

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

UNITED STATES DISTRICT COURT

for the District of Minnesota

GERTRUDEZ BEJARANO CRUZ

Petitioner

v.

KANDIYOHI COUNTY JAIL and DEPARTMENT OF HOMELAND SECURITY

Respondent

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

RECEIVED BY MAIL

NOV 03 2025

CLERK, U.S. DISTRICT COURT Case No. MINNEAPOLIS, MINNESOTA (Supplied by Clerk of Court)

25-cv-4191-MJD/EMB

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

Personal Information

- 1. (a) Your full name: GERTRUDEZ RODRIGO BEJARANO CRUZ (b) Other names you have used: GERTRUDEZ BEJARANO CRUZ
2. Place of confinement: (a) Name of institution: KANDIYOHI COUNTY JAIL (b) Address: 2201 23rd ST NE. Willmar, MN 56201
3. (c) Your identification number: [REDACTED] Are you currently being held on orders by: [X] 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: [X] 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)

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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: EOIR- Immigration Court
1 Federal Drive, Suite 1850, Fort Snelling, MN 55111
- (b) Docket number, case number, or opinion number: 
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Denial of Bond (bail)- The Board Immigration Appeals determined that I fall into the category of an "applicant for admission" and therefore, the Immigration Court, has no jurisdiction to consider my bond application.
This effectively means my INDEFINITE detention.
- (d) Date of the decision or action: September 5, 2025- Matter of Jonathan Javier YAJURE HURTADO

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: _____

~~An appeal to the Board of Immigration Appeals is futile since BIA has recently changed the interpretation of "applicant for admission" to now apply to anyone who was not admitted like me. This means I am subject to indefinite mandatory detention. This recent BIA decision violates long standing Immigration Court practice as well as the US Constitution and Zadvydas v. Davis 53 U.S. 878~~

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: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

- Yes No

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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: _____
 - (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
 - (d) Docket number, case number, or opinion number: _____
 - (e) Result: _____
 - (f) Date of result: _____
 - (g) Issues raised: _____
- _____
- _____
- _____

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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: Violation of Clear Congressional Delegation

Both INA § 236(a) and 8 C.F.R. §1236.1(d) explicitly delegate authority to Immigration Judges to "release the alien, and determine the amount of bond, if any". By refusing to exercise jurisdiction, the BIA's ruling is in direct contradiction to the statutes and violates basic principles of statutory interpretation.

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

I was paroled into the USA by CBP in 2022,,
I filed my asylum application with USCIS, I attended my biometrics appointment, I have a job, multiple family members and friends in the USA.

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

Yes No

GROUND TWO: Failure to Apply Constitutional Avoidance

The Immigration Judge and the BIA have failed to choose an interpretation that avoids serious constitutional problems. In Zadvydas v. Davis, the Supreme Court applied this principle to avoid indefinite detention by reading implicit time limits into detention statute

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

I was paroled into the USA by CBP in 2022,,
I filed my asylum application with USCIS, I attended my biometrics appointment, I have a job, multiple family members and friends in the USA.

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

Yes No

GROUND THREE: Creation of Indefinite Detention Without Due Process

The BIA ruling means I will be permanently detained without hearings

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

I was paroled into the USA by CBP in 2022,,
I filed my asylum application with USCIS, I attended my biometrics appointment, I have a job, multiple family members and friends in the USA.

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

Yes No

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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:

Please order the Immigration Court to conduct a bond hearing so that I may have the opportunity to apply for release on reasonable terms so that I can effectively continue to pursue my Immigration applications

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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:

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: 10/20/2025

Gertudiz Rodriguez
Signature of Petitioner

Signature of Attorney or other authorized person, if any