

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

OMAR ALBERTO HERNANDEZ MORENO )

Petitioner )

v. )

PAMELA BONDI, U.S. Attorney General; DAREN K. MARGOLIN, Director, Executive Office for Immigration Review; et al. (see Attachment)

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: OMAR ALBERTO HERNANDEZ MORENO  
 (b) Other names you have used: NOT APPLICABLE
2. Place of confinement:  
 (a) Name of institution: GLADES COUNTY DETENTION CENTER  
 (b) Address: 1279 EAST SR 78, MOORE HAVEN, FL 33471  
 (c) Your identification number: 
3. Are you currently being held on orders by:  
 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): \_\_\_\_\_

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241


**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: U.S. Immigration and Customs Enforcement, Broward Transitional Center Immigration Court, Pompano Beach, FL.

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

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

Request for release on parole, recognizance, bond, or ICE supervision was denied

Motions for custody redetermination and bond hearing were denied twice by the Immigration Court

Ongoing and continuous detention.

(d) Date of the decision or action: 02/09/2026

**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: U.S. Immigration and Customs Enforcement

(2) Date of filing: 10/22/2025

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

(4) Result: Denied

(5) Date of result: 11/07/2025

(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(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: Broward Transitional Center Immigration Court

(2) Date of filing: 12/08/2025

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

(4) Result: Denied pursuant to Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025)

(5) Date of result: 12/16/2025

(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

(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: Broward Transitional Center Immigration Court

(2) Date of filing: 01/08/2026

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

(4) Result: Denied pursuant to Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025)

(5) Date of result: 02/09/2026

(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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(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 or a Section 2254 to petition 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: \_\_\_\_\_
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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- (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: 09/23/2025

(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: \_\_\_\_\_

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- (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: Applications for relief under Forms I-589 and I-485

(b) Name of the authority, agency, or court: Broward Transitional Center Immigration Court

(c) Date of filing: 12/08/2025

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

(e) Result: Applications for relief under Forms I-589 and I-485 were pretermitted

(f) Date of result: 09/11/2025

(g) Issues raised: \_\_\_\_\_

Eligibility for relief through an asylum application and eligibility for adjustment of status under the Cuban Adjustment Act.

**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.

**GROUND ONE:** Unlawful and Indefinite Detention in Violation of the Fifth Amendment and the Immigration and Nationality Act

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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

Petitioner remains in ongoing and continuous immigration detention despite having no criminal history, posing no flight risk or danger to the community or national security, and having multiple forms of immigration relief available and pending. See attached Legal Brief.

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

Yes  No

**GROUND TWO:** Failure to Exercise Discretionary Parole Authority Under INA § 212(d)(5)(A)

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

Petitioner requested release on humanitarian parole based on compelling personal and humanitarian circumstances, lack of criminal history, and absence of any flight-risk or public-safety concerns, yet parole was denied without individualized consideration or explanation. See attached Legal Brief.

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

Yes  No

**GROUND THREE:** Violation of the Administrative Procedure Act (Arbitrary and Capricious Detention)

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

Petitioner's continued detention results from inconsistent and unexplained custody decisions that ignored relevant personal, humanitarian, and procedural factors, rendering the detention arbitrary and lacking a reasoned basis. See attached Legal Brief.

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

Yes  No

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**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: Petitioner respectfully requests that the Court assume jurisdiction over this habeas action, issue an order to show cause, and grant the writ by ordering Petitioner's immediate release from ICE custody under parole, recognizance, or supervision, or, in the alternative, by requiring a prompt individualized custody redetermination with the burden on the government. Petitioner further seeks declaratory relief that his continued detention is unlawful, an award of attorneys' fees and costs, and such other relief as the Court deems just and proper.

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

Petition filed by Counsel via CM/ECF.

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I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 02/13/2026

*Ortiz Alberto*

\_\_\_\_\_  
*Signature of Petitioner*

*[Handwritten signature]*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*