

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SUSANA RAQUEL ORTUNO MORILLO,

Petitioner,

vs.

PAMELA BONDI, Attorney General,

KRISTI NOEM, Secretary, U.S. Department
of Homeland Security,

TODD M. LYONS, Acting Director of
Immigration and Customs Enforcement,

DIRECTOR, Office of the Principal Legal
Advisor, El Paso (Chaparral), Chaparral Field
Office of Immigration and Customs
Enforcement, and

DORA CASTRO, Warden, Otero County
Processing Center,

Respondents.

Case 2:26-cv-00290-KG-KRS

**RESPONDENTS' MOTION TO DISMISS
PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

Respondents, Immigration and Customs Enforcement (“ICE”), the Department of Homeland Security (“DHS”), and the United States Attorney General (“USAG”) (collectively “Respondents”)¹, hereby submit this Response to Petition for Writ of Habeas Corpus (Doc. 1).

¹ The undersigned does not represent Dora Castro, Warden, Otero County Processing Center, as Otero is a private facility, and Warden Castro is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply equally to Warden Castro.

Petitioner is a noncitizen of the United States and national of Venezuela who asks this Court to order Respondents to release her from federal custody or order a bond hearing. Doc. 1, at 2. Petitioner is currently detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Petitioner alleges violations of the 5th Amendment Due Process Clause, the Immigration and Nationality Act (“INA”), and the Administrative Procedures Act (“APA”). Doc. 1, at 8-10.

Respondents request this Court dismiss Petitioner’s Writ of Habeas Corpus (Doc. 1) for the following reasons:

I. Court Lacks Subject Matter Jurisdiction

When an immigration officer determines a noncitizen is inadmissible under §1225(b), that officer shall order the noncitizen removed from the United States without further hearing or review, stripping the court of jurisdiction. *See* 8 U.S.C. § 1225(b)(1)(A)(i). There is, therefore, no subject matter jurisdiction for this Court to review the §1225(b)(1) determination² in this case.

Additionally, while Petitioner’s asylum proceedings are pending her claims are not ripe for review.

II. Petitioner’s Due Process Rights Have Been Met

Petitioner is an “arriving alien” under §1225(b)(1)(A), and as such is not entitled to any additional due process beyond that specifically prescribed by statute, which has been followed.

There has been no due process violation as a matter of law.

III. Petitioner Fails to State a Claim Upon Which Relief Can Be Granted

Respondents conduct, as a matter of law, was not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. Doc. 1, at 11; *See also* 5 U.S.C. §

² For clarity throughout this motion, a §1225(b)(1) determination is the finding of inadmissibility and order for expedited removal of an arriving alien by an immigration officer.

706(2)(A). Petitioner’s requested remedy of release is not authorized nor warranted under the INA, the APA, or any other legal authority.

FACTUAL BACKGROUND

On or about May 26, 2024, Petitioner entered the United States at the Hidalgo, Texas Port of Entry without being in possession of valid documentation that would allow her lawful entrance into the United States. Exhibit A – NTA.

On January 20, 2026, ICE/ERO encountered Petitioner in Saint Paul, Minnesota. Petitioner was transferred to El Paso, Texas, for processing due to lack of space. Exhibit B – I-213.

On January 27, 2026, Petitioner was charged with a violation of 8 U.S.C. § 1182, that being alien inadmissibility.

In summary, Petitioner entered the United States as an arriving alien, who is inadmissible to the United States. Petitioner is detained pursuant to 8 U.S.C. § 1225(b) pending re-opened removal proceedings.

LEGAL BACKGROUND

I. Detention of “Arriving Aliens” Under §1225 and Aliens Under §1226

Generally, when a noncitizen, such as Petitioner, arrives in the United States, they are “an applicant for admission,” who must “be inspected by immigration officers” to ensure that they may be admitted into the country. 8 U.S.C. § 1225(a)(1), (a)(3). These noncitizens are often referred to as “arriving aliens” and include individuals who are inadmissible due to fraud, misrepresentation, or lack of valid documentation to enter the United States. 8 C.F.R. § 1001.1; *See also* 8 U.S.C. § 1225(b)(1)(A)(i). Aliens who enter illegally, but are detained shortly after unlawful entry, cannot be said to have “effected an entry” and remain, similar to an alien detained at a port of entry, “on

the threshold” and subject to §1225. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

These arriving aliens can be subject to an expeditious process to remove them from the United States. 8 U.S.C. § 1225(b)(1). Under this process, known as expedited removal, arriving aliens who entered illegally, lack valid entry documentation or make material misrepresentations shall be “order[ed]...removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under [8 U.S.C. § 1158] or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i). Even if an arriving alien is not determined to be inadmissible pursuant to §1225(b)(1), they may still be subject to mandatory detention. *See e.g.*, 8 U.S.C. § 1225(b)(2)(A). An applicant who is not determined to be inadmissible nonetheless “shall be detained for a [removal] proceeding” unless the examining immigration officer determines that the noncitizen is “clearly and beyond a doubt entitled to be admitted.” *Id.*

When a noncitizen, like Petitioner, is charged as removable *from within the United States*, §1226 “generally governs the process of arresting and detaining...aliens pending their removal.” 8 U.S.C. § 1226(a); *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Under §1226(a), “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). By contrast, §1226(c) provides that the government “shall” take into custody any alien who has committed any one in a set of articulated crimes. 8 U.S.C. § 1226(c)(1).

II. §1225 and §1226 Due Process Considerations

The difference between these noncitizens is significant for due process purposes. *Thuraissigiam*, 591 U.S. at 106–07, 138–40; *See also Mendoza-Linares v. Garland*, 51 F.4th 1146, 1148 (9th Cir. 2022) (noting the “unique constitutional status of arriving aliens with no ties to the

United States”). For example, the Supreme Court considered whether §1225(b) imposes a time limit on the length of detention and whether such noncitizens detained under this authority have a statutory right to a bond hearing. *Jennings*, at 296–303 (The Supreme Court held that “nothing in the statutory text [of §1225(b)] imposes any limit on the length of detention” nor “says anything whatsoever about bond hearings.”) The sole means of release for noncitizens detained pursuant to §1225(b) is temporary parole *at the discretion of DHS* under 8 U.S.C. § 1182(d)(5). *Id.* at 300.

For “more than a century” the Supreme Court has held the rights of such noncitizens are confined exclusively to those granted by Congress. *Thuraissigiam*, 591 U.S. at 131; *See also Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892) (“the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.”); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (“This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative”); *Shaugnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (an alien on the threshold of initial entry stands on a different footing: “Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned”).

Thuraissigiam dealt with a habeas action involving a noncitizen, like Petitioner, detained under §1225(b) who raised 5th Amendment Due Process challenges. *Thuraissigiam*, 591 U.S. at 106–07. The Supreme Court reiterated that a noncitizen seeking initial entry to the United States has no entitlement to any legal rights, constitutional or otherwise, other than those expressly provided by statute. *Id.* at 107 (a noncitizen seeking initial entry “has no entitlement to procedural rights other than those afforded by statute”); *See also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (quoting *Mezei*, 345 U.S. at 212) (“[O]ur immigration laws have long made a distinction

between those aliens who have come to our shores seeking admission...and those who are within the United States after an entry, irrespective of its legality. In the latter instance, the Supreme Court has recognized additional rights and privileges not extended to those in the former category who are merely ‘on the threshold of initial entry.’”).

Accordingly, Congress may authorize the detention of aliens at the border, even for prolonged periods of time, and such detention does not deprive aliens “of any statutory or constitutional right.” *Id.* An alien who enters the country illegally is treated as an “applicant for admission” and has only those rights that Congress has provided by statute. *Thuraissigiam*, 591 U.S. at 140. The due process clause requires nothing more. *Id.*

III. Judicial Review of §1225(b)(1) Determinations

More broadly, the Supreme Court has long recognized the political branches’ broad power over immigration is “at its zenith at the international border.” *United States v. Flores-Montano*, 541 U.S. 149, 152–53 (2004). The power to admit or exclude aliens is a sovereign prerogative vested in the political branches, and “it is not within the province of any court, unless expressly authorized by law, to review [that] determination.” *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950); *see also Kleindienst v. Mandel*, 408 U.S. 753, 765–66 n.6 (1972) (noting that the Supreme Court’s “general reaffirmations” of the political branches’ exclusive authority to admit or exclude aliens “have been legion”). Control of the nation’s borders is vested in the political branches because that authority is “vital and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations,” matters “exclusively entrusted to the political branches of government.” *Harisiades v. Shaughnessy*, 342 U.S. 580, 588–89 (1952).

Therefore, the Executive Branch has broad constitutional and statutory power over the administration and enforcement of the nation's immigration laws. *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950); *see, e.g.*, 6 U.S.C. § 202(4); 8 U.S.C. § 1103(a)(1), (3). Congress has delegated broad discretion to executive officials under the Immigration and Nationality Act (“INA”), and these grants of statutory authority are particularly sweeping in the context of parole. *Amanullah v. Nelson*, 811 F.2d 1, 6 (1st Cir. 1987). Similarly, the Executive Branch is provided significant deference when it decides to admit or exclude noncitizens, as this power is a sovereign prerogative. *Thuraissigiam*, 591 U.S. at 139 (quoting *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). The Constitution gives the political department of the government “plenary authority to decide which aliens to admit.” *Id.* (quoting *Nishimura Ekiu v. United States*, 142 U.S. 651, 659 (1892)). Critically, “a concomitant of that power is the power to set the procedures to be followed in determining whether an alien should be admitted.” *Id.* *See also Jennings*, at 286 (“To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering.”); *Shaughnessy*, at 544.

In 2007, the 10th Circuit held that “[t]he scope of judicial review of orders of removal under §1225(b)(1) is extremely narrow.” *Vaupel v. Ortiz*, 244 F. App'x 892, 894 (10th Cir. 2007). Judicial review of determinations made under 8 U.S.C. § 1225(b)(1) is available in habeas corpus proceedings, but such review is strictly limited to determinations of:

- (a) Whether the petitioner is an alien,
- (b) Whether the petitioner was ordered removed under such section, and
- (c) Whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a

refugee...or has been granted asylum

Id. at 894. *See also* 8 U.S.C. § 1252(e)(2)(A)-(C).

Section 1252(e)(5) further provides that in determining whether an alien has been ordered removed under §1225(b)(1), the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. *Id.* at 895 ("There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal").

In *Vaupel*, the petitioner argued the court may determine whether the expedited removal statute was lawfully applied to an alien. *Id.* However, the 10th Circuit emphasized the language of §1252(e)(5) "clearly and unambiguously precludes review in a habeas proceeding of whether the alien is actually inadmissible or entitled to any relief from removal." *Id.* *See also* *Brumme v. INS*, 275 F.3d 443, 447-48 (5th Cir.2001) (rejecting claim that §1252(e) permits habeas review of whether 8 U.S.C. §1225(b)(1) was applicable to petitioner); *Li v. Eddy*, 259 F.3d 1132, 1134 (9th Cir. 2001) ("on its face, [§1252(e)(2)] does not appear to permit the court to inquire into whether §1225(b)(1) was properly invoked, but only whether it was invoked at all. Were there any doubt of congressional intent, it is resolved by [§1252(e)(5)], that expressly declares that judicial review does not extend to actual admissibility").

IV. Subject Matter Jurisdiction

Federal courts are courts of limited jurisdiction; they are empowered to hear only those cases authorized and defined in the Constitution which have been entrusted to them under a jurisdictional grant by Congress. *Henry v. Off. of Thrift Supervision*, 43 F.3d 507, 511 (10th Cir. 1994). The party invoking federal jurisdiction, generally the plaintiff, bears the burden of establishing its existence. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 104 (1998). Rule 12(b)(1) allows defendants to raise the defense of lack of subject matter jurisdiction by motion.

See Fed. R. Civ. P. 12(b)(1). Rule 12(b)(1) motions to dismiss for lack of subject matter jurisdiction “generally take one of two forms: (1) a facial attack on the sufficiency of the complaint’s allegations as to subject matter jurisdiction; or (2) a challenge to the actual facts upon which subject matter jurisdiction is based.” *Ruiz v. McDonnell*, 299 F.3d 1173, 1180 (10th Cir. 2002).

Ripeness is a justiciability doctrine derived from the case or controversy clause of Article III. *Auto-Owners Ins. Co. v. Bolt Factory Lofts Owners Ass’n*, 823 F. App’x 686, 690 (10th Cir. 2020). Whether a claim is ripe for review bears on a court’s subject matter jurisdiction. *Id.* The Tenth Circuit has “distilled Article III’s ripeness requirement into a two-factor analysis, examining (1) ‘the fitness of the issue for review,’ and (2) ‘the hardship to the parties’ of withholding judicial review.” *Travelers Cas. Ins. Co. of Am. v. A-Quality Auto Sales, Inc.*, 98 F.4th 1307, 1314 (10th Cir. 2024). As to the first factor, for an action to be ripe for review it cannot be “dependent on ‘contingent future events that may not occur as anticipated or indeed may not occur at all.’” *Id.* The second factor considers whether the challenged action creates ‘a direct and immediate dilemma’ for the parties. *Id.*

V. Failure to State a Claim Upon Which Relief Can Be Granted

Pursuant to Federal Rule of Civil Procedure 12(b)(6), a party may move for dismissal if the complaint fails “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). To survive a Rule 12(b)(6) motion, the complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). This pleading standard does not impose a probability requirement, but it demands “more than a sheer possibility that a defendant has acted unlawfully.” *Id.* Although the court must accept the truth of all properly alleged facts and draw all reasonable inferences in the plaintiff’s favor, the plaintiff still “must

nudge the claim across the line from conceivable or speculative to plausible.” *Brooks v. Mentor Worldwide LLC*, 985 F.3d 1272, 1281 (10th Cir. 2021). The complaint must provide “more than labels and conclusions” or merely “a formulaic recitation of the elements of a cause of action,” because “courts are not bound to accept as true a legal conclusion couched as a factual allegation.” *Twombly*, at 555. There must be something more than “naked assertions devoid of further factual enhancement.” *Ashcroft*, at 678.

The court’s role when reviewing “a Rule 12(b)(6) motion is not to weigh potential evidence that the parties might present at trial, but to assess whether the plaintiff’s complaint alone is legally sufficient to state a claim for which relief may be granted.” *Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991).

ARGUMENT

I. Court Lacks Subject Matter Jurisdiction to Review §1225(b)(1) Determinations

Petitioner does not contest she is an alien, does not contest that she was lawfully admitted or that she has been granted asylum. *See generally* Doc. 1. Even if Petitioner has an asylum parole claim, judicial review of the §1225(b)(1) determination itself would remain barred. *Vaupel*, at 895 (“There shall be no review of whether the alien is actually inadmissible or *entitled to any relief from removal*”) (emphasis added). Petitioner has not been granted asylum, and therefore the §1225(b)(1) determination remains outside the scope of judicial review. *Id.* at 894. Furthermore, while Petitioner’s asylum claim is currently pending this matter is not ripe for judicial review.

For these reasons, the Court does not have subject matter jurisdiction to review this matter, and Petitioner’s Writ of Habeas Corpus (Doc. 1) should be dismissed. To the extent Petitioner may assert a constitutional challenge that would confer jurisdiction, Petitioner similarly fails to establish jurisdiction because there is no exception in §1252(e) providing authority to review

constitutional claims related to the application of §1225(b)(1).³ *See generally* 8 U.S.C. § 1252(e).

II. Petitioner’s Due Process Rights as §1225 “Arriving Alien” Have Been Met

Even should this Court find jurisdiction to review Petitioner’s §1225(b)(1) removal order, which would cut against binding 10th Circuit precedence, Petitioner’s limited due process rights have been met. Noncitizens in pre-removal detention generally fall within two categories: §1225 noncitizen arriving aliens seeking an initial entry and §1226 noncitizens who previously entered the United States. Petitioner’s temporary parole in the United States from May 2024 to January 2026 does not move her from the former into the latter classification, as the revocation of parole returns Petitioner to her original status. *See supra* n. 2. As an arriving alien under §1225, Petitioner has no due process protections beyond those afforded by statute. Petitioner has received all of the protections allowed by the relevant statutes, and therefore her due process challenge must fail. *See generally United States v. Verdugo-Urquidez*, 494 U.S. 259, 270–71 (1990); *Landon*, 459 U.S. at 32; *Mezei*, 345 U.S. at 212; *Thuraissigiam*, 591 U.S. at 131.

Additionally, ordering Petitioner’s immediate release would be contrary to the law governing immigration habeas proceedings. For example, in the context of noncitizens detained under §1226(c), courts have repeatedly held that they lack authority to order a mandatory detainee’s release pending conclusion of his immigration proceedings. *See generally Nyamekye v. Oddo*, 2023 WL 9271844, at *5 (W.D. Pa. Mar. 28, 2023) (denying request for immediate release and noting lack of authority to support such a request); *Davis v. Warden of Pike Cnty. Corr. Facility*, 2022 WL 4391686, at *4 (M.D. Pa. Aug. 18, 2022) (“The only remedy for an alien

³ In another context, Congress has specifically authorized judicial review of constitutional claims, notwithstanding statutory limitations on judicial review. *See* 8 U.S.C. § 1252(a)(2)(D). But that provision applies to the construction of subparagraphs (B) and (C) of § 1252(a)(2), which are inapplicable here, and explicitly does not apply to other provisions of § 1252 limiting judicial review. It is also applicable only to constitutional claims raised in petitions for review filed in an appropriate court of appeals. *Id.*

challenging their mandatory detention is a bond hearing”) (citing *Hernandez T. v. Wolf*, 2020 WL 634235, at *3 (D.N.J. Feb. 11, 2020). Thus, even if a bond hearing was an available remedy for Petitioner, granting immediate release is not authorized or warranted.

III. Petitioner Has Failed to State a Claim Upon Which Relief May be Granted

Petitioner alleges Respondents violated 5 U.S.C. § 706(2)(A) of the APA. Doc. 1, 10-11. Petitioner’s allegations are without merit as they seek to impose requirements on DHS not contemplated by the law governing arriving aliens. *See* 8 C.F.R. § 212.5(e)(2)(i); *Supra* note 3. Petitioner cites no authority indicating this process was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. *Id.* Similarly, Petitioner cites no authority that she would be entitled to *release* even if all Petitioner’s allegations were accepted as true.

For these reasons, Petitioner has failed to state a claim upon which relief may be granted, and Petitioner’s Writ of Habeas Corpus (Doc. 1) should be dismissed.

CONCLUSION

The Court should dismiss Petitioner’s Writ for Habeas Corpus (Doc. 1) for the following separate and independent reasons: 1) it lacks subject matter jurisdiction, as §1225(b)(1) determinations are barred from judicial review and Petitioner’s claims are not ripe; 2) Petitioner’s due process rights as a §1225 “arriving alien” have been met as a matter of law; and 3) Petitioner has failed to state a claim upon which relief may be granted. For these reasons, individually or collectively, dismissal is appropriate.

Respectfully submitted,

TODD BLANCHE
Deputy Attorney General
RYAN ELLISON
First Assistant United States Attorney



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 19, 2026, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties and counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.



SAMUEL A. HURTADO
Assistant United States Attorney

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

Event No: [REDACTED] 5973

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

Subject ID : [REDACTED] 338 FIN #: [REDACTED] 566

SIGMA Event: [REDACTED] 283 DOB: [REDACTED] 1995

File No: [REDACTED] 3064

In the Matter of: ORTUNO MORILLO, SUSANA RAQUEL

Respondent: ORTUNO MORILLO, Susana Raquel

1112 West John H Gwynn Junior Avenue, Peoria, ILLINOIS 61605, UNITED STATES OF AMERICA

currently residing at:

[REDACTED] 6549

(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 VENEZUELA and a citizen of VENEZUELA;
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;
4. On May 26, 2024, you applied for admission into the United States at the Hidalgo, Texas Port of Entry

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

- 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:

55 E MONROE STE 1500,
CHICAGO, IL, US 60603

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

on November 23, 2026 at 09:00 AM to show why you should not be removed from the United States based on the
(Date) (Time) DUARTE, Jason

charge(s) set forth above.

CBP OFFICER

(Signature and Title of Issuing Officer)

J.D.
Digitally Acquired Signature

Date: May 26, 2024

HIDALGO, TEXAS

(City and State)

GOVERNMENT
EXHIBIT
A

EOIR - 1 of 4

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/i-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 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 **SPANISH**

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 May 26, 2024, 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.

Susan O'Hara

Digitally Acquired Signature

(Signature of Respondent if Personally Served)

DUARTE, Jason

CBP OFFICER

(Signature and Title of officer)

J.D

Digitally Acquired Signature

EOIR - 2 of 4

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), US 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-notice-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: 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 ORTUNO MORILLO, SUSANA RAQUEL	File Number [REDACTED] 064 SIGMA Event: [REDACTED] 283 Event No: HID [REDACTED] 973	Date May 26, 2024
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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:

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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  DUARTE, Jason	Title CBP OFFICER
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Digitally Acquired Signature

4 of 4
EOIR

U.S. Department of Homeland Security		Subject ID : 401310244		Record of Deportable/Inadmissible Alien			
Family Name (CAPS) ORTUÑO MORILLO, SUSANA RAQUEL		First Middle		Sex F	Hair BRO	Eyes BRO	Complexion MBR
Country of Citizenship VENEZUELA		Passport Number and Country of Issue [REDACTED] 75		Height 59	Weight 110	Occupation NOT	
U.S. Address EL PASO, TEXAS, 79936, UNITED STATES		Date, Place, Time, and Manner of Last Entry Unknown Date Unknown Time,		Passenger Boarded at [REDACTED]		Scars and Marks	
Date of Birth [REDACTED] /1995		Age: 30		Date of Action 01/27/2026	Location Code SPM/SPM		
City, Province (State) and Country of Birth OCUMARE DEL TUY, VENEZUELA		AR <input checked="" type="checkbox"/> Form: (Type and No.) Lited <input type="checkbox"/> Not Lited <input type="checkbox"/>		By A10392 CROSBY		Date/Time 01/27/2026 10:23	
NIV Issuing Post and NIV 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					
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)		Number and Nationality of Minor Children None					
Father's Name, Nationality, and Address, if Known ORTUÑO, RICARDO NATIONALITY: VENEZUELA		Mother's Present and Maiden Names, Nationality, and Address, if Known MORILLO, SONIA NATIONALITY: VENEZUELA					
Mexico 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 Work(s) See Narrative	
Name and Address of (Last) Current U.S. Employer		Type of Employment See Narrative		Salary		Employed Home	
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.)							
FI [REDACTED] 666		Left Index fingerprint			Right Index fingerprint		
							
FAMILY INFORMATION							
Father: [REDACTED] R [REDACTED] is a citizen of VENEZUELA.							
Mother: [REDACTED] [REDACTED] is a citizen of VENEZUELA.							
Spouse: subject is not married.							
Child: subject does not have children or dependents.							
SUBJECT HEALTH STATUS							
The subject claims good health. ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges <u>1/27/26</u> <u>AO</u> (Date/Initials)		A10392 CROSBY Deportation Officer (Signature and Title of Immigration Officer)					
Distribution: FILE EPC		Received: (Subject and Documents) (Report of Interview) Office: A10392 CROSBY on: January 27, 2026 (Date) Disposition: Other Examining Office: BOOTH, B-8759					

Form I-213 (Rev. 08/01/07)



U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name ORTUNO MORILLO, SUSANA RAQUEL	File Number [REDACTED] 064 Event No: [REDACTED] 575	Date 01/27/2026
CURRENT CRIMINAL CHARGES		
01/27/2026 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212		
CURRENT ADMINISTRATIVE CHARGES		
01/27/2026 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)		
RECORDS CHECKED		
EARM checked on 01/27/2026 with Positive result. CIS checked on 01/27/2026 with Negative result. NCIC checked on 01/27/2026 with Negative result.		
TYPE OF EMPLOYMENT		
Occupation Not Reported		
ARRESTED AT/NEAR		
1512 7TH AVE, WAITE PARK, MINNESOTA, 56387, UNITED STATES		
RECORD OF DEPORTABLE/EXCLUDABLE ALIEN:		
ARREST/ENCOUNTER DATA:		
On 01/20/2026, the Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Homeland Security Investigation (HSI) with Task Force Officers (TFO) joint operation during operation SPM Metro Surge in Saint Paul, MN encountered ORTUNO MORILLO, SUSANA RAQUEL. ERO Saint Paul Field Office transferred ORTUNO to Camp East Montana (CEM) in El Paso, Texas for processing due to lack of space.		
IMMIGRATION HISTORY		
On 05/26/2024, ORTUNO Subject was processed for an NTA and paroled into the U.S. pending a 240 hearing by CBP in Hidalgo POE.		
CRIMINAL HISTORY		
FBI# 5L55W8JW5		
Criminal record checks revealed negative results.		
DISPOSITION		
ERO El Paso processed ORTUNO as OTHER.		
ORTUNO has no petitions pending.		
DNA SAMPLING/COLLECTION		
Pursuant to 34 U.S.C. 40702(a)(5), a DNA sampling was previously obtained.		
ORTUNO WAS ELECTRONICALLY BOOKED.		
OTHER IDENTIFYING NUMBERS		
ALIEN-[REDACTED] 064		
CBP One Confirmation Number [REDACTED] 442		
Signature A10392 CROSBY	Title Deportation Officer	