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11
12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 BRAULIO CAPI MORALES,

) Agency No.: 

15 Petitioner,

) Case No: '26CV3502 JO MSB

16 v.

17 DANIEL A. BRIGHTMAN, Field Office

18 Director of ICE Enforcement and

19 Removal Operations, San Diego

20 California; CHRISTOPHER L. LA ROSE,

21 Warden, Otay Mesa Detention Center;

22 TODD LYONS' Acting Director of ICE;

23 MARI(WAYNE MULLINS, Secretary,

24 U.S. Department of Homeland Security;

25 Todd BLANCHE, Acting U.S. Attorney

26 General

27 Respondents.
28 -----

29
30 PETITION FOR WRIT OF HABEAS CORPUS
(28.U.S.C. § 2241)

I. INTRODUCTION

Petitioner Braulio Capi Morales respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

This case presents a pure question of law. Petitioner does not challenge a discretionary denial of bond. Petitioner does not challenge an Immigration Judge's weighing of evidence. Petitioner does not seek review of a finding of dangerousness or flight risk. Rather, Petitioner challenges the immigration judge's conclusion that the immigration court lacked jurisdiction to conduct any bond hearing at all.

On June 5, 2026, the immigration judge denied bond solely because Petitioner entered the United States without admission or parole in 2006 and therefore, in the court's view, *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) deprived the immigration court of jurisdiction to grant bond.

As a result, no immigration judge has ever determined whether Petitioner is dangerous, whether he presents a flight risk, or whether release on bond is appropriate. No immigration judge has ever considered Petitioner's extensive evidence of family ties, employment history, community support, hardship to his United States citizen children, or the severe developmental disabilities of his autistic United States citizen son.

Petitioner seeks a writ directing Respondents to provide a prompt custody hearing before an immigration judge exercising jurisdiction under 8 U.S.C. § 1226(a).

II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody within the Southern District of California.

This Court possesses jurisdiction to review legal questions concerning the statutory authority under which detention is imposed and the legality of the denial of access to bond proceedings.

Venue is proper because Petitioner is detained at Otay Mesa Detention Center within this District.

III. PARTIES

Petitioner Braulio Capi Morales is a native and citizen of Mexico currently detained at the Otay Mesa Detention Center.

Respondent is the Field Office Director of U.S. Immigration and Customs Enforcement having custody over Petitioner. Respondents are federal officials responsible for Petitioner's detention. Each Respondent acts under color of federal law.

IV. FACTUAL BACKGROUND

Petitioner entered the United States in approximately April 2006.

Since that time, Petitioner has resided continuously in the United States for nearly twenty years.

Petitioner is married and is the father of United States citizen children.

1 One of Petitioner's children suffers from Autism Spectrum Disorder and
2 significant developmental disabilities requiring extensive educational and family
3 support.
4

5 Prior to detention, Petitioner maintained stable employment, supported his
6 family financially, maintained a fixed residence, and was actively involved in his
7 church and community.
8

9 In support of bond, Petitioner submitted extensive documentary evidence,
10 including employment records, proof of residence, church support letters, character
11 references, educational and medical records concerning his autistic son, and evidence
12 establishing severe hardship to his family. However, the immigration court never
13 evaluated these factors.
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15

16 **V. THE NOTICE TO APPEAR**

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18 On April 23, 2026, DHS issued a Notice to Appear charging Petitioner under
19 INA § 212(a)(6)(A)(i) as an alien present in the United States without admission or
20 parole. The Notice to Appear alleges that Petitioner entered near San Ysidro,
21 California, on or about April 15, 2006. It does not classify Petitioner as an arriving
22 alien.
23

24 The Notice to Appear does not place Petitioner in expedited removal
25 proceedings, and it does not allege a recent entry. The Notice to Appear initiates
26 ordinary removal proceedings under INA § 240.
27
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1 **VI. THE IMMIGRATION JUDGE'S ORDER**

2 Petitioner requested a custody redetermination pursuant to 8 C.F.R. § 1236.

3
4 On June 5, 2026, the Immigration Judge denied bond. The immigration judge's order
5 states, "Respondent entered the United States without admission or parole in April
6 2006. As such Matter of Yajure Hurtado applies and this court is without jurisdiction
7 to grant a bond." As a result, no finding was made that Petitioner was dangerous, or
8 that he presented a flight risk. No discretionary weighing of evidence occurred.
9

10 The sole basis for denial was the immigration judge's legal conclusion that the
11 immigration court lacked jurisdiction to consider bond.
12

13 **VII. EXHAUSTION SHOULD BE EXCUSED AS FUTILITY**

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15 Petitioner did not pursue a custody appeal before the Board of Immigration
16 Appeals because the immigration judge's ruling rested exclusively upon *Matter of*
17 *Yajure-Hurtado*, a precedential decision of the Board, and thus did not reach any
18 statutory or discretionary factors. Rather, the immigration judge concluded that
19 controlling Board precedent deprived the immigration court of jurisdiction to conduct a
20 bond hearing.
21

22 Under these circumstances, requiring Petitioner to pursue a custody appeal
23 would have been futile because the appeal would have required the Board to overturn
24 or disregard its own precedential decision.
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1 The issue presented in this Petition is a pure question of law concerning the
2 validity and application of *Matter of Yajure-Hurtado*.

3
4 **VIII. CLAIM ONE**

5 THE IMMIGRATION JUDGE ERRONEOUSLY CONCLUDED THAT HE
6 LACKED JURISDICTION TO CONDUCT A BOND HEARING

7 Unlike cases challenging the exercise of discretion in bond proceedings,
8 Petitioner does not ask this Court to reweigh evidence or review a bond. determination
9 on the merits. Rather, Petitioner challenges the legal conclusion that the immigration
10 court lacked jurisdiction to conduct any bond hearing whatsoever
11

12 The sole basis for the immigration judge's denial of bond was the conclusion
13 that *Matter of Yajure-Hurtado* deprived the immigration court of jurisdiction because
14 Petitioner entered the United States without admission or parole in 2006.
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16 The Notice to Appear, however, places Petitioner in ordinary removal proceedings
17 under INA § 240 and charges only removability under INA § 212(a)(6)(A)(i). He is not
18 charged as an arriving alien. Petitioner was not apprehended at a port of entry.
19

20 Petitioner was not encountered during a recent entry. Rather, Petitioner has resided
21 continuously within the United States for nearly two decades before being taken into
22 custody.
23

24 The immigration judge's ruling effectively converted Petitioner's 2006 entry
25 without inspection into a permanent jurisdictional bar to bond proceedings regardless
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1 of his lengthy residence in the United States and regardless of the statutory framework
2 under which removal proceedings were initiated.

3
4 Because the denial rested entirely upon a legal determination concerning
5 detention authority rather than an individualized custody determination, this Court
6 possesses jurisdiction to review the legality of that conclusion.

7
8 Recent authority from this District confirms that federal courts retain authority
9 to review whether immigration detention proceeds under the correct statutory
10 framework. See, *Chavez-Castanon v. Archambeault*, No. 3:26-cv-01235-BAS-BLM
11 (S.D. Cal. Mar. 10, 2026)(“This Court has previously held in multiple cases that it
12 agrees with the Central District in *Maldonado Bautista* that an individual in Petitioner's
13 situation is not subject to mandatory detention under Section 1225. See, e.g., *Gregorio*
14 *v. LaRose*, No. 25-cv-03322-BAS-BJW, 2025 WL 3653998 (S.D. Cal. Dec. 17,
15 2025); *Zayas v. Gordon*, No. 26-cv-00237-BAS-DEB, 2026 WL 266275 (S.D. Cal.
16 Feb. 2, 2026); *Trujillo v. Noem*, No. 26-cv-00268-BAS-VET, 2026 WL 266496
17 (S.D. Cal. Feb. 2, 2026). Hence, for all of the reasons stated in these previous opinions,
18 and regardless of whether Petitioner is or is not a member of the *Maldonado*
19 *Bautista* class, the Court **GRANTS** the Petition.”) The immigration judge's conclusion
20 that no Southern District authority exists rejecting the application of *Matter of Yajure-*
21 *Hurtado* is no longer accurate. Chief Judge Bashant recently recognized that multiple
22 decisions within this District have concluded that similarly situated noncitizens are not
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1 subject to detention under § 1225 and are entitled to custody determinations under the
2 proper detention framework.

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4 The immigration judge therefore erred in concluding that he lacked jurisdiction
5 to conduct a bond hearing.

6 IX. CLAIM TWO

7 8 THE COMPLETE DENIAL OF ACCESS TO AN INDIVIDUALIZED CUSTODY 9 DETERMINATION VIOLATES DUE PROCESS

10 The Fifth Amendment prohibits the deprivation of liberty without due process of
11 law. Petitioner has never received an individualized custody determination. No
12 immigration judge has ever determined that Petitioner is dangerous, or that Petitioner
13 presents a flight risk.

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15 No immigration judge has ever weighed Petitioner's extensive evidence of
16 family ties, employment history, community support, hardship to his United States
17 citizen children, or the extraordinary needs of his autistic son.

18
19 The immigration court declined to conduct any individualized custody
20 determination because it concluded, as a matter of law, that it lacked jurisdiction to
21 consider release on bond. The legality of that jurisdictional determination is therefore
22 dispositive of Petitioner's continued detention. Absent a valid legal basis for denying
23 bond jurisdiction, Petitioner's continued detention without access to an individualized
24 custody hearing violates due process. No adjudicator has ever evaluated whether
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1 continued detention is necessary to ensure Petitioner's appearance or protect public
2 safety.

3 4 **X. IRREPARABLE HARM**

5
6 Petitioner's continued detention has imposed severe hardship upon his family.
7 His United States citizen children have lost the daily support and care of their father.
8 His autistic son faces significant developmental challenges and requires extensive
9 parental involvement and support.
10

11 Petitioner's detention has also deprived the family of financial support and
12 stability.
13

14 These harms continue to accumulate with each day of detention.

15 16 **XI. PRAYER FOR RELIEF**

17 **WHEREFORE**, Petitioner respectfully requests that this Court:

- 18 1. Grant the Petition for Writ of Habeas Corpus;
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- 20 2. Declare that the immigration judge's jurisdictional determination was legally
21 erroneous;
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- 23 3. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a);
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- 25 4. Vacate the immigration judge's June 5, 2026 custody determination;
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- 27 5. Order Respondents to provide Petitioner with an individualized bond hearing
28 before an immigration judge within seven (7) days;

1 6. Require that the immigration judge exercise jurisdiction and consider all
2 relevant bond factors;

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4 7. Order Petitioner's release under reasonable conditions of supervision if a bond
5 hearing is not provided within the time ordered by the Court; and
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7 8. Grant such other and further relief as this Court deems just and proper.
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11 Dated: June 11, 2026
12 Respectfully submitted,

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14 /s/ NORA E. MILNER, ESQ.
15 Attorney for Petitioner
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