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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Wuanerge ALBERTO-ALVARENGA,
[redacted]
Petitioner,

v.

RICHARD A. AUMILLE, in his official capacity as Warden of Seneca County Jail;
MERRICK GARLAND, Attorney General of the United States;
ALEJANDRO MAYORKAS, Secretary of the Department of Homeland Security;
TROY MILLER, Acting Commissioner, U.S. Customs and Border Protection;
SEAN G. SMITH, Ohio Field Office Director, U.S. Immigration and Customs Enforcement,
Respondents.

Civil Action No.: 3:25-cv-02644-JRK

NOTICE OF INTERVENING BIA EMERGENCY APPEAL AND STATUS OF HABEAS PROCEEDINGS
(*Informational Filing*)

Petitioner, by and through undersigned counsel, respectfully submits this Notice to advise the Court of intervening administrative developments and to clarify the current procedural posture of this matter, without requesting merits review of any administrative filing.

1. On January 8, 2026, following a brief telephone status conference, the Court denied

Petitioner's Emergency Motion for a Temporary Restraining Order. As reflected in the Minute Order of record, the denial was issued for the reasons stated on the record, did not reach the merits of Petitioner's claims, and expressly provided that the underlying Petition for Writ of Habeas Corpus remains pending and referred to the Magistrate Judge.

2. On January 20, 2026, Petitioner filed a Corrected Emergency Appeal and Motion for Stay of Removal with the Board of Immigration Appeals ("BIA"), curing a prior ministerial defect and requesting immediate administrative stay and review of the Immigration Judge's summary removal order entered on January 2, 2026. That appeal remains pending. **(Exhibit A)**.

3. The intervening BIA Emergency Appeal expressly acknowledges that:

a. No court has adjudicated the merits of Petitioner's removal order, asylum claim, or constitutional due-process violations;

b. This Court's January 8, 2026 Minute Order denied emergency injunctive relief without merits adjudication; and

c. The federal habeas proceedings remain pending and unresolved before this Court.

4. Petitioner submits this Notice solely to ensure the record accurately reflects that:

a. Federal habeas jurisdiction has not been mooted or divested;

b. No waiver of exhaustion, jurisdiction, or constitutional claims has been made; and

c. Judicial review remains necessary to prevent unlawful detention and jurisdiction-divesting removal prior to adjudication of the habeas petition.

5. Petitioner does not request that this Court review, consider, or adjudicate the merits of the pending BIA Emergency Appeal or its contents, and submits this Notice for informational

and jurisdiction-preservation purposes only.

Petitioner respectfully requests that the Court take notice of the foregoing and maintain the Petition for Writ of Habeas Corpus on its active docket pending adjudication.

Decision on the papers is respectfully requested. No oral argument is necessary.

Dated: January 23, 2026

Respectfully submitted,

/S/ Roman V. Gambourg

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EXHIBIT A

EOIR - ALBERTO-AL - 577 - Service - EOIR-26, No PKG - BIA

From: efiling-dhsportal@usdoj.gov

To: gambourglg@yahoo.com

Date: Tuesday, January 20, 2026 at 01:26 PM EST

The Executive Office for Immigration Review (EOIR) has received an electronic upload of the BIA appeal/motion package referenced below. BIA is evaluating the package for inclusion into the electronic Record of Proceedings (eROP). EOIR will notify you upon completion of the evaluation process.

- eFiled Document Name: BIA Emergency Appeal - Corrected Filing.pdf
- Additional Document(s) Name:
  - Form EOIR-26A-.pdf
  - EOIR-27-.pdf
  - EOIR-26 - Notice of Appeal-.pdf
  - BRIEF - BIA APPEAL.pdf
  - EXHIBITS A-H-.pdf
- Document Category: EOIR-26, Notice of Appeal from a Decision of an Immigration Judge
- Document Sub Category: Case Appeal
- Uploaded On: 01/20/2026
- Tracking Number: 000-050-299-283

- A-Number: [redacted]
- Alien Name: ALBERTO-ALVARENGA, WUANERGE
- Charging Document Date: 10/06/2025
- Case Type: RMV
- BIA Case Type: Case Appeal
- Date the BIA Case was Filed: 01/20/2026

The documents associated with this filing may be viewed as follows:

Attorneys/Representatives you may view the documents in the EOIR Case Portal at this link. Please note you will need your User ID and password to access the location.

DHS users you may view the documents in the EOIR DHS Portal at this link.

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

GAMBOURG ROMAN
Via Electronic Service

DHS/ICE Office of Chief Counsel - CLE
925 Keynote Circle, Room 201
Brooklyn Heights, OH 44131

Name:
ALBERTO-ALVARENGA, WUANERGE 

Riders:

Date of Notice: 01/13/2026

REJECTED FILING

This notice is to inform you that the filing received by the Board of Immigration Appeals (BIA) on 01/03/2026 is being rejected for the reasons given below. If you re-file a corrected document, please attach this rejection notice to the corrected document. You must also serve a copy of the corrected filing on the opposing party.

Document being rejected: BIA EMERGENCY APPEAL.pdf
Filed by: Respondent/Applicant

Document rejected for the following reasons:
1. Rejection Reason Not Listed (Other)

Additional Comments
Missing documents no E-26 attached.

PLEASE NOTE – Applies only to rejection of an appeal, motion to reopen, or motion to reconsider.

We have rejected your appeal or motion for correction of the defect(s). If you correct and refile this appeal or motion, you must attach this notice of rejected filing to the corrected document. Rejection of this notice does not extend the original deadline for the filing for the appeal or motion unless otherwise noted above. Where a stay attached to the filing of an appeal, there is no automatic stay of removal beyond the 30-day limit unless an appeal is properly filed at the BIA. For more information on automatic stays and discretionary stays of removal, see the BIA's Practice Manual available on EOIR's website at www.justice.gov/eoir.

If you file your corrected appeal or motion after the original time limits, your corrected appeal or motion must be accompanied by a written motion entitled "MOTION TO ACCEPT UNTIMELY APPEAL OR MOTION" and comply generally with the rules and procedures for filings. Your request to accept your untimely appeal or motion must clearly establish both diligence in the filing of the notice of appeal or motion and that an extraordinary circumstance prevented timely filing. The motion should also be supported by affidavits, declarations, and other evidence.

FILING QUESTIONS – In General.

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

Rejected by: LynnJ
Date: 01/13/2026

CC

PROOF OF SERVICE

I hereby certify that on January 23, 2026, I served this **Notice of Intervening BIA Emergency Appeal and Status of Habeas Proceedings** (Informational Filing), upon the following parties as indicated below:

U.S. Attorney's Office
Northern District of Ohio
[ECF Service]
Department of Homeland Security / ICE Office of the Principal Legal Advisor (OPLA)

U.S. Immigration and Customs Enforcement (ICE) – Enforcement and Removal Operations
[ECF Service]

Warden, Seneca County Jail
3040 S. State Route 100
Tiffin, Ohio 44883
[ECF Service]

Service was made via **ECF and electronic mail**, which constitutes actual notice under Federal Rule of Civil Procedure 5 and applicable emergency injunction standards.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 23, 2026

/S/ Roman V. Gambourg

Roman V. Gambourg, Esq.
Attorney Bar Number 003002002
ROMAN V. GAMBOURG, P.C
Attorney for Petitioner