

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Central District of California



Benigno Gonzalez Ponce

Petitioner

v.

Todd Lyons, Acting Director, Immigration Customs and
Enforcement; and Ernesto Santacruz, Jr., Field Office
Acting Director for Enforcement and Removal Operation

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 2:25-cv-10493
(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: Benigno Gonzalez Ponce
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Adelanto Detention Facility
(b) Address: 10250 Rancho Road
Adelanto, CA 92301
(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): _____

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)

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☐ 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:

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

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

Petitioner challenges the determination that INA 235 and thus mandatory detention should apply to Petitioner instead of INA 236. On 09/26/25 IJ Barret determined that Petitioner is not entitled to a bond hearing because of the matter of Yajure Hurtado. Petitioner was also unlawfully detained in violation of 4th and 5th Amends

(d) Date of the decision or action:

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:

(2) Date of filing:

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

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not appeal: The present petition relates to classifying Petitioner for mandatory detention under INA 235 so there is no decision to appeal. Petitioner is eligible for release under INA 236. The petition also relates to 4th and 5th amend violations so there is nothing to appeal.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes

☐ No

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(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: _____

(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: _____

(2) Date of filing: _____

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

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(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

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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 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: _____

- (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: 08/27/2025

- (b) Date of the removal or reinstatement order: _____

- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

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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: _____

(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: _____

(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: _____

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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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: July 8, 2025 DHS guidance classifies Petitioner under INA 235 as an "applicant for admission" and thus subject to mandatory detention without any possibility for release on bond. On 09/26/25 IJ Barrett determined that Petitioner is not entitled to a bond hearing because of the Matter of Yajure Hurtado. Petitioner should be classified under INA 236 and should be eligible for release on bond.

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

Petitioner has been in the U.S. for approximately 20 years, and has four U.S. Citizen children.

Petitioner was not arrested at the border, but was arrested in Los Angeles over a hundred miles from the border and more than 20 years from when he last entered the United States.

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

☐ Yes

☐ No

GROUND TWO: Violation of 4th Amendment because Petitioner was arrested and detained without probable cause.

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

Petitioner's rights were violated because he was arrested and detained in violation of the 4th Amendment.

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

☐ Yes

☐ No

GROUND THREE: Violation of 5th Amendment because Petitioner remains detained without due process.

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

Petitioner's classification by DHS, ICE and IJ Barrett under INA 235 deprives him of the due process protections found under INA 236.

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

☐ Yes

☐ No

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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: An order to immediately release Petitioner from custody; order that Respondents may not re-detain Petitioner without a bond hearing on the merits where the government has the burden by clear and convincing evidence that Petitioner is a danger to the community and a flight risk such that physical custody is required. In the alternative, Petitioner asks that the Court order that the immigration judge hold a bond hearing on the merits pursuant to INA 236.

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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:

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: 10/31/2025



Signature of Petitioner

/s/ Sarah S. Brooks

Signature of Attorney or other authorized person, if any