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Attorneys for Petitioner

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

JUDGE JAMES R. KNEPP II

MAG. JUDGE GREENBERG

PETITIONER'S NOTICE OF SUPPLEMENTAL AUTHORITY AND PROCEDURAL POSTURE UPDATE

Petitioner, by counsel, respectfully submits this Notice to inform the Court of a material agency development and to clarify its legal effect on this proceeding.

On April 7, 2026, the Board of Immigration Appeals ("BIA") issued a decision summarily dismissing Petitioner's appeal as untimely. **(Exhibit A).**

The BIA's decision was expressly limited to procedural grounds and did not reach the merits of Petitioner's claims, including the constitutional and due process violations currently before this Court. The BIA further declined to apply equitable tolling despite Petitioner's demonstrated efforts to comply with filing requirements while detained.

Petitioner respectfully submits that this procedural disposition does not constitute meaningful review and therefore does not divest this Court of jurisdiction. See *INS v. St. Cyr*, 533 U.S. 289 (2001).

Petitioner has been continuously detained and subjected to multiple transfers, impairing access to counsel and timely filing. Petitioner attempted to file a Notice of Appeal within the statutory period; however, the filing was rejected due to a technical defect and subsequently re-filed.

Petitioner will file a Petition for Review before the Sixth Circuit within the statutory period.

Accordingly, the habeas petition remains properly before this Court.

Dated: April 9, 2026

Respectfully submitted,

/S/ Roman V. Gambourg

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EXHIBIT A

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

GAMBOURG, ROMAN VASYL
ROMAN V. GAMBOURG, ESQ.
One Bridge Plaza North, Suite 675
Fort Lee NJ 07024

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

Name: ALBERTO-ALVARENGA, WUANERGE [redacted]

Date of this Notice: 04/07/2026

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

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

ALBERTO-ALVARENGA, WUANERGE
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YOUNGSTOWN OH 44505

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925 Keynote Circle, Room 201
Brooklyn Heights OH 44131

Name: ALBERTO-ALVARENGA, WUANERGE [redacted]

Date of this Notice: 04/07/2026

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

[1]**NOT FOR PUBLICATION**

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

MATTER OF:

Wuanerge ALBERTO-ALVARENGA, [redacted]

Respondent

FILED
Apr 07, 2026

ON BEHALF OF RESPONDENT: Roman Vasyl Gambourg, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Cleveland, OH

Before: Mullane, Appellate Immigration Judge

MULLANE, Appellate Immigration Judge

A Notice of Appeal (Form EOIR-26) must be filed with the Board of Immigration Appeals within 30 calendar days of an Immigration Judge's oral decision, or the mailing or electronic notification of a written decision, unless the last day falls on a weekend or a legal holiday, in which case the appeal must be received no later than the next business day. 8 C.F.R. § 1003.38(b), (c). The Immigration Judge's decision was rendered on January 2, 2026. The appeal was accordingly due on or before February 2, 2026.

Respondent concedes that his appeal is untimely. Respondent's motion to accept the late appeal will be denied. Respondent contends that he submitted the notice of appeal submitted the notice of appeal to the Board on February 19, 2026, but it was rejected due to a filing defect. Even if we consider the appeal filed on February 19, 2026, the appeal is untimely. Respondent has not set forth reasons that the time for appeal should be equitably tolled and that his appeal should be considered timely filed. Respondent's untimely appeal will be summarily dismissed pursuant to 8 C.F.R. § 1003.1(d)(2)(i)(G).

ORDER: The appeal is summarily dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by the Department of Homeland Security, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. See section 274D of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14). Further, any respondent

[1] The Respondent's Emergency Motion for Stay of Removal Pending Appeal was filed separately with the Notice of Appeal on March 18, 2026.

that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. See INA § 276(a), 8 U.S.C. § 1326(a).

PROOF OF SERVICE

I hereby certify that on April 9, 2026, a true and correct copy of the foregoing **Petitioner's Notice of Supplemental Authority and Procedural Posture Update** was served via the Court's CM/ECF system upon all counsel of record.

Date: April 9, 2026

/S/ Roman V. Gambourg

Roman V. Gambourg, Esq.
GAMBOURG & READ, P.C.
Attorney for Petitioner