

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

OMAR GABRIEL AGURCIA ESPINOZA,

Petitioner,

v. **Civil Action No. _____**

DAVID PAULK, Warden, Irwin County Detention Center, in his official capacity; and KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION AND JURISDICTIONAL FOUNDATION

1. Petitioner Omar Gabriel Agurcia Espinoza, by and through undersigned counsel, respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his unlawful detention by the Department of Homeland Security and the punitive conditions of his confinement.
2. This individual habeas petition falls within the jurisdictional exception preserved by *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), as it seeks narrowly tailored, individual relief for this specific Petitioner.

II. FEDERAL COURT JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes writs of habeas corpus for persons "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).
2. This Court has jurisdiction over constitutional claims pursuant to 28 U.S.C. § 1331.
3. This Court has authority to grant declaratory relief pursuant to 28 U.S.C. § 2201.
4. Venue is proper pursuant to 28 U.S.C. § 2241(d) because Petitioner was detained within this District at his scheduled ICE check-in in New Jersey.
5. The jurisdictional bar in 8 U.S.C. § 1252(a)(2)(B)(ii) does not apply because Petitioner challenges the statutory basis for his detention and categorical denial of a bond hearing, not a discretionary decision.

III. PARTIES

1. **Petitioner Omar Gabriel Agurcia Espinoza** is a 24-year-old native and citizen of Nicaragua, currently detained at Irwin County Detention Center, 132 Cotton Drive, Ocilla, GA 31774. A-Number [REDACTED]
2. **Respondent KRISTI NOEM** is the Secretary of the U.S. Department of Homeland Security, sued in her official capacity.
3. **Respondent Warden, Irwin County Detention Center**, 132 Cotton Drive, Ocilla, GA 31774, is the immediate custodian of Petitioner, sued in his official capacity.

IV. FACTUAL BACKGROUND

1. Petitioner entered the United States on November 10, 2022, fleeing political persecution in Nicaragua based on [REDACTED]
2. DHS placed Petitioner in § 240 removal proceedings (not expedited removal under § 235(b)(1)).
3. On November 21, 2022, DHS released Petitioner on Alternatives to Detention under INA § 236(a)(2)(B)—not humanitarian parole under § 212(d)(5).
4. For over three years, Petitioner maintained perfect compliance with all ATD conditions, including electronic monitoring, curfew, check-ins, stable residence at [REDACTED] with his partner Wilmara Anahy Martinez Ruiz, and employment.
5. On November 28, 2025, Petitioner was re-detained while attending his scheduled ICE check-in in New Jersey—thousands of miles from any border.
6. **On January 6, 2026, the Immigration Judge denied Petitioner's Motion for Bond Hearing based solely on *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), without any examination of the facts of Petitioner's case.** The Immigration Judge conducted no individualized assessment and refused to consider any evidence distinguishing Petitioner's circumstances from the BIA's precedent.
7. **Petitioner is being held at Irwin County Detention Center under punitive conditions**, including:
 - a. Detainees becoming ill due to inadequate conditions;
 - b. Group punishment when detainees request medicine or medical treatment;
 - c. Withholding of food as punishment;
 - d. Denial of communication with the outside world, including family and legal counsel.

V. INDIVIDUAL CONSTITUTIONAL VIOLATIONS

1. Petitioner's detention without a bond hearing violates:
 - a. The Immigration and Nationality Act, as his detention is governed by INA § 236(a), not § 235(b)(2);

- b. Substantive due process under the Fifth Amendment, as prolonged detention without individualized review is unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001);
- c. Procedural due process under the Fifth Amendment, as the categorical denial of any bond hearing **without any examination of the facts** violates *Mathews v. Eldridge*, 424 U.S. 319 (1976);
- d. The Fifth Amendment's prohibition against punishing civil detainees, as the conditions of confinement constitute impermissible punishment under *Bell v. Wolfish*, 441 U.S. 520 (1979).

VI. LEGAL STANDARD

1. A habeas petitioner must show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).
2. Over twenty federal district courts have held that individuals in Petitioner's circumstances are detained under § 236(a) and entitled to bond hearings. *See Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025) (collecting cases).
3. Civil immigration detainees may not be subjected to punishment. *Bell v. Wolfish*, 441 U.S. 520 (1979).

VII. INDIVIDUAL CONSTITUTIONAL VIOLATIONS

A. Misapplication of INA § 235(b) Without Examination of the Facts

1. Petitioner does not fall within § 235(b) because he was detained three years after entry, thousands of miles from the border, after release on § 236(a) ATD (not § 212(d)(5) parole).
2. Every federal court to address this issue has rejected the government's interpretation.
3. **The Immigration Judge refused to examine any of these facts**, instead mechanically applying *Yajure-Hurtado* as a categorical bar.

B. Violation of Substantive Due Process

1. Prolonged detention without individualized review violates *Zadvydas v. Davis*, 533 U.S. 678 (2001).
2. Petitioner has been detained without any opportunity to demonstrate he is not a flight risk or danger.

C. Violation of Procedural Due Process

1. The categorical denial of a bond hearing—**without any examination of the facts**—violates *Mathews v. Eldridge*, 424 U.S. 319 (1976).

D. Punitive Conditions of Confinement

1. The conditions at Irwin County Detention Center—including group punishment for requesting medical care, withholding of food, and denial of outside communication—

constitute impermissible punishment of a civil detainee in violation of *Bell v. Wolfish*, 441 U.S. 520 (1979).

VIII. INDIVIDUAL RELIEF

1. Petitioner seeks narrowly tailored, individual relief consistent with *Garland v. Aleman Gonzalez*.
2. This petition does not seek class-wide relief or injunctions against immigration enforcement generally.

IX. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. **GRANT** the Petition for Writ of Habeas Corpus;
2. **DECLARE** that Petitioner's detention is governed by INA § 236(a), not INA § 235(b)(2);
3. **ORDER** Respondents to provide Petitioner an individualized bond hearing within 7 days, at which the government bears the burden of proving flight risk or danger by clear and convincing evidence;
4. **ORDER**, in the alternative, Petitioner's immediate release on reasonable conditions;
5. **ORDER** Respondents to cease subjecting Petitioner to punitive conditions of confinement, including group punishment, withholding of food, and denial of outside communication;
6. **AWARD** costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;
7. **GRANT** such other relief as this Court deems just and proper.

Respectfully submitted,



Tyler Jordan Breaux, Esq.
New Jersey Bar No. 299062020
Attorney for Petitioner
4 Jackson St
Freehold, NJ 07728
Mail: PO Box 4
Bristol, PA 19007
Phone: (985) 291-2809
Email: tbreauxlaw@gmail.com

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Respondents.

ORDER GRANTING INDIVIDUAL PETITION FOR WRIT OF HABEAS CORPUS

JURISDICTIONAL FINDINGS:

The Court finds that it has jurisdiction over this individual habeas corpus petition pursuant to 28 U.S.C. § 2241 and the "individual alien" exception preserved by *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022). The petition seeks narrowly tailored, individual relief for this specific Petitioner.

CONSTITUTIONAL FINDINGS:

The Court finds that Petitioner Omar Gabriel Agurcia Espinoza has established:

1. He entered the United States on November 10, 2022, and was released on Alternatives to Detention under INA § 236(a)(2)(B) on November 21, 2022;
2. He maintained perfect compliance with all ATD conditions for over three years;
3. He was re-detained on November 28, 2025, while attending a scheduled ICE check-in in New Jersey, thousands of miles from any international border;
4. On January 6, 2026, the Immigration Judge denied bond jurisdiction based solely on *Matter of Yajure-Hurtado*, **without any examination of the facts** of Petitioner's case or the overwhelming federal court consensus rejecting this interpretation;
5. Over twenty federal district courts have unanimously held that individuals in Petitioner's circumstances are detained under INA § 236(a) and entitled to bond hearings;

6. Petitioner is being held under punitive conditions of confinement, including group punishment for requesting medical care, withholding of food, and denial of outside communication, in violation of *Bell v. Wolfish*, 441 U.S. 520 (1979).

CONSTITUTIONAL CONCLUSIONS:

The Court concludes:

1. Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), not INA § 235(b)(2), 8 U.S.C. § 1225(b)(2);
2. The categorical denial of a bond hearing **without any examination of the facts** violated Petitioner's rights under the Due Process Clause of the Fifth Amendment;
3. Petitioner is entitled to an individualized bond hearing before an Immigration Judge;
4. The punitive conditions of confinement violate the Fifth Amendment's prohibition against punishing civil detainees.

INDIVIDUAL RELIEF ORDER:

IT IS HEREBY ORDERED that:

1. The Petition for Writ of Habeas Corpus is **GRANTED**;
2. Petitioner's detention is **DECLARED** to be governed by INA § 236(a), 8 U.S.C. § 1226(a);
3. Respondents shall provide Petitioner with an **individualized bond hearing** before an Immigration Judge within **seven (7) days** of this Order;
4. At such hearing, the **government shall bear the burden** of demonstrating by clear and convincing evidence that Petitioner is a flight risk or danger to the community;
5. If Respondents fail to provide such hearing within seven days, Petitioner shall be **released immediately** on reasonable conditions of supervision;
6. Respondents shall **cease subjecting Petitioner to punitive conditions of confinement**, including group punishment for requesting medical care, withholding of food, and denial of outside communication;
7. Respondents shall file a status report with this Court within **ten (10) days** confirming compliance with this Order.

CONSTITUTIONAL RATIONALE:

This individualized relief is consistent with *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), as it provides a narrowly tailored remedy for constitutional violations suffered by this specific Petitioner. The Order does not enjoin immigration enforcement generally but corrects an erroneous application of law that deprived Petitioner of his constitutional right to an individualized custody determination, and addresses punitive conditions that cannot constitutionally be imposed on a civil detainee.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE

Dated: _____

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2026, a true and correct copy of the following documents:

1. Memorandum in Support of Petition for Writ of Habeas Corpus
2. Petition for Writ of Habeas Corpus
3. [Proposed] Order Granting Individual Petition for Writ of Habeas Corpus

were served upon the following parties:

Via Certified Mail, Return Receipt Requested:

U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA)
Atlanta Field Office 77 Forsyth Street SW, Suite 590 Atlanta, GA 30303

U.S. Attorney's Office District of New Jersey 970 Broad Street, Room 700 Newark, NJ 07102

Via First Class Mail:

Warden Irwin County Detention Center 132 Cotton Drive Ocilla, GA 31774

Secretary KRISTI NOEM U.S. Department of Homeland Security 2707 Martin Luther King Jr.
Ave SE Washington, DC 20528-0525

Via Electronic Mail:

[OPLA Atlanta Email]

[AUSA Newark Email]

I certify that service has been made in compliance with Federal Rule of Civil Procedure 4.

A handwritten signature in black ink, appearing to read "Tyler Jordan Breaux". The signature is fluid and cursive, with the first name "Tyler" and last name "Breaux" clearly distinguishable.

TYLER JORDAN BREAUX, ESQ.

Attorney for Petitioner

Dated: January 14, 2026