

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

JOSE ALFREDO MORENO-SANCHEZ,

Agency No. 

Petitioner,

v.

'26CV1799 RBM BLM

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

Respondents.

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA
8 SAN DIEGO DIVISION

9 JOSE ALFREDO MORENO-SANCHEZ,)

10 Petitioner,)

11 v.)

12 Kristi NOEM, in her official capacity as Secretary)
13 of Homeland Security, Christopher J. LAROSE,)
14 in his official capacity as Warden of Otay Mesa)
15 Detention Center, Gregory J. ARCHAMBEAULT,)
16 in his official capacity as San Diego Field Office)
17 Director, ICE Enforcement Removal Operations;)
18 Todd LYONS, in his official capacity as Acting Director)
19 of ICE; and Pamela BONDI, U.S.)
20 Attorney General; IMMIGRATION AND)
21 CUSTOMS ENFORCEMENT; DEPARTMENT OF)
22 HOMELAND SECURITY,)

23 Respondents.)

'26CV1799 RBM BLM

**PETITION FOR WRIT
OF HABEAS CORPUS**



24 I. INTRODUCTION

25 1. Petitioner, JOSE ALFREDO MORENO-SANCHEZ, ("Petitioner")
26 is a 48-year-old Mexican national who last entered the United States in 2002.

27 2. On March 2, 2026, Petitioner was detained by Respondents at the
28 Otay Mesa Detention Center.

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

2 **III. PARTIES**

3 8. Petitioner is a 48-year-old Mexican national who resides in Escondido,
4 California. He is currently detained by Respondents at the Otay Mesa
5 Detention Center in San Diego, California, pending removal proceedings.
6

7 9. 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 10. 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 11. Respondent Todd Lyons is the Acting Director of ICE. Respondent
20 Lyons is responsible for the administration of ICE and the implementation and
21 enforcement of the immigration laws, including immigrant detention. As such,
22 Respondent Lyons is a legal custodian of Petitioner and is being sued in his
23 official capacity.
24

25 12. Respondent Kristi Noem is the Secretary of the Department of
26 Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is
27

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.


4
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. 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 hearing.

11
12 14. 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 15. In Petitioner's case, the Immigration Court has denied custody
18 redetermination on the ground that Petitioner is an applicant for admission
19 under INA § 235(a)(1) and therefore subject to mandatory detention. Any appeal
20 to the BIA will be dismissed. *Matter of Yajure Hurtado* currently controls in
21 Petitioner's case and any attempt to request agency evaluation of his detention
22 will be futile.

23
24 **V. STATEMENT OF FACTS**

25 16. Petitioner is a Mexican national born on  He last
26 entered the United States in 2002.

1 17. On or about March 2, 2026, Petitioner was detained by Respondents
2 at the Otay Mesa Detention Center.

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

4 19. Petitioner's next master hearing is scheduled for April 22, 2026, at
5 1:00 p.m. before Immigration Judge Eugene H. Robinson JR. at 7488 Calzada
6 de la Fuente, San Diego, California.

7 20. Petitioner now seeks habeas relief because continuing his detention
8 exceeds statutory authority and violates the Fifth Amendment.
9

10
11
12 **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

13 21. 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. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v.*
22 *Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law
23 and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive
24 in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553
25 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus
26
27
28

1 properly is invoked the judicial officer must have adequate authority to make
2 a determination in light of the relevant law and facts and to formulate and
3 issue appropriate orders for relief, including, if necessary, an order directing
4 the prisoner’s release.” *Id.* at 787.
5

6
7 **VII. CAUSES OF ACTION**

8 **COUNT ONE**

9 **8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER**

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

12 24. Recently, Respondents began arguing that those in situations similar
13 to Petitioner are detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates
14 the detention of an “applicant for admission” throughout the entirety of
15 removal proceedings.
16

17 25. Respondents’ newly formulated definition of “applicant for
18 admission,” which would include any noncitizen who has not been formally
19 admitted regardless of years of residence in the United States, directly
20 contradicts both the plain text of the statute and controlling Ninth Circuit
21 precedent.
22

23 26. As the Ninth Circuit explained in interpreting the phrase “applicant
24 for admission” under § 1225(b)(1), “*an immigrant submits an ‘application for*
25 *admission’ at a distinct point in time,*” and stretching that phrase to apply
26 “*potentially for years or decades ... would push the statutory text beyond its*
27

1 *breaking point.*” *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.
2 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

3 27. Because Petitioner has resided continuously in the United States
4 since 2002, his period as an “applicant for admission” has long since closed.

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

10 29. This Court, joining the general consensus with other courts across
11 this country, has previously held those similarly situated to Petitioner are
12 being held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory
13 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:
14 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).

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16
17
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19 **COUNT TWO**
20 **(PROCEDURAL DUE PROCESS)**

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

23 31. The Fifth Amendment forbids deprivation of liberty without notice
24 and a meaningful opportunity to be heard before a neutral decision-maker. Due
25 process protects “all ‘persons’ within the United States, including [non-
26 citizens], whether their presence here is lawful, unlawful, temporary, or
27

1 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

2 32. Subsection 1003.19(i)(2) strips Petitioner of that protection by
3 allowing the prosecuting agency—after losing at the bond hearing—to veto the
4 Immigration Judge’s order with a one-page notice that requires no showing of
5 danger, flight risk, or likelihood of success on appeal.
6

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

16 34. While the government has discretion to detain individuals under 8
17 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
18 discretion is not “unlimited” and must comport with constitutional due process.
19 *See Zadvydas*, 533 U.S. at 698.
20

21
22
23 **PRAYER FOR RELIEF**

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

- 25 1) Assume jurisdiction over this matter;
26 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
27

1 immediately release him from custody, under reasonable conditions of
2 supervision;

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

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

9 5) Award attorneys' fees to Petitioner; and

10 6) Grant any other and further relief which this Court deems just and proper.
11

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

13
14 Respectfully submitted this 20th day of March, 2026.

15 /s/ Murray D. Hilts

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