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Attorney for Petitioner

DETAINED

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

**BAEZ-SUAREZ,
MARLON EDDY**

Petitioner,

v.

**FIELD OFFICE DIRECTOR, RIPA GARRET,
U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,**

Respondent.

Case No.: 2:26-cv-755

PETITION FOR WRIT OF HABEAS CORPUS

Introduction

Petitioner, Marlon Eddy Baez Suarez, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from detention by the Department of Homeland Security (DHS). Petitioner has been detained since August 25, 2025, following the Immigration Judges decision to dismiss the removal proceedings without allowing Petitioner an opportunity to respond. Petitioner asserts that his continued detention violates his constitutional rights under the Due Process Clause of the Fifth Amendment. Respondent timely

submitted an appeal accordingly. *A true and correct copy of the Appeal is hereby attached as Exhibit A.*

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, as Petitioner is in custody under the authority of the United States, and his detention violates the Constitution, laws, or treaties of the United States.
2. Venue is proper in the Southern District of Florida because Petitioner is detained within this district at a facility under the jurisdiction of DHS in Florida Soft Side South Located At 54575 TAMiami Trl E., Ochopee, FL 34141.

PARTIES

3. Petitioner Marlon Baez Suarez is a native and citizen of Cuba who has been detained by ICE since August 25, 2025. *A true and correct copy of Petitioner's Cuban passport is hereby attached as Exhibit B.*
4. Respondent, the Department of Homeland Security, is the federal agency responsible for Petitioner's detention, corresponding Field Office Director, U.S. Immigration and Customs Enforcement are also involved in the detention of Mr. Baez.

FACTUAL BACKGROUND

5. Petitioner entered the United States on or about 2023 and was subsequently placed in removal proceedings under Section 240 of the Immigration and Nationality Act.
6. On August 25, 2025, during the Master Calendar Hearing, the Immigration Judge dismissed the removal proceedings, despite Petitioner's objection and stated intent to pursue asylum relief.

7. Specifically, Respondent contends there was a violation of Due Process, as he was not provided with a reasonable and adequate opportunity to oppose the DHS Motion to Dismiss, thus impairing his right to a fair hearing.
8. Petitioner has been detained since August 25, 2025, and remains in custody without a possibility for bond determination, as on January 8, 2026 Immigration Judge denied bond representing not to have jurisdiction and cited to *Matter of Yajure Hurtado and Matter of M-S- and Matter of Q. Li*. *A true and correct copy of the bond order is hereby attached as Exhibit C.*
9. Petitioner has not been afforded a meaningful opportunity to challenge the legality of his detention or to seek release on bond.

LEGAL BASIS

10. Petitioners continued detention violates the Due Process Clause of the Fifth Amendment, as it is arbitrary, punitive, and not reasonably related to any legitimate government purpose.
11. Under Zadvydas v. Davis, 533 U.S. 678, 121 S. Ct. 2491 (2001), detention of noncitizens is permissible only for a period reasonably necessary to secure removal. In this case, removal proceedings have been dismissed without prejudice, and there is no imminent prospect of removal.
12. Petitioners detention is further unlawful under 8 U.S.C. § 1226(a), which provides for the possibility of release on bond pending the resolution of removal proceedings. Petitioner has been denied this opportunity.
13. The Immigration Judges decision to grant DHSs motion to dismiss without affording Petitioner a fair opportunity to present his asylum claim or seek other relief constitutes a violation of procedural due process.

REQUEST FOR TEMPORARY RESTRAINING ORDER (EMERGENCY)

Petitioner requests entry of a TRO pursuant to Federal Rule of Civil Procedure 65.

A. Immediate and Irreparable Harm

Absent immediate injunctive relief, Petitioner faces a substantial risk of transfer outside Florida, which may impair his access to counsel, disrupt litigation of this Petition, and cause irreparable harm not fully remediable after the fact.

B. Likelihood of Success on the Merits

Petitioner contends he is detained without cause in violation of due process.

C. Balance of Equities and Public Interest

The balance of equities favors maintaining the status quo pending adjudication of the legality of Petitioner's detention.

The public interest is served by ensuring that detention complies with constitutional requirements and that courts can effectively review challenges to executive custody.

D. Requested TRO Terms

Petitioner requests that the Court enjoin Respondents, their agents, employees, and all persons acting in concert with them from transferring Petitioner outside the State of Florida during the pendency of this action, absent further order of the Court.

Petitioner further requests that the Court order Respondents to provide Petitioner's counsel at least hours' advance written notice of any proposed transfer.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus directing Respondent to immediately release Petitioner from custody;

2. Declare that Petitioners continued detention violates the Due Process Clause of the Fifth Amendment;
3. Order Respondent to provide Petitioner with a bond hearing before an Immigration Judge within seven (7) days;
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Leslie Cabrera

Leslie Cabrera, Esq.
Attorney for Respondent
Abogados W
4700 Millenia Blvd, Ste 500
Orlando, FL, 32839
Email: leslie@abogadosw.com
Phone: (305) 507-7442

Date: March 17, 2026

TAB A



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS**

Moncada Cruz, Karla J
MONCADA LAW, P.A.
5534 Sw 161st Place
Miami, FL 33185

DHS/ICE Office of Chief Counsel - KRO
18201 SW 12th St.
Miami, FL 33194

Name:

BAEZ-SUAREZ, MARLON EDDY



Riders:

Date of Notice: 01/28/2026

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 01/28/2026, in the above-referenced case, filed by the Respondent

Additional Comments

N/A

WARNING FOR APPEALS:

Departure. If you leave the United States after filing this appeal but before the Board issues a decision, your appeal may be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).

Proof of posting voluntary departure bond. If you have been granted voluntary departure by the Immigration Judge, you must submit proof of having posted the voluntary departure bond set by the Immigration Judge to the Board. Your submission of proof must be provided to the Board within 30 days of filing this appeal. If you do not timely submit proof to the Board that the voluntary departure bond has been posted, the Board cannot reinstate the period of voluntary departure. 8 C.F.R. § 1240.2(c)(3)(ii).

Autostay Bond Appeals. Please note that the automatic stay will expire 90 days from the date of receipt of the DHS' appeal. 8 C.F.R. § 1003.6(c)(3). If the Board grants the respondent's request for additional briefing time, then the 90-day automatic stay period will be tolled for the same number of days. 8 C.F.R. § 1003.6(c)(4).

Form EOIR-27. If the appeal was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

WARNING FOR MOTIONS:

Stay of removal. Filing a motion with the Board does not automatically stop the DHS from executing an order of removal. If the respondent/applicant is in DHS detention and is about to be removed, you may request the Board to stay the removal on an emergency basis. For more information, call the Clerk's Office at (703) 605-1007.

Form EOIR-27. If the motion was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

FILING INSTRUCTIONS:

If you have any questions about how to file something at the Board, please review the Board's Practice Manual which is available on EOIR's website at www.justice.gov/eoir.

Accepted by: MesfinH

CC



Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Moncada Cruz, Karla J
MONCADA LAW, P.A.
5534 Sw 161st Place
Miami, FL 33185

DHS/ICE Office of Chief Counsel - MIA
333 SOUTH MIAMI AVE., SUITE 200
Miami, FL 33130

Name: BAEZ-SUAREZ, MA...



Type of Proceeding: Removal

Date of this notice: 9/11/2025

Type of Appeal: Case Appeal

Filed by: Alien

FILING RECEIPT FOR APPEAL

The Board of Immigration Appeals acknowledges receipt of your appeal and fee or fee waiver request (where applicable) on 9/9/2025 in the above-referenced case.

WARNING: If you leave the United States after filing this appeal but before the Board of Immigration Appeals (Board or BIA) issues a decision, your appeal will be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).

WARNING: If you have been granted voluntary departure by the Immigration Judge, you must submit sufficient proof of having posted the voluntary departure bond set by the Immigration Judge to the Board. Your submission of proof must be provided to the Board within 30 days of filing this appeal. If you do not timely submit proof to the Board that the voluntary departure bond has been posted, the Board cannot reinstate the period of voluntary departure. 8 C.F.R. § 1240.26(c)(3)(ii).

FILING INSTRUCTIONS:

If the respondent/applicant is represented by counsel, a Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27) must be filed with the Board.

If the respondent/applicant is unrepresented (also called pro se) and receives assistance on documents to be filed with the Board (such as help preparing an appeal, motion, form, briefs, or other documents), a Notice of Entry of Limited Appearance for Document Assistance before the Board of Immigration Appeals (Form EOIR-60) must be submitted with the document(s) that assistance was provided when filed with the Board.

In all future correspondence or filings with the Board, please list the name and registration number ("A" number) of the case (as indicated above), as well as all of the names and "A" numbers for every family member who is included in this appeal.

Certificate of service on the opposing party at the address above is required for ALL submissions to the Board of Immigration Appeals -- including correspondence, forms, briefs, motions, and other documents. If you are the Respondent or Applicant, the "Opposing Party" is the DHS Counsel or the Director of HHS/ORR at the address shown above. Your certificate of service must clearly identify the document sent to the opposing party, the opposing party's name and address, and the date it was sent to them. Any submission filed with the Board without a certificate of service on the opposing party will be rejected. See Chapter 3.2 (Service) of the Board's Practice Manual.

FILING INSTRUCTIONS -- IMPORTANT REMINDER

Electronic filing through ECAS is mandatory for attorneys and accredited representatives appearing as practitioners of record (filed a Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27)), as well as for DHS in every case that is eligible for electronic filing. See 8 C.F.R. §§ 1003.2(g)(4), 1003.3(g)(1), 1003.31(a).

Where electronic filing is not required, use of an overnight courier service to the address listed in the **FILING ADDRESS** section below is encouraged to ensure timely filing.

FILING ADDRESS:

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

Business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m.

cc:

VonackS

Userteam: PCM

TAB C



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI KROME IMMIGRATION COURT**

Respondent Name:

BAEZ-SUAREZ, MARLON EDDY

To:

Moncada Cruz, Karla J
5534 Sw 161st Place
Miami, FL 33185

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

01/08/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- ☒ Denied, because
No jurisdiction. Matter of Yajure Hurtado and Matter of M-S- and Matter of Q. Li

Respondent is in expedited removal proceedings.

- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☐ released from custody under bond of \$
 - ☐ other:

- ☐ Other:



Immigration Judge: Pereira, Jorge 01/08/2026

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved
Appeal Due: 02/09/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : BAEZ-SUAREZ, MARLON EDDY | A-Number :



Riders:

Date: 01/08/2026 By: TURCIOS, MAYRA, Court Staff