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

GONZALO MIGUEL BAUTISTA-SANTIAGO,)
)
Petitioner,)
)
v.)
)
Kristi NOEM, in her 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 Pamela BONDI, U.S.)
Attorney General; IMMIGRATION AND)
CUSTOMS ENFORCEMENT; DEPARTMENT OF)
HOMELAND SECURITY,)
)
Respondents.)

'25CV3209 DMS DDL

**PETITION FOR WRIT
OF HABEAS CORPUS**



I. INTRODUCTION

1. Petitioner GONZALO MIGUEL BAUTISTA-SANTIAGO (“Petitioner”) is a 47-year-old Mexican national who last entered the United States in 1999. He has resided in San Diego County for over twenty years. He has three United States Citizen children.

2. On July 18, 2025, an Immigration Judge (“IJ”) granted Petitioner’s

1 request for a custody redetermination, ordering Petitioner released from custody
2 under a bond of \$7,500

3 3. On July 31, 2025, DHS appealed the decision of the Immigration
4 Judge, arguing Respondent was properly viewed as “an applicant for admission,”
5 meaning IJ lacked the jurisdiction to consider Petitioner’s request. On
6 September 18, 2025, the Board of Immigration Appeals (“BIA”) sustained DHS’
7 appeal, ruled Respondent was an applicant for admission, and cited *Matter of*
8 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025) as controlling their decision in
9 Petitioner’s case. Petitioner remains confined at Otay Mesa Detention Center in
10 San Diego, California.
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13 4. Petitioner therefore seeks a writ of habeas corpus directing his
14 immediate release.
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16 II. VENUE AND JURISDICTION

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18 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
19 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
20 (Suspension Clause), as Petitioner is presently in custody under the authority
21 of the United States and challenging his detention as in violation of the
22 Constitution, laws, or treaties of the United States.
23

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

2 12. Respondent Kristi Noem is the Secretary of the Department of
3 Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is
4 responsible for the general administration and enforcement of the immigration
5 laws of the United States. Respondent Secretary Noem is being sued in her
6 official capacity.
7


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9 **IV. EXHAUSTION OF REMEDIES**

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

14 14. Additionally, further agency steps will be futile. Recently, the BIA
15 published *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision,
16 the BIA adopted DHS’ reading of 8 U.S.C. § 1225(b)(2), finding individuals
17 similarly situated to Petitioner ineligible for release on bond.
18

19 15. In Petitioner’s case, the BIA has already ruled in favor of the
20 government in sustaining their appeal of IJ’s granting Petitioner’s release on
21 bond. Therefore, Petitioner has exhausted his administrative remedies to the
22 extent required by law, and his only remedy is by way of this judicial action.
23

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25 **V. STATEMENT OF FACTS**

26 16. Petitioner is a Mexican national born on  He first
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1 entered the United States in 1999. For over the last twenty years, he has lived
2 continuously in San Diego County.

3 17. On or about October 31, 2024, Petitioner was apprehended by ICE
4 agents after he parked his vehicle at his work site. Respondents arrested and
5 detained Petitioner.
6

7 18. On the same day, DHS issued Form I-286, Notice of Custody
8 Determination, indicating that Petitioner was being detained “Pursuant to the
9 authority contained in section 236 of the Immigration and Nationality Act and
10 part 236 of title 8, Code of Federal Regulations...pending a final administrative
11 determination in [his] case.” Petitioner has remained in Respondents’ custody
12 since that time.
13

14 19. On July 8, 2025, Petitioner requested a custody redetermination
15 hearing before the IJ. On September 18, 2025, IJ granted Petitioner’s request
16 after finding Petitioner was not a danger to his community or a high flight risk.
17 IJ rejected the Government’s assertion that Petitioner was subject to
18 mandatory detention as *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)
19 had not yet been issued.
20

21 20. On September 31, 2025, Respondent filed an appeal of the IJ’s bond
22 order with the BIA. Petitioner’s detention continued through this appeal
23 process, with the BIA eventually ruling in favor of Respondents in light of the
24 *Matter of Yajure Hurtado* decision.
25

26 21. Petitioner’s next master-calendar hearing is scheduled on November
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1 20, 2025, at 8:00 a.m. before Immigration Judge Meghan E. Heesch at 7488
2 Calzada de la Fuente, San Diego, California.

3 22. Petitioner now seeks habeas relief because continuing his detention
4 exceeds statutory authority and violates the Fifth Amendment.
5

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7 **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

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

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

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

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

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

22 29. Because Petitioner has resided continuously in the United States
23 since 1999, his period as an “applicant for admission” has long since closed.
24

1 danger, flight risk, or likelihood of success on appeal.

2 35. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test,
3 Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is
4 extreme considering the Immigration Judge’s determination that Petitioner is
5 not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose
6 a danger to the community. Likewise, the risk of erroneous deprivation of
7 liberty is great due to the lack of a non-independent adjudicator. *Marcello v.*
8 *Bonds*, 39 U.S. 302, 305-306 (1955). In filing Form EOIR-43, ICE is acting as
9 both the prosecutor as well as the adjudicator.
10

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12 36. While the government has discretion to detain individuals under 8
13 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
14 discretion is not “unlimited” and must comport with constitutional due process.
15 *See Zadvydas*, 533 U.S. at 698.
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17
18 **PRAYER FOR RELIEF**

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

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

2 4) Order Respondents to file a response within 3 business days of the filing of
3 this petition;

4 5) Award attorneys' fees to Petitioner; and

5 6) Grant any other and further relief which this Court deems just and proper.

6 I affirm, under penalty of perjury, that the foregoing is true and correct.
7

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9 Respectfully submitted this 18th day of November, 2025.

10
11 /s/ Murray D. Hilts

12 The Law Offices of Murray D. Hilts

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14 San Diego, CA 92116

15 CA Bar # 2169690

16 *Attorney for Petitioner*
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Respondents.

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