

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**

**Eudon RODRIGUEZ-HERNANDEZ** )  
 )  
 Petitioner-Plaintiff, )  
 v. )  
 )  
 **PAM BONDI,** )  
 United States Attorney General; )  
 )  
 **KRISTI LYNN NOEM,** )  
 Secretary of the United States )  
 Department of Homeland Security; )  
 )  
 **TODD M. LYONS,** )  
 Director of United States )  
 Immigration and Customs Enforcement; )  
 )  
 **MIGUEL VERGARA,** )  
 Acting ICE San Antonio Field Office Director )  
 U.S. Immigration and Customs Enforcement )  
 )  
 **DANIEL SUBIA,** )  
 Assistant ICE Karnes Field Office Director )  
 U.S. Immigration and Customs Enforcement )  
 )  
 **WAYMON BARRY,** )  
 Warden of Karnes County Immigration Processing )  
 Center; )  
 )  
 Respondents-Defendants. )  
 \_\_\_\_\_ )

Civ. No. 5:25-cv-01323

DHS File Number: 

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO  
28 U.S.C. §2241 AND COMPLAINING FOR DECLARATORY**

## I. INTRODUCTION

Petitioner, Eudon Rodriguez Hernandez, noncitizen and ICE detainee, brings this petition for writ of habeas corpus under 28 U.S.C. § 2241. He challenges the denial of his custody redetermination request (bond hearing) by the Immigration Judge, asserting that the IJ's decision misconstrues statutory law and unlawfully deprives him of due process. Petitioner seeks immediate release or, in the alternative, a new bond hearing before a properly authorized IJ.

## II. JURISDICTION & VENUE

1. **Jurisdiction** arises under 28 U.S.C. § 2241 and the Constitution's Suspension Clause (Art. I, § 9, cl. 2).
2. **Venue** is proper in the San Antonio Division of the Western District of Texas under 28 U.S.C. § 1391(e) because Petitioner is detained in this division (or the division in which he is held), and Respondent custodian is within the district.
3. The proper respondent is the official with immediate custody (e.g. ICE warden or Field Office Director) who can produce Petitioner's person before the Court.

## III. PARTIES

- **Petitioner:** Eudon Rodriguez Hernandez, currently detained by ICE at **GEO Karnes County Detention Facility, Karnes City, Texas**
- **Respondents:**
- **Waymon Barry** in his/her official capacity as the ICE official responsible for Petitioner's custody in this division.
- **Todd Lyons**, Acting Field Office Director, ICE San Antonio Field Office.
- **Kristi Noem**, Secretary, U.S. Department of Homeland Security.
- **Pam Bondi**, Attorney General of the United States.

## IV. STATEMENT OF FACTS

1. Petitioner entered the U.S. without inspection in approximately 2006 (as alleged).
2. On **October 25, 2024**, Petitioner was granted **Parole-in-Place (PIP)** by USCIS under INA § 212(d)(5)(A).
3. Subsequently, DHS issued a **Notice to Appear (NTA)** charging removability under INA § 212(a)(6)(A)(i).

4. Petitioner requested a custody redetermination (i.e., bond) under 8 C.F.R. § 1236.1(d).
5. On **October 1, 2025** the IJ denied the request, holding (a) that PIP was automatically terminated upon service of the NTA, (b) that Petitioner reverted to a unlawful status and is now an “applicant for admission,” and (c) that INA § 235(b)(2)(A) bars bond consideration under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
6. Petitioner contends that the IJ’s legal reasoning is incorrect under federal statute, Fifth Circuit precedent, and constitutional due process standards.

## **V. LEGAL CLAIMS**

### **A. Count I — Statutory & Jurisdictional Error**

7. The IJ’s interpretation of **INA § 235(b)(2)(A)** is overly broad and incompatible with statutory structure and principles of interpretation.
8. **The Respondent below and Movant here was granted Parole-In-Place on October 25, 2024 by the United States Immigration Service.**
9. Parole-In-Place grants the Respondent/Movant lawful entry status, as considered by the Immigration and Nationality law.
10. Parole-in-Place under INA § 212(d)(5) is a remedy that confers lawful presence to an immigrant.
11. The Immigration Judge below nullified the status granted by USCIS, that of a person now lawfully admitted for immigration purposes.
12. The reasoning used by the Immigration Judge is that one a Notice to Appear is issued, which is a charging document, similar to an indictment, the Parole in Place is nullified.
13. This error in reasoning is relied on heavily by the Immigration Judge below, in that the Court grants itself the power and authority to “*sua sponte*” revoke a benefit granted to the Respondent/Movant by the USCIS.
14. The Immigration Judge below
15. Although, Parole in Place does not constitute a defense to removability, but it can form the basis for relief in the form of AOS under INA § 245(a), in that it grants the Respondent/Movant lawful admission for purposes of Adjustment of Status, or obtaining a green card inside the United States.
16. The Immigration Judge below misapplies the statute he references citing 8 C.F.R. Section 212.(e)(2)(i).

17. That this section of law refers specifically to “Parole” under 212(d)(5)(A) of the INA. Specifically cited in Matter of Q. Li, Board of Immigration Decision, 29 I&N Dec. 66 (BIA 2025).
18. Military Parole in Place was granted to the Movant/Respondent, is not governed by said statute, nor any statute for that matter.
19. Further, the Immigration Judge erroneously relies on the “Service” of the Notice to Appear as automatic revocation of the Military Parole in Place.
20. The Respondent below was issued an initial Notice to Appear, that was never filed or properly served which was later dismissed for failure to prosecute. See Exhibit E
21. The Respondent then applied for Military Parole in Place, based on his United States Citizen son who was on active duty. The Military Parole in Place was approved on October 25, 2024. Exhibit B.
22. A second Notice to Appear was then presented and served on the Respondent. However, that NTA misstates facts, specifically, that the Respondent was not admitted or parole, as set out in allegation 4.
23. The Respondent through Counsel denied the allegation number 4, specifically arguing that he was admitted and paroled, through Military Parole in Place.
24. The greater error is the basis under which the government and the Immigration Court below alleges that the Respondent is subject to removal when they cite to INA 212(a)(6)(A)(i), when the correct and proper basis for removal comes under INA 237.
25. The Courts error is exacerbated by its reliance on the term “parole” as specified in Matter of Q. Li, under INA 212(d)(5)(A).
26. This is significant because the grant of Military Parole is not governed by INA 212(d)(5)(A). Rather, Military Parole in Place is a governmental policy adhered to and followed by USCIS.
27. USCIS established Military Parole in Place through policy memoranda in 2013 and 2016, recognizing that preserving the unity and readiness of U.S. military families constitutes a “significant public benefit.” See USCIS Policy Memorandum, “Parole of Spouses, Children and Parents of Active Duty Members of the U.S. Armed Forces, Selected Reserve of the Ready Reserve, and Former Members of the U.S. Armed Forces,” Nov. 15, 2013; reaffirmed in PM-602-0112, Nov. 23, 2016.
28. Unlike other forms of parole that involve persons outside the United States seeking temporary entry, Parole in Place applies to individuals already physically present within the country. Because it regularizes presence and provides a lawful status for a fixed period, its withdrawal directly alters an existing legal condition, not merely a future discretionary benefit. Accordingly, termination of PIP requires notice and an opportunity to respond, consistent with fundamental due-process principles

29. Further, the Immigration Court argues that the mere issuance of a Notice to Appear is a basis for revocation of the Military Parole In Place, the same cannot be said for a defective Notice to Appear that falsely alleges that the Respondent was not admitted or paroled.
30. Thus, the Immigration Court is not stripped of its jurisdictional authority under 235(b)(2)(A) of the Immigration and Nationality Act.
31. That being the case, the Respondent is eligible for release on bond under INA 236(a) of the Immigration and Nationality Act.
32. The IJ's reliance on *Matter of Yajure Hurtado* is also misplaced; that decision is not binding on this Court and conflicts with the framework and logic of Fifth Circuit and Supreme Court decisions regarding detention and due process.

#### **B. Count II — Due Process Violation: Right to Meaningful Custody Hearing**

11. Petitioner possesses a liberty interest in avoiding physical restraint. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).
12. Even assuming § 235(b) detention is authorized, due process requires that detention not be arbitrary or indefinite without a hearing.
13. The Supreme Court's decision in *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 142 S. Ct. 1821 (2022), addresses § 1231(a)(6) post-removal order, but does not foreclose due process review of § 235(b) detention when statutory application is incorrect or detention becomes prolonged.
14. Because the IJ denied bond jurisdiction categorically, Petitioner was deprived of any opportunity to test whether his detention is justified, thus violating due process.

### **VI. PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

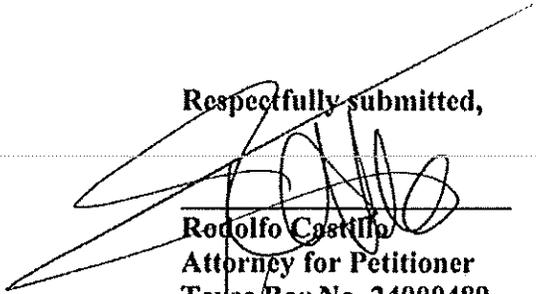
- a. Issue a **Writ of Habeas Corpus** directing Respondent to release Petitioner, unless Respondent justifies continued detention promptly;
- b. In the alternative, order Respondent to "show cause" pursuant to 28 U.S.C. § 2243 why the IJ's bond denial should not be vacated;
- c. Order a new, constitutionally adequate bond hearing before an IJ with authority to grant bond, where ICE bears burden of justifying detention and the Court considers less restrictive alternatives.
- d. Enjoin removal or transfer of Petitioner outside the San Antonio Division while this petition remains pending;

- e. Award attorneys' fees and costs under the Equal Access to Justice Act (EAJA) or other applicable statute;
- f. Grant any other relief the Court deems just and proper.

**VII. PROPOSED ORDER TO SHOW CAUSE**

Petitioner submits a proposed **Order to Show Cause** under 28 U.S.C. § 2243, directing Respondent to file a return within **three (3) business days** (or such shorter period permitted) and to appear for an expedited hearing.

Respectfully submitted,

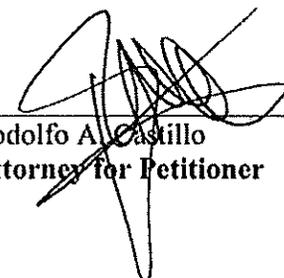


**Rodolfo Castillo**  
Attorney for Petitioner  
Texas Bar No. 24000489  
Rudy Castillo Law Firm  
2621 Rockgate Dr.  
San Antonio, TX 78227  
Phone: (210) 777-1111  
Email: [rc@rudycastillolaw.com](mailto:rc@rudycastillolaw.com)

**IX. SIGNATURE & VERIFICATION**

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 10/16/2025



Rodolfo A. Castillo  
Attorney for Petitioner

## **X. EXHIBITS**

- **Exhibit A**  
*Immigration Judge's Order Denying Bond*
- **Exhibit B**  
*Parole-in-Place Approval (Military PIP – U.S. Citizen Son in Active Duty)*  
*Proof of U.S. Citizen Son's Military Service*
- **Exhibit C**  
*Immigration Judge's Order on Motion to Terminate*
- **Exhibit D**  
*Respondent's Court Information – IJ Closed case due to failure to prosecute 5/17/2024*
- **Exhibit E**  
*Notice to Appear – dated January 15, 2025*  
*Notice to Appear – dated January 17, 2023*
- **Exhibit F**  
*Form I-213 / EARM Record*
- **Exhibit G**  
*Respondent's 42b Application for Cancellation of Removal*  
*Including Documentation establishing:*
  - *Qualifying Relative (U.S. Citizen son)*
  - *Good Moral Character*
  - *Exceptional and Extremely Unusual Hardship*
  - *Long-Term Resident in the United States*
- **Exhibit H**  
*Petitioner Declaration*
- **Exhibit I**  
*Pertinent Case Law / Authorities*

- **Exhibit J**

- U.S. Department of Homeland Security Memorandum's*

- *Policy Memorandum (PM-602-0014) 11/23/2016*
    - *Memorandum – Families of U.S. Armed Forces Members and Enlistees (11/20/2014)*
    - *Policy Memorandum (PM-602-0091) 11/15/2013*

# Exhibit

“A”



**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
PEARSALL IMMIGRATION COURT**

Respondent Name:

RODRIGUEZ-HERNANDEZ, EUDON

To:

CASTILLO, RODOLFO  
2621 ROCKGATE  
SAN ANTONIO, TX 78227

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

10/01/2025

**ORDER OF THE IMMIGRATION JUDGE**

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

Denied, because

The Court has reviewed all documents filed in support of the respondent's request for custody redetermination, including the bond redetermination request and supporting documents filed on 9/25/2025 (138 pages). In addition, the Department of Homeland Security (DHS) has filed the EARM record containing the Form I-213 narrative.

The EARM record indicates that the respondent entered the United States "at an unknown time at an unknown location," and that he is charged as being removable pursuant to INA § 212(a)(6)(A)(i). Counsel in the bond request documentation indicates that the respondent entered the United States without inspection in 2006. Although Counsel points out that the respondent was granted parole-in-place on October 25, 2024, that parole was terminated by operation of law upon service of the Notice to Appear (NTA). 8 C. F.R. § 212.5(e)(2)(i). When parole granted by DHS is terminated, "the alien shall forthwith return or be returned to the custody from which he was paroled." INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); see also 8 C.F.R. § 212.5(e)(2)(i) (2025) (providing that when parole granted to an alien is terminated "he or she shall be restored to the status that he or she had at the time of parole"). There is no other evidence that the respondent has been admitted to the United States.

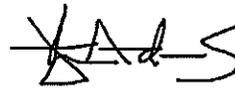
The respondent is present in the United States without admission and, thus, an applicant for admission. Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

As such, the custody redetermination hearing that was scheduled for 10/2/2025 at 9:30am is hereby cancelled.

Any party asserting an error of law or fact in this decision may file an appropriate motion to reconsider pursuant to 8 C.F.R. § 1003.23(b)(2).

- Granted. It is ordered that Respondent be:**
  - released from custody on his own recognizance.
  - released from custody under bond of \$
  - other:

**Other:**



Immigration Judge: Adams, Justin 10/01/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved

Appeal Due: 10/31/2025

### Certificate of Service

This document was served:

Via: [ M ] Mail | [ P ] Personal Service | [ E ] Electronic Service | [ U ] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : RODRIGUEZ-HERNANDEZ, EUDON | A-Number : 

Riders:

Date: 10/01/2025 By: Castorena, Rosalio, Court Staff



**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
PEARSALL IMMIGRATION COURT**

Respondent Name:

RODRIGUEZ-HERNANDEZ, EUDON

To:

CASTILLO, RODOLFO  
2621 ROCKGATE  
SAN ANTONIO, TX 78227

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

10/09/2025

**ORDER OF THE IMMIGRATION JUDGE**

Respondent  the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is  
 granted  denied for the following reason(s):

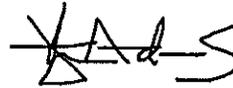
- The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- Other:

The respondent asserts that his due process rights were violated and that he was deprived of a fair hearing because he was not given notice or an opportunity to contest the contents or authenticity of the I-213 before it was relied upon. Specifically, the respondent seems to take issue with the Court's mention that the I-213 narrative indicates that the respondent entered the United States at an unknown time at an unknown location and that he is charged as being removable under 212(a)(6)(A)(i). Notably, the respondent in his motion to reconsider does not actually contest the contents or authenticity of the I-213 narrative. Nevertheless, regardless of what information is contained in the Form I-213, the respondent's counsel does not dispute that the respondent entered the United States without inspection in 2006. Indeed, counsel includes that same information in his own bond request documentation. The fact that the Court made reference to the same information being included in the Form I-213 narrative was in no way unfair and certainly did not violate due process.

The respondent in the motion argues that the Court misapplied the law regarding termination of parole-in-place. The Court disagrees. USCIS derives its parole authority under INA § 212(d)(5)(A) and corresponding 8 C.F.R. § 212.5. USCIS exercised its authority and granted parole-in-place to the respondent on October 25, 2024. Thereafter, in January 2025, the Department of Homeland Security (DHS) served the respondent with a Notice to Appear (NTA). The respondent is mistaken that the NTA needed to specifically mention the respondent's military parole-in-place as no such specific mention is required. Pursuant to 8 C.F.R. § 212.5(e)(2)(i), "when a charging document is

served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified." As the NTA did not specify otherwise, service of the NTA was all that was required to automatically terminate parole. The Court maintains that the respondent's parole-in-place was terminated by service of the NTA. 8 C.F.R. § 212.5(e)(2)(i).

Regardless of the respondent's parole status, the record does not contain evidence that the respondent has ever been admitted to the United States. Parole is not an admission. The respondent is present in the United States without admission and, thus, an applicant for admission. Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).



Immigration Judge: Adams, Justin 10/09/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved  
Appeal Due: 11/10/2025

**Certificate of Service**

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To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : RODRIGUEZ-HERNANDEZ, EUDON | A-Number : 

Riders:

Date: 10/09/2025 By: Castorena, Rosalio, Court Staff

# Exhibit “B”

U.S. Department of Homeland Security  
U.S. Citizenship & Immigration Services  
San Antonio Field Office  
20760 US HWY 281 N, Suite A  
San Antonio, TX 78258



U.S. Citizenship  
and Immigration  
Services

October 25, 2024

Rodolfo Castillo  
RE: Eudon Rodriguez Hernandez  
2621 Rockgate Dr.  
San Antonio, TX 78227

You have been paroled in place effective October 25, 2024. Enclosed you will find Form I-94 with your photo, which is your evidence of having been paroled. Please note your assigned Alien file number is (A ~~XXXXXXXXXX~~) noted on the parole.

**Please note that travel outside of the United States is not conferred with this grant of parole, and the Form I-94 will not permit you to re-enter the United States.**

Sincerely,

A handwritten signature in cursive script that reads "Tina Almond".

Tina Almond  
Field Office Director

