



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

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271 Cadman Plaza East  
Brooklyn, New York 11201  
April 6, 2026

By ECF

Honorable Natasha C. Merle  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Aguilar v. Maldonado, et al.*  
Civil Action No. 26-cv-1989 (Merle, J)

Dear Judge Merle:

This Office respectfully submits this letter brief on behalf of the Respondents in accordance with the Court's April 3, 2026 Order and in response to the petition for issuance of a habeas writ ("Petition") filed by William Chamul Aguilar ("Petitioner"). Attached to this response are the following documents received from Immigration and Customs Enforcement ("ICE"): a Notice to Appear ("NTA") (Exhibit "A"); an Order to Detain or Release Alien (Exhibit "B"); an Order of Release on Recognizance and related documents (Exhibit "C"); information concerning Alternatives to Detention (Exhibit D); a Notice to EOIR (Exhibit "E"); a Record of Deportable/Inadmissible Alien dated October 7, 2026 (Exhibit "F"); a Record of Deportable/Inadmissible Alien dated February 9, 2026 (Exhibit "G").<sup>1</sup>

**Relevant Facts**

The Petition alleges that the Petitioner attempted to enter the United States on October 6, 2024 and was arrested by United States Border Patrol. Petition at ¶ 16. The Petition further alleges that the Petitioner was placed into removal proceedings, released on an Order of Recognizance, and enrolled into an Intensive Supervision Appearance Program before being arrested on February 9, 2026. *Id.* at ¶¶ 17-19.

Documents provided by ICE indicate that the Petitioner entered the country on October 6, 2024 and was charged as subject to removal pursuant to § 212(a)(7)(A)(i)(I) and § 212(a)(6)(A)(i) of the Immigration and Naturalization Act ("INA"), *see* Exhibits A, F and G. The Petitioner was then released on his own recognizance on November 9, 2024, subject to requirements of alternatives to detention ("ATD"), *see* Exhibits B, C, D, and G. He was thereafter arrested ICE on February 9, 2026. *See* Exhibit G.

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<sup>1</sup> Information has been redacted from some the documents for privacy reasons.

### **Petitioner's Claims**

In brief, the Petitioner asserts claims based on alleged violations of the Fifth Amendment (Counts One and Two). The Petitioner asks that he be released from detention and seeks other relief as well. Petition at pages 6-7.

### **Discussion**

The Respondents contend that the Petitioner is an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) who has received all the process he is due. When presented with somewhat analogous facts, Your Honor granted petitions for habeas corpus in *Y-C v. Genalo, et al.*, No. 25-cv-06558, 2025 WL 3653496 (E.D.N.Y. Dec. 17, 2025), and *Crespo Tacuri v. Genalo, et al.*, No. 25-cv-6896, 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026).

The Respondents respectfully disagree with these decisions and note that other district court decisions within the Second Circuit have since agreed with their position. *See, e.g., Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), *appeal filed* Feb. 12, 2026; *Quezada v. Francis.*, No. 26 Civ. 387, 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.); and *Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.).<sup>2</sup> The Respondents further note that their position has been adopted by the Fifth Circuit, *see Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 501-08 (5th Cir. 2026), and the Eighth Circuit, *see Joaquin Herrera Avila v. Bondi et al.*, No. 25-3248, WL 819258 (8th Cir. March 25, 2026).<sup>3</sup> Nonetheless, the Respondents recognize that if this Court were to apply the reasoning of *Y-C* and *Crespo Tacuri* that the petitioners were not subject to mandatory detention pursuant § 1225(b)(2)(A), those decisions would control the result in this case.

The Respondents thank the Court for its consideration of this submission.

Respectfully submitted,

JOSEPH NOCELLA, JR.  
United States Attorney

By: /s/ Richard K. Hayes  
Richard K. Hayes  
Assistant U.S. Attorney  
(718) 254-6050  
[richard.hayes@usdoj.gov](mailto:richard.hayes@usdoj.gov)

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<sup>2</sup> The Respondents do not suggest that, since the decisions in *Y-C* and *Crespo Tacuri*, that other district courts within the Second Circuit have not disagreed with Respondents' position.

<sup>3</sup> The Respondents respectfully note that they reserve their right to appeal a judgment of this Court in Petitioner's favor.

cc: Counsel for Petitioner (by ECF)

## **Exhibits to Respondents' Letter Brief**

## Exhibit A

DEPARTMENT OF HOMELAND SECURITY  
**NOTICE TO APPEAR**

Subject to the Securing the Borders IFR

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

In the Matter of:

File No: 

Respondent: WILLIAN VLADIMIR CHAMUL-AGUILAR

currently residing at:

  
(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 El Salvador and a citizen of EL SALVADOR;
3. You entered the United States at an unknown location on or about 2024-10-06;
4. You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document;
5. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 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.

Section 212(a)(6)(A)(i) of the Act, as amended, as an alien present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than as designated by the Attorney General.

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

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

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

566 VETERANS DRIVE, PEARSALL, TX 78061  
(Complete Address of Immigration Court, including Room Number, if any)

on 11/19/2024 at 9:30 AM to show why you should not be removed from the United States based on the  
(Date) (Time)  
charge(s) set forth above.

Leonel Auerdis

Supervisory Asylum Officer

(Signature and Title of Issuing Officer)

Date: 10/19/2024

Houston, TX  
(City and State)

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at [www.uscis.gov/i-589](http://www.uscis.gov/i-589). Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/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 10/21/24 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.

(Signature of Respondent if Personally Served)

(Signature and Title of officer)

G. Rodriguez  
Deportation Officer