

1 Ray Estolano, Esq. (SBN 204919)
2 545 H Street, Suite A
3 Chula Vista, California 91910
4 619-476-1291

5 Attorney for Petitioner,
6 Luis Adolfo Gonzalez-Pedroza

7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 **LUIS ADOLFO GONZALEZ-PEDROZA,**

12 **Petitioner,**

13 **v.**

14 **PAM BONDI, Attorney General of the**
15 **United States, in her official capacity;**
16 **KRISTI NOEM, Secretary of the U.S.**
17 **Department of Homeland Security, in her**
18 **official capacity; EXECUTIVE OFFICE**
19 **FOR IMMIGRATION REVIEW; TODD**
20 **LYONS, Acting Director of U.S.**
21 **Immigration and Customs Enforcement,**
22 **in his official capacity; PATRICK**
23 **DIVVER, ICE Field Office Director for**
24 **San Diego County, in his official capacity;**
25 **WARDEN OF IMPERIAL REGION**
26 **DETENTION FACILITY.**

27 **Respondents.**

Case No.: '26CV0398 BJC KSC

PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

INTRODUCTION

1
2
3 1. Petitioner Luis Adolfo Gonzalez Pedroza is a 56-year-old national of
4 Mexico. His last entry into the United States was without inspection on or about
5 1997. On May 17, 2023, Petitioner was arrested and imprisoned on criminal charges
6 of which he was ultimately acquitted by a jury on October 13, 2025.

7
8 2. After being acquitted, Petitioner was placed in removal proceedings
9 under INA § 240. and he remains detained in an Immigration detention center in
10 Imperial County, California, prolonging his loss of freedom. Petitioner is charged
11 solely under INA § 212(a)(6)(A)(i) and is not subject to mandatory detention under
12 INA § 236(c) or post-order detention under INA § 241.

13
14 3. After DHS denied release, Petitioner requested a custody
15 redetermination hearing pursuant to INA § 236(a). The Immigration Judge declined
16 to conduct any bond hearing and expressly ruled that the court lacked jurisdiction to
17 consider custody, citing Matter of Yajure-Hurtado, 29 I&N Dec. 21 (BIA 2025).
18 The Immigration Judge made no individualized findings regarding danger to the
19 community, risk of flight, ability to pay, or conditions of release.

20
21 4. As a result, Petitioner remains detained without any custody
22 determination by a neutral adjudicator, solely by operation of a categorical agency
23 rule that purports to strip Immigration Judges of the authority Congress expressly
24 granted under INA § 236(a). Petitioner's continued detention is therefore not the
25 product of discretionary judgment, but of a mandatory legal rule whose validity is a
26 pure question of law and is properly reviewed through habeas corpus.
27

JURISDICTION AND VENUE

1
2 5. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 because
3 Petitioner is in federal custody and challenges the legality of his continued civil
4 immigration detention. The Suspension Clause preserves habeas corpus review of
5 executive detention, including immigration detention. See U.S. Const. art. I, § 9, cl.
6 2.

7
8 6. This Court also has jurisdiction under the Administrative Procedure
9 Act, 5 U.S.C. §§ 702 and 706, because Petitioner challenges final agency action that
10 is alleged to be arbitrary, capricious, contrary to law, and in excess of statutory
11 authority. The APA waives sovereign immunity for the declaratory and injunctive
12 relief sought here.

13 7. Venue is proper in the Southern District of California under 28 U.S.C.
14 § 1391(e)(1)–(2). Petitioner was arrested in this District, removal proceedings are
15 pending before an Immigration Court located in this District, and DHS and ICE
16 officials responsible for enforcing the challenged detention policy and determining
17 Petitioner’s bond eligibility exercise authority within this District.

18 8. To the extent DHS has transferred or may transfer Petitioner outside
19 this District, such transfer does not defeat venue or jurisdiction. Petitioner challenges
20 the legality of his detention based on a binding agency rule that purports to eliminate
21 Immigration Judge bond jurisdiction, and seeks habeas, declaratory, and injunctive
22 relief that can be granted only by senior DHS and ICE officials—not by the
23 immediate facility custodian. See *Rumsfeld v. Padilla*, 542 U.S. 426, 436 n.8 (2004).

24 9. The Court is authorized to grant declaratory relief under 28 U.S.C. §§
25 2201–2202 and injunctive relief under 5 U.S.C. § 702, in addition to habeas relief to
26 remedy ongoing unlawful detention and to prevent continued enforcement of agency
27

1 action that exceeds statutory authority.

2 **PARTIES**

3
4 10. Petitioner Luis Adolfo Gonzalez-Pedroza is a native and citizen of
5 Mexico. He was arrested in this District on May 17, 2023.

6 11. Respondent Pam Bondi is the Attorney General of the United States
7 and is sued in her official capacity as the head of the Department of Justice. The
8 Attorney General is responsible for the fair administration of the laws of the United
9 States.

10 12. Kristi Noem, Secretary of the U.S. Department of Homeland Security
11 (DHS), is sued in her official capacity as the Cabinet official charged with
12 administration and enforcement of the immigration laws, including custody and
13 release authority. See 8 U.S.C. § 1103(a).

14 13. Respondent Executive Office for Immigration Review is a component
15 agency of the Department of Justice responsible for conducting removal and bond
16 hearings of noncitizens. EOIR is comprised of a lower adjudicatory body
17 administered by immigration judges and an appellate body known as the Board of
18 Immigration Appeal (BIA). Immigration judges issue bond redetermination hearing
19 decisions, which are then subject to appeal to the BIA. EOIR is sued as an agency
20 respondent because its policies and decisions are an issue in this action.

21
22 14. Respondent Todd Lyons is the Acting Director of U.S. Immigration
23 and Customs Enforcement (ICE) and is sued in his official capacity. ICE is
24 responsible for the detention of Petitioner.

25 15. Patrick Divver is the Immigration and Customs Enforcement Field
26 Office Director for San Diego County, including the Imperial Regional detention
27

1 facility and is sued in his official capacity.

2 16. The Warden of Imperial Region Detention Facility is sued in his
3 official capacity as the officer with immediate physical custody of Petitioner. The
4 Warden is responsible for Petitioner's day-to-day detention but lacks authority to
5 make custody or release determinations. He is named as a Respondent pursuant to
6 the immediate custodian rule established in *Rumsfeld v. Padilla*, 542 U.S. 42 (2004).

7
8 **LEGAL BACKGROUND**

9 17. The Immigration and Nationality Act ("INA") establishes distinct
10 detention regimes that apply at different procedural stages of the removal process.
11 INA § 236(a), 8 U.S.C. § 1226(a), is the default detention authority for noncitizens
12 apprehended in the interior of the United States and placed in removal proceedings
13 under INA § 240. Section 236(a) expressly authorizes release on bond or conditional
14 parole and vests Immigration Judges with custody-redetermination jurisdiction. See
15 8 C.F.R. §§ 1003.19(a), 1236.1(d).

16 18. By contrast, INA § 236(c) mandates detention only for noncitizens
17 charged with or convicted of specified criminal or terrorism-related offenses. INA §
18 235(b)(1) and (b)(2), 8 U.S.C. § 1225, govern detention at the inspection stage,
19 including expedited removal and related border-processing procedures. Finally, INA
20 § 241, 8 U.S.C. § 1231, governs detention after a final order of removal. None of
21 those provisions applies here.

22 19. Section 236(a) governs detention pending a decision on whether the
23 alien is to be removed from the United States, i.e., during ongoing § 240
24 proceedings. Its implementing regulations confirm that Immigration Judges retain
25 authority to conduct bond hearings for noncitizens detained under this provision. See
26 8 C.F.R. §§ 1003.19(a), 1236.1(d).

1 noncitizens who entered without inspection, regardless of length of residence or
2 place of arrest. That guidance treated such individuals as perpetual “applicants for
3 admission” subject to INA § 235(b)(2).

4 24. In September 2025, the Board of Immigration Appeals adopted that
5 policy as binding precedent in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA
6 2025), instructing Immigration Judges that they lacked jurisdiction to conduct bond
7 hearings in such cases.

8 25. That interpretation is not entitled to judicial deference. Under *Loper*
9 *Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), courts must independently
10 interpret the INA and may not defer to agency constructions that conflict with
11 statutory text, structure, or history.

12 26. Courts in this Circuit—including multiple courts in this District— have
13 rejected DHS’s categorical application of 8 U.S.C. § 1225(b)(2) to long-term interior
14 residents and have granted habeas relief or ordered custody redetermination hearings
15 under § 1226(a). See, e.g., *Arias Torres v. Bondi*, No. 25-cv-02457-BAS-MSB (S.D.
16 Cal. Nov. 18, 2025); *Lazaro Maldonado Bautista et al. Ernesto Santacruz Jr. et al.*,
17 No. 5:25-cv-01873 (C.D. Cal. 2025).

18 27. In *Bautista* the district court granted habeas relief through a temporary
19 restraining order on July 28, 2025, requiring individualized bond hearings and
20 resulting in the release of the named petitioners. The court then granted partial
21 summary judgment on November 20, 2025, holding that DHS’s categorical
22 application of 8 U.S.C. § 1225(b)(2) to long-term interior residents is unlawful under
23 the INA and the Administrative Procedure Act. Five days later, on November 25,
24 2025, the court certified a Rule 23(b)(2) class seeking declaratory and injunctive
25 relief. Proceedings to determine final classwide remedies are scheduled for January
26
27

1 2026.

2 28. Petitioner is a long-term California resident apprehended in the interior
3 of the United States and placed in § 240 removal proceedings. Under the INA's text,
4 implementing regulations, historical application, and controlling Ninth Circuit
5 authority, § 236(a) governs his detention and entitles him to a custody
6 redetermination hearing before an Immigration Judge.

7 29. The Immigration Judge nevertheless declined jurisdiction and denied
8 any bond hearing solely by operation of Matter of Yajure-Hurtado. Because
9 that binding agency rule forecloses any administrative remedy and eliminates the
10 possibility of an individualized custody determination, habeas corpus and related
11 declaratory relief are the only means of vindicating Petitioner's statutory and
12 constitutional rights.
13

14 **FACTUAL AND PROCEDURAL BACKGROUND**

15 30. Petitioner Luis Adolfo Gonzalez-Pedroza is a 56-year-old native and
16 citizen of Mexico. His most recent entry into the United States was without
17 inspection on or about 1997. Since that time, he has resided continuously in the
18 United States, including a long-term residence in California.

19 31. On May 17, 2023, Petitioner was arrested and imprisoned on criminal
20 charges of which he was ultimately acquitted by a jury on October 13, 2025.
21 Currently, the Petitioner is not subject to any criminal charges nor does he have any
22 criminal convictions.
23

24 32. On October 14, 2025, after being acquitted, Petitioner was served with
25 a Notice to Appear, placing him in removal proceedings under INA § 240, and
26 transferred him into DHS custody.
27
28

1 33. Petitioner is currently detained at the Imperial Regional Detention
2 Facility in Calexico, California. DHS has not charged him with any offense
3 triggering mandatory detention under INA § 236(c), nor has it asserted that he is
4 subject to post-order detention under INA § 241.

5 34. As a relief, Petitioner already applied in Immigration Court for
6 Cancellation of Removal and Adjustment of Status for Certain Nonpermanent
7 Residents, Form EOIR-42B, based on the extreme and unusual hardship that his
8 U.S. Citizen child would suffer in case of removal.

9 35. On December 16, 2025, Petitioner sought a custody redetermination
10 hearing pursuant to INA § 236(a). The Immigration Judge declined to conduct a
11 bond hearing, concluding that she lacked jurisdiction based solely on the Board of
12 Immigration Appeals' precedential decision in Matter of Yajure-Hurtado, which
13 instructs immigration judges to treat noncitizens who entered without inspection as
14 subject to detention under INA § 235(b)(2), regardless of length of time in the
15 United States or location of apprehension.
16

17 36. As a result of that ruling, Petitioner was denied any individualized
18 custody determination, including consideration of flight risk, danger, family ties,
19 length of residence, or pending avenues of lawful status. The Immigration Judge did
20 not make any factual findings regarding Petitioner's suitability for release and did
21 not exercise discretion under § 236(a).

22 37. Because Matter of Yajure-Hurtado is binding on Immigration Judges
23 and categorically forecloses bond jurisdiction, Petitioner has no meaningful
24 administrative remedy through the immigration court system. Absent judicial
25 intervention, he faces continued detention without bond solely by operation of a
26 binding agency rule, notwithstanding Congress's detention framework and
27
28

1 longstanding historical interpretation and application.

2 38. Petitioner therefore brings this action seeking habeas corpus relief from
3 unlawful detention, as well as declaratory and injunctive relief under the
4 Administrative Procedure Act, to challenge the legality of DHS's categorical
5 application of INA § 235(b)(2) to long-term interior residents placed in § 240
6 proceedings.

7 **CAUSES OF ACTION**
8 **COUNT I**
9 **Violation of 8 U.S.C. § 1226(a):**
10 **Unlawful Continued Detention Despite Bond Grant**

11 39. Petitioner repeats, re-alleges, and incorporates by reference each and
12 every allegation in the preceding paragraphs as if fully set forth herein.

13 40. Under 8 U.S.C. § 1226(a), noncitizens apprehended in the interior and
14 placed in § 240 removal proceedings are detained, if at all, subject to discretionary
15 bond redetermination by an immigration judge.

16 41. The statute expressly authorizes release on bond or conditional parole
17 pending a decision on removal, and the implementing regulations vest Immigration
18 Judges with jurisdiction to conduct bond hearings. See 8 C.F.R. §§ 1003.19(a),
19 1236.1(d).

20 42. Petitioner was apprehended in the interior of the United States, placed
21 in § 240 removal proceedings, and is not charged with any offense triggering
22 mandatory detention under § 1226(c). Nor is he subject to post-final-order detention
23 under § 1231. Accordingly, § 1226(a) governs his custody.

24 43. The congressional intent is reflected in § 236(a), which expressly
25 authorizes custody redeterminations and release on bond pending a decision on
26

1 whether the alien is to be removed from the United States.

2 44. Nevertheless, the Immigration Judge declined to conduct any custody
3 redetermination hearing, concluding that she lacked jurisdiction based solely on
4 Matter of Yajure-Hurtado, which instructs Immigration Judges to categorically treat
5 noncitizens who entered without inspection as subject to detention under §
6 1225(b)(2) and ineligible for bond.
7

8 45. Because Matter of Yajure-Hurtado is binding on Immigration Judges
9 and categorically forecloses bond jurisdiction, Petitioner has no meaningful
10 administrative remedy to obtain a bond hearing or secure release from custody
11 through the immigration court system. His continued detention is therefore solely
12 the product of a binding agency rule that exceeds statutory authority, rather than an
13 individualized assessment of danger or flight risk.

14 46. Respondents' application of § 1225(b)(2) to detain Petitioner without a
15 bond hearing exceeds their statutory authority, violates 8 U.S.C. § 1226(a), and
16 results in unlawful civil detention in the absence of the procedural safeguards
17 Congress required.

18 47. Accordingly, Petitioner is entitled to habeas corpus relief, as well a
19 declaratory and injunctive relief, ordering Respondents to provide a prompt custody
20 redetermination hearing under § 1226(a) or to release Petitioner from custody
21 pending removal proceedings.
22

23 **COUNT II**

24 **Violation of the Administrative Procedure Act (5 U.S.C. § 706)** 25 **Unlawful Denial of Bond Jurisdiction**

26 48. Petitioner repeats, re-alleges, and incorporates by reference each and
27 every allegation in the preceding paragraphs as if fully set forth herein.
28

1 49. The INA and its implementing regulations authorize Immigration
2 Judges to redetermine custody for noncitizens apprehended in the interior and placed
3 in § 240 proceedings. See 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1003.19(a), 1236.1(d).
4 For decades, EOIR and DHS consistently applied § 236(a) to such individuals,
5 affording bond hearings before an IJ, consistent with the statute’s text and EOIR’s
6 1997 rulemaking.

7 50. In July 2025, however, ICE abruptly abandoned this settled practice.
8 Through an internal memorandum, ICE instructed its trial attorneys to resist §236(a)
9 bond hearings across the board for all who had entered without inspection,
10 regardless of how long they had resided in the United States or where they were
11 arrested. That directive, though aimed at DHS attorneys, had the practical effect of
12 shifting the adjudicatory framework once EOIR began adopting the same categorical
13 position.

14 51. Two months later, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
15 2025), the Board of Immigration Appeals formally ratified that position, holding that
16 all noncitizens who entered without inspection are detained under §235(b)(2) and
17 categorically ineligible for bond. That decision stripped Immigration Judges of
18 jurisdiction to conduct bond hearings, even where an IJ had already found release
19 appropriate.
20

21 52. This abrupt reversal of decades of practice was adopted without notice
22 and comment, lacks reasoned explanation, and is contrary to the governing statute
23 and regulations. The BIA’s post hoc rationale in *Yajure Hurtado* cannot cure those
24 defects.

25 53. Under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024),
26 this Court owes no Chevron deference to the agency’s construction of § 235(b)(2),
27
28

1 but must apply its own judgment to the statutory text. Properly construed, §
2 235(b)(2) does not apply to long-term residents arrested in the interior and placed in
3 § 240 proceedings.

4 54. Accordingly, Respondents' categorical reclassification is unlawful,
5 arbitrary, capricious, and not in accordance with law within the meaning of 5 U.S.C.
6 § 706(2).

7 **COUNT III**

8 **Violation of Procedural Due Process (Fifth Amendment)**

9 55. Petitioner repeats, re-alleges, and incorporates by reference each and
10 every allegation in the preceding paragraphs as if fully set forth herein.

11 56. The Fifth Amendment provides that no person shall be deprived of
12 liberty without due process of law. U.S. Const. amend. V.

13 57. Freedom from imprisonment—from government custody, detention,
14 or other forms of physical restraint—lies at the heart of the liberty that the Due
15 Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Noncitizens
16 in removal proceedings possess a substantial liberty interest in freedom from
17 unnecessary civil detention.
18

19 58. Petitioner is subject to pre-removal detention pending the outcome of
20 removal proceedings under INA § 240, and is not charged with any offense
21 triggering mandatory detention. Under the statutory framework Congress enacted,
22 such detention is discretionary and must be accompanied by an opportunity for
23 individualized custody review before a neutral adjudicator.
24

25 59. Nevertheless, the Immigration Judge declined to conduct any custody
26 redetermination hearing for Petitioner, concluding that she lacked jurisdiction based
27 solely on *Matter of Yajure-Hurtado*. As a result, Petitioner was denied any
28

1 custody as a long-term resident arrested in the interior and placed in § 240
2 proceedings, and that Respondents' contrary application of § 235(b)(2) is unlawful;

3 B. Enjoin Respondents from enforcing any categorical policy or practice
4 that denies Immigration Judges jurisdiction to conduct bond hearings under § 236(a)
5 for noncitizens who entered without inspection but are placed in § 240 proceedings;

6 C. Set aside, as unlawful under the Administrative Procedure Act,
7 Respondents' detention policy—including the July 2025 ICE guidance and its
8 ratification in Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025)—as applied
9 to Petitioner, and enjoin its enforcement to the extent it forecloses individualized
10 custody determinations required by § 236(a);

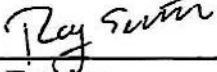
11 D. Issue a writ of habeas corpus directing Respondents to provide
12 Petitioner with an immediate custody redetermination hearing under INA § 236(a)
13 before a neutral adjudicator, or, in the alternative, to release Petitioner from custody
14 pending removal proceedings if such a hearing is not promptly provided;

15 E. Award reasonable attorneys' fees and costs under the Equal Access to
16 Justice Act, 28 U.S.C. § 2412, or any other applicable authority;

17 F. Grant such other and further relief as this Court deems just and proper.
18

19 Dated: January 22, 2026
20

21 Respectfully submitted,
22

23
24 
25 _____
26 s/Ray Estofano
27 Attorney for Petitioner,
28

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Southern District of California using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

There are no known participants who are not registered CM/ECF participants.

Dated: January 22, 2026

s/Ray Estolano