

**Law Offices of Carlos R. Barrios & Assoc. a P.C.**

Carlos R. Barrios 249654  
510 West 6<sup>th</sup> Street Suite 1210  
Los Angeles, CA 90014  
Tel.: (213) 599-8414  
Fax.: (888) 255-9710

Attorneys for Petitioner,  
**JOSE ARMANDO-GARCIA**

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

**JOSE ARMANDO-GARCIA**

Petitioner,

v.

MARKWAYNE MULLIN,  
Secretary, United States Department of  
Homeland Security; RODNEY S.  
SCOTT, Commissioner, United States  
Customs and Border Protection;  
GREGORY J. ARCHAMBEAULT, in  
his official capacity as Acting Field  
Office Director for San Diego, U.S.  
Immigration and Customs Enforcement;  
DOUG GLEN, Special Agent in Charge  
for San Diego, Homeland Security  
Investigations, U.S. Immigration and  
Customs Enforcement; JEREMY  
CASEY, in his official capacity as  
Warden of Imperial Regional Detention  
Facility

Respondents.

Case No. '26CV3821 AGS SBC

**VERIFIED PETITION FOR WRIT  
OF HABEAS CORPUS**

///

///

///

### INTRODUCTION

1  
2  
3  
4 1. JOSE ARMANDO-GARCIA is a 24-year-old male imprisoned by the  
5 federal government under color of the immigration laws under Alien Registration  
6 number A#  He is a resident of Desert Hot Springs, California in the  
7 county of Riverside. He is engaged to a United States citizen, he does not have any  
8 children. He has four younger United States siblings. He first entered the United  
9 States in 2005, attended all of his primary education in the United States  
10 graduating from Desert Hot Springs High in 2020. He was detained by ICE agents  
11 as he was pulled over for driving too slow while driving home from work. There  
12 were no other actions that would have otherwise provoked ICE to make contact.

13 Through this petition he seeks immediate release from his incarceration. His  
14 continued imprisonment is unlawful because of the confluence of three separate  
15 unlawful government practices: First, Respondents have held Mr. Armando-Garcia  
16 virtually incommunicado. He was denied contact with the outside world for the  
17 first five days of his incarceration, including from family and counsel, and since  
18 then has permitted him only one fifteen-minute phone call with his attorney.

19 Second, although Respondents have ostensibly held Mr. Armando-Garcia  
20 under color of the immigration laws, they have incarcerated him since on or about  
21 February 11, 2026. Third, Mr. Armando-Garcia has been denied a bond due to a  
22 claimed lack of jurisdiction by the Immigration Court.

23 2. Petitioner Mr. Armando-Garcia has lived in the United States since  
24 1998 and was arrested by ICE on *February 11, 2026*, and placed in custody first at  
25 an ICE processing center in the state of New York. He was then transferred across

1 the country and is now held at the Imperial ICE Processing Center in Calexico,  
2 California. The Immigration Judges have denied bond jurisdiction, holding that  
3 DHS classified individuals like Mr. Armando-Garcia under 8 U.S.C. §  
4 1225(b)(2)(A) as an “arriving alien[s]” subject to mandatory detention. This  
5 application of § 1225(b)(2)(A) to individuals like Petitioner—who were long-term  
6 residents already present in the United States—is a new policy resulting from  
7 recent DHS guidance and the BIA’s precedential decision in *Matter of Jonathan*  
8 *Javier Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Prior to *Yajure Hurtado*,  
9 individuals in Petitioner’s position were eligible for bond hearings under §  
10 1226(a). This misclassification deprives him of a bond hearing in violation of three  
11 decades of settled law, the Immigration and Nationality Act’s text and structure,  
12 and the Fifth Amendment’s Due Process Clause. Multiple federal courts have  
13 already rejected the government’s new policy as unlawful and ultra vires. *See*  
14 *Guerrero Orellana v. Moniz*, No. 25-12664-PBS (D. Mass. Sept. 22, 2025) and  
15 *Mendoza Gutierrez v. Baltasar*, No. 25-2720-RMR (D. Colo. Oct. 17, 2025). This  
16 Court should do the same and restore Respondent’s right to a bond hearing under §  
17 236(a).

18 Federal courts and the Supreme Court have long recognized that § 235(b)  
19 governs “applicants for admission at the border or port of entry,” while § 236  
20 applies to those “already present in the United States.” *Jennings v. Rodriguez*, 583  
21 U.S. 281, 288 (2018).

22 The Massachusetts class petition in *Guerrero-Orellana* held that DHS’s new  
23 practice of applying § 235(b) to interior arrests is “contrary to almost 30 years of  
24 settled law and practice.” Similarly, *Mendoza Gutierrez* found that DHS lacks  
25

1 statutory authority to classify such individuals as “arriving aliens” and ordered  
2 release pending a bond hearing.

3 Mr. Armando-Garcia was arrested in the Bethpage area of New York—  
4 several miles from any port of entry—and is plainly detained under § 236(a).

5 The BIA’s decision in *Matter of Yajure Hurtado* (2025) abruptly overturned  
6 decades of interpretation without reasoned analysis, violating the Administrative  
7 Procedure Act and *Encino Motorcars v. Navarro*, 579 U.S. 211 (2016). Under  
8 *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts owe no  
9 Chevron deference to such agency redefinitions.

10 The 1997 interim rule explicitly stated that EWIs “will be eligible for bond  
11 and bond redetermination.” 62 Fed. Reg. 10,323 (Mar. 6, 1997). The BIA’s attempt  
12 to read this history out of existence is entitled to no weight.

13 2. Under these unique circumstances, the Constitution requires his  
14 immediate release from further imprisonment.

15 3. Petitioner challenges his detention as unlawful because:

16 (a) The application of § 1225(b)(2)(A) to his is ultra vires, inconsistent with  
17 statutory text and longstanding regulatory practice;

18 (b) His continued detention without bond violates the Immigration and  
19 Nationality Act (INA) and the Fifth Amendment’s Due Process Clause; and

20 (c) The new policy violates the Administrative Procedure Act because it was  
21 adopted without notice-and-comment and in excess of statutory authority.

22 Petitioner respectfully requests an order:

23 (1) Declaring that § 1226(a), not § 1225(b)(2)(A), governs his detention; and  
24  
25

1 (2) Requiring that he receive a prompt individualized bond hearing before an  
2 Immigration Judge where the Government bears the burden of proving flight risk  
3 or danger by clear and convincing evidence.  
4

### 5 JURISDICTION AND VENUE

6 This Court has jurisdiction under 28 U.S.C. § 2241, § 1331, and § 1651,  
7 because Petitioner is “in custody in violation of the Constitution or laws or treaties  
8 of the United States.” Venue lies in the Southern District of California under 28  
9 U.S.C. § 1391(e) because Petitioner is detained at Imperial and the responsible ICE  
10 officials reside in this district. This petition challenges only the legality of custody,  
11 not any final order of removal, and is therefore not barred by 8 U.S.C. § 1252(a)(5)  
12 or § 1252(b)(9). *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*,  
13 586 U.S. 392 (2019); *Crespin De Paz v. Noem*, No. 2:25-cv-06649, slip op. at 5  
14 (C.D. Cal. Oct. 10, 2025).  
15  
16  
17

### 18 PARTIES

19 Petitioner Mr. Armando-Garcia is a noncitizen currently detained by the  
20 U.S. Department of Homeland Security (“DHS”) through U.S. Immigration and  
21 Customs Enforcement (“ICE”) at the Imperial ICE Processing Center in Imperial,  
22 California. Petitioner has resided in the United States for many years and is  
23 seeking release from custody pending resolution of his immigration proceedings.  
24  
25

1 Respondent MARKWAYNE MULLIN is the Secretary of the United States  
2 Department of Homeland Security (“DHS”). As Secretary, Respondent NOEM  
3 exercises ultimate authority over DHS and its component agencies, including U.S.  
4 Customs and Border Protection (“CBP”) and U.S. Immigration and Customs  
5 Enforcement (“ICE”), and is responsible for the administration and enforcement of  
6 the Immigration and Nationality Act (“INA”). He is sued in his official capacity.  
7

8  
9 Respondent RODNEY S. SCOTT is the Commissioner of U.S. Customs and  
10 Border Protection (“CBP”), a component agency of DHS. In this capacity,  
11 Respondent SCOTT is responsible for the policies, practices, and operations of  
12 CBP, including the apprehension and initial processing of individuals alleged to be  
13 inadmissible under the INA. He is sued in his official capacity.  
14

15 Respondent GREGORY J. ARCHAMBEAULT, is the Field Office Director  
16 for the San Diego Field Office of U.S. Immigration and Customs Enforcement  
17 (“ICE”), a component agency of DHS. In this role, Respondent Archambault  
18 exercises direct supervisory authority over ICE Enforcement and Removal  
19 Operations (“ERO”) officers responsible for the detention, transfer, and release of  
20 individuals within this District, including those held at the Imperial ICE Processing  
21 Center. He is the immediate custodian of Petitioner and is sued in his official  
22  
23 capacity.  
24  
25

1 Respondent Doug Glen is the Special Agent in Charge for the San Diego  
2 office of Homeland Security Investigations (“HSI”), a component division of ICE  
3 within DHS. In this capacity, Respondent Wang oversees investigations and  
4 enforcement operations in the San Diego area that lead to the apprehension and  
5 referral of individuals to ERO for detention. He is sued in his official capacity.  
6

7 Respondent, JEREMY CASEY, in his official capacity as Warden of  
8 Imperial Regional Detention Facility. In this capacity Respondent Casey oversees  
9 the Imperial Regional Detention Facility where Petitioner is currently housed. He  
10 is sued in his official capacity.  
11

12 Each Respondent is an officer or employee or agent or subcontractor of the  
13 United States acting under color of federal law and within the scope of their  
14 respective official duties. Collectively, Respondents have legal custody over  
15 Petitioner and are responsible for the policies, practices, acts, and omissions giving  
16 rise to this Petition.  
17  
18

### 19 **FACTUAL BACKGROUND**

20 Petitioner is a resident of Desert Hot Springs, California in the county of  
21 Riverside. He is engaged to a United States citizen, he does not have any children.  
22 He has four younger United States siblings. He first entered the United States in  
23 2005, attended all of his primary education in the United States graduating from  
24 Desert Hot Springs High in 2020. He was detained by ICE agents as he was pulled  
25

1 over for driving too slow while driving home from work. There were no other  
2 actions that would have otherwise provoked ICE to make contact. DHS has issued  
3 a Notice to Appear charging inadmissibility under § 212(a)(7)(A)(i)(I) (“present  
4 without admission”).  
5

6 The Imperial Immigration Court has ruled that the Court lacks bond  
7 jurisdiction, citing *Matter of Yajure Hurtado* and the DHS memorandum extending  
8 § 1225(b)(2)(A) to “arriving aliens” already present in the U.S. The Immigration  
9 Court has further ruled that is lacks jurisdiction in light of *Matter of Maldonado*  
10 *Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM. As a result, Petitioner  
11 has remained in custody without any opportunity for a bond determination, despite  
12 strong family and community ties and no danger to the community.  
13  
14

### 15 LEGAL CLAIMS

#### 16 **A. This Court Has Jurisdiction**

17 As held in *Crespin De Paz and Doe v. Garland*, 109 F.4th 1188 (9th Cir.  
18 2024), a habeas petition seeking a bond hearing lies “within the core of habeas”  
19 jurisdiction under § 2241. The claim is collateral to removal and not barred by §  
20 1252(g) or § 1252(b)(9).  
21

22 //  
23  
24  
25

1           **B. Petitioner’s Detention Is Governed by § 1226(a), Not § 1225(b)(2)(A)**

2           The statutory structure and decades of agency practice distinguish § 1225(b)  
3 (for “arriving” or “recently encountered” aliens at the border) from § 1226(a) (for  
4 arrests inside the country).  
5

6           Until 2025, DHS consistently treated long-term residents arrested inside the  
7 U.S. as § 1226(a) detainees eligible for bond hearings. See 62 Fed. Reg. 10312,  
8 10323 (Mar. 6, 1997) (“aliens present without admission ... will be eligible for  
9 bond”). The new DHS policy, endorsed in *Yajure Hurtado*, reverses nearly 30  
10 years of practice without statutory amendment or rulemaking.  
11

12           Courts addressing this precise issue in 2025 have overwhelmingly rejected  
13 DHS’s position. See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash.  
14 2025); *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky.); *Vazquez v. Feeley*, 2025  
15 WL 2676082 (D. Nev.); *Crespin De Paz*, slip op. at 7–8. Each held that § 1226(a),  
16 not § 1225(b), governs detention of long-term residents.  
17

18           Because Petitioner’s arrest occurred well inside U.S. territory after many  
19 years of residence, § 1225(b)(2)(A) cannot lawfully apply. His detention under that  
20 provision is therefore *ultra vires*.  
21

22           **C. Mandatory Detention Under § 1225(b)(2)(A) Violates Due Process**

23           Even if § 1225(b)(2)(A) were construed to apply, its application without  
24 individualized review violates the Fifth Amendment’s Due Process Clause.  
25

1 “Freedom from imprisonment—from government custody, detention, or  
2 other forms of physical restraint—lies at the heart of the liberty the Due Process  
3 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
4

5 The government’s categorical denial of bond hearings to long-term  
6 residents, based solely on its re-characterization of them as “arriving aliens,” is  
7 arbitrary and disproportionate to any legitimate immigration purpose.  
8

9 **D. The 2025 DHS Policy and Yajure Hurtado Decision Violate the APA**

10 The DHS policy expanding § 1225(b)(2)(A) detention to individuals long  
11 present in the U.S. constitutes a substantive rule adopted without notice-and-  
12 comment. It exceeds the statutory authority granted by Congress and is arbitrary  
13 and capricious under 5 U.S.C. § 706(2). The BIA’s decision in *Matter of Yajure*  
14 *Hurtado* (2025) abruptly overturned decades of interpretation without reasoned  
15 analysis, violating the Administrative Procedure Act and *Encino Motorcars v.*  
16 *Navarro*, 579 U.S. 211 (2016). Under *Loper Bright Enterprises v. Raimondo*, 603  
17 U.S. 369 (2024), courts owe no Chevron deference to such agency redefinitions.  
18  
19

20 The 1997 interim rule explicitly stated that EWIs “will be eligible for bond  
21 and bond redetermination.” 62 Fed. Reg. 10,323 (Mar. 6, 1997). The BIA’s attempt  
22 to read this history out of existence is entitled to no weight.  
23

24 No other court or administrative tribunal can provide Petitioner any relief.  
25 Under ordinary circumstances, an individual detained under color of the

1 immigration laws could seek redress for unreasonable delay in the government's  
2 pursuit of removal proceedings by filing a motion to terminate before an  
3 Immigration Judge. *See, e.g., In re Qayyum*, 2004 WL 848576 (B.I.A. Feb. 25,  
4 2004) (considering motion to terminate based on government delay and finding, on  
5 the facts of that case, no unreasonable delay).  
6

7 Respondents have further demonstrated their fundamental inability to  
8 provide even rudimentarily safe or humane conditions of confinement at the  
9 Imperial ICE Processing Center. Conditions within the facility—overcrowding,  
10 inadequate medical care, and the heightened risk of harm to detainees—have  
11 rendered continued detention not merely unlawful but dangerous.  
12

13 Under these circumstances, any remedy short of immediate judicial  
14 intervention would be insufficient. Petitioner's continued detention violates  
15 statutory, constitutional, and humanitarian standards. Simply put, Mr. Armando-  
16 Garcia cannot wait.  
17

18  
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner respectfully requests that this Court:

- 21 1. Issue a Writ of Habeas Corpus declaring Petitioner's detention under 8  
22 U.S.C. § 1225(b)(2)(A) unlawful;  
23  
24 2. Order Respondents to release Petitioner immediately in light of the  
25 pending I-130; or

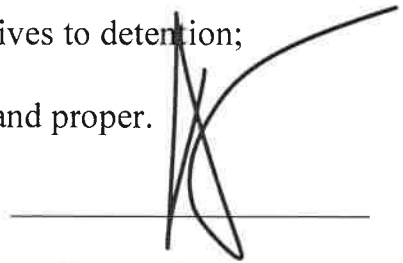
1 3. Order that Petitioner be provided a prompt individualized bond hearing  
2 before a neutral Immigration Judge within 7 days, at which:

3 (a) The government bears the burden of proving flight risk or danger by  
4 clear and convincing evidence; and  
5

6 (b) The IJ must consider less restrictive alternatives to detention;

7 4. Award any further relief this Court deems just and proper.  
8

9 Date: 7/1/2026

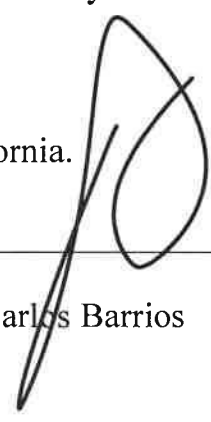
10   
11 Carlos Barrios  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**VERIFICATION BY PETITIONER PURSUANT TO 28 U.S.C. § 2242**

I, CARLOS BARRIOS am submitting this verification on behalf of JOSE ARMANDO-GARCIA, who is currently detained by the U.S. Department of Homeland Security at the Imperial Regional Detention center in Calexico, California. Petitioner is being held under conditions that severely restrict or prevent meaningful communication with the outside world. As a result, he is unable to review or sign this petition personally or to prepare and file it on his own behalf.

I have communicated with Petitioner to the extent possible and have obtained the factual information contained in this Petition from my direct knowledge, records, and reliable sources. I hereby verify that, to the best of my knowledge and belief, the factual statements contained in the attached Petition for Writ of Habeas Corpus are true and correct, and that I could testify to those facts if called upon to do so.

Executed this 30<sup>th</sup> day of June, 2026, at Los Angeles, California.



---

Carlos Barrios