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

OTONIEL MAURICIO COC CUC 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); MARKWANYE MULLIN, Secretary of the Department of Homeland Security; U.S. Department of Homeland Security (DHS); TODD BLANCHE, 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-4161

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner, OTONIEL MAURICIO COC CUC, is a native and citizen of Guatemala who is currently detained by U.S. Immigration and Customs Enforcement ('ICE') at the Karnes County Immigration Processing Center in Karnes City, Texas, within this Court's jurisdiction.

2. Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and declaratory and injunctive relief under the Administrative Procedure Act ('APA'), 5 U.S.C. §§ 701-706,

challenging his ongoing civil immigration detention as unlawful, arbitrary, capricious, and unconstitutional.

3. Petitioner entered the United States without inspection on or about August 8, 2014, and has resided continuously in the United States for more than ten years. He has established a stable life in Texas, has been gainfully employed, and is the father of two United States citizen children.

4. Petitioner is actively defending against removal before the Pearsall Immigration Court and has filed an application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents under INA § 240A(b), 8 U.S.C. § 1229b(b). His application is supported by the hardship to his United States citizen daughters, including medical, developmental, and educational evidence relating to his daughter [redacted] Coc Caal.

5. Petitioner is not detained because of any individualized finding by a neutral decisionmaker that he presents a danger to the community or a flight risk. Instead, the agency has treated him as categorically ineligible for bond or meaningful custody redetermination based on its current interpretation of INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), as applied to noncitizens who entered without inspection and were later arrested inside the United States.

6. Even assuming the government has statutory detention authority, the APA and the Due Process Clause require more than rote confinement. ICE must engage in reasoned decision-making, consider the actual purposes of civil detention, evaluate Petitioner's individualized circumstances, and consider less restrictive alternatives before continuing to incarcerate a longtime resident and father of U.S. citizen children while his removal case proceeds.

7. ICE's continued detention of Petitioner is unlawful because it is prolonged, unsupported by individualized findings, untethered to any demonstrated regulatory purpose, and imposed without

reasoned consideration of alternatives such as release on recognizance, order of supervision, reporting, electronic monitoring, or other conditions.

8. This Petition does not ask the Court to review a discretionary bond amount or second-guess a bond decision made after a full hearing. No such hearing has occurred. Petitioner challenges the legality of a detention regime that has deprived him of any meaningful individualized custody review and has continued his confinement by categorical policy rather than reasoned adjudication.

II. JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody in violation of the Constitution, laws, and treaties of the United States.

10. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution of the United States, the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., the Administrative Procedure Act, 5 U.S.C. §§ 701-706, and the habeas statute.

11. This Court has authority to grant declaratory relief under 28 U.S.C. §§ 2201-2202 and to issue all writs necessary or appropriate in aid of its jurisdiction under 28 U.S.C. § 1651.

12. Nothing in the INA deprives this Court of jurisdiction over Petitioner's legal and constitutional claims. The Supreme Court has held that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar habeas challenges to the statutory or constitutional basis for immigration detention. Jennings v. Rodriguez, 583 U.S. 281, 294-96 (2018).

13. Petitioner does not seek review of a discretionary judgment regarding the amount of bond. He challenges the legality of his detention, the absence of constitutionally adequate custody procedures, and the agency's arbitrary and capricious failure to engage in reasoned decision-making under the APA.

14. The APA provides for judicial review of final agency action and agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. §§ 702, 704, 706(1), 706(2). Petitioner is adversely affected and aggrieved by ICE's continued detention decision and categorical refusal to provide meaningful individualized custody review.

III. VENUE

15. Venue is proper in this District under 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States, Petitioner is detained within this District, and a substantial part of the events giving rise to this Petition occurred within this District.

16. Venue is also proper under 28 U.S.C. § 2241 because Petitioner is physically confined at Karnes County Immigration Processing Center in Karnes City, Texas, located within the Western District of Texas, San Antonio Division.

IV. IDENTIFICATION OF PARTIES

17. Petitioner Otoniel Mauricio Coc Cuc, A# [redacted], is a native and citizen of Guatemala. He is currently detained by ICE at Karnes County Immigration Processing Center in Karnes City, Texas.

18. Respondent Miguel Vergara is the Field Office Director for the San Antonio Field Office of U.S. Immigration and Customs Enforcement. He oversees detention and removal operations for noncitizens detained in this jurisdiction and is a legal custodian of Petitioner. He is sued in his official capacity.

19. Respondent U.S. Immigration and Customs Enforcement and Removal Operations ('ICE/ERO') is the component responsible for Petitioner's custody, detention, and removal operations.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security and is responsible for the administration and enforcement of immigration laws through DHS and its components. He is sued in his official capacity.

21. Respondent U.S. Department of Homeland Security is the federal agency responsible for implementing and enforcing the immigration laws, including civil immigration detention.

22. Respondent Todd Blanche is the Acting Attorney General of the United States and is responsible for administration of the immigration courts through the Executive Office for Immigration Review. He is sued in his official capacity.

23. Respondent Todd M. Lyons is the Senior Official Performing the Duties of the Director of ICE and is responsible for ICE detention policy and operations. He is sued in his official capacity.

24. Respondent Warden of the Karnes County Immigration Processing Center is Petitioner's immediate physical custodian and is a proper respondent under Rumsfeld v. Padilla, 542 U.S. 426 (2004).

V. FACTUAL ALLEGATIONS

A. Petitioner's identity, entry, and residence in the United States

25. Petitioner was born on [redacted], in Poptun, Peten, Guatemala. He is a native and citizen of Guatemala.

26. Petitioner first entered the United States on or about August 8, 2014, through Texas, without inspection, admission, or parole.

27. Since his 2014 entry, Petitioner has lived continuously in the United States and has developed deep family, employment, and community ties in Texas.

28. Petitioner's EOIR-42B application lists his continuous residence in the United States since August 8, 2014. It identifies his recent residences in Texas, including Martindale, Bastrop, and San Marcos, before his ICE detention.

29. Before detention, Petitioner resided at [redacted], with his family.

30. Petitioner has lived in the United States for more than ten years and is pursuing statutory relief that depends directly on that continuous physical presence and the hardship to his qualifying United States citizen children.

B. Family ties and qualifying relatives

31. Petitioner is the father of two United States citizen daughters: [redacted] Coc Caal, born [redacted], in Austin, Texas, and [redacted] Coc Caal, born [redacted], in Kyle, Texas.

32. Both children are United States citizens by birth. Their birth certificates identify Petitioner, Otoniel Mauricio Coc Cuc, as their father.

33. Petitioner's daughters are young children who depend on their parents for financial support, emotional security, housing, transportation, healthcare coordination, and educational stability.

34. [redacted] is school-aged and enrolled in school in San Marcos, Texas. Her educational records show active school participation, report-card assessments, and attendance information. Petitioner seeks to remain in the United States to support her education and development.

35. [redacted] is a toddler who requires daily parental care, stability, and financial support. Petitioner's detention removes one of her principal caregivers and providers from the household.

36. The children's mother, Reyna Alicia Caal Caal, is a Guatemalan national. Petitioner's detention places the full practical burden of childcare, transportation, medical appointments, and financial survival on the remaining parent and family support network.

C. Pending cancellation of removal application

37. Petitioner is in removal proceedings before the Pearsall Immigration Court. His next hearing was scheduled for July 7, 2026 according to the EOIR filing packet.

38. Petitioner will be filing a Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, together with supporting exhibits.

39. Petitioner seeks relief under INA § 240A(b), 8 U.S.C. § 1229b(b), based on his long residence, good moral character, absence of disqualifying criminal history, and the exceptional and extremely unusual hardship his removal would cause to his United States citizen daughters.

40. Petitioner's application is not dilatory. It is a facially substantial request for statutory relief pending before the Immigration Court and supported by documentary evidence including birth records, social security records, medical records, and school records.

41. Petitioner's detention directly impairs his ability to consult with counsel, gather evidence, review records, assist in preparing testimony, and present the hardship case on behalf of his daughters.

42. The Immigration Court, not ICE, will decide whether Petitioner merits cancellation of removal. The pendency of those proceedings is not a rational basis for indefinite or unreasoned

detention where ICE has made no individualized finding that Petitioner must remain incarcerated to ensure appearance or protect the community.

D. Employment, good moral character, and lack of individualized danger findings

43. Before detention, Petitioner was employed in Texas as a foreman. His EOIR-42B application identifies employment with Thoma Flores in Texas, earning approximately $3,000 per week.

44. Petitioner's employment reflects stability, work history, and ability to support his family if released under reasonable conditions.

45. The EOIR-42B application does not identify any criminal conviction. The application states that Petitioner was detained by immigration officers in April 2026 and is currently detained at Karnes County Immigration Processing Center.

46. Petitioner has no known violent criminal history, no known pending criminal charges, and no known disqualifying conviction that would render him ineligible for the cancellation application he is pursuing.

47. DHS has not produced any individualized finding that Petitioner is a danger to the community. DHS has not shown that Petitioner is a flight risk. DHS has not shown that release conditions would be inadequate.

48. Petitioner's family ties, long residence, pending relief application, and need to care for his United States citizen children provide powerful incentives to appear for all immigration proceedings and to comply with supervision conditions.

E. Medical and hardship evidence relating to 

49. The pending cancellation application includes medical evidence concerning Petitioner's daughter [redacted] Coc Caal.

50. [redacted] medical records identify ongoing skin and allergic conditions, including atopic dermatitis and eczema. The records reflect repeated prescriptions and instructions for topical medications, including triamcinolone, hydrocortisone, ketoconazole, and other treatment measures.

51. [redacted] records also list asthma-related medication, including Ventolin HFA with an AeroChamber, reflecting a need for continued medical monitoring and access to care.

52. On May 1, 2024, [redacted] was treated at Dell Children's Medical Center of Central Texas for a rash diagnosed as atopic dermatitis/eczema. The discharge instructions describe eczema as a chronic dry itchy rash that usually requires topical medication and follow-up care, including dermatology follow-up.

53. [redacted] more recent medical records from 2025 list active problems including atopic dermatitis and mild intermittent asthma without complication, and schedule future pediatric follow-up.

54. The hardship evidence shows that Petitioner's United States citizen child has ongoing medical needs requiring parental attention, medication management, appointment coordination, and continuity of care in the United States.

55. Petitioner's detention undermines the family structure needed to manage these medical issues and prepare the immigration case that presents them to the Immigration Court.

F. Detention history

56. Petitioner was detained by immigration officers in or about April 2026.

57. Petitioner has been held at Karnes County Immigration Processing Center in Karnes City, Texas.

58. Petitioner remains in ICE custody pending completion of his removal proceedings and adjudication of his EOIR-42B application.

59. DHS has treated Petitioner as subject to mandatory detention under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), because he entered without inspection and was not admitted or paroled.

60. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Buenrostro-Mendez v. Bondi,* 166 F.4th 494 (5th Cir. 2026), DHS and EOIR have treated noncitizens who entered without inspection and were later arrested inside the United States as applicants for admission subject to mandatory detention without bond under § 1225(b)(2)(A).

61. As a result, Petitioner has been categorically deprived of a meaningful custody redetermination before a neutral decisionmaker empowered to order release under conditions.

62. ICE has not provided Petitioner with a reasoned written decision explaining why continued detention remains necessary in his case, why he cannot be released under supervision, or why less restrictive alternatives would be insufficient.

63. Petitioner's detention is civil, not criminal. It is supposed to serve the limited regulatory purposes of ensuring his appearance and protecting the community. Those purposes cannot be presumed forever and cannot justify prolonged detention without individualized analysis.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

64. Petitioner has no adequate administrative remedy that must be exhausted before seeking habeas relief.

65. To the extent the government contends that Petitioner should have requested a bond hearing from the Immigration Court, exhaustion is excused as futile because current binding law in this Circuit treats noncitizens in Petitioner's posture as ineligible for bond before an Immigration Judge.

66. In *Buenrostro-Mendez v. Bondi*, the Fifth Circuit held that individuals present in the United States without having been admitted are applicants for admission under § 1225(a)(1) and subject to mandatory detention under § 1225(b)(2)(A), without eligibility for bond under § 1226(a). 166 F.4th 494 (5th Cir. 2026).

67. *Matter of Yajure Hurtado* likewise holds that Immigration Judges lack authority to hear bond requests or grant bond to noncitizens who are present in the United States without admission and are detained under § 1225(b)(2)(A). 29 I&N Dec. 216 (BIA 2025).

68. Given that legal framework, any request to the Immigration Court for a bond hearing would be denied on jurisdictional grounds rather than on an individualized assessment of Petitioner's danger or flight risk.

69. DHS parole or discretionary release is not an adequate administrative remedy. It is not a neutral adjudicatory process, does not provide the procedural protections of a custody hearing, and does not allow Petitioner to test the legality of his detention before a decisionmaker with authority to order relief based on constitutional and APA violations.

70. Because no administrative body currently provides an adequate remedy for Petitioner's claims, exhaustion is satisfied or excused.

VII. LEGAL STANDARD

71. A federal district court may grant habeas relief where a person is in custody in violation of the Constitution or laws or treaties of the United States. 28 U.S.C. § 2241(c)(3).

72. Civil immigration detention must remain reasonably related to a legitimate regulatory purpose and cannot become arbitrary or punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

73. The Supreme Court has recognized that the principal purposes of immigration detention are to ensure appearance at immigration proceedings and to protect the community. *Zadvydas*, 533 U.S. at 690; *Demore,* 538 U.S. at 528.

74. The APA requires courts to set aside agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, contrary to constitutional right, in excess of statutory authority, or without observance of procedure required by law. 5 U.S.C. § 706(2)(A)-(D).

75. Under *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, agency action is arbitrary and capricious where the agency has relied on factors Congress did not intend it to consider, entirely failed to consider an important aspect of the problem, offered an explanation contrary to the evidence, or acted so implausibly that the action cannot be ascribed to a difference in view or agency expertise. 463 U.S. 29, 43 (1983).

76. Under *Department of Homeland Security v. Regents of the University of California*, an agency must consider important aspects of the problem and must consider alternatives within the ambit of the existing policy before taking action that affects substantial reliance and liberty interests. 591 U.S. 1 (2020).

77. Under *FCC v. Fox Television Stations, Inc.,* when an agency changes position, it must display awareness of the change and provide a reasoned explanation, particularly where the new policy rests upon factual findings that contradict prior policy or where serious reliance interests are implicated. 556 U.S. 502, 515-16 (2009).

78. Under *Loper Bright Enterprises v. Raimondo*, courts exercise independent judgment in deciding whether an agency has acted within its statutory authority and do not defer to agency interpretations simply because a statute is ambiguous. 603 U.S. 369 (2024).

VIII. CLAIMS FOR RELIEF

COUNT I - HABEAS CORPUS AND FIFTH AMENDMENT DUE PROCESS: PROLONGED CIVIL DETENTION WITHOUT INDIVIDUALIZED CUSTODY REVIEW IS UNLAWFUL

79. Petitioner incorporates all preceding paragraphs as though fully set forth herein.

80. Petitioner is in civil immigration detention. His detention is not punishment and cannot constitutionally operate as punishment.

81. Even if initial detention was authorized, continued detention must remain reasonably related to its lawful regulatory purposes: ensuring appearance at immigration proceedings and protecting the community.

82. Petitioner has now been detained while pursuing a bona fide application for cancellation of removal. The duration of detention continues to grow, and the end date remains uncertain because the timing of immigration proceedings depends on the court's docket, DHS litigation positions, and adjudication of evidence.

83. The government has not obtained any individualized finding by a neutral decisionmaker that Petitioner presents a danger to the community or a risk of flight. Nor has the government shown that conditions of release would be inadequate.

84. Petitioner's family ties, long residence, pending EOIR-42B application, employment history, and role as father of two United States citizen children show that he has strong incentives to appear and comply with conditions.

85. The absence of any meaningful custody review is particularly severe because Petitioner's detention impairs his ability to prepare the very relief application that could allow him to remain lawfully in the United States.

86. The Due Process Clause does not allow prolonged civil detention to continue solely because the government applies a categorical no-bond policy. Due process requires at least a meaningful individualized determination of whether continued confinement is necessary.

87. Respondents' continued detention of Petitioner without individualized review violates 28 U.S.C. § 2241 and the Fifth Amendment.

COUNT II - APA: ARBITRARY AND CAPRICIOUS PROLONGED DETENTION

88. Petitioner incorporates all preceding paragraphs as though fully set forth herein.

89. ICE's continued detention of Petitioner is final agency action or, alternatively, agency action unlawfully withheld or unreasonably delayed, reviewable under 5 U.S.C. §§ 702, 704, and 706.

90. ICE has continued to detain Petitioner without a reasoned written explanation addressing his individualized circumstances, including his more than ten years of residence, his two United States citizen children, his pending cancellation application, his work history, his lack of known violent criminal history, and the availability of conditions of release.

91. Under *State Farm* and *Regents*, an agency must engage in reasoned decision-making and consider the important aspects of the problem. ICE has not done so.

92. ICE's detention decision is arbitrary and capricious because it treats detention as automatic and self-justifying, without explaining why incarceration remains necessary for Petitioner specifically.

93. ICE's decision is also arbitrary because it fails to connect Petitioner's detention to the lawful purposes of civil immigration custody. Civil detention is lawful only to serve regulatory goals, not to punish, coerce abandonment of relief, or impose detention as a default consequence of being in removal proceedings.

94. The government cannot defend a liberty-depriving decision through a categorical label alone. The APA requires a reasoned explanation grounded in the record and in the relevant statutory purposes.

95. ICE has entirely failed to consider important aspects of Petitioner's case, including the effect of detention on his U.S. citizen children, his ability to pursue pending relief, his history of residence and employment, his lack of known danger indicators, and his amenability to supervision.

96. ICE's prolonged detention of Petitioner should therefore be set aside under 5 U.S.C. § 706(2)(A) as arbitrary, capricious, and an abuse of discretion.

COUNT III - APA: DETENTION IS DISFAVORED WHERE THE AGENCY FAILS TO CONSIDER LESS RESTRICTIVE ALTERNATIVES

97. Petitioner incorporates all preceding paragraphs as though fully set forth herein.

98. Civil detention is the most restrictive form of immigration custody. Under ordinary principles of administrative law, an agency choosing the most severe liberty restriction must give a reasoned explanation and must consider obvious less restrictive alternatives.

99. Detention is therefore disfavored under the APA where the agency applies it reflexively, by category, without considering whether the same governmental interests can be served through release conditions.

100. Respondents have not considered, or have not adequately explained any consideration of, less restrictive alternatives to Petitioner's continued detention.

101. Available alternatives include release on recognizance, an order of supervision, periodic reporting, telephonic or electronic check-ins, address reporting, travel restrictions, electronic monitoring, GPS monitoring, community sponsor support, or other reasonable conditions designed to ensure appearance and public safety.

102. Petitioner's circumstances make alternatives particularly appropriate: he has longstanding residence in Texas, a stable family residence, two U.S. citizen daughters, a pending statutory application for relief, and strong incentives to appear for immigration proceedings.

103. The agency's failure to consider alternatives is arbitrary and capricious under *State Farm* and *Regents* because it ignores a central aspect of the problem: whether continued physical incarceration is necessary at all.

104. To the extent Respondents rely on a categorical interpretation of § 1225(b)(2)(A) to avoid considering alternatives, that position remains subject to APA review because the agency must still explain the choice to continue detention and must exercise any available parole, supervision, or custody discretion in a reasoned manner consistent with statutory and constitutional limits.

105. Respondents' failure to consider less restrictive alternatives violates 5 U.S.C. § 706(2)(A), § 706(2)(D), and, where individualized custody action has been unlawfully withheld, § 706(1).

COUNT IV - APA AND ULTRA VIRES ACTION: CATEGORICAL NO-BOND DETENTION EXCEEDS REASONED STATUTORY AUTHORITY AS APPLIED TO PETITIONER

106. Petitioner incorporates all preceding paragraphs as though fully set forth herein.

107. Respondents' current detention regime rests on a categorical interpretation that treats all noncitizens who entered without inspection and were later arrested inside the United States as applicants for admission subject to mandatory detention under § 1225(b)(2)(A), without bond eligibility before an Immigration Judge.

108. Petitioner acknowledges that *Buenrostro-Mendez* is binding within this Circuit on the statutory bond question. Petitioner does not ignore that precedent. Instead, Petitioner preserves his argument that, as applied to him, Respondents' categorical detention without individualized custody review is unlawful under the APA and the Constitution.

109. The agency's current position represents a major change from longstanding practice under which many interior-arrested noncitizens who entered without inspection were treated as subject to § 1226(a) custody processes. Such a major policy change requires reasoned explanation, consideration of reliance interests, and consideration of alternatives.

110. Respondents have not provided Petitioner with a reasoned decision explaining why this new categorical detention policy should apply to him despite his long residence, family ties, pending statutory relief, medical hardship evidence, and absence of individualized danger findings.

111. Under *Loper Bright*, this Court retains independent authority to decide whether Respondents' action is lawful and may not defer reflexively to agency interpretations that produce severe liberty deprivations without clear statutory authorization and reasoned implementation.

112. To the extent Respondents' policy forecloses any meaningful custody assessment and converts civil detention into prolonged incarceration by rule, it is not in accordance with law, is contrary to constitutional right, exceeds statutory authority, and is arbitrary and capricious under 5 U.S.C. § 706(2)(A)-(C).

COUNT V - DECLARATORY JUDGMENT

113. Petitioner incorporates all preceding paragraphs as though fully set forth herein.

114. An actual controversy exists between the parties concerning the legality of Petitioner's ongoing detention and Respondents' failure to provide meaningful individualized custody review.

115. Petitioner is entitled to a declaration that Respondents' continued detention of him without individualized custody review, without reasoned consideration of alternatives, and without a rational explanation tied to danger or flight risk violates the APA, the Due Process Clause, and 28 U.S.C. § 2241.

IX. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

• Assume jurisdiction over this matter;

- Issue an Order to Show Cause requiring Respondents to show cause within three days why the Petition should not be granted;
- Grant the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241;
- Order Petitioner's immediate release under reasonable conditions of supervision;
- Alternatively, order Respondents to provide Petitioner with a prompt individualized custody determination before a neutral decisionmaker at which the government bears the burden of establishing, by clear and convincing evidence, that continued detention is necessary to serve a compelling regulatory purpose and that no less restrictive alternatives are sufficient;
- Declare that Respondents' continued detention of Petitioner without individualized consideration of danger, flight risk, and less restrictive alternatives is arbitrary, capricious, an abuse of discretion, not in accordance with law, contrary to constitutional right, and without observance of procedure required by law under the APA;
- Declare that Respondents' continued detention of Petitioner violates the Fifth Amendment Due Process Clause;
- Enjoin Respondents from continuing to detain Petitioner absent a lawful individualized custody determination and reasoned consideration of less restrictive alternatives;
- Award reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, if appropriate; and
- Grant such other and further relief as the Court deems just and proper.

X. EXHIBIT LIST

Exhibit	Description	Source
A	Notice to Appear	Department of Homeland Security
B	I-830 / custody transfer or detention record	Department of Homeland Security
C	Birth certificates [redacted] Coc Caal and [redacted] Coc Caal	State of Texas

Respectfully submitted,

/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
Fax: (877) 809-2390
fgireud@immigrationanderson.com

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

I, Fernando D. Gireud, represent Petitioner Otoniel Mauricio Coc Cuc and submit this verification on his behalf because Petitioner is detained and counsel is preparing this Petition based on the records available to counsel, including Petitioner's EOIR-42B filing and detention records.

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, information, and belief based on the documents reviewed and information available to counsel.

Dated: 07/01/2026

/s/ Fernando D. Gireud
Fernando D. Gireud

EXHIBIT A

Allegations: Admits All; counsel | Charges: Concedes All; counsel

Alternate Country: GUATEMALA

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

DOB: [redacted]

Event No: [redacted]

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

Subject ID: [redacted] FINS: [redacted] File No: [redacted]

In the Matter of:

Respondent: OTONIEL MAURICIO COC CUC currently residing at:

[redacted] [redacted]

(Number, street, city, state and ZIP code) (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 GUATEMALA and a citizen of GUATEMALA;
3. You entered the United States at or near unknown place, on or about unknown date;
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:

566 VETERAN DR, STE 101, PEARSALL, TEXAS 78061. Pearsall, Tx - Det Facility

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

on May 5, 2026 *(Date)* at 8:30 am *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

LIMARIS OFARRILL - (A) SDDO

(Signature and Title of Issuing Officer)

Date: April 24, 2026

San Antonio, Texas

(City and State)

EOIR – 1 of 3

Exh. 1 –

DHS Form I-862 (3/26)

Uploaded on: 05/05/2026 at 10:55:47 AM (Central Daylight Time) Base City: PSP Case 5:26-cv-04161-SKP Document 1-1 Filed 07/01/26 Page 23 of 31

Allegations: Admits All; counsel | Charges: Concedes All; counsel
Alternate Country of Removal:

Notice to Respondent

Alien Registration: This Notice to Appear serves as evidence of your alien registration pursuant to INA § 262. If you are 18 years or older, failure to carry this Notice to Appear, or other evidence of alien registration as provided in 8 C.F.R. § 264.1(b), on your person at all times is a criminal offense pursuant to INA § 264(e), for which you may be subject to a criminal penalty of $5,000 and imprisonment of up to 30 days.

Notification to the Department of Homeland Security (DHS) of Change of Address: All aliens aged 14 years or older, and all parents and legal guardians of aliens under the age of 14, must report a change of address to U.S. Citizenship and Immigration Services, a component of DHS, within 10 days of moving, pursuant to INA § 265(a). Failure to notify DHS of your change of address is a criminal offense pursuant to INA § 266(b), for which you may be subject to a criminal penalty of $5,000 and imprisonment of up to 30 days. More information is available online at **https://www.uscis.gov/addresschange**. **This obligation is in addition to your obligation to notify the Immigration Court of your change of address**.

Representation: If you 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 INA §§ 240(b)(4)(A) and 292. Unless you request otherwise in writing, no hearing will be scheduled earlier than 10 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 is provided with this notice.

Conduct of the hearing: At your hearing you will be given the opportunity to admit or deny any or all of the allegations in this Notice to Appear, including that you are inadmissible or deportable. You will be advised by the immigration judge 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. 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. 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.

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 INA § 208(a)(2)(B).

Notification to the Immigration Court of Change of Address: You are required to notify the Immigration Court, in writing, of your full mailing address and telephone number (if any). You must also immediately notify the Immigration Court whenever you change your address or telephone number during the course of this proceeding by using Form EOIR-33/IC, Change of Address/Contact Information Form. Notices of hearing will be mailed to this address. If you file a Form EOIR-33/IC with the Immigration Court, you must serve a copy on the ICE Office of the Principal Legal Advisor. If you change your address or telephone number during the course of this proceeding and do not submit Form EOIR-33/IC, the Immigration Court shall not be required to provide you with written notice of your hearing. **This obligation is in addition to your obligation to notify DHS of your change of address.**

Failure to Appear: If you fail to attend the hearing at the date, time, and place designated on this notice, or any date, time, or place later directed by the Immigration Court, the immigration judge shall order you removed in your absence upon determining that you were provided written notice and are removable. If you are arrested by ICE after being ordered removed in your absence by the immigration judge pursuant to INA § 240(b)(5), you will be required to pay a minimum fee of $5,000, adjusted for inflation, or a greater amount as established by the Secretary of Homeland Security.

Mandatory Duty to Depart the United States: If you become subject to a final order of removal as defined in 8 C.F.R. § 1241.1, you must depart the United States within 90 days of the order. If you do not depart, you may be subject to a civil penalty under INA § 274D(a) of $500 per day, adjusted for inflation, and imprisonment of up to 4 years (or 10 years if you belong to certain specified classes described in INA § 237(a)(1)(E), (2), (3), or (4)). If you are granted voluntary departure, you must comply with the terms of the voluntary departure order. If you fail to voluntarily depart within the time provided, you will be subject to a final order of removal, may be ineligible for certain immigration benefits for a period of 10 years from the date you overstayed the order, and may be subject to a civil penalty from $1,000 to $5,000, adjusted for inflation. For additional information, refer to the order granting voluntary departure, as well as INA § 240B(d).

Sensitive Locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in INA § 239(e)(1), such action complied with 8 U.S.C. § 1367.

EOIR – 2 of 3

Allegations: Admits All; counsel | Charges: Concedes All; counsel
Alternate Country: GUATEMALA

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)

_____ Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on April 24, 2026, 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.

_____ _____ ISAIAH GUTIERREZ - Deportation Officer

(Signature of Respondent if Personally Served) *(Signature and Title of officer)*

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3

EXHIBIT B

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

NOTICE TO EOIR: ALIEN ADDRESS

Date: 01/31/2026

To: Enter Name of BIA or Immigration Court I-830 San Antonio, TX

Enter BIA or Immigration Court Three Letter Code@usdoj.gov SNA

From: Enter Name of ICE Office Karnes County Immigration Processing Center

Enter Street Address of ICE Office 409 FM 1144

Enter City, State and Zip Code of ICE Office KARNES CITY, TX. 78118

Respondent: Enter Respondent's Name _____

Alien File No: Enter Respondent's Alien Number _____

This is to notify you that this respondent is:

☐ Currently incarcerated by federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

Enter Name of Institution where Respondent is being detained _____

Enter Street Address of Institution where Respondent is being detained _____

Enter City, State and Zip code of Institution where Respondent is being detained _____

Enter Respondent's Inmate Number _____

His/her anticipated release date is Enter Respondent's Anticipated Release Date. _____

☐ Detained by ICE on **Enter Date Respondent was Detained by ICE** at: _____

Enter Name of ICE Detention Facility where Respondent is being detained _____

Enter Street Address of ICE Detention Facility where Respondent is being detained _____

Enter City, State and Zip Code of ICE Detention Facility where Respondent is being detained _____

☒ Detained by ICE and transferred on **Enter Date Respondent was transferred** to: 01/24/2026

Enter Name of ICE Detention Facility where Respondent has been transferred _____

Enter Street Address of ICE Detention Facility where Respondent has been transferred _____

Enter City, State and Zip Code of ICE Detention Facility where Respondent has been transferred _____

☐ Released from ICE custody on the following condition(s):

- ☐ Order of Supervision or Own Recognizance (Form I-220A)
- ☐ Bond in the amount of Enter Dollar Amount of Respondent's Bond
- ☐ Removed, Deported, or Excluded
- ☐ Other _____

Upon release from ICE custody, the respondent reported his/her address and telephone number would be:

Enter Respondent's Street Address _____

Enter Respondent's City, State and Zip Code _____

Enter Respondent's Telephone Number (including area code) _____

☒ I hereby certify that the respondent was provided an EOIR-33 Form and notified that they must inform the Immigration Court of any further change of address.

ICE Official: Enter Your First, Last Name and Title _____

EOIR – 1 of 1

CERTIFICATE OF SERVICE

I hereby certify that on this July 1, 2026 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

Markwayne Mullin
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528

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