

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Osmedy Noy Pimentel,
Petitioner,

v.

Miguel Vergara Field Office Director for the
San Antonio Field Office of U.S. Immigration
and Customs Enforcement; Immigration and
Customs Enforcement and Removal
Operations (ICE/) ERO); KRISTI NOEM,
Secretary of the Department of Homeland
Security; U.S. Department of Homeland
Security (DHS); PAMELA BONDI, Attorney
General of the United States, and TODD
LYONS, Director, Immigration and Customs
Enforcement, Warden of the Karnes County
Immigration Processing Center

Respondents

Civil Action No. 5:26-cv-679

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner, Osmedy Noy Pimentel, a native and citizen of Cuba, is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Karnes County Immigration Processing Center, located within this Court's jurisdiction. He seeks a writ of habeas corpus pursuant to 28 U.S.C. §2241, challenging his ongoing detention as unconstitutional and unlawful.

2. This Court has jurisdiction under 28 U.S.C. §2241(c)(3) to review the legality of Petitioner's custody. Venue lies in this district under 28 U.S.C. §1391(e) and §2241(d) because Petitioner is detained within the Western District of Texas.
3. Petitioner entered the United States seeking protection from persecution in Cuba.
4. On March 12, 2022, the Petitioner entered the United States near San Luis, Arizona without being then admitted or paroled, per the Notice to Appear (NTA).
5. The NTA was issued on March 15, 2022, and the Petition was scheduled to appear in Court on March 23, 2023 at 9:00 AM at the San Antonio EOIR Immigration Court **(Exhibit A)**.
6. Petitioner was detained at his check-in with Immigrations and Customs Enforcement and Removal Operations on September 30, 2025.
7. Due to Petitioner's entry without admission or parole, per the NTA, the Respondent did not petition for a bond due to the recent ruling of Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025).
8. Petitioner was ordered removed on November 20, 2025 by the Pearsall Immigration Court in Pearsall, Texas. **(Exhibit B)**
9. Petitioner timely filed an appeal with the BIA. **(Exhibit C)**
10. Petitioner has no criminal history and substantial family ties in the United States.
11. Petitioner has been detained for more than three months

II. JURISDICTION

12. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). He

is detained at the Karnes County Immigration Processing Center in Karnes City, Texas, and is under the direct control of Respondents and their agents.

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

14. 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).

15. 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.

16. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), 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).

III. VENUE

17. Venue is proper in this District under 28 U.S.C. §1391(e) and §2241(d) because Petitioner is currently detained at the Karnes County Immigration Processing Center, located within the jurisdiction of the Western District of Texas, San Antonio Division. All relevant events and actions giving rise to this petition occurred within this District.

IV. IDENTIFICATION OF THE PARTIES

18. Petitioner, Osmedy Noy Pimentel, , is a native and citizen of Cuba currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Karnes County Immigration Processing Center in Karnes City, Texas. He is detained under the authority of 8 U.S.C. §1226(a). He is the individual in custody within the meaning of 28 U.S.C. §2241(c) and is the real party in interest in this action.
19. Respondent, Pam Bondi, is the Attorney General of the United States and is responsible for the overall administration of the Immigration and Nationality Act. She is sued in his official capacity.
20. Respondent, Todd Lyons, is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Osmedy Noy Pimentel and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
21. Respondent, Kristi Noem, 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 Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
22. Respondent, Miguel Vergara, Field Office Director for the San Antonio Field Office of U.S. Immigration and Customs Enforcement. He oversees the detention and removal operations for noncitizens detained within this jurisdiction and is a proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).
23. Respondent, Warden of Karnes County Immigration Processing Center in Karnes City, Texas. They oversee the detention for noncitizens detained within this jurisdiction is a proper respondent.

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

25. Respondent, U.S. Immigration Customs Enforcement (ICE), 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.

IV. FACTUAL ALLEGATIONS

26. Respondent is a native and citizen of Cuba, born on [REDACTED]. He has resided in the United States for over three, during which time he has built deep and longstanding ties to his family and community.

27. He was detained by Immigration and Customs Enforcement (ICE) officers San Antonio, Texas, during his required check-in with ICE ERO on September 30, 2025.

28. Following his arrest, Respondent was transferred to the Karnes County Immigration Processing Center in Karnes City, Texas, where he currently remains in ICE custody.

29. Mr. Noy Pimentel has a Cuban National partner and has one U.S. citizen child who is one year old.

30. The family resides at [REDACTED] Pflugerville, TX [REDACTED] where Mr. Noy Pimentel has long maintained a stable household and provided for his family.

31. Importantly, Respondent has no criminal history whatsoever.

32. His detention arose solely from his immigration status, and there are no allegations of conduct that would suggest he poses a threat to public safety.

33. Petitioner entered the United States seeking protection from persecution in Cuba.

34. On November 20, 2025 the Immigration Judge ordered removal in his case. **(Exhibit B)**

35. Petitioner timely filed an appeal with the BIA. **(Exhibit C)**

36. The BIA appeal remains pending, with no briefing schedule or decision issued to date.
(Exhibit B)

37. Petitioner has no criminal history and substantial family ties in the United States.

38. Petitioner has been detained for more than three months following revocation of his previously granted bond.

IV. LEGAL STANDARD

39. A federal district court may grant habeas relief where an individual is held “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §2241(c)(3). Immigration detention under 8 U.S.C. §1226(a) must comply with due process and cannot be prolonged arbitrarily or without individualized justification. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Demore v. Kim*, 538 U.S. 510 (2003).

A. The Government Must Bear the Burden of Proof by Clear and Convincing Evidence

40. Courts require the government to justify detention under §1226(a) by clear and convincing evidence. *See Singh v. Holder*, 638 F.3d 1196; *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020).

B. Prolonged Detention Pending BIA Appeal Is Unreasonable and Unconstitutional

41. Under *Zadvydas*, detention must be reasonably related to its purpose. Prolonged detention without progress violates due process. *See Diop v. ICE/Homeland Security*, 656 F.3d 221 (3d Cir. 2011).

C. Violation of the Administrative Procedure Act Unlawful Denial of Bond

42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection.

D. The Maldonado Bautista Declaratory Judgment Confirms That EWI Noncitizens Are Detained Under §1226(a), Not §1225(b), and Are Entitled to Bond Hearings

43. Under the binding declaratory judgment, Petitioner may not be subjected to mandatory detention and must be considered under §1226(a), including eligibility for release on bond.

E. Matter of Yajure-Hurtado Conflicts with Maldonado Bautista and Cannot Be Applied to Deny Bond Jurisdiction

44. To the extent the IJ revoked Petitioner's bond based on Yajure-Hurtado, such action conflicts with a binding declaratory judgment.

F. The Court's Declaratory Judgment Is Binding on EOIR and DHS and Must Be Applied Unless Stayed or Reversed

45. The IJ's reliance on Yajure-Hurtado—despite a binding federal judgment rejecting its legal premise—is ultra vires and violates the separation of powers.

G. Even If Respondent Were Not a Class Member, Maldonado Bautista Confirms the Proper Statutory Interpretation: EWIs Are Detained Under §1226(a)

46. Detention must be evaluated under §1226(a) and requires an individualized bond determination.

H. Ongoing Detention Despite a Nationwide Declaratory Judgment Violates Due Process

47. Continued detention in defiance of binding declaratory relief is constitutionally intolerable—particularly where Petitioner already received a bond grant.

V. ARGUMENT

48. The Due Process Clause of the Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. Immigration detention under both 8 U.S.C. §1226 (pre-removal detention) and §1225 (arriving aliens) is subject to constitutional limits. Congress did not authorize indefinite or arbitrary detention, and the Supreme Court has held that detention must remain reasonably related to its purpose and accompanied by adequate procedural safeguards. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

49. Section 1226(a) governs the detention of individuals pending a decision on whether they are to be removed. It explicitly provides for discretionary release on bond or conditional parole.

50. By contrast, §1225(b) applies primarily to individuals who are seeking admission at the border, requiring detention until a determination of admissibility or removal. However, even under §1225(b), the Supreme Court has recognized that detention cannot be prolonged indefinitely without violating the Due Process Clause. *See Clark v. Martinez*, 543 U.S. 371 (2005).

51. Here, Petitioner was detained under §1226(a), not §1225(b). Therefore, he was entitled to a bond hearing where the government bears the burden of demonstrating by clear and convincing evidence that detention is necessary. Once a bond was granted, the arbitrary revocation of that order—without new evidence or changed circumstances—violated the

statutory framework of §1226 and the Fifth Amendment's guarantee of procedural fairness.

52. Even assuming arguendo that the government sought to reclassify Petitioner's detention under §1225(b), such action would not cure the constitutional defect. Courts have held that detention under §1225(b) also triggers due process protections when it becomes prolonged or arbitrary. *See Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), rev'd in part, *Jennings v. Rodriguez*, 583 U.S. 281 (2018). Under the framework articulated in *Demore v. Kim*, 538 U.S. 510 (2003), brief periods of detention during removal proceedings may be permissible, but extended confinement without an individualized hearing violates due process.

53. Petitioner's case exemplifies such a violation. He was initially granted bond under §1226(a), establishing that release was consistent with statutory authority and due process. The Immigration Judge's subsequent revocation, based solely on *Matter of Yajure-Hurtado* and without a new evidentiary basis, contravenes both §§1226 and 1225 and constitutes an unlawful deprivation of liberty.

A. Petitioner's Detention Falls Under 8 U.S.C. §1226(a), Not §1226(c) or §1225(b)

54. Petitioner is a non-arriving alien who entered the United States without inspection and was later apprehended inside the country. Detention authority over such individuals arises from 8 U.S.C. §1226(a), which expressly provides that the Attorney General may continue to detain or may release the alien on bond or conditional parole pending a decision on removal.

55. By contrast, §1226(c) and §1225(b) govern mandatory detention for narrow categories of individuals—§1226(c) applies to admitted noncitizens with certain criminal

convictions, while §1225(b) applies to arriving aliens at ports of entry whose admissibility has not been determined.

56. Because Petitioner entered without inspection and is not a criminal or arriving alien, he falls squarely within §1226(a). The Immigration Judge's reliance on *Matter of Yajure-Hurtado*, 28 I&N Dec. 878 (BIA 2024), to revoke bond was therefore legal error. Courts have consistently held that §1226(a) governs detention of noncitizens arrested after entering without inspection. *See Demore v. Kim*, 538 U.S. 510 (2003); *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), rev'd in part, *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

B. Matter of Yajure-Hurtado Does Not Authorize Mandatory Detention and Was Misapplied

57. The BIA's decision in *Matter of Yajure-Hurtado* addressed jurisdiction between DHS and EOIR over initial custody determinations. It did not alter the statutory limits of §1226(a) or authorize mandatory detention.

58. The Immigration Judge's revocation of Petitioner's bond based solely on *Yajure-Hurtado* extends the decision far beyond its holding and transforms discretionary custody into mandatory detention without statutory basis. Such interpretation contradicts the text of §1226(a) and violates constitutional due process as clarified in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), which held that immigration statutes authorizing detention do not permit indefinite or automatic custody without individualized hearings.

C. Mandatory Detention Under §1225(b) Applies Only to "Arriving Aliens," Not EWIs

59. Section 1225(b) mandates detention only for individuals seeking admission—arriving aliens at ports of entry. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281,

296–97 (2018), explained that §1225(b)(1) and (b)(2) apply to aliens in the process of being admitted.

60. Individuals like Petitioner, who entered without inspection and were later apprehended inside the country, are not applicants for admission under §1225(b). Their detention is instead governed by §1226(a), which provides for discretionary release. Courts including *Brito v. Garland*, 22 F.4th 240 (1st Cir. 2021), and *Preap v. Johnson*, 831 F.3d 1193 (9th Cir. 2016), aff'd sub nom. *Nielsen v. Preap*, 586 U.S. ____ (2019), confirm that mandatory detention applies only to those categories enumerated in the statute. Thus, treating Petitioner as subject to §1225(b) is a misapplication of law and an ultra vires expansion of agency authority.

D. Due Process Under §1226 and §1225 Requires Individualized Determinations

61. Even when detention is authorized, the Fifth Amendment requires an individualized assessment of danger and flight risk. In *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), the court held that the government must prove by clear and convincing evidence that detention is necessary. The Immigration Judge's reliance on Yajure-Hurtado to revoke bond, without factual findings or new evidence, violates this standard and deprives Petitioner of procedural fairness guaranteed under §§1226 and 1225.

E. Prolonged and Indefinite Detention Violates the Statutes and the Fifth Amendment

62. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), held that immigration detention must remain reasonably related to its purpose and cannot be prolonged indefinitely.

63. Jennings reaffirmed that statutory silence does not authorize indefinite detention. In the immigration context, the Supreme Court has recognized only two valid purposes for

civil detention: to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted); *Demore v. Kim*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification. Petitioner's continued detention—after a prior bond grant and in the absence of new evidence—serves no legitimate government purpose and violates both statutory and constitutional limits.

64. Neither community protection nor flight risk applies to the Petitioner, and therefore, the detention no longer bears a reasonable relation to the purpose for which it was committed. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Petitioner has prevailed in proceedings. There is no removal order. His removal is not imminent.

F. Violation of the Administrative Procedure Act Unlawful Denial of Bond

65. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

G. The Maldonado Bautista Declaratory Judgment Confirms That EWI Noncitizens Are Detained Under §1226(a), Not §1225(b), and Are Entitled to Bond Hearings

67. In *Maldonado Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM, the U.S. District Court for the Central District of California issued a **national declaratory judgment** holding that individuals who entered without inspection and were not

apprehended at the time of entry are detained under 8 U.S.C. §1226(a) and therefore eligible for bond hearings. The Court expressly rejected the government's claim that all EWIs are "applicants for admission" subject to mandatory detention under §1225(b)(2)(A).

68. The Court found the government's 2025 "no-bond" policy unlawful and held that class members must be afforded the bond processes afforded by §1226(a). It further certified a nationwide class—the Bond Eligible Class—and extended declaratory relief to the entire class, stating:

"The Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Id.* Maldonado Bautista, 2025 WL 3288403, at 9.

69. Petitioner falls squarely within this class because he: Entered without inspection; Was not apprehended upon arrival; and Is not subject to §§1226(c), 1225(b)(1), or 1231.

70. Under the binding declaratory judgment, Petitioner may not be subjected to mandatory detention and must be considered under §1226(a)—including eligibility for release on bond.

H. Matter of Yajure-Hurtado Conflicts with Maldonado Bautista and Cannot Be Applied to Deny Bond Jurisdiction

71. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), created a nationwide barrier by declaring that immigration judges lack bond authority over all EWIs because they are supposedly subject to §1225(b)(2)(A) mandatory detention.

72. However, Maldonado Bautista squarely rejects the legal premise underlying Yajure-Hurtado, finding: EWIs who are not apprehended at the border are not applicants for admission; §1225(b) does not apply; §1226(a) governs detention and authorizes release on bond; and the DHS/EOIR no-bond policy is inconsistent with the plain language of the INA.

73. The Court held that the government's no-bond regime had no statutory foundation and could not strip IJs of bond jurisdiction.

74. Thus, to the extent the IJ revoked Petitioner's bond based on Yajure-Hurtado, such action: Conflicts with a binding declaratory judgment; Violates statutory authority under §1226(a); and Constitutes arbitrary detention in violation of the Due Process Clause.

I. The Court's Declaratory Judgment Is Binding on EOIR and DHS and Must Be Applied Unless Stayed or Reversed

75. Declaratory relief issued in Maldonado Bautista has "the force and effect of a final judgment." Federal agencies are presumed to comply with declaratory judgments.

76. Declaratory judgments have the same effect as injunctions in defining the parties' legal entitlements. *See Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs.*, 780 F. Supp. 2d 1307 (N.D. Fla. 2011), *Sanchez-Espinoza v. Reagan*, 770 F.2d 202 (D.C. Cir. 1985) (Scalia, J., concurring in part and dissenting in part), *Smith v. Reagan*, 844 F.2d 195 (4th Cir. 1988), *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18 (D.D.C. 1998).

77. EOIR is a named defendant in Maldonado Bautista and is bound by the judgment. Therefore, the IJ's reliance on Yajure-Hurtado—despite a binding federal judgment rejecting its legal premise—is ultra vires and violates the separation of powers.

J. Even If Respondent Were Not a Class Member, Maldonado Bautista Confirms the Proper Statutory Interpretation: EWIs Are Detained Under §1226(a)

78. Habeas petitioners may still challenge their detention independent of class membership, because *Maldonado Bautista* resolves the underlying legal issue: EWIs are detained under §1226(a), not §1225(b)(2)(A).

79. Thus, even if DOJ contests class membership, federal courts may grant habeas relief because: The interpretation of the INA is a pure question of law; Multiple district courts nationwide have rejected mandatory detention for EWIs; The statutory framework does not support the government's expansive reading of §1225(b).

80. This reinforces Petitioner's argument that detention must be evaluated under §1226(a) and requires an individualized bond determination.

K. Ongoing Detention Despite a Nationwide Declaratory Judgment Violates Due Process

81. DHS and EOIR have instructed IJs not to comply with a federal declaratory judgment. This systemic refusal amounts to: Arbitrary detention; A violation of procedural due process; and An unlawful assertion of executive power contrary to the judiciary's construction of the INA.

82. Continued detention in defiance of binding declaratory relief is constitutionally intolerable—particularly where Petitioner already received a bond grant.

L. Summary of Legal Grounds for Relief

83. Petitioner's detention is discretionary under §1226(a), not mandatory under §1226(c) or §1225(b);

84. Matter of Yajure-Hurtado does not create mandatory detention authority;

- 85. §1225(b) applies exclusively to arriving aliens, not those who entered without inspection;
- 86. Due process under §§1226 and 1225 requires individualized bond determinations;
- 87. Continued detention violates the INA and the Fifth Amendment's Due Process Clause.
- 88. Under the binding declaratory judgment, Petitioner may not be subjected to mandatory detention and must be considered under §1226(a)—including eligibility for release on bond.
- 89. To the extent the IJ revoked Petitioner's bond based on Yajure-Hurtado, such action conflicts with a binding declaratory judgment.
- 90. Thus, to the extent the IJ revoked Petitioner's bond based on Yajure-Hurtado, such action: Conflicts with a binding declaratory judgment; Violates statutory authority under §1226(a); and Constitutes arbitrary detention in violation of the Due Process Clause.
- 91. Therefore, the IJ's reliance on Yajure-Hurtado—despite a binding federal judgment rejecting its legal premise—is ultra vires and violates the separation of powers.
- 92. Continued detention in defiance of binding declaratory relief is **constitutionally intolerable**—particularly where Petitioner already received a bond grant.

VI. REQUEST FOR RELIEF

- 93. Assume jurisdiction over this matter.
- 94. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- 95. Grant the Writ of Habeas Corpus under 28 U.S.C. §2241;

96. Order Petitioner's immediate release under reasonable supervision; or, alternatively;

97. Order a constitutionally adequate bond hearing within seven (7) days where the government bears the burden by clear and convincing evidence;

98. Enjoin Respondents from re-detaining Petitioner absent lawful basis;

99. Immediate release; or

100. At minimum, a prompt, constitutionally adequate bond hearing under §1226(a).

101. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

102. Grant any other relief this Court deems just and proper.

VII. EXHIBIT LIST

Exhibit	Description	Date/Source
A	Notice to Appear	Department of Homeland Security, March 15, 2022
B	EOIR Case Status (Online)	https://acis.eoir.justice.gov/en/caseInformation February 3, 2026
C	Notice of Appeal to BIA (EOIR-26)	Board of Immigration Appeals December 2, 2025

Respectfully submitted,

/s/ Fernando D. Gireud

Fernando Gireud

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

I represent Petitioner, Osmedy Noy Pimentel, 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 February, 2026

/s/ Fernando D. Gireud

Fernando Gireud

EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

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

Subject ID: [REDACTED]

FINS #: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

OSMEDY NOY PIMENTEL

Respondent:

currently residing at:

[REDACTED]
(Number, street, city, state and ZIP code)

[REDACTED]
(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 CUBA and a citizen of CUBA ;
3. You arrived in the United States at or near SAN LUIS, AZ , on or about March 12, 2022 ;
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 ☐ 8CFR 235.3(b)(5)(iv)

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

800 DOLOROSA STREET-SUITE 300 San Antonio TX US 78207

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

on March 23, 2023 at 09:00 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

for PAUL BAK-SKLENER

DANIEL T WILSON
Date: 2022.03.15 09:02:17-07:00
ACTING WAT [REDACTED] CBP

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

Date: March 15, 2022

Murrieta, 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 removal proceedings. You are required to carry it with you at all times.

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

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

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

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

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

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

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent) (Sign in ink)

Border Patrol Agent

Date: 03/15/2022

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

Certificate of Service

This Notice To Appear was served on the respondent by me on March 15, 2022, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☒ In person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
- ☐ Attached is a credible fear worksheet.
- ☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

DANIEL OCHOA
Date: 2022.03.15 03:03 -07:00

DANIEL OCHOA, Border Patrol

(Signature of Respondent if Personally Served) (Sign in ink)

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

EXHIBIT B

An official website of the United States government
Here's how you know



EOIR Automated Case Information

Court Closures Today February 3, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > **NOY PIMENTEL, OSMEDY** ([REDACTED])



Automated Case Information

Name: NOY PIMENTEL, OSMEDY | **A-Number:** [REDACTED] |
Docket Date: 9/19/2022



Next Hearing Information



There are no future hearings for this case.



Court Decision and Motion Information

The immigration judge ordered **REMOVAL**.

DECISION DATE

November 20, 2025

COURT ADDRESS

566 Veterans Drive
PEARSALL, TX 78061

**BIA Case Information**

A case appeal was received on **November 28, 2025**. It is currently pending.

ALIEN BRIEF STATUS

No brief due date exists at this time.

DHS 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

PHONE NUMBER

EXHIBIT C



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

DELATORRE-ROLON, MAYRISE G
Private Practice
10730 Potranco Rd
Ste. 122-299
San Antonio, TX 78251

DHS/ICE Office of Chief Counsel - SNA
1015 Jackson-Keller Rd, Suite 100
San Antonio, TX 78213

Name:
NOY PIMENTEL, OSMEDY



Riders:

Date of Notice: 12/02/2025

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 11/28/2025, in the above-referenced case, filed by the Respondent.

Additional Comments
N/A

WARNING FOR APPEALS:

Departure. If you leave the United States after filing this appeal but before the Board issues a decision, your appeal may be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February, I filed the foregoing **Petition for Writ of Habeas Corpus**, together with all exhibits and proposed orders, through the Court's **CM/ECF electronic filing system**. Filing through CM/ECF constitutes service on all counsel of record, including the **United States Attorney for the Western District of Texas**, pursuant to **Federal Rule of Civil Procedure 5(b)(2)(E)**.

Respondents and Officials Served

Miguel Vergara

Field Office Director

U.S. Immigration and Customs Enforcement

Enforcement and Removal Operations (ERO)

San Antonio Field Office

Address on file

Immigration and Customs Enforcement

Enforcement and Removal Operations (ERO)

U.S. Department of Homeland Security

Todd Lyons

Director

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

500 12th Street, SW

Washington, DC 20536

Kristi Noem

Secretary

U.S. Department of Homeland Security

2707 Martin Luther King Jr. Ave., SE

Washington, DC 20528

Pamela Bondi

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Warden / Director

Karnes County Immigration Processing Center
U.S. Immigration and Customs Enforcement
409 FM1144
Karnes City, TX 78118

Service was made pursuant to **Federal Rules of Civil Procedure 4(i) and 5**, and **Local Rule CV-5** of the Western District of Texas.

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

/s/ Fernando D. Gireud

Fernando Gireud

Anderson Immigration Law Group

Texas Bar # 24074282

213 S. El Paso St.

El Paso, Texas 79901

Phone: (228) 831-0025

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