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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Cesar Enrique Guerrero Urbina)	
Petitioner,)	
)	Case No.
v.)	'26CV2136 W JLB
)	
CHRISTOPHER J. LAROSE,)	PETITION FOR WRIT OF HABEAS
WARDEN OF OTAY MESA)	CORPUS
DETENTION CENTER; GREGORY)	
J. ARCHAMBEAULT,)	
IMMIGRATION AND CUSTOMS)	
ENFORCEMENT (ICE) SAN DIEGO)	
FIELD OFFICE DIRECTOR; TODD)	
M. LYONS, ACTING DIRECTOR OF)	
IMMIGRATION AND CUSTOMS)	
ENFORCEMENT (ICE/ERO);)	
MARKWAYNE MULLIN,)	
SECRETARY OF DEPARTMENT OF)	
HOMELAND SECURITY; PAMELA)	
BONDI, US ATTORNEY GENERAL,)	
IN THEIR OFFICIAL CAPACITIES)	
)	
)	

INTRODUCTION

1. Petitioner, Cesar E Guerrero Urbina is a citizen of Mexico who Respondents have detained at Otay Mesa Detention Center (AKA Otay Mesa) for a total of four (4) months and approximately (23) days. His continued detention is unlawful due to Respondent’s failure to properly interpret and apply the Immigration and Nationality Act (INA) and subsequent

failure to adhere to an article III Judge's order on *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner brings this action to seek immediate release.

2. On November 25, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification, incorporating declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).
3. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). The declaratory judgement was followed by the Maldonado Court's vacator of Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025). The vacator was subsequently stayed by the Ninth Circuit.
4. Petitioner is a member of the Bond Denial Class, as he:
 - a. does not have lawful status in the United States and is currently detained at the Otay Mesa Detention facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about November 10, 2025];
 - b. entered the United States without inspection in 2009 and was not detained immediately after arrival, *cf. id.*; and
 - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
5. Petitioner's detention on November 10, 2025, is also in violation of Due Process Clause of the Fifth Amendment to the U.S. Constitution Procedural Due Process and Substantive Due Process.
6. The Court should expeditiously grant this petition.

7. The Court should accordingly order that within one day, Respondent DHS must release Petitioner.
8. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

9. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency with the Department of Homeland Security (DHS). He is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.
10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
13. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9),(f)(I), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which the Petitioner is currently in custody.
15. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Arizona.

PARTIES

16. Petitioner is a citizen of Mexico who most recently arrived in the United States on or about October 1, 2009. He has been in custody of the Department of Homeland Security (DHS) since November 10, 2025.
17. Christopher J. Larose the Warden of Otay Mesa Detention Center is Petitioner's Immediate Custodian.
18. Gregory J. Archambeault, the Acting Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Archambeault is Petitioner's immediate custodian. He is named in his official capacity.
19. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Gregory J Archambeault and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well

as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

21. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

22. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

23. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

STATEMENT OF FACTS

24. Petitioner, Cesar Enrique Guerrero Urbina, entered the U.S. on or about October 1, 2009.

Petitioner lived and worked without incident in the United States until 2012, when Petitioner was placed in immigration proceedings before EOIR. At that time Petitioner was released on his own recognizance under the authority contacted in INA Section 236. Exhibit 1.

25. Petitioner complied with court hearings until March 3, 2014, when the Immigration Court administratively closed his proceedings on motion by the DHS. Exhibit 2.

26. On November 10, 2025, ICE ERO San Diego arrested Petitioner and processed him to Otay Mesa Detention Center. Subsequently re-calendaring his previously administratively closed case, which was terminated on April 2, 2026. Exhibit 3.

27. Petitioner, married to a U.S. Citizen and has two U.S. Citizen children. Exhibit 4.

28. At present the Board of Immigration Appeal's Matter of Jonathan Javier YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025), erroneously holding that all aliens who are

present in the U.S. without admission are detained under INA Section 235(b)(2)(A), is the controlling precedent for immigration judges outside of the Central District of California.

Requesting a bond hearing is futile.

29. Petitioner currently remains detained at Otay Mesa Detention Center without a bond hearing.

CLAIMS FOR RELIEF

Violation fo the INA:

First Claim Request for Relief Pursuant to *Maldonado Bautista*

30. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

31. As members of the Bond Denial Class, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

32. The orders granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

33. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MJS Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

34. By denying Petitioner release under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioners’ statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Procedural Due Process**

35. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.
36. Petitioner has a vested liberty interest in his immediate release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See *Morrissey*, 408 U.S. at 487-488.
37. When the government fails to provide a required bond hearing, or when that hearing is rendered a “pro forma”; exercise, immediate release is the only adequate remedy. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), when detention loses its relationship to its underlying purpose—such as when there is no significant likelihood of a lawful hearing or removal in the reasonably foreseeable future—it loses its legal justification.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Substantive Due Process**

38. The Due Process Clause of the Fifth Amendment forbids the government from depriving any individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.
39. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.

40. Petitioner, throughout his seventeen (17) years in the community, has worked, built a family and filed his taxes. Petitioner's initial detention and release on recognizance and placement in removal proceedings demonstrated his willingness and ability to comply with DHS and EOIR.

41. Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See *Jones*, 393 F.3d at 934.

42. The government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents **release Petitioner and return him to the position he was in prior to his detention;**
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

d. Award Petitioners attorney’s fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Grant any other and further relief that this Court deems just and proper.

/s/Lilia Rodriguez.
Attorney Name

Counsel for Petitioner

Dated: 04/03/2026

Exhibits		
1	Notice to Appear Order of Release on Recognizance under INA 236	11-15
2	IJ Order Administratively Closing Proceedings	16-17
3	IJ Order Terminating Proceedings	18-20
4	Petitioner’s Marriage Certificate Spouse’s Naturalization certificate Petitioner's Children’s US Birth Certificates	21-25

VERIFICATION PURSUANT TO 28 U.S.C. §.2242

I represent Petitioner Cesar Enrique Guerrero Urbina, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of April, 2026.

/s/ Lilia Rodríguez
Attorney Name

EXHIBIT 1

ORIGINAL

U.S. Department of Homeland Security

Notice to Appear

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

Subject ID : [REDACTED]

FIN [REDACTED]
DOB: [REDACTED]

File No: [REDACTED]
Event: [REDACTED]

In the Matter of:

Cesar Enrique GUERRERO URBINA

Respondent:

[REDACTED]

currently residing at:

(Number, street, city and ZIP code)

(619) 328-**DEPARTMENT OF JUSTICE**
-**EXECUTIVE OFFICE FOR**
IMMIGRATION REVIEW

MAY 16 2013

IMMIGRATION COURT
SAN DIEGO, CA

- 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 MEXICO and a citizen of MEXICO;
3. You arrived in the United States at or near OTAY MESA, CALIFORNIA, on or about October 1, 2009;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

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

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

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(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:
401 West A Street Suite 800 San Diego CALIFORNIA US 92101 TO BE SET**

(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.

K D02852 HAROLDSSEN-SDDO SUP DETENTION & DEPORTATION OFFICE

(Signature and Title of Issuing Officer)

Date: August 14, 2012

SAN DIEGO, CALIFORNIA

(City and State)

See reverse for important information

ORIGINAL

Notice to Respondent

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

Allen 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 August 14, 2012, in the following manner and in compliance with section 239(a)(1)(F) 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.

ENGLISH/ SPANISH

The alien was provided oral notice in the _____ 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]
(Signature of Respondent if Personally Served)

J 1772 FLORES [Signature] Deportation Officer
(Signature and Title of officer)

EOIR - 2 of 6

ORIGINAL Warrant for Arrest of Alien

U.S. Department of Homeland Security

File No. 
Event N 
Date: August 14, 2012

FINS #: 

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:
Cesar Enrique GUERRERO URBINA

(Full name of alien)

OTAY MESA, CALIFORNIA

an alien who entered the United States at or near _____ on _____
(Port)

October 1, 2009 is within the country in violation of the immigration laws and is
(Date)

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.



(Signature of Designated Immigration Officer)

K D02852 HAROLDSSEN-SDDO

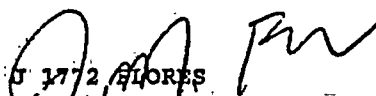
(Print name of Designated Immigration Officer)

SUP DETENTION & DEPORTATION OFFICER

(Title)

Certificate of Service

Served by me at SAN DIEGO, CALIFORNIA on August 14, 2012 at 09:30 AM.
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.



J 1772 FLORES
(Signature of officer serving warrant)

Deportation Officer

(Title of officer serving warrant)

EOIR - 3 of 6

ORIGINAL

U.S. Department of Homeland Security

Notice of Custody Determination

Cesar Enrique GUERRERO URBINA

Event No: [Redacted]
File No: [Redacted]
Date: 08/14/2012
FIN#: [Redacted]



Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that pending a final determination by the immigration judge in your case, and in the event you are ordered removed from the United States, until you are taken into custody for removal, you shall be:

- detained in the custody of the Department of Homeland Security.
released under bond in the amount of \$
released on your own recognizance.

- You may request a review of this determination by an immigration judge.
You may not request a review of this determination by an immigration judge because the Immigration and Nationality Act prohibits your release from custody.

K DO2852 HAROLDSSEN-SDDO

(Signature of authorized officer)

SUP DETENTION & DEPORTATION OFFICER

(Title of authorized officer)

SAN DIEGO, CALIFORNIA

(Office location)

- I do / I do not request a redetermination of this custody decision by an immigration judge.
I acknowledge receipt of this notification.

(Signature of respondent)

08/14/2012
(Date)

RESULT OF CUSTODY REDETERMINATION

On , custody status/conditions for release were reconsidered by:

- Immigration Judge
DHS Official
Board of Immigration Appeals

The results of the redetermination/reconsideration are:

- No change - Original determination upheld.
Release - Order of Recognizance
Detain in custody of this Service.
Release - Personal Recognizance
Bond amount reset to
Other:

(Signature of officer)

015

EXHIBIT 2

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
401 WEST A STREET, SUITE #800
SAN DIEGO, CA 92101

LAW OFFICE OF SAMAN NASSERI
NASSERI, SAMAN, ESQUIRE
925 B STREET, STE. 402
SAN DIEGO, CA 92101

Date: Mar 4, 2014

File 

In the Matter of:
GUERRERO URBINA, CESAR ENRIQUE

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.

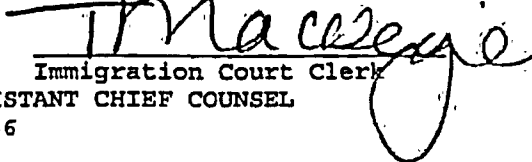
You are granted until _____ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

~~X~~ Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,


Immigration Court Clerk UL

cc: WOODMANSEE, JENNIFER, ASSISTANT CHIEF COUNSEL
880 FRONT STREET, ROOM 2246
SAN DIEGO, CA 921010000

EXHIBIT 3



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:

GUERRERO URBINA, CESAR ENRIQUE

To:

Rodriguez, Lilia
1450 Frazee Rd., Ste 303
San Diego, CA 92108

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

04/02/2026

ORDER OF THE IMMIGRATION JUDGE

Respondent the Department of Homeland Security has filed a motion to terminate these proceedings, and the non-moving party was accorded notice and an opportunity to respond. The motion is opposed unopposed.

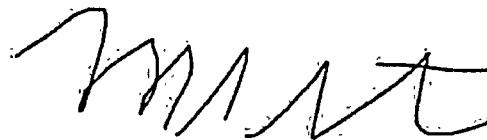
After considering the facts and circumstances, the immigration court orders that the motion to terminate is granted with without prejudice denied because:

- The Department of Homeland Security met did not meet its burden of proving by clear and convincing evidence that Respondent is removable as charged. 8 C.F.R. § 1240.8(a).
- Respondent met did not meet the burden of proving that Respondent is clearly and beyond a doubt entitled to admission to the United States and is not inadmissible as charged. 8 C.F.R. § 1240.8(b)-(c).
- Other.
- Further analysis/explanation:

On March 11, 2026, counsel for respondent filed a motion to terminate the proceedings due to a non-compliant NTA that lacks the time and date of the next hearing in accordance with Matter of Fernandes, 28 I&N Dec. 605 (BIA 2022). This is based on an NTA drafted in 2012 that lacked the time and date of the initial hearing, and was served on the court in 2013, administratively closed, and recalendered in November 2025. The government filed a motion opposing termination on March 20th, arguing first that since the NTA had a location of the initial hearing, the subsequent hearing notice and respondent's appearance cures the defect. The government relies upon Matter of Laparra-Deleon, 29 I&N Dec. 434 in making this argument; however, the court notes that Laparra-Deleon did not have a timely objection and it did not overrule Matter of Fernandes. In Matter of Fernandes, the BIA found that a noncompliant NTA is not cured by later hearing notices and appearances by counsel if the objection is timely raised prior to entry of pleadings. Id.

The government also argues that this case can be cured in accordance with Matter of RTP, 28 I&N Dec. 828 (BIA 2024) where the judge can simply write in the date, time, and location of the next hearing on the original NTA. While this would certainly be an option if this were still a paper case, given that this case has been electronically digitized, the court does not have the ability to modify the original NTA and printing the NTA and modifying it and reuploading it would create a second NTA submitted as a court exhibit. The court does not find that this cures the original defect of having a single document with the time, date, and location of the hearing identified in Matter of Fernandes.

Given the unique circumstances of this case, the court finds that the respondent's objection to the NTA as being noncompliant is timely raised, that none of the government's proposed cures would work in this case and the court is going to grant the motion to terminate without prejudice.



Immigration Judge: SAMEIT, MARK 04/02/2026

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 05/04/2026

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 : GUERRERO URBINA, CESAR ENRIQUE | A-Number : 

Riders:

Date: 04/02/2026 By: Alilin, Vanessa, Court Staff