cantarero. 28 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having custody of the person detained."); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) ("[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."). Accordingly, the only proper respondent in this case is the Warden of Florida Soft

FACTS

Duarte Cantarero is a national and citizen of Honduras who last entered the United States at an unknown place and time. (Composite Exhibit, Ex. 1 at 1.) He was placed in immigration custody on January 7, 2026. *Id.* at 2. He was served with a Notice to Appear on or about February 10, 2026.² *Id.* at 6-7. Duarte Cantarero is currently detained at Central Louisiana ICE Processing Center.

On January 28, 2026, Duarte Cantarero filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. (Doc. 1.)

CERTIFIED HABEAS RETURN

ICE is detaining Duarte Cantarero under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243 (“The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Duarte Cantarero bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

Side South in his official capacity. *See e.g., Vandersnick v. Sec’y, Fla. Dep’t of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021).

² As of the time of filing, the undersigned was last informed the Notice to Appear has been filed with the Immigration Court and is pending acceptance.

ARGUMENT

I. Duarte Cantarero is properly detained under 8 U.S.C. § 1225(b)(2)

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) the Board of Immigration Appeals (BIA) examined the plain language of Section 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the petitioner, who are present in the United States without admission." 29 I&N Dec. at 225. This Court should rule the same.

Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with *Garcia v. Noem, et al.*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025). It should be noted, however, that courts have recently ruled against petitioners in similar cases. *See, E.g., Lopez v. Dir. of Enft & Removal Operations*, No. 3:25-CV-1313-JEP-SJH, 2026 WL 261938, at *1 (M.D. Fla. Jan. 26, 2026); *Iraheta Morales v. Noem*, No. 25-62598-CIV-SINGHAL, 2026 WL 236307, at *3-9 (S.D. Fla. Jan. 29, 2026). Some decisions have started recognizing that there is no jurisdiction over this question to begin with. *Munoz Nataren v. Raycraft*, No. 4:26-cv-212, 2026 WL 214368, at *2 (N.D.

Ohio Jan. 28, 2026); *Amaya-Velis v. Raycraft*, No. 4:26-cv-73, 2026 WL 100596, at *2-3 (N.D. Ohio Jan. 14, 2026).

Significantly, the Fifth Circuit recently ruled that aliens who have not been admitted to the United States are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) regardless of whether the alien is already present in the United States. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). At least four circuits—including the Eleventh—have active appeals on the matter. *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

Respondents respectfully disagree with the Court's decision in *Garcia v. Noem*. That said, in the interest of judicial economy and to expedite the Court's consideration of this matter, Respondents make the following arguments:

1. Title 8 U.S.C. § 1252(g) bars review of Duarte Cantarero's claims. *Garcia v. Noem, et al.*, No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5 (M.D. Fla. Oct. 10, 2025).³

³ Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Respondents respectfully request the Court to suspend application of the rule in this instance. See Local Rule 1.01(a) and 1.01(b); Fed. R. Civ. P. 1.

2. Title 8 U.S.C. § 1252(b)(9) bars review of Duarte Cantarero's claims. *Id.* at 6-7.
3. Duarte Cantarero failed to exhaust his administrative remedies. *Id.* at 7-8.
4. Duarte Cantarero is properly detained under 8 U.S.C. § 1225. *Id.* at 9-14.

Finally, Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, outright release is inappropriate. To the extent the Court orders a bond hearing before an Immigration Judge for the purpose of determining whether Petitioner is a flight risk or danger to the community—*see, e.g., Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *6 (M.D. Fla. Oct. 31, 2025)—Respondents aver that such bond hearings are not conducted or managed by ICE, rather by the Executive Office for Immigration Review, which is not a proper party to this suit. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) (noting that for habeas petitions challenging detention, “the default rule is that the proper Respondents is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official”).

II. Release from custody is not available in an action alleging unconstitutional conditions of confinement.

Duarte Cantarero also challenges his conditions of confinement. *See* Doc. 1 at 7-8. “[R]elease from imprisonment is not an available remedy for a conditions-of-confinement claim.” *Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015 (per curiam)); *see also Hidalgo v. Parra*, No. 2:25-CV-01214-SPC-NPM, 2026 WL 113587, at

*1 (M.D. Fla. Jan. 15, 2026) (“Claims challenging the conditions of confinement, rather than the fact or duration of confinement, are not grounds for habeas relief.”) Indeed, in *Gomez v. United States*, the Eleventh Circuit stated that if conditions of confinement violate a prisoner’s constitutional rights, “[t]he appropriate Eleventh Circuit relief . . . is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment.” *Gomez v. United States*, 899 F.2d 1124, 1126-27 (11th Cir. 1990).

The Eleventh Circuit has further indicated that its holding from *Gomez* applies to civil detainees in ICE custody. See *Vaz*, 634 F. App’x at 781-82 (noting that a detained alien could not obtain release based on his conditions of confinement claim). This district has further refused to permit any exception for civil detainees in ICE custody. As stated in *St. Louis v. Martin*, “[R]elease under § 2241 unavailing when the alleged constitutional violation is predicated upon the conditions of a petitioner’s confinement.” No. 220CV349FTM60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020). Because Eleventh Circuit precedent precludes the Court from ordering release from custody, the petition should be denied.

III. This Court lacks jurisdiction to consider Duarte Cantarero’s contention that his T-Visa application precludes his detention.

Federal courts have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted). In the context of immigration habeas cases related

to removal proceedings—like here—the Immigration and Nationality Act (“INA”) divests this Court’s jurisdiction. Title 8 U.S.C. § 1252(g) provides, “[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” 8 U.S.C. § 1252(g). This provision bars habeas review in federal courts when the claim arises from “discrete acts of commencing proceedings, adjudicating cases, and executing removal orders.” *Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 483 (1999) (cleaned up). These activities “represent the initiation or prosecution of various stages in the deportation process” that Congress had “good reason” to withhold from judicial review. *Id.*

When construing § 1252(g), one must limit the application “to just those three specific actions” listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, “courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). At bottom, § 1252(g) bars review if the conduct “to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim.” *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).

Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“Because [alien] challenges the methods that ICE used to detain him prior to

his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021). “By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.” *Alvarez*, 818 F.3d at 1203.

Duarte Cantarero was detained “while awaiting a removal determination.” *Gupta*, 709 F.3d at 1065. Under *Gupta*’s binding interpretation of § 1252(g), this Court has no jurisdiction. *Id.* Immigration authorities decided to commence proceedings against Duarte Cantarero related to removal. Congress specifically stripped jurisdiction to review that discretionary decision; therefore, the Court lacks subject-matter jurisdiction over this case. The Court further lacks jurisdiction to stay Duarte Cantarero’s removal pending adjudication of a T-Visa application. *Westley v. Harper*, No. CV 25-229, 2025 WL 592788, at *4 (E.D. La. Feb. 24, 2025) (“[T]he key injunctive relief prayed for in the petition and motion – specifically, a stay of Petitioner’s removal from the United States in general and an order staying her removal until her T-visa application is fully adjudicated – falls outside of this Court’s jurisdiction.”).⁴

⁴ Respondents also note that a pending T-Visa application has no effect on DHS’s authority or discretion to execute a final order of removal. *See* 8 C.F.R. § 214.204 (“The filing of an Application for T Nonimmigrant Status has no effect on DHS authority or

CONCLUSION

Duarte Cantarero's Petition for Writ of Habeas Corpus should be denied.

DATED this 10th day of February, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

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Lead Counsel

discretion to execute a final order of removal, although the applicant may request an administrative stay of removal pursuant to 8 CFR 241.6(a).").

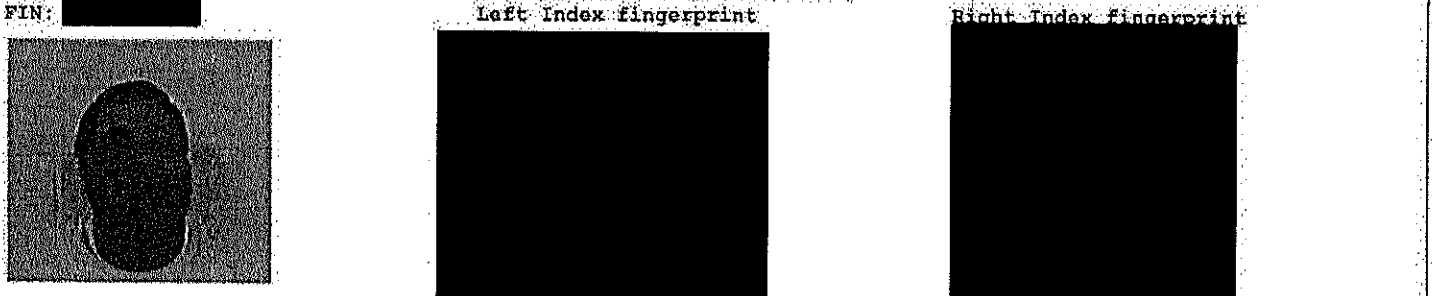
U.S. Department of Homeland Security

Subject ID: XXXXXXXXXX

Record of Deportable/Inadmissible Alien

Family Name (CAPS) DUARTE-CANTARERO, DENIS DAGOBERTO		First	Middle	Sex M	Hair BLK	Eyes BRN	Complexion MBR
Country of Citizenship HONDURAS	Passport Number and Country of Issue XXXXXXXXXX HONDURAS		Passport Number XXXXXXXXXX	Height 70	Weight 230	Occupation	
U.S. Address				Scars and Marks			
Date, Place, Time, and Manner of Last Entry Unknown Date Unknown Time, UNK, WI-Without Inspection				Passenger Boarded at			
Number, Street, City, Province (State) and Country of Permanent Residence				Method of Location Apprehension CA			
Date of Birth 1/1982	Age 43	Date of Action 01/10/2026	Location Code TAM/MIA	Arrest See I-831		Date/Time 01/10/2026 15:34	
City, Province (State) and Country of Birth HONDURAS		AR <input checked="" type="checkbox"/>	Form (Type and No.) L-Ret <input type="checkbox"/> Not Lifted <input type="checkbox"/>	By SCOTT BOWLING			
MIV Issuing Post and MIV Number		Social Security Account Name		Status at Entry		Status When Found	
Date Visa Issued		Social Security Number		Length of Time Illegally in U.S.			
Immigration Record NEGATIVE			Criminal Record See Narrative				
Name, Address, and Nationality of Spouse (Matrizen Name, if Appropriate)						Number and Nationality of Minor Children None	
Father's Name, Nationality, and Address, if Known DAGOBERTO, UNKNOWN NATIONALITY, HONDURAS			Mother's Present and Maiden Names, Nationality, and Address, if Known CANTARERO FUENTES, LADY NATIONALITY, HONDURAS				
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks See Narrative	Charge Code(s) See Narrative			
Name and Address of (Last/Current) U.S. Employer		Type of Employment	Salary	Employed from/to fr			

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regard to 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.)



FAMILY INFORMATION

Father: DAGOBERTO, UNKNOWN is a citizen of HONDURAS.
 Mother: CANTARERO FUENTES, LADY is a citizen of HONDURAS.
 Spouse: Subject is not married.
 Child: Subject does not have children or dependents.

OTHER ALIASES KNOWN BY:

DUARTE, DENIS DAGOBERTO (CONTINUED ON I-831)

Alien has been advised of communication privileges.

SB 1-10-26
(Date/Initials)

SCOTT BOWLING
Deportation Officer
Scott Bowling
(Signature and Title of Immigration Officer)

Distribution:
a file
cap
stata

Received: (Subject and Documents) (Report of Interview)
Officer: SCOTT BOWLING
on: January 10, 2026 (Date)
Disposition: Warrant of Arrest/Notice to Appear
Examining Officer: GONZALEZ, D 8820
[Signature]

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name DUARTE-CANTARERO, DENIS DAGOBERTO	File Number [REDACTED]	Date 01/10/2026
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SUBJECT HEALTH STATUS

The subject claims good health.

CURRENT CRIMINAL CHARGES

01/10/2026 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212

CURRENT ADMINISTRATIVE CHARGES

01/10/2026 - 212a6A1 - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

RECORDS CHECKED

EARM checked on 01/10/2026 with Positive result.

FUNDS IN POSSESSION

United States Dollar 97.00

ARRESTED AT/NEAR

5524 W CYPRESS ST, TAMPA, FLORIDA, 33607, UNITED STATES

RECORD OF DEPORTABLE/EXCLUDABLE ALIEN:

EWI pending U-Visa.
IMMIGRATION HISTORY:



Method of Encounter:

On January 7th, 2026, Duarte-Cantarero, Denis Dagoberto was encountered by Pinellas County Sheriff 287g Task Force Deputies. During the encounter it was determined through record checks and statements from Duarte, that he was illegally present in the U.S. without proper or valid documents. Duarte was placed under civil arrest at that time by Pinellas County 287g Task Force Deputies. Immigration and Customs Enforcement (ICE) Enforcement Removal Operations (ERO) Miami Office placed an Immigration Detainer, Form I-247, Warrant of Arrest, Form I-200, and an Order to Detain Or Release Alien, Form I-203 with Pinellas County Sheriff office.

Alienage and Removability:

Duarte-Cantarero, Denis Dagoberto, hereafter also referred to as, Duarte, is not a citizen or national of the United States (U.S.) and makes no claim to such. Duarte is not a Lawful Permanent Resident. Duarte admitted to being a citizen and national of Honduras. Duarte admits to having entered the United States without inspection and at a place other than an open and designated Port of Entry and is amenable to removal under 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act.

Immigration History:

Signature SCOTT BOWLING	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name DUARTE-CANTARERO, DENIS DAGOBERTO	File Number [REDACTED]	Date 01/10/2026
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Duarte was issued an Alien Registration Number: [REDACTED]
 Record checks show Duarte has no current legal immigration status.

Criminal History:

FBI#: [REDACTED]
 SID#: [REDACTED]
 PID#: [REDACTED]

No Criminal History

Pending traffic violation with Pinellas County

Family:

Duarte claims to be single.
 Duarte claims to have no children in the U.S.
 Duarte stated his mother is a citizen and resident of Honduras.
 Duarte stated his father is a citizen and resident of Honduras.

Health and Humanitarian:

Duarte claims to be in good health.

Gang Affiliation:

Duarte claims no gang affiliation.

Military Service:

Duarte claims to have never served in the United States or foreign Military and has no formalized Police or Military Training.

Fear Claim:

Duarte does not claim fear of persecution and/or torture if he is returned to Honduras.

Disposition:

Duarte will be held in custody pending removal proceedings.

OTHER IDENTIFYING NUMBERS

ALIEN- [REDACTED]
 State Criminal Number/State Bureau Number- [REDACTED] (UNITED STATES)
 State Criminal Number/State Bureau Number- [REDACTED] (UNITED STATES)
 Other Biometric- [REDACTED]

Signature SCOTT BOWLING	Title Deportation Officer
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U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

File No. [REDACTED]


Date: 01/07/2026

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that DUARTE-CANTARERO, DENIS is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.



(Signature of Authorized Immigration Officer)

D 8520 GONZALEZ - (A) SDOO

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at Pinellas County Jail (Location)

on DUARTE-CANTARERO, DENIS on February 12, 2026, and the contents of this notice were read to him or her in the Spanish language.

SCOTT BOWLING (Language)

Deportation Officer Scott Bowling Name and Signature of Officer

Name or Number of Interpreter (if applicable)

U.S. Department of Homeland Security

Continuation Page for Form 

Alien's Name: DUARTE-CANTARERO, DENIS DAGOBERTO	File Number 	Date 01/07/2026
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OTHER ALIASES KNOWN BY

DUARTE, DENIS DAGOBERTO

Signature: GONZALEZ, D 8520	Title: (A) SDDO
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DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: DENIS DAGOBERTO DUARTE CANTARERO

currently residing at:

DHS / ICE 146 CCA RD LUMPKIN, GEORGIA 31815

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- 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 HONDURAS and a citizen of HONDURAS;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

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)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration Judge of the United States Department of Justice at:

146 CCA RD, PO BOX 248, LUMPKIN, GEORGIA 31815, EOIR Lumpkin, GA

(Complete Address of Immigration Court, including Room Number, if any)

on March 4, 2026 at 9:00 am to show why you should not be removed from the United States based on the

(Date) (Time)

charge(s) set forth above.

TARTANGER STEPHENS - SDO
(Signature and Title of Issuing Officer)

Date: February 9, 2026

Lumpkin, GA
(City and State)

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 8 CFR 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 I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-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/ice>, 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(a)(1), such action complied with 8 U.S.C. § 1367.

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)

(Signature and Title of Immigration Officer)

Date: _____

Certificate of Service

This Notice To Appear was served on the respondent by me on _____ 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 Spanish 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.

Refused To Sign
(Signature of Respondent if Personally Served)

[Signature]
(Signature and Title of officer)

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-sorn>. 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: EOR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/ops/dj-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.