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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

Hector Quintana-Cruz,

Petitioner,

v.

Markwayne MULLIN, in his 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 Todd BLANCHE, U.S.  
Attorney General; IMMIGRATION AND  
CUSTOMS ENFORCEMENT; DEPARTMENT OF  
HOMELAND SECURITY,

Respondents.

'26CV3002 JLS BJW

PETITION FOR WRIT  
OF HABEAS CORPUS



I. INTRODUCTION

1. Petitioner Hector Quintana-Cruz, ("Petitioner") is a 46-year-old  
Mexico national who last entered the United States on December 22, 2003.

2. On May 06, 2026, Petitioner was detained by Respondents at the Otay  
Mesa Detention Center.



III. PARTIES

8. Petitioner is a 46-year-old Mexican national who resides in Santa Ana, 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 Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration

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

#### 3 IV. EXHAUSTION OF REMEDIES

4 13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241;  
5 *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not  
6 jurisdictionally required. Moreover, exhaustion should not be required here  
7 because any attempt to exhaust would be futile, as BIA appeals routinely take  
8 more than six months to reach a decision.  
9

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

15 15. In Petitioner's case, any request for custody redetermination will be  
16 dismissed by the Immigration Court for lack of jurisdiction and any appeal to  
17 the BIA will be dismissed. *Matter of Yajure Hurtado* currently controls in  
18 Petitioner's case and any attempt to request agency evaluation of his detention  
19 will be futile.  
20

#### 21 V. STATEMENT OF FACTS

22 16. Petitioner is a Mexican national born on  He last  
23 entered the United States on December 22, 2003.  
24

25 17. On or about May 06, 2026 Petitioner was detained by Respondents  
26  
27  
28

1 at the Otay Mesa Detention Center.

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

3 19. Petitioner's next master hearing is scheduled for May 15, 2026, at  
4 1:30 p.m. before Immigration Judge Mark Sameit at 7488 Calzada de la  
5 Fuente, San Diego, California

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

9  
10  
11 **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

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

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  
24 properly is invoked the judicial officer must have adequate authority to make  
25  
26  
27  
28

1 a determination in light of the relevant law and facts and to formulate and  
2 issue appropriate orders for relief, including, if necessary, an order directing  
3 the prisoner's release." *Id.* at 787.  
4

## 5 6 VII. CAUSES OF ACTION

### 7 COUNT ONE

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

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

11 24. Recently, Respondents began arguing that those in situations similar  
12 to Petitioner are detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates  
13 the detention of an "applicant for admission" throughout the entirety of  
14 removal proceedings.  
15

16 25. Respondents' newly formulated definition of "applicant for  
17 admission," which would include any noncitizen who has not been formally  
18 admitted regardless of years of residence in the United States, directly  
19 contradicts both the plain text of the statute and controlling Ninth Circuit  
20 precedent.  
21

22 26. As the Ninth Circuit explained in interpreting the phrase "applicant  
23 for admission" under § 1225(b)(1), "*an immigrant submits an 'application for*  
24 *admission' at a distinct point in time,*" and stretching that phrase to apply  
25 "*potentially for years or decades ... would push the statutory text beyond its*  
26 *breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.  
27  
28

2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

27. Because Petitioner has resided continuously in the United States since February 1, 2000, his period as an “applicant for admission” has long since closed.

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

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

## COUNT TWO (PROCEDURAL DUE PROCESS)

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

31. 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 United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or

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 See *Zadvydas*, 533 U.S. at 698.  
20

21  
22  
23 **PRAYER FOR RELIEF**

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

- 25 1) Assume jurisdiction over this matter;  
26 2) Grant Petitioner a writ of habeas corpus directing the Respondents to  
27  
28

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 13th day of May, 2026.  
14

15 /s/ Murray D. Hilts

16 The Law Offices of Murray D. Hilts

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18 San Diego, CA 92116

19 CA Bar # 169690

20 *Attorney for Petitioner*  
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SOUTHERN DISTRICT OF CALIFORNIA  
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Agency No. 

*Petitioner,*

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MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, et.  
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PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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