

Michael R. Hirman, Esq.

State Bar No. 228469

Law Office of Michael R. Hirman

7777 Alvarado Rd., Suite 404

La Mesa, CA 91942

Tel: (619) 238-9700

Fax: (619) 238-9701

Attorney for Petitioner,

ALISAN BULUT

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

ALISAN BULUT,

Petitioner,

v.

Case No. '26CV2175 BJC BLM

**WARDEN, OTAY MESA DETENTION CENTER;
ICE FIELD OFFICE DIRECTOR, SAN DIEGO FIELD OFFICE;
SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES,**

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

28 U.S.C. § 2241

I. INTRODUCTION

Petitioner, through counsel, respectfully submits this Petition for a Writ of Habeas Corpus challenging his ongoing and unlawful immigration detention.

Petitioner Alisan Bulut is a native and citizen of Turkey, currently detained at the Otay Mesa Detention Center. Petitioner was first taken into immigration custody after entering the United States on or about November 25, 2022, and was released on bond on February 6, 2023. During his prior release, Petitioner fully complied with all conditions of release, attended all hearings, complied with ICE reporting requirements, and maintained a stable residence. On September 23, 2025, he was re-detained inside the United States and has now remained continuously detained for approximately 196 days as of April 7, 2026.

Petitioner's continued detention is unlawful and unconstitutional. On March 30, 2026, the Immigration Judge denied Petitioner's request for custody redetermination, concluding that because Petitioner entered without inspection, he was an applicant for admission under INA § 235(a)(1) and subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Immigration Judge also noted that the Maldonado Bautista orders had been stayed by the Ninth Circuit. As a result, Petitioner is being held under a categorical mandatory-detention theory without the constitutionally adequate individualized custody determination required by due process.

That detention is unlawful for at least three reasons. First, because Petitioner was re-detained within the interior of the United States years after his entry, he is detained under the wrong statutory authority and is entitled to an individualized bond hearing under INA § 236(a), not categorical detention under INA § 235(b). Second, even assuming Respondents may invoke a mandatory-detention theory, Petitioner's detention has now become unconstitutionally prolonged in violation of the Due Process Clause of the Fifth Amendment. Third, continued detention is arbitrary and excessive because the record affirmatively shows that Petitioner is neither a danger to the community nor a flight risk. Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

Petitioner timely appealed the Immigration Judge's January 20, 2026 removal order to the Board of Immigration Appeals on February 18, 2026, and that appeal remains pending. Continued detention without a meaningful and constitutionally adequate custody determination is inflicting ongoing liberty deprivation and substantially impairing Petitioner's ability to prepare and pursue his pending appeal and his claims for asylum, withholding of removal, and protection under the Convention Against Torture.

Petitioner asks this Court to find that his continued detention is unlawful under the Immigration and Nationality Act and the Fifth Amendment and to order his immediate release from custody. In the alternative, Petitioner asks this Court to order a prompt individualized bond hearing within a period set by this Court, at which the Government bears the burden of proving by clear and convincing evidence that Petitioner's continued detention is necessary.

II. CUSTODY STATUS AND PROCEDURAL BACKGROUND

Petitioner is currently detained at the Otay Mesa Detention Center in the Southern District of California. He entered the United States on or about November 25, 2022, was placed in removal proceedings, and was released on bond on February 6, 2023, in the amount of \$2,500. On July 5, 2023, he filed an application for asylum, withholding of removal, and protection under the Convention Against Torture. During his period of release, Petitioner complied with all conditions of release, appeared at all scheduled hearings, complied with ICE reporting requirements, and maintained a stable address. On September 23, 2025, Petitioner was re-detained during a checkpoint encounter near Dulzura, California, while traveling as a passenger to attend work-related training. There is no indication that Petitioner attempted to evade authorities; rather, he fully cooperated during the encounter.

On January 20, 2026, the Immigration Judge denied Petitioner's applications for asylum, withholding of removal, and CAT protection and ordered him removed. Petitioner timely appealed that decision to the Board of Immigration Appeals on February 18, 2026, and the appeal remains pending. On March 25, 2026, Petitioner filed a Motion for Bond Redetermination and Request for Bond Hearing. On March 30, 2026, the Immigration Judge denied that request, concluding that because Petitioner had entered without inspection, he was an applicant for admission under INA § 235(a)(1) and therefore subject to mandatory detention under INA § 235(b), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Immigration Judge further noted that the Ninth Circuit had temporarily stayed portions of the district court's orders in Maldonado Bautista. The deadline to appeal that custody decision is April 29, 2026.

III. JURISDICTION

This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. This Court has subject matter jurisdiction under 28 U.S.C. §§ 2241 and 1331 because Petitioner is in federal immigration custody and challenges the legality of that detention under the Constitution and laws of the United States. The writ of habeas corpus is also protected by Article I, Section 9, Clause 2 of the United States Constitution.

Petitioner is "in custody" within the meaning of 28 U.S.C. § 2241 because he is physically detained by federal immigration authorities. Pursuant to 28 U.S.C. § 2243, this Court has authority to issue the writ, or an order directing Respondents to show cause, and to grant appropriate relief if Petitioner's detention is found unlawful. This Court has authority to grant habeas relief and such other relief as law and justice require.

IV. VENUE

Venue is proper in this Court because Petitioner is detained at the Otay Mesa Detention Center in San Diego County, California, within the Southern District of California, and this habeas petition challenges his present physical confinement. The immediate custodian is located within this District, and a substantial part of the events giving rise to these claims occurred in this District.

V. REQUIREMENTS OF 28 U.S.C. § 2243

This Petition satisfies the requirements of 28 U.S.C. § 2243. Because Petitioner is in custody and alleges ongoing unlawful detention, the Court should forthwith award the writ or issue an Order to Show Cause, unless it appears from the application that Petitioner is not entitled to relief. 28 U.S.C. § 2243. If the Court issues an Order to Show Cause, it should require Respondents to file a return within three days, unless for good cause additional time, not exceeding twenty days, is allowed. *Id.* The writ of habeas corpus provides a swift and imperative remedy against unlawful restraint. See *Fay v. Noia*, 372 U.S. 391, 400 (1963).

VI. PARTIES

Petitioner Alisan Bulut is a noncitizen currently detained by the Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), at the Otay Mesa Detention Center in San Diego, California.

Respondent Warden of the Otay Mesa Detention Center is the official with immediate, day-to-day physical custody over Petitioner. The Warden is responsible for Petitioner’s confinement at the Otay Mesa Detention Center in San Diego, California, and is a proper Respondent in this habeas action because the Warden has direct control over Petitioner’s physical detention.

Respondent Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement, is sued in his or her official capacity and exercises legal authority over Petitioner’s immigration detention and release determinations within this District.

Respondent Secretary of the Department of Homeland Security is sued in his or her official capacity. In that capacity, the Secretary is responsible for the administration and enforcement of the immigration laws and oversees the Department component agencies, including U.S. Immigration and Customs Enforcement, that are responsible for Petitioner’s detention and custody. The Secretary is a proper Respondent in this action.

Respondent Attorney General of the United States is sued in his or her official capacity. In that capacity, the Attorney General oversees the Department of Justice and the Executive Office for Immigration Review, including the immigration courts and the Board of Immigration Appeals. The Attorney General is a proper Respondent in this action.

Each Respondent is sued in his or her official capacity only.

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Petitioner sought custody redetermination before the Immigration Court, and the Immigration Judge denied relief on March 30, 2026, concluding that Petitioner was subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV). To the extent Respondents contend that further administrative exhaustion was required, any such exhaustion should be excused. In the immigration detention habeas context, exhaustion under 28 U.S.C. § 2241 is prudential rather than jurisdictional. This Petition raises colorable legal and constitutional challenges to the asserted basis and continued duration of Petitioner’s detention; the Immigration Judge’s ruling rested on the Board’s own precedential decision in *Matter of Yajure Hurtado*, making further administrative review inadequate or futile; continued detention is inflicting ongoing and irreparable liberty harm; and the Board cannot grant the writ or the full habeas relief available from this Court under 28 U.S.C. § 2241.

VIII. STATEMENT OF FACTS

Petitioner is a native and citizen of Turkey, born on [REDACTED]. He entered the United States on or about November 25, 2022, was thereafter placed in removal proceedings, and subsequently applied for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”).

On February 6, 2023, Petitioner was granted bond and released from immigration custody. During his release, Petitioner complied with all conditions imposed upon him, appeared for his hearings, complied with his obligations to immigration authorities, and maintained a stable residence. Petitioner also developed substantial equities supporting release, including community ties, a concrete release plan in Chicago, Illinois, and sponsor support from Fidan Baldjiev.

Petitioner has no criminal history and no record of violence, dangerousness, or misconduct. The bond motion filed on his behalf expressly stated that there was no evidence that he posed a danger to the community.

On September 23, 2025, Petitioner was re-detained following a checkpoint encounter near Dulzura, California. He did not flee, fully cooperated with authorities, and was not accused of any criminal conduct in connection with that encounter. Since that date, Petitioner has remained continuously detained in immigration custody. As of April 7, 2026, his detention has exceeded six months.

On January 20, 2026, the Immigration Judge denied Petitioner's applications for asylum, withholding of removal, and CAT protection, and ordered him removed. Petitioner timely appealed on February 18, 2026, and that appeal remains pending before the Board of Immigration Appeals. Accordingly, no administratively final order of removal is currently in effect.

On March 30, 2026, the Immigration Judge denied Petitioner's request for custody redetermination, concluding that because Petitioner had entered without inspection, he was an applicant for admission under INA § 235(a)(1) and subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As a result, Petitioner has remained detained without an individualized custody determination as to whether his continued confinement is justified.

Petitioner's continued detention is prolonged, ongoing, and imposed without a constitutionally adequate custody process.

IX. LEGAL FRAMEWORK

A person in immigration custody may seek habeas relief under 28 U.S.C. § 2241 to challenge the statutory and constitutional legality of detention. This Court has jurisdiction to determine whether Respondents are detaining Petitioner under the correct statutory authority and whether the process accompanying his continued detention satisfies the Fifth Amendment.

Petitioner's claims present both statutory and constitutional questions. Statutorily, Petitioner contends that Respondents are improperly treating him as subject to INA § 235(b), rather than INA § 236(a). If Petitioner is properly detained under INA § 236(a), the governing regulations contemplate individualized custody review and permit a subsequent bond redetermination upon a showing of materially changed circumstances. Constitutionally, Petitioner contends that his prolonged detention, coupled with Respondents' categorical refusal to afford an individualized custody determination based on their § 235(b) theory, violates due process.

A. COUNT ONE: PETITIONER'S CONTINUED DETENTION WITHOUT A CONSTITUTIONALLY ADEQUATE INDIVIDUALIZED CUSTODY DETERMINATION VIOLATES THE FIFTH AMENDMENT

Petitioner realleges and incorporates by reference all preceding paragraphs.

Petitioner has remained continuously detained since September 23, 2025. On March 30, 2026, the Immigration Judge denied Petitioner's request for custody redetermination, concluding that because Petitioner entered without inspection, he was an applicant for admission under INA § 235(a)(1) and subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As a result of that ruling, Petitioner has been categorically denied an individualized custody determination as to whether his continued detention is justified.

This case is not merely a request for a second discretionary bond hearing under INA § 236(a). Rather, Petitioner challenges Respondents' continued detention of him under a categorical mandatory-detention theory that forecloses any constitutionally adequate individualized custody review, notwithstanding his prior release on bond, his compliance during that release, his lack of criminal history, his pending appeal before the Board of Immigration Appeals, and his concrete release plan. Although federal courts may not rewrite the detention statutes, habeas remains available to test whether continued civil immigration detention comports with the Fifth Amendment.

Under the Due Process Clause, continued civil immigration detention of this duration, imposed through a categorical refusal to provide an individualized custody determination, is excessive and unconstitutional. Petitioner's lack of criminal history, full compliance during prior release, pending BIA appeal, and stable release plan further confirm that continued detention without an individualized custody determination is unjustified. Petitioner is therefore entitled to habeas relief in the form of immediate release or, at minimum, a prompt constitutionally adequate individualized custody hearing. Recent decisions in the Southern District of California have also granted habeas relief where a petitioner was re-detained after prior release without adequate process or where the court ordered an individualized bond hearing and barred denial based solely on a § 1225 theory.

B. COUNT TWO: RESPONDENTS ARE DETAINING PETITIONER UNDER AN IMPROPER STATUTORY THEORY IN VIOLATION OF THE INA

Petitioner realleges and incorporates by reference all preceding paragraphs.

Respondents are presently detaining Petitioner under a categorical mandatory-detention theory derived from INA § 235, and the Immigration Judge denied custody redetermination on that basis. Specifically, the Immigration Judge concluded that because Petitioner entered without inspection, he remained an applicant for admission under INA § 235(a)(1) and was subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV). But Petitioner's present detention arises from an interior re-detention on September 23, 2025, during ongoing removal proceedings after his prior release on bond, not from an initial border inspection, an encounter at a port of entry, or an arriving-alien custody determination. Even if Petitioner remains an applicant for admission under INA § 235(a)(1), Respondents still have not shown that his

current post-release, interior re-detention pending appeal is governed by the particular mandatory-detention subsection they invoke, rather than the detention framework of INA § 236(a).

At a minimum, Respondents may not rely on a generalized applicant-for-admission theory to impose categorical no-bond detention without establishing that Petitioner's current detention actually falls within the specific statutory subsection they invoke. Because Respondents are detaining Petitioner under an improper statutory theory that forecloses the custody review otherwise available under the INA, his continued detention violates the Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Issue an Order to Show Cause directing Respondents to show cause forthwith, and within the time set by 28 U.S.C. § 2243 or such other time as the Court deems appropriate, why the Petition should not be granted;
- C. Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
- D. Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately, or, in the alternative, to provide Petitioner a prompt individualized bond hearing before an Immigration Judge within seven days of the Court's order;
- E. Order that at any such bond hearing the Government bear the burden of proving by clear and convincing evidence that continued detention is necessary;
- F. Award Petitioner attorneys' fees and costs to the extent authorized by law, including under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: April 7, 2026.

By: /s/ Michael R. Hirman

Michael R. Hirman, Esq.

State Bar No. 228469

Counsel for Petitioner

Law Office of Michael R. Hirman

7777 Alvarado Rd., Suite 404

La Mesa, CA 91942

Tel: (619) 238-9700

Fax: (619) 238-9701

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Alisan Bulut, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 7, 2026.

By: /s/ Michael R. Hirman

Michael R. Hirman, Esq.

State Bar No. 228469

Counsel for Petitioner

Law Office of Michael R. Hirman

7777 Alvarado Rd., Suite 404

La Mesa, CA 91942

Tel: (619) 238-9700

Fax: (619) 238-9701

PROOF OF ELECTRONIC SERVICE

I am employed in the County of San Diego, State of California. I am over the age of eighteen and not a party to the within action. My business address is 7777 Alvarado Rd., Suite 404, La Mesa, CA 91942.

On the date indicated below, I served by ELECTRONIC SERVICE via the Court's CM/ECF system the foregoing document described as: **PETITION FOR WRIT OF HABEAS CORPUS 28 U.S.C. § 2241** in the case of **Alisan Bulut v. Warden, Otay Mesa Detention Center, et al.** on all interested parties through the electronic filing system of the United States District Court for the Southern District of California, which sends notification of such filing to the Office of the United States Attorney for the Southern District of California.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on April 7, 2026, at La Mesa, California.

By: /s/ Michael R. Hirman

Michael R. Hirman, Esq.

State Bar No. 228469

Counsel for Petitioner

Law Office of Michael R. Hirman

7777 Alvarado Rd., Suite 404

La Mesa, CA 91942

Tel: (619) 238-9700

Fax: (619) 238-9701

SERVICE LIST

Warden, Otay Mesa Detention Center
7488 Calzada de la Fuente, San Diego, CA, 92154.

Field Office Director
U.S. Immigration and Customs Enforcement, San Diego Field Office, 880 Front Street, Suite
2240, San Diego, CA, 92101.

Secretary, U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE, Washington, DC 20528.

Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue NW, Washington, DC 20530.