

Jose Rodriguez-Novoa/A No. 246-059-115

Name and Prisoner Number/Alien Registration Number  
Torrance County Detention Center

Place of Confinement  
County Road 49

Mailing Address  
Estancia, NM 87016

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**

Jose Rodriguez-Novoa,  
(Full Name of Petitioner)

Petitioner,

v.  
Todd Lyons, Acting Director Immigration Customs Enforcement, David Brown, Assistant  
Warden of Torrance County Detention Facility, Mary De Anda-Ybarra, Field Office Director  
for Enforcement and Removal Operations, Pam Bondi, United States Attorney General, Kristi  
Noem, Secretary of the U.S. Department of Homeland Security, in their official capacities.

No. CV 2:25-cv-01073  
(To be supplied by the Clerk)

(Name of Warden, Jailor or authorized person  
having custody of Petitioner)

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:

Otero Immigration Court- 26 McGregor Range Road, Chaparral, NM.

(b) Case or opinion number: A No. 246-059-115

(c) Decision made by the agency or court: The Immigration Judge denied bond after finding that  
Petitioner is an applicant for admission under INA Section 235, stripping the Immigration Judge from  
jurisdiction. The Immigration Judge also made a finding of flight risk after holding it did not have the  
jurisdiction to hear the bond.

(d) Date of the decision: 09/03/2025

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:  
Petitioner is challenging the categorization as an "applicant for admission" under INA 235. An appeal to the Board of Immigration Appeals would be futile because of their preential decision in Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025). Furthermore, the Board will not address all issues on appeal if one is dispositive. Matter of Burbano, 20 I&N Dec. 872 (BIA 1994).

---

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: Unlawful detention under 8 U.S.C Section 1225. Custody is properly governed by 8 U.S.C. 1226 (Misapplication of Mandatory Detention Statute.

---

---

---

---

---

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): Petitioner entered the United States in 2021. He was detained by ICE during a work raid on July 12, 2025 in California. Petitioner was placed in INA Section 240 proceedings. Petitioner was charged with as being inadmissible as someone who entered the United States without inspection. On September 3, 2025, the Immigration Judge denied Petitioner's bond.

The Immigration Judge denied bond after finding that Petitioner was in custody pursuant to INA Section 235 and that he was an applicant for admission, thus subject to mandatory detention. On September 5, 2025, the Board of Immigration Appeals issued the precedent decision, Matter of Yajure-Hurtado, holding that Immigration Judges

lack jurisdiction to hear bond requests to noncitizens who are present in the United States without admissions.

Petitioner was detained in the interior. He is married to a United States citizen, has two United States citizen children, and has a pending Form I-130, Petition for Alien Relative filed on his behalf by his spouse. Petitioner's spouse has severe mental health issues and one of his sons is a high-support needs autistic child. The Immigration Judge also made a finding of flight risk after holding that he did not have jurisdiction to hear the case. Petitioner

does not have a criminal history or prior immigration violations.

Petitioner has been in ICE custody since July 12, 2025 and continues to be detained at the Torrance Detention Facility. Petitioner will face months of immigration custody without relief from this court.

The misapplication of Section 1225 constitutes agency action that is not in accordance with the law, it is arbitrary, and capricious.

(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:

The Board of Immigration Appeals issued Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025). This is a precedent decision. Petitioner reserved his right to appeal the bond decision. However, on September 5, 2025, the Board issued Matter of Yajure-Hurtado, 2 days after the bond denial. Any appeal to the Board will be futile.







- 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

(Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless remedies under § 2255 are legally inadequate or ineffective. Claims challenging a state conviction or sentence must be raised in a petition for writ of habeas corpus under 28 U.S.C. § 2254.)

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: July 12, 2025

(b) Date of removal or reinstatement order: N/A

(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: 1) Assume jurisdiction of this matter; 2) Issue an

Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within 7 days;

3) Direct Respondents to release Petitioner from custody; 4) or in the alternative order Respondents to immediately schedule  
Petitioner for a second bond hearing under INA Section 236(a); and 5) 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 10/28/2025 (month, day, year).

J.F.R.N

**Signature of Petitioner**



Signature of attorney, if any

10/28/2025

Date