

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

OLDIN GONZALEZ ,
Petitioner.

v.

**WARDEN OF GLADES COUNTY DETENTION
CENTER, DAVID HARDIN,** in his official
capacity; and


**ACTING DIRECTOR, U.S IMMIGRATION AND
CUSTOMS ENFORCEMENT, TODD M. LYONS,** in his
official capacity;

;

Respondents.

**PETITION FOR A WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241**

INTRODUCTION

1. This is a petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner, Oldin Gonzalez, is a 40 year old national of Guatemala who has lived in the US for 22 years, since 2003. He has no criminal convictions and is the sole support for his three US citizen children. He is currently detained by Respondents at the Glades County Detention Center in Moore Haven, FL under 
2. Petitioner is being held under mandatory detention without eligibility for a bond hearing under the recently-decided Board of Immigration Appeals (BIA) decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). He is asking this Court to order

Respondents to grant him a bond hearing before an immigration judge where he can demonstrate that he is not a flight risk nor a danger to the community, and thus remain at liberty while he contests his immigration status..

3. *Matter of Yajure Hurtado*, decided September 5, 2025, overturned 30 years of established immigration court practice. Petitioner believes the decision is based on administration policy to detain and deport illegal aliens, not the law.
4. This recent BIA decision is erroneous, violates the Immigration and Nationality Act (INA) §235(b) and §236, the Due Process Clause of the Fifth Amendment to the United States Constitution, and international law, of which the US is signatory, relating to the treatment of asylees.
5. Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, federal courts should independently interpret the meaning and scope of §§ 235(b) and 236 using the traditional tools of statutory construction. Because the BIA's decision in *Matter of Yajure Hurtado* is a deviation from the agency's long-standing interpretation of §§ 235 and 236; is not guidance issued contemporaneously with enactment of the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts, a habeas court should give it no weight under *Loper*.

JURISDICTION AND VENUE


6. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241, which grants federal courts the authority to hear habeas corpus petitions from individuals held in custody in violation of the Constitution or laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331.

7. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 2241(d) because Petitioner is detained at the Glades County Detention Center, in Moore Haven, FL which is located within this judicial district.

PARTIES

8. Petitioner, **Oldin Gonzalez**, is a citizen of Guatemala and is currently detained by the Respondents at the Glades County Detention Center.
9. Respondent **David Hardin** is the Warden of Glades County Detention Center, and is sued in his official capacity.
10. Respondent, **Todd M. Lyons**, is the Acting Director of the U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity.

FACTUAL ALLEGATIONS

11. Petitioner is a 40 year old native and citizen of Guatemala. His only entrance to the U.S was on May 23, 2003 when he crossed the border without inspection. He has no criminal convictions and is the sole support for his three US citizen children ages 13, 10 and six.
12. Petitioner is currently detained by the Respondents at the Florida Glades County Detention Center, under 
13. Petitioner is eligible to seek Cancellation of Removal for Certain Nonpermanent Residents pursuant to 8 U.S.C. § 1229b(b), a form of discretionary relief available in removal proceedings.
14. Respondents will not grant Petitioner a bond hearing before an immigration judge while he contests removal from the United States under the recently-decided Board of

Immigration Appeals (BIA) decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

LEGAL CLAIMS

COUNT I: VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

15. Petitioner re-alleges and incorporates by reference the preceding paragraphs.
16. The Immigration and Nationality Act (INA) establishes two distinct statutory categories for the treatment and detention of noncitizens. Section 235 (8 U.S.C. § 1225); This section governs the admission of aliens who arrive in the U.S. or are at the border seeking relief. It generally requires mandatory detention. Section 236 (8 U.S.C. § 1226); This section applies to aliens who are apprehended within the U.S. (in the interior). It allows for bond hearings for non-criminal aliens who may seek release by demonstrating they are not a danger to the community or a flight risk.
17. *Matter of Yajure Hurtado*, decided by the BIA September 5, 2025 held for the first time that all aliens who entered the US without authorization are subject to Section 235 regardless of how long they have been in the US or their family ties.
18. Federal district courts that have recently analyzed which statute covers noncitizens who previously entered without inspection and were apprehended in the interior of the country have consistently found that INA § 236, not § 235(b)(2), authorizes their detention. In so findings, courts have relied on the record evidence and factual circumstances in a noncitizen's immigration proceedings, the text of both provisions, the statutory context and structure, the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and the legislative history of § 235. These Federal Courts have agreed that § 235

(b)(2) only reaches individuals who are in the process of entering or who have just entered the United States.

19. There are several reasons why the government's expansive interpretation of INA § 235(b)(2) misreads the statute. As the Supreme Court recognized in *Jennings v. Rodriguez*, § 235(b) is concerned "primarily [with those] seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible."
20. Throughout its text, the statute refers to "inspection" - a term which typically connotes an examination upon or soon after entry. Many statutory provisions, various regulations and agency precedent discuss "inspection" in the context of admission processes at port of entry, further supporting the conclusion that § 235 has a limited temporal and geographic scope. See INA § 235 (titled "Inspection by Immigration Officers"); INA §§ 235(b)(1) (referring to "inspections" in the title); and INA § 235(d)(1) (authorizing immigration officials to search certain conveyances in order to conduct "inspections" where noncitizens "are being brought into the United States").
21. Consistent with this focus on the moment of physical entry, § 235(b)(2) is limited to those in the process of "seeking admission." Similarly, the implementing regulations at 8 C.F.R. § 1.2 addresses noncitizens who are presently "coming or attempting to come into the United States." The statutory and regulatory text's use of the present and present progressive tenses excludes noncitizens apprehended in the interior like Petitioner, because they are no longer in the process of arriving in or seeking admission to the United States.

22. Additionally, the INA's statutory structure confirms that § 236 also reaches individuals who have not been admitted and have entered without inspection. For example, Section 236(c) exempts specific categories of noncitizens from the default eligibility to seek release on bond in § 236(a), including noncitizens subject to certain grounds of inadmissibility.
23. Moreover, Congress recently added new mandatory detention grounds to § 236(c) that apply only to noncitizens who have not been admitted, expressly including those who are inadmissible under § 212(a)(6)(A) or (7)—that is, persons who entered without being admitted. If § 236(a) did not apply to inadmissible noncitizens, the carve-out and recent amendments in § 236(c) would be rendered surplusage.
24. The statutory history also supports a limited reading of § 235(b)'s reach. When Congress amended § 235(b)'s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. There was no suggestion in the legislative history that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby sweep millions of noncitizens into § 235(b).

COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

25. Petitioner re-alleges and incorporates by reference the preceding paragraphs.
26. The Fifth Amendment's Due Process Clause provides that no **person** (emphasis added) shall be "deprived of... liberty... without due process of law." This protection applies to all **persons** within the United States, regardless of immigration status. The detention of

arriving aliens has been allowed because they do not have constitutional protection, *Jennings, supra*.

27. Freedom from imprisonment lies at the heart of the liberty protected by habeas corpus (*Zadvydas v. Davis*, 533 U.S. 578, 690 (2001)). In civil proceedings, including deportation cases, detention is supposed to be non-punitive; it is justified in certain "special and narrow non-punitive circumstances, where a compelling justification outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.*

28. The Supreme Court has repeatedly held that non-punitive detention violates the Constitution unless it is strictly limited, which typically means that the detention must be accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals, *See, e.g., United States v. Salerno*, 481 U.S. 739, 750-51 (1987). In the immigration context, the "special justification for detention is two-fold: first preventing danger to the community; and second, ensuring the appearance of the noncitizen at future immigration proceedings," *Zadvydas*, 533 US at 691.

29. Given Petitioner's pending Cancellation of Removal application and lack of any criminal convictions, his continued detention **without any hearing of any kind** is statutorily illegal and unconstitutional and therefore unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Grant a Writ of Habeas Corpus;

2. Order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within 10 days;
3. Alternatively, order Petitioner's immediate release upon payment of a reasonable \$5,000 bond;
4. Grant any other relief the Court deems just and proper.

Dated: December 30, 2025

Respectfully submitted,

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