

'26CV4237 DMS JAC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
EL CENTRO DIVISION**

Eyzler Elexander Revilla Medina,

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
EL CENTRO DIVISION

Eyzler Elexander Revilla Medina,

Petitioner,

v.

Markwayne Mullin, in his official capacity as Secretary
of Homeland Security, Jeremy CASEY,
in his official capacity as Warden of the Imperial
Regional Detention Facility; Patrick DIVVER,
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.

'26CV4237 DMS JAC

PETITION FOR WRIT
OF HABEAS CORPUS

A# 

I. INTRODUCTION

1. Petitioner Eyzler Elexander Revilla Medina, ("Petitioner") is a 22-year-old Venezuelan national who entered the United States at or near El Paso, Texas, on or about December 15, 2023, more than two and one-half years ago.

2. On July 7, 2026, Petitioner was detained by Respondents at the

1 Imperial Regional Detention Facility.

2 3. Petitioner has not requested a custody redetermination as the impact
3 of the Board of Immigration Appeals ("BIA") decision in *Matter of Yajure*
4 *Hurtado*, 28 I&N Dec. 216 (BIA 2025) has meant that all requests for custody
5 redetermination under Petitioner's circumstances have been dismissed for lack
6 of jurisdiction. Accordingly, requesting a bond hearing would be frivolous.
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8 4. Petitioner therefore seeks a writ of habeas corpus directing his
9 immediate release.
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11 II. VENUE AND JURISDICTION

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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.
18

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 Imperial
24 Regional Detention Facility, within the El Centro Division, and Respondent
25 Casey is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).
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III. PARTIES

8. Petitioner is a 22-year-old Venezuelan national. He is currently detained by Respondents at the Imperial Regional Detention Facility in Calexico, California, pending removal proceedings.

9. Respondent Jeremy Casey is the Warden of Imperial Regional Detention Facility. Respondent Casey is responsible for the operation of the Detention Facility where Petitioner is detained. As such, Respondent Casey has immediate physical custody of Petitioner. He is being sued in his official capacity.

10. Respondent Patrick Divver is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations. Respondent Divver is responsible for the oversight of ICE operations at the Imperial Regional Detention Facility. Respondent Divver is being sued in his official capacity.

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

12. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration

1 laws of the United States. Respondent Secretary Mullin is being sued in his
2 official capacity.

3 IV. EXHAUSTION OF REMEDIES

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

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

15 15. In Petitioner's case, any request for custody redetermination will be
16 dismissed by the Immigration Court for lack of jurisdiction and any appeal to
17 the BIA will be dismissed. *Matter of Yajure Hurtado* currently controls in
18 Petitioner's case and any attempt to request agency evaluation of his detention
19 will be futile.
20

21 V. STATEMENT OF FACTS

22 16. Petitioner is a Venezuelan national born on  He last
23 entered the United States at or near El Paso, Texas, on or about December 15,
24 2023, and has remained in the United States for more than two and one-half
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1 years.

2 17. On or about July 7, 2026 Petitioner was detained by Respondents at
3 the Imperial Regional Detention Facility.

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

5 19. Petitioner's Notice to Appear scheduled an initial master hearing for
6 July 20, 2026, at 8:00 a.m. at the Imperial Immigration Court.

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

10 11 VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT 12

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

VII. CAUSES OF ACTION

COUNT ONE

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

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

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

25. Respondents' newly formulated definition of "applicant for admission," which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent.

26. 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*

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 for
 4 more than two and one-half years, his period as an “applicant for admission”
 5 has long since closed.
 6

7 28. Numerous courts across the United States have considered this issue
 8 subsequent to Respondents’ new policy of treating the vast majority of
 9 immigrants in their custody as being detained pursuant to 8 U.S.C. §
 10 1225(b)(2) and the BIA’s decision supporting this interpretation in *Matter of*
 11 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).
 12

13 29. This Court, joining the general consensus with other courts across
 14 this country, previously held those similarly situated to Petitioner are being
 15 held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory
 16 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:
 17 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).
 18
 19

20 **COUNT TWO**
 21 **(PROCEDURAL DUE PROCESS)**

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

24 31. The Fifth Amendment forbids deprivation of liberty without notice
 25 and a meaningful opportunity to be heard before a neutral decision-maker. Due
 26 process protects “all ‘persons’ within the United States, including [non-
 27
 28

1 citizens], whether their presence here is lawful, unlawful, temporary, or
2 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

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

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

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

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24 **PRAYER FOR RELIEF**

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

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

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

Respectfully submitted this 24th day of July, 2026.

/s/ Murray D. Hilts

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