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

'26 CV2589 DMS AHG

10 SOTERO SALMERON GONZALEZ,

11 Plaintiff,

12 vs.

13 MARKWAYNE MULLINS, SECRETARY,
14 U.S. DEPARTMENT OF HOMELAND
15 SECURITY;

16 CHRISTOPHER J. LAROSE, WARDEN,
17 OTAY MESA DETENTION CENTER;

18 GREGORY J. ARCHAMBEAULT, FIELD
19 OFFICE DIRECTOR, ICE;

20 TODD LYONS, ACTING DIRECTOR, ICE;

21 PAMELA BONDI, ATTORNEY GENERAL
22 OF THE UNITED STATES,;

23 RESPONDENTS,

Case No.: 

PETITION FOR WRIT OF HABEAS
CORPUS

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25 (28 U.S.C. § 2241)

26 Jesse Blanco, Esq. (CA Bar No. 255989)

27 Attorney for Petitioner

28 INTRODUCTION

Petitioner Sotero Salmeron Gonzalez ("Petitioner") is currently detained at the Otay Mesa Detention Center in San Diego, California, where he has remained in custody for more than 180 days without a constitutionally adequate custody determination.

1. Petitioner is in ongoing removal proceedings and has filed an application for Cancellation of Removal under INA § 240A(b) (42B relief).
2. Petitioner has resided in the United States since 2006, has two United States citizen children, and maintains strong family and community ties.
3. On April 13, 2026, Petitioner requested a custody redetermination hearing, which was denied solely for lack of jurisdiction, based on DHS's assertion that he is subject to mandatory detention under INA § 235(b).
4. The Immigration Judge explicitly found that Petitioner was ineligible for bond because he was deemed an "applicant for admission" under INA § 235(a)(1) and subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV).
5. As a result, Petitioner has been categorically denied any opportunity for bond, not based on danger or flight risk, but solely based on an erroneous jurisdictional interpretation.
6. Petitioner now seeks a writ of habeas corpus ordering:
 - Immediate release; OR
 - A constitutionally compliant bond hearing.

VENUE AND JURISDICTION

8. This Court has jurisdiction under:
 - 28 U.S.C. § 2241 (habeas corpus);
 - 28 U.S.C. § 1331 (federal question);
 - The Suspension Clause, U.S. Const. Art. I, § 9, cl. 2.
9. Venue is proper in this District because Petitioner is detained in San Diego, California, within this Court's jurisdiction.

PARTIES

10. Petitioner is a noncitizen detained at Otay Mesa.
11. Respondent Christopher J. LaRose is the immediate custodian.
12. Remaining Respondents are federal officials responsible for immigration detention.

REQUIREMENTS OF 28 U.S.C. § 2243

13. This Court must issue the writ or an Order to Show Cause "forthwith."

See: *Fay v. Noia*, 372 U.S. 391 (1963)

1 **EXHAUSTION OF REMEDIES**

- 2 • No statutory exhaustion requirement applies.
3 See: *Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004)

4 15. Petitioner has already sought custody redetermination, which was denied for lack of
5 jurisdiction.

6 16. Any further requests would be futile, as Immigration Court and BIA rely on the same
7 legal basis.

- 8 • Habeas is therefore the **only available remedy**.
9 See: *Zadvydas v. Davis*, 533 U.S. 678 (2001)

10 **STATEMENT OF FACTS**

11 18. Petitioner has lived in the United States continuously since 2006.

12 19. He is the father of **two United States citizen children**, who are and will continue to
13 suffer hardship if petitioner remains detained or removed from the country.

14 20. He is currently married and serves as a **primary provider and caregiver**.

15 21. Petitioner has **no serious criminal history**, and his only prior offense is a resolved
16 misdemeanor DUI from 2015, for which he fully complied and obtained relief.

17 22. Petitioner filed for **42B Cancellation of Removal**, demonstrating:

- 18 • Continuous presence
19 • Good moral character
20 • Exceptional hardship to his children

21 23. Despite these equities, Petitioner remains detained without bond.

22 24. On April 13, 2026, the Immigration Court denied custody redetermination:

23 * NOT based on danger

24 * NOT based on flight risk

25 * **ONLY** based on alleged lack of jurisdiction under § 235(b)

26 **LEGAL FRAMEWORK**

27 25. Habeas relief is available when detention violates federal law or the Constitution.

28 See: 28 U.S.C. § 2241(c)(3)

- The writ is an equitable remedy to correct unlawful detention.
See: *Boumediene v. Bush*, 553 U.S. 723 (2008)

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Due Process

27. Petitioner has been detained for over 180 days without a meaningful bond hearing.

28. Due process requires:

- Neutral decisionmaker
- Opportunity to be heard
- Individualized determination

See:

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Mathews v. Eldridge*, 424 U.S. 319 (1976)

29. Petitioner's detention is unconstitutional because:

- No individualized assessment exists
- Government has not shown danger or flight risk

COUNT TWO

Unlawful Application of INA § 235(b)

30. DHS improperly classifies Petitioner as an "applicant for admission."

31. However:

* Petitioner has lived in the U.S. since 2006

32. Courts reject indefinite "applicant" classification:

- *United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024)
- *Torres v. Barr*, 976 F.3d 918 (9th Cir. 2020)

33. Interior arrests are governed by:

* INA § 236(a) (bond eligible)

NOT § 235(b)

COUNT THREE

Prolonged Detention Without Hearing

1 34. Prolonged detention without hearing is unconstitutional.

2 See:

- 3
- 4 • *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015)
 - 5 • *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011)
 - 6 • *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)

6 35. At minimum, Petitioner is entitled to:

7 * Bond hearing where government bears burden

8 **COUNT FOUR**

9 **Erroneous Reliance on Matter of Yajure Hurtado**

10 36. Immigration Court relied on:

12 * *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)

13 37. However:

- 14
- 15 • That interpretation is under active legal challenge
 - 16 • Conflicts with statutory structure and Ninth Circuit precedent

16 38. Courts in this Circuit have rejected similar overbroad detention theories.

17 **COUNT FIVE**

18 **Excessive and Arbitrary Detention**

19 39. Applying *Mathews*:

- 20
- 21 • Liberty interest → HIGH
 - 22 • Government interest → LOW

23 40. Petitioner:

- 24
- 25 • Has strong family ties
 - 26 • Is not a flight risk
 - 27 • Is not a danger

27 41. Detention is therefore:

- * Arbitrary
- * Excessive
- * Unconstitutional

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests:

1. Assume jurisdiction;
2. Issue Order to Show Cause;
3. Declare detention unconstitutional;

PRIMARY RELIEF

4. Order immediate release;

ALTERNATIVE RELIEF

5. Order bond hearing within 7 days, where:
 - Government bears burden
 - Standard = clear and convincing evidence
6. Prohibit transfer outside jurisdiction;
7. Award attorney's fees;
8. Grant all further relief deemed just.

DATED: 04/23/2026



Jesse Blanco, Esq.

VERIFICATION (28 U.S.C. § 2242)

I, Jesse Blanco, Esq., verify that the foregoing is true and correct to the best of my knowledge.



Jesse Blanco, Esq.