

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

UNITED STATES DISTRICT COURT

for the Southern District of California

CUADRA ROMERO, Wilgen Jose

Petitioner

v.

Warden, Imperial Regional Detention Facility, in his/her official capacity; and ICE Enforcement and Removal Operations, San Diego, in his/her official capacity

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. '25CV2783 BJC VET (Supplied by Clerk of Court)

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

Personal Information

- 1. (a) Your full name: Wilgen Jose Cuadra Romero
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: Imperial Regional Detention Facility
(b) Address: 1572 Gateway Road, Calexico CA 92231
(c) Your identification number:
3. Are you currently being held on orders by:
[checked] 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:
[checked] Being held on an immigration charge
[ ] Other (explain):

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)

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

- 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: ICE Enforcement and Removal Operations (ERO) - San Diego Field Office; custody at Imperial Regional Detention Facility (IRDF); EOIR Imperial, California Immigration Court
- (b) Docket number, case number, or opinion number: ~~XXXXXXXXXX~~ 2nd Docket Date 8/28/2025
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
Ongoing civil imm. detention at IRDF w/o a constitutionally fair and neutral bond hearing due to DHS' and the BIA new interpretation of "applicants for admission" under 8 U.S.C. § 1225 which denies all noncitizens of the right to request bond, despite their date, location, and manner of entry. Plaintiffs correct designation is 8 U.S.C. § 1226
- (d) Date of the decision or action: 08/01/2025

**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: IJ twice declined to reach a merits bond ruling base on lack of jurisdiction, citing to §1225 and mandatory detention for all "aliens applying for admission." Given prolonged detentention and lack of bond path, BIA custody appeal would be inadequate/futile and cause irr. harm.

8. **Second appeal**

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

- Yes
- No

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

(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

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

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: 07/06/2025
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

- Yes  No

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

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

(a) Kind of petition, motion, or application: Motion to Suppress Evidence/Motion to Terminate with Prejudice

(b) Name of the authority, agency, or court: EOIR Imperial Immigration Court

See Addendum A for all motions to suppress evidence and motions to terminate with prejudice attached.

(c) Date of filing: 08/29/2025

(d) Docket number, case number, or opinion number: 

(e) Result: Denied

(f) Date of result: 09/08/2025

(g) Issues raised: Counsel first submitted evidence in support of bond request, but bond was denied on lack of jurisdiction due to DHS' and BIA's new policy that §1225 applies to all noncitizens and are therefore ineligible for bond. Counsel then filed a motion to terminate removal proceedings based on due process violation and a motion to suppress evidence of alienage due to the unlawful actions surrounding his arrest, detention, and DHS' evidence. Motion to terminate was granted once but proceedings by DHS were refiled, Judge denied the second motion to terminate to allow DHS time to submit evidence which they did not do so at designated time

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

**Grounds for Your Challenge in This Petition**

- 13. State every ground (reason) that supports your 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. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Fifth Amendment Procedural Due Process - deprivation of liberty without due process

See Addendum 1 for timeline of procedural history.

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

Detained at IRDF 104 days with no meaningful bond hearing; to date the IJ has declined/failed to exercise bond jurisdiction. I have filed motions to suppress and terminate multiple times; the IJ has never reached the merits and DHS has never fully responded. On 9/8/25, IJ denied my motions, without prejudice, but ordered DHS to file alienage evidence within two weeks; DHS did not comply; IJ has continued/extended despite DHS's noncompliance. Earlier, proceedings were terminated w/o prejudice due to DHS evidentiary failure. No delay has been petitioners

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

Yes  No

**GROUND TWO:** Procedural due process violations - Failure of Proof (No Admissible Evidence of Alienage)

DHS has failed to distinguish between those must be detained and who must be released, they have categorized all citizens under INA 235(b), severely restricting their rights and freedom without accurate, timely, or reliable or evidence in support his alienage and the basis for his ineligibility for bond.

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

IJ ordered DHS to file evidence within two weeks by 9/22/25; DHS did not comply and filed oppositions to already-denied motions instead. After deadline and a new motion to terminate, DHS re-filed same I-213 with post-hoc authentication, which was not filed by court's deadline. Apart from NTA (charging document), DHS has provided no timely, admissible proof of alienage. Because DHS missed the deadline, opportunity to file has been waived and any late materials should be precluded, leaving the record with no admissible proof.

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

Yes  No

**GROUND THREE:** Fifth Amendment Substantive Due Process

The petitioner has now been detained for 104 days, it is prolonged and detention will continue for petitioner under DHS and BIA's new interpretation of the statute INA § 235 which deprives him of opportunity for bond. The length of detention is now unreasonable due to the arbitrary and capacious application of the statute.

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

Civil detention has become excessive relative to its purpose: 95+ days already, with further delay likely due to DHS's noncompliance and pending evidentiary issues. Continued confinement persists without timely proof, without meaningful bond path, and despite our diligence. Detention's real-world impact includes loss of income for family, caregiver strain on his spouse, and his child's medical and mental-health needs. Confinement is no longer reasonable.

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

Yes  No

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

**GROUND FOUR:** Fourth Amendment Egregious Stop & Fifth Amendment Equal Protection Race and Language-based Targeting

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

Plaintiff was approached outside his home by DHS without a warrant and began asking questions while surrounding him. The stop and arrest was warrantless and suspicionless, based on my Hispanic appearance and spanish language. I was subjected to coercive interrogation. Any alienage evidence would be the fruit of this unlawful conduct. The seizure and ensuing detention reflect race/language-based enforcement and have tainted custody and the proceedings.

(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: Immediate release from ICE custody or in the alternative provide fair and neutral bond hearing before a Judge for the Petitioner, designate Plaintiffs category as 8 USC §1226, not §1225. Further strike DHS late filed evidence to the Judge and exclude evidence tainted by unlawful stop, arrest, and detention. Any further relief the Court deems just and proper, including attorney's fees and costs.

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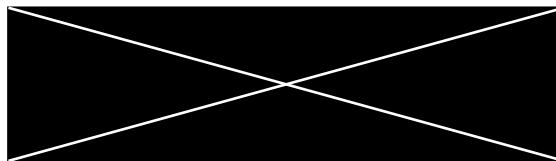
**Declaration Under Penalty Of Perjury**

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

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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: \_\_\_\_\_



\_\_\_\_\_  
*Signature of Petitioner*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*

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**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

CUADRA ROMERO, Wilgen Jose



Petitioner,  
v.

Case No. '25CV2783 BJC VET

PAMELA BONDI, in her official capacity as  
Attorney General,  
KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland  
Security,  
U.S. DEPARTMENT OF HOMELAND  
SECURITY,  
CHARLES WALL, in his official capacity as  
Warden of Imperial Regional Detention Facility,  
TODD LYONS, in his official capacity as Acting  
ICE Field Office Director,  
Respondents.

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

**ADDENDUM FOR  
PETITION FOR A WRIT OF  
HABEAS CORPUS -  
PROCEDURAL HISTORY**

**ADDENDUM 1 — PROCEDURAL HISTORY**

- 1 1. **July 6, 2025 (Brentwood, NY):** U.S. Immigration and Customs Enforcement  
2 (“ICE”) detained Wilgen Jose Cuadra Romero (“Mr. Cuadra Romero”) in his  
3 driveway.
- 4 2. **July 8, 2025:** Defense filed a pre-Notice to Appear (“NTA”) bond hearing  
5 request in New York.
- 6 3. **At or around July 10, 2025,** ICE transferred Mr. Cuadra Romero to Delaney  
7 Hall Detention Facility in Newark, New Jersey.
- 8 4. **At or around July 15, 2025,** ICE transferred Mr. Cuadra Romero to Imperial  
9 Regional Detention Facility in Imperial, California, and tram.
- 10 5. **July 16, 2025** (New York Immigration Court bond calendar): Hearing set.  
11 Beforehand, ICE transferred Mr. Cuadra Romero approximately 2,740 miles  
12 to Imperial Regional Detention Facility (“IRDF”), Calexico, CA. The  
13 Immigration Judge (“IJ”) could proceed if testimony were waived; the defense  
14 waived (sufficient record on flight risk/danger). The Department of Homeland  
15 Security (“DHS”) refused to waive testimony. Defense withdrew without  
16 prejudice and prepared to refile new bond hearing request in California.
- 17 6. **July 18, 2025:** DHS filed an NTA (12 days post-detention).
- 18 7. **August 1, 2025 (California bond hearing):** DHS filed an I-213 (Record of  
19 Deportable/Inadmissible Alien). IJ Megan Heesch denied bond for lack of  
20 jurisdiction (treated custody under INA § 235(b)(2) / *Jennings*).
- 21 8. **August 1, 2025 (merits):** Defense filed Motions to Suppress and to Terminate  
with Prejudice.
9. **August 11, 2025:** DHS filed a reply to termination.
10. **August 20, 2025 (Order):** IJ denied suppression (no affidavit then on file) but  
granted termination based on DHS’s failure of proof (alienage not established;  
unauthenticated evidence/regulatory defects). Termination without prejudice;  
DHS permitted to refile lawfully.
11. **August 25–26, 2025:** DHS refiled removability by submitting a new NTA  
(dated Aug. 25; filed Aug. 26).
12. **August 29, 2025:** Defense filed renewed Motions to Suppress and to  
Terminate with Prejudice (now with declaration detailing  
constitutional/regulatory violations).
13. **September 8, 2025 (Master — IJ Amelia Anderson; DHS Atty Ryan  
Kopchak):** Defense denied all NTA allegations; reiterated  
suppression/termination grounds. IJ deemed motions “premature” because  
DHS had not submitted evidence; denied without prejudice and issued the  
following deadlines:
  - Sept. 22, 2025: DHS to file all alienage/removability evidence.
  - Oct. 6, 2025: Respondent to file motions in response to DHS’s evidence.

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- Oct. 14, 2025: DHS deadline to reply.
  - Next Master Calendar Hearing: Oct. 27, 2025.
14. **September 22, 2025:** DHS did not file the ordered evidence of alienage. Instead, DHS filed oppositions to the already-denied (as premature) motions and asked for an evidentiary hearing.
15. **October 3, 2025:** Defense filed a Motion to Terminate with Prejudice (and to preclude/strike), based on DHS’s missed evidence deadline, waiver/preclusion, and the egregious constitutional violations already briefed. That same day, DHS re-uploaded the same I-213 with post-hoc authentication pages—not filed by the court’s deadline.

**Status:** As of this filing, Respondent has been detained at IRDF for 100+ days. The IJ ordered DHS to upload all alienage/removability evidence by Sept. 22, 2025. DHS did not make a timely disclosure on that date—filing opposition motions instead of evidence—and only belatedly re-uploaded the same I-213 with after-the-fact “authentication” pages on Oct. 3, 2025. The late, nonresponsive filings do not cure the missed deadline and are subject to preclusion under the Court’s order. Respondent’s Renewed Motion to Terminate with Prejudice (seeking preclusion/waiver and relief for constitutional and regulatory violations) remains pending, and the next master hearing is set for Oct. 27, 2025.