EXHIBIT 5

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELOY IMMIGRATION COURT

Respondent Name:
LUNA-RODRIGUEZ, JESUS ALONSO

To:
[redacted]

A-Number:
[redacted]

Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
04/16/2026

ORDER OF THE IMMIGRATION JUDGE

☑ This is a summary of the oral decision entered on 04/16/2026. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.

☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☑ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(6)(A)(i), 212(a)(7)(A)(i)(I)

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

☐ Asylum was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Withholding of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☑ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.

☑ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☑ post-conclusion voluntary departure under INA § 240B(b) was ☑ granted, and Respondent is ordered to depart by 05/18/2026. The respondent must post a $ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to Mexico taking effect immediately.

☑ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:

Under safeguards.

☐ Further information regarding voluntary departure has been added to the record.

☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

☐ the presumptive civil monetary penalty amount of $3,000.00 USD

☐ $ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of

removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent 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. 8 U.S.C. § 1326(a).

IV. Removal

☐ Respondent was ordered removed to

☐ In the alternative, Respondent was ordered removed to

☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

> If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent 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. 8 U.S.C. § 1326(a).

V. Other

☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.

☐ Respondent's status was rescinded under INA § 246.

☑ Other:

The following statements of law are hereby incorporated into the Court's oral decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with any law cited in the oral decision itself.

A. Removability & Burdens of Proof

In removal proceedings, the Department of Homeland Security bears the burden to prove a respondent's alienage. United States ex rel. Bilokumsky v. Tod, 263 U.S. 149, 153 (1923), overruled on other grounds by INS v. Lopez-Mendoza, 468 U.S. 1032 (1984). Once alienage is established, the burden is on the respondent to show the time, place, and manner of entry. INA § 291.

An alien has the burden of establishing that they satisfy the applicable statutory eligibility requirements for relief and, "with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion." INA § 240(c)(4)(A). If "the evidence indicates that one or more of the grounds for mandatory denial of the application for relief may apply, the alien shall have the burden of proving by a preponderance of the evidence that such grounds to not apply." 8 C.F.R. § 1240.8(d); see Budiono v. Lynch, 837 F.3d 1042, 1047–48 (9th Cir. 2016). Further, the respondent fails to meet this burden when the record of conviction is inconclusive as to whether the respondent has been convicted of a disqualifying crime. See Pereida v. Wilkinson, 141 S.Ct. 754 (2021).

B. Credibility

An applicant filing for cancellation of removal must persuade the Court that his or her evidence is credible. See INA § 240(c)(4)(C). Applications filed after May 11, 2005, are subject to the credibility standards articulated in the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005). In making a credibility determination, the Court considers the totality of the circumstances, including the "demeanor, candor, [and] responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements . . . the internal consistency of each such statement, the consistency of such statements with other evidence," as well as any other relevant factors. Id. Nevertheless, even in the absence of an explicit adverse credibility finding, the Court is not required to accept an applicant's entire testimony as true. Garland v. Ming Dai, 141 S. Ct. 1669, 1677 (2021). Instead, the Court is free to credit part of the applicant's testimony without accepting all of it. Id. at 1678. Thus, an applicant's credibility alone, is not also dispositive of both the applicant's persuasiveness and legal sufficiency to meet one's burden in the face of contrary persuasive evidence. Id. at 1681.

C. Corroboration

If the Court is not persuaded by the applicant's otherwise credible testimony, the Court must put the applicant on notice that she or he needs to produce

corroborative evidence and must provide the respondent an opportunity to either provide that corroboration or reasonably explain why such evidence is not obtainable. See INA § 240(c)(4)(B); see also Matter of L-A-C-, 26 I&N Dec. 516 (BIA 2015). Nevertheless, the Court is not required to identify the specific evidence that an applicant must obtain to meet the applicant's burden of proof, nor does it require the Court to grant an automatic continuance so that the applicant may obtain such evidence. Matter of L-A-C, 26 I&N at 520-21.

D. Cancellation of Removal (Non-LPR)

To qualify for cancellation of removal, a non-permanent resident applicant must establish that he or she (1) has been physically present in the United States for a continuous period of not less than ten years immediately preceding the application; (2) has been a person of good moral character during such period; (3) has not been convicted of an offense under INA §§ 212(a)(2), 237(a)(2), or 237(a)(3); and (4) establishes that removal would result in exceptional and extremely unusual hardship to his or her United States citizen or lawful permanent resident spouse, parent, or child. INA § 240A(b)(1). If the applicant is statutorily eligible, the court must determine whether the applicant warrants relief as a matter of discretion. See Matter of C-V-T-, 22 I&N Dec. 7, 11 (BIA 1998) (citing Matter of Marin, 16 I&N Dec. 581, 584–85 (BIA 1978)); 8 C.F.R. § 1240.8(d). The alien bears the burden of establishing eligibility for cancellation of removal by a preponderance of the evidence. INA § 240(c)(4);8 C.F.R. § 1240.8(d); Marinelarena v. Sessions, 869 F.3d 780, 789-92 (9th Cir. 2017) affirming Young v. Holder, 697 F.3d 976, 988-89 (9th Cir. 2007) (en banc).

The start date for determining an applicant's ten years of physical presence is the date of arrival in the United States, and terminates upon the earlier of the following: (1) when the applicant is served with a notice to appear; or (2) when the applicant commits an offense referred to in INA § 212(a)(2) that renders the applicant inadmissible to the United States under INA § 212(a)(2) or removable from the United States under INA §§ 237(a)(2) or 237(a)(4). INA §240A(d)(1); see Lagandaon v. Ashcroft, 383 F.3d 983, 992 (9th Cir. 2004). The applicant must establish good moral character during the ten-year period calculated backwards from the date on which the cancellation of removal application is finally adjudicated by the Court. Castillo-Cruz v. Holder, 581 F.3d 1154, 1162 (9th Cir. 2009) (citing Matter of Ortega-Cabrera, 23 I&N Dec. 793, 798 (BIA 2005)). The Act includes statutory bases precluding applicants from establishing good moral character. See INA § 101(f). If the statutory bases do not apply, the Court must determine good moral character during the requisite period as a matter of discretion. See Gutierrez v. Holder, 662 F.3d 1083, 1088 (9th Cir. 2011).

To establish "exceptional and extremely unusual hardship," an applicant must demonstrate that his or her qualifying relatives would suffer hardship that is "'substantially' beyond the ordinary hardship that would be expected when a close family member leaves" the country. Matter of Monreal-Aguinaga, 23 I&N Dec. 56, 62 (BIA 2001); see also Matter of Gonzalez Recinas, 23 I&N Dec. 467, 470 (BIA 2002); Matter of Andazola-Rivas, 23 I&N Dec. 319, 324

(BIA 2002). In making this determination, courts may consider a variety of factors, including, but not limited to, the age, health, and circumstances of the qualifying relatives. Recinas, 23 I&N Dec. at 468-72. The determination of whether an exceptional and extremely unusual hardship exists is based on a cumulative consideration of all hardship factors. Matter of J-J-G-, 27 I&N Dec. 808 (BIA 2020). However, when such hardship is based on the health of a qualifying relative, an applicant needs to establish that the relative has a serious medical condition and, if he or she is accompanying the applicant to the country of removal, that adequate medical care for the claimed condition is not reasonably available in that country. Id. at 812-13.

Last, cancellation of removal is a relief of last resort and given the limited number of such visas available, the Court considers whether there is an alternative means in which an applicant may adjust status to that of a lawful permanent resident. Recinas, 23 I&N Dec. at 472 (noting that due to the backlog of visa availability there were no other apparent methods of adjustment available).

E. Voluntary Departure (Post-conclusion)

At the conclusion of removal proceedings, the Court may, in its discretion, allow an applicant to voluntarily depart the United States at his or her own expense in lieu of removal. INA § 240B(b)(1); Matter of Arguelles-Campos, 22 I&N Dec. 811, 817 (BIA 1999). The applicant must (1) have been physically present in the United States for at least one year preceding the date the NTA was served; (2) have been a person of good moral character for at least five years preceding his application; (3) not be deportable under section 237(a)(2)(A)(iii) or section 237(a)(4) of the Act; and (4) have established, by clear and convincing evidence, that he has the means to depart the United States. INA § 240B(b)(1)(A)–(D).

Immigration Judge: Zhang, Xinzhe 04/16/2026

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved
Appeal Due: 05/18/2026

Certificate of Service

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Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : LUNA-RODRIGUEZ, JESUS ALONSO | A-Number : [redacted]
Riders:
Date: 04/17/2026 By: STROH, BELEN, Court Staff

NOTICE TO RESPONDENTS
GRANTED VOLUNTARY DEPARTURE

You have been granted the privilege of voluntarily departing from the United States of America. The Court advises you that, if you fail to voluntarily depart the United States within the time period specified, a removal order will automatically be entered against you. Pursuant to section 240B(d) of the Immigration and Nationality Act, you will also be subject to the following penalties:

1. You will be subject to a civil penalty of not less than $1,000 and not more than $5,000; and
2. You will be ineligible, for a period of 10 years, to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change of nonimmigrant status.

The Court further advises you that:

☐ **You have been granted pre-conclusion voluntary departure.**

1. If you file a motion to reopen or reconsider during the voluntary departure period, the period allowed for voluntary departure will not be stayed, tolled, or extended, the grant of voluntary departure will be terminated automatically, the alternate order of removal will take effect immediately, and the penalties for failure to depart voluntarily under section 240B(d) of the Act will not apply. 8 C.F.R. §§ 1240.26(b)(3)(iii), (e)(1).
2. There is a civil monetary penalty if you fail to depart within the voluntary departure period. In accordance with the regulation, the Court has set the presumptive amount of $3,000 (or $ instead of the presumptive amount). 8 C.F.R. § 1240.26(j).

☐ **You have been granted post-conclusion voluntary departure.**

1. If the Court set any additional conditions, you were advised of them, and were given an opportunity to accept or decline them. As you have accepted them, you must comply with the additional conditions. 8 C.F.R. § 1240.26(c)(3).
2. The Court set a specific bond amount. You were advised of the bond amount, and were given an opportunity to accept or decline it. As you have accepted it, you have a duty to post that bond with the Department of Homeland Security, Immigration and Customs Enforcement, Field Office Director within 5 business days of the Court's order granting voluntary departure. 8 C.F.R. § 1240.26(c)(3)(i).
3. If you have reserved your right to appeal, then you have the absolute right to appeal the decision. If you do appeal, you must provide to the Board of Immigration Appeals, within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if you do not submit timely proof to the Board that the voluntary departure bond has been posted. 8 C.F.R. § 1240.26(c)(3)(ii).
4. If you do not appeal and instead file a motion to reopen or reconsider during the voluntary departure period, the period allowed for voluntary departure will not be stayed, tolled, or extended, the grant of voluntary departure will be terminated automatically, the alternate order of removal will take effect immediately, and the penalties for failure to depart voluntarily

under section 240B(d) of the Act will not apply. 8 C.F.R. §§ 1240.26(c)(3)(iii), (e)(1).

5. There is a civil monetary penalty if you fail to depart within the voluntary departure period. In accordance with the regulation, the Court has set the presumptive amount of $3,000 (or $ instead of the presumptive amount). 8 C.F.R. § 1240.26(j).

Outlook

Re: Luna Rodriguez v. Noem, Case No. CV-26-01509-PHX-SPL.

From Erica Sanchez <erica@shefer.legal>
Date Mon 6/1/2026 1:18 AM
To Anagnopoulos, Dina (USAAZ) <dina.anagnopoulos@usdoj.gov>
Cc erica@mivozlaw.com <erica@mivozlaw.com>; Attorney Nera Shefer <nes@alianzasusa.com>; Nera Shefer <nera@shefer.legal>

7 attachments (2 MB)
Motion and TRO.pdf; Ex 1 DECLARATION OF NERA SHEFER.pdf; Ex 2 Order Granting Habeas.pdf; Ex 3 Judgment.pdf; EX 4 vawa prima facie.pdf; EX 5 order VD.pdf; EX 6 2026-05-20-57-ICWC-PI-Order.pdf;

Good morning,

I apologize for the late-hour email. Due to the emergency nature of the relief sought and the risk of imminent removal, I am providing notice that Petitioner will be filing tonight an Emergency Motion to Reopen Judgment Pursuant to Rule 60(b)(6), Request for Immediate Administrative Stay of Removal or Departure, Motion for Temporary Restraining Order, and Motion for Expedited Consideration in Luna Rodriguez v. Noem, Case No. CV-26-01509-PHX-SPL. Enclosed to this email with Exhibits.

The motion is based upon significant post-judgment developments that arose after entry of the Court's March 16, 2026 Order and Judgment, including intervening federal authority and facts demonstrating that Petitioner remains detained at Eloy Detention Center despite the expiration of the voluntary departure period.

Counsel personally confirmed with his Immigration-Bond Attorney, Nera Shefer that Petitioner remains in ICE custody at Eloy. Because the voluntary departure period expired on May 18, 2026, Petitioner faces a substantial risk of imminent transfer, departure, or removal before the Court can consider the requested relief. Petitioner will request that the Court preserve the status quo pending adjudication of the Rule 60(b)(6) motion, including an order prohibiting Petitioner's removal, departure, or transfer outside the District of Arizona. This notice is being provided in good faith pursuant to Rule 65(b). If Respondents wish to advise their position regarding the requested emergency relief, I am available by email and telephone.

Encl as stated.

Best regards,

Erica Sanchez
Counsel for Petitioner
Of Counsel for Shefer Law Firm

From: Erica Sanchez
Sent: Monday, June 1, 2026 1:16 AM
To: Anagnopoulos, Dina (USAAZ) <dina.anagnopoulos@usdoj.gov>

Cc: erica@mivozlaw.com <erica@mivozlaw.com>; Attorney Nera Shefer <nes@alianzasusa.com>; Nera Shefer <nera@shefer.legal>
Subject: Luna Rodriguez v. Noem, Case No. CV-26-01509-PHX-SPL.

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The motion is based upon significant post-judgment developments that arose after entry of the Court's March 16, 2026 Order and Judgment, including intervening federal authority and facts demonstrating that Petitioner remains detained at Eloy Detention Center despite the expiration of the voluntary departure period.

Counsel personally confirmed with his Immigration-Bond Attorney, Nera Shefer that Petitioner remains in ICE custody at Eloy. Because the voluntary departure period expired on May 18, 2026, Petitioner faces a substantial risk of imminent transfer, departure, or removal before the Court can consider the requested relief. Petitioner will request that the Court preserve the status quo pending adjudication of the Rule 60(b)(6) motion, including an order prohibiting Petitioner's removal, departure, or transfer outside the District of Arizona. This notice is being provided in good faith pursuant to Rule 65(b). If Respondents wish to advise their position regarding the requested emergency relief, I am available by email and telephone.

Best regards,

Erica Sanchez
Counsel for Petitioner
Of Counsel for Shefer Law Firm