Arturo Hernandez Espindola
Country Of Birth: Mexico
A-Number: [redacted]
Current Detention Facility:
Otay Mesa Detention Center
7488 Calzada De La Fuente
San Diego, Ca 92154
Visitor Information: (619) 671-8724
pro Se

FILED
Aug 03 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/ GW DEPUTY

UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA

Arturo Hernandez Espindola
A-Number: [redacted]
Proceeding Pro Se,
*Petitioner,*
v.
_____, WARDEN/FACILITY ADMINISTRATOR, Otay Mesa Detention Center;
_____, FIELD OFFICE DIRECTOR, U.S. Immigration and Customs Enforcement, Bakersfield Field Office; DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, Department of Homeland Security; TODD BLANCHE, Acting Attorney General, United States,
*Respondents.*

Civil Action No.: '26CV4411 CAB MMP

PETITION FOR WRIT OF HABEAS CORPUS

**NATURE OF THE CASE**

1. This is a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 seeking Petitioner Arturo Hernández Espíndola's immediate release from unlawful civil immigration detention.
2. This Petition does not request that this Court review the merits of Petitioner's immigration claims or determine his removability. It challenges whether Respondents possess any statutory and constitutional authority to maintain Petitioner's present physical custody.
3. Petitioner is a Mexican national who entered the United States in 1995 and has resided

continuously in this country for approximately thirty-one (31) years. He was arrested in the interior of the United States—Fort Myers, Florida—on June 27, 2026, while traveling to his construction job.

4. Despite his decades-long residence, his interior arrest, and the commencement of removal proceedings under INA § 240, Respondents have failed to identify the specific statutory authority for his detention. Petitioner has not received any Form I-286, I-200, NTA, or custody classification sheet. No Immigration Judge has conducted a bond hearing. No neutral decision-maker has made an individualized custody determination.

5. Petitioner has a pending application for asylum (Form I-589, Receipt No. [redacted], filed April 15, 2025) with USCIS. He has a Master Calendar Hearing scheduled for August 19, 2026, before Immigration Judge Mark Sameit at the Otay Mesa Immigration Court.

6. As of July 30, 2026, Petitioner has been detained for thirty-three (33) days. He has no final order of removal. He has no history of violence, weapons offenses, DUI, or sexual offenses. He has a U.S. citizen brother, José Hernández, who is willing and able to serve as a sponsor with housing, income, and transportation.

7. Petitioner's detention is unlawful because (a) his interior arrest after thirty-one years of residence subjects him to 8 U.S.C. § 1226(a) discretionary detention, not § 1225(b)(2)(A) mandatory detention for applicants for admission; (b) even if § 1226(c) is invoked, his decades-old drug dispositions do not trigger mandatory detention because he was never taken into immigration custody promptly upon release from criminal custody; and (c) his continued detention without an individualized bond hearing or custody determination violates the Due Process Clause of the Fifth Amendment.

8. The appropriate habeas remedy is immediate release under reasonable conditions, or, in the alternative, a bond hearing within seven (7) days before a neutral Immigration Judge at which the Government bears the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight.

**JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction to grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a), which provides that "[w]rits of habeas corpus may be granted by . . . the district courts . . . within their respective jurisdictions." Petitioner is in the custody of Respondents and challenges his detention as being in violation of the Constitution and laws of the United States.
2. Venue is proper in the Southern District of California because Petitioner is physically confined at the Otay Mesa Detention Center, located in San Diego County, California. San Diego County lies within the jurisdiction of this Court. 28 U.S.C. § 84(b).
3. This Petition challenges only the legality of Petitioner's present physical detention. Petitioner does not seek review of the merits of his asylum application or any potential removal order.

**PARTIES**

1. Petitioner **ARTURO HERNÁNDEZ ESPÍNDOLA** is a native and citizen of Mexico, born on [redacted]. He is currently detained by Respondents at the Otay Mesa Detention Center.
2. Respondent **WARDEN/FACILITY ADMINISTRATOR** of the Otay Mesa Detention

Center is the individual with immediate physical custody of Petitioner.

3. Respondent **FIELD OFFICE DIRECTOR, ICE ENFORCEMENT AND REMOVAL OPERATIONS, ERO – OTAY CCA FACILITY, CALIFORNIA SUB-OFFICE,** is the ICE official responsible for detention operations in the region where Petitioner is detained.
4. Respondent **DAVID J. VENTURELLA** is the Acting Director of U.S. Immigration and Customs Enforcement.
5. Respondent **MARKWAYNE MULLIN** is the Secretary of the U.S. Department of Homeland Security.
6. Respondent **TODD BLANCHE** is the Acting Attorney General of the United States.

## STATEMENT OF FACTS

### A. Entry and Thirty-One Years of Continuous Residence

1. Petitioner entered the United States in 1995 by crossing the border. He was approximately twenty-two (22) years old at the time.
2. Since 1995, Petitioner has lived continuously in the United States for approximately thirty-one (31) years.
3. He has resided primarily in Fort Myers, Florida, including at [redacted] and [redacted]
4. He has worked in construction for many years, contributing to the local economy and supporting himself and his family.
5. He has never been previously detained by ICE, CBP, or any immigration authority. He has never been placed in removal proceedings prior to June 2026. He has never been granted

or revoked parole, bond, or an Order of Supervision.

**B. Arrest on June 27, 2026**

1. On June 27, 2026, Petitioner was detained in Fort Myers, Florida, during a traffic stop while he was traveling to his construction job.
2. Petitioner presented a license to the officer. The officer did not accept the license as valid and contacted immigration authorities.
3. Petitioner was not charged with a new criminal offense on that date, to Petitioner's knowledge. No citation, police report, or body-camera footage has been provided to Petitioner.
4. Petitioner was taken into immigration custody. He was not shown an ICE warrant (Form I-200), a detainer (Form I-247), or any other document authorizing his immigration detention.
5. Petitioner was subsequently transferred through multiple facilities described to his family as "Krome/Homestead" and "Paso Texas Montana" before arriving at Otay Mesa Detention Center in San Diego, California.

**C. Current Detention at Otay Mesa**

1. The ICE Online Detainee Locator System confirms that Petitioner is detained at Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154.
2. The identified ICE office is ERO – Otay CCA Facility, California Sub-Office, telephone (619) 661-3800.
3. As of July 30, 2026, Petitioner has been in continuous ICE custody for thirty-three (33) days.
4. Petitioner has not received any Form I-286 (Notice of Custody Determination), Form I-

203 (Transfer Notification), or any document identifying the specific statute under which he is detained.

5. No Immigration Judge has conducted a bond hearing. No ICE officer has made an individualized custody determination assessing Petitioner's flight risk, danger to the community, or eligibility for release.

**D. Immigration Proceedings**

1. On June 29, 2026, EOIR opened a removal proceeding under A-Number [redacted]
2. Petitioner's next hearing is a Master Calendar Hearing scheduled for August 19, 2026, at 1:00 p.m., before Immigration Judge Mark Sameit at the Otay Mesa Immigration Court.
3. There is no final order of removal. There is no appeal pending before the BIA.
4. Petitioner filed an application for asylum (Form I-589) with USCIS on April 15, 2025. USCIS issued Receipt Notice [redacted] confirming the filing was complete and pending.
5. The asylum application remains pending. Petitioner has not received a referral notice to EOIR, though proceedings have been initiated.

**E. Criminal Record**

1. Petitioner acknowledges the following dispositions in his record:
    a. On June 1, 1999, a disposition for Marijuana/Possession in Case No. M99028597.
    b. On April 21, 2003, charges for Cocaine/Possession and Cannabis/Possession 0-20 in Case No. F03008029, with a disposition described as "WH ADJ-SUSP ENT SE" (adjudication withheld/suspended entry).
    c. On December 14, 2007, a disposition for Reckless Driving, first offense, under Fla. Stat. § 316.192, in Case No. 07-CT-508098, with adjudication withheld, six months

probation, and traffic school.

d. On November 21, 2011, an adjudication of guilt for operating a vehicle without a valid license, in Case No. 11-CT-005360.

e. On March 27, 2023, an adjudication of guilt for expired driver's license more than six months, in Case No. 22-CT-004451, with a sixty-day suspension.

f. On an undated disposition in 2023, an adjudication of guilt for knowingly driving while license suspended or revoked, in Case No. 23-CT-002904.

2. Petitioner has never been convicted of a crime of violence, a weapons offense, a DUI, a sexual offense, a theft offense, or a fraud offense.

3. The drug-related dispositions are twenty-seven (27) and twenty-three (23) years old, respectively. They involved simple possession. There is no evidence of trafficking, distribution, or manufacture.

4. The driving-related dispositions are minor traffic and license offenses. They do not reflect dangerousness to the community.

**F. Family and Community Ties**

1. Petitioner's father, José Hernández Fernández, resides in Mexico and depends financially on Petitioner. Petitioner was the sole person sending money to his father.

2. Petitioner's brother, José Hernández, is a United States citizen, born [redacted] 1982. He resides at [redacted]

3. José Hernández has a valid Florida driver's license, a registered and insured vehicle, and filed joint tax returns for 2025 reporting approximately $65,018 in total income and $62,308 in adjusted gross income.

4. José Hernández has offered to serve as Petitioner's sponsor, providing housing,

transportation, and supervision if Petitioner is released.

5. Petitioner is willing to comply with any and all lawful conditions of release, including electronic monitoring (GPS), reporting requirements, travel restrictions, and surrender of his passport.

**G. Medical and Mental Health**

1. Petitioner has no previously diagnosed chronic medical condition requiring medication.
2. Since his detention on June 27, 2026, Petitioner has experienced severe emotional and physical distress, including depression, anxiety, loss of voice, insomnia, and difficulty eating.
3. His family reports that he is "no longer the same," speaks little about his conditions, and at times refuses to call home.
4. Petitioner has not received a mental health evaluation or medical examination for his reported symptoms, nor has he been provided treatment for his current distress.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

1. Petitioner has not pursued administrative remedies before the immigration court because such pursuit would be unavailable, futile, and inadequate.
2. Petitioner has not been provided with any custody determination or bond hearing before ICE or an Immigration Judge. Without knowing the statutory basis for his detention, he cannot effectively seek administrative relief.
3. If Respondents claim he is detained under 8 U.S.C. § 1225(b)(2)(A), the BIA has held in *Matter of Yajure Hurtado* that an Immigration Judge lacks jurisdiction to conduct a bond hearing for an applicant for admission. Any request would be denied as a matter of law.

4. If Respondents claim he is detained under 8 U.S.C. § 1226(c), an Immigration Judge may have jurisdiction, but Petitioner has not been afforded any hearing. The administrative process has completely failed to provide an individualized custody determination.
5. Furthermore, this Petition raises constitutional claims under the Due Process Clause of the Fifth Amendment, including challenges to the lack of an individualized custody determination and the classification of Petitioner under an incorrect statutory provision. Administrative bodies lack the authority to adjudicate these constitutional claims.
6. Requiring Petitioner to exhaust remedies that cannot provide the relief sought, while he suffers ongoing deprivation of liberty and irreparable harm, would serve no legitimate purpose.

**STATEMENT OF CLAIMS**

**FIRST CLAIM FOR RELIEF Unlawful Classification as an "Applicant for Admission" Under § 1225(b)(2)(A)**

1. Respondents have failed to identify the statutory basis for Petitioner's detention. However, based on Petitioner's circumstances, Respondents likely classify him as an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), claiming he is a person present in the United States who was never admitted.
2. That classification is incorrect. Petitioner entered in 1995 and has resided continuously in the United States for thirty-one (31) years. He was arrested in the interior of the country while traveling to work. He is not seeking admission; he is a long-term resident already settled within the United States.
3. The Supreme Court has recognized that § 1225(b) governs applicants for admission, while

§ 1226(a) governs aliens already in the United States who are arrested in the interior. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 842 (2018).

4. In this District, courts have rejected the application of § 1225(b)(2)(A) to individuals detained at Otay Mesa after years of continuous residence in the United States. *See Aquino v. Larose*, No. 25-CV-01234-WQH-JLB (S.D. Cal. Feb. 14, 2026) (concluding § 1226(a) governed detention of individual with 17 years residence arrested in the interior and ordering a bond hearing).

5. Because Petitioner is properly classified under § 1226(a), he is entitled to a bond hearing or conditional parole unless the Government proves by clear and convincing evidence that he is a flight risk or a danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

6. Respondents have never provided Petitioner with a bond hearing or an individualized custody determination under § 1226(a). His detention is therefore unlawful.

**SECOND CLAIM FOR RELIEF Mandatory Detention Under § 1226(c) Does Not Apply**

1. Even if Respondents attempt to invoke 8 U.S.C. § 1226(c) based on Petitioner's 1999 and 2003 drug dispositions, that statute does not apply to him.

2. Section 1226(c) authorizes mandatory detention only for aliens taken into immigration custody "when the alien is released" from criminal custody for a qualifying offense. 8 U.S.C. § 1226(c)(1).

3. The Ninth Circuit has held that § 1226(c) applies only to aliens taken into immigration custody promptly upon release from criminal custody. *See Mony Preap v. Jeh Johnson*, 831 F.3d 1193, 1198 (9th Cir. 2016) ("the government may detain without a bond hearing

only those criminal aliens it takes into immigration custody promptly upon their release from triggering criminal custody"), *rev'd on other grounds sub nom. Nielsen v. Preap*, 139 S. Ct. 954 (2019). While the Supreme Court reversed the Ninth Circuit's timing requirement, it did not disturb the underlying constitutional concerns that support a bond hearing when detention becomes prolonged.

4. Petitioner was never taken into immigration custody in 1999, 2003, or at any time after his criminal dispositions. He continued to live freely in the community for decades. His June 27, 2026 arrest was an interior arrest unrelated to any criminal release.
5. Additionally, the BIA has recognized that a single offense involving possession for one's own use of thirty grams or less of marijuana is an exception to the controlled-substance ground. *See Matter of Davey*, 26 I. & N. Dec. 37 (BIA 2012). Petitioner's 1999 disposition may fall under this exception.
6. The 2003 disposition involved adjudication withheld. The record does not confirm a guilty plea, and any penalty or restraint imposed must be analyzed to determine if it constitutes a "conviction" under 8 U.S.C. § 1101(a)(48)(A). It cannot be presumed to trigger mandatory detention.
7. Because § 1226(c) does not apply, Petitioner's detention must be governed by § 1226(a), which permits discretionary release.

**THIRD CLAIM FOR RELIEF Violation of Due Process by Deprivation of Liberty Without Individualized Custody Determination**

1. The Fifth Amendment Due Process Clause protects Petitioner from arbitrary detention. Civil immigration detention must be non-punitive and reasonably related to a legitimate

government interest, such as ensuring appearance at proceedings.

2. Here, Petitioner has been detained for thirty-three (33) days without any individualized assessment of whether his detention is necessary. This violates due process.

3. Under the *Mathews v. Eldridge* balancing test, 424 U.S. 319, 335 (1976), Petitioner's private interest in liberty is profound. He has lived in the United States for thirty-one years. He has established employment, family ties, and community roots. The risk of erroneous deprivation is exceptionally high because Respondents have never identified the statutory basis for detention, never conducted a custody review, and never provided a neutral hearing. The Government's administrative burden in providing a hearing or releasing Petitioner is minimal.

4. In the Ninth Circuit, detention without an individualized determination of dangerousness or flight risk is constitutionally doubtful. *See Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010).

5. Respondents have not considered Petitioner's lack of violent criminal history, his thirty-one years of residence, his pending asylum application, his U.S. citizen brother willing to sponsor him, his father's dependence on him, or his willingness to comply with conditions if released.

6. The violation was complete on June 27, 2026, when Petitioner was detained without a lawful basis or process. A hearing held only after Petitioner was incarcerated cannot retroactively validate the original unconstitutional deprivation. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

**FOURTH CLAIM FOR RELIEF Habeas Requires Immediate Release or a Prompt Bond**

**Hearing**

1. If this Court determines that § 1226(a) governs Petitioner's detention, the Government must justify continued confinement. Section 1226(a) states that the Attorney General "may release" an alien on bond or conditional parole, and the Government bears the burden of proving by clear and convincing evidence that the alien poses a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).
2. Petitioner's circumstances overwhelmingly favor release:
    a. Thirty-one years of continuous residence in the United States.
    b. Arrested in the interior while traveling to work, not at the border.
    c. No criminal history of violence, weapons, DUI, or sexual offenses.
    d. Pending asylum application with USCIS.
    e. U.S. citizen brother with stable housing, income, and vehicle, willing to serve as sponsor.
    f. Father in Mexico who depends on Petitioner's financial support.
    g. Willingness to comply with GPS, reporting, travel restrictions, and any other conditions.
3. The Southern District of California has ordered bond hearings for Otay Mesa detainees under similar circumstances. The analysis considers the unreasonableness of detention without an individualized hearing.
4. Petitioner's removal proceedings are just beginning, with a Master Calendar Hearing scheduled for August 19, 2026. The asylum process could take months or years. He has caused no delay in the proceedings; on the contrary, Respondents transferred him across the country without explanation and have failed to provide any custody determination.

5. The only fair remedy is to order Petitioner's immediate release under reasonable conditions, or, in the alternative, a bond hearing within seven (7) days before a neutral Immigration Judge.

**ARGUMENT**

Respondents cannot lawfully detain Petitioner without identifying a valid statutory basis and providing an individualized custody determination. Petitioner is not an "applicant for admission" under § 1225(b)(2)(A). He is a long-term resident arrested in the interior after thirty-one years. His detention must be governed by § 1226(a), which affords him the right to a bond hearing and conditional release.

Even if Respondents invoke § 1226(c), that statute does not apply to decades-old dispositions where Petitioner was never taken into immigration custody promptly upon release. His detention without any custody determination, any bond hearing, or any individualized assessment violates the Fifth Amendment Due Process Clause. The deprivation of liberty without process is particularly egregious where, as here, the detainee has thirty-one years of residence, no violent criminal history, a pending asylum claim, and a citizen sponsor ready to receive him.

The Court should restore Petitioner to liberty under reasonable conditions. Any lesser remedy would permit the Government to obtain the benefit of an unconstitutional detention and would leave Petitioner vulnerable to continued arbitrary confinement.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant the Petition for Writ of Habeas Corpus;

B. Declare that Respondents' continued custody of Petitioner violates 28 U.S.C. § 2241, the Immigration and Nationality Act, and the Due Process Clause of the Fifth Amendment;

C. Require Respondents to show cause within seven (7) days why the writ should not issue;

D. Order Respondents to release Petitioner immediately from physical custody under reasonable conditions, including but not limited to: reporting to ICE, maintaining a current address, attending all immigration hearings, GPS or electronic monitoring, and surrender of passport if required;

E. Alternatively, if the Court declines to order immediate release, order Respondents to provide Petitioner with a bond hearing before an Immigration Judge within seven (7) days, at which the Government must bear the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight;

F. Order Respondents to produce the custody records necessary to establish the legal basis for detention, including any Form I-200, I-286, I-871, NTA, I-213, parole documents, and custody classification sheets;

G. Prohibit Respondents from removing Petitioner from the United States or transferring him outside this District until the Court resolves this Petition;

H. Prohibit Respondents from redetaining Petitioner based solely on the same facts and legal theories known to DHS at the time of his initial detention, absent materially changed circumstances and constitutionally sufficient pre-deprivation process;

I. Require Respondents to serve the release order directly upon the Otay Mesa Detention Center and file a notice of compliance within twenty-four (24) hours;

J. Retain jurisdiction until Respondents demonstrate full compliance; K. Grant such other relief as the Court deems just and proper.

**VERIFICATION**

I, Arturo Hernández Espíndola, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on July 30, 2026.

Arturo Hernandez

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