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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION**

JOSE GARCIA ROMERO)
Petitioner,)

) **Case No.**

v.)

DAVID RIVAS, Warden, San Luis)
Regional Detention Center; PATRICK)
DIVVER, San Diego Field Office)
Director, Immigration and Removal)
Operations (ICE/ERO); U.S.)
Immigration and Customs)
Enforcement; KRISTI NOEM,)
Secretary of the Department of)
Homeland Security; U.S. Department of)
Homeland Security (DHS); PAMALA)
BONDI, Attorney General of the United)
States, and TODD LYONS, Director,)
Immigration and Customs Enforcement)
in their official capacities.)

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Petitioner, Jose Garcia Romero (Mr. Gracia) is a citizen of Mexico who Respondents have detained at the San Luis Regional Detention Center (AKA San Luis) for (4) three months. His continued detention is unlawful due to Respondent’s failure to properly interpret and apply the Immigration and Nationality Act (INA) and subsequent failure to adhere to an article III Judge’s order on *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM

(C.D. Cal.) Petitioner brings this action to seek enforcement of their rights as member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No.

5:25-CV-01873-SSS-BFM (C.D. Cal.)

2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification, incorporating declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).
3. 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).
4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
5. Petitioner Jose Garcia Romero is a member of the Bond Denial Class, as he:
 - a. does not have lawful status in the United States and is currently detained at the San Luis Detention Facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about July 11, 2025];
 - b. entered the United States without inspection over 22 years ago and was not apprehended upon arrival, *cf. id.*; and
 - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
6. After apprehending Petitioner on or about July 11, 2025, the Department of Homeland Security (DHS) placed him/her in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS

has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

7. The Court should expeditiously grant this petition.
8. Respondents are bound by the judgment in *Rodriguez Vazquez*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Denial Class member.
9. The Court should accordingly order that within one day, Respondent DHS must release Petitioner.
10. Alternatively, the Court should order Petitioner’s release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

11. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency with the Department of Homeland Security (DHS). He is detained at the San Luis Regional Detention Center in San Luis, Arizona and is under the direct control of Respondents and their agents.
12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

15. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9),(f)(I), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which the Petitioner is currently in custody.

17. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Arizona.

PARTIES

18. Petitioner is a citizen of Mexico who most recently arrived in the United States on or about April, 2002. He has been in custody of the Department of Homeland Security (DHS) since July 11, 2025. Since that time, he has sought relief from removal in his immigration court case.

19. David Rivas, the Warden of San Luis Regional Detention Center is Petitioner's Immediate Custodian.

20. Patrick Divver, the Acting Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of

Homeland Security. As such, Mr. Divver is Petitioner's immediate custodian. He is named in his official capacity.

21. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Patrick Divver and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (OHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
23. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.
25. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

CLAIM FOR RELIEF

Violation fo the INA:

Request for Relief Pursuant to *Maldonado Buatista*

1. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
2. As members of the Bond Denial Class, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

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

4. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MJS Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

5. Respondents are parties to *Maldona Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

6. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioners’ statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- d. Award Petitioners attorney’s fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Grant any other and further relief that this Court deems just and proper.

/s/Lilia Rodriguez
Attorney Name

Counsel for Petitioner

Dated:12/2/25

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Jose Garcia Romero, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2 day of December 2025.

/s/ Lilia Rodriguez
Attorney Name