

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,

v.

VERGILIO AGUILAR MENDEZ,

Defendant.

CASE NO.: 2023-00781CF
JUDGE R. LEE SMITH

SUPPLEMENTAL EXHIBITS IN SUPPORT OF THE DEFENSE
MOTION TO SET BOND

COMES NOW the Defendant, Vergilio Aguilar Mendez, by and through his undersigned Assistant Public Defender and moves this Honorable Court to consider the attached exhibits in support of the filed defense Motion to Set Bond.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to: K. Mark Johnson, Assistant State Attorney, at eserviceputnam@sao7.org, and to the defendant, on February 5, 2024.

/s/ Rosemarie Peoples
ROSEMARIE PEOPLES
ASSISTANT PUBLIC DEFENDER
Florida Bar Number: 0498238
4010 Lewis Speedway, Suite #1101
Saint Augustine, FL 32084
(904) 827-5699
peoples.rosemarie@pd7.org

DEFENSE EXHIBIT

Body Worn Camera Saint Johns County Sheriff Officers

M. Kunovich (8min 59sec)

G. Higgins (6min 32sec)

G. Montgomery (5min 46sec)

PREVIOUSLY PROVIDED

DEFENSE EXHIBIT

Medical Examiner Report

PREVIOUSLY PROVIDED

DEFENSE EXHIBIT

Character Letter Attorney Dane Olsen
Young Center of Immigrant Children's Rights

January 30, 2024

Honorable R. Lee Smith
4010 Lewis Speedway, Room 316
St. Augustine, FL 32084

Dear Judge Smith:

I am a Child Advocate supervisor and staff attorney at the Young Center for Immigrant Children's Rights. In this role, I serve as Child Advocate to unaccompanied immigrant children who are in the custody of the federal Office of Refugee Resettlement (ORR). My work is similar to that of a guardian *ad litem* in state court; I advocate for the best interests of the unaccompanied immigrant children to whom I am appointed and make recommendations regarding their care, custody, wellbeing, and permanency in the United States.

I was appointed Child Advocate to Virgilio Aguilar Mendez in April 2022 when he was seventeen. At that time, he was in ORR custody at a children's shelter in Topeka, Kansas. I met with him virtually and communicated frequently with shelter staff to learn about his care, his behavior and mood, and his general wellbeing. I also supervised a volunteer Child Advocate who met with Virgilio on a weekly basis via video call during the remainder of his stay at the shelter (about a month). We continued to communicate with him via phone call for a short time after he was released to his family sponsor. Because Virgilio is from an indigenous Mam-speaking community in Guatemala, he did not speak Spanish (or English) proficiently. For this reason, we used telephonic interpretation services when we communicated with him.

Throughout this process, I knew Virgilio to be a respectful, humble, and peaceable young man who got along well with staff and peers at the shelter. He demonstrated a positive, upbeat attitude when I and our volunteer Child Advocate met with him, despite his being far from home and family. He told us of his interest in cars and his dreams to one day become a mechanic, and of his love of soccer (mostly playing, not watching). He enjoyed doing arts and crafts at the shelter, making bracelets and necklaces and even learning to knit.

Virgilio also exhibited a unique level of patience and calm for a young person of his age and in his circumstances. By the time I was appointed as his Child Advocate, he had already been in ORR custody for over four months. ORR shelters are not intended to house children for this long; the average stay in an ORR shelter during fiscal year 2023 was 27 days. In my experience in this role, I have seen many young people with similar lengths of stay suffer the deleterious effects of prolonged custody and lash out against staff and peers with anger that at times leads to physical altercations. Some have attempted to flee the shelters. But Virgilio never did anything of the sort; he treated everyone—other children, shelter staff, his Child Advocate, his attorney—amiably and respectfully. He was a model shelter resident by all accounts.

Please do not hesitate to contact me at 708-475-7927 or dolsen@theyoungcenter.org with any questions about this letter.

Sincerely,



Dane Olsen
Illinois Bar No. 6336488

DEFENSE EXHIBIT

Character Letter Attorney Clare Murphy Shaw
Asylum Clinic Kansas City


**Declaration in Support of Virgilio Aguilar Mendez
by Clare Murphy Shaw, Attorney at Law**

I submit the following declaration:

1. I, Clare Murphy Shaw, am an immigration attorney licensed in Missouri and Kansas. I am currently the Executive Director of Asylum Clinic Kansas City (ACKC), a nonprofit that represents immigrants in their pursuit of lawful status.
2. ACKC is contracted by Acacia (formerly the Vera Institute of Justice) to assist, advocate for, and, in some cases represent children who are federally-detained in the custody of the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services (HHS). I serve at a shelter in Topeka, Kansas called, “The Villages, Inc.”
3. ORR placed these children at the Villages after Customs and Border Patrol (CBP) encountered them after they crossed the border into the United States without inspection and without a parent or legal guardian. When this happens, CBP designates the children as “unaccompanied alien children” and transfers them to ORR.
4. As a part of this work, I represented Virgilio Aguilar Mendez. ORR placed him at The Villages on December 15, 2021, after his December 12, 2021 entry into the United States. He remained there until he was discharged to a sponsor on June 1, 2022. I initiated my representation on April 18, 2022.
5. While he was detained, the Department of Homeland Security filed his “Notice to Appear” (NTA) -- the charging document that outlines the administrative violations with which the Respondent is charged -- with the Kansas City Immigration Court (**Tab A**). The filing of the NTA in court is the initiation of removal proceedings. I primarily assisted Virgilio to continue his immigration court hearings while he was detained, so that he could pursue lawful status post-release once he was placed with a sponsor.
6. I knew Virgilio to be a quiet and reserved child. He was from a very rural area of Guatemala, and his family lived in abject poverty. He is an indigenous Guatemalan, and his first language is Mam. He did not speak much Spanish during the time I worked with him, so we communicated through interpreters. He had no history of violence, criminal past, or gang affiliations. CBP and ORR screen children for these issues, and he never would have been placed at The Villages, which is not a “secure facility” but simply what is referred to as a “shelter-level” or minimally secured group home-type placement, if he had any criminal past or gang ties. He was a peaceful child and had no issues during his time at The Villages.

7. After vetting his sponsor to ensure it was a proper placement, ORR released Virgilio from The Villages to live with his first cousin in Opelika, Alabama on June 1, 2022. Virgilio was provided a "Verification of Release" (VOR) document with his name, photo, address, and alien number (**Tab B**). This VOR document serves as a government-issued identification document that children may use to register for school, apply for work authorization, etc. The VOR is maintained in an online federal database called the UC Portal. This Portal is utilized by ORR shelter staff, legal services providers, and HHS managers to maintain the children's information. Prior to release,
8. Upon his release, I filed a Change of Venue with the Kansas City Immigration Court to move his removal proceedings to the court with jurisdiction over respondents in removal proceedings in his new location. The Kansas City Immigration Court moved his case to the Atlanta Immigration Court. I informed him of his obligation to attend all court hearings once scheduled. Virgilio's sponsor also agreed to assist Virgilio with his impending immigration case.
9. Virgilio's case is currently pending in Atlanta. I confirmed this by putting his Alien Number in the Executive Office of Immigration Review (EOIR) online case portal, which provides the date, time, and location of his next hearing (**Tab C**). He is currently scheduled for an upcoming immigration court hearing on July 8, 2024 in front of Judge Philip Taylor. He has not missed any immigration court hearings or he would have been ordered removed *in absentia*, i.e. in his absence. Thus far, to my knowledge, Virgilio has complied with all immigration court obligations.
10. If Virgilio were to be stopped by CBP or other federal agent at a check-point, for example, he would not be subject to re-apprehension. He was released subject to his agreement to attend all court proceedings, and has no order of removal outstanding. He must attend his first hearing on July 8, 2024, or the court will order him removed and he will then be subject to arrest and removal to his native Guatemala.
11. I understand that Virgilio now has a new immigration attorney who will represent him moving forward. That attorney will guide him through the next phase of his immigration matters, represent him at his hearing, and assist him in seeking legal relief.

I, Clare Murphy Shaw, declare under penalty of perjury the attached declaration is true and correct to the best of my ability.



Clare Murphy Shaw

01/26/2024

Date

Index of Attachments

Tab	Description
A	Notice to Appear
B	ORR Verification of Release Document
C	Automated Case Information from the EOIR Portal

TAB A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: 01/23/2005

Event No: TPS2212000337

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

Subject ID: 374141636

FINS: 1314874822

File No: [REDACTED]

In the Matter of:

Respondent: VIRJILIO AGUILAR-MENDEZ

currently residing at:

C/O The Villages Inc. 7240 SW 10th Ave Topeka, KANSAS, 66615

(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 arrived in the United States at or near SASABE, AZ , on or about December 12, 2021 ;
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:

2345 GRAND BLVD STE 525 KANSAS CITY MO 64108. THE VILLAGES, INC.

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

on May 4, 2022 at 9:00 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

KATARINA GUTIERREZ - SDDO

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

Date: April 18, 2022

Kansas City, MO

(City and State)

This Notice to Appear Supersedes the Notice to Appear issued on December 13, 2021

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

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

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

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

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

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

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

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

Request for Prompt Hearing

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

Before:

(Signature of Respondent) (Sign in ink)

Date: _____

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

Certificate of Service

This Notice To Appear was served on the respondent by me on April 16, 2022, in the following manner and in compliance with section 239(a)(1) of the Act.

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

*C/O The Villages, Inc.
7240 SW 10th Ave
Topeka, KS 66615*

The alien was provided oral notice in the _____ 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.

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

M. Roberts
MATTHEW ROBERTS - DEPORTATION OFFICER

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

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-sorn>. 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.

Tab B



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
OFFICE OF REFUGEE RESETTLEMENT (ORR)
DIVISION OF UNACCOMPANIED CHILDREN OPERATIONS (DUCO)
VERIFICATION OF RELEASE

VERIFICATION OF RELEASE

Name of Minor:	Virjilio Aguilar Mendez	Aliases (if any):	BC: Virgilio Aguilar Mendez
Minor's Date of Birth:	01/23/2005	Minor's A#:	[REDACTED]

The Office of Refugee Resettlement (ORR) has released the above named minor from Federal custody pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to the care of:



Name of Sponsor:	Feliciano Lopez Aguilar		
Aliases (if any):	[REDACTED]		
Address:	1403 Preston St		
City:	Opelika		
State:	AL	Zip Code:	36801
Telephone#:	2053532685		
Relationship to Child:	Adult First Cousin (Non-Primary Caregiver)		

ACKNOWLEDGEMENT OF THE SPONSOR CARE AGREEMENT

The above named sponsor has agreed to the provisions set forth in the *Sponsor Care Agreement*, pertaining to the minor's care, safety, and well-being, and the sponsor's responsibility for ensuring the minor's presence at all future proceedings before the Department of Homeland Security and the Department of Justice/Executive Office for Immigration Review (EOIR).

FOR INTERNAL USE ONLY

Name ORR care provider Facility	The Villages
Date	06/01/2022

Tab C



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



EOIR Automated Case Information

Court Closures Today January 19, 2024

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

[Home](#) > [AGUILAR-MENDEZ, VIRJILIO](#) [REDACTED]



Automated Case Information

Name: AGUILAR-MENDEZ, VIRJILIO | **A-Number:** [REDACTED]
| **Docket Date:** 4/20/2022



Next Hearing Information

Your upcoming **MASTER** hearing is **IN PERSON** on **July 8, 2024** at **9:00 AM**

JUDGE

Taylor, Philip P.

COURT ADDRESS

401 W PEACHTREE ST, STE 2600
ATLANTA, GA 30308



Decision and Motion Information



This case is pending.



Case Appeal Information

No appeal was received for this case.



Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS

401 W PEACHTREE ST, STE 2600
ATLANTA, GA 30308

PHONE NUMBER

(404) 554-9400

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