

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

DEC 15 2025

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

Nathan Ochsner, Clerk of Court

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

**Adrian Crisanto** )  
 )  
 )  
**Petitioner,** )  
 )  
 )  
**v.** )  
 )  
**Warden, Port Isabel Detention Center;** )

Case No. \_\_\_\_\_

**PETITION FOR WRIT OF**  
**HABEAS CORPUS**

**TODD LYONS, Acting Director 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.** )

PRODUCTION

INTRODUCTION

Petitioner is a 30-year-old citizen of Mexico who has lived in the United States since November 2013; 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 an ICE check-in, not at or near the border, and was later transferred to ICE custody on October 24, 2025. Despite his decade-long residence, marriage to a U.S. citizen, 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. Crisanto 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 the Southern District of Texas and challenges the legality of his continued immigration detention. 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 and Respondents exercise legal control over his custody here. 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, Adrian Crisanto (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 have 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 Lyons is sued in his official capacity as the Acting Director of the of U.S. Immigration and Customs Enforcement. Respondent Lyons 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 in November 2013 and has lived here continuously for more than ten years. He is married to a U.S. citizen, Jhoana Crisanto, since April 2024. Together they are raising the petitioner's minor daughter from a prior marriage. The child resides in the United States with Petitioner's U.S. citizen spouse. ~~Petitioner has no criminal history whatsoever.~~

He has maintained steady employment and has paid federal and state taxes throughout his residence in the United States.

##### **B. Arrest and ICE detention**

Petitioner was detained during a routine ICE check-in, not at or near the border and not while seeking admission to the United States.

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. At the time of the detention, Petitioner was actively pursuing cancellation of removal pursuant to INA § 240A(b) (Form EOIR 42-B).

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

Petitioner requested a bond redetermination before Immigration Judge Frank Pimentel. Judge Pimentel denied the bond Petitioner a bond hearing, concluding, based on DHS's interpretation of INA § 235(b), that the court lacked jurisdiction to consider bond. 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 during a routing ICE check-in.

### **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 Benitez 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's arrest during an interior ICE check-in places him squarely under INA § 236(a). federal courts overwhelmingly reject DHS's interpretation that all noncitizens present without inspection are subject to mandatory detention under §235(b) regardless of circumstances.

In *Lang Shi v. Lyons, et al.*, the Southern District of Texas granted habeas relief where DHS improperly denied bond eligibility based on §235(b). Because Petitioner is not subject to mandatory detention, the Immigration Judge retains jurisdiction to conduct a bond hearing.

**Claim Two: Continued Detention Without a Bond Hearing Violates Due Process**

The Fifth Amendment requires that civil detention be accompanied by adequate procedural protections and prolonged detention without individualized bond hearings violates this amendment.

Immigration Judges must consider:

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

The IJ refused to consider any such factors and the Petitioner has never received a hearing assessing danger or flight risk. Detention under these circumstances is arbitrary and unconstitutional.

Petitioner have no criminal history, strong family ties, and a form of pending relief.

The refusal to provide a bond hearing violates due process.

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

Petitioners have been detained since October 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:

~~A. Issues a writ of habeas corpus ordering Respondents to provide Petitioner with an~~

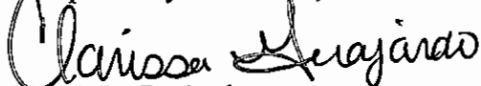
individualized bond hearing under INA § 236(a) within seven (7) days.

B. Place the burden of proof on DHS at the bond hearing.

C. Alternatively, order Petitioner's immediate release.

D. Grant any additional relief the Court deems just and proper.

Respectfully submitted,



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Dated: December 15, 2025

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

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

herby 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 15th day of December 2025.