UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

Jesus Andres Castaneda Rosas,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 25-13876

Hon. Matthew F. Leitman
Mag. Judge Patricia Morris

PETITIONER'S BRIEF
ON *MALDONADO BAUTISTA*

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ISSUES PRESENTED

1. Is Petitioner a member of the *Maldonado Bautista* Class?

PETITIONER ANSWER: YES.
RESPONDENTS ANSWER: YES.

2. Does the *Maldonado Bautista* moot or require a stay of Petitioner's Petition for Habeas Corpus?

PETITIONER ANSWER: NO.
RESPONDENTS ANSWER: YES

3. Does the *Maldonado Bautista* Declaratory Judgement on the Statutory Claim support Petitioner's Claim that Respondents violated the Due Process Clause by detaining Petitioner, who is a long-time resident of the United States, without any individualized determination that Petitioner is a flight risk or danger such that their civil detention is necessary to facilitate removal?

PETITIONER ANSWER: YES.

4. Does 8 U.S.C. § 1226(a) apply to Petitioner, who has been residing in the United States and who did not exit the United States when he was detained on November 05, 2025, on the Ambassador Bridge connecting Michigan to Canada?

PETITIONER ANSWER: YES.

INTRODUCTION

The Court has ordered additional briefing on the impact of *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) and *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) on Petitioner's case. By means of this supplemental brief, Petitioner demonstrates to the Court that he is a member of the certified *Maldonado Bautista* class.

The Court has also ordered additional briefing on the Petitioner's detainment, the location of which is relevant in the consideration of whether the petitioner was already residing in the United States at the time of the detention or if he was seeking admission into the United States at that time.

Petitioner is a Member of the certified Maldonado Bautista Class

As this court has held multiple times, as every District Judge in the Eastern and Western District of Michigan to consider the issue has held,[1] and as more than

[1] *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 (E.D. Mich. Aug. 29, 2025) (McMillion, J.); *Pizarro Reyes v. Raycraft*, 2:25-cv-12546 (E.D. Mich. Sept. 9, 2025) (White, J.); *Raycraft*, No. 25-cv-12926 (E.D. Mich. Oct 21, 2025) (Ludington, J.); *Garcia v. Raybon*, 25-cv-13086 (E.D. Mich. Oct. 21, 2025) (DeClercq, J.); *Gimenez Gonzalez v. Raycraft*, No. 25-cv-13094 (E.D. Mich. Oct. 27, 2025) (Kumar, J.); *Morales-Martinez v. Raycraft*, No. 25-cv-13303 (E.D. Mich. Nov. 7, 2025) (Behm, J.); *Diego v. Raycraft*, No. 25-cv-13288 (E.D. Mich. Nov. 12, 2025) (Levy, J.); *Robledo Gonzalez v. Raycraft*, No. 25-cv-13502 (E.D. Mich. Nov. 17, 2025) (Michelson, J.); *Hurtado-Medina v. Raycraft*, No. 25-cv-13248 (E.D. Mich. Nov. 24, 2025) (Leitman, J.); *Lopez Herrera v. Raycraft*, No.

225 judges in 35 states have held[2] [*Demirel v. Fed. Det. Ctr. Phila*, No. 25-5488 at Appendix (ECF No. 11-1) (E.D. Pa. Nov. 18, 2025) (listing 282 decisions granting and only six decisions denying similar habeas petitions) (ECF No. 1-5, PageId.29-42)], Petitioner's detention under 8 U.S.C. § 1225 is unlawful. The class action declaratory judgment in *Maldonado Bautista* is further authority that supports granting this petition for a writ of habeas corpus. *See Mendes v. Hyde*, No. 1:25-cv-00627, ECF No. 8, PageId.62-63 (D.R.I. Dec. 5, 2025) ("In addition to granting Mr. Mendes's habeas petition, the Court finds that Mr. Mendes is a member of this class and is entitled to the same relief ordered" in *Maldonado Bautista.*).

Instead of following well-established principles of law, Respondents are attempting to have it both ways. Respondents attempt to both (incorrectly) argue that the *Maldonado Bautista* class-wide declaratory judgement somehow precludes the present suit to require dismissal or a stay of Petitioner's distinct claims for habeas relief, and Respondents are *also* claiming that the *Maldonado Bautista's* court

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25-cv-13627 (E.D. Mich. Dec. 3, 2025) (Parker, J.) ; *see also Orellano Lopez v. Lynch*, No. 1:25-cv-1459 (W.D. Mich. Nov. 25, 2025) (Beckering, J.); *Huaman-Rodriguez v. Lynch*, No. 1:25-cv-1330 (W.D. Mich. Nov. 24, 2025) (Jonker, J.); *Juarez Mendez v. Raycraft*, No. 1:25-cv-1323 (W.D. Mich. Nov. 18, 2025) (Jarbou, C.J.); *Ramirez v. Lynch*, No. 1:25-cv-1408 (W.D. Mich. Nov. 24, 2025) (Maloney, J.)

[2] *More than 220 judges have now rejected the Trump admin's mass detention policy*, Politico, November 28, 2025, *available at* https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy-00669861.

decision *does not have* a preclusive effect on this case because it is not a final judgement. Both of Respondents positions are not supported as a matter of law.

Petitioner asserts that neither his class membership nor the declaratory judgment of *Maldonado Bautista* requires dismissal or stay of this action because it is black-letter law that class members are not precluded from seeking relief that is not covered by the class—in this case, a writ of habeas corpus and/or injunctive relief. And the Department of Justice itself has taken the position that the *Maldonado Bautista* orders are not final for purposes of res judicata, so this case can and must proceed.

Despite the *Maldonado Bautista* decisions, the Government Respondents' refusal to comply with the class-wide declaratory relief granted by *Maldonado Bautista* and continued refusal to grant bond hearings for individuals such as Petitioner, demonstrates that administrative exhaustion remains futile. Habeas relief is urgently needed and the appropriate remedy. Petitioner therefore urges the Court to apply the *Maldonado Bautista* Court's declaratory judgment as to the statutory analysis, which is consistent with this Court's prior decisions, and to find that Petitioner is entitled a writ of habeas to remedy his unlawful detention.

MALDONADO BAUTISTA

Maldonado Bautista v. Santacruz is a class action brought pursuant to the bond statute and regulations and the Administrative Procedure Act, not the federal

habeas statute.[3] On November 20, 2025, the district court granted partial summary judgment in favor of individual plaintiffs in the case, and granted declaratory relief holding that the individual plaintiffs were subject to § 1226(a). *See Maldonado Bautista v. Santacruz*, No. 5:25-CV01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners). Then, on November 25, 2025, the district court certified a nationwide class and extended that declaratory relief to the certified class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, and instructions, "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole").

As noted by the Court, the second order certified the following Civil Rule 23(b)(2) class (hereafter "Bond Denial 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.

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[3] The named plaintiffs-petitioners brought habeas claims on behalf of themselves, but not on behalf of the class. *See* Amended Petition, *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) (ECF No. 15)

Maldonado Bautista, 2025 WL 3288403, at *9.

The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. Respondents are bound by the judgment in *Maldonado Bautista* as to class members nationwide, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

Despite the court's orders, the Department of Justice and Department of Homeland Security have taken the position that because the court has not entered a final judgment under Rule 54(b), immigration judges can disregard the court's declaratory judgment requiring bond hearings for the class. *See* Pltfs.' Ex. Parte App. for Reconsideration and Clarification, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 4, 2025), ECF No. 87 at 7-10, PageID.1528-31 (attached as Exhibit 1). Consequently, immigration judges in Detroit continue to deny bond to individuals like Petitioner.

ARGUMENT

Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class. The *Maldonado Bautista* Court's decision is consistent with this Court's prior rulings on the legal issues raised in this Petition. *See supra* n.1. *Maldonado Bautista* does not

render the instant petition moot because while the court ordered *declaratory* relief, no relief was sought in that case for habeas or injunctive relief. Further, the government is refusing to comply with the declaratory judgment and is still treating Petitioner as subject to mandatory detention under § 1225(b) and thus refusing to provide a bond hearing. For these reasons the Court can and should grant habeas relief. Petitioner seeks immediate release because of the statutory and due-process violations he has alleged. Therefore, as a *Maldonado Bautista* class member, Petitioner is now entitled to the benefit of the district court's conclusion in *Maldonado Bautista* that his custody is governed by § 1226(a), not 1225(b)(2).

I. Petitioner is a *Maldonado Bautista* Class Member.

It is apparent from the last hearing the parties attended, which took place on December 23, 2025, that both Petitioner and Respondents agree that Petitioner is a *Maldonado Bautista* class member. Petitioner entered the United States without inspection and he is currently detained; he was apprehended in Michigan and he was never detained upon arrival; and he is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231[4].

II. *Maldonado Bautista* Does Not Preclude or Moot the Instant Petition

[4] Petitioner does not have a criminal history, so as to trigger 8 U.S.C. § 1226(c) detention, and he is in regular removal proceedings, rather than expedited removal proceedings, without a final order of removal, such that neither § 1225(b)(1) nor § 1231 applies.

Should the Court agree that Petitioner is a class member of *Maldonado Bautista*, the class-wide declaratory judgement in that case does not moot his claims. Although the Court does not need to definitively resolve that question here, Petitioner asserts that the *Maldonado Bautista* decision is final as to both its certification of a nationwide class and issuance of a declaratory judgement. *See Ramos v. Town of Vernon*, 208 F.3d 203 (2d Cir. 2000) (recognizing declaratory judgment as a ruling on the merits that rendered moot appeal of preliminary injunction denial, even though the declaratory judgment was not certified under Rule 54(b)). Simply because the court did not opt to bifurcate the final judgement pursuant to its discretion under Rule 54(b), its resolution of the claims it did reach judgement remains binding on the parties absent a stay or other revision. *Maldonado Bautista*, 2025 WL 3288403, at *9 ("the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole").

Here, however, Petitioner is *not* seeking the same injunctive or declaratory relief as Petitioners did in *Maldonado Bautista*. As an initial matter, the *Maldonado Bautista* class did not seek class-wide injunctive relief.[5] The *Maldonado Bautista*

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[5] In *Garland v. Aleman Gonzalez*, the Supreme Court interpreted 8 U.S.C. § 1252(f)(1) to prohibit class-wide injunctive relief regarding certain immigration detention statutes like the ones at issue here. 596 U.S. 543 (2022). However, § 1252(f)(1) does not bar other forms of relief, like class-wide declaratory relief. *See, e.g.*, *Biden v. Texas*, 597 U.S. 785, 800 (2022); *Al Otro Lado v. Exec. Off. For Immigr. Rev.*, 128 F. 4th 1102, 1123-24 (9th Cir. 2025); *Brito v. Garland*, 22 F.4th

Petitioners also did not seek habeas claims on behalf of the class, and thus, class members are not precluded from filing habeas petitions that assert their individual claims of unlawful detention or seek individual injunctions ordering bond hearings or release. Instead, the *Maldonado Bautista* declaratory judgement is binding only in so far as its statutory analysis determined that Petitioner's detention falls under § 1226(a), and therefore, is eligible for release on bond. The declaratory judgement—which only declares the rights and obligations of the parties in *Maldonado Bautista*—does not order habeas (or other injunctive) relief for class members, including Petitioner. *See Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013) (when "the complainant is a member in a class action seeking the same relief" a court "may dismiss those portions of the complaint which duplicate the class action's allegations and prayer for relief" but "a district court may not 'dismiss[ ] those allegations ... which go beyond the allegations and relief prayed for in [the class action].") (quoting *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir. 1979)).

Consequently, Respondents are simply wrong about the impact of the *Maldonado Bautista* declaratory judgement. Petitioner's habeas petition is neither precluded nor mooted by the *Maldonado Bautista* declaratory judgement because the nature of the relief granted there is different from what Petitioner presently seeks.

240, 251-2 (1st Cir. 2021); *Texas v. United States*, 40 F.4th 205, 220 (5th Cir. 2022) (per curiam).

Preclusion "does not apply when a plaintiff was unable to rely on a certain theory of the case or to seek a certain remedy or form of relief in the first action because of the limitations on the subject matter jurisdiction of the courts . . ." *Specialty Auto Parts USA, Inc. v. Holley Performance Prods.*, Inc., 771 Fed. Appx. 584, 592. (6th Cir. 2019); *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 382 (1985) (quoting Restatement (Second) of Judgments § 26(1)(c) (1982)).

Thus, "it is black-letter law that preclusion 'does not apply to extinguish the claim' if '[t]he plaintiff was unable to . . . seek a certain remedy or form of relief in the first action because of . . . restrictions on [the court's] authority to entertain . . . demands for multiple remedies or forms of relief in a single action.'" *Luna Gutierrez v. Noem*, No. CV 25-1766 (SLS), 2025 WL 3496390, at *14 n.15 (D.D.C. Dec. 5, 2025) (quoting Restatement (Second) of Judgments § 26(1)(c) (1982)); *see also* Wright & Miller, 18 Fed. Prac. & Proc. Juris. § 4412 (3d ed. Sept. 2025 Update) ("Claim preclusion is readily denied when the remedies sought in the second action could not have been sought in the first action. . . ."). *Maldonado Bautista* did not provide class-wide injunctive or habeas relief, so it cannot have any preclusive effect on individual class members' present or future cases for either injunctive or habeas relief challenging their unlawful detention.

A core purpose of Rule 23(b)(2) is to allow courts to issue an indivisible declaratory judgment that paves the way for follow-on individual proceedings

seeking further (non-monetary) relief. *See* Advisory Committee Note (1966), Fed. R. Civ. P. 23 ("Declaratory relief 'corresponds' to injunctive relief when [it] . . . serves as a basis for later injunctive relief. The subdivision does not extend to cases in which the appropriate final relief relates exclusively or predominately to money damages."); 2 William B. Rubenstein, Newberg & Rubenstein on Class Actions § 4:31 (6th ed. Dec. 2025 Update) (same); *see also Powell v. McCormack*, 395 U.S. 486, 499 (1969) ("A declaratory judgment can then be used as a predicate to further relief, including an injunction."). Thus, it is not only permissive but specifically *contemplated* by the Declaratory Judgment Act that a class-wide declaratory judgment may serve as the basis for a later injunction or habeas to give effect to the declaratory judgment. *See United Specialty Ins. Co. v. Cole's Place, Inc.*, 936 F.3d 386, 396 (6th Cir. 2019); *see also* 28 U.S.C. § 2202 (allowing for "[f]urther relief or proper relief based on a declaratory judgment or decree").

Then, after Respondents (incorrectly) argue that the *Maldonado Bautista* class-wide declaratory judgement somehow precludes the present cause and requires dismissing or staying Petitioner's distinct claims for habeas relief, they then *also* try to claim that because there is not a final judgement, the *Maldonado Bautista's* court declaratory judgment *does not have* a preclusive effect on this case. Both arguments fail.

` Under the Federal Rules of Civil Procedure "[c]laims can be separate for the purposes of Fed. R. Civ. P. 54(b). *In re Fifth Third Early Access Cash Advance Litig.*, 925 F.3d 265, 269 (6th Cir. 2019). Such is a core aspect of F.R.C.P 54(b) as the rule is "designed to facilitate the entry of judgment on one or more claims, or as to one or more parties, in a multi-claim/multi-party action." *General Acquisition v. Gencorp, Inc.*, 23 F.3d 1022, 1026 (6th Cir. 1994), quoting *Solomon v. Aetna Life Ins. Co.*, 782 F.2d 58, 60 (6th Cir. 1986). Further, the final judgement is a distinct inquiry from whether the *Maldonado Bautista* court has now bound the parties before it, including through a certified nationwide class. *Cf. Goodheart Clothing Co. v. Laura Goodman Enters.*, Inc., 962 F.2d 268, 274 (2d Cir. 1992) (distinguishing issue preclusion between litigation in two courts from "the somewhat more flexible law-of-the-case doctrine"). Therefore, issue preclusion does not preclude Petitioners' habeas claims.

Furthermore, Petitioner remains detained, which is indisputably an injury sufficient to create a case or controversy distinct from the *Maldonado Bautista* declaratory judgment. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Even with the *Maldonado Bautista* orders, Petitioner cannot actually obtain a bond hearing absent an order from this Court because. Therefore, *Maldonado Bautista* does not moot Petitioner's petition and the habeas petition must not be dismissed or stayed.

III. Petitioner's Statutory Analysis of § 1226(a) that Form the Basis of His Habeas Petition Are Supported by the District Court's Declaratory Judgement in *Maldonado Bautista*

In its analysis of similar petitions for habeas relief, this Court has concluded that:

> "[t]here is simply no question that § 1226(a)—not § 1225(b)(2)(A)—applies to noncitizens who have resided in the United States for many years and were not apprehended while arriving at the border. And ICE's decision to upend 30 years of reasoned statutory interpretation is not persuasive otherwise".

Garcia v. Raybon, 25-cv-13086 (E.D. Mich. Oct. 21, 2025) *8.

In certifying the class, the *Maldonado Bautista* court "extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista*, 2025 WL 3288403, at *9. Accordingly, *Maldonado Bautista* held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond based on the government's view that § 1225(b)(2)(A) applies. *Maldonado Bautista*, 2025 WL 3289861, at *11.

In short, the *Maldonado Bautista* declaratory judgement provides that Petitioner, as a Bond Eligible Class Member, is necessarily detained under § 1226(a). Thus, decades of precedent, recent decisions of this court and dozens of others within the Eastern District of Michigan, and the recent declaratory judgement of *Maldonado Bautista* provide robust and complementary authority to grant Petitioner's habeas petition.

IV. This Court May Consider a More Appropriate and Just Remedy and Order Petitioner's Immediate Release Without First Requiring a Bond Hearing.

Petitioner's detention was unlawful *ab initio*. So, Petitioner's immediate release is the most appropriate and just remedy. In the alternative, Petitioner must be provided with a constitutionally adequate bond hearing pursuant to 8 U.S.C. § 1226(a). Further, no prudential exhaustion requirement should be imposed on Petitioner as Respondents continue to refuse to provide Petitioner and other similarly situated persons with constitutionally appropriate bond hearings, in defiance of the declaratory judgement in *Maldonado Bautista*. See Exhibit 1.

As recently explained by another district court,

"[a] bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here. [Petitioner's] detention was unlawful from its inception because ICE detained her under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)."

Rodriguez-Acurio v. Almodovar, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). Further, where "ICE's detention of Petitioner did not comport with the implementing regulations and § 1226(a) "a bond hearing for a post-deprivation review is wholly inadequate to remedy that unlawful detention." *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *3 (E.D.N.Y. Sept. 29, 2025). "Such a hearing is no substitute for the requirement that ICE engage in a 'deliberative process prior to, or contemporaneous with,' the initial

decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, No. 25 CIV. 8250 (AT), 2025 WL 2961626, at *7 (S.D.N.Y. Oct. 19, 2025) (citing *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *15 (S.D.N.Y. June 12, 2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). "The suggestion that government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Id.*

Therefore, the most appropriate and just remedy is Petitioner's swift release. If a bond hearing is provided, it must be constitutionally adequate and place the burden of proof on the Department of Homeland Security to establish that Petitioner is a flight risk or a danger to the community. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020).

8 U.S.C. § 1226(a) Applies to Petitioner.

Petitioner, who has been residing in the United States and who did not exit the United States when he was detained on November 05, 2025, on the Ambassador Bridge connecting Michigan to Canada was not applying to re-enter the United States. He simply never left the United States.

FACTS

Petitioner did enter the Ambassador Bridge connecting the state of Michigan and Canada. He was a passenger on his brother-in-law's vehicle when they drove into the bridge by accident. Petitioner nor his brother-in-law intended to enter the bridge but found it impossible to turn back once they were on. Petitioner's brother in law drove into the bridge and across the bridge. He spoke to Canadian officials who did not admit either of the two, Petitioner and his brother-in-law into Canada, acknowledging the error. Canadian border officials instead instructed Petitioner's brother-in-law on how to turn around and return down the bridge.

On their way down the bridge, Petitioner's brother in law was stopped by US immigration officials who proceeded to detain Petitioner. Petitioner was detained and issued a Notice to Appear that reads the following official allegations:

1. You are not a citizen or national of the United States;
2. You are a native of Mexico and a citizen of Mexico;
3. You arrived in the United States at or near Unknown, on or about Unknown;
4. At that time you arrived at a time or place other than as designated by the Attorney General.
5. On or about November 05, 2025, you falsely represented yourself to be a United States citizen for the following purpose or benefit: to be allowed

to proceed into the United States by stating you are a United States Citizen, born in California.

6. You are an immigrant not in possession of a valid unexpired immigrant visa, re-entry permit, border crossing card, or other valid entry document required by the immigration and Nationality Act.

Further, the Notice to Appear marks an X on the fact that Petitioner is "an alien present in the United States who has not been admitted or paroled.

He was charged, among other charges, under INA 212(a)(6)(A)(i) as he is " an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the attorney General.

The Chief CBP Officer signed this charging document in ink.

ARGUMENT

While Petitioner's account of the events leading to his detention coincide with the government's own charging document, the relevant Notice to Appear (NTA) drafted on November 10, nearest the time of Petitioner's detention reflects an INA 212(a)(6)(A)(i) charge as an individual already in the United States at the time of detention. The Notice to Appear (NTA) in this case does not reflect an entry on that day. In fact, much like many other NTAs issued for individuals already living in the United States, this NTA states that Petitioner came in at an "unknown date" at an

"unknown location." Had the immigration officials considered him to have exited the United States and entered the United States through the Canadian border, they would have simply placed that Petitioner was found to have entered the United States on November 5, 2025 at or near Detroit, MI.

The facts are best established as of the day the Respondent was detained through the documents drafted "by in the course of a regularly conducted business activity" and "created by a person with knowledge." *United States v. Collins*, 779 F.3d 554 (6th Cir. 2015) [in its review of evidence exempting hearsay, the 6th District Court establishes a presumptive reliability of contemporaneous documentation]. [6] Further, the Sixth Circuit has specifically addressed the reliability of charging documents in several cases. In United States v. Jones, the court held that complaints are "judicial documents, filed under oath and submitted in furtherance of formal prosecution" and therefore "bear substantially greater indicia of reliability than mere police reports, which are not filed in court, are not sworn to, and are developed for an investigatory purpose." *United States v. Jones*, 453 F.3d 777 (6th Cir. 2006).

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[6] Similarly, Federal Rule of Evidence 803(8) creates a hearsay exception for public records and reports. This exception applies to "factual findings resulting from an investigation made pursuant to authority granted by law" unless "the sources of information or other circumstances indicate lack of trustworthiness." *Chavez v. Carranza*, 559 F.3d 486 (6th Cir. 2009). The Supreme Court has ruled that this exception permits the admission of both factual findings and conclusions of public agencies or investigative offices as long as the findings are reliable. *United States v. Jackson-Randolph*, 282 F.3d 369 (6th Cir. 2002).

For the foregoing reasons, Petitioner respectfully urges this Court to grant his habeas corpus petition forthwith.

Respectfully submitted,

/s/ Brad Whittney Thomson

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