

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

DANIEL DIAS DE SOUZA

Petitioner

v.

WARDEN OF MIAMI FEDERAL DETENTION CENTER

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: DANIEL DIAS DE SOUZA
- (b) Other names you have used: _____
2. Place of confinement: _____
 - (a) Name of institution: _____
 - (b) Address: 33 NE 4th St Miami, FL 33132
 - (c) Your identification number: 
3. Are you currently being held on order of 
 - 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)

- 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: Miami Immigration Court (Krome)

18201 SW 12th St Miami, FL 33194

(b) Docket number, case number, or opinion number: 

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Denial of bond based on erroneous agency decision, Matter of Yajure Hurtado, subjecting persons who entered without inspection to mandatory detention

(d) Date of the decision or action: 01/06/2026

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

(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

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

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: VIOLATION OF IMMIGRATION AND NATIONALITY ACT

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 Do not cite cases or law.):*

Respondent is subjecting Petitioner to mandatory detention under an erroneous agency decision called Matter of Yajure Hurtado. Petitioner is a Brazilian national who entered without inspection, but subsequently applied for U Nonimmigrant Status. He is not deportable as a deferred action recipient, and is at a minimum entitled to a constitutionally adequate bond hearing. His motion for bond was improperly denied on January 6, 2026.

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

- Yes
- No

GROUND TWO: VIOLATION OF DUE PROCESS

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 Do not cite cases or law.):*

Petitioner's due process right to be free from arbitrary confinement is being violated as his liberty interest has not been properly placed in the balance as an applicant for immigration status who is not deportable. Under Mathews v. Eldridge, he is entitled to a bond hearing.

(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

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 immediate release or a constitutionally adequate bond hearing within 7 days.

**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, because I am the attorney for Petitioner. I have discussed with his 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: February 11, 2026

Respectfully submitted,

/s/ Felix A. Montanez

Felix A. Montanez

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