

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

Rodrigo Galeno Moreno,)	
)	
Petitioner)	
)	Case No. 3:25-cv-01988-KMN-SAC
v.)	US Magistrate Judge Sean A. Camoni
)	
U.S. Department of Homeland Security,)	
)	
Respondent)	

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ATTORNEY FOR PETITIONER

MOTION FOR SUMMARY JUDGMENT

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Petitioner files this Motion for Summary Judgment based upon a material change in the law that occurred on November 25, 2025 when *Lazaro Maldonado Bautista v. Ernesto Santacruz Jr.*, 5:25-cv-01873, (C.D. Cal.) restored the ability of noncitizens such as Petitioner to request bond hearings. See <https://apnews.com/article/immigration-bond-hearings-detention-trump-b863c23d6f1740e2df0be59947a087c5>.

On September 8, 2025, Petitioner was denied a bond hearing by Immigration Judge Leo Finston after Judge Finston found that he lacked jurisdiction: "No Jurisdiction. Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025)." See *Exhibit A*.

Just three days prior, the BIA in *Hurtado* held that Immigration Judges lack jurisdiction to redetermine custody for noncitizens charged as removable under section 236(a)(1) of the Immigration and Nationality Act.

On November 25, 2025, *Lazaro* restored the right of noncitizens detained under Section 236(a)(1) to seek bond. On November 26, 2025, Plaintiff once again requested a bond hearing in immigration court. See *Exhibit B*. Undersigned counsel is aware of at least one Immigration Judge who denied a motion for a bond hearing AFTER *Lazaro*. That is an erroneous conclusion. *Lazaro* extends to ALL detained non-citizens nationwide (the "Bond Eligible Class"):

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

According to Plaintiff's NTA, he entered the U.S. without inspection. See *Exhibit C*. Plaintiff avers, through undersigned counsel, as supported by Plaintiff's 42B Application for

Cancellation of Removal, that he has lived in the United States for over 23 years. *See Exhibit D.* Plaintiff is, therefore, a member of the Bond Eligible Class and entitled to a bond hearing.

We expect Immigration Judges will swiftly apply *Lazaro* correctly and restore bond hearing eligibility to those denied under *Hurtado*. However, avoid confusion or delay, we ask that this Honorable Court grant this Motion for Summary Judgment and issue an order requiring Plaintiff to immediately receive a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus on the ground that Petitioner's continued detention violates the Due Process Clause of the United States Constitution and order Petitioner's immediate release;
2. In the alternative, issue injunctive relief ordering Respondents to immediately release Petitioner on the ground that his continued detention violates the Due Process Clause;
3. Enjoin Respondents from removing Petitioner from the United States;
4. Order Respondents to file a return within three days pursuant to 28 U.S.C. § 2243.
5. Declare that the process as applied to Petitioner by Respondents violates the Suspension Clause, the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the INA, the APA, and federal regulations;
6. Issue a Writ of Habeas Corpus directing Respondent to immediately provide bond with a bond hearing;
7. Order Respondents to provide five days of notice to the Court and Petitioner of his imminent removal;
8. Order Respondents to comply with all applicable rules, regulations, laws, and constitutional protections in relation to Petitioner's pending removal proceedings, including his Application for Cancellation of Removal;
9. Award Petitioner his costs and reasonable attorney's fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes; and
10. Grant such further relief as the Court deems just and proper.

Dated: December 2, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Rosenfeld". The signature is fluid and cursive, with the first name "Eric" and last name "Rosenfeld" clearly distinguishable.

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PROPOSED ORDER

Having reviewed Petitioner's Motion for Summary Judgment, Petitioner's Motion for Summary Judgment is Hereby GRANTED.

Date: _____

Judge: _____

