

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

FILED
CLERK, U.S. DISTRICT COURT
OCT -2 2025
CENTRAL DISTRICT OF CALIFORNIA
BY: rsm DEPUTY

Adrian Gonzalez YAVES
Petitioner

v.

5:25-CV-02647-ODW-JC

Case No.

(Supplied by Clerk of Court)

Department of Homeland Security
Respondent
(name of warden or authorized person having custody of petitioner)

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

Personal Information

1. (a) Your full name: Adrian Gonzalez YAVES
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: DEPARTMENT OF HOME LAND SECURITY
(b) Address: 10250 RANCHO ROAD Adelanto, CA, 92301
(c) Your identification number: _____
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): 02/21/25

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 2/21/25

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

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

Grounds for your Challenge in This Petition

GROUND ONE: Fourth Amendment

Petitioner was Illegally Detained BY Department of Homeland Security

GROUND TWO :

Section 241 of the Immigration and Nationality Act permits the detention of an alien with a final order of removal for a period of 90 days . Beyond the statutory period , the Supreme Court has held that six months is presumptive reasonable period of detention for the government to effect removal . *Zadvy v Davis* , 533 U.S.C 678. 701. Once six months have passed , the alien must be release is there in no reasonable likelihood of removal in the reasonably foreseeable future *Zadvydas v. Davis* , 533 U.S 699, 700. In this case , (D.H.S) has detained petitioner for more than six months since the issuance of his order of removal . No special circumstance exit to justify petitioner continued detention.

GROUND THREE :

This Action arise under the Constitution of the United States and the **Immigration and Nationality Act (INA) 8 U.S.C 1101 et seq.. as amended by the Illegal Immigration Reform and Immigrant Responsibility Act 1996 (IIRIRA) , Pub L. No 104-208, 110 Stat 1570 and Administrative , Procedure Act (A.P.A) . 5 U.S.C Sec 701 et seq . The United States Constitution ('Suspension Clause) and 28 U.S.C Sec 1331, as Petitioner is presently in custody under color of the authority of the United States , and such custody is in violation of the Constitution .Law, or Treaties of the United States and Nation . This court may granted relief , 5 U.S.C 702, and the All Writs Act, 28 U.S.C Sec 1651.**

GROUND FOUR :

Partial Exception for Adjustment Cases under the Cuban Adjustment Act of 1966.

The fact that an alien arrived in the United States other than at an open port of entry, and that he or she is inadmissible under the second part of section 212(a)(6)(A)(i) of the Act, does not make the alien ineligible for adjustment of status under the Cuban Refugee Adjustment Act of 1966, PL 89-732 (Nov. 2, 1966)(CAA), as amended. See April 19, 1999, Commissioner's memorandum, Eligibility for permanent residence under the Cuban Adjustment Act despite having arrived at a place other than a designated port of entry.

However, even though inadmissibility under the second part of section 212(a)(6)(A)(i) of the Act does not make the alien ineligible for adjustment of status under CAA, the alien must still establish that he or she was inspected and admitted or paroled into the United States (first part of section 212(a)(6)(A)(i) of the Act) in order to be eligible for adjustment under the CAA. See *id.*

A Cuban citizen or native entered the United States other than through an open port of entry, but then surrendered him or herself to the appropriate DHS authorities. The DHS paroled the alien into the United States under section 212(d)(5) of the Act, as evidenced by the Form I-94, Arrival/Departure Record.

Since the alien was paroled, the alien may now, after one (1) year of physical presence (including any physical presence that occurred before the grant of parole), apply for adjustment under the CAA. Although he or she is inadmissible for having arrived at a place other than a port of entry, this inadmissibility does not preclude the possibility of being granted the adjustment application.

A Cuban citizen or native entered the United States other than through an open port of entry, but then surrendered him or herself to the appropriate DHS authorities. DHS released the alien on bond under section 236(a)(2) of the Act. Since the alien has not been paroled, the alien's release will not make the alien eligible to apply for adjustment under the CAA.

Example:

A Cuban citizen or native entered the United States other than through an open port of entry. He or she voluntarily comes to a CBP, ICE, or USCIS office to ask about his or her case, and then leaves as freely as he or she came.

The DHS office does not parole him, and no Form I-94 evidencing parole is issued. Since the DHS office did not actually parole the alien, his departure from the DHS office cannot be considered as having put the alien in a parole status. Because the alien was not paroled, the alien is not eligible to apply for adjustment under the CAA.

(i) Effective on or after April 1, 1997.

Section 212(a)(6)(B) of the Act does not apply to an alien placed in deportation or exclusion proceedings before April 1, 1997, even if the alien's hearing was held after April 1, 1997. The provision applies only to individuals who are placed in removal proceedings beginning April 1, 1997.

An alien who failed to attend an exclusion proceeding under former section 236 of the Act, or a deportation proceeding under former section 242 of the Act is, therefore, not inadmissible under Section 212(a)(6)(B) of the Act.

(ii) Only Applicable to Aliens Who Departed or Who Were Removed.

Since the ground of inadmissibility applies to aliens, who seek admission to the United States within five (5) years of such alien's subsequent departure or removal, only those aliens, who actually departed or were removed from the United States after failing to attend or to remain in attendance at their removal proceedings are inadmissible. Aliens, who remained in the United States after failing to attend their hearing, are not inadmissible under this provision.

Aliens, who remained in the United States after failing to attend their hearing, are not inadmissible under this provision.

(iii) Only Applies to Aliens Seeking Admission During the Five (5)-Year Bar.

This ground of inadmissibility does not apply to aliens who seek admission to the United States more than five (5) years after their departure or removal from the United States.

(iv) Notice Requirement.

In order to be inadmissible under Section 212(a)(6)(B) of the Act, the alien must actually have been in removal proceedings under section 240 of the Act. A section 240 removal proceeding is initiated by the filing of the Notice to Appear (NTA), Form I-862, with the immigration court. See 8 CFR 1003.14(a). Even if the alien was served with the Notice to Appear, the alien will not be inadmissible under section 212(a)(6)(B) of the Act unless the NTA was actually filed with the immigration court.

Also, even if the NTA has been filed, an alien cannot be found to have ❸ failed to appear❹ unless the alien had notice of the proceeding and of the obligation to appear. If the record shows that the alien had

PRAYER FOR RELIEF

Wherefore: Petitioner prays that this Honorable Court to grant the following relief

1. Declaring that petitioner contained detention is not authorized by the (D.H.S) and / or violates the Fifth Amendments .
2. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner .
3. Award Petitioner attorney's fee and cost under the Equal Access to Justice Act ('EAJA') as amended 5 U.S.C 504 and 28 U.S.C 2412 on any other basis justified under law :and .
4. **Grant any other and further relief that this Court deems just and proper.**

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do:

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

VIA Mail Room

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

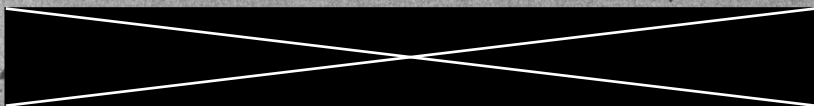
9/26/25

Adria

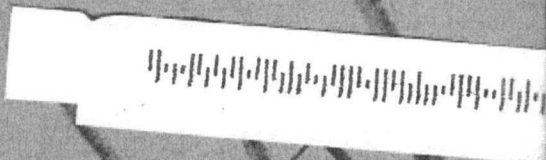
Signature of Petitioner

Signature of Attorney or other authorized person, if any

10250 Rancho Road Adelanto, CA 92301



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NEW





Moreno Valley PSDC 925

MON 29 SEP 2025 AM



OCT 24 2025

CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

Clerk of Court
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
FIRST STREET COURTHOUSE
350 WEST 1ST STREET
LOS ANGELES, CALIFORNIA 90012

