

United States Courts  
Southern District of Texas  
**FILED**

**ON BEHALF OF PETITIONER:**  
**Clarissa Guajardo, Bar # 08560900**  
**4101 Greenbriar Dr., Suite 317**  
**Houston, Texas 77098**  
**(713) 426-5100**

DEC 09 2025

Nathan Ochsner, Clerk of Court

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF TEXAS**  
**BROWNSVILLE DIVISION**

David Rojas )

Case No. )

Petitioner, )

PETITION FOR WRIT OF )

v. HABEAS CORPUS )

Warden, Port Isabel Detention Center; )

Case No. 1:25-cv-316

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**ERIC HOHMAN**, Ice Field Director, Houston )  
U.S. Immigration and Customs Enforcement; )

**ORAL ARGUMENT  
REQUESTED**

**ALEJANDRO MAYORKAS**, Secretary of DHS; )  
and )

**MERRICK GARLAND**, Attorney General )  
of the United States, in their official capacities )

Respondents. )

**INTRODUCTION**

Petitioner is a 30-year-old citizen of Mexico who has lived in the United States since April 2015, more than ten years, raising a U.S.-citizen family, working, paying taxes, and remaining fully integrated into his Texas community. He was arrested during a routine traffic stop, not at or near the border, and was later transferred to ICE custody on September 13, 2025. Despite his decade-long residence, marriage to a U.S. citizen, three U.S.-citizen children, lack of any criminal history, and active pursuit of immigration relief, ICE has classified him under INA § 235(b)(2) and refused to release him on bond. The Immigration Judge also refused to conduct a bond hearing—misapplying *Matter of Q. Li* (BIA 2025)—even though that precedent applies only to individuals detained at the border at the time of entry, not to long-term residents arrested in the interior. Federal courts across the country, including cases decided in 2025, have unanimously rejected DHS's interpretation of § 235(b)(2), holding that interior arrests are governed by INA §

236(a). Under § 236(a), noncitizens like Mr. Rojas Mellado must be provided with a bond hearing.

Petitioner's detention is unconstitutional, unauthorized by statute, excessively prolonged, and violates his Fifth Amendment Due Process rights.

Petitioner respectfully asks this Court to order his immediate release or, at minimum, order a constitutionally compliant bond hearing within 7 days where the government bears the clear and convincing evidence burden

**JURISDICTION AND VENUE**

Jurisdiction is proper under 28 U.S.C. § 2241, as Petitioner is in custody under color of federal authority.

Jurisdiction also arises under 28 U.S.C. §§ 1331 and 1361, Article I, Section 9 (Suspension Clause), and the Due Process Clause of the Fifth Amendment.

Venue is proper in this District because Petitioner is detained at Port Isabel Detention Center in Los Fresnos, Texas, within the Southern District of Texas. Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651.

**REQUIREMENTS OF 28 U.S.C. § 2243**

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed."

*Id.*

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963)

**PARTIES**

Petitioner, David Rojas Mellado (A# [REDACTED]), is currently detained at ICE. He's being detained at Port Isabel Detention Center in Los Fresnos, Texas. He is in custody, and under the direct control, of Respondents and their agents.

Respondent, The Warden of Port Isabel Detention Center and he/she has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

Respondent Hohman is sued in his official capacity as the Acting Director of the Houston Field Office of U.S. Immigration and Customs Enforcement. Respondent Hohman is a legal custodian of Petitioner and has authority to release him.

Respondent Mayorkas is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mayorkas is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, the component agency responsible for Petitioner's detention. Respondent Mayorkas is a legal custodian of Petitioner.

Respondent Merrick Garland is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Garland is a legal custodian of Petitioner.

**STATEMENT OF FACTS**

**FACTUAL BACKGROUND**

**A. Petitioner’s life in the United States**

Petitioner entered the United States on April 20, 2015, and has lived here continuously for more than ten years. He is married to a U.S. citizen, Maria Sanchez, since 2019. They have three U.S.-citizen children, ages 8, 6, and 3. Petitioner has no criminal history whatsoever.

He has worked continuously and paid federal and state taxes that support his family.

He is actively pursuing immigration status:

- **I-130 Petition for Alien Relative** pending (filed October 2025)

- Will apply for **EOIR-42B** cancellation of removal

- Will pursue **I-601A waiver** for consular processing

These forms of relief confirm a strong incentive to appear at all hearings.

**B. Arrest and ICE detention**

Petitioner was stopped for a routine traffic issue and later taken into ICE custody on September 13, 2025.

DHS filed a Notice to Appear charging inadmissibility under § 212(a)(6)(A)(i)—the “entry without inspection” ground.

Petitioners were not arrested at a port of entry, border, or its functional equivalent. He was fully settled in the interior.

**C. Bond denial based on incorrect legal standards**

Petitioner requested a bond redetermination before Immigration Judge Paul Habel.

DHS argued that Petitioner fell under § 235(b)(2) mandatory detention based on *Matter of Q. Li*.

The Immigration Judge declined jurisdiction, refusing to provide bond review.

*Matter of Q. Li*, however, applies only to individuals detained while attempting to enter the

United States without inspection at the border—not to long-term residents arrested in a traffic stop.

**LEGAL FRAMEWORK**

Federal courts in 2025 uniformly held that § 235(b)(2) does not apply to long-term residents apprehended in the interior. Examples include:

• *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)

- **Martínez v. Hyde**, 2025 WL 2084238 (D. Mass. July 24, 2025)
- **Lopez Benítez v. Francis**, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)
- **Maldonado v. Olson**, 2025 WL 2374411 (D. Minn. Aug. 15, 2025)

The BIA itself recognized the narrow reach of *Q. Li* in **Matter of Akhmedov**, 29 I&N Dec. 166 (BIA 2025), confirming that only *recent arrivals* fall under § 235(b)(2).

Petitioner is not a recent arrival; he is a long-term resident with deep U.S. ties. DHS's position is contrary to law.

**CLAIMS FOR RELIEF**

**Claim One: Unlawful Detention Under the INA (Section 236(a) Applies, not 235(b)(2))**

Petitioner was arrested inside Texas after ten years' residence; he was not seeking admission.

Under the INA's text, structure, and 2025 federal decisions, § 236(a) governs interior arrests.

Under § 236(a), Petitioner is entitled to an individualized bond hearing.

DHS's contrary classification is arbitrary, capricious, and ultra vires.

**Claim Two: Violation of Procedural Due Process – Failure to Provide a Bond Hearing**

The Fifth Amendment requires that civil detention be accompanied by adequate procedural protections.

Immigration Judges must consider:

- evidence of dangerousness,
- flight risk,
- ability to pay, and
- alternatives to detention.

The IJ refused to consider any such factors.

Petitioners have no criminal history, strong family ties, and multiple forms of pending relief.

The refusal to provide a bond hearing violates due process.

**Claim Three: Prolonged Detention in Violation of Due Process**

Petitioner has been detained since September 2025 with no end in sight.

Such prolonged civil detention is unconstitutional unless the Government proves necessity by clear and convincing evidence.

No such individualized determination has occurred.

His continued detention is excessive and arbitrary in violation of *Zadvydas v. Davis*, 533 U.S. 678 (2001), and circuit precedent requiring heightened scrutiny for prolonged detention.

**Claim Four: Application of Matter of Q. Li Is Legally Erroneous and Unconstitutional**

*Q. Li* applies only to individuals apprehended at the moment of attempted entry.

Petitioner's traffic stop arrest is fundamentally different.

Misapplication of *Q. Li* violates due process, the INA, and constitutes legal error requiring habeas relief.

**PRAYER FOR RELIEF**

Petitioner respectfully requests that the Court:

1. Order his immediate release under reasonable conditions of supervision;  
OR

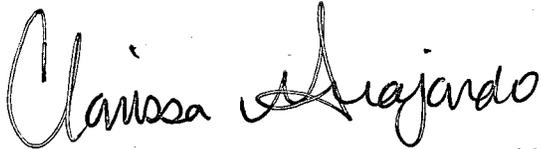
2. Order a constitutionally adequate bond hearing within 7 days, requiring that:

- The Government bears the burden of proof;
- The standard is clear and convincing evidence;
- The IJ must consider ability to pay and alternatives to detention;
- A written decision be issued.

3. Declare that § 236(a), not § 235(b)(2), governs Petitioner's custody.

4. Award any other relief the Court deems just and proper.

Respectfully submitted,



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*Counsel for Petitioner*

Dated: December 5, 2025

PURSUANT TO 28 U.S.C. § 2242: VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, David Rojas Mellado, and submit this verification on his behalf. I

hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas

Corpus are true and correct to the best of my knowledge.

Dated this 5<sup>th</sup> day of December 2025.