

Agustin Pastrana-Saigado / A 

Name and Prisoner Number/Alien Registration Number

Otero County Processing Center

Place of Confinement

26 McGregor Range Road

Mailing Address

Chaparral, NM 88081

City, State, Zip Code

(Failure to notify the Court of a change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Agustin Pastrana-Saigado _____,

(Full Name of Petitioner)

Petitioner,

v.

Todd Lyons, Acting Director of U.S. Immigration Customs and Enforcement;

Mary De Anda-Ybarra, field office director for Enforcement and Removal

Operations (ERO), Dora Castro, Warden of Otero, Pam Bondi, U.S. Attorney

Ge (Name of Warden, Jailer or authorized person

having custody of Petitioner)

No. CV _____

(To be supplied by the Clerk)

AMENDED PETITION

Respondent(s).

PETITION UNDER 28 U.S.C. § 2241 FOR A WRIT OF HABEAS CORPUS

1. What are you challenging in this petition?

Immigration detention
 Bureau of Prisons sentence calculation or loss of good-time credits
 Probation, parole or supervised release
 State Pre-trial detention
 Other (explain): _____

2. (a) Name and location of the agency or court that made the decision you are challenging: _____

(b) Case or opinion number: _____

(c) Decision made by the agency or court: _____

(d) Date of the decision: _____

3. Did you appeal the decision to a higher agency or court? Yes No
If yes, answer the following:

(a) First appeal:

(1) Name of the agency or court: _____

(2) Date you filed: _____

(3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Second appeal:

(1) Name of the agency or court: _____

(2) Date you filed: _____

(3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(c) Third appeal:

(1) Name of the agency or court: _____

(2) Date you filed: _____

(3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

4. If you did not appeal this decision to a higher agency or court, explain why you did not: The Petitioner is challenging his categorization as an "applicant for admission" under INA 235 and thus this being subjected to mandatory detention without the possibility of bond. Thus, there is no decision to appeal. This habeas petition is the only feasible route to relief for Mr. Pastrana-Saigado.

5. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? Yes No

If yes, answer the following:

- (a) Name of the Agency or court: _____
- (b) Date you filed: _____
- (c) Opinion or case number: _____
- (d) Result: _____
- (e) Date of result: _____
- (f) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) any available administrative or judicial remedies on each ground on which you requested action by the federal court.

GROUND ONE: July 8, 2025 DHS guidance classifies Petitioner under INA 235 as an "applicant for admission" and thus subject to mandatory detention without any possibility for release on bond. Prior to July 8, 2025 DHS guidance would have classified Petitioner under INA 236 and as being bond eligible. Petitioner should be classified under INA 236 and should be eligible for release on bond subject to an Immigration Judge's discretion.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): Petitioner has been in the U.S. for more than 27 years and has no criminal history. Petitioner was arrested in Los Angeles, CA over a hundred miles from the border. Petitioner should be classified under INA 236 as bond eligible and not INA 235 since he did not just arrive at the border nor was he arrested at the border.

(b) Did you exhaust all available administrative or judicial remedies relating to Ground One?

Yes No

(c) If yes, did you present the issue to:

- The Board of Immigration Appeals
- The Office of General Counsel
- The Parole Commission
- The State Court
- Other: _____

(d) If you did not exhaust all available remedies relating to Ground One, explain why:
There is no decision to appeal. Petitioner is challenging his mandatory

There is no decision to appear. Petitioner is challenging his mandatory detention. Since DHS issued its July 8 guidance, detainees like Petitioner have been subject to mandatory detention under INA 235 without the possibility of bond. IJs have regularly denied bond to noncitizens who entered without inspection, due to the argument that they lack jurisdiction.

GROUND TWO: Violation of 5th Amendment because Mr. Pastrana-Saigado remains detained without due process.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

Mr. Pastrana-Saigado classification by DHS under INA 235 deprives him of the due process protections found in INA 236. It would defy logic that Mr. Pastrana-Saigado who has lived in the United States for approximately 27 years would have no due process rights.

(b) Did you exhaust all available administrative or judicial remedies relating to Ground Two?

Yes No

(c) If yes, did you present the issue to:

- The Board of Immigration Appeals
- The Office of General Counsel
- The Parole Commission
- The State Court
- Other: _____

(d) If you did not exhaust all available remedies relating to Ground Two, explain why:

As explained in ground one, there is no decision to appeal. Petitioner is challenging his mandatory detention. Individuals in Mr. Pastrana-Saigado's position are classified under INA 235 and denied bond under the new DHS guidance.

GROUND THREE: _____

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) Did you exhaust all available administrative or judicial remedies relating to Ground Three?

Yes No

(c) If yes, did you present the issue to:

- The Board of Immigration Appeals
- The Office of General Counsel
- The Parole Commission
- The State Court
- Other: _____

(d) If you did not exhaust all available remedies relating to Ground Three, explain why:

GROUND FOUR: _____

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) Did you exhaust all available administrative or judicial remedies relating to Ground Four?

Yes No

(c) If yes, did you present the issue to:
□ The Board of Immigration Appeals

- The Office of General Counsel
- The Parole Commission
- The State Court
- Other: _____

(d) If you did not exhaust all available remedies relating to Ground Four, explain why: _____

Please answer these additional questions about this petition:

7 Are you challenging your conviction or sentence in any of the grounds raised above?

Yes No

Yes No

If yes, answer the following:

(a) Have you filed -- a motion under 28 U.S.C. § 2255? Yes No
-- a petition under 28 U.S.C. § 2254? Yes No

If yes, answer the following:

(1) Name of court:

(2) Case number:

(3) Opinion or case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Explain why the remedy under § 2255 is inadequate or ineffective: _____

8. If this petition concerns immigration detention or removal proceedings, answer the following:

(a) Date you were taken into immigration custody: June 23, 2025 _____

(b) Date of removal or reinstatement order:

(c) Did you file an appeal with the Board of Immigration Appeals? Yes No _____

(1) Date you filed: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

9. If this petition concerns your confinement by the State of New Mexico, answer the following:

(a) Date you were arrested/detained: _____

(b) Charge(s) brought: _____

(c) Projected date of your trial: _____

(d) Are you represented by counsel? Yes No _____

(e) Have you raised your claims in the State Court? Yes No _____

(1) Name of Court: _____

(2) Date you filed: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

10. Petitioner asks that the Court grant the following relief: _____
Direct Respondents to immediately set bond hearing under INA 236(a); direct Respondents to release
Petitioner from custody after payment of bond; prohibit removal until proper immigration proceeding; transfer
Petitioner back to original facility (Los Angeles, CA); grant any other relief the Court deems just and proper.

or any other relief to which Petitioner may be entitled. (Money damages are not available in
habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ
of Habeas Corpus was placed in the prison mailing system on _____ (month, day,
year).

CAJUSTIN P
Signature of Petitioner


Signature of attorney, if any

09/30/2025

Date

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Agustin Pastrana-Saigado

(b) County of Residence of First Listed Plaintiff Otero, NM
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
Brenda M. Villalpando, Esq., Villalpando Law Firm;
1119 N. Virginia Street, El Paso, TX 79902**DEFENDANTS**

Todd Lyons, Acting Dir., Immigration Customs and Enforcement; Mary De Anda-Ybarra, field office director for

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	422 Appeal 28 USC 158	375 False Claims Act
<input type="checkbox"/> 120 Marine	310 Airplane	365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	376 Qui Tant (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	315 Airplane Product Liability	367 Health Care/ Pharmaceutical Personal Injury Product Liability	INTELLECTUAL PROPERTY RIGHTS	400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	320 Assault, Libel & Slander	368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 830 Patent	430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	340 Marine	370 Other Fraud	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	371 Truth in Lending	<input type="checkbox"/> 840 Trademark	460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	380 Other Personal Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	355 Motor Vehicle Product Liability	385 Property Damage Product Liability	SOCIAL SECURITY	480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	360 Other Personal Injury	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	362 Personal Injury - Medical Malpractice	710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		720 Labor/Management Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	850 Securities/Commodities/ Exchange
		740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	890 Other Statutory Actions
		751 Family and Medical Leave Act	<input type="checkbox"/> 865 RSI (405(g))	891 Agricultural Acts
		790 Other Labor Litigation	FEDERAL TAX SUITS	893 Environmental Matters
		791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	895 Freedom of Information Act
			<input type="checkbox"/> 871 IRS—Third Party	896 Arbitration
			26 USC 7609	899 Administrative Procedure Act/Review or Appeal of Agency Decision
				950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	440 Other Civil Rights	Habeas Corpus:		
<input type="checkbox"/> 220 Foreclosure	441 Voting	463 Alien Detainee		
<input type="checkbox"/> 230 Rent Lease & Ejectment	442 Employment	510 Motions to Vacate Sentence		
<input type="checkbox"/> 240 Torts to Land	443 Housing/ Accommodations	530 General		
<input type="checkbox"/> 245 Tort Product Liability	445 Amer. w/Disabilities - Employment	535 Death Penalty		
<input type="checkbox"/> 290 All Other Real Property	446 Amer. w/Disabilities - Other	Other:		
	448 Education	540 Mandamus & Other		
		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C Section 2241

VI. CAUSE OF ACTION

Brief description of cause:
Petition for writ of habeas for unlawful detention

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

September 29 2025

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Brenda M. Villalpando, Esq.
Villalpando Law Firm, PLLC
1119 N. Virginia Street,
El Paso, TX 79902
Email: bvillalpando@villalpandolaw.com
Tel: 915.307.3496

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

AGUSTIN PASTRANA-SAIGADO,

Case No.

Petitioner,

– against –

**APPLICATION FOR ISSURANCE
OF ORDER TO SHOW CAUSE**

TODD LYONS, ACTING
DIRECTOR IMMIGRATION
CUSTOMS AND ENFORCEMENT;
MARY DE ANDA-YBARRA, FIELD
OFFICE DIRECTOR FOR
ENFORCEMENT AND REMOVAL
OPERATIONS (ERO); DORA
CASTRO, WARDEN OF OTERO
COUNTY, PAM BONDIN, U.S.
ATTORNEY GENERAL, IN THEIR
OFFICIAL CAPACITIES.

Respondents.

Petitioner Agustin Pastrana-Saigado hereby moves the Court for habeas relief in the form of

the following:

1. Issue an order to show cause to be returned within 7 days;
2. Issue an order directing Respondents to immediately classify Petitioner as bond eligible under INA 236;
3. Direct Respondents to immediately set bond hearing;
4. Direct Respondents to immediately release Petitioner from their custody and enjoining the Respondents from removing Petitioner from the United States pending further Order of the Court;
5. Direct Respondents to return Petitioner to Los Angeles, CA;
6. Grant any other relief the Court deems just and proper.

This application is supported by the Habeas Corpus Petition filed concurrently herewith, as well as any additional submissions that may be considered by the Court.

/s/ Brenda M. Villalpando
Brenda M. Villalpando, Esq.
Villalpando Law Firm, PLLC
1119 N. Virginia St.
El Paso, Texas 79902
(915) 307-3496
bvillalpando@villalpandolaw.com

Counsel for Petitioner

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

AGUSTIN PASTRANA-SAIGADO,

Case No.

Petitioner,

– against –

**[PROPOSED] ORDER TO SHOW
CAUSE**

TODD LYONS, ACTING
DIRECTOR IMMIGRATION
CUSTOMS AND ENFORCEMENT;
MARY DE ANDA-YBARRA, FIELD
OFFICE DIRECTOR FOR
ENFORCEMENT AND REMOVAL
OPERATIONS (ERO); DORA
CASTRO, WARDEN OF OTERO
COUNTY, PAM BONDIN, U.S.
ATTORNEY GENERAL, IN THEIR
OFFICIAL CAPACITIES.

Respondents.

Upon consideration of Petitioner's Application for Issuance of Order to Show Cause pursuant to 28 U.S.C. § 2243 and Petitioner's Petition for Writ of Habeas Corpus (Dkt. No. 1), IT IS HEREBY ORDERED that:

1. Respondents shall file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus should not be granted within 7 days of service of this Order;
2. Service of this Order shall be made by Petitioner on the United States Attorney for the District of New Mexico and file a certificate of service with this Court indicating that he has done so.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE