

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

KWADWO HUMPHREY,	:	
	:	
	:	
Petitioner,	:	CIVIL ACTION
	:	NO. 26-cv-1822
	:	
	:	
JOHN E. RIFE, et al.,	:	
	:	
Respondents.	:	

**RESPONSE IN OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS**

DAVID METCALF
United States Attorney

GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

ANTHONY ST. JOSEPH
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
Anthony.stjoseph@usdoj.gov
(215) 861-8267

Dated: April 8, 2026

I. INTRODUCTION¹

Petitioner entered the United States without authorization in 2003. Ex. A – OSUP Revocation Worksheet, March 9, 2026. In 2009, the Immigration Judge order Petitioner removed from the United States. *Id.* Having obtained a valid travel document, ICE revoked Petitioner’s Order of Supervision on March 18, 2026 to effectuate his removal. Ex. B – Notice of Revocation of Release. Petitioner now seeks a writ of habeas corpus, challenging the lawfulness of his detention pending removal under the Immigration and Nationality Act (INA), 8 U.S.C. § 1231, after Immigration and Customs Enforcement (ICE) revoked his Order of Supervision.

Petitioner is an alien with a final order of removal that ICE, having obtained valid travel documents for the Petitioner, intends to effectuate in the reasonably foreseeable future. As discussed below, because Petitioner’s detention comports with the INA, the regulations, the Fifth Amendment to the U.S. Constitution, and the Administrative Procedures Act, the Court should deny the petition for writ of habeas corpus.

II. DETENTION FRAMEWORK UNDER THE INA AND REGULATIONS

In general, when an alien in detention is ordered removed, the INA provides the United States with ninety days to execute the removal. 8 U.S.C. § 1231(a)(1)(A). This “removal period” begins to run on the latest of three dates:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

¹ Petitioner filed a companion complaint (26cv1868) seeking mandamus compelling USCIS to adjudicate an application for a provisional waiver of inadmissibility. The Government’s response in that matter is not yet due.

Id. § 1231(a)(1)(B). During the removal period, the Attorney General is required to detain certain criminal aliens. *See id.* § 1231(a)(2)(A). Moreover, the detention of certain aliens, including inadmissible aliens like Petitioner, may be continued beyond the initial ninety days, or the alien may be released. *Id.* § 1231(a)(6); 8 C.F.R. §§ 241.4(a), (d)(1). After ninety days have lapsed, ICE, in its discretion, may release an alien if he shows, to the satisfaction of ICE, that he “will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien’s removal[.]” 8 C.F.R. § 241.4(d)(1).

An alien’s custody determination is made by either a district director, *see id.* § 241.4(h), or the Executive Associate Commissioner (EAC) of ICE, *see id.* § 241.4(h). *See also id.* § 241.4(h)(5) (providing delegation authority to directors). If a district director is conducting the custody determination, he must “provide written notice to the [alien] approximately 30 days in advance of the pending records review so that the alien may submit information in writing in support of his or her release.” *Id.* § 241.4(h)(2). The “custody review will consist of a review of the alien’s records and any written information submitted in English to the district director by or on behalf of the alien.” *Id.* § 241.4(h)(1). The director “*may*[,] in his or her discretion[,], schedule a personal or telephonic interview with the alien as part of this custody determination.” *Id.* (emphasis added). Once the director makes his decision, he must notify the alien of such decision. *Id.* § 241.4(h)(4).

If an alien is released, he is subject to supervision by the Secretary of Homeland Security. *See* 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.5 (specifying conditions of release). An alien’s supervised release may be revoked by either the EAC or a district director when, “in the district director’s opinion, revocation is in the public interest and circumstances do not

reasonably permit referral of the case to the [EAC].” 8 C.F.R. § 241.5(l)(2). In either scenario, the EAC or district director may revoke a release for one of four reasons:

- (i) The purposes of release have been served;
- (ii) The alien violates any condition of release;
- (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
- (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

Id.

An alien subject to ICE’s discretionary release revocation will be afforded an “initial informal interview” promptly after return to custody, during which time the alien will be afforded an “opportunity to respond to the reasons for revocation.” *Id.* § 241.4(l)(1). ICE will later review an alien’s record and schedule a more thorough, formal interview, “which will ordinarily be expected to occur within approximately three months after release is revoked.” *Id.* § 241.4(l)(3). “That custody review will include a final evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.*

In making a custody determination, ICE shall consider the ability to obtain a travel document, *i.e.*, a passport, for the alien. 8 C.F.R. § 241.4(g)(3). If, in ICE’s judgment, travel documents can be obtained or are forthcoming, “the alien will not be released unless immediate removal is not practicable or in the public interest.” *Id.*

III. FACTUAL AND PROCEDURAL HISTORY

Petitioner, a native and citizen of Ghana, entered the United States on or about May 19, 2003, on a B-2 nonimmigrant visitor visa. Ex. C - Notice to Appear (NTA), 6/9/09; ECF 1, Ex. 1-3, p 019. The terms of that nonimmigrant visa permitted Petitioner to remain in the United States

for a temporary period not to exceed July 27, 2003. *Id.* Petitioner did not leave the United States when the terms of his visa expired.

On June 29, 2009, ICE issued Petitioner a Notice to Appear (NTA). Ex. C - NTA. The immigration judge ordered Petitioner removed on November 12, 2009. *See* Ex. D – Order of the Immigration Judge. Petitioner reserved his right to appeal but in fact did not appeal his removal order. *Id.* ICE released Petitioner on an Order of Supervision on February 25, 2010. Ex. E – Order of Supervision, 2/25/2010.

Petitioner subsequently filed a motion to reopen his removal proceedings, which the immigration judge denied in 2018. Ex. F – Denial, Motion to Reopen, 10/24/2018. Petitioner then appealed the immigration judge’s denial to the Board of Immigration Appeals (BIA), which upheld the immigration judge’s denial in 2019. Ex. G – BIA Denial, 4/26/2019. Petitioner’s removal order remains final and is not subject to appeal. Petitioner has continued to reside in the United States under the 2010 Order of Supervision.

On March 12, 2026, Petitioner reported to the ICE, Enforcement and Removal Operations (ERO) Field Office for an appointment mandated by his Order of Supervision. At this appointment, ICE served Petitioner with a Notice of Revocation of his release based on a significant likelihood of his removal in the reasonably foreseeable future. *See* Ex. B.

Despite his final order of removal, Petitioner now challenges ICE’s conduct in revoking his release and detaining him to facilitate that removal. ECF 1. However, as demonstrated below, ICE’s conduct complied with the INA, applicable regulations at 8 C.F.R. § 241.4, the Fifth Amendment to the U.S. Constitution, and the Administrative Procedures Act. Therefore, the Court should deny the petition for a writ of habeas corpus.

IV. LEGAL STANDARD

A writ of habeas corpus is an “extraordinary remedy.” *Shinn v. Ramirez*, 596 U.S. 366, 377 (2022). The petitioner bears the burden of showing his confinement is unlawful. *Hawk v. Olson*, 326 U.S. 271, 279 (1945); accord *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) (habeas petitioner “carries the burden of proof”); *see also* 28 U.S.C. § 2241.

Judicial review of immigration matters, including detention issues, is limited. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. Am.-Arab Anti-Discrimination Comm. (AADC)*, 525 U.S. 471, 489–92 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (“[T]he power over aliens is of a political character and therefore subject only to narrow judicial review.”). The Supreme Court has “underscore[d] the limited scope of inquiry into immigration legislation,” and “has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.” *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Mathews v. Diaz*, 426 U.S. 67, 79–82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) (“Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government’s political departments largely immune from judicial control.”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of this deportation procedure.”); *Demore v. Kim*, 538 U.S. 510, 531 (2003) (“Detention during removal proceedings is a constitutionally permissible part of that process.”); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018) (“Congress has authorized immigration officials to detain

some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Petitioner must make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power").

V. ARGUMENT

The Court should deny the petition because: (1) Petitioner's detention is lawful under 8 U.S.C. § 1231 and the U.S. Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678 (2001); (2) revocation of Petitioner's order of supervision complied with the regulations at 8 C.F.R. § 241.4; and (3) Petitioner's detention comports with the Fifth Amendment's Due Process Clause.

A. Petitioner's detention is lawful under 8 U.S.C. § 1231 and *Zadvydas*

As discussed above, an alien with a final order of removal is subject to the detention and removal standards set forth at 8 U.S.C. § 1231. This statute directs that an alien ordered removed be removed within ninety days of his order becoming final and that he remain detained during that timeframe. 8 U.S.C. § 1231(a)(1)(A), (a)(2)(A). However, if the government is unable to remove an individual during that statutory period, the INA empowers ICE to release him on an order of supervision. 8 U.S.C. § 1231(a)(3).

When removal is not effectuated within the 90-day statutory period, the government may continue to detain an alien—or to detain him again in the future for the purpose of executing the order—and there is no statutory limit on how long that post-removal detention period may last. *Johnson v. Arteaga-Martinez*, 596, U.S. 573, 579 (2022). The U.S. Supreme Court has nevertheless interpreted the post-removal period to allow extended detention for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. Pursuant to *Zadvydas*, detention for up to six months after the removal order becomes final is “presumptively reasonable.” *Id.* at 701. However, the lapse of the presumptive period does not mandate release, as the Supreme Court reasoned that “an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

Here, the immigration judge’s order became administratively final on November 12, 2009. *See* Ex. D. ICE released Petitioner on an Order of Supervision on February 25, 2010. Ex. E. While under the Removal Order and under the Order of Supervision, Petitioner unsuccessfully tried to reopen his removal proceedings, which both an immigration judge and the BIA denied. Ex. F, Ex. G.

As of the date of this writing, Petitioner has been detained for less than the “presumptively reasonable” six-month period articulated in *Zadvydas*. Thus, Petitioner’s detention is plainly lawful.

However, even if Petitioner had been detained for more than six months, he has not met his burden in demonstrating that there is not a significant likelihood of removal in the foreseeable future. *Zadvydas* makes clear that, after the six-month period of detention, the alien must then provide “good reason to believe that there is no significant likelihood of

removal in the foreseeable future,” after which time the burden shifts to the government to “furnish evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 680.

Moreover, evidence of record indicates that Petitioner’s removal is in fact reasonably foreseeable. ICE is in possession of the necessary document to effectuate Petitioner’s removal.

Moreover, the Removal and Management Division of ICE Headquarters advised ICE/ERO that it obtained a travel document for Petitioner such that a significant likelihood of Petitioner’s removal exists in the reasonably foreseeable future. Ex. A. Thus, all signs point to ICE’s ability to remove Petitioner in the reasonably foreseeable future, and any speculation of future relief from removal is not ripe for review by this Court. *See Texas v. United States*, 523 U.S. 296, 300 (1998) (“A claim is not ripe for adjudication if it rests upon ‘contingent future events that may not occur as anticipated, or indeed may not occur at all.’”). Accordingly, Petitioner’s detention is lawful under the INA and *Zadvydas*.

B. ICE’s revocation of Petitioner’s release complies with 8 C.F.R. § 241.4

The revocation of release is also lawful under the regulations at 8 C.F.R. § 241.4, which governs custody determinations for aliens like Petitioner who are inadmissible under 8 U.S.C. § 1182. As discussed above, 8 C.F.R. § 241.4(l) permits ICE to revoke an alien’s release under an order of supervision and return the alien to custody in four circumstances: (i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal order; (iv) or the conduct of the alien demonstrates that release is no longer appropriate. 8 C.F.R. § 241.4(l)(2)(i)-(iv). This determination may be made by either the EAC in her discretion or the district director when, “in the district

director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the [EAC].” *Id.* § 241.4(l)(2).

i. The reasons for revocation are proper under 8 C.F.R. § 241.4

Here, ICE revoked Petitioner's release to enforce his removal order as permitted under 8 C.F.R. § 241.4(l)(2)(iii). The Notice of Revocation, which was served on Petitioner on March 18, 2026 advised Petitioner that ICE revoked his release pursuant to 8 C.F.R. § 241.4(l) because “it is appropriate to enforce the removal order entered against [him] as ICE has the means and ability to effectuate [his] removal.” Ex. C. The Notice of Revocation goes on to advise that ICE possess a travel document to effect his expeditious removal to Ghana. *Id.*

Petitioner's Order of Supervision paperwork, which was read and explained to him, which he signed, and of which he received a copy, further placed Petitioner on notice of his possible removal. *See* Ex. D.

Petitioner nonetheless argues that ICE acted unlawfully in revoking his release because there was no change in circumstances. ECF 1 ¶ 32. However, a change in circumstances is not required to revoke release under 8 C.F.R. § 241.4(l)(2). To the contrary, 8 C.F.R. § 241.4(l)(2) permits revocation in four narrow circumstances, including, as here, where it is appropriate to enforce a removal order. *See* 8 C.F.R. § 241.4(l)(2)(i)-(iv). Moreover, even if a change in circumstances was required, the advice from ICE's Removal Management Division regarding the likelihood of Petitioner's removal, coupled with ICE receiving a travel document, constitutes a change in circumstances justifying Petitioner's return to custody and release revocation. Therefore, the Court should find that ICE properly revoked Petitioner's release for reasons enumerated in 8 C.F.R. § 241.4(l)(1)-(2).

ii. A Field Office Director has authority to revoke Petitioner’s release under 8 C.F.R. § 241.4(l)

The Court should find that a Field Office Director has authority under 8 C.F.R. § 241.4(l)(2) to revoke an Order of Supervision. While the language of 8 C.F.R. § 241.4(l)(2) uses the term “district director,” this is the equivalent of a Field Office Director today following the 2003 reorganization of the INS into the Department of Homeland Security. *See* 8 C.F.R. § 1.2 (defining “district director” after March 2003 to mean, among other roles, “field office director.”). Prior to reaching the Field Office Director for final decision, however, Petitioner’s case was reviewed by a Deportation Officer, a Supervisory Deportation Officer, an Assistant Field Office Director, and a Deputy Field Office Director, all of whom concurred with the decision to revoke Petitioner’s release. *See* Ex. A. Thus, the proper authority revoked Petitioner’s release following a meaningful review process.

This evidence thus demonstrates that referral to the EAC was not reasonable in light of ICE Headquarters’ concurrence regarding the likelihood of his removal in the first instance. *See e.g., Demore v. Kim*, 538 U.S. 510, 518 (analyzing the mandatory detention provisions of INA § 1226(c) and finding that United States has a significant interest in ensuring the removal of criminal aliens); *Ventura v. Att’y Gen.*, 2026 WL 579389, at *2 (3d Cir. Feb. 27, 2026) (denying petitioner’s motion for stay of removal, reasoning that the “public interest in the prompt removal of aliens facing final orders of removal cannot be understated”). Therefore, the Court should find that the proper authority revoked release following a proper discretionary assessment.

iii. ICE afforded Petitioner the notice and informal interview required under 8 C.F.R. § 241.4(l)

Petitioner further challenges his revocation because he contends that he was not afforded an informal interview during which he could respond to the reasons for revocation. ECF 1 ¶41. 8 C.F.R. § 241.4(l)(1) provides that, upon revocation of release, the alien “will be notified of the reasons for revocation of his or her release,” as well as afforded “an informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notice.” After this informal interview, Petitioner will be afforded another, more fulsome opportunity to contest his release, which will include a records review, an interview, and a “final evaluation” of facts relevant to revocation of release. *See id.* § 241.4(1)(3).

Here, Petitioner was advised of the reasons for revocation as required under 8 C.F.R. § 241.4(l)(2) through service of the Notice of Revocation of Release on March 18, 2026. *See* Ex. B. That Notice further advised Petitioner of his right to an informal interview “at which [he] will be given an opportunity to respond to the reasons for this revocation” and “submit any evidence or information [he] wish[es] to be reviewed in support of [his] release.” *Id.* That interview occurred on March 23, 2026. Should Petitioner not be removed, he will be afforded another, more thorough interview to consider his continued detention in no more than three months. 8 C.F.R. § 241.4(1)(3). Thus, ICE properly advised Petitioner of the reasons for revocation, placed him on notice of an upcoming informal interview, and provided him that informal interview, thereby providing him adequate opportunity to gather any evidence and information in support of his release. *Cf. Mauricio Martinez v. Jamison*, No. 26-cv-00718 (E.D. Pa March 12, 2026) (Kenney, J.) (finding issues with revocation process where there was no evidence that petitioner was afforded the informal interview required

under 8 C.F.R. § 241.4(l); *Diaw v. Jamison*, No. 26-cv-00761 (E.D. Pa March 11, 2026) (Murphy, J.) (same).

Thus, contrary to Petitioner’s assertions, the record demonstrates that ICE provided Petitioner with notice and a meaningful opportunity to respond to the revocation—precisely what is required by the regulations. Accordingly, ICE has complied with 8 C.F.R § 241.4 and, in turn, did not violate the APA or the *Accardi* doctrine when it revoked Petitioner’s order of supervision.

C. Petitioner’s detention comports with constitutional due process

The Supreme Court has already decided what constitutional due process is required under post-order removal cases to avoid violating the rights of an alien like Petitioner. As the Fourth Circuit Court of Appeals explained: “*Zadvydas* largely, if not entirely, forecloses due process challenges to § 1231 detention apart from the framework it established.” *Castaneda v. Perry*, 95 F.4th 750, 760 (4th Cir. 2024). In other words, “the *Zadvydas* standard *is* due process: a § 1231 detainee who fails the *Zadvydas* test fails to prove a due process violation.” *Id.* (emphasis in the original). The Supreme Court thus determined that the process it articulated for contesting post-removal detention is sufficient to avoid the “serious constitutional concerns” that “indefinite detention” would raise. *Zadvydas*, 533 U.S. at 682. The Third Circuit has recognized, however, that there may come a time when detention in post-order removal cases becomes unreasonable such that a bond hearing is required. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c) and § 1231(a)).

Here, for many of the same reasons discussed *supra*, Petitioner has not met his burden to establish that the revocation of his release and subsequent detention to effectuate his removal violates constitutional due process under the Supreme Court's standard in *Zadvydas*. Prior to release from custody, Petitioner signed and acknowledged the conditions of his release, including the possibility of detention and removal in the future. *See* Ex. E. Having obtained a travel document, ICE detained Petitioner and provided timely notice of its reasons for revoking his release, as well as the opportunity to contest this through an informal interview. *See id.* If still in custody, Petitioner will be afforded another, more formal interview in no more than three months. As of the date of this writing, Petitioner has been detained well short of the presumptively reasonable six-month period set forth in *Zadvydas*, and ICE's conduct to date has complied with the INA and accompanying regulations. Therefore, the Court should find that Petitioner's detention comports with constitutional due process.

VI. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the petition for writ of habeas corpus be denied.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Susan R. Becker for GBD
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

/s/ Anthony St. Joseph
ANTHONY ST. JOSEPH
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
Anthony.stjoseph@usdoj.gov
Counsel for Respondents

Dated: April 8, 2026

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: April 8, 2026

/s/ Anthony St. Joseph
ANTHONY ST. JOSEPH
Assistant United States Attorney

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

KWADWO HUMPHREY,	:	
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Petitioner,	:	CIVIL ACTION
	:	NO. 26-cv-1822
	:	
	:	
JOHN E. RIFE, et al.,	:	
	:	
Respondents.	:	

Exhibit List

Exhibit A: OSUP Revocation Worksheet, 3/9/2026

Exhibit B: Notice of Revocation of Release, 3/18/26

Exhibit C: Notice to Appear (NTA), 6/9/09

Exhibit D: Order of the Immigration Judge.

Exhibit E: Order of Supervision, 2/25/2010

Exhibit F: Denial, Motion to Reopen, 10/24/2018

Exhibit G: BIA Denial, 4/26/2019

Exhibit H: Alien Informal Interview, 3/23/26

EXHIBIT A

OSUP Revocation Worksheet

Alien Name: <u>HUMPHREY, Kwadwo</u>	A-number: [REDACTED]
Reason for revocation: OSUP Violator ☐	SLRRFF ☒

Is this a Headquarters release? Yes ☐ No ☒

If Headquarters release, was approval of OSUP revocation received? Yes ☐ No ☐ N/A ☒

• **List OSUP violations and/or events that led to SLRRFF:**

- On or about February 13, 2026, the Government of Ghana issued an emergency travel document, which expires on February 12, 2027.

• **Brief case summary and officer's recommendation:**

- HUMPHREY is a citizen of Ghana and national of Ghana by virtue of birth.
- HUMPHREY entered the United States on May 19, 2003, at Baltimore, MD, as a B2.
- On April 4, 2009, HUMPHREY was arrested by the Gwinnett County Police Department and charged with Driving Without a Valid License.
- On or about May 7, 2009, HUMPHREY was convicted and sentenced to ten (10) days confinement, twelve (12) months probation, and \$986.00 in fines.
- On June 28, 2009, HUMPHREY was arrested by the Lawrenceville Police Department and charged with Child Molestation and Burglary.
- On June 29, 2009, ERO Atlanta arrested and detained HUMPHREY. On the same date, ERO Atlanta served HUMPHREY a Notice to Appear, Form I-862.
- On December 28, 2009, all criminal charges were dismissed.
- On November 12, 2009, HUMPHREY was ordered removed.
- On February 25, 2010, HUMPHREY was released from ICE custody on an Order of Supervision, Form I-220B.
- On March 28, 2017, HUMPHREY filed a Petition for Alien Relative, Form I-130.
- On May 2, 2018, the I-130 was approved.
- On October 9, 2018, HUMPHREY filed a MTR with EOIR Atlanta.
- On October 24, 2018, an IJ denied the MTR.

Preparing Officer

S. Massie

(Name)

SEAN C MASSIE Digitally signed by SEAN C MASSIE

(Signature)

03/09/2026

(Date)

- On November 21, 2018, HUMPHREY filed an appeal of the MTR with the BIA.
- On April 26, 2019, the BIA dismissed the appeal and affirmed the IJ's decision.
- On October 25, 2019, HUMPHREY filed an Application for Permission to Reapply for Admission into the United States After Deportation or Removal, Form I-212.
- On June 3, 2020, the I-212 was approved.
- On October 11, 2021, HUMPHREY filed an Application for Action on an Approved Application or Petition, Form I-824.
- On February 26, 2024, the I-824 was approved.
- On March 28, 2024, HUMPHREY filed a Provisional Unlawful Presence Waiver, Form I-601A. This application is pending.

HUMPHREY is scheduled to report in person to BI Dover on March 18, 2026. There are no pending or granted applications that would prevent HUMPHREY's removal. This officer recommends arresting during HUMPHREY's next office visit.

Alien Name: HUMPHREY, Kwadwo

087 511 165

Supervisory Officer's Recommendation: Concur ☒ Do Not Concur ☐

SDDO's Notes: IJ ordered removed, MTR was denied(subj lacks exceptional situation), I-130, I-212, and I-824 approved. I-601(a) pending. Subj has serious arrest history. Subj has no pending or approved applications or petitions to prevent removal or adjust status.

T. Brockson

(Name)

THOMAS J BROCKSON

Digitally signed by THOMAS J BROCKSON
Date: 2026.03.10 08:57:01 -0400

(Signature)

03/10/2026

(Date)

Assistant Field Office Director's Recommendation: Concur ☒ Do Not Concur ☐

AFOD's Notes: HUMPHREY has an order of removal, no pending applications.
The country of Ghana has provide a travel document. Appears nothing preventing removal.

W. Shockley

(Name)

WILLIAM H SHOCKLEY

Digitally signed by WILLIAM H SHOCKLEY
Date: 2026.03.10 09:29:13 -0400

(Signature)

03/10/2026

(Date)

Deputy Field Office Director's Decision: Concur ☒ Do Not Concur ☐

DFOD's Notes: ERO Philadelphia recently obtained a travel document to effectuate HUMPHREY's removal. As such, his removal is imminent.

J. Reid

(Name)

JOSHUA G REID

Digitally signed by JOSHUA G REID
Date: 2026.03.10 10:42:02 -0400

(Signature)

03/10/2026

(Date)

EXHIBIT B

- ☐ ICE is seeking a travel document to effect your expeditious removal to _____
Country of Removal
- ☐ On _____, you were ordered removed to _____, but you
Date (MM/DD/YYYY)
were granted withholding of removal to _____. Your case is under review
for removal to an alternate country.

Notice of Informal Interview

On 03/24/2026, you will be afforded an informal interview at which you will be given an opportunity to
Date (MM/DD/YYYY)
respond to the reasons for this revocation. You may submit any evidence or information you wish to be reviewed in
support of your release.

Penalties for Failure to Comply with Order of Removal

You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 U.S.C. § 1253(a) and civil penalties under 8 U.S.C. § 1324d.

JOHN E RIFE Digitally signed by JOHN E RIFE
Date: 2026.03.10 11:26:01 -04'00'

Signature of Authorized Official

03/10/2026
Date (MM/DD/YYYY)

John Rife

Name of Authorized Official

(A) Field Office Director

Title of Authorized Official

(Note: 8 C.F.R. § 241.4 revocation must be EAD or FOD where there is a public interest to do so and referral to EAD not reasonable; 241.13 may be by RMD)

PROOF OF SERVICE**(1) Personal Service**

(a) I S. Massie, Deportation Officer,
Name of ICE Officer Title

certify that I served HUMPHREY, Kwadwo with a copy of this document at
Name of detainee

ERO Dover Sub-Office on 03/18/2026, at 1334.
Institution Date (MM/DD/YYYY) Time

REFUSED TO SIGN

Detainee Signature

03/18/2026
Date (MM/DD/YYYY)

☐ cc: Attorney of Record or Designated Representative☒ cc: A-File

EXHIBIT C

U.S. Department of Homeland Security

Notice to Appear

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

Subject ID : FIN #: File No: DOB: /1969Event No: 

In the Matter of:

Kwadwo HUMPHREY

Respondent:

currently residing at:

 , ATLANTA GEORGIA 30303

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☒ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☐ 3. 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 GHANA and a citizen of GHANA;
3. You arrived in 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.

alleges B-2 visa

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(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
180 Spring Street, SW, Suite 241 Atlanta GEORGIA US 30303

EX, 1

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

on a date to be set at a time to be set to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

ADONNIS T. SMITH

SDDO

(Signature and Title of Issuing Officer)

Date:

6/29/09

ATLANTA FIELD OFFICE, ATLANTA, GA

(City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07)

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 under 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 3.16. 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, which 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 and that you are inadmissible or removable on the charges contained in the Notice to Appear. 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 departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court 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 one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 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 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 Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

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 <u>7/6/09</u> , in the following manner and in compliance with section 239(a)(1)(F) of the Act.	
☒ in person	☐ by certified mail, returned receipt requested
☐ Attached is a credible fear worksheet.	☐ by regular mail
☐ Attached is a list of organization and attorneys which provide free legal services.	
The alien was provided oral notice in the <u>ENGLISH</u> 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.	
<u>Refused to Sign</u> (Signature of Respondent if Personally Served)	<u>A. Cooper</u> (Signature and Title of officer)

EXHIBIT D

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
180 SPRING STREET, SW SUITE 241
ATLANTA, GA 30303

In the Matter of:
HUMPHREY, KWADWO
Respondent

Case No.: [REDACTED]
IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on November 12, 2009.

This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

☒ The respondent was ordered removed from the United States to Ghana or in the alternative to _____.

☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ or in the alternative to _____.

☐ Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternative order of removal to _____.

Respondent's application for:

☐ Asylum was ☐ granted ☐ denied ☐ withdrawn ☐ other.

☐ Withholding of removal was ☐ granted ☐ denied ☐ withdrawn ☐ other.

☐ Respondent's application for ☐ withholding of removal ☐ deferral of removal under Article III of the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn ☐ other.

☐ A Waiver under section _____ was ☐ granted ☐ denied ☐ withdrawn ☐ other.

☐ Cancellation of removal under section 240A(a) was ☐ granted ☐ denied ☐ withdrawn ☐ other.

Respondent's application for:

☐ Cancellation under section 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn ☐ other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

☐ Cancellation under section 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn ☐ other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

☐ Adjustment of Status under section _____ was ☐ granted ☐ denied ☐ withdrawn ☐ other. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.

☐ Respondent's status was rescinded under section 246.

☐ Respondent is admitted to the United States as a _____ until _____.

☐ As a condition of admission, respondent is to post a \$ _____ bond.

☐ Respondent knowingly filed a frivolous asylum application after proper notice.

☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

☐ Proceedings were terminated.

☐ Other: _____

Date: November 12, 2009

Jonathan D. Pelletier
JONATHAN D. PELLETIER
Immigration Judge

Appeal: WAIVED / RESERVED (A/I/B)

Appeal due by: 12-14-09

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: ☒ MAIL (M) ☐ PERSONAL SERVICE (P) ☐ FAX (F)

TO: ☐ ALIEN ☒ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP

DATE: 11/12/09 BY: COURT STAFF ☒ DHS

Attachments: ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other ☐ Q6

5

000001

EXHIBIT E

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Order of Supervision

File No: A [REDACTED]
Date: February 25, 2010

Name: HUMPHREY, Kwadwo

on November 12, 2009, you were ordered:
(Date of final order)

- ☐ Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
☒ Removed pursuant to proceedings commenced on or after April 1, 1997.
☐ Granted Deferral of Removal Under CAT by the Immigration Judge.
☐ Granted Withholding of removal by Immigration Judge.

Because ICE has not effected your deportation or removal during the period prescribed by law or due to special circumstances, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- ☒ That you appear in person at the time and place specified, upon each and every request of ICE, for identification and for deportation or removal.
- ☒ That upon request of ICE, you appear for medical or psychiatric examination at the expense of the United States Government.
- ☒ That you provide information under oath about your nationality, circumstances, habits, associations, and activities and such other information as ICE considers appropriate.
- ☒ That you do not travel outside the State of Georgia for more than 48 hours without first
(Specify geographic limits, if any)
having notified this ICE office of the dates and places of such proposed travel. **Office Phone:** 404-893-1310
- ☒ That you furnish written notice to this ICE office of any change of residence or employment within 48 hours of such change.
- ☒ That you report in person on 18-Mar-2010 at 08:00 A.M. to the ICE office at:
180 Spring St, SW, Atlanta, GA 30303 unless you are granted written permission to report on another date.
- ☒ That you assist Immigration and Customs Enforcement (ICE) in obtaining any necessary travel documents.
- ☒ Other: That you abide by all Local, State, and Federal Laws.
- ☒ See attached Sheet Containing Other Specified Conditions (Continue on separate sheet if required)

(Signature of ICE official)

Felicia S Skinner, Field Office Director
(Print name and title of ICE official)

Alien's Acknowledgment of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish and English language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

John Ferek

(Signature of INS official serving order)

(Signature of alien)

February 25, 2010

Date

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Order of Supervision-Addendum

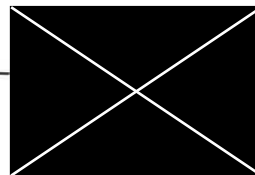
File No: [REDACTED]
Date: February 25, 2010

Name: HUMPHREY, Kwadwo

- ☒ That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- ☐ That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a program counselor.
- ☐ That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- ☐ That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- ☒ That you do not commit any crimes while on this Order of Supervision.
- ☒ That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officers name, address, telephone number, and reporting requirements.
- ☒ That you continue to follow any prescribed doctors orders whether medical or psychological including taking prescribed medications.
- ☒ That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- ☒ That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- ☒ Any violation of the above conditions may result in revocation of your employment authorization document
- ☒ Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.
- ☐ Other: Other conditions and requirements to be added by reporting office - Atlanta, Georgia

Alien's Signature:





Decision of Post Order today Review – Release

HUMPHREY, Kwadwo

Page 2

PROOF OF SERVICE

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I John Ferek, Deportation Officer,
Name of ICE Officer Title
certify that I served HUMPHREY, Kwadwo with a copy of
Name of detainee
this document at FCI Atlanta on 2/25/2010 at 1100 hrs,
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official
_____, at _____, on _____,
Title Institution
_____ with a copy of this document.
Date

OR

(2) Service by certified mail, return receipt. (Attach copy of receipt)

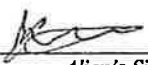
I _____, _____, certify
Name of ICE Officer Title
that I served _____ and the custodian _____,
Name of detainee Name of Official
with a copy of this document by certified mail at _____ on _____,
Institution Date

X [Signature] 

- () cc: Attorney of Record or Designated Representative
() cc: A-File

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Continuation Page for Form: I-220B

Alien's Name F. JIMPHREY, Kwadwo	File Number A [REDACTED]	Date February 25, 2010
Alien's Signature  Alien's Address  - Bear, DE 19701 - 302-602-7111 444-7381		RIGHT INDEX PRINT 
Alien's Telephone Number (if any) Subject's DOB: [REDACTED] 69 FINS: 1091697610		

PERSONAL REPORT RECORD

DATE	NEXT REPORT DATE	COMMENT/CHANGES
March 18, 2010	First Report Date	
3/18/2010	Next Report Date 4/13/2010 @ 8:00 AM	
04-17-10	NXT RPT DATE 05-17-10 @ 8:00 A.M.	
05-17-10	NXT RPT DATE 06-17-10 @ 8:00 A.M.	
09-03-10	NXT RPT 11-03-10 - RPT @ 8 A.M.	
11-09-10	NXT RPT WILL BE 01-27-11. RD	
Report to 1305 McDOWNE, DOVER, DELAWARE		
Within 10 DAYS - P.H. 302-602-7111 304-218-3768		
11/23/10		Appeared in person
3/2/11	2:00 PM	Sharon for OSUP
7/16/11	2:00 PM	
11/17/11	11:30 AM	Appeared in person
1/30/12	9:30	
7/16/12	9:30	" "
10/18/12	10:30	" "
11/17/12 11:30 AM		
10/22/13	9:30 AM	Appeared in person
11/4/14	9:00 AM	Appeared in person
08/19/15	10:00 AM (TR)	Appeared in person
03/28/16	10:30 AM	Appeared in person
11/28/16	09:30 AM	Reported
05-5-2017	10 AM	" "
11/7/17	9:30 AM	Appeared in person
3/29/18	9:00 AM	Appeared in person
9/25/18	9:00 AM	Appeared in person
Signature John Ferek	Title Deportation Officer	

10/31/2018 9:00 AM

May 22, 2019 *[Signature]* Appearance in person
Dec 16, 2019 9:30 AM *[Signature]* Appearance in person
June 17, 2020 9:00 AM

9/21/20

EXHIBIT F

A#:

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
Atlanta, Georgia**

IN THE MATTER OF:	)	IN REMOVAL PROCEEDINGS
	)	
HUMPHREY, Kwadwo	)	File No. A# [REDACTED]
	)	
Respondent	)	
	)	

CHARGE: Section 212(a)(6)(A)(i) of the Act, as amended, in that, Respondent is 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.

MOTION: Respondent's Motion to Reopen

APPEARANCES

ON BEHALF OF RESPONDENT:

Renee Hykle Cuddy, Esq.
HYKEL LAW
2 Penn Center Plaza
1500 John F. Kennedy Blvd.
Suite 1430
Philadelphia, PA 19102

ON BEHALF OF THE GOVERNMENT:

Assistant Chief Counsel
Department of Homeland Security
180 Ted Turner Drive SW, Suite 332
Atlanta, Georgia 30303

DECISION OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

Kwadwo Humphrey (“Respondent”) is an adult male native and citizen of Ghana. Respondent entered the United States at or near an unknown place, on or about an unknown date, without being admitted or paroled after inspection by an immigration officer. See NTA.

On July 6, 2009, the Department of Homeland Security (“DHS”) personally served Respondent a Notice to Appear (“NTA”), charging him as removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“Act”), as amended, in that, Respondent is 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.

On September 3, 2009, Respondent appeared *pro se* at a Master Calendar Hearing. While he admitted that he was a native and citizen of Ghana, he denied the charge of inadmissibility contained in the NTA. His case was continued to allow him to present proof of admission to the United States.

Kwadwo Humphrey

A#: [REDACTED]

On October 8, 2009, Respondent appeared *pro se* at a Master Calendar Hearing. He requested more time to submit either his passport or I-94 form to establish his admission to the United States.

On November 12, 2009, Respondent appeared *pro se* at a third Master Calendar Hearing. Because Respondent failed to submit any evidence of a lawful admission to the United States, the Court found him removable as charged. Respondent did not seek any relief from removal, and was ordered removed to Ghana.

On October 9, 2018, Respondent filed a *Sua Sponte* Motion to Reopen Removal Proceedings and to Transfer Venue to Philadelphia, Pennsylvania ("Motion to Reopen") with the Court.

The Court has carefully reviewed the entire record before it. All evidence has been considered, even if not specifically discussed further in this decision. For the reasons set forth below, the Court will deny Respondent's Motion to Reopen.

II. STATEMENT OF LAW & DISCUSSION

The Code of Federal Regulations also grants Immigration Judges *sua sponte* authority to reopen, at any time, in any case where they have made a decision. See 8 C.F.R. § 1003.23(b)(1). The Board has explained that exercising *sua sponte* authority is an "extraordinary remedy reserved for truly exceptional situations" and not for filing defects or circumventing the regulations. Matter of G-D-, 22 I&N Dec. 1132, 1134 (BIA 1999); Matter of J-J-, 21 I&N Dec. 976, 984 (BIA 1997).

Respondents have the burden of proving exceptional situations. Matter of Beckford, 22 I&N Dec. 1216, 1218 (BIA 2000). Exceptional situations include situations beyond Respondents' control, such as a serious illness, serious illness or death of an immediate relative, or a change in the law that now entitles them to relief. See INA § 240(e)(1); Matter of X-G-W-, 22 I&N Dec. 71, 73-74 (BIA 1998) (exercising *sua sponte* authority to reopen because change in refugee law meant to provide relief for victims of coerced population control policies constituted truly exceptional situation).

Finally, the Supreme Court has held that "motions to reopen are disfavored" and that "[t]here is a strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases." See INS v. Abudu, 485 U.S. 94, 107 (1988). "This is especially true in a deportation proceeding, where, as a general matter, every delay works to the advantage of the deportable alien who wishes merely to remain in the United States." INS v. Doherty, 502 U.S. 314, 323 (1992) (internal citations omitted).

Here, Respondent concedes that his motion is untimely and asks the Court to reopen his case *sua sponte*. Respondent's *Sua Sponte* Mot. to Reopen at 3. Respondent does not allege any other legal justification to reopen his case. The Court may reopen Respondent's case *sua sponte* if Respondent demonstrates an exceptional situation. This he has not done. Respondent does not allege that either he or an immediate relative was seriously ill. Respondent does not assert that an immediate relative died. Respondent does not argue that there is a change in the law that now entitles him to relief. The only reason that Respondent gives for requesting that his case be reopened *sua sponte* is that he now has an approved I-130, a form of relief not available to him when he was ordered removed on November 12, 2009. Mot. to Reopen at 3. However, having an approved I-130 is not an exceptional situation that merits re-opening.

Kwadwo Humphrey

A#: [REDACTED]

Accordingly, the Court finds that Respondent has failed to meet his burden to prove that an exceptional situation exists. Therefore, the Court denies Respondent's motion to reopen his case *sua sponte*.

In light of the foregoing, the Court will enter the following order:

ORDER

It is ordered that:

Respondent's Motion to Reopen is hereby
DENIED.

10-24-2016
Date


J. Dan Pelletier
United States Immigration Judge
Atlanta, Georgia

EXHIBIT G



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Hykel Cuddy, Renee
Hykel Law
1500 John F. Kennedy Blvd.
Suite 1430
Philadelphia, PA 19102

DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr., SW, Ste 332
Atlanta, GA 30303

Name: HUMPHREY, KWADWO

A [REDACTED]

Date of this notice: 4/26/2019

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Malphrus, Garry D.
Creppy, Michael J.
Noferi, Mark

Humadyi
Userteam: Docket

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: [REDACTED] - Atlanta, GA

Date: APR 26 2019

In re: Kwadwo HUMPHREY

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Renee Hykel-Cuddy, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Ghana, has appealed from the Immigration Judge's October 24, 2018, decision denying the respondent's October 4, 2018, motion to reopen removal proceedings sua sponte. In his decision, the Immigration Judge noted the respondent conceded his motion to reopen was untimely and further determined the respondent did not demonstrate an exceptional situation to warrant the exercise of his limited sua sponte authority. The appeal will be dismissed.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the respondent contends the Immigration Judge erred in denying his motion to reopen sua sponte. The respondent argues that the Immigration Judge did not consider his evidence of exceptional circumstances (Respondent's Br. at 6-8). He further argues that he deserves a favorable exercise of discretion because he was not removable as charged when he was previously ordered removed on November 12, 2009, never absconded, is a person of good moral character, and acted with due diligence in filing his motion to reopen sua sponte (Respondent's Br. at 8-9).

With certain exceptions, an alien is entitled to file one motion to reopen that must be filed within 90 days of the date of entry of a final administrative order of removal. 8 C.F.R. § 1003.23(b)(1). The respondent's motion was filed more than 8 years after the 90-day filing period expired, and he conceded in his motion to reopen before the Immigration Judge that it was untimely (Respondent's Motion at 3).

Additionally, the respondent's appellate argument that he "acted with due diligence in filing his motion for reopening sua sponte" is vague and does not adequately explain why he waited more than 5 years after his eldest daughter's birth¹, and 5 months after his wife's Petition for Alien Relative (Form I-130) on behalf of respondent was approved, to file his motion or demonstrate that he pursued his rights diligently (Respondent's Br. at 8). See *Holland v. Florida*, 560 U.S. 631, 649 (2010) (holding that the applicant is "entitled to equitable tolling" only if he shows "(1) that

¹ The respondent claims his daughters are at risk of female genital mutilation, sexual violence, and discrimination against women if forced to accompany him to Ghana (Respondent's Br. at 5).

he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way” and prevented timely filing); *Avila-Santoyo v. U.S. Att’y Gen.*, 713 F.3d 1357, 1363 (11th Cir. 2013) (Equitable tolling generally requires litigant to show (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way). Thus, since the respondent did not provide a persuasive explanation for the lengthy delay in filing his motion to reopen, we conclude he did not exercise due diligence in pursuing his rights for purposes of establishing that equitable tolling is warranted in his case.

Finally, we uphold the Immigration Judge’s determination that the respondent did not warrant sua sponte reopening. To that extent, we note that an Immigration Judge’s sua sponte power to reopen may only be used in exceptional circumstances and is not meant to cure filing defects or circumvent the regulations. *See Matter of Beckford*, 22 I&N Dec. 1216 (BIA 2000); *Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997). We agree with the Immigration Judge that none of the factors alleged by the respondent, including his wife’s approved Form I-130, on his behalf, warrant sua sponte reopening. As to the harm the respondent’s wife and children would face if they return to Ghana with him, they are not required to return to Ghana because they are United States citizens. Moreover, although the respondent now claims he was previously admitted and not out of status at the time of his prior removal proceedings, he did not contest removability in his prior proceedings when he had the opportunity to do so and waited more than 8 years to raise the issue in his present motion to reopen. Thus, for the foregoing reasons, we conclude that the Immigration Judge properly denied the respondent’s motion to reopen removal proceedings sua sponte.

Accordingly, the following order will be entered. '

ORDER: The appeal is dismissed.



FOR THE BOARD

EXHIBIT H

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

**ALIEN INFORMAL INTERVIEW
UPON REVOCATION OF ORDER OF SUPERVISION UNDER
8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)**

STATEMENT OF: Humphrey, Kwadwo
(Detainee)

A-File #: [REDACTED]

Detention Location: FDC Philadelphia

INTERVIEWING ICE OFFICER: R. Morel, DO, PHI Field Office
(Print Name, Title & Duty Station)

On 03/23/2026, I conducted an initial informal interview of the detainee listed above in order to afford the alien an opportunity to respond to the reasons for revocation of his or her order of supervision stated in the notification letter. At the interview, the alien made the following oral response regarding the reasons for revocation:

The detainee Humphrey, Kwadwo stated that he would like to
V/D as soon as possible.

No other statements were made.

The detainee ☒ did ☐ did not provide a written statement.

The detainee ☐ did ☒ did not provide any documents. Any documents provided are attached.

[Signature]
Signature of Interviewing Officer

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