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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, CALIFORNIA

ARMANDO GONZALEZ GONZALEZ
Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior Warden
of Otay Mesa Detention Center; GREGORY J.
ARCHAMBEAULT, Field Office Director of
Enforcement and Removal Operations, San
Diego Field Office, Immigration and Customs
Enforcement; TODD BLANCHE, U.S.
Attorney General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW, MARKWAYNE
MULLIN, Secretary, U.S. Department of
Homeland Security.

Respondents.

Case No. '26CV3844 RSH GC

Agency No. 

**PETITION FOR WRIT OF
HABEAS CORPUS; FOR AN ORDER
TO SHOW CAUSE WITHIN
3 DAYS; AND TO ENJOIN
TRANSFER FROM THE
JURISDICTION**

INTRODUCTION

1. Petitioner, Armando Gonzalez Gonzalez (hereinafter “Petitioner”), brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention. Petitioner does not seek review of an Immigration Judge’s custody determination, nor does he request a bond hearing. Instead, this petition presents a threshold question of statutory authority, which is whether Respondents may lawfully continue detaining Petitioner under the mandatory detention provisions applicable to applicants for admission.

2. Petitioner is presently confined at the Otay Mesa Detention Center in the custody of Respondents. His removal proceedings remain pending before the Otay Mesa Immigration Court, where he is scheduled to appear for a Master Calendar Hearing on July 15, 2026. *See* Exhibit 1.

3. This petition does not challenge Petitioner’s removability or otherwise interfere with those pending removal proceedings. Rather, it challenges only the statutory authority for Respondents’ continued detention during the pendency of those proceedings. DHS asserts that Petitioner is subject to mandatory detention under INA § 235. Petitioner challenges that legal conclusion and contends that Respondents lack statutory authority to continue detaining him under that provision.

4. The allegations contained in DHS’s own Notice to Appear (NTA) demonstrate why this issue is appropriate for habeas review. DHS alleges that Petitioner “(1) is an alien present in the United States who has not been admitted or paroled,” “(2) is a native and citizen of Mexico,” “(3) entered the United States at or near Tecate, California, on or about August 6,

2005,” and “(4) was not admitted or paroled after inspection by an immigration officer.” Based on those factual allegations, DHS charged Petitioner as removable under INA § 212(a)(6)(A)(i). *See* Exhibit 2.

5. Significantly, DHS’s charging document alleges that Petitioner’s entry occurred more than twenty years ago and that he has been present in the United States since that time. The NTA does not allege that Petitioner is an arriving alien, that he presented himself for inspection at a port of entry, or that he is presently seeking admission into the United States. Rather, DHS’s own allegations establish that this case concerns an individual who allegedly entered the country in August 2005 and has remained physically present in the United States ever since. Accordingly, the statutory authority for Petitioner’s continued detention presents a pure question of law appropriate for review under 28 U.S.C. § 2241.

6. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25 CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

7. Nevertheless, DHS continues to detain Petitioner under the mandatory detention provisions applicable to applicants for admission. Because this petition contests the statutory basis for detention, and not the denial of discretionary custody relief, this Court possesses jurisdiction under 28 U.S.C. § 2241 to determine whether Petitioner’s detention is authorized by the Immigration and Nationality Act.

8. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus declaring that Respondents lack statutory authority to continue detaining him under INA § 235, order Petitioner's immediate release from immigration custody, and grant such other and further relief as the Court deems just and proper.

STATEMENT OF FACTS

9. Petitioner last entered the United States without being admitted in or about August 6, 2005, at or near Tecate, California. He has remained in the United States since that entry and was not apprehended at the border at the time of entry. *See* Exhibit 2.

10. Petitioner is married to Alma Yadira Mendoza Rodriguez. *See* Exhibit 3. Petitioner is the father of a 13-year-old United States citizen son, [REDACTED] [REDACTED] *See* Exhibit 4. He is also the stepfather of an 18-year-old stepson, [REDACTED] [REDACTED] who is currently serving on active duty in the United States Army. Additionally, Petitioner's stepson has filed a Military Parole in Place (Form I-131) request on Petitioner's behalf. Petitioner has already completed his biometrics appointment, and his Military Parole in Place application remains pending before USCIS. *See* Exhibit 5.

11. Petitioner has been continuously employed by [REDACTED] in Poway, California, for more than 20 years. Through years of dedication, reliability, and hard work, he earned the trust of his employer and was promoted to restaurant manager, where he oversees kitchen operations and manages the ordering of inventory and supplies. Since Petitioner's detention, his wife and stepson have struggled to cover the family's monthly rent and household expenses, which totals to approximately \$4,000 per month. His wife only works 3 days per week and earns \$2,000 per month, where Petitioner earns \$6,000 per month and is responsible for most

of the family expenses and bills. As the family's primary financial provider, Petitioner's continued detention has placed his household under severe financial strain, and his family fears they will be unable to maintain their home if his detention continues. *See* Exhibit 6.

12. Petitioner has also filed tax returns in the last 10 years and since his arrival to the U.S. Moreover, Petitioner has no criminal history aside from his immigration history.

13. DHS issued Petitioner a Notice to Appear (NTA) dated June 10, 2026. *See* Exhibit 2.

14. On that same date of June 10, 2026, Petitioner was detained while getting to work at  in Poway in the shopping center parking lot at around 6:40 a.m. He was sitting inside his vehicle, when several individuals approached without identifying themselves or calling him by name and asked whether he had identification. Petitioner remained silent, and the individuals informed him that he was under arrest and threatened to break his vehicle's windows if he resisted. Petitioner did not oppose the arrest; however, an officer then forcibly twisted his hand, placed him into a van, searched his vehicle without requesting or obtaining his consent, retained his wallet and keys, and left his vehicle at the location. Petitioner was transported to the downtown San Diego Enforcement and Removal Operations (ERO) office, where he requested permission to make a telephone call and was allowed to contact his wife. During the call, Petitioner informed his wife that his hand was in pain because of the manner in which the arresting officer had twisted his hand during the arrest. Petitioner was subsequently taken to the Otay Mesa Detention Center, where he remains detained. He was also given a Master Hearing scheduled for July 15th, 2026. *See* Exhibit 1.

15. Although the Ninth Circuit stayed portions of the district court's orders in *Maldonado Bautista* outside the certified class, the district court's statutory analysis remains

persuasive. The reasoning of that decision recognizes that detention authority under the INA depends upon the statutory posture of the noncitizen, not merely the fact of an unlawful entry. Here, DHS's own charging allegations establish that Petitioner allegedly entered the United States in August 2005 and has remained in the country for more than two decades. Whether such an individual may nevertheless be subjected to mandatory detention as an applicant for admission presents a legal question that is properly resolved through habeas review. *See Maldonado Bautista v. DHS, No 26-1044 (9th Cir., Mar. 6, 2026).*

VENUE AND JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center, located within San Diego County, and Christopher J. LaRose is his immediate custodian as the Warden of the facility. As such, venue is proper in this Court. 28 U.S.C. section 2241(d) and 1391 (e) *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

17. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

18. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved by its sister court in *Maldonado Bautista*. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243.

19. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

20. Petitioners are “in custody” for the purpose of § 2241 because they were arrested and remain detained by the Respondents.

PARTIES

21. Petitioner Armando Gonzalez Gonzalez is a 37-year-old native of Mexico who has been in immigration detention since June 10, 2026. Petitioner was immediately detained on the same day his NTA was issued, and he remains detained at the Otay Mesa Detention Center. *See* Exhibit 2.

22. Respondent Gregory J. Archambeault is the Field Office Director of ICE’s Enforcement and Removal Operations division, San Diego, CA. As such, Archambeault is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

23. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

26. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

27. Respondent Christopher J. LaRose is employed as Warden of the Otay Mesa Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

EXHAUSTION OF REMEDIES

28. No statutory exhaustion requirement applies to this petition because Petitioner seeks relief under 28 U.S.C. § 2241. *See Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). This petition does not seek review of an Immigration Judge's custody determination, nor does it request a bond hearing. Rather, Petitioner challenges Respondents' statutory authority to continue detaining him under INA § 235 based upon the allegations contained in DHS's own Notice to Appear.

29. There is no available administrative remedy through which Petitioner may obtain the relief requested in this action. Neither the Immigration Court nor the Board of Immigration

Appeals has authority to grant the habeas relief sought here or to issue a writ declaring Petitioner's continued detention unlawful. The issue presented is a pure question of statutory interpretation concerning the legality of Petitioner's detention, which falls within this Court's jurisdiction under 28 U.S.C. § 2241.

30. Moreover, requiring Petitioner to pursue additional administrative proceedings would be futile because no administrative tribunal can provide the relief requested in this petition. Petitioner does not seek discretionary custody relief or review of a bond determination; instead, he seeks judicial review of Respondents' statutory authority to continue detaining him. Because the administrative process cannot resolve that issue or afford the requested relief, no further exhaustion is required. Accordingly, habeas corpus is Petitioner's only adequate and effective means of obtaining judicial review of the legality of his continued detention.

CLAIMS FOR RELIEF

Respondents Lack Statutory Authority to Continue Detaining Petitioner

Under INA § 235

31. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

32. This petition presents a pure question of statutory interpretation: whether Respondents possess authority under the Immigration and Nationality Act to continue detaining Petitioner as an applicant for admission where DHS's own Notice to Appear alleges that Petitioner entered the United States without inspection on or about August 6, 2005, and has remained present in the United States since that time.

33. DHS's charging document alleges that Petitioner is "an alien present in the United States who has not been admitted or paroled," that he entered the United States at or near Tecate,

California, on or about August 6, 2005, and that he was not admitted or paroled after inspection. Based on those allegations, DHS charged Petitioner as removable under INA § 212(a)(6)(A)(i). The Notice to Appear does not allege that Petitioner is an arriving alien or that he is presently seeking admission into the United States.

34. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2).

35. Although the Ninth Circuit stayed portions of the district court's orders in *Maldonado Bautista* outside the certified class, the district court's statutory analysis remains persuasive. That decision recognized that the mandatory detention provisions of INA § 235 do not automatically apply to noncitizens who entered the United States without inspection years earlier and have remained continuously present in the country. *See Maldonado Bautista v. DHS, No 26-1044 (9th Cir., Mar. 6, 2026)*. Petitioner's circumstances fall squarely within that statutory analysis because DHS itself alleges that his entry occurred more than twenty years ago.

36. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

37. Respondents nevertheless continue to detain Petitioner under INA § 235 despite the allegations contained in their own charging document. This petition does not seek review of an Immigration Judge's custody determination or request a bond hearing. Rather, it asks this Court to determine whether Respondents possess statutory authority to continue detaining Petitioner under the Immigration and Nationality Act.

38. Because Petitioner's continued detention rests upon an erroneous interpretation of the detention statutes, Respondents are acting in excess of their statutory authority. Accordingly, Petitioner's continued detention is unlawful, and he is entitled to relief under 28 U.S.C. § 2241.

**Petitioner's Continued Detention Violates the Due Process Clause
of the Fifth Amendment**

39. Petitioner reiterates and incorporates by reference paragraphs 1 through 36 as if fully set forth herein.

40. Additionally, the Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision maker. Due process protects all persons within the U.S. regardless of legal status. *See Zadvydas v. Davis*, 533 U.S. 678, 698 (2001). A vital liberty interest is at stake when an individual is subject to detention by the government. According to *Zadvydas*, the government may only deprive a non-citizen of physical liberty when it serves a legitimate purpose, commonly understood to include securing one's appearance at future hearings.

41. In this case, DHS's own Notice to Appear alleges that Petitioner entered the United States at or near Tecate, California, on or about August 6, 2005, and has been present in the United States since that time. Nevertheless, Respondents continue to detain Petitioner under the mandatory detention provisions applicable to applicants for admission. By depriving Petitioner of his physical liberty pursuant to an erroneous interpretation of the detention statutes, Respondents have subjected him to continued detention without lawful statutory authority.

42. Due process requires, at a minimum, a meaningful opportunity to challenge the legal basis for one's detention before being deprived of liberty. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). Here, Petitioner has no meaningful administrative mechanism through which to obtain a determination that Respondents lack statutory authority to continue detaining him under INA § 235. Neither the Immigration Judge nor the Board of Immigration Appeals possesses authority to grant the habeas relief sought in this action. As a result, absent review by this Court, Petitioner faces continued detention without an adequate forum to challenge the legal basis for that detention.

43. Under the balancing framework established in *Mathews*, Petitioner's private liberty interest is substantial. The risk of an erroneous deprivation is significant because

Respondents continue to detain Petitioner despite DHS's own allegations that he entered the United States more than twenty years ago and has remained continuously present in the country ever since. The Government has no legitimate interest in continuing to deprive Petitioner of his liberty under a statutory provision that does not authorize his detention. Judicial intervention is therefore necessary to safeguard Petitioner's constitutional right to due process.

44. Because Respondents continue to detain Petitioner without lawful statutory authority and without providing an adequate process to challenge the legal basis for that detention, Petitioner's continued confinement violates the Due Process Clause of the Fifth Amendment.

45. Counsel thus posits that the Defendants are in violation of the *Maldonado Bautista* precedent, the statutory framework in the INA and the code of federal regulations, as well as the Fifth Amendment/ Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of these proceedings;
- c. Order Respondents to file a response within 3 business days of the filing of this petition as to why Petitioner should not be given a custody hearing;
- d. Issue a writ of habeas corpus requiring Respondents to release Petitioner within one day;
- e. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED: July 2, 2026

//S// ISAAC B. RODRIGUEZ
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: July 2, 2026

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