

Duber O. Munoz Cubides

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DUBER O. MUNOZ CUBIDES and
July P. Jimenez Sanchez as next friend
Petitioners/Plaintiffs,

v.

RAUL MOLDANADO, JR., in his
official capacity as Warden, Brooklyn
Metropolitan Detention Center, New York
WILLIAM JOYCE, in his official
capacity as Acting New York Field Office
Director for U.S. Immigration and
Customs Enforcement;

MARCOS CHARLES, in his official
capacity as acting Executive Associate
Director, Enforcement and Removal
Operations;

TODD M. LYONS, in his official
capacity as Acting Director
Immigration and Customs
Enforcement;

MARKWAYNE MULLIN, in his
official capacity as Secretary, U.S.
Department of Homeland
Security; and

ATTORNEY GENERAL, in
their official capacity as Attorney
General

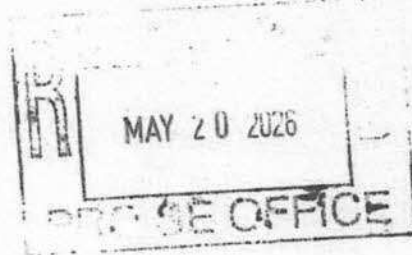
Respondents/Defendants.

*** EMERGENCY ***

Civil Action No.:

Verified Petition for
Writ of Habeas Corpus
Pursuant to 28 U.S.C. § 2241

CV26-3062



GONZALEZ, J.

INTRODUCTION

1. I, DUBER O. MUNOZ CUBIDES, (hereinafter "Petitioner") 36 year old man from Colombia. In 2021, Petitioner sought protection in the United States for the purpose of

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seeking asylum. Since that time, Petitioner has conscientiously pursued his immigration case which is currently under appeal.

2. Nevertheless, Petitioner was detained in front of his house. He was carrying groceries into the house and went back to the car to bring the rest of the groceries in when ICE detained him without a warrant. Despite the fact that Petitioner had not been accused of a crime and had no criminal record, ICE agents detained him without cause. He never returned home to his partner, his daughter and his step son. Presently, he is incarcerated at the Brooklyn Metropolitan Detention Center, 225 Cadman Plaza East, Brooklyn, NY 11201.
3. Petitioner was initially released from Respondents' custody into the United States on September 23, 2021, there have been no changes in Petitioner's individual facts and circumstances that could justify his re-detention as either a flight risk or a danger to the community. To the contrary, Petitioner has diligently pursued his asylum claims, attended all immigration court hearings and continued to build community ties in the United States.
4. Petitioner has been detained in immigration custody even though no neutral decisionmaker, whether a federal judge or an immigration judge, has conducted a hearing to determine whether this incarceration is warranted based on danger or flight risk.
5. Petitioner's unlawful and continued detention without any individualized determination as to why detention is appropriate, has caused immense and ongoing harm to Petitioner. Petitioner brings this petition to enforce his rights under the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act ("INA") and to seek his immediate release.

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6. Accordingly, this Court should declare ICE's actions unlawful, enjoin his transfer outside of this District, and order his immediate release.

PARTIES

7. Petitioner, Duber O. MUNOZ CUBIDES, is a 36 year-old individual who has lived in the United States since 2021. Petitioner is detained at Brooklyn Metropolitan Detention Center, 225 Cadman Plaza East, Brooklyn, NY 11201. (Tab A - Detainee Locator) Petitioner is in the custody and direct control of Respondents and their agents.
8. Petitioner, and next friend, July P. JIMENEZ SANCHEZ (hereinafter "his Partner"), is the Partner of Petitioner. Petitioner and his partner, July P. Jimenez Sanchez are raising their [REDACTED] daughter [REDACTED] Petitioner is also helping to raise his step son who also lives with them.
9. Respondent Raul MOLDANADO, Jr. is the Warden of the Brooklyn MDC. He is named in his official capacity as a person in charge of the facility holding the Petitioner. In this capacity he Respondent Moldanado is the immediate physical custodian responsible for the detention of the Petitioner. Respondents' address is 80 29th St, Brooklyn, NY 11232.
10. Respondent William JOYCE is the Acting New York Field Office Director for U.S. Immigration and Customs Enforcement. He is responsible for, among other things, oversight of the civil immigration arrest and detention of aliens in the New York City area. Respondent regularly routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to detain and arrest the Petitioner.
11. Respondent Marcos CHARLES, is named in his official capacity as acting Executive Associate Director, Enforcement and Removal Operations, and as such leads ERO in

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arrest and removal operations and routinely transacts business in the Eastern District of New York. This respondent's address is Immigration and Customs Enforcement, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

12. Respondent Todd LYONS is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner. This respondent's address is Immigration and Customs Enforcement, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.
13. Respondent Markwayne MULLINS is Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. The Secretary of Homeland Security's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.5.
14. Respondent ATTORNEY GENERAL is the Attorney General of the United States. In this capacity, he/she routinely transacts business in the Eastern District of New York; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g)(2007); and as such is a custodian of the Petitioner. This

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respondent's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530- 0001.

Jurisdiction and Venue

15. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless, when in Cases of Rebellion or Invasion, the public safety may require."). The Suspension Clause protects the right to the writ of habeas corpus where no adequate or effective alternative remedy exists. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008).
16. This Court also has subject matter jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1651 (the All-Writs Act); and 5 U.S.C. § 701 (the Administrative Procedure Act).
17. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
18. Administrative exhaustion is unnecessary as it would be futile.
19. Venue is proper in the U.S. District Court for the Eastern District of New York because Respondents are officers of United States agencies, and at the time of filing, Petitioner is detained at Brooklyn Metropolitan Detention Center, 225 Cadman Plaza East, Brooklyn, NY 11201, which is within the jurisdiction of the Eastern District of New York. A substantial part of the events or omissions giving rise to these claims occurred in New York, and there is no real property involved in this action. *See* 28 U.S.C. § 1391(e)(1).

RELEVANT FACTS AND PROCEDURAL HISTORY

I. Petitioner's Entry into the United States and Application for Protection

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20. Petitioner is a citizen and national of Colombia. On or about September 26, 2021, he entered the United States in order to seek safety from persecution in Colombia. (TAB B - Notice to Appear) Respondents exercised their authority to release him from custody for the purpose of seeking asylum in the United States. (TAB C - Release Document)
21. After he entered the United States, he was issued a notice to appear in court with an initial hearing scheduled for November 1, 2021 in New York, NY (TAB B - Notice to Appear). He filed for asylum and attended his court hearings. His immigration case is currently under appeal (TAB D - EOIR Case Status). To the best of Petitioner's knowledge and understanding, since his entry into the United States, Petitioner has complied with all requirements of his release and of the asylum process.

II. Petitioner's Arrest and Detention

22. On information and belief, Petitioner was arrested and detained by ICE agents in front of his house. He was carrying groceries into the house and went back to the car to bring the rest of the groceries in when ICE detained him. The arrest occurred without a material change in the situation which resulted in his release from custody in 2021 or a review of his dangerousness.
23. On information and belief, there was no warrant for Petitioner's arrest. Petitioner was not asked any questions about his ties to the community or criminal history.
24. On information and belief, Respondents did not make a lawful, individualized custody assessment within 48 hours of arresting Petitioner without a warrant, and have not made such an individualized determination since then.

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25. Petitioner is currently being held in immigration detention at Brooklyn Metropolitan Detention Center, 225 Cadman Plaza East, Brooklyn, NY 11201. (TAB A - Detainee locator).
26. Petitioner is not a flight risk, because of his past history, his family ties and his community ties. Since entering the United States, he has followed every instruction that he was given by the U.S. government. He applied for asylum and attended all required hearings. He has set up a life for himself and was living with his partner, his daughter and his step son at . He has many reasons to continue to appear for all his court hearings and continue to follow the process towards seeking asylum in the United States.
27. Petitioner has a daughter,   Petitioner has a step son that is biologically related to his partner.
28. Petitioner is not a danger to the community. Petitioner has been a peaceful and productive member of society. On information and belief, he has not been arrested or charged with any crime in the United States or in any other country. On information and belief, he did not resist arrest when approached by ICE.
29. Petitioner's ongoing detention has caused enormous harm by separating him from his family, his friends, and his community and risks further harm if not remedied.
30. Petitioner's detention has also placed undue burden on his ability to search for or consult with counsel with limited access to meaningful access to non-profit organizations.
31. ICE's actions violate Petitioner's rights under the Fifth Amendment of the U. S. Constitution, the INA, the Administrative Procedure Act and its own federal regulations.

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LEGAL FRAMEWORK

I. Detaining Petitioner is arbitrary and capricious in violation of due process

32. Petition must be allowed to complete his claim for asylum and demands that an independent authority decide if he should be at liberty. ICE has arbitrarily and capriciously detained Petitioner depriving him of his basic due process rights.
33. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).
34. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
35. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.
36. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification

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for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S.

A. Defendants' Pattern of Illegal Conduct Is Officially Sanctioned

37. Defendants' unlawful arrests, denial of access to counsel and deplorable holding conditions are the predictable result of directives from top officials to agents and officers.
38. In January 2025, the administration gave ICE field offices an arrest quota of 75 arrests a day.¹ As offices attempted to carry out such a mandate, workplace raids increased,² ICE check-ins became traps, and courthouse arrests surged.³ Also, to help meet the quota, the administration granted agencies outside of DHS immigration enforcement powers.⁴
39. Meanwhile, the administration began systematically dismantling internal accountability mechanisms and restraints on immigration agents' and officers' conduct. The administration shut down multiple oversight agencies (retaining only a version of their former selves after the administration was sued).⁵ Investigations were closed. Officers no

¹ Nick Miroff & Maria Sacchetti, Trump Officials Issue Quotas to ICE Officers to Ramp Up Arrests, *The Washington Post* (last updated Jan. 26, 2025), <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

² Marianne LeVine, et al., ICE is Arresting Migrants in Worksite Raids. Employers are Largely Escaping Charges, *The Washington Post* (June 30, 2025), <https://www.washingtonpost.com/immigration/2025/06/30/ice-raids-arrests-workers-companies/> (noting an April announcement by ICE officials that the agency had arrested more than 1,000 workers during Trump's first 100 days and collecting stories of workplace raids across the country); Mark Moran, ICE Detains More than 530 People in Workplace 'Raids' in U.S. Northeast, *United Press International* (Jan. 23, 2025), https://www.upi.com/Top_News/US/2025/01/23/ice-details-538-ion-workplace-raids/7811737692376/.

³ Julia Ainsley, Trump admin tells immigration judges to dismiss cases in tactic to speed up arrests, *NBC News* (June 11, 2025), <https://www.nbcnews.com/politics/national-security/trump-admin-tells-immigration-judges-dismiss-cases-tactic-speed-arrest-rcna12138>; Luis Ferré-Sadurni, Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations, *N.Y. Times* (June 12, 2025),

⁴ Press Release, DHS, Statement from a DHS Spokesperson on Directive Expanding Immigration Law Enforcement to Some Department of Justice Officials (Jan. 23, 2025), <https://www.dhs.gov/news/2025/01/23/statement-dhs-spokespersondirective-expanding-immigration-law-enforcement>.

⁵ Nicolae Viorel Butler, Court Forces DHS to Preserve Immigrant Rights Offices, *Migrant Insider* (May 27, 2025), https://migrantinsider.com/p/court-forces-dhs-to-preserve-immigrant?utm_source=CLINIC%2BMail&utm_campaign=f9e1ee6428-tips-6-2-25&utm_medium=email&utm_term=0_-663ab9ab77-284225192



longer had to abide by enforcement priorities.⁶ Long-standing guidance restricting enforcement operations in sensitive locations—schools, hospitals, places of worship and public demonstrations—was rescinded.⁷

40. But these changes were not enough, according to the administration. In late May, Deputy Chief of Staff Stephen Miller summoned 25 ERO Field Office Directors and 25 HSI Special Agents to a meeting to demand that “everybody” be targeted.⁸

41. Under Miller’s directive, agents no longer needed to develop vetted target lists of individuals suspected of being in the United States unlawfully. ICE agents were instructed in an email to “aggressively “push the envelope,” including by pursuing “collaterals”—individuals that by definition would not have warrants.⁹

42. The administration set a new arrest quota of 3,000 arrests per day and reportedly threatened job consequences if officials failed to meet arrest quota.¹⁰

43. The overriding message to agents and officers carrying out immigration operations on the ground was to prioritize arrest numbers, regardless of the law. Agents and officers were granted sweeping discretion to achieve this goal.

B. Defendants’ Illegal Conduct Will Continue if Not Enjoined

44. The federal government has repeatedly made clear its intent to continue its operations and unlawful detentions. Defendants have been candid about their determination to continue

⁶ Press Release, DHS, Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole (Jan. 21, 2025), <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>

⁷ Marisa Kabas, ICE agents get green light to make unjustified warrantless arrests, The Handbasket (June 12, 2025), <https://www.thehandbasket.co/p/ice-warrantless-arrests-castanon-nava>.

⁸ Stuard Anderson, Stephen Miller’s Order Likely Sparked Immigration Raids and Protests, Forbes, Jun. 9, 2025, <https://www.forbes.com/sites/stuardanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/>.

⁹ José Olivares, US immigration officers ordered to arrest more people even without warrants, The Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

¹⁰ Elizabeth Findell, et al., supra note 2; Julia Ainsley, et al., A sweeping new ICE operation shows how Trump’s focus on immigration is reshaping federal law enforcement, NBC News (June 4, 2025), <https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494>

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pursuing these unlawful policies and practices, unless this Court enjoins them from doing so.

45. While immigration enforcement may be done lawfully, these statements demonstrate a commitment to continue operations at any cost, including at the expense of individuals' constitutional and legal rights. Plaintiffs have already been harmed, and they face a reasonable likelihood of continuing harm, as a result of Defendants' unlawful policies and practices described herein.

46. Plaintiffs have no plain, adequate, or complete remedy at law to address the wrongs described herein. Injunctive and declaratory relief is necessary to redress their ongoing injuries.

D. Defendants' Illegal Conduct Will Continue if Not Enjoined

58. The federal government has repeatedly made clear its intent to continue its operations and unlawful detentions. Defendants have been candid about their determination to continue pursuing these unlawful policies and practices, unless this Court enjoins them from doing so.

59. While immigration enforcement may be done lawfully, these statements demonstrate a commitment to continue operations at any cost, including at the expense of individuals' constitutional and legal rights. Plaintiffs have already been harmed, and they face a reasonable likelihood of continuing harm, as a result of Defendants' unlawful policies and practices described herein.

60. Plaintiffs have no plain, adequate, or complete remedy at law to address the wrongs described herein. Injunctive and declaratory relief is necessary to redress their ongoing injuries.

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CLAIMS FOR RELIEF

COUNT ONE

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
THE UNITED STATES CONSTITUTION PROCEDURAL DUE PROCESS**

61. The allegations in the above paragraphs are realleged and incorporated herein.
62. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
63. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. Mathews v. Eldridge, 424 U.S. at 319, 333 (1976).
64. Respondents provided Petitioner with no notice or opportunity to be heard prior to detaining him.
65. Respondents have offered Petitioner no meaningful opportunity to be heard or challenge his detention since incarcerating him
66. Petitioner's detention thereby deprives him of Petitioner's rights to Due Process under the Fifth Amendment of the United States Constitution.
67. Petitioner has no adequate remedy at law.

COUNT TWO

**VIOLATION OF THE OF THE FIRST AND FIFTH AMENDMENTS TO THE UNITED
STATES CONSTITUTION**

68. Petitioner realleges and incorporates by reference the paragraphs above.
69. U.S. citizens and noncitizens alike are guaranteed the right to due process under the Fifth Amendment to the United States Constitution, which includes the rights to access courts.

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U.S. citizens and noncitizens alike are guaranteed the right of petition under the First Amendment to the U.S. Constitution, which includes the right to petition the Government for a redress of grievances. This right to petition includes the right to access courts and to participate in court proceedings as a witness, party or complainant.

70. As a result of Respondents' unlawful arrest and detention of Petitioner, his rights were violated, and he has and continues to suffer prejudice.

71. Petitioner has no adequate remedy at law.

COUNT THREE

RELEASE ON BAIL PENDING ADJUDICATION

72. Petitioner realleges and incorporates by reference the paragraphs above.

73. This Court has the "inherent authority" to grant release or bail to habeas petitioners like this. See Vega v. United States, 514 F. Supp. 2d 767, 770 (W.D. Pa. 2007) (citing Johnston v. Marsh, 227 F.2d 528, 531 (3d Cir.1955)); see also Mapp v. Reno, 241 F.3d 221, 230 (2d Cir. 2001).

74. Release on bail pending habeas is appropriate when a petitioner raises "substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective." Landano v. Rafferty, 970 F.2d 1230, 1239 (3d Cir. 1992).

75. Petitioner meets this standard here. This petition raises constitutional claims on which he has a high probability of success. And Petitioner's immediate release is necessary to make this remedy effective. As long as Petitioner remains detained, his physical and

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mental health is at continued, serious risk, and his ability to litigate <Pn3>> asylum and immigration claims is jeopardized.

COUNT FOUR:

VIOLATION OF THE INA, REGULATIONS THEREUNDER, AND THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE

76. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
77. Respondents' presumed basis for detaining Petitioner is unknown. As discussed above, he was released after crossing the border. In the intervening time, petitioner has applied for asylum and built a productive life in the United States.
78. Under the terms of the INA and the governing regulations, Petitioner's detention is unlawful.

COUNT FIVE:

VIOLATION OF 8 U.S.C. § 1357(A)(2) WARRANTLESS ARRESTS WITHOUT PROBABLE CAUSE OF FLIGHT RISK

79. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
80. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied by "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest."
81. Respondents have a policy, pattern, and practice of making arrests without any warrant without making an individualized determination of flight risk. They have no mechanism for ensuring compliance with the statutory limits of agents' and officers' warrantless

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arrest authority and do not provide guidance to agents and officers on how to make an individualized determination of likelihood of escape. Respondents permit agents and officers to make warrantless arrests carte blanche in violation of law.

82. Respondents' policy, pattern, and/or practice of making warrantless arrests without the required individualized flight risk analysis is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2). 5 U.S.C. §§ 704, 706(2)(C).

83. Separate from the APA, Respondents' policy, pattern, and practice of making warrantless arrests without the required individualized flight risk analysis is ultra vires.

COUNT SIX:

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – 5 U.S.C. § 706(2)(A),
THE IMMIGRATION AND NATIONALITY ACT, AND FEDERAL REGULATIONS
NOT IN ACCORDANCE WITH LAW, IN EXCESS OF STATUTORY AUTHORITY,
ABUSE OF DISCRETION (UNLAWFUL REVOCATION OF PAROLE AND
RE-DETENTION)**

84. Petitioner restates and realleges all paragraphs as if fully set forth here. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion.

85. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).

86. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made."

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Dep't of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted). The INA provides that Respondents may, as they did more than three years ago in Petitioner's case, parole an individual into the United States "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." See 8 U.S.C. § 1182(d)(5). Federal regulations specify that where parole has been granted under 8 U.S.C. § 1182(d)(5), upon its expiration, it may be revoked "upon the accomplishment of the purpose for which parole was authorized" or if "neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States." 8 C.F.R. §§ 212.5(e)(1), (2)(i).

87. Petitioner's asylum proceedings remain pending before the immigration court, and he has diligently complied with the requirements of his court case.
88. On information and belief, Respondents have made no finding that the purpose of Petitioner's parole has been satisfied.
89. On information and belief, Respondents have made no individualized determination that Petitioner's parole is no longer justified by humanitarian reasons or public benefit. Even if Respondents had lawfully terminated Petitioner's parole, Respondents may only re-detain Petitioner if his individual facts and circumstances demonstrate that he is a flight risk or a danger to the community. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8).
90. Respondents have made no finding that Petitioner is a flight risk. Respondents have made no finding that Petitioner is a danger to the community. Through his initial release on parole in 2021, Respondents have already considered Petitioner's facts and circumstances and determined that Petitioner was not a flight risk or danger to the community. At the

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current time, his asylum proceedings remain pending before the immigration court. There have been no changes to the facts that now justify Petitioner's detention.

91. By categorically detaining Petitioner without individualized revocation of his parole and without consideration of Petitioner's individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

92. By detaining Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to parole Petitioner into the United States, there have been no changes to Petitioner's facts or circumstances that support detention.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act; Section 1225(b)(1)(A) of the Immigration and Nationality Act; the First Amendment, and the Rehabilitation Act;
- 3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- 4) Order that Petitioner not be transferred outside the Eastern District of New York except to be released;
- 5) Order that Petitioner shall not be re-detained without notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, where Respondents will have the burden of showing that his detention is authorized;

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- 6) Order that Respondents are directed to return to Petitioner any and all funds or property seized from Petitioner at the time of his arrest upon his release;
- 7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

July Pauline Jimenez
July P. Jimenez Sanchez

20th day of May 2026

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

I, July P. Jimenez Sanchez , submit this verification on my own behalf. I hereby swear under penalty of perjury 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 20th day of May, 2026.

Name: July P. Jimenez Sanchez

Signature: July Pauline Jimenez

TAB A

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Facility Page

Detention Information For:

DUBER ORLEY MUNOZ-CUBIDES
Country of Birth: Colombia
A-Number: 

Current Detention Facility:

BROOKLYN MDC
80 29th Street
Brooklyn, NY 11232
Visitor Information: (718) 840-4200

Related Information

Helpful Info

Status of a Case

About the Detainee Locator

Brochure

ICE ERO Field Offices

ICE Detention Facilities

Privacy Notice

TAB B

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEARIn removal proceedings under section 240 of the Immigration and Nationality Act:
Subject ID: [REDACTED] FINS #: [REDACTED]
DOB: [REDACTED]File No. [REDACTED]
Event No. [REDACTED]

In the Matter of:

DUBER ORLEY MUNOZ-CUBIDES

currently residing at

Respondent:

[REDACTED]

(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 COLOMBIA and a citizen of COLOMBIA;
3. You arrived in the United States at or near CALEXICO, CA, on or about September 23, 2021;
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:

118(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 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration Judge of the United States Department of Justice at:

201 VARICK ST., 5TH FL RM 507 NEW YORK, NY 10014

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

on November 01, 2023 at 08:30 AM to show why you should not be removed from the United States based on the

Charge(s) set forth above:

FELIX DIAZ

ACTING WATCH COMMANDER

(Signature and Title of Issuing Officer) (Sign in ink)

Date September 26, 2021

Imperial, California

(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 custody of Immigration and Customs Enforcement. 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 C.F.R. 100.3. If you do not 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. 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.dhs.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 from the United States. 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 235 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.

Sanctions: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location specified in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

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.

(Signature of Respondent) (Sign in ink)

BORDER PATROL AGENT

Date: 09/28/2021

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice to Appear was served on the respondent by me on September 28, 2021, in the following manner and in compliance with section 100.3 of the Executive Order on Immigration:

by email, returned receipt # _____ requested ☐ by regular mail

I have provided the respondent with the following language and place of his or her hearing and of the

SPANISH

language of the time and place of his or her hearing and of the

proceeding provided in section 240(b)(7) of the Act.

ALBERTO ESPINOZA, BORDER PATROL AGENT

(Signature) (Sign in ink)

(Signature and Title of officer) (Sign in ink)

TAB C

**DEPARTMENT OF HOMELAND SECURITY
NOTICE OF CUSTODY DETERMINATION**

Alien's Name:

DUBER ORLEY MUNOZ-CUBIDES

A-File Number:

Date: 09/26/2021

Event ID:

Subject ID:

FIN:

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 administrative determination in your case, you will be:

☐ Detained by the Department of Homeland Security.

☒ Released (check all that apply):

☐ Under bond in the amount of \$ _____

☒ On your own recognizance.

☐ Under other conditions. [Additional document(s) will be provided.]

DATE:

09/26/2021 2046

Name and Signature of Authorized Officer

Date and Time of Custody Determination

AT THE OFFICE OF THE ATTORNEY GENERAL

Imperial, California

Office Location/Address

You may request a review of this custody determination by an immigration judge.

I do not request a review of this notification, and

☐ I do not request an immigration judge review of this custody determination.

☐ I do request an immigration judge review of this custody determination.

09/26/2021

Date

DUBER ORLEY MUNOZ-CUBIDES

in the SPANISH

language.

(Name of Alien)

(Name of Language)

NONE

Name or Number of Interpreter (if applicable)

U.S. Department of Homeland Security

Order of Release on Recognizance

Name: DUBER ORLEY MONOL-CURTISFile No. [REDACTED]
Date 10/12/2021
Expiry 10/12/2023

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- ☒ You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.
- ☒ You must surrender for removal from the United States if so ordered.

☒ You must report in writing (person) to DUTY OFFICER

25 Federal Plaza, 9th Floor, Suite 9-110 New

(Name and Title of Case Officer)

on OCTOBER 12, 2021 at 10:00 AM

(Location of DHS Office)

(Day of each week month)

If you are required to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

☐ You must not change your place of residence without first securing written permission from the immigration officer listed above.

☐ You must not violate any local, State, or Federal laws or ordinances.

☐ You must assist the Department of Homeland Security in obtaining any necessary travel documents.

☐ You are authorized to work.

☐ You must comply with other specified conditions (Continue on separate sheet if required)

Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

FELIX H. DIAZ
ACTING WATCH COMMANDER

(Signature of DHS Official)

(Printed Name and Title of Official)

Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have read and interpreted and explained to me in the SPANISH language the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

(Signature of Alien)

Cancellation of Order

- ☐ The alien failed to comply with the conditions of release

(Signature of Immigration Officer Canceling Order)

(Date)

Form I-220A (Rev. 08-01-01) N

TAB D

Name: MUNOZ CUBIDESX, DUBER ORLEY | A-Number:  | Docket Date: 10/13/2021

Next Hearing Information

There are no future hearings for this case.

Court Decision and Motion Information

The immigration judge ordered **REMOVAL**.

DECISION DATE

February 19, 2026

COURT ADDRESS

290 BROADWAY - 15TH FLR
NEW YORK, NY 10007

BIA Case Information

A case appeal was received on **March 6, 2026**. It is currently pending.

ALIEN BRIEF STATUS

No brief due date exists at this time.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the Board of Immigration Appeals.

COURT ADDRESS

OFFICE OF THE CHIEF CLERK
5107 LEESBURG PIKE, SUITE 2000
FALLS CHURCH, VA 22041

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Duber Orley Munoz Cubides & July P. Jimenez Sanchez
(next friend)

(b) County of Residence of First Listed Plaintiff USA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
PRO SE

DEFENDANTS

Raul Moldanado, Jr., et. al.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☒ 1 | ☒ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
☐ 110 Insurance	☐ 310 Airplane	☐ 365 Personal Injury - Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act				
☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability	☐ 423 Withdrawal 28 USC 157	☐ 426 Consumer Credit (15 USC 1681 or 1692)	☐ 376 Qui Tam (31 USC 3729(a))				
☐ 130 Miller Act	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability	☐ 427 Trademark	☐ 430 Banks and Banking	☐ 400 State Reapportionment				
☐ 140 Negotiable Instrument	☐ 330 Federal Employers' Liability	☐ 370 Other Fraud	☐ 428 Defend Trade Secrets Act of 2016	☐ 450 Commerce	☐ 410 Antitrust				
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine	☐ 371 Truth in Lending	☐ 429 Social Security	☐ 460 Deportation	☐ 430 Banks and Banking				
☐ 151 Medicare Act	☐ 345 Marine Product Liability	☐ 380 Other Personal Property Damage	☐ 430 Copyrights	☐ 470 Racketeer Influenced and Corrupt Organizations	☐ 450 Commerce				
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 350 Motor Vehicle	☐ 385 Property Damage Product Liability	☐ 830 Patent	☐ 480 Consumer Credit (15 USC 1681 or 1692)	☐ 460 Deportation				
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 355 Motor Vehicle Product Liability	☐ 380 Other Personal Property Damage	☐ 835 Patent - Abbreviated New Drug Application	☐ 485 Telephone Consumer Protection Act	☐ 470 Racketeer Influenced and Corrupt Organizations				
☐ 160 Stockholders' Suits	☐ 360 Other Personal Injury	☐ 385 Property Damage Product Liability	☐ 840 Trademark	☐ 490 Cable/Sat TV	☐ 480 Consumer Credit				
☐ 190 Other Contract	☐ 362 Personal Injury - Medical Malpractice	☐ 385 Property Damage Product Liability	☐ 880 Defend Trade Secrets Act of 2016	☐ 895 Freedom of Information Act	☐ 485 Telephone Consumer Protection Act				
☐ 195 Contract Product Liability				☐ 861 HIA (1395ff)	☐ 490 Cable/Sat TV				
☐ 196 Franchise				☐ 862 Black Lung (923)	☐ 850 Securities/Commodities/Exchange				
				☐ 863 DIWC/DIWW (405(g))	☐ 890 Other Statutory Actions				
				☐ 864 SSID Title XVI	☐ 891 Agricultural Acts				
				☐ 865 RSI (405(g))	☐ 893 Environmental Matters				
					☐ 895 Freedom of Information Act				
					☐ 896 Arbitration				
					☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision				
					☐ 950 Constitutionality of State Statutes				

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 2241

Brief description of cause:
Petition for a writ of habeas corpus

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE