

Name: David Alexander Gutierrez Rodas

FILED

A Number: 

JUL 01 2026

Address: Central Valley Annex Detention Facility
245 Taylor Ave
Mc Farland, CA 93250
PRO SE

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

IN THE STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

David Gutierrez Rodas

A# 

Petitioner,

v.

Warden of the
Central Valley Annex Detention
facility;

Case No. 1:26-CV-5067-JLT-EPG(HC)

Attorney General of the
United States;

**PETITION FOR TEMPORARY
RESTRAINING ORDER**

Secretary, United States
Department of Homeland
Security;

Acting Director,
Immigration and Custom
Enforcement.

Respondents,

I, David Alexander Gutierrez Rodas make the following statements under oath and subject
to the penalty of perjury:

My name is David Alexander Gutierrez Rodas. I am citizen of Guatemala. I came to the United States June 1st, 2022. I presented myself to Border Patrol and asked for Asylum in the United States. Border Patrol took me to an immigration office, where they took my fingerprints and information to process my entry. I was in a cold room for two days, and then got transferred to a detention tent in El Paso, TX, where I stayed for 15 days. On the fifteenth day, I was taken to a bus where we rode for 8 hours. While on the ride, I was given asylum papers. We were then taken to an open park, where they arranged with our family members to pick us up, and we were set free. I did not receive a court date or appointment before they let me go. I have remained in the United States ever since.

I am a hard working person and I consider myself to be a person of good character. I am not a criminal, or a violent person. On 03/01/2026, I had a traffic violation that resulted in me going to jail for speeding. I was detained in Dallas County for 5 weeks, and I was told that my charge and ticket were taken care of since I had spent time detained. On 04/30/2026, I was transferred to an ICE facility called Blu in Dallas, where I remained for a week. I was then told I was being transferred again, and I have been at Central Valley Annex in McFarland since 05/09/2026. I was never served with an arrest warrant by ICE, and I have not

in front of an immigration judge.

Detention has been causing me harm, emotionally, and psychologically. I ~~was~~ also have had a tooth break while in detention and it's been causing me pain and wounding my tongue. The dentist at the facility refused to fix it, claiming I had not been in the facility long enough to be approved for treatment, so I didn't qualify.

I would like to challenge my detention as I have been inspected and processed upon entry and I ~~may~~ question the legality of remaining detained when I am not a violent person, or a criminal. I have never been in this situation before and I appreciate the opportunity to have my case reviewed.

I declare, under penalty of perjury, that the information above is true.

Respectfully,

Alexander

David Alexander Gutierrez Rodas

 06/23/26

I. BACKGROUND

JURISDICTION

1. I am detained in the custody of Respondents at _____ detention center.
2. 28 U. S. C. §2241 federal courts' authority to hear habeas claims by non citizen challenging immigration law. This action arises under the Due Process Clause of the Fifth Amendment of the U. S. Constitution. Jurisdictions proper under 28.U.S.C §§1331 (federal question), 2241(habeas corpus); U.S. Const. Art, 1,§ 2; (suspension Clause); and 5 U. S. C §702 (Administrative Procedure Act). This court may grant relief under the habeas corpus statues, 28 U. S. C. §2241 et seq., the Declaratory Judgment Act, 28 U. S. C §2201 et seq., and the All Writs Act, 28 U. S. C. §1651.
3. congress has preserved judicial review of challenges to prolonged immigration detention. See Jennings v. Rodriguez, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U. S. C. §§1226 (e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); see also id. At 876(Breyer, J., dissenting). ("8 U. S. C. §1252(b)(9)... by its terms applies only with respect of an order or removal")

(internal quotation marks and brackets omitted).

4. Federal Rule of Civil Procedure 65(b)- Authority to issue Temporary Restraining Order (TRO)
5. All Writs Act, 28 U. S. C. § 1651(a) empowers federal court to issue all writs necessary or appropriate in aid of their respective jurisdiction.
6. 8 U. S. C. §1231 (a)(6) and Fifth Amendment's Due Process Clause - Basis for petitioner's challenge to his continued detention.

VENUE

Venue is proper in this District because this is the district in which petitioner confined.

See Doe v. Garland, 109 F. 4th 1188, 1197-99 (9th cir. 2024)

REQUIREMENTS OF 28 U.S.C. §2243

1. The court must grant the petition of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless petitioner is not entitled to relief. 28 U. S. C §2243.
If the court issues an OSC, it must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed" Id. (emphasis added).
2. Court have long recognized the significance of the habeas statutes in protecting individuals of illegal restraint or confinement. "Fay v. Noia, 372 U. S. 391, 400 (1963)" (emphasis added).
See also Young v. INS, 208 F. 3d. 1116, 1120 (9th cir. 2000) (explaining that habeas statute requires expeditious determination of petitions).

PARTIES

1. I am a non citizen currently detained at
removal proceedings.

by Respondents pending ongoing

2. Respondent warden of detention center is petitioner's immediate custodian at the facility where petitioner is detained. See Doe 108 F. 4th at 1194-97.
3. Respondent Acting or Current Attorney General of the United States is the most senior official in the U. S. Department of Justice("DOJ"). They have the authority to interpret the immigration laws and adjudicate removal cases. They delegate this responsibility to the Executive office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA"). They are named in their official capacity.
4. Respondent Secretary of the U. S. department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8 U. S. C. §1103 (a). They are the legal custodian of petitioner. They are named in their official capacity.
5. Respondent Acting or Current Field Office Director of ICE with Administrative jurisdiction over petitioner's case. They are a legal custodian of petitioner and are named in their official capacity.

II. ARGUMENT

A. I am likely to succeed on the Merits.

Through the Habeas petition I filed , I showed I'm likely to prevail and succeed on the merits of my petition because the balance of equity tips toward my favor and it is in public interest that the court shall grant the petition for Temporary Restraining order or preliminary Injunction .

As I already claimed in my habeas corpus petition, my wrongful detention is impermissible under Zadvydas v. Davis, 533 U. S. 678 (2001). In addition, my detention is impermissible because Respondents have failed to comply with regulations governing detention of persons subject to removal procedure.

1. I Will Likely Succeed On my Claim that Current Detention Violates Zadvydas.

Sied v. Nielsen, 2018 WL 1876907, at *6 (N. D. Cal. Oct. 21, 2025) (citing authorities; Siguenza v. Moniz, 2025 WL 2734704, at*3 (D. Mass. Sept. 25, 2025) ("Most courts to consider the issue have concluded that the **Zadvydas** period is cumulative, motivated, in part, by a concern that the federal government could otherwise detain non citizens indefinitely. Therefore my petition to Habeas Corpus is valid because ICE violated my Due- Process protection in the Fifth amendment. First for the deprivation of substantive due-process detention in violation of the Fifth amendment and second for the deprivation of procedural due-process detention in violation of the Fifth amendment.

2. I will Likely Succeed On His Claim That Respondents Violated Governing Regulations

As to my claim that ICE violated its own regulations in detaining/ re- detaining me in without a written warrant, Respondents failed to show a clear provision to detain me .

ICE failed to comply its own laws and regulation by violating my right not to have bond and bond hearing in front of neutral decision maker and by not following the rules and regulation set by ICE. So I have shown that ICE's unlawful detention violated the law because ICE did not comply with its own regulations under section 241.13(i)(2); Hoac, 2025 WL 199771, at*4.¹

See also Bui v. Warden Otay Mesa Detention Center Facility, et al., 2025 WL 2988356, at*5 (S. D. Cal. Oct. 23, 2025) (granting petition and ordering release where respondent failed to follow its own regulations in revoking release); Constantinovici v. Bondi, ___F. Supp. 3d ___, 2025 WL 2898985 (S. D. Cal. Oct. 10, 2025)(Same); Sun v. Noem, 2025 WL 2800037 (S. D. Cal. Sept. 30, 2025) (granting TRO for release where respondent failed to follow its own regulations in revoking release); Van Tran v. Noem, 2025 WL 2770623 (S. D. Cal. Sept. 29, 2025)(same); Zhu v. Genalo, 2025 WL 242358 at*9 (S. D. N. Y. Aug. 26, 2025)

Relevant here, Two regulations discuss the release of non citizens subject to a removal order: 8 C. F. R. § 241.4 (“continued detention of inadmissible... aliens beyond the removal period”) and 8 C. F. R. § 241.13 (“determination of whether there is a significant likelihood of removing a detained alien in the reasonably foreseeable future”). Section 241.4 generally applies to those who are inadmissible under 8 U. S. C. §1182, like the Petitioner. See *id.* §241.4(a)(1). Subsection (1) of that regulation provides for revocation of release by a district director of Executive Associate Commissioner if one of four conditions is met: the purpose of release are served, the non citizen violates a condition of release, it is appropriate to enforce a removal order or commence of a noncitizen or any other circumstance indicates release is no longer appropriate. *Id.* § 241.4(1)(2).

B. I suffer Irreparable Harm Everyday I am *Illegally Detained*.

The Ninth Circuit has recognized “the irreparable harms imposed on anyone subject to immigration detention.” Rodriguez V. Bostock, 799 F. Supp. 3 d 1239, 1253 (W. D. Wash. 2025) (citing Hernandez v. Sessions, 872 F. 3 d 976, 995(9th Cir. 2017)).

The Court concludes that ICE’s failure to follow its own regulations resulted in irreparable harm. Government agencies are required to follow their own regulations. United States v. Ramos, 623 F. 3 d 672, 683 (9th Cir. 2010) (‘it is a well known maxim that agencies must comply with their own regulations.’) (citations and quotation marks omitted).

“Both §241.4 and 241.13 were intended to provide due process protections to [non citizens] following the removal period as they are considered for continued detention.” McSweeney, 2025 WL 2998376, at *7 (internal citation and quotation marks omitted). ICE and DHS deprived me of these due process protections when failed to provide me with sufficient notice or a prompt interview to respond to the reasons for wrongfully detain me. “it is well established that the deprivation of constitutional rights

unquestionably constitutes irreparable injury.” Melendres v. Arpaio, 695 F. 3 d 990, 1002 (9th Cir 2012); see also Hernandez v. Sessions, 872 F. 3d 976, 995, 1000 (9th Cir 2017) (holding that “[u]nlawful detention” by immigration officials constituted “irreparable harm”).

Under the Second Winter factor, the Court may considers whether I am “likely to suffer irreparable harm in the absence of [injunctive] relief.” Winter, 555 U. S. at 20. I would like to argue that I am experiencing unlawful detention, which is a clear irreparable harm. Given the Court’s finding that I will remain in detention seemingly indefinitely, I am likely to succeed on at least one of my claims, I have established an irreparable harm in the form of unlawful detention. Therefore, the Second Winter factor favors me.

C. The Balance of Equities and the Public’s Interests Favor Grant of the Petition

The consideration of the balance of equities and the public interest in an injunction merge when the government is a party. Yang v. Kaiser, No. 2:25 – CV – DAD – AC (HC), 2025 WL 2791778, at*10 (E. D. Cal. Aug. 20, 2025) (citing Drakes Bay Oyster Co. v. Jewell, 747 F. 3 d 1073, 1092 (9th Cir. 2014) (citing Nken v. Holder, 556 U. S. 418, 435 (2009))).

“It is always in the public interest to prevent the violation of a party’s constitutional rights.” Melendres v. Arpaio, 695 F. 3 d 990, 1002 (9th Cir 2012). furthermore, “[j]ust as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” Hoac, 2025 WL 1993771, at*6 (internal quotation marks omitted). Here, where the current unlawful detention violates my constitutional right to due process, the balance of equities favor issuance of a TRO (1) reinstating my release on the order of supervision, and (2) prohibiting the government from re- arresting me without the opportunity to allow me to finish my pending case in front of the

immigration judge. I may be eventually removed to a my country pursuant to 8 C. F. R. § 1231(b)(2). See Johnson v. Guzman Chavez, 594 U. S. 523, 536, (2021) (“DHS retains the authority to remove the alien to any other country authorized by the statute. See §§208.16(f), 1208.16(f), 1240.12(d)” but I assert that before doing so, however, the government must give me adequate notice and an opportunity to be heard regarding the potential for persecution, torture, or death in the my country. See, e.g., Andriassian v. I.N.S., 180 F. 3 d 1033, 1041 (9th Cir 1999) (“Failing to notify individuals who are subject to deportation that they have the right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both INS regulations and constitutional right to due process.”). It is thus premature on the current record for this court to order injunctive relief related to my potential future removal to an unidentified third country.

Moreover, when “the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences, the public interest will be relevant to whether the district court grant preliminary injunction.” Hernandez, 872 F. 3d at 996. the Ninth Circuit has recognized that “neither equity nor public’s interest are furthered by allowing violations of federal law to continue.” Galvez v. Jaddou, 52 f. 4th 821, 832 (9th Cir 2022)(holding that the district court did not abuse in discretion in finding the balance of hardships weighed in favor of plaintiffs who credibly alleged that the government was violating the INA). The public interest has a strong interest in upholding procedural protections against unlawful detention.

The harm to Respondent here is minimal. Nothing prevents the Government from re-detaining me if the Government satisfies the procedural requirements and shows the lawful detention is required, warranted. Moreover, a party “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.” Zepeda v. U. S. Immigr. & Nat. Serv. 753 F. 2 d 719, 727 (9th Cir, 2023).

Accordingly my ongoing detention is statutorily and constitutionally unlawful and I must be released in to American society. See Tanahan v. United States Of America No. 2:25 -CV- 02075- RFB- BNB WL 2026 U. S. Dist. Lexis. 10886.

III. CONCLUSION

For the foregoing reasons and the reasons set forth in my petitions, this court should grant me the petition for TRO, or at the very least grant a preliminary injunction, providing that

1. Respondents **SHALL IMMEDIATELY RELEASE** me under appropriate conditions of supervision set forth in 8 C. F. R. §241.5;
2. Respondents are **ENJOINED AND RESTRAINED** from re-detaining me.

Respectfully submitted,

Name: David Alexander Gutierrez Rodas

Signature:  _____

Date: 06/23/2026

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U.S. Department of Homeland Security

Subject ID : 401796536

Record of Deportable/Inadmissible Alien

Family Name (CAPS) GUTIERREZ RODAS, DAVID ALEXANDER		First	Middle
Country of Citizenship GUATEMALA	Passport Number and Country of Issue 		
U.S. Address 			
Date, Place, Time, and Manner of Last Entry 06/01/2022 Unknown Time, PDN, WI-Without Inspection		Passenger Boarded at	
Number, Street, City, Province (State) and Country of Permanent Residence			
Date of Birth 	Age: 19	Date of Action 04/30/2026	Location Code DAL/DAL
City, Province (State) and Country of Birth GUATEMALA		AR ☒	Form : (Type and No.) Lifted ☐ Not Lifted ☐
NIV Issuing Post and NIV Number		Social Security Account Name	
Date Visa Issued		Social Security Number	
Immigration Record NEGATIVE		Criminal Record	
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)			Number and Nationality of Minor Children None
Father's Name, Nationality, and Address, if Known		Mother's Present and Maiden Names, Nationality, and Address, if Known	
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? ☒ Yes ☐ No	Systems Checks See Narrative
Name and Address of (Last)(Current) U.S. Employer		Type of Employment Unemployed or Retired	Charge Code Words(s) See Narrative
		Salary	Employed from/to 1hr
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FIN: 1320979058 Left Index fingerprint Right Index fingerprint 			
FAMILY INFORMATION Father: Subject has not provided information for Father. Mother: Subject has not provided information for Mother. Child: Subject does not have children or dependents.			
SUBJECT HEALTH STATUS The subject claims good health. ... (CONTINUED ON I-831)			
Alien has been advised of communication privileges _____ (Date/Initials)		Y 11179 FLORIMON Deportation Officer (Signature and Title of Immigration Officer)	
Distribution: File A		Received: (Subject and Documents) (Report of Interview) Officer: Y 11179 FLORIMON on: April 30, 2026 (time) Disposition: Warrant of Arrest/Notice to Appear Examining Officer: PERALES, E.	

U.S. Department of Homeland Security

Continuation Page for Form I213

Alien's Name GUTIERREZ RODAS, DAVID ALEXANDER	File Number [REDACTED] Event No: [REDACTED]	Date 04/30/2026
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ADDENDUM TO RECORD OF DEPORTABLE/EXCLUDABLE ALIEN

ADDENDUM / PROCESSED by DO Y. FLORIMON on 04/30/2026

ENCOUNTER: On 04/30/2026, the SUBJECT was transferred to ICE custody and transported to the Dallas Field Office for processing. At the Dallas Field Office, the SUBJECT's fingerprints were entered/enrolled into the IDENT/IAFIS system. Checks were also run in CIS, CLAIMS, IAFIS, NCIC, and TECS revealing any criminal and/or immigration histories listed within.

IMMIGRATION HISTORY: Linked event: [REDACTED]

Record checks revealed the SUBJECT is a citizen and national of Guatemala who was first encountered on or about 06/01/2022 by U.S. Border Patrol in the El Paso Sector, near the Paso Del Norte bridge in El Paso, Texas, after having entered the United States illegally from Mexico at a time and place not designated as a Port of Entry and without being admitted or paroled. At that time, the SUBJECT was a juvenile and was determined to be an inadmissible alien under section 212(a)(6)(A)(i) of the Immigration and Nationality Act. The SUBJECT was processed for a Warrant of Arrest/Notice to Appear (WA/NTA), assigned A-number [REDACTED] and case number [REDACTED] was created in EARM as an 8A - Excludable/Inadmissible - Hearing Not Commenced case, docketed to DAL - Non-Detained UC Cases.

The SUBJECT was briefly detained at MVM Transport, El Paso (MVMELP), then at Camp East Montana (BLSCFTX) from 06/02/2022 until 06/14/2022, when the SUBJECT was released on an Order of Recognizance to a sponsor in Princeton, Texas. System checks reflect no record of any lawful admission, parole, immigrant or nonimmigrant status, and no record of departure from the United States. There is no record of a pending EOIR case or final order of removal, and no approved or pending applications for immigration benefits with USCIS.

SUBJECT VR/VD: 0 - VR(s); 0 - VD(s)

CRIMINAL HISTORY: Record checks in IAFIS/NGI, NCIC, and state repositories revealed the following:

On 06/01/2022, the SUBJECT was arrested/received by CBP - Border Patrol, El Paso (ORI [REDACTED]) in connection with the initial immigration encounter. The FBI record reflects an entry for "Alien inadmissibility under section 212" associated with that apprehension.

On 03/15/2026, the SUBJECT was arrested as an adult by the Richardson Police Department, Richardson, Texas [REDACTED], for the offense of Racing on Highway, a Class B misdemeanor under Texas Transportation Code 545.420(d). The arrest is recorded under Tracking Number [REDACTED], Charge Number [REDACTED], NCIC offense code [REDACTED] and state offense code [REDACTED]. Disposition at arrest level is listed as "Transferred to county" on 03/15/2026. On 04/09/2026, the Dallas County Criminal District Attorney's Office (ORI [REDACTED]) accepted prosecution of the Racing on Highway charge; final court disposition is pending as of the date of this addendum.

No other criminal history.

WANTS / WARRANTS: Record checks in NCIC, state, and local law enforcement databases revealed no active wants or warrants for the SUBJECT.

PENDING APPLICATIONS / PETITIONS / TPS / DACA: Queries of CIS, CLAIMS, and associated USCIS systems revealed no pending or approved applications or petitions filed by or on behalf of the SUBJECT. There is no indication that the SUBJECT has ever held Temporary Protected

Signature Y 11179 FLORIMON	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name GUTIERREZ RODAS, DAVID ALEXANDER	File Number  Event No: 	Date 04/30/2026
Status (TPS) or Deferred Action for Childhood Arrivals (DACA). GANG and TERRORISM AFFILIATIONS: SUBJECT claims gang and/or terrorism affiliation: Claims no. MILITARY: SUBJECT claims no prior United States military history. MITIGATING FACTORS: SUBJECT married: Claims single SUBJECT have child(ren): Claims none SUBJECT pregnant: N/A SUBJECT breastfeeding: N/A SUBJECT health (medical/mental): Claims good health. CONSULAR RIGHTS: The SUBJECT has been advised of the right to speak with a consular official from SUBJECT's country and afforded the opportunity. SUBJECT was given a copy of the consulate notification form and provided a list of free legal services. CHARGES OF REMOVABILITY: SUBJECT, a citizen and national of Guatemala, entered the United States on or about 06/01/2022 at or near El Paso, Texas, by crossing from Mexico at a location not designated as a Port of Entry, without inspection, admission, or parole, and with no record of any subsequent lawful status in DHS systems. SUBJECT is therefore removable under section 212(a)(6)(A)(i) of the INA as an alien present in the United States without being admitted or paroled, or who arrived at a time or place other than as designated by the Attorney General. DISPOSITION: The SUBJECT was processed as a NTA and remains in custody.		
Signature Y 11179 FLORIMON	Title Deportation Officer	

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name GUTIERREZ RODAS, DAVID ALEXANDER	File Number XXXXXXXXXX Event No: XXXXXXXXXX	Date 04/30/2026
CURRENT ADMINISTRATIVE CHARGES 04/30/2026 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)		
RECORDS CHECKED IAFIS checked on 04/30/2026 with Positive result. CIS checked on 04/30/2026 with Positive result. EARM checked on 04/30/2026 with Positive result. TECS checked on 04/30/2026 with Positive result.		
ARRESTED AT/NEAR 8101 N STEMMONS FWY, (DALLAS ICE), DALLAS, TEXAS, UNITED STATES		
RECORD OF DEPORTABLE/EXCLUDABLE ALIEN: GUTIERREZ RODAS, DAVID XXXXXXXXXX COB/COB: GUATEMALA FBI# XXXXXXXXXX		
ENCOUNTER: On 03/15/2026, Dallas Command Center received a BIOMETRIC alert. SUBJECT was arrested by RICHARDSON POLICE DEPARTMENT (TX) charged with RACING ON HIGHWAY.		
IMMIGRATION HISTORY: On or about 06/01/2022, SUBJECT was encountered by BORDER PATROL at or near EL PASO, TEXAS. SUBJECT was a JUVENILE at time of encounter. SUBJECT was released on Order of Recognizance to sponsor. NTA not served on EOIR because SUBJECT was NOT in the ORR custody for 120 DAYS per HQ JFMU current (06/14/2022) guidelines. See EVENT: XXXXXXXXXX There are no approved or pending applications with USCIS. SUBJECT has NO pending EOIR case.		
CRIMINAL HISTORY: DATE: 03/15/2026 AGENCY: RICHARDSON POLICE DEPARTMENT CHARGE: RACING ON HIGHWAY DISPOSITION: (03/15/2026; HELD)		
DETAINDER sent to rpd.detention@cor.gov		
OTHER IDENTIFYING NUMBERS ALIEN- XXXXXXXXXX Other Biometric- XXXXXXXXXX State Criminal Number/State Bureau Number- XXXXXXXXXX (UNITED STATES)		
Signature Y 11179 FLORIMON		Title Deportation Officer