

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

YALFRISON ENRIQUE DURAN-RODRIGUEZ,

Agency No. 

Petitioner,

v.

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

Respondents.

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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1 jurisdiction to redetermine Petitioner’s custody because he was detained under
2 INA § 235(b)(2)(A).

3 3. Petitioner remains confined at Otay Mesa Detention Center in San
4 Diego, California.

5
6 4. Petitioner therefore seeks a writ of habeas corpus directing his
7 immediate release.

8 **II. VENUE AND JURISDICTION**

9 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
10 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
11 (Suspension Clause), as Petitioner is presently in custody under the authority
12 of the United States and challenging his detention as in violation of the
13 Constitution, laws, or treaties of the United States.

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

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

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24 **III. PARTIES**

25 8. Petitioner is a 3-year-old Venezuelan national who resides in San
26 Diego, California. He is currently detained by Respondents at the Otay Mesa
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1 Detention Center in San Diego, California, pending removal proceedings.

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

8 10. Respondent Gregory J. Archambeault is the San Diego Field Office
9 Director (“FOD”) for ICE Enforcement and Removal Operations. Respondent
10 Archambeault is responsible for the oversight of ICE operations at the Otay
11 Mesa Detention Center. Respondent Archambeault is being sued in his official
12 capacity.
13

14 11. Respondent Todd Lyons is the Acting Director of ICE. Respondent
15 Lyons is responsible for the administration of ICE and the implementation and
16 enforcement of the immigration laws, including immigrant detention. As such,
17 Respondent Lyons is a legal custodian of Petitioner and is being sued in his
18 official capacity.
19

20 12. Respondent Kristi Noem is the Secretary of the Department of
21 Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is
22 responsible for the general administration and enforcement of the immigration
23 laws of the United States. Respondent Secretary Noem is being sued in her
24 official capacity.
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1 **IV. EXHAUSTION OF REMEDIES**

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

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

11 15. Thus, dismissal of Petitioner's bond appeal by the BIA would be
12 inevitable, and any further pursuit of administrative remedies would be futile.
13 Therefore, Petitioner has exhausted his administrative remedies to the extent
14 required by law, and his only remedy is by way of this judicial action.
15

16 **V. STATEMENT OF FACTS**

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18 16. Petitioner is a Venezuelan national born on . He first
19 entered the United States in 2023. Since his last entry into the United States,
20 he has lived continuously in the country.

21
22 17. On or about May 28, 2025, Petitioner was apprehended by ICE
23 agents outside of a hardware store. Respondents arrested and detained
24 Petitioner.

25
26 18. On the same day, DHS issued Form I-286, Notice of Custody
27 Determination, indicating that Petitioner was being detained "Pursuant to the
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1 authority contained in section 236 of the Immigration and Nationality Act and
2 part 236 of title 8, Code of Federal Regulations...pending a final administrative
3 determination in [his] case.” Petitioner has remained in Respondents’ custody
4 since that time.
5

6 19. On September 11, 2025, Petitioner requested a custody
7 redetermination hearing before the IJ. On September 19, 2025, IJ denied
8 Petitioner’s request after finding Petitioner was being detained under INA §
9 235(b)(2)(A). IJ agreed with the Government’s assertion that Petitioner was
10 subject to mandatory detention and cited *Matter of Yajure Hurtado*, 29 I&N
11 Dec. 216 (BIA 2025).
12

13 20. Petitioner elected not to file an appeal with the BIA in light of the
14 reality that his appeal would be futile. Petitioner’s detention continues.
15

16 21. Petitioner’s next master-calendar hearing is scheduled on November
17 20, 2025, at 1:00 p.m. before Immigration Judge Mark Sameit. at 7488
18 Calzada de la Fuente, San Diego, California.

19 22. Petitioner now seeks habeas relief because continued his detention
20 without at minimum a full custody determination hearing exceeds statutory
21 authority and violates the Fifth Amendment.
22

23 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

24 23. Habeas corpus relief extends to a person “in custody under or by color
25 of the authority of the United States” if the person can show he is “in custody
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1 in violation of the Constitution or laws or treaties of the United States.” 28
2 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542
3 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under
4 28 U.S.C. section 2241 if they concern the continuation or execution of
5 confinement).

6
7 24. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v.*
8 *Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law
9 and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive
10 in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553
11 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus
12 properly is invoked the judicial officer must have adequate authority to make
13 a determination in light of the relevant law and facts and to formulate and
14 issue appropriate orders for relief, including, if necessary, an order directing
15 the prisoner’s release.” *Id.* at 787.
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19 VII. CAUSES OF ACTION

20 COUNT ONE

21 8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER

22 25. Petitioner incorporates paragraphs 1 through 24 as if fully set out
23 herein.

24 26. Before the Immigration Court, Respondents contended that
25 Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates the
26 detention of an “applicant for admission” throughout the entirety of removal
27
28

1 proceedings.

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

7
8 28. As the Ninth Circuit explained in interpreting the phrase "applicant
9 for admission" under § 1225(b)(1), "*an immigrant submits an 'application for
10 admission' at a distinct point in time,*" and stretching that phrase to apply
11 "*potentially for years or decades ... would push the statutory text beyond its
12 breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.
13 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

14
15 29. Because Petitioner has resided continuously in the United States
16 since 2002, his period as an "applicant for admission" has long since closed.

17
18 30. Numerous courts across the United States have considered this issue
19 subsequent to Respondents' new policy of treating the vast majority of
20 immigrants in their custody as being detained pursuant to 8 U.S.C. §
21 1225(b)(2) and the BIA's decision supporting this interpretation in *Matter of*
22 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).

23
24 31. This Court, joining the general consensus with other courts across
25 this country, has previously held those similarly situated to Petitioner are
26 being held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory
27

1 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:
2 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).
3

4
5 **COUNT TWO**
6 **(PROCEDURAL DUE PROCESS)**

7 32. Petitioner incorporates paragraphs 1 through 24 as if fully set out
8 herein.

9 33. The Fifth Amendment forbids deprivation of liberty without notice
10 and a meaningful opportunity to be heard before a neutral decision-maker. Due
11 process protects “all ‘persons’ within the United States, including [non-
12 citizens], whether their presence here is lawful, unlawful, temporary, or
13 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).
14

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

19
20 35. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test,
21 Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is
22 extreme considering the Immigration Judge’s determination that Petitioner is
23 not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose
24 a danger to the community. Likewise, the risk of erroneous deprivation of
25 liberty is great due to the lack of a non-independent adjudicator. *Marcello v.*
26 *Bonds*, 39 U.S. 302, 305-306 (1955). In filing Form EOIR-43, ICE is acting as
27

1 both the prosecutor as well as the adjudicator.

2 36. While the government has discretion to detain individuals under 8
3 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
4 discretion is not “unlimited” and must comport with constitutional due process.
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6 *See Zadvydas*, 533 U.S. at 698.

7
8 **PRAYER FOR RELIEF**

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

- 10
11 1) Assume jurisdiction over this matter;
- 12 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
13 immediately release him from custody, under reasonable conditions of
14 supervision;
- 15 3) Order Respondents to refrain from transferring Petitioner out of the
16 jurisdiction of this court during the pendency of these proceedings and while
17 the Petitioner remains in Respondents’ custody;
- 18 4) Order Respondents to file a response within 3 business days of the filing of
19 this petition;
- 20 5) Award attorneys’ fees to Petitioner; and
- 21 6) Grant any other and further relief which this Court deems just and proper.
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25 //

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

2
3 Respectfully submitted this 11th day of November, 2025.

4
5 /s/ Murray D. Hilts

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