

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MOZHAN MOHAMMADIMOTAHERI

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Petitioner,

v.

GARRETT RIPA, Field Office Director of  
Enforcement and Removal Operations, Miami  
Field Office, Immigration and Customs  
Enforcement; Kristi NOEM, Secretary, U.S.  
Department of Homeland Security; U.S.  
DEPARTMENT OF HOMELAND SECURITY;  
Pamela BONDI, U.S. Attorney General;  
EXECUTIVE OFFICE FOR IMMIGRATION  
REVIEW; JUAN GONZALEZ, Warden of  
Broward Transitional Center,

Respondents.

Case No. 0:25-cv-62506

**PETITION FOR WRIT OF  
HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Mozhan Mohammadimotaheri brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at the Broward Transitional Center in Pompano Beach, Florida. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.
2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. 1182(a)(6)(A)(i).
3. The Department of Homeland Security (“DHS”) issued a new policy on July 8, 2025, instructing all Immigration and Customs (“ICE” employees to consider anyone inadmissible under 1182(a)(6)(A)(i)-i.e., those who entered the United States without admission or inspection-to be subject to detention under 8 U.S.C 1225(b)(2)(A) and therefore, ineligible to be released on bond.
4. Thereafter, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedent decision, binding, on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I&N. Dec. 216(BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. 1225(b)(2)(A) and therefore ineligible to be released on bond.
5. 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, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-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, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

6. 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.


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


8. Petitioner Mozhan Mohammadimotaheri is a member of the Bond Eligible Class, as she:

a. Has a pending application for asylum and withholding of removal that has been pending with USCIS since its filing on December 20, 2022, but does not have lawful status in the United States and is currently detained at the Broward Transitional Center. She was apprehended by immigration authorities on December 1 2025. A copy of the USCIS Receipt Notice is attached as Exhibit A.

b. entered the United States without inspection over 3years ago on September 11 2022 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.

9. Petitioner has been residing in the State of Maryland with her family ever since her initial entry into the United States. She left her country of birth in Iran and sought protection in the United States owing to the past persecution of 

 Her asylum application was filed within a short time of her

arrival in the United States with the USCIS on or about December 20, 2022. Since the filing of her asylum application, USCIS has issued her Employment Authorization with the latest Employment Authorization Document issued on August 14, 2025, valid through August 13, 2030. See Exhibit B.

10. On or about November 27, 2025 the petitioner departed for a short family trip to St. Thomas, U.S. Virgin Islands and was scheduled to return to Maryland on December 1, 2025. See Exhibit C.

11. After apprehending Petitioner on December 1, 2025, upon information and belief DHS placed 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.

12. The Court should expeditiously grant this petition.

13. Respondents are bound by the judgment in *Maldonado Bautista*, 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 her clear entitlement to consideration for release on bond as a Bond Eligible Class member.

14. Immigration judges have informed class members in bond hearings that they have been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15. Because Respondents are detaining Petitioner in violation of the declaratory judgment

issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

16. 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**

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Broward Transitional Center in Pompano Beach, Florida.

18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

19. 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.

### **VENUE**

20. 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 Florida, the judicial district in which Petitioner currently is detained.

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

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

22. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista*.

23. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

### **PARTIES**

24. Petitioner Mozhan Mohammadimotaheri is a citizen of Iran who has been in immigration detention since December 1, 2025. After Petitioner was arrested, ICE did not set bond, and Petitioner requested review of her custody by an IJ.

25. Respondent Garrett Ripa is the Director of the Miami Field Office of ICE’s Enforcement and Removal Operations division. As such, Garrett Ripa is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

26. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

27. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

28. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

29. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

30. Respondent Juan Gonzalez is the Assistant Field Office Director for the Miami Field Office of ICE's Enforcement and Removal Operations division and is the *de facto* Warden of the Broward Transitional Center where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

### **CLAIM FOR RELIEF**

#### **Violation of the INA:**

#### **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

34. The order granting class certification in *Maldonado Bautista* further orders that “[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.”

35. Respondents are parties to *Maldonado 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).

36. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to

mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays 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 Petitioner 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.

DATED this 5th day of December 2025.

/s/ John Gihon

John Gihon

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**Verification**

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Parastoo Golesorkhi-Zahedi  
Parastoo Golesorkhi-Zahedi

December 5, 2025

*Attorney for Petitioner\**

\*Motion for *Pro Hac Vice* Forthcoming