

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

EDUARDO JESUS-MARTINEZ

Agency No



Petitioner,

v.

MARKWAYNE MULLIN, 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

EDUARDO JESUS-MARTINEZ,

Petitioner,

)
)
)
) **PETITIONER'S AMENDED**
) **PETITION FOR WRIT OF**
) **HABEAS**

Markwayne Mullin, in his 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;)
David VENTURELLA, in his official capacity as Acting)
Director of ICE; and Todd BLANCHE, U.S.)
Attorney General; IMMIGRATION AND)
CUSTOMS ENFORCEMENT; DEPARTMENT OF)
HOMELAND SECURITY.)

Respondents.

I. INTRODUCTION

1. Petitioner EDUARDO JESUS-MARTINEZ, (“Petitioner”) is a 34 year-old Guatemalan national who last entered the United States on May 12, 2013, near the Otay Mesa entry point.

1 2. On, June 22, 2026, Petitioner was detained by Respondents at the
2 Otay Mesa Detention Center.

3 3. Petitioner Eduardo Jesus-Martinez ("Petitioner") petitions for a Writ
4 of Habeas Corpus under 28 U.S.C. § 2241 to challenge his continued civil
5 immigration detention by U.S. Immigration and Customs Enforcement ("ICE") has
6 given Petitioner a defective Notice to Appear. They did not issue his NTA until a
7 month after he was originally detained. See NTA dated May 15, 2013. Petitioner
8 was detained on May 15, 2013, Petitioners NTA was not issued to him until June
9 24, 2013, leaving Petitioner in ICE custody for over a month without a hearing date.

10 4. Petitioner seeks immediate release from custody, or in the alternative,
11 a prompt constitutionally adequate bond hearing at which the Government bears
12 the burden to justify continued detention by clear and convincing evidence.

13 5. Petitioner has requested a custody redetermination as the impact
14 of the Board of Immigration Appeals ("BIA") decision in Matter of Yajure Hurtado,
15 28 I&N Dec. 216 (BIA 2025) has meant that all requests for custody
16 redetermination under Petitioner's circumstances have been dismissed for lack of
17 jurisdiction. Accordingly, requesting a bond hearing would be frivolous.

18 6. Petitioner has been in ICE custody since June 22, 2026. Petitioner
19 therefore seeks a writ of habeas corpus directing his immediate release.

20 II. VENUE AND JURISDICTION

21 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
22
23
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1 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
2 (Suspension Clause), as Petitioner is presently in custody under the authority
3 of the United States and challenging his detention as in violation of the
4 Constitution, laws, or treaties of the United States.
5

6 6. The federal district courts have jurisdiction under Section 2241 to
7 hear habeas claims by individuals challenging the lawfulness of their detention
8 by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).
9

10 7. Venue is proper because Petitioner is detained in the Otay Mesa
11 Detention Center, within the San Diego Division, and Respondent LaRose is his
12 immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).
13

14 III. PARTIES

15 8. Petitioner is a 33-year-old Mexican national who resides in San Diego,
16 California. Petitioner is currently detained by Respondents at the Otay Mesa
17 Detention Center in San Diego, California, pending removal proceedings.
18

19 9. Respondent Christopher J. LaRose is the Warden of Otay Mesa
20 Detention Center. Respondent La Rose is responsible for the operation of the
21 Detention Center where Petitioner is detained. As such, Respondent LaRose
22 has immediate physical custody of the Petitioner. He is being sued in his
23 official capacity.
24

25 10. Respondent Gregory J. Archambeault is the San Diego Field Office
26 Director (“FOD”) for ICE Enforcement and Removal Operations. Respondent
27
28

1 Archambeault is responsible for the oversight of ICE operations at the Otay
2 Mesa Detention Center. Respondent Archambeault is being sued in his official
3 capacity.
4

5 11. Respondent Dave Venturella is the Acting Director of ICE.
6 Respondent Lyons is responsible for the administration of ICE and the
7 implementation and enforcement of the immigration laws, including
8 immigrant detention. As such, Respondent Venturella is a legal custodian of
9 Petitioner and is being sued in his official capacity.
10

11 12. Respondent Markwayne Mullin is the Secretary of the Department
12 of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is
13 responsible for the general administration and enforcement of the immigration
14 laws of the United States. Respondent Secretary Mullin is being sued in his
15 official capacity.
16

17 IV. EXHAUSTION OF REMEDIES

18 13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241;
19 *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not
20 jurisdictionally required. Moreover, exhaustion should not be required here
21 because any attempt to exhaust would be futile, as BIA appeals routinely take
22 more than six months to reach a decision.
23

24 14. Additionally, further agency steps will be futile. Recently, the BIA
25 published *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision,
26 the BIA adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals
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28

1 similarly situated to Petitioner ineligible for release on bond.

2 15. In Petitioner's case, any request for custody redetermination will be
3 dismissed by the Immigration Court for lack of jurisdiction and any appeal to
4 the BIA will be dismissed. *Matter of Yajure Hurtado* currently controls in
5 Petitioner's case and any attempt to request agency evaluation of his detention
6 will be futile.
7

8 V. STATEMENT OF FACTS

9 16. Petitioner is a Guatemalan national born on 

10 17. Petitioner was detained by Respondents at the Otay Mesa Detention
11 Center on June 22, 2026.
12

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

14 19. Petitioner now seeks habeas relief because continuing his detention
15 exceeds statutory authority and violates the Fifth Amendment.
16

17 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

18 20. Habeas corpus relief extends to a person "in custody under or by color
19 of the authority of the United States" if the person can show he is "in custody
20 in violation of the Constitution or laws or treaties of the United States." 28
21 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542
22 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under
23 28 U.S.C. section 2241 if they concern the continuation or execution of
24 confinement).
25
26
27
28

1 21. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v.*
2 *Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law
3 and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive
4 in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553
5 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus
6 properly is invoked the judicial officer must have adequate authority to make
7 a determination in light of the relevant law and facts and to formulate and
8 issue appropriate orders for relief, including, if necessary, an order directing
9 the prisoner’s release.” *Id.* at 787.
10

13 VII. CAUSES OF ACTION

14 COUNT ONE

15 8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER

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

18 23. Recently, Respondents began arguing that those in situations similar
19 to Petitioner are detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates
20 the detention of an “applicant for admission” throughout the entirety of
21 removal proceedings.
22

23 24. Respondents’ newly formulated definition of “applicant for
24 admission,” which would include any noncitizen who has not been formally
25 admitted regardless of years of residence in the United States, directly
26 contradicts both the plain text of the statute and controlling Ninth Circuit
27
28

precedent.

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

26. Because Petitioner has resided continuously in the United States since May 12, 2013, his period as an “applicant for admission” has long since closed.

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

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

**COUNT TWO
(PROCEDURAL DUE PROCESS)**

1 *See Zadvydas*, 533 U.S. at 698.

2
3 **PRAYER FOR RELIEF**

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

- 5
6 1) Assume jurisdiction over this matter;
- 7 2) Grant Petitioner a writ of habeas corpus directing the Respondents to
8 immediately release him from custody, under reasonable conditions of
9 supervision;
- 10 3) Order Respondents to refrain from transferring Petitioner out of the
11 jurisdiction of this court during the pendency of these proceedings and while
12 the Petitioner remains in Respondents' custody;
- 13 4) Order Respondents to file a response within 3 business days of the filing of
14 this petition;
- 15 5) Award attorneys' fees to Petitioner; and
- 16 6) Grant any other and further relief which this Court deems just and proper.

17
18 I affirm, under penalty of perjury, that the foregoing is true and correct.

19
20
21 Respectfully submitted this 7th of July, 2026.

22 /s/Murray D. Hilts

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