

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Jaime Noel LEMUS BERGANZA,
Petitioner,

v.

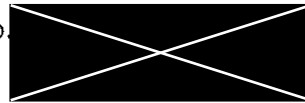
WARDEN, STEWART DETENTION
CENTER

Respondents

Case No. 4:25-cv-400-CDL-AGH

**PETITION FOR WRIT OF
HABEAS CORPUS**

Alien File No.



1 **PETITIONER’S RESPONSE TO MOTION TO DISMISS OR TO STAY**

2 On December 1, 2025, the Court ordered Respondent in the above-captioned case to
3 show cause within seven days as to why Petitioner’s petition for a writ of habeas corpus should
4 not be granted in light of the Court’s prior ruling in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL,
5 2025 WL 3050094 (M.D. Ga. Nov 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025
6 WL 3269947 (M.D. Ga. Nov 24, 2025) concerning a similar challenge to the detention authority
7 at issue in this case. ECF No. 3. On December 8, 2025, Respondent submitted a response to that
8 order to show cause in the form of a Motion to Dismiss or, in the Alternative, to Stay.

9 **ARGUMENT**

10 In his motion, Respondent argues that Petitioner’s petition should be dismissed or stayed
11 because of the pending class action certification and orders issued in *Maldonado Bautista v.*
12 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) (order
13 certifying Plaintiffs-Petitioner’s proposed nationwide Bond Eligible Class, incorporating and
14 extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary
15 Judgment); No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025) (order
16 granting partial summary judgment to named Plaintiffs-Petitioners). Respondent argues that
17 Petitioner is a member of this class, and as such, is barred from seeking equitable relief as an
18 individual member. In this reply, Petitioner will address why he is entitled to relief before this
19 Court.

1 **I. Petitioner has been denied the declaratory relief named in *Maldonado Bautista***
2 **by the Executive Office for Immigration Review (EOIR) and its subagency the**
3 **Immigration Court and the Department of Homeland Security**

4 Respondent argues that petitioner is a member of the *Maldonado Bautista* class. ECF No.
5 5, at 2. Under *Maldonado Bautista*, a member of the class is any noncitizen who (1) entered the
6 United States without inspection; (2) was not apprehended upon arrival; and (3) is not subject to
7 detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231. *Maldonado Bautista*, 2025 WL
8 3288403, at *26-27. In doing so, Respondent argues that Petitioner is not subject to mandatory
9 detention. If Petitioner is not subject to mandatory detention, then immigration judges therefore
10 have jurisdiction over Petitioner’s immigration bond proceedings.

11 However, EOIR has since instructed its subagency, the Immigration Court, to continue to
12 deny jurisdiction over Petitioner’s bond proceedings. Following the class certification in
13 *Maldonado Bautista*, Petitioner sought an immigration bond. During the bond hearing, the
14 immigration judge still found a lack of jurisdiction. See **Exhibit 6**, *December 2, 2025 Order of*
15 *the Immigration Judge Denying Petitioner’s Motion for Bond*. Since the class action certification
16 and orders issued in *Maldonado Bautista*, Immigration judges continue to find that they do not
17 have jurisdiction under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). This is in
18 spite of them being bound by the judgment in *Maldonado Batista* as it has the full “force and
19 effect of a final judgment.” 28 U.S.C. § 2201(a). As Petitioner is being denied this declaratory
20 relief, she is therefore still being subject to unlawful detention despite his clear entitlement to
21 consideration for release on bond as a Bond Eligible Class member.

22 In light of the above, Petitioner’s petition for a writ of habeas corpus should not be
23 dismissed nor should it be stayed, and instead Petitioner should be granted the relief sought.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CONCLUSION

Based on the foregoing, Petitioner respectfully requests that this Court deny Respondent’s Motion to Dismiss or, in the Alternative, to Stay. Instead, Petitioner respectfully requests that the Court grant the relief sought by the Petitioner.

DATED this 9th day of December, 2025.



By: _____
Carlos E. Solomiany, Esq.
Ross and Pines, LLC
Attorneys for the Respondent
5555 Glenridge Connector, Suite 435
Atlanta, Ga. 30342
404-812-4300 (tel.)
404-812-4303 (fax.)
carlos@rossandpines.com