

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Jose Carlos Marroquin Jordan,

Petitioner,

v.

Todd Blanche, Acting Attorney General,

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Daren K. Margolin, Acting Director for
Executive Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Field Director, St.
Paul Field Office Immigration and Customs
Enforcement,

and,

Mike Stasko,
Freeborn County Jail Administrator

Respondents.

**PETITIONER'S
SUPPLEMENTAL
MEMORANDUM IN
SUPPORT OF HABEAS IN
LIGHT OF NEW FACTS**

I. INTRODUCTION

Petitioner respectfully submits this supplemental memorandum to address new facts bearing directly on the lawfulness of his continued immigration detention. The Department of Homeland Security (“DHS”) argues that detention is justified because there is a significant likelihood of removal in the reasonably foreseeable future. That argument does not resolve the threshold problem presented here: the Executive Office for Immigration Review (“EOIR”) does not have the Notice to Appear (“NTA”), and the immigration court’s docket still reflects that removal proceedings were dismissed years ago.

Removal proceedings begin only when DHS files the NTA with the immigration court after service. Where DHS has not filed the NTA with the court, the attorney of record has not been served with the NTA, the court should treat this matter as a failure to prosecute. On this record, DHS has not shown that Petitioner is currently in properly commenced removal proceedings, much less that his continued custody is lawful or that there is a significant likelihood of removal in the reasonably foreseeable future.

II. RELEVANT NEW FACTS

Petitioner reported to counsel that he received a Notice to Appear while in custody. Undersigned counsel has been representing Petitioner since 2022 and is the attorney of record with the EOIR. Counsel has not been served with an NTA

and the EOIR record as of the writing of this motion still shows that removal proceedings were dismissed. (Exhibit “A” – Automated Case Information)

Counsel attended the detained master calendar hearing of Immigration Judge (“IJ”) Sarah Mazzie at 8:30 a.m. on May 7, 2026, as this was the date for his master calendar hearing reportedly listed on the NTA given to Petitioner in custody, but not to his attorney. IJ Mazzie informed counsel that Petitioner was not on her docket nor the docket of any other judge in EOIR.

III. ARGUMENT

A. DHS Has Not Established a Lawful, Currently Pending Removal Proceeding

The procedural posture matters. EOIR guidance states that removal proceedings begin when DHS files the NTA with the immigration court after service. 8 C.F.R. § 1003.14(a) The significance of that filing is not technical or minor; it is the act that commences the case. If the NTA was served but never filed with the court, then the proceedings were not properly initiated. This was confirmed when counsel attempted to attend the court date listed on the NTA and was informed that there was no such hearing. EOIR further states that if DHS has not filed the NTA by the first hearing, the matter is treated as a failure to prosecute.

Here, the immigration court does not have the NTA, and the docket still reflects dismissal years ago. That means DHS has not established that Petitioner is presently in valid removal proceedings. Without a properly filed charging document, DHS cannot rely on the existence of an active case to justify continued detention.

**B. DHS's "Significant Likelihood of Removal" Argument is
Misplaced on these Facts**

DHS's position assumes a valid and operative removal process. But where the immigration court docket still shows dismissal and the court lacks the NTA, DHS cannot simply invoke a generalized likelihood of removal to bridge the gap. On this record, the answer is no. The government cannot rely on a removal theory divorced from the basic procedural predicate required to start the case in immigration court; of which they alone control.

C. The Government's Own Conduct Supports Equitable Relief

The facts support an argument that DHS should not benefit from its own procedural failures. DHS placed Petitioner in custody, issued or reissued charging documents while he was detained, and yet the immigration court still lacks the NTA and continues to reflect dismissal years ago. That is precisely the kind of government-created confusion that equity disfavors.

DHS should not be permitted to prolong detention based on a record that it has failed to regularize. The government has created or perpetuated the very uncertainty it now invokes against Petitioner. Where the charging document is missing from the court file and the docket does not reflect a live case, equitable relief is appropriate because the government has not acted in a manner consistent with fair administration of the proceedings.

D. The Absence of the NTA in the Immigration Court File Undercuts the Legal Basis for Custody

Petitioner is not challenging a mere clerical issue. The absence of the NTA from the court file goes to the existence of the proceeding itself. The immigration court cannot meaningfully exercise jurisdiction over a case that was never properly commenced in the court record. This in fact played out on May 7, 2026, when counsel attended a fictional hearing. At a minimum, DHS's failure to ensure filing of the NTA undermines its ability to justify continued custody on the ground that removal is proceeding in an orderly and lawful manner.

IV. CONCLUSION

For these reasons, Petitioner respectfully requests that the Court grant habeas relief. DHS has not shown that Petitioner is currently in a properly pending removal proceeding, because the immigration court does not have the NTA and the docket still reflects dismissal years ago. Removal proceedings begin only when DHS files

the NTA with the immigration court after service. On these facts, Petitioner's continued detention is not justified.

Date: May 8, 2026

/s/ Carrie Huxford Peltier
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