

Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

INNER AMILCAR AGUIN-CASTILLO

Petitioner

v.

Christopher LAROSE, Senior Warden, Otay

Mesa Detention Center;

Markwayne MULLIN, Secretary, U.S.

Department of Homeland Security;

Todd LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the

United States

Respondents

Case No.: '26CV2156 TWR MMP

Agency File No: 

**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR ORDER TO
SHOW CAUSE WITHIN THREE
DAYS**

INTRODUCTION

1. Petitioner Inner Amilcar Aguin-Castillo respectfully submits this Petition for a Writ of Habeas Corpus challenging his unlawful detention by the Department of Homeland Security (“DHS”). Petitioner is a native and citizen of Guatemala who entered the United States without inspection on or about 2011. Shortly after his entry, Petitioner was apprehended by immigration authorities, detained for approximately two days, and released from custody after being issued a Notice to Appear placing him in removal proceedings under INA § 240. Petitioner thereafter filed an application for asylum, and in 2016, his removal proceedings were administratively closed, leaving his case pending but inactive for nearly a decade. For more than ten years following his release, Petitioner resided continuously at liberty in the United States and complied with all reporting requirements imposed by DHS. On January 29, 2026, Petitioner was arrested by ICE officers during a routine check-in and transferred to the Otay Mesa Detention Center, where he remains detained.

2. By initiating removal proceedings under INA § 240 and releasing Petitioner from custody shortly after his entry, DHS elected not to maintain Petitioner in detention under the inspection-stage framework of INA § 235. DHS further reinforced that decision by permitting Petitioner’s case to remain administratively closed for years while he resided at liberty in the United States. DHS’s subsequent decision to re-detain Petitioner in the interior of the United States, after such an extended period of liberty, cannot revive inspection-stage detention authority that ceased to exist upon his release. Nor can DHS now disregard that Petitioner has long been in pending removal proceedings under INA § 240, which were affirmatively administratively closed and only recently recalendared.

3. To the extent DHS treats Petitioner as subject to detention under INA § 235(b), that classification deprives him of any opportunity to seek a custody redetermination before an Immigration Judge. As a result, Petitioner is currently detained without access to an individualized, constitutionally adequate bond hearing before a neutral decisionmaker, despite having lived at liberty in the United States for over a decade under DHS supervision.

1 4. The detention authority set forth in INA § 235(b) governs the inspection and admission
2 process at or near the border. That authority is event-based and limited to the period of initial
3 inspection. Once DHS elected to release Petitioner from custody, place him in removal
4 proceedings under INA § 240, and permit him to reside at liberty in the United States for years—
5 including during a lengthy period of administrative closure—the statutory predicate for detention
6 under INA § 235 ceased to exist. Any subsequent detention following an interior arrest must
7 therefore proceed, if at all, under INA § 236(a), which provides eligibility for an individualized
8 bond hearing consistent with due process.

9 5. This conclusion is reinforced by recent federal court decisions addressing DHS's
10 attempt to expand INA § 235 beyond its statutory limits. In materially similar cases, courts have
11 rejected the government's position that noncitizens who were released from custody and lived at
12 liberty in the United States remain subject to detention under INA § 235(b). On February 18,
13 2026, the United States District Court for the Central District of California vacated *Matter of*
14 *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), in *Maldonado-Bautista v. Santacruz*, No. 5:25-
15 cv-01873 (C.D. Cal. Feb. 18, 2026). The government subsequently appealed that decision, and
16 on March 6, 2026, the United States Court of Appeals for the Ninth Circuit issued an
17 administrative stay pending further proceedings. That administrative stay does not resolve the
18 merits of the statutory question presented here and does not authorize DHS to apply INA § 235
19 to individuals who were released and have resided in the United States for years.

20 6. Petitioner does not challenge the initiation of removal proceedings or the merits of
21 removability. This petition challenges only the legal basis of his detention—specifically, DHS's
22 unlawful classification of his custody under INA § 235(b) rather than INA § 236(a), and the
23 resulting denial of any meaningful opportunity to seek release. Petitioner therefore seeks a writ
24 of habeas corpus ordering his immediate release or, in the alternative, an order directing DHS to
25 provide a prompt, constitutionally adequate bond hearing consistent with the Due Process
26 Clause.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody of the Department of Homeland Security within this District and he challenges the legality of that custody.

8. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

9. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section 1252(g) bars only challenges to the Attorney General's discretionary decisions to "commence proceedings, adjudicate cases, or execute removal orders," not independent challenges to unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts of appeals, but does not foreclose habeas review of detention claims, which are collateral to the removal proceedings.

10. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

PARTIES

11. Petitioner Inmer Amilcar Aguin-Castillo is a native and citizen of Guatemala currently detained at the Otay Mesa Detention Center in San Diego, California.

12. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention Center.

13. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS).

14. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

15. Respondent Todd Blanche is the Acting Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

16. All Respondents are named in their official capacities.

LEGAL FRAMEWORK

17. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq., provides multiple detention authorities. For decades, courts, Congress, and agencies have consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. § 1225), which governs applicants for admission encountered at or near the border, and INA § 236 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the United States and placed in removal proceedings. The Supreme Court analyzed the interplay between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

18. Section 1225 provides that, for purposes of initial inspection at the border, “an alien who arrives in the United States or is present in this country but has not been admitted, is treated as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The Court explained that decisions concerning who may enter or remain in the United States “generally begin at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b) governs this inspection and admission process, applying primarily to individuals encountered at or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which includes a credible-fear process for those expressing an intent to seek asylum—or to detention pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020).

19. By contrast, § 1226(a) governs the detention of individuals who entered years ago and were later apprehended in the interior, “pending a decision on whether [they are] to be removed from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, § 1226(a) authorizes the Attorney General to detain or release such individuals on bond or conditional parole, except as provided in subsection (c), which applies only to a narrow category of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8

1 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
2 Congress further described § 1226(a) as merely a “restatement” of prior detention authority
3 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.
4 Rep. No. 104-469, pt. 1, at 229 (1996).

5 20. For decades, individuals who entered without inspection but were released from
6 custody and later arrested in the interior of the United States have been consistently treated as
7 subject to detention under INA § 236(a), not § 235(b). DHS’s decision to release an individual
8 from custody without conducting a credible fear interview reflects the termination of inspection-
9 stage detention. Accordingly, any subsequent detention following an interior arrest must proceed
10 under the discretionary detention framework of INA § 236(a).

11 21. Only in 2025 did DHS and the BIA begin advancing, in certain proceedings, a
12 contrary interpretation—asserting that noncitizens who entered without inspection must be
13 treated as subject to detention under § 1225(b)(2). This interpretation represented a departure
14 from decades of agency practice and contradicted settled expectations regarding custody
15 jurisdiction.

16 22. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in
17 coordination with the Department of Justice, issued Interim Guidance Regarding Detention
18 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered
19 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of
20 when or where they were apprehended, including individuals who had resided in the United
21 States for many years.

22 23. The Board of Immigration Appeals later adopted a similar statutory interpretation in
23 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

24 24. INA § 235(b) authorizes detention only in connection with the inspection and
25 admission process. That authority is event-based, not status-based. Once DHS elects to release a
26 noncitizen and forego continued inspection-stage detention, the statutory predicate for § 235
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1 custody no longer exists. The statute does not authorize DHS to reassert that authority years later
2 following an interior arrest after a prolonged period of liberty.

3 **FACTS**

4 25. Petitioner Inner Amilcar Aguin-Castillo is a native and citizen of Guatemala who
5 entered the United States without inspection on or about 2011 and was encountered by
6 immigration authorities at or near the time of his entry.

7 26. Shortly after his apprehension, Petitioner was detained for approximately two days
8 and then released from custody.

9 27. DHS issued Petitioner a Notice to Appear placing him in removal proceedings under
10 INA § 240.

11 28. Petitioner thereafter filed an application for asylum.

12 29. On April 28, 2016, the Immigration Court administratively closed Petitioner's
13 removal proceedings upon joint request of the parties, leaving his case pending but inactive.

14 30. Following his release, Petitioner resided continuously in the United States for more
15 than a decade and complied with all requirements imposed by DHS, including reporting as
16 directed.

17 31. During this time, Petitioner established significant ties in the United States, including
18 family relationships and community connections, and remained at liberty without incident.

19 32. On or about January 29, 2026, Petitioner was arrested by ICE officers during a
20 routine check-in in Baltimore, Maryland.

21 33. Following his arrest, Petitioner was transferred by ICE to the Otay Mesa Detention
22 Center in San Diego, California, where he remains detained.

23 34. On February 3, 2026, DHS filed a motion to recalendar Petitioner's administratively
24 closed removal proceedings.

25 35. DHS sought recalendaring in order to resume removal proceedings that had remained
26 inactive since 2016.

1 36. On or about March 4, 2026, Petitioner, through counsel, filed a request for a bond
2 redetermination hearing before the Immigration Court.

3 37. On March 11, 2026, Petitioner withdrew his request for bond redetermination without
4 prejudice after the Ninth Circuit issued an administrative stay of the district court's decision in
5 *Maldonado-Bautista*, rendering a bond hearing futile in light of DHS's position that Petitioner is
6 subject to mandatory detention under INA § 235(b) and the Immigration Court's lack of
7 jurisdiction to grant bond under that provision.

8 38. Absent relief from this Court, Petitioner will remain detained without a meaningful
9 opportunity to obtain a constitutionally adequate bond hearing at which the government bears the
10 burden of justifying continued detention.

11 **CLAIM FOR RELIEF**

12 **COUNT 1**

13 **Violation of the Immigration and Nationality Act (INA)**

14 39. Petitioner incorporates by reference the allegations of fact set forth in the preceding
15 paragraphs.

16 40. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) applies only during the
17 inspection and admission process and does not extend to noncitizens who have been released
18 from custody and permitted to reside at liberty in the United States.

19 41. Petitioner entered the United States without inspection on or about 2011. Shortly
20 thereafter, DHS apprehended him, detained him briefly, and released him from custody after
21 placing him in removal proceedings under INA § 240. On April 28, 2016, the Immigration Court
22 administratively closed those proceedings upon joint request of the parties. Petitioner thereafter
23 resided continuously at liberty in the United States for more than a decade.

24 42. On January 29, 2026, DHS arrested Petitioner during a routine check-in in the interior
25 of the United States and now detains him without access to a custody redetermination hearing.

26 43. Under these circumstances, Petitioner is not subject to detention under INA § 235(b).
27 Once DHS elected to release Petitioner from custody, place him in removal proceedings under
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1 INA § 240, and permit him to reside at liberty in the United States for an extended period of time
2 —including during years in which his proceedings were administratively closed—the statutory
3 predicate for detention under INA § 235 ceased to exist.

4 44. Any current detention must therefore proceed, if at all, under INA § 236(a), 8 U.S.C.
5 § 1226(a), which provides eligibility for an individualized bond hearing before an Immigration
6 Judge.

7 45. DHS’s continued detention of Petitioner under INA § 235(b) exceeds its statutory
8 authority and violates the Immigration and Nationality Act.

9 **COUNT 2**

10 **Violation of the Due Process Clause of the Fifth Amendment**

11 46. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth
12 herein.

13 47. The Fifth Amendment provides that “[n]o person shall be deprived of life, liberty, or
14 property, without due process of law.”

15 48. “Freedom from imprisonment—from government custody, detention, or other form of
16 physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533
17 U.S. 678, 690 (2001).

18 49. Petitioner’s prior release from custody and prolonged period of liberty created a
19 significant protected liberty interest that cannot be revoked absent constitutionally adequate
20 procedures.

21 50. Petitioner was released from DHS custody shortly after his entry in or about 2011 and
22 thereafter resided at liberty in the United States for more than a decade, including during years in
23 which his removal proceedings were administratively closed. During that time, Petitioner
24 complied with all requirements imposed by DHS, including reporting as directed.

25 51. On January 29, 2026, DHS arrested Petitioner during a routine check-in and has since
26 detained him without providing a meaningful opportunity to seek release before a neutral
27 decisionmaker.

52. Civil immigration detention is constitutionally permissible only when it bears a reasonable relation to a legitimate governmental objective and is accompanied by adequate procedural safeguards. Detention imposed without an individualized custody determination violates due process. *Zadvydas*, 533 U.S. at 690.

53. By detaining Petitioner without providing access to a constitutionally adequate bond hearing, and by effectively denying any meaningful opportunity to obtain release following more than a decade of liberty, Respondents have violated the Due Process Clause of the Fifth Amendment.

54. Under these circumstances, no adequate alternative remedy exists, and habeas relief is necessary to remedy Petitioner's unlawful detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A) Assume jurisdiction over this matter;
- B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this District while these proceedings are pending;
- C) Issue an Order to Show Cause within three (3) days pursuant to 28 U.S.C. § 2243, requiring Respondents to explain the legal basis for Petitioner's continued detention;
- D) Declare that Petitioner is not lawfully detained under INA § 235(b), and that, in light of DHS's prior release of Petitioner and his placement in removal proceedings under INA § 240, any continued detention must proceed under INA § 236(a).
- E) Declare that, by depriving Petitioner of any meaningful opportunity to seek release, his continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.
- F) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody, or, in the alternative, order a prompt, constitutionally adequate bond hearing consistent with due process, at which the Department of Homeland Security bears the burden of proving, by

1 clear and convincing evidence, that Petitioner's continued detention is necessary to prevent flight
2 or danger to the community;

3 G) Grant such other and further relief as the Court deems just and proper.

4 Respectfully submitted,

5 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

6 Alex Monsalve Law Firm, PC

7 240 Woodlawn Ave, Suite 9

8 Chula Vista, CA 91910

9 Phone: (619) 777-6796

10 Counsel for Petitioner

11 Dated: April 6, 2026

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in the Petition are based on information provided to me by Petitioner during a personal interview at the Otay Mesa Detention Center, as well as my review of available records, including Petitioner's Notice to Appear (Form I-862), filings and orders from the Immigration Court, and other relevant documents.

I have also communicated with Petitioner's immigration counsel. Based on my review of that information and those communications, and to the best of my knowledge, information, and belief, the factual statements in the Petition accurately reflect Petitioner's circumstances and the procedural history of his detention.

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

Alex Monsalve Law Firm, PC

240 Woodlawn Ave, Suite 9

Chula Vista, CA 91910

Phone: (619) 777-6796

Email: info@alexmonsalvelawfirm.com

Counsel for Petitioner

Dated: April 6, 2026