

'26CV3009 DMS BJW

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

CRISTIAN TERRONES-DELGADO,

Agency No. 

Petitioner,

v.

MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, et.

al.,

Respondents.

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

CRISTIAN TERRONES DELGADO,

Petitioner,

v.

Markwayne MULLIN, in his official capacity as
Secretary of Homeland Security, Christopher J.
LAROSE, in his official capacity as Senior 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, Acting U.S. Attorney General;
IMMIGRATION AND CUSTOMS
ENFORCEMENT; DEPARTMENT OF
HOMELAND SECURITY,

Respondents.

'26CV3009 DMS BJW

PETITION FOR WRIT
OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner, CRISTIAN TERRONES DELGADO, ("Petitioner") is a
32-year-old Mexican national who last entered the United States in 2018.

1 2. On or about April 17, 2026, Petitioner was detained by Respondents
2 at the Otay Mesa Detention Center.

3 3. Petitioner has not requested a custody redetermination as the impact
4 of the Board of Immigration Appeals (“BIA”) decision in Matter of Yajure
5 Hurtado, 28 I&N Dec. 216 (BIA 2025) has meant that all requests for custody
6 redetermination under Petitioner’s circumstances have been dismissed for lack
7 of jurisdiction. Accordingly, requesting a bond hearing would be frivolous.
8

9 4. Petitioner therefore seeks a writ of habeas corpus directing his
10 immediate release.
11

12 II. VENUE AND JURISDICTION

13 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
15 (Suspension Clause), as Petitioner is presently in custody under the authority
16 of the United States and challenging his detention as in violation of the
17 Constitution, laws, or treaties of the United States.
18

19 6. The federal district courts have jurisdiction under Section 2241 to
20 hear habeas claims by individuals challenging the lawfulness of their detention
21 by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).
22

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

8. Petitioner is a 32-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 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
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. Moreover, exhaustion should not be required here
8 because any attempt to exhaust would be futile, as BIA appeals routinely take
9 more than six months to reach a hearing.

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

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

21 V. STATEMENT OF FACTS

22
23 16. Petitioner is a Mexican national born on  He last
24 entered the United States in 2018.

25
26 17. On or about April 30, 2026, Petitioner was detained by Respondents
27 at the Otay Mesa Detention Center.

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

2 19. Petitioner was ordered removed on or about August 24, 2011, and
3 was last removed September 29, 2018. Petitioner is currently not scheduled
4 for a master hearing. Petitioner has never been before an Immigration Judge.
5

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

8 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

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

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

2 VII. CAUSES OF ACTION

3 COUNT ONE

4 8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER

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

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

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

18 26. As the Ninth Circuit explained in interpreting the phrase "applicant
19 for admission" under § 1225(b)(1), "*an immigrant submits an 'application for*
20 *admission' at a distinct point in time,*" and stretching that phrase to apply
21 "*potentially for years or decades ... would push the statutory text beyond its*
22 *breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.
23 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).
24

25 27. Because Petitioner has resided continuously in the United States
26 since 2018, his period as an "applicant for admission" has long since closed.
27
28

1 28. Numerous courts across the United States have considered this issue
2 subsequent to Respondents' new policy of treating the vast majority of
3 immigrants in their custody as being detained pursuant to 8 U.S.C. §
4 1225(b)(2) and the BIA's decision supporting this interpretation in *Matter of*
5 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).
6

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

13 **COUNT TWO**
14 **(PROCEDURAL DUE PROCESS)**

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

17 31. The Fifth Amendment forbids deprivation of liberty without notice
18 and a meaningful opportunity to be heard before a neutral decision-maker. Due
19 process protects "all 'persons' within the United States, including [non-
20 citizens], whether their presence here is lawful, unlawful, temporary, or
21 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).
22

23 32. Subsection 1003.19(i)(2) strips Petitioner of that protection by
24 allowing the prosecuting agency—after losing at the bond hearing—to veto the
25 Immigration Judge's order with a one-page notice that requires no showing of
26 danger, flight risk, or likelihood of success on appeal.
27
28

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

10 34. While the government has discretion to detain individuals under 8
11 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
12 discretion is not "unlimited" and must comport with constitutional due process.
13 *See Zadvydas*, 533 U.S. at 698.
14

15 PRAYER FOR RELIEF

16 WHEREFORE, Petitioner prays that this Court grant the following relief:
17

- 18 1) Assume jurisdiction over this matter;
19 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
20 immediately release him from custody, under reasonable conditions of
21 supervision;
22 3) Order Respondents to refrain from transferring Petitioner out of the
23 jurisdiction of this court during the pendency of these proceedings and while
24 the Petitioner remains in Respondents' custody;
25

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- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

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

Respectfully submitted this 13th day of May, 2026.

/s/ Todd J. Hilts

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