

**3:26-cv-00129-BJC-DDL** Mejia-Echavarria v. LaRose et al  
Benjamin J. Cheeks, presiding  
David D. Leshner, referral  
**Date filed:** 01/09/2026  
**Date of last filing:** 01/19/2026

## History

<b>Doc. No.</b>	<b>Dates</b>	<b>Description</b>
<u>1</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed &amp; Entered:</i> 01/12/2026	 Order
<u>3</u>	<i>Filed &amp; Entered:</i> 01/13/2026	 Notice of Appearance
<u>4</u>	<i>Filed &amp; Entered:</i> 01/18/2026	 Response - Other
<u>5</u>	<i>Filed &amp; Entered:</i> 01/19/2026	 Notice (Other)



1 Alejandro Monsalve  
CA SBN 324958  
2 Alex Monsalve Law Firm, PC  
3 240 Woodlawn Ave., Suite 9  
4 Chula Vista, CA 91910  
5 (619) 777-6796  
Counsel for Petitioner

6 **UNITED STATES DISTRICT COURT**  
7 **SOUTHERN DISTRICT OF CALIFORNIA**

8  
9 **EDUARDO MEJIA-ECHAVARRIA**

10 Petitioner

11 v.

12 **Christopher LAROSE**, Senior Warden, Otay

13 Mesa Detention Center;

14 **Kristi NOEM**, Secretary, U.S. Department of

15 Homeland Security;

16 **Todd LYONS**, Acting Director, U.S.

17 Immigration and Customs Enforcement;

18 **Patrick DIVVER**, Field Office Director, San

19 Diego Field Office, U.S. Immigration and

20 Customs Enforcement.

21 **Sirce OWEN**, Acting Director of the Executive

22 Office for Immigration Review (EOIR),

23 U.S. Department of Justice.

24 **Pamela BONDI**, Attorney General, U.S.

25 Department of Justice.

26 Respondents  
27

Case No.: '26CV0129 BJC DDL

Agency File No: A 

**PETITION FOR WRIT OF  
HABEAS CORPUS AND  
REQUEST FOR ORDER TO  
SHOW CAUSE WITHIN THREE  
DAYS**

1 **INTRODUCTION**

2 1. Petitioner Eduardo Mejia-Echavarria respectfully submits this Petition for a Writ of  
3 Habeas Corpus challenging his continued detention by the Department of Homeland Security  
4 (“DHS”). Petitioner is a Mexican national who entered the United States without inspection in or  
5 about 1999 and has resided continuously in the United States since that time. He was  
6 apprehended in the interior of the United States, long after his entry, and is currently detained at  
7 the Otay Mesa Detention Center.

8 2. Petitioner is detained based on DHS’s application of an interpretation of the  
9 Immigration and Nationality Act (“INA”), articulated in *Matter of Yajure-Hurtado*, 29 I&N Dec.  
10 216 (BIA 2025), under which DHS has treated certain noncitizens apprehended in the interior of  
11 the United States long after entry as “applicants for admission” subject to detention under INA §  
12 235(b)(2)(A). As applied in this case, that custody classification deprives Petitioner of eligibility  
13 for an individualized bond hearing under INA § 236(a).

14 3. Numerous federal courts have rejected DHS’s reliance on INA § 235(b) to detain  
15 individuals apprehended in the interior of the United States long after entry and have concluded  
16 that such custody, if lawful at all, must proceed under INA § 236(a), which provides for  
17 eligibility for an individualized bond hearing. These decisions reflect a consistent interpretation  
18 of the statutory framework governing detention following interior arrests.

19 4. Petitioner remains detained without access to an individualized bond hearing under  
20 INA § 236(a). He does not challenge the initiation of removal proceedings or the merits of  
21 removability. Rather, this petition challenges the legal basis of his detention—specifically,  
22 DHS’s classification of his custody under INA § 235(b) rather than INA § 236(a).

23 5. Because *Matter of Yajure-Hurtado* remains binding agency precedent and Petitioner  
24 has not received an individualized custody determination under INA § 236(a), judicial  
25 intervention is necessary. Petitioner therefore seeks a writ of habeas corpus ordering his release  
26 or, in the alternative, an order directing DHS to provide a prompt, individualized custody hearing  
27 before a neutral decisionmaker pursuant to INA § 236(a).

1 **JURISDICTION AND VENUE**

2 6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody  
3 of the Department of Homeland Security within this District and he challenges the legality of  
4 that custody.

5 7. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises  
6 under the Constitution and laws of the United States, including the Immigration and Nationality  
7 Act and the Due Process Clause of the Fifth Amendment.

8 8. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section  
9 1252(g) bars only challenges to the Attorney General’s discretionary decisions to “commence  
10 proceedings, adjudicate cases, or execute removal orders,” not independent challenges to  
11 unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts  
12 of appeals, but does not foreclose habeas review of detention claims, which are collateral to the  
13 removal proceedings.

14 9. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is  
15 detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

16 **PARTIES**

17 10. Petitioner, Eduardo Mejia-Echavarria, is a Mexican national detained at the Otay  
18 Mesa Detention Center in San Diego, California.

19 11. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention  
20 Center.

21 12. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland  
22 Security (DHS).

23 13. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs  
24 Enforcement (ICE).

25 14. Respondent Patrick Divver is the Director of the San Diego Field Office of U.S.  
26 Immigration and Customs Enforcement.

1 15. Respondent Sirce Owen is the Acting Director of the Executive Office for  
2 Immigration Review (EOIR).

3 16. Respondent Pamela Bondi is the Attorney General of the United States and the head  
4 of the U.S. Department of Justice (DOJ).

5 17. All Respondents are named in their official capacities.

6 **LEGAL FRAMEWORK**

7 18. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq.,  
8 provides multiple detention authorities. For decades, courts, Congress, and agencies have  
9 consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. §  
10 1225), which governs applicants for admission encountered at or near the border, and INA § 236  
11 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the  
12 United States and placed in removal proceedings. The Supreme Court analyzed the interplay  
13 between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

14 19. Section 1225 provides that, for purposes of initial inspection at the border, “an alien  
15 who arrives in the United States or is present in this country but has not been admitted, is treated  
16 as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The  
17 Court explained that decisions concerning who may enter or remain in the United States  
18 “generally begin at the Nation’s borders and ports of entry, where the Government must  
19 determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b)  
20 governs this inspection and admission process, applying primarily to individuals encountered at  
21 or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which  
22 includes a credible-fear process for those expressing an intent to seek asylum—or to detention  
23 pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep’t of Homeland Sec.*  
24 *v. Thuraissigiam*, 591 U.S. 103 (2020).

25 20. By contrast, § 1226(a) governs the detention of individuals who entered years ago and  
26 were later apprehended in the interior, “pending a decision on whether [they are] to be removed  
27 from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, §

1 1226(a) authorizes the Attorney General to detain or release such individuals on bond or  
2 conditional parole, except as provided in subsection (c), which applies only to a narrow category  
3 of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made  
4 pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding  
5 regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8  
6 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
7 Congress further described § 1226(a) as merely a “restatement” of prior detention authority  
8 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.  
9 Rep. No. 104-469, pt. 1, at 229 (1996).

10 21. For decades, individuals who entered without inspection but resided in the United  
11 States and were later arrested in the interior were consistently treated as subject to § 1226(a)’s  
12 discretionary detention framework. This included those who could not lawfully be placed in  
13 expedited removal because they had been continuously present in the United States for more than  
14 two years, as required by § 1225(b)(1)(A)(iii)(II).

15 22. Only in 2025 did DHS and the BIA begin advancing, in certain proceedings, a  
16 contrary interpretation—asserting that noncitizens who entered without inspection must be  
17 treated as subject to detention under § 1225(b)(2). This interpretation represented a departure  
18 from decades of agency practice and contradicted settled expectations regarding custody  
19 jurisdiction.

20 23. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in  
21 coordination with the Department of Justice, issued Interim Guidance Regarding Detention  
22 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered  
23 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of  
24 when or where they were apprehended, including individuals who had resided in the United  
25 States for many years.

1 24. The Board of Immigration Appeals later adopted a similar statutory interpretation in  
2 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3 25. In January 2025, Congress reaffirmed that 8 U.S.C. § 1226(a), not § 1225(b), governs  
4 custody for noncitizens apprehended in the interior. Through the Laken Riley Act of 2025,  
5 Congress amended § 1226(c) to add subparagraph (E), extending mandatory detention only to a  
6 narrow category of individuals who (i) are inadmissible under § 1182(a)(6)–(7) and (ii) also meet  
7 specific criminal-conduct criteria. By creating this limited carve-out, Congress confirmed that §  
8 1226(a) remains the general detention framework for interior arrests, and that mandatory  
9 detention applies only to the narrow class defined in new § 1226(c)(E). If, as DHS and the BIA  
10 now contend, all such individuals were already subject to mandatory detention under § 1225(b)  
11 (2), Congress’s amendment would have been superfluous.

12 **FACTS**

13 26. Petitioner, Eduardo Mejia-Echavarria, is a Mexican national who entered the United  
14 States without inspection in or about December 1999 and has resided continuously in the United  
15 States since that time.

16 27. Petitioner has deep and longstanding ties to his community.

17 28. Petitioner is the father of three U.S.-born children, two of whom are under 21 years of  
18 age.

19 29. Petitioner is *prima facie* eligible for Cancellation of Removal under INA § 240A(b).

20 30. On or about July 23, 2025, Petitioner was arrested by officers of U.S. Immigration  
21 and Customs Enforcement (“ICE”) near Warner Springs, California, while driving on state route  
22 79, in the interior of the United States.

23 31. Petitioner was thereafter transferred to the Otay Mesa Detention Center and is  
24 currently detained pending removal proceedings before the Otay Mesa Immigration Court.

25 32. On August 18, 2025, Immigration Judge Eugene Robinson, sitting at the Otay Mesa  
26 Immigration Court, conducted a bond redetermination hearing. After reviewing the record and  
27 hearing arguments, the Immigration Judge concluded that jurisdiction properly lay under INA §  
28

1 236(a). The Court granted release upon posting of a \$1,500 bond, and the Department reserved  
2 appeal. See *Exhibit 1* (Bond Order of the Immigration Judge).

3 33. On September 5, 2025, the Board of Immigration Appeals issued its precedential  
4 decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). In that decision, the Board  
5 concluded that noncitizens who entered the United States without inspection are “applicants for  
6 admission” subject to detention under INA § 235, regardless of the length of time since entry or  
7 the presence of family and community ties.

8 34. Following *Matter of Yajure-Hurtado*, as DHS applies that decision, Immigration  
9 Judges lack jurisdiction to conduct custody redetermination hearings for individuals whom DHS  
10 classifies as subject to detention under INA § 235.

11 35. On November 21, 2025, the Board of Immigration Appeals vacated the Immigration  
12 Judge’s decision based exclusively on the *Matter of Yajure Hurtado* rationale. See *Exhibit 2*  
13 (BIA Decision Vacating Bond Order).

14 36. On November 25, 2025, the United States District Court for the Central District of  
15 California issued an order granting class certification in *Lazaro Maldonado Bautista et al. v.*  
16 *Santacruz et al.*, No. 5:25-cv-01873 (C.D. Cal.). The court certified a class of noncitizens  
17 detained by DHS who are classified as subject to detention without bond based on DHS’s  
18 application of INA § 235(b) and related agency policy.

19 37. On December 18, 2025, a federal district court vacated DHS’s July 8, 2025 Interim  
20 Guidance under the Administrative Procedure Act. See *Maldonado-Bautista v. Santacruz*, No.  
21 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). The court’s decision addressed DHS’s  
22 Interim Guidance only and did not vacate, overrule, or otherwise disturb *Matter of Yajure-*  
23 *Hurtado* or any binding Board of Immigration Appeals precedent.

24 38. Prior to the entry of final judgment in *Maldonado-Bautista*, Respondents expressly  
25 maintained—in other federal habeas proceedings challenging detention under INA § 235(b)—  
26 that district court rulings rejecting such detention were interlocutory, non-final, and afforded no  
27 relief. See Respondents’ Return to Habeas Petition at 2–4, *Perez Martinez v. LaRose*, No. 25-cv-

1 3492-DMS-AHG (S.D. Cal. filed Dec. 15, 2025). DHS continued to rely on its interpretation of §  
2 235(b) pending the entry of final judgment.

3 39. Following the entry of final judgment in *Maldonado-Bautista v. Santacruz*,  
4 Respondents in similar federal habeas proceedings acknowledged the vacatur of DHS's July 8,  
5 2025 Interim Guidance, while expressly reserving the right to supplement or alter their position  
6 in the event of a stay of enforcement, appellate relief, or a change in DHS policy. See  
7 Respondents' Return to Petition for Writ of Habeas Corpus, *Cabrera-Ruiz v. LaRose et al.*, No.  
8 3:25-cv-03582-AGS-JLB (S.D. Cal. filed Dec. 23, 2025). Notwithstanding those representations,  
9 custody redetermination hearings continue to be denied in Immigration Court based on assertions  
10 that jurisdiction is foreclosed under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In  
11 practice, attorneys from the Office of the Principal Legal Advisor (OPLA) and some  
12 Immigration Judges sitting at the Otay Mesa Immigration Court have continued to assert that the  
13 Immigration Court lacks bond jurisdiction in such cases. As a result, noncitizens remain subject  
14 to detention without access to a bond hearing absent intervention by this Court.

15 40. Exhaustion of administrative remedies should be excused as futile. The Board of  
16 Immigration Appeals vacated the Immigration Judge's prior bond order based exclusively on the  
17 rationale set forth in *Matter of Yajure-Hurtado*, thereby eliminating Immigration Judge  
18 jurisdiction to redetermine custody for individuals in Petitioner's procedural posture. That  
19 jurisdictional determination is binding on Immigration Judges and leaves no discretion to  
20 conduct a custody redetermination. Consistent with the Board's directive, the Immigration Judge  
21 has since denied bond for lack of jurisdiction, not on the merits, but solely on the asserted  
22 absence of statutory authority. Because the asserted bar to relief arises from binding Board  
23 precedent and has been applied to Petitioner, no administrative actor has authority to grant  
24 further custody review. Requiring additional exhaustion would therefore serve no purpose, and  
25 exhaustion should be deemed futile and excused.

26 41. Absent relief from this Court, Petitioner faces continued and potentially prolonged  
27 immigration detention despite having been apprehended in the interior of the United States more  
28

1 than a decade after his entry, and despite the absence of any statutory bar to discretionary  
2 detention under INA § 236(a). Without judicial intervention, Petitioner will remain subject to  
3 detention without any meaningful opportunity for an individualized custody determination.

4 **CLAIM FOR RELIEF**

5 **COUNT 1**

6 **Violation of the Immigration and Nationality Act (INA)**

7 42. Petitioner incorporates by reference the allegations of fact set forth in the preceding  
8 paragraphs.

9 43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
10 noncitizens residing in the United States who are subject to grounds of inadmissibility. It does  
11 not extend to individuals who entered and remained in the country beyond the two-year  
12 limitation Congress established for expedited removal. See 8 U.S.C. § 1225(b)(1)(A)(iii)(II)  
13 (authorizing expedited removal only for those “who have not been physically present in the  
14 United States continuously for the 2-year period immediately prior to the date of the  
15 determination of inadmissibility”). Petitioner entered the United States in or about 1999 and has  
16 resided continuously in the United States since that time. He is therefore not lawfully detained  
17 under INA § 235(b); to the extent he remains in custody, detention must proceed under INA §  
18 236(a) (8 U.S.C. § 1226(a)), which authorizes release on bond or conditional parole.

19 44. The application of INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)) to Petitioner unlawfully  
20 mandates his continued detention in violation of the INA. Section 235(b)(2) applies only to  
21 “applicants for admission” encountered at or near the border—not to individuals who, like  
22 Petitioner, entered the United States years ago and were later arrested in the interior of the  
23 United States. See *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018); *Dep’t of Homeland Sec. v.*  
24 *Thuraissigiam*, 591 U.S. 103, 113 (2020). By treating Petitioner as an applicant for admission  
25 rather than as a noncitizen subject to detention under INA § 236(a) (8 U.S.C. § 1226(a)), DHS  
26 and EOIR have acted contrary to the statutory text, the structure of the INA, and the limits  
27 Congress reaffirmed in the Laken Riley Act of 2025.

1 **COUNT 2**

2 **Violation of the Due Process Clause of the Fifth Amendment**

3 45. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth  
4 herein.

5 46. The Fifth Amendment provides that “[n]o person shall be deprived of life, liberty, or  
6 property, without due process of law.”

7 47. “Freedom from imprisonment—from government custody, detention, or other form of  
8 physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533  
9 U.S. 678, 690 (2001).

10 48. Civil immigration detention is constitutionally permissible only when it bears a  
11 reasonable relation to a legitimate governmental objective, such as ensuring appearance at  
12 proceedings or protecting the community. Detention that lacks adequate procedural safeguards or  
13 is imposed without an individualized determination violates due process. See *Zadvydas*, 533 U.S.  
14 at 690.

15 49. By continuing to detain Petitioner based on an unlawful classification of his custody  
16 as governed by INA § 235(b), and by thereby depriving him of any meaningful opportunity for  
17 an individualized custody determination before a neutral decisionmaker, Respondents have  
18 violated Petitioner’s rights under the Due Process Clause of the Fifth Amendment.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner respectfully requests that this Court:

- 21 A) Assume jurisdiction over this matter;
- 22 B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this  
23 District while these proceedings are pending;
- 24 C) Issue an Order to Show Cause within three (3) days pursuant to 28 U.S.C. § 2243, requiring  
25 Respondents to explain the legal basis for Petitioner’s continued detention;
- 26 D) Declare that Petitioner is not lawfully detained under INA § 235(b), and that, to the extent  
27 Petitioner remains in custody, such detention must proceed under INA § 236(a).

1 E) Declare that, by depriving Petitioner of any meaningful opportunity to seek release, his  
2 continued detention violates the Immigration and Nationality Act and the Due Process Clause of  
3 the Fifth Amendment.

4 F) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from  
5 custody, or, in the alternative, order a constitutionally adequate bond hearing before a neutral  
6 decisionmaker at which the Government must justify his continued detention by clear and  
7 convincing evidence;

8 G) Grant such other and further relief as the Court deems just and proper.

9 Respectfully submitted,

10 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

11 Alex Monsalve Law Firm, PC

12 240 Woodlawn Ave, Suite 9

13 Chula Vista, CA 91910

14 Phone: (619) 777-6796

15 Email: info@alexmonsalvelawfirm.com

16 Counsel for Petitioner

17 Dated: January 9, 2026

## **EXHIBIT 1**

Bond Order of the Immigration Judge  
Granting Release on \$1,500 Bond



UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OTAY MESA IMMIGRATION COURT

Respondent Name:  
MEJIA-ECHAVERRIA, EDUARDO

A-Number:  
[REDACTED]

To:  
Daniel S. Castaneda, Esq.  
3065 Rosecrans Place, #204  
San Diego, CA 92110

Riders:  
In Custody Redetermination Proceedings

Date:  
08/18/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

Denied, because

- Granted. It is ordered that Respondent be:
  - released from custody on his own recognizance.
  - released from custody under bond of \$ 1,500.00
  - other:

- Other:
  - The following are conditions for release from DHS custody:
  - 1. Respondent must self-quarantine/isolate for the first fourteen (14) days following release from DHS custody and arrival at sponsor's residence;
  - 2. Respondent shall not be released from DHS custody until cleared from medical hold;
  - 3. Residence: Respondent must live with sponsor and obtain DHS approval prior to changing residence;
  - 4. Respondent must not commit any violation of criminal or immigration law, including working without authorization;
  - 5. Alternatives to Detention (ATD) such as electronic monitoring may be imposed at DHS discretion;
  - 6. DHS may file a Motion to Stay, Reopen, Reconsider, or Revoke the Bond Order without opposition from Respondent based on new derogatory information or violation of the bond conditions of release;
  - 7. Failure to Appear Warnings: If you fail to appear for any hearings and there are no

exceptional circumstances which caused your absence, a hearing may be held in your absence, all relief applications submitted by you may be deemed abandoned, and an order of removal may be entered against you;

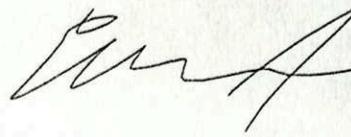
8. Change of Address Warnings: You must inform the Court of any changes to your address within five (5) working days of moving from your last address. You must do so on a blue Form EOIR-33. The responsibility is your's and your's alone to keep the Court updated with your current address. If you do not receive a notice of hearing because you did not inform the Court of your most recent change of address and you miss your hearing, then you may be ordered removed in your absence for failure to appear as stated above;

9. Application(s) for Relief:

A) In the event that Respondent is released from custody and the Court has set a deadline to file an application for relief in his/her removal proceeding, that deadline remains in effect. Failure to comply with the deadline to file the application for relief may result in the Court deeming the request for relief abandoned, in which case the Respondent will be ordered removed from the United States to the Respondent's country of origin;

B) In the event that Respondent is released from custody and the Court has not set a deadline to file an application for relief in his/her removal proceeding; and if a change of venue is sought from the Court (see #10, below), then Respondent shall include an application for relief along with Respondent's motion for change of venue; and

10. Change of Venue: If you move to a location within another Immigration Court's jurisdiction and you want your case moved to that jurisdiction, you must file a Motion to Change Venue within thirty (30) days of residency and include proof of compliance with #3, above. You must also comply with the application for relief requirements, above. Failure to comply with this change of venue provision may result in denial of such a motion at a later date on the basis of untimeliness and/or for violation of the conditions of release.



Immigration Judge: ROBINSON, EUGENE 08/18/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved

Appeal Due: 09/17/2025

**Certificate of Service**

This document was served:

Via: [ M ] Mail | [ P ] Personal Service | [ E ] Electronic Service | [ U ] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : MEJIA-ECHAVERRIA, EDUARDO | A-Number : 

Riders:

Date: 08/18/2025 By: GARCIA III, ROBERTO, Court Staff

## **EXHIBIT 2**

Decision of the Board of Immigration Appeals  
Vacating Bond Order

NOT FOR PUBLICATION

U.S. Department of Justice  
Executive Office for Immigration Review  
Board of Immigration Appeals

MATTER OF:

Eduardo MEJIA-ECHAVERRIA,

Respondent



**FILED**  
Nov 21, 2025

ON BEHALF OF RESPONDENT: Daniel S. Castaneda, Esquire

ON BEHALF OF DHS: Jason B. Aguilar, Chief Counsel

IN BOND PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Otay Mesa, CA

Before: Owen, Appellate Immigration Judge

OWEN, Appellate Immigration Judge

The Department of Homeland Security (“DHS”) appeals from the Immigration Judge’s decision, dated August 18, 2025, granting the respondent’s request for a custody redetermination and releasing him upon the posting of a \$1,500 bond. The basis for the Immigration Judge’s decision is set forth in a September 11, 2025, bond memorandum. The respondent, a native and citizen of Mexico, opposes the appeal. The appeal will be sustained.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge conducted the respondent’s custody redetermination hearing pursuant to section 236(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1226(a) (Bond memorandum at 1-3). In granting the respondent’s release from custody, upon the posting of a \$1,500 bond, the Immigration Judge found that the respondent established that he did not pose a danger to his community or was a flight risk (Bond memorandum at 2-4).

Subsequent to the Immigration Judge’s decision, the Board issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).<sup>1</sup> In that decision, we held that, based on the plain language of INA section 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack the authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.

<sup>1</sup> The Immigration Judge identified that during the pendency of the appeal, the Board issued *Matter of Yajure Hurtado* but did not apply the findings of *Matter of Yajure Hurtado*, noting, in part, that the bond order was issued prior to such decision (Bond memorandum at 1).

A 

*Id.* at 228-29. Given such precedent, and because the respondent conceded, in his request for custody redetermination, he is a native and citizen of Mexico, and because the respondent has not established he was admitted or paroled into the United States, we conclude that the Immigration Judge lacked the authority to hear the respondent's request for a bond redetermination as the respondent is an applicant for admission and is subject to mandatory detention under INA section 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A).

On appeal, the respondent argues that the decision in *Matter of Yajure Hurtado* should not be applied retroactively to his case because it issued an interpretation of a statute (Respondent's Br. at 4-5). The respondent's appellate arguments do not persuade us to disturb the Immigration Judge's decision, given he concedes the Board clarified the scope of its authority, and applying the clarification of the law to the respondent's bond proceedings is not impermissibly retroactive (Respondent's Br. at 5). See *Matter of Larios-Gutierrez De Pablo & Pablo-Larios*, 28 I&N Dec. 868, 874 (BIA 2024) (holding that a Board precedential decision was not retroactive because the decision clarified the law by resolving an issue about which there was no clear guidance). The respondent has not otherwise persuaded us to disturb the Immigration Judge's decision (Respondent's Br. at 4-5).

Accordingly, the following order will be entered.

ORDER: DHS' appeal is sustained, and the Immigration Judge's bond order is vacated.