

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

TARIQ ALI ABDALLA YAGOUB,

Agency No. 

Petitioner,

v.

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

al.,

Respondents.

'26CV3575 RBM MMP

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

TARIQ ALI ABDALLA YAGOUB,

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;
David VENTURELLA, 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.

'26CV3575 RBM MMP

PETITION FOR WRIT
OF HABEAS CORPUS



I. INTRODUCTION

1. Petitioner TARIQ ALI ABDALLA YAGOUB, ("Petitioner") is a 29-year-old Sudan national who last entered the United States on July 13, 2025.

2. On September 13, 2025, Petitioner was detained by Respondents at the Otay Mesa Detention Center.

1 3. Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2241
2 because his continued civil immigration detention has become unreasonably
3 prolonged while his appeal remains pending before the Board of Immigration
4 Appeals

5
6 4. Petitioner requests an order directing Respondents to immediately
7 release him, or in the alternative, to provide a prompt individualized custody
8 hearing at which the Government bears the burden to justify continued
9 detention by clear and convincing evidence.

10
11 5. Petitioner therefore seeks a writ of habeas corpus directing his
12 immediate release.

13 14 II. VENUE AND JURISDICTION

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

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

24
25 8. Venue is proper because Petitioner is detained in the Otay Mesa
26 Detention Center, within the San Diego Division, and Respondent LaRose is his
27

1 immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

2 III. PARTIES

3 9. Petitioner is a 29-year-old Sudan national who resides in San Diego,
4 California. He is currently detained by Respondents at the Otay Mesa
5 Detention Center in San Diego, California, pending removal proceedings.
6

7 10. Respondent Christopher J. LaRose is the Warden of Otay Mesa
8 Detention Center. Respondent La Rose is responsible for the operation of the
9 Detention Center where Petitioner is detained. As such, Respondent LaRose
10 has immediate physical custody of the Petitioner. He is being sued in his
11 official capacity.
12

13 11. Respondent Gregory J. Archambeault is the San Diego Field Office
14 Director ("FOD") for ICE Enforcement and Removal Operations. Respondent
15 Archambeault is responsible for the oversight of ICE operations at the Otay
16 Mesa Detention Center. Respondent Archambeault is being sued in his official
17 capacity.
18

19 12. Respondent Dave Venturella is the Acting Director of ICE.
20 Respondent Lyons is responsible for the administration of ICE and the
21 implementation and enforcement of the immigration laws, including
22 immigrant detention. As such, Respondent Venturella is a legal custodian of
23 Petitioner and is being sued in his official capacity.
24

25 13. Respondent Markwayne Mullin is the Secretary of the Department
26 of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is
27
28

1 responsible for the general administration and enforcement of the immigration
2 laws of the United States. Respondent Secretary Mullin is being sued in his
3 official capacity.

4 IV. EXHAUSTION OF REMEDIES

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

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

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

22 V. STATEMENT OF FACTS

23
24 17. Petitioner is an Sudan national  He
25 last entered the United States in July 13, 2025.

1 18. On or about September 13, 2025 Petitioner was detained by
2 Respondents at the Otay Mesa Detention Center.

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

4 20. Petitioner's continued detention has now exceeded six month
5 without release.
6

7 21. Petitioner has a BIA appeal pending, and his detention continues
8 during the pendency of that appeal.

9 22. Petitioner now seeks habeas relief because continuing his detention
10 exceeds statutory authority and violates the Fifth Amendment.
11

12 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

13 23. Habeas corpus relief extends to a person "in custody under or by color
14 of the authority of the United States" if the person can show he is "in custody
15 in violation of the Constitution or laws or treaties of the United States." 28
16 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542
17 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under
18 28 U.S.C. section 2241 if they concern the continuation or execution of
19 confinement).
20
21

22 24. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v.*
23 *Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law
24 and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive
25 in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553
26
27
28

1 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus
2 properly is invoked the judicial officer must have adequate authority to make
3 a determination in light of the relevant law and facts and to formulate and
4 issue appropriate orders for relief, including, if necessary, an order directing
5 the prisoner’s release.” *Id.* at 787.
6

7 25. The Fifth Amendment forbids deprivation of liberty without due
8 process of law, including notice and a meaningful opportunity to be heard before
9 a neutral decision-maker.
10

11
12 **VII. CLAIM FOR RELIEF,**

13 **COUNT ONE (Prolonged Detention Pending BIA Appeal Violates Due**
14 **Process)**

15 26. Petitioner incorporates by reference the allegations above.
16

17 27. Petitioner's detention has become unreasonably prolonged because it has
18 exceeded six months while his immigration case remains pending on appeal
19 before the BIA.

20 28. Continued detention without a meaningful, individualized custody
21 determination violates due process because it results in a severe deprivation of
22 liberty without adequate procedural safeguards.
23

24 29. Petitioner requests that the Court order his immediate release under
25 reasonable conditions of supervision, or alternatively order a prompt custody
26 hearing before a neutral adjudicator at which the Government bears the burden
27

1 to justify continued detention.

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

4 31. The Fifth Amendment forbids deprivation of liberty without notice
5 and a meaningful opportunity to be heard before a neutral decision-maker. Due
6 process protects “all ‘persons’ within the United States, including [non-
7 citizens], whether their presence here is lawful, unlawful, temporary, or
8 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).
9

10 32. Subsection 1003.19(i)(2) strips Petitioner of that protection by
11 allowing the prosecuting agency—after losing at the bond hearing—to veto the
12 Immigration Judge’s order with a one-page notice that requires no showing of
13 danger, flight risk, or likelihood of success on appeal.
14

15 33. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test,
16 Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is
17 extreme considering the Immigration Judge’s determination that Petitioner is
18 not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose
19 a danger to the community. Likewise, the risk of erroneous deprivation of
20 liberty is great due to the lack of a non-independent adjudicator. *Marcello v.*
21 *Bonds*, 39 U.S. 302, 305-306 (1955). In filing Form EOIR-43, ICE is acting as
22 both the prosecutor as well as the adjudicator.
23

24 34. While the government has discretion to detain individuals under 8
25 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
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27
28

1 discretion is not “unlimited” and must comport with constitutional due process.

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

3
4
5 **PRAYER FOR RELIEF**

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

- 7 1) Assume jurisdiction over this matter;
- 8 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
9 immediately release him from custody, under reasonable conditions of
10 supervision;
- 11 3) Order Respondents to refrain from transferring Petitioner out of the
12 jurisdiction of this court during the pendency of these proceedings and while
13 the Petitioner remains in Respondents' custody;
- 14 4) In the alternative, order Respondents to provide a prompt individualized
15 custody hearing at which the Government bears the burden to justify
16 continued detention by clear and convincing evidence.
- 17 5) Order Respondents to refrain from transferring Petitioner out of the
18 jurisdiction of this Court during the pendency of these proceedings and while
19 Petitioner remains in Respondents' custody.
- 20 6) Order Respondents to file a response within 3 business days of the filing of
21 this petition;
- 22 7) Award attorneys' fees to Petitioner; and
- 23 8) Grant any other and further relief which this Court deems just and proper.
- 24
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27
28

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

2
3 Respectfully submitted this 16th day of June, 2026.

4 /s/ Murray D. Hilts

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