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8 *Attorney for Petitioner-Plaintiff*

9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA
11

12 Antony REYES-LOPEZ,

13 Petitioner-Plaintiff,

14 v.

15 Kristi NOEM, in her Official Capacity, Secretary,
16 U.S. Department of Homeland Security;

17 Pam BONDI, in her Official Capacity, Attorney
18 General of the United States;

19 Todd M. LYONS, Acting Director, Immigration and
20 Customs Enforcement, U.S. Department of Homeland
21 Security;

22 Jason KNIGHT, Salt Lake City Field Office Director
23 for Detention and Removal, U.S. Immigration and
24 Customs Enforcement, Department of Homeland
25 Security; and

26 Darin BALAAM, Sherriff, Washoe County Detention
27 Center.

28 Respondents-Defendants.

Agency No.



**PETITION FOR WRIT OF
HABEAS CORPUS**

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes.

1 **INTRODUCTION**

2 1. Petitioner, Antony Reyes-Lopez, brings this petition for a writ of habeas corpus to seek
3 enforcement of their rights as members of the Bond Denial Class certified in *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical
5 custody of Respondents at the Washoe County Jail. He now faces unlawful detention because the
6 Department of Homeland Security (DHS) and the Executive Office for Immigration Review
7 (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class
8 in *Maldonado Bautista v. Santacruz*.

9 2. On November 20, 2025, the district court granted partial summary judgment on
10 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
11 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
12 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
13 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
14 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
15 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
16 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
17 Motion for Partial Summary Judgment).

18 3. The declaratory judgment held that the Bond Denial Class members are detained under 8
19 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
20 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

21 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
22 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
23 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
24 opportunity to be released on bond.

25 5. Petitioner, Antony Reyes-Lopez, is a member of the Bond Eligible Class, as he:
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- 1 a. does not have lawful status in the United States and is currently detained at the
2 Washoe County Jail. He was apprehended by immigration authorities on
3 November 19, 2025;
- 4 b. entered the United States without inspection over 20 years ago and was not
5 apprehended upon arrival, *cf. id.*; and
- 6 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

6 6. After apprehending Petitioner on November 19, 2025, the DHS placed him in removal
7 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible
8 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

9 7. The Court should expeditiously grant this petition.

10 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
11 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
12 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
13 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
14 Class member.

15 9. Immigration judges have informed class members in bond hearings that they have
16 No jurisdiction. Further, that the declaratory judgment in *Maldonado Bautista* is not controlling,
17 even with respect to class members, and that instead IJs remain bound to follow the agency’s
18 prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

19 10. Because Respondents are detaining Petitioner in violation of the declaratory judgment
20 issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
21 Respondent DHS must release Petitioner.

22 11. Alternatively, the Court should order Petitioner’s release unless Respondents provide a
23 bond hearing under 8 U.S.C. § 1226(a) within seven days.

24 CUSTODY

25 12. Mr. Reyes-Lopez is currently in custody of ICE at the Washoe County Detention
26 Center in Reno, Nevada. Mr. Reyes-Lopez is therefore in “‘custody’ of [the DHS] within the
27 meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

1 **JURISDICTION**

2 13. This action arises under the Constitution of the United States and the Immigration and
3 Nationality Act (INA), 8 U.S.C. § 1101 et seq.

4 14. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241
5 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §§ 2201 et seq.
6 (Declaratory Judgment Act), the All Writs Act, 28 U.S.C. § 1651, Article I, Section 9, Clause 2
7 of the U.S. Constitution (the Suspension Clause), Article III of the U.S. Constitution, and under
8 the common law.

9 **REQUIREMENTS OF 28 U.S.C. § 2243**

10 15. The Court must grant the petition for writ of habeas corpus or issue an order to show
11 cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C.
12 § 2243. If an order to show cause is issued, the Court must require Respondents to file a return
13 “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.”
14 *Id.* (emphasis added).

15 16. Courts have long recognized the significance of the habeas statute in protecting
16 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
17 important writ known to the constitutional law of England, affording as it does a *swift* and
18 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
19 400 (1963) (emphasis added).

20 17. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs
21 courts to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious
22 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
23 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
24 more concerned with efficient trial management than with the vindication of constitutional
25 rights.” *Id.*

26 **VENUE**

27 18. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Respondents are

1 officers or employees of the United States acting in their official capacities.

2 19. Mr. Reyes-Lopez is currently under the supervision of the ERO Salt Lake City – Reno
3 Sub Office, which falls within the jurisdiction of this District. This action does not involve any
4 real property.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

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7 20. In the context of habeas corpus claims, exhaustion of administrative remedies is a
8 *prudential* requirement rather than a *jurisdictional* one, as it is not explicitly required by statute.
9 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Courts have discretion to waive
10 prudential exhaustion where administrative remedies are inadequate or ineffective, when
11 pursuing them would be futile, when irreparable harm would result, or where the administrative
12 process would be void. *Id.* (citing *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). The
13 burden is on the party seeking waiver of prudential exhaustion to demonstrate that at least one of
14 the *Laing* factors applies. *Aden v. Nielsen*, 2019 WL 5802013, at 2 (W.D. Wash. Nov. 7, 2019).
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16 21. In this case, any appeal to the Board is futile in light of *Matter of Yajure Hurtado*, 29
17 I&N Dec. 216 (BIA 2025)." The Ninth Circuit has made clear that exhaustion is not required
18 where administrative recourse would be futile—such as when the agency’s position on the
19 relevant issue is already established and the outcome of the appeal is certain. *El Rescate Legal*
20 *Servs., Inc. v. Exec. Off. of Imm. Rev.*, 959 F.2d 742, 747 (9th Cir. 1992).
21

22 22. The *Matter of Yajure Hurtado* was issued as a precedential decision by the BIA. Under 8
23 C.F.R. § 1003.1(g)(1), such decisions are binding in all cases involving the same issue(s); *see*
24 also 8 C.F.R. § 1003.1(d)(1)(i). Because the BIA has already exercised its expertise and reached
25 a conclusive determination in *Yajure Hurtado*, further exhaustion is unnecessary. The decision
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1 establishes that individuals found inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—that is, those
2 present in the U.S. without being admitted or paroled—are subject to mandatory detention
3 without bond under 8 U.S.C. § 1225(b)(2) upon BIA review.

4 23. BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an
5 Immigration Judge from finding jurisdiction over noncitizens like Mr. Reyes-Lopez to hold a
6 custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from
7 preventing Mr. Reyes-Lopez from having a bond hearing pursuant to the holding in *Hurtado* is
8 necessary to enable him to avail himself of his administrative remedies.
9

10 24. Therefore, Mr. Reyes-Lopez respectfully requests that the Court waive the prudential
11 exhaustion requirement on grounds of futility. As established in *Aden*, 2019 WL 5802013, at 2,
12 satisfying just one of the *Laing* factors is sufficient; therefore, analysis of the remaining factors is
13 unnecessary.
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15 PARTIES

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17 25. Mr. Reyes-Lopez is a citizen and national of Mexico who last entered the United
18 States in the year 2000 and has continuously resided in the country since that time. He is a resident
19 of Reno, Nevada, and is currently detained and under the direct custody and control of
20 Respondents and their agents.

21 26. Respondent Darin Balaam is the Sherriff of the Washoe County Detention Center,
22 where Petitioner is currently held. He has immediate physical custody of Petitioner pursuant to
23 the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and,
24 as such, serves as one of Petitioner's legal custodians.

25 27. Respondent Jason KNIGHT is sued in his official capacity as the Acting Director of the
26 Salt Lake City Field Office of U.S. Immigration and Customs Enforcement. Respondent
27 KNIGHT is a legal custodian of Petition and has authority to release him.

1 28. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
2 capacity. Among other things, ICE is responsible for the administration and enforcement of the
3 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
4 he is the legal custodian of Mr. Reyes-Lopez.

5 29. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
6 DHS is the federal agency encompassing ICE, which is responsible for the administration and
7 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
8 capacity as Secretary, Respondent Noem has responsibility for the administration and
9 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
10 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. §
11 1103(a). Respondent Noem is the ultimate legal custodian of Mr. Reyes-Lopez.

12 30. Respondent Pam BONDI is the Attorney General of the United States and the most senior
13 official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the
14 authority to interpret immigration laws and adjudicate removal cases. The Attorney General
15 delegates this responsibility to the Executive Office for Immigration Review (EOIR), which
16 administers the immigration courts and the BIA.

17 **STATEMENT OF FACTS**

18
19 Mr. Reyes-Lopez is a 27-year-old native and citizen of Mexico who entered the United States
20 on or around the year 2000. Since that time, he has remained in the country without interruption
21 and has continuously resided in the Reno, Nevada area.

22 He is married to Jasmine Rico, a United States citizen. He has a clear avenue to adjust his
23 status because he is grandfathered under INA § 245(i) through a petition filed by his uncle on
24 behalf of his father on April 28, 2001, when Respondent was approximately three years old. As a
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1 derivative beneficiary on that qualifying petition, he is protected under § 245(i) and therefore
2 remains eligible to adjust status today through his U.S. citizen spouse.

3 Mr. Reyes-Lopez came to the attention of the Department of Homeland Security on
4 November 19, 2025, after being encountered at the Washoe County Jail. He had originally been
5 stopped for a traffic citation, and during his detention authorities discovered an outstanding
6 warrant related to a 2021 incident. He was taken into custody and appeared before the criminal
7 court on November 18, 2025, which dismissed all charges associated with the 2021 arrest.
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10 On November 19, 2025, the Department of Homeland Security (DHS) initiated removal
11 proceedings against Mr. Reyes-Lopez by filing a Notice to Appear (NTA), charging him as
12 removable pursuant to INA § 212(a)(6)(A) for being present in the United States without
13 admission or parole. He was additionally charged as removable pursuant to INA § (a)(7)(A)(i)(I).

14 The NTA stated:

- 15 1. You are not a citizen or national of the United States;
- 16 2. You are a native of Mexico and a citizen of Mexico;
- 17 3. You entered the United States at or near UNKNOWN, on or about unknown date;
- 18 4. You were not then admitted or paroled after inspection by an Immigration Officer.
- 19 5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry
20 permit, border crossing card, or other valid entry document required by the
21 Immigration and Nationality Act; and/or
- 22 6. You are an immigrant not in possession of a valid unexpired passport, or other suitable
23 travel document, or document of identity and nationality.

24 The NTA further charged him as being an alien present in the United States who has not
25 been admitted or paroled.

26 After detaining Mr. Reyes-Lopez, ICE did not initially set a bond. On November 20, 2025,
27 Mr. Reyes-Lopez filed a request for a bond redetermination hearing before the Immigration Court

1 in Las Vegas, Nevada. In support of his request, he submitted evidence demonstrating that he did
2 not pose a danger to the community or a flight risk.

3 A bond hearing was conducted on December 2, 2025, before Immigration Judge Daniel J.
4 Daugherty. At that time, the Department asserted that Mr. Reyes-Lopez was subject to mandatory
5 detention pursuant to 8 U.S.C. § 1225(b), thereby precluding the Court from exercising bond
6 jurisdiction. The Petitioner argued that he was a class member of *Maldonado Bautista*. The
7 Immigration Judge ultimately ruled that the decision in *Maldonado Bautista* was not final and
8 that he did not have jurisdiction to decide on a bond pursuant to *Matter of Hurtado*.

9 Mr. Reyes-Lopez's continued detention has resulted in substantial hardship to his close
10 family members who depend on him. His United States citizen spouse is experiencing emotional
11 distress due to the prolonged separation from the Petitioner. His detention has also interfered with
12 his ability to effectively participate in his removal proceedings, limiting his access to legal
13 counsel, documents, witnesses, and other necessary evidence. Mr. Reyes-Lopez has experienced
14 mental and emotional distress as a result of his separation from his family, particularly knowing
15 the difficulties they are facing during his absence.

16
17 **CLAIM FOR RELIEF**
18 **Violation of the INA:**
19 **Request for Relief Pursuant to Maldonado Bautista**

20 1. Petitioner repeats, re-alleges, and incorporates by reference each and every
21 allegation in the preceding paragraphs as if fully set forth herein.

22 2. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for
23 release on bond under 8 U.S.C. § 1226(a).

24 3. The order granting partial summary judgment in *Maldonado Bautista* holds that
25 Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
26 members.

