

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 Florida

EMILIO POLO NOEL

Petitioner

v.

MIAMI ICE FIELD OFFICE DIRECTOR


Respondent

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

Case No. _____
(Supplied by Clerk of Court)

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

Personal Information

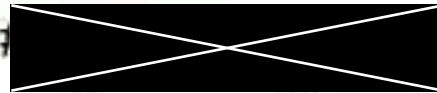
1. (a) Your full name: EMILIO POLO NOEL
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: KROME NORTH SERVICE PROCESSING CENTER
(b) Address: 18201 SW 12th St Miami, FL 33194
(c) Your identification number: 
3. Are you currently being held on orders by:
 Federal authorities 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: _____
 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: Krome Immigration Court in Miami, Florida
- (b) Docket number, case number, or opinion number: A: 
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): denial of bond under erroneous agency decision, Matter of Yajure Hurtado, which misclassifies petitioner as subject to mandatory detention under 8 USC 1225(b)(2). An amended petition will be filed with additional context and legal authority.
- (d) Date of the decision or action: 12/10/2025

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: _____
- _____

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: _____
- (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: _____
- (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: _____

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: Denial of bond and continued detention without an individualized bond hearing pursuant to erroneous agency action and statutory misclassification.

See Alvarez Puga v. Assist. ICE Field Office Dir., 25-24535-CIV-ALTONAGA, (S.D. Fla. Oct. 15, 2025)

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 Do not cite cases or law.*):

Petitioner has resided in the United States in the unincorporated territory of Puerto Rico for more than 20 years after entering without inspection. He should have been afforded a bond hearing under 8 USC 1226(a), but the immigration courts continue to (mis)apply 8 USC 1225(b)(2) to deny him a meaningful opportunity to present his bond motion. He was denied bond on December 10, 2025 by the Krome Immigration Court in Miami, Florida citing to the Board of Immigration Appeals decision, Matter of Yajure Hurtado.

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

Yes No

GROUND TWO: Petitioner is entitled to a bond hearing as a matter of procedural due process.

See Aguilar Merino v. Ripa, 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025).

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

Due to Petitioner's length of residence in the United States, he cannot under any plausible reading of the relevant immigration statutes be considered to be "seeking admission": in fact, he was arrested and placed in immigration custody. He is a business owner and has significant family ties to the U.S. He should be afforded a bond hearing as a matter of due process.

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

Yes No

GROUND THREE:

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

(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:

(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: order Petitioner's release from detention or afford him an individualized bond hearing under 8 USC 1226(a) within seven days of this Court's judgment.

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I, Felix Montanez, am submitting this verification on behalf of the Petitioner, Emilio Polo Noel, because I am the attorney for Petitioner. I have discussed with his immigration attorney and authorized representative the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 26, 2025

Respectfully submitted,

/s/ Felix A. Montanez

Felix A. Montanez

Florida Bar No. 102763

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