

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

MILAD ABBAS POUR,
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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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

MILAD ABBAS POUR,)

'25CV3564 TWR KSC

Petitioner,)

PETITION FOR WRIT
OF HABEAS CORPUS

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.)

I. INTRODUCTION

1. Petitioner MILAD ABBAS POUR ("Petitioner") is a 31-year-old Iranian national who last entered the United States in March 2025.

2. On September 21, 2025, Petitioner was detained by Respondents at the Otay Mesa Detention Center.

3. Petitioner has not requested a custody redetermination as the impact

1 of the Board of Immigration Appeals (“BIA”) decision in *Matter of Yajure*
2 *Hurtado*, 28 I&N Dec. 216 (BIA 2025) and the Central District of California’s
3 decision in *Lazaro Maldonado Bautista, et al v. Ernesto Santacruz Jr, et al.*, 5:cv-
4 01873 (C.D. Cal. Nov. 20, 2025) has meant that all requests for custody
5 redetermination under Petitioner’s circumstances have been dismissed for lack
6 of jurisdiction.

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

10 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.

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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).

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23 7. Venue is proper because Petitioner is detained in the Olay 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 31-year-old Iranian 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 Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Noem is

1 responsible for the general administration and enforcement of the immigration
2 laws of the United States. Respondent Secretary Noem is being sued in her
3 official capacity.
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5 IV. EXHAUSTION OF REMEDIES

6 13. 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.

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

14 15. In Petitioner's case, any request for custody redetermination will be
15 dismissed by the Immigration Court for lack of jurisdiction and any appeal to
16 the BIA will be dismissed. *Matter of Yajure Hurtado* and *Lazaro Maldonado*
17 *Bautista, et al v. Ernesto Santacruz Jr, et al.*, 5:cv-01873 (C.D. Cal. Nov. 20,
18 2025) currently controls in Petitioner's case and any attempt to request agency
19 evaluation of his detention will be futile.
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22 V. STATEMENT OF FACTS

23 16. Petitioner is an Iranian national born on  1994. He last
24 entered the United States in March 2025.
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26 17. On or about September 21, 2025, Petitioner was detained by
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1 Respondents at the Otay Mesa Detention Center.

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

3 19. Petitioner's next master hearing is scheduled for January 14, 2026,
4 at 1:00 p.m. before Immigration Judge Mark Sameit at 7488 Calzada de la
5 Fuente, San Diego, California.

6 20. Petitioner now seeks habeas relief because continuing his detention
7 exceeds statutory authority and violates the Fifth Amendment.
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11 **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

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

19 22. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v.*
20 *Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law
21 and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive
22 in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553
23 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus
24 properly is invoked the judicial officer must have adequate authority to make
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1 a determination in light of the relevant law and facts and to formulate and
2 issue appropriate orders for relief, including, if necessary, an order directing
3 the prisoner's release." *Id.* at 787.
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5 6 VII. CAUSES OF ACTION

7 COUNT ONE

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

9 23. Petitioner incorporates paragraphs 1 through 22 as if fully set out
10 herein.

11 24. Recently, Respondents began arguing that those in situations similar
12 to Petitioner are detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates
13 the detention of an "applicant for admission" throughout the entirety of
14 removal proceedings.
15

16 25. Respondents' newly formulated definition of "applicant for
17 admission," which would include any noncitizen who has not been formally
18 admitted regardless of years of residence in the United States, directly
19 contradicts both the plain text of the statute and controlling Ninth Circuit
20 precedent.
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22 26. As the Ninth Circuit explained in interpreting the phrase "applicant
23 for admission" under § 1225(b)(1), "*an immigrant submits an 'application for*
24 *admission' at a distinct point in time,*" and stretching that phrase to apply
25 "*potentially for years or decades ... would push the statutory text beyond its*
26 *breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.
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1 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

2 27. Because Petitioner has resided continuously in the United States
3 since 2004, his period as an “applicant for admission” has long since closed.

4 28. Numerous courts across the United States have considered this issue
5 subsequent to Respondents’ new policy of treating the vast majority of
6 immigrants in their custody as being detained pursuant to 8 U.S.C. §
7 1225(b)(2) and the BIA’s decision supporting this interpretation in *Matter of*
8 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).

9 29. This Court, joining the general consensus with other courts across
10 this country, has previously held those similarly situated to Petitioner are
11 being held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory
12 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:
13 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).

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18 **COUNT TWO**
19 **(PROCEDURAL DUE PROCESS)**

20 30. Petitioner incorporates paragraphs 1 through 22 as if fully set out
21 herein.

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

1 supervision;

2 3) Order Respondents to refrain from transferring Petitioner out of the
3 jurisdiction of this court during the pendency of these proceedings and while
4 the Petitioner remains in Respondents' custody;

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

8 5) Award attorneys' fees to Petitioner; and

9
10 6) Grant any other and further relief which this Court deems just and proper.

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

12 Respectfully submitted this 12th day of December, 2025.

13
14 /s/ Murray D. Hilts

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