

MURRAY D. HILTS, ESQ. (CA Bar No. 169690)
LAW OFFICES OF MURRAY D. HILTS
3020 MEADE AVE.
SAN DIEGO, CA 92116
TEL: (619) 688-1174
FAX: (619) 285-1977
Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

CRISTIAN ANDRADE-ANAYA,

Petitioner,

v.

Kristi NOEM, in her official capacity as Secretary
of Homeland Security, Christopher J. LAROSE,
in his official capacity as Warden of Otay Mesa
Detention Center, Gregory J. ARCHAMBEAULT,
in his official capacity as San Diego Field Office
Director, ICE Enforcement Removal Operations;
Todd LYONS, in his official capacity as Acting Director
of ICE; and Pamela BONDI, U.S.
Attorney General; IMMIGRATION AND
CUSTOMS ENFORCEMENT; DEPARTMENT OF
HOMELAND SECURITY,

Respondents.

'25CV3207 DMS DEB

**PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner CRISTIAN ANDRADE-ANAYA ("Petitioner") is a 28-year-old Mexican national who last entered the United States in 2004. He has resided in San Diego County for over twenty years.

2. On October 10, 2025, Petitioner was detained by Respondents at the Otay Mesa Detention Center.

1 3. Petitioner has not requested a custody redetermination as the impact
2 of the Board of Immigration Appeals (“BIA”) decision in *Matter of Yajure*
3 *Hurtado*, 28 I&N Dec. 216 (BIA 2025) has meant that all requests for custody
4 redetermination under Petitioner’s circumstances have been dismissed for lack
5 of jurisdiction.
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7 4. Petitioner therefore seeks a writ of habeas corpus directing his
8 immediate release.
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10 II. VENUE AND JURISDICTION

11 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
12 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
13 (Suspension Clause), as Petitioner is presently in custody under the authority
14 of the United States and challenging his detention as in violation of the
15 Constitution, laws, or treaties of the United States.
16

17 6. The federal district courts have jurisdiction under Section 2241 to
18 hear habeas claims by individuals challenging the lawfulness of their detention
19 by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).
20

21 7. Venue is proper because Petitioner is detained in the Otay Mesa
22 Detention Center, within the San Diego Division, and Respondent LaRose is his
23 immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).
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III. PARTIES

8. Petitioner is a 28-year-old Mexican national who resides in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

9. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. Respondent La Rose is responsible for the operation of the Detention Center where Petitioner is detained. As such, Respondent LaRose has immediate physical custody of the Petitioner. He is being sued in his official capacity.

10. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations. Respondent Archambeault is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Archambeault is being sued in his official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Petitioner and is being sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration

1 laws of the United States. Respondent Secretary Noem is being sued in her
2 official capacity.

3 4 IV. EXHAUSTION OF REMEDIES

5 13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241;
6 *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not
7 jurisdictionally required.
8

9 14. Additionally, further agency steps will be futile. Recently, the BIA
10 published *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision,
11 the BIA adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals
12 similarly situated to Petitioner ineligible for release on bond.
13

14 15. In Petitioner's case, any request for custody redetermination will be
15 dismissed by the Immigration Court for lack of jurisdiction and any appeal to
16 the BIA will be dismissed. *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA
17 2025) currently controls in Petitioner's case and any attempt to request agency
18 evaluation of his detention will be futile.
19

20 21 V. STATEMENT OF FACTS

22 16. Petitioner is a Mexican national born on [REDACTED] He first
23 entered the United States in 2004. For over the last twenty years, he has lived
24 continuously in San Diego County.
25

26 17. On or about October 10, 2025, Petitioner was apprehended by ICE
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1 agents despite being released on his own recognizance previously in his
2 pending immigration proceedings.

3 18. Petitioner has remained in Respondents' custody since that time.

4 19. Petitioner's next master-calendar hearing is scheduled on December
5 18, 2025, at 8:30 a.m. before Immigration Judge Amelia Anderson at 7488
6 Calzada de la Fuente, San Diego, California.

7 20. Petitioner now seeks habeas relief because continuing his detention
8 exceeds statutory authority and violates the Fifth Amendment.
9

10 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

11 21. Habeas corpus relief extends to a person "in custody under or by color
12 of the authority of the United States" if the person can show he is "in custody
13 in violation of the Constitution or laws or treaties of the United States." 28
14 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542
15 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under
16 28 U.S.C. section 2241 if they concern the continuation or execution of
17 confinement).
18

19 22. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v.*
20 *Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law
21 and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive
22 in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553
23 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus
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properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787.

VII. CAUSES OF ACTION

COUNT ONE

8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER

23. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

24. Before the Immigration Court, Respondents contended that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates the detention of an "applicant for admission" throughout the entirety of removal proceedings.

25. Respondents' newly formulated definition of "applicant for admission," which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent.

26. As the Ninth Circuit explained in interpreting the phrase "applicant for admission" under § 1225(b)(1), "*an immigrant submits an 'application for admission' at a distinct point in time,*" and stretching that phrase to apply "*potentially for years or decades ... would push the statutory text beyond its*

1 *breaking point.*” *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.
2 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

3 27. Because Petitioner has resided continuously in the United States
4 since 2004, his period as an “applicant for admission” has long since closed.

5 28. Numerous courts across the United States have considered this issue
6 subsequent to Respondents’ new policy of treating the vast majority of
7 immigrants in their custody as being detained pursuant to 8 U.S.C. §
8 1225(b)(2) and the BIA’s decision supporting this interpretation in *Matter of*
9 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).
10

11 29. This Court, joining the general consensus with other courts across
12 this country, has previously held those similarly situated to Petitioner are
13 being held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory
14 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:
15 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).
16
17

18
19 **COUNT TWO**
20 **(PROCEDURAL DUE PROCESS)**

21 30. Petitioner incorporates paragraphs 1 through 22 as if fully set out
22 herein.

23 31. The Fifth Amendment forbids deprivation of liberty without notice
24 and a meaningful opportunity to be heard before a neutral decision-maker. Due
25 process protects “all ‘persons’ within the United States, including [non-
26 citizens], whether their presence here is lawful, unlawful, temporary, or
27

1 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

2 32. Subsection 1003.19(i)(2) strips Petitioner of that protection by
3 allowing the prosecuting agency—after losing at the bond hearing—to veto the
4 Immigration Judge’s order with a one-page notice that requires no showing of
5 danger, flight risk, or likelihood of success on appeal.
6

7 33. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test,
8 Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is
9 extreme considering the Immigration Judge’s determination that Petitioner is
10 not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose
11 a danger to the community. Likewise, the risk of erroneous deprivation of
12 liberty is great due to the lack of a non-independent adjudicator. *Marcello v.*
13 *Bonds*, 39 U.S. 302, 305-306 (1955). In filing Form EOIR-43, ICE is acting as
14 both the prosecutor as well as the adjudicator.
15

16 34. While the government has discretion to detain individuals under 8
17 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
18 discretion is not “unlimited” and must comport with constitutional due process.
19
20 See *Zadvydas*, 533 U.S. at 698.
21

22 PRAYER FOR RELIEF

23 WHEREFORE, Petitioner prays that this Court grant the following relief:
24

- 25 1) Assume jurisdiction over this matter;
26 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
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1 immediately release him from custody, under reasonable conditions of
2 supervision;

3 3) Order Respondents to refrain from transferring Petitioner out of the
4 jurisdiction of this court during the pendency of these proceedings and while
5 the Petitioner remains in Respondents' custody;

6
7 4) Order Respondents to file a response within 3 business days of the filing of
8 this petition;

9 5) Award attorneys' fees to Petitioner; and

10 6) Grant any other and further relief which this Court deems just and proper.

11 I affirm, under penalty of perjury, that the foregoing is true and correct.

12
13 Respectfully submitted this 18th day of November, 2025.

14
15 /s/ Murray D. Hilts
16 The Law Offices of Murray D. Hilts
17 3020 Meade Ave.
18 San Diego, CA 92116
19 CA Bar # 2169690
20 *Attorney for Petitioner*

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CRISTIAN ANDRADE-ANAYA,

Agency No. 

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v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, et. al.,

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Murray D. Hilts
Law Offices of Murray D. Hilts
3020 Meade Ave.
San Diego, CA 92116
(619) 688-1174 (office)
(619) 285-1977 (fax)
murrayhiltslaw@hotmail.com

Attorneys for Petitioner,

CRISTIAN ANDRADE-ANAYA