



U.S. Department of Justice

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December 3, 2025

The Honorable Lawrence J. Vilardo
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

**Re: Alves da Silva v. Bondi et. al.
25-CV-1220-LJV**

Dear Judge Vilardo:

Petitioner is a native and citizen of Brazil who unlawfully entered the United States in 2016. He was arrested within 14 days and within 100 miles of the southern border. As a result, Petitioner's detention is mandated by the "certain other aliens" provision of 8 U.S.C. § 1225(b)(1)(A)(iii).

Petitioner filed for habeas relief pursuant to 28 U.S.C. § 2241 with the belief that Respondents are detaining the Petitioner pursuant 8 U.S.C. § 1225(b)(2) and applying the Board of Immigration Appeals decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (2025). As noted in Respondent's Opposition to Petitioner's Request for Injunctive Relief, Petitioner's detention is mandated by the "certain other aliens" provision of 8 U.S.C. § 1225(b)(1)(A)(iii), and Respondents are not detaining Petitioner pursuant to § 1225(b)(2) or § 1226(a).

On November 26, 2025, counsel for Petitioner filed a Notice of Recent Authority and Supplemental Information with the Court once again suggesting that the Petitioner is not subject to the mandatory custody provision contained in 8 U.S.C. § 1225(b)(1)(A)(iii). Petitioner provided a recent decision from the United States District Court in the Central District of California in *Lazaro Maldonado Bautista et. al. v. Ernesto Santacruz Jr. et. al.*, 25-cv-01873. That decision, however, dealt exclusively with the application of the recent policy changes brought about by the July 8, 2025, Department of Homeland Security notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission" regarding the detention authority of 8 U.S.C. § 1226(a) and § 1225(b)(2). At no point did the court in *Bautista* address facts related to this Petitioner's detention under 8 U.S.C. § 1225(b)(1)(A)(iii) as a "certain other alien."

Should the *Bautista* decision be found to apply to this Petitioner's case, it must be noted that the court in *Bautista* did not issue a class-wide declaratory judgment or injunction. Rather, the court set the case for a joint status report deadline and conference. Pursuant to

Federal Rule of Civil Procedure 54(b), the *Bautista* opinion does not constitute a judgment which would have a preclusive effect with respect to other cases.

Respectfully submitted,

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BY:

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