

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No.

Oscar David Espinoza Mazo,

Petitioner,

v.

The United States Department of Homeland Security,

(DHS), Kristi Noem, The United States Department of

Immigration and Customs Enforcement (ICE), Todd

Lyons, and Matthew Mordant, as warden.

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. SECTION 2241

Personal Information

1. (a) Petitioner's full name: Oscar David Espinoza Mazo, date of birth is June 25, 1983.

(b) Other names Petitioner has used: none.

2. Place of Confinement:

(a) **Name of Institution**: The Petitioner is detained at the Glades County

Detention Center, since November 20, 2025. The immigration court (Miami

Krome Immigration Court) on 02/06/2026 issued an order declining to hear

the motion for bond, stating that the immigration court presently does not have jurisdiction under current case law (Exhibit "A");

(b) **Address:** Petitioner's last known whereabouts is Glades County Detention Center, 1279 FL-78, Moore Haven, Florida 33471. the court declined to hear the motion for bond, based on lack of jurisdiction.

(c) **Petitioner's Identification Number:** #



3. Petitioner is currently being held on orders by: ☒ Federal authorities ☐ State authorities ☐ other: Petitioner is being held by: United States Immigration and Customs Enforcement (ICE), and the U.S. Department of Homeland Security.
4. Petitioner is currently being held due to:
- ☐ A pretrial detainee (waiting trial on criminal charges)
- ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime. If 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. _____.

Decision or Action You Are Challenging

5. What is being challenged in this petition:
- ☐ How the 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: The Petitioner is in removal proceedings

___ Detainer

___ The validity of the conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

___ Disciplinary proceedings

___ Other:

6. Provide more information about the decision or action that is being challenged:

(a) Name and location of the agency or court: The U.S. Department of Homeland Security, and The U.S. Department of Immigration and Customs Enforcement.

(b) **Docket number, Case number, or opinion number:** The order of the immigration judge, declining to hear the motion for bond or conditional release, due to lack of jurisdiction, is dated **02/06/2026**. The court order is attached hereto as Exhibit "A".

(c) Decision or action that is being challenged: (for disciplinary proceedings specify the penalties imposed): The court stated that it lacks authority to redetermine Respondent's custody status because he is present in the United States without admission, and is subject to mandatory detention under Section 235(b)(2)(A) of the INA. And, *Matter of Yajure Hurtado*, ID #4125. The court further stated that as such, therefore the court lacks jurisdiction to address custody.

(d) Date of the decision or action: **February 06, 2026**.

Petitioner's Earlier Challenges to the Decision or Action

7. First Appeal: Did Petitioner appeal the decision, file a grievance, or seek an administrative remedy? ____ yes ___**X**___ 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:
7. Other:

(b) If Petitioner answered "No" explain why Petitioner did not appeal:

Second Appeal: After the first appeal, was there a second appeal to a higher authority, agency or court? ____ yes ___**X**___ no. There was no first nor second appeal.

8. If "yes" provide:

___ name of the authority, agency or court:
___ date of filing:
___ Docket number, case number, or opinion number:
___ Result:
___ Date of result:
___ Issues raised:

If "no" explain why you did not file a second appeal:

9. Third appeal: After the second appeal, was there a third appeal to a higher authority, agency, or court? ____ yes ___**X**___ no

If "yes" provide:

___ name of the authority, agency or court:

___ date of filing:

___ Docket number, case number, or opinion number:

___ Result:

___ Date of result:

___ Issues raised:

If "no" explain why you did not file a third appeal: There were no first, second, nor third appeals filed.

10. Motion under 28 U.S.C. Section 2255

In this petition are you challenging the validity of your conviction or sentenced as imposed? ___ yes **_X_** no.

If "yes" answer the following: (a) have you already filed a motion under 28 U.S.C. Section 2255 that challenges the conviction or sentence? ___yes **_X_** no.

If "yes" provide:

___ Name of court:

___ Case number:

___ Date of filing:

___ Result:

___ Date of result:

___ Issues raised:

11. Has Petitioner ever filed a motion in a United States Court of Appeals under **28 U.S.C. Section 2244(b) (3) (A)** seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence? ___ yes **X** no.

If "yes" provide:

___ Name of court:

___ Case number:

___ Date of filing:

___ Result:

___ Date of result:

___ Issues raised:

12. Explain why the remedy under 28 U.S.C. Section 2255 is inadequate or ineffective to challenge the conviction or sentence: because this involves an immigration case.

13. Appeals of Immigration Proceedings:

Does this case concern immigration proceedings? **X** yes ___ no.

If "Yes" provide:

(a) **Date Petitioner was taken into immigration custody:** November 20, 2025.

(b) Date of the removal or reinstatement order: no removal orders have been issued, but only the motion denying bond, as to Petitioner.

(c) Did you file an appeal with the Board of Immigration Appeals? ___ yes **X** no.

If "yes" provide:

___ date of filing

___ Case number:

___ Result:

___ Date of result:

___ Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals? ___ yes

X no.

If "yes" provide:

___ name of court

___ date of filing

___ Case number

___ Result

___ Date of result

___ Issues raised

14. **Other appeals:** Other than the appeals listed above, have other petitions, applications, or motions been filed about the issues raised in this petition? ___

yes **X** 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 Petitioner's Challenge in this Petition

15. 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 separate memorandum.

Ground One:

- (a) Supporting facts: (be brief – do not cite cases or law): The Petitioner was born in Colombia. He arrived into the United States on August 24, 2022, arriving at Hidalgo Texas The Petitioner had been released on conditional release circumstances. The Petitioner has a pending I-589 *Application for Asylum and Withholding of Removal*. The Petitioner has loved ones to stay with and who can provide support throughout his proceedings. He has ties to the community and is not a flight risk. He had been issued a work permit.
- (b) The petitioner had a bond hearing and was heard by the Miami Krome Immigration Court. The immigration judge declined to consider the bond motion, holding that Mr. Oscar David Espinoza Mazo is an arriving alien and therefore, the court lacks jurisdiction under *Matter of M-S-27* I&N Dec. 509 (A.G. 2019) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
- (c) In declining to consider the motion for bond, the immigration court reasoned that bond was being denied because respondent appears to

be present in the United States without admission and is subject to mandatory detention under Section 235 (b) (2) (A) of the INA and *Matter of Yajure Hurtado*, ID #4125, The court determined that it lacked jurisdiction to address custody. The immigration court based its determination that it lacks jurisdiction due primarily to the case of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

(d) A person who arrives at a U.S. border or Port and lacks an entry document such as a visa, is considered an “arriving alien” and such persons, when later encountered by ICE and placed in removal proceedings, have regularly been denied bond by the immigration courts. This denial of bond to persons deemed “arriving aliens” is based upon the case of *Yajure Hurtado*, I&N Dec. 216 (BIA 2025). However, due to a recent new ruling, the Respondent may be considered for bond determination.

(e) The Respondent qualifies as a member of a class of persons who may be considered for bond determination, under *Lazaro Maldonado Bautista et al v. Ernesto Santa Cruz Jr et al*, Case 5:25-cv-01873-SSS-BFM (U.S. Dist. Ct. C.D. Calif. 2025). There, four persons were arrested in Southern California in June 2025, when they were not inspected at the U.S. border. They were held at a detention center and denied bond, following a change in Department of Homeland Security (DHS) policy that occurred in July 8, 2025. The Respondents sued for Habeas Corpus relief in Federal court at the Central District Court of

California. Judge Sunshine Suzanne Sykes found the new DHS policy unlawful and unconstitutional; and the Respondents were granted hearings and released from detention. The court also entered a class action order, certifying a class of similarly eligible persons for release on bond under Section 236 of the INA. Thus, under this new ruling, noncitizens who entered the U.S. without inspection can now seek bond relief from the courts, reversing prior mandatory detention policies.

The new ruling allows the following persons to request bond from the immigration courts:

- a. Non-citizens
- b. Entered without inspection
- c. Not apprehended at entry
- d. Not subject to mandatory detention

Section 236 of the INA governs the detention and bond process for non-citizens eligible for release, replacing Section 235 (b) (2) (A) of the INA.

Judge Sykes at the Central District Court in California, certified a class granting relief to immigrants nationwide who “who have entered or will enter the U.S. without inspection, and those who were not initially detained when they came into the country.”

The judge reasoned that the July 8, 2025 DHS policy directed ICE to treat anyone in the U.S. as an “applicant for admission” under Section 8 U.S.C.

Section 1225 (b)(2) (A); and this resulted in an expansive and improper reading

of the term “applicants for admission”. The judge reasoned that this resulted in treating people already living in the U.S. as if they were arriving at the border; and this tended to “collapse” 8 U.S.C. Section 1226 into “nonexistence”.

Petitioner, Espinoza Mazo, therefore may be considered for bond by the immigration court.

The Respondent may be released on conditional parole or a low bond in that he is not a flight risk, is not a danger to the community, and presents a viable claim for Political Asylum and withholding of removal. See, 8 C.F.R. Section 1003 19 (d) (h).

1. Mr. Espinoza Mazo is not a flight risk

The Respondent is not a flight risk. He has no prior immigration or history of nonappearance at immigration proceedings. He has maintained a steady address; and if released he would be reunited with his family in South Florida.

Mr. Espinoza Mazo has family members and friends with lawful status in the United States who will support him as he complies with the terms of his immigration process.

2. The Respondent is not a danger to Society

If released the Petitioner intends to pursue legal relief in the form of Political Asylum, Withholding of Removal, and protection under the Convention Against Torture. The Petitioner is not a danger to the community; does not have any criminal convictions, nor has he ever been arrested by the police.

A. Conclusion

In that Petitioner is not a flight risk, will not fail to appear before the court, and presents no threat to the safety of the community, then he should be allowed conditional parole; Alternatively, he should be released on a low bond.

(f) Did you present Ground One in all appeals that were available to you? ___ yes
X no.

Request for Relief:

16. State exactly what you want the court to do: We want the court to order that Petitioner Espinoza Mazo be released from detention on his own recognizance, on conditional release, or alternatively on a low bond. The Petitioner has not committed any crimes or offenses. He has been detained in very difficult conditions. The Petitioner, a Colombian native who is presenting a viable asylum claim, should be released so that he can be with his wife while he waits for the hearing on his application for relief which is to be heard by the immigration court.
17. Petitioner qualifies to be released on conditional release or a low bond, being that he has committed no crimes, is not a flight risk, and has family in South Florida.
18. Further, we ask that Petitioner not be moved from his current location, until further order of the court.

Declaration Under Penalty of Perjury

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

I declare under penalty of perjury that I am the attorney for the petitioner, I have read this petition, 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: February 19, 2026

Respectfully Submitted,

By: **Juan C. Perez Esq. /s/**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Habeas Corpus has been delivered via the court's e-portal, and via U.S. mail, and/or hand delivery to The U.S. Department of Homeland Security (DHS), Kristi Noem, The U.S. Department of Immigration and Customs Enforcement (ICE), Todd Lyons, on or about February 19, 2026.

Juan C. Perez, Esq. /s/