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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**
12 **FRESNO DIVISION**

13 Leandro XAVIER OLIVEIRA,

14 *Petitioner,*

15 v.

16 SERGIO ALBARRAN, Field Office
17 Director of the San Francisco Field
18 Office of U.S. Immigration and
19 Customs Enforcement;
20 TODD M. LYONS, Acting Director of
21 U.S. Immigration and Customs
22 Enforcement;
23 KRISTI NOEM, Secretary of the U.S.
24 Department of Homeland Security;
25 PAMELA BONDI, Attorney General
26 of the United States; and RON
27 MURRAY, Warden, Mesa Verde ICE
28 Processing Center,

Respondents.

1:25-cv-01760-WBS-AC (HC)

**AMENDED PETITION
FOR WRIT OF HABEAS
CORPUS**

**IMMIGRATION HABEAS
CASE**

INTRODUCTION

1
2
3 1. Petitioner, Leonardo Xavier Oliveira (“Petitioner” or “Mr. Oliveira”),
4 seeks a writ of habeas corpus to remedy Respondents’ (“Respondents”) arbitrary and unlawful detention of him.

5 2. Mr. Oliveira [REDACTED] entered the
6 United States without inspection in search of safety on or about December 15,
7 2024, in Texas. After the California Border Patrol (“CBP”) authorities
8 [REDACTED], U.S. Immigration and Customs
9 Enforcement (“ICE”) released him from custody pursuant to 8 U.S.C. §
10 1226(a) and gave him reporting requirements under the Intensive Supervision
11 Appearance Program (“ISAP”).

12 3. For the past year, Mr. Oliveira has been living in the United States
13 with lawful parole. He has no criminal charges or convictions.

14 4. On December 4, 2025, Mr. Oliveira unexpectedly apprehended by
15 ICE during an impromptu ISAP check-in appointment due to allegations of
16 reporting violations, of which he was given no opportunity to respond to prior
17 to the deprivation of his liberty.

18 5. Mr. Oliveira seeks immediate relief to remedy his unlawful detention
19 in violation of the Immigration and Nationality Act (“INA”) and the Fifth
20 Amendment to the U.S. Constitution.

JURISDICTION

21
22
23 6. Mr. Oliveira is currently in the custody of ICE at the Mesa Verde ICE
24 Processing Facility in Bakersfield, California.

25 7. Jurisdiction is proper over a writ of habeas corpus pursuant to 28
26 U.S.C. § 2241, Art. 1 § 9, cl. 2 of the United States Constitution (the
27 Suspension Clause); and 28 U.S.C. § 1331. This action arises under the Due
28

1 Process Clause of the Fifth Amendment of the U.S. Constitution and the INA,
2 8 U.S.C. § 1101, *et seq.*

3 8. The Court may grant declaratory and injunctive relief under 28 U.S.C.
4 § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the
5 All Writs Act, 28 U.S.C. § 1651. This Court also has broad equitable powers to
6 grant relief to remedy a constitutional violation. *See Roman v. Wolf*, 977 F.3d
7 935, 941 (9th Cir. 2020).

8 VENUE

9
10 9. Venue is proper because Mr. Oliveira is confined in this District at the
11 time of this petition's filing. *See Doe v. Garland*, 109 F.4th 1188, 1197-98 (9th
12 Cir. 2024).

13 10. Additionally, venue is proper in this Court pursuant to 28 U.S.C. §
14 1391(e) because Respondents are employees or officers of the United States,
15 acting in their official capacity; a substantial part of the events or omissions
16 giving rise to the claim occurred or will occur in the Eastern District of
17 California; and there is no real property involved in this action. *See* 28 U.S.C.
18 § 1391(e)(1)(A).

19 REQUIREMENTS OF 28 U.S.C. § 2243

20
21 11. The Court must grant the petition for writ of habeas corpus or issue an
22 order to show cause (OSC) to the respondents "forthwith," unless the petitioner
23 is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued,
24 the Court must require respondents to file a return "within *three days* unless for
25 good cause additional time, not exceeding twenty days, is allowed." *Id.*
26 (emphasis added).

27 12. Courts have long recognized the significance of the habeas statute in
28 protecting individuals from unlawful detention. The Great Writ has been

1 referred to as “perhaps the most important writ known to the constitutional law
2 of England, affording as it does a *swift* and imperative remedy in all cases of
3 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
4 (emphasis added).

5 EXHAUSTION OF ADMINISTRATIVE REMEDIES

6
7 13. Exhaustion of administrative remedies is not required. Any exhaustion
8 is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th
9 Cir. 2017). A court may waive the prudential exhaustion requirement if
10 “administrative remedies are inadequate or not efficacious, pursuit of
11 administrative remedies would be a futile gesture, irreparable injury will result,
12 or the administrative proceedings would be void.” *Id.* (quoting *Laing v.*
13 *Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks
14 omitted)).

15 14. Here, exhaustion would be futile and Mr. Oliveira’s continued
16 detention is causing him irreparable harm. Immigration judges (“IJs”) have
17 been summarily denying bond hearings based on the Board of Immigration
18 Appeal’s decisions in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025) and
19 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

20 PARTIES

21
22 15. Mr. Oliveira 
23 and has been residing in Oakland, California. He has been in ICE custody since
24 December 4, 2025.

25 16. Respondent Sergio Albarran is the Field Office Director for the San
26 Francisco Field Office of ICE Enforcement and Removal Operations (“ERO”).
27 Respondent Albarran is the federal official most directly responsible for Mr.
28

1 Oliveira's custody and is his legal custodian. He is named in his official
2 capacity.

3 17. Respondent Ron Murray is the Warden of the Mesa Verde ICE
4 Processing Center, owned and operated by the GEO Group, a private, for-profit
5 prison company, contracted by ICE, where the Mr. Oliveira is detained.
6 Respondent Murray has immediate physical custody of the Mr. Oliveira. He is
7 named in his official capacity.

8 18. Respondent Todd M. Lyons is the Acting Director of U.S.
9 Immigration and Customs Enforcement. Respondent Lyons is responsible for
10 ICE's policies, practices, and procedures, including those relating to the
11 detention of noncitizens. Respondent Lyons is a legal custodian of Mr.
12 Oliveira. He is named in his official capacity.

13 19. Respondent Kristi Noem is the Secretary of the U.S. Department of
14 Homeland Security ("DHS"), an agency of the United States. She is
15 responsible for overseeing DHS and its sub-agencies, ICE and USCIS, and has
16 ultimate responsibility over the detention of noncitizens in civil immigration
17 custody. *See* 8 U.S.C. § 1103(a). Respondent Noem is a legal custodian of Mr.
18 Oliveira. She is named in her official capacity.

19 20. Respondent Pamela Bondi is the Attorney General of the United
20 States and the head of the Department of Justice ("DOJ"), which encompasses
21 the Board of Immigration Appeals ("BIA") and immigration courts as part of
22 its sub-agency, the Executive Office for Immigration Review ("EOIR"). As
23 Attorney General, Respondent Bondi is responsible for overseeing the
24 implementation and enforcement of the federal immigration laws. *See* 8 U.S.C.
25 § 1103(g). Respondent Bondi is a legal custodian of Mr. Oliveira. She is named
26 in her official capacity.

27

28

LEGAL FRAMEWORK

A. The Statutory Framework of the INA

21. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ pursuant to 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). Third, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

22. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2), which were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

23. The applicability of mandatory detention under § 1225(b)(2) hinges on the difference between the terms “applicants for admission” in the broader sense, versus applicants for admission specifically “seeking admission” who are “not clearly and beyond a doubt entitled to be admitted.” The question is not, as some courts have framed it, whether “all immigrants who have not been lawfully admitted” are applicants for admission. *See Torres v. Barr*, 976 F. 3d

1 918, 929 (9th Cir. 2020). Rather, the question is whether there is a subset of
2 these applicants for admission who are in the process of seeking admission,
3 because if not, then the terms are redundant. The plain meaning of the text,
4 supported by legal precedent, and further represented by government practice,
5 compels a finding that the terms are distinct.

6 24. In the words of one district court, it is “implausible” that the use of
7 these “two distinct terms in the same subparagraph — ‘applicant for
8 admission’ and ‘an alien seeking admission’ — somehow bear the same
9 meaning even though they are (obviously) different terms, and would “violate
10 the canon against sursplusage” in which every word and clause in a statute
11 should have meaning. *Guartazaca Sumba v. Noem*, No. 1:25-cv-13034, 2025
12 WL 3126512, at *4 (N.D. Ill. Nov. 9, 2025).

13 25. The Supreme Court has already explained that § 1225(b) “applies
14 primarily to aliens seeking entry into the United States,” whereas § 1226
15 applies to “aliens already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281,
16 287 (2018). This is consistent with the fact that entrants without inspection
17 have historically been treated as subject to § 1226, not § 1225. *See* 62 Fed.
18 Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission,
19 aliens who are present without having been admitted or paroled...will be
20 eligible for bond and bond redetermination.”).

21 26. Following the enactment of the IIRIRA, EOIR drafted regulations
22 explaining that, in general, people who entered the country without inspection
23 were not considered detained under § 1225(b) and that they were instead
24 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
25 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
26 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

27 27. In the decades that followed, most people who entered without
28 inspection and were placed in standard removal proceedings received bond

1 hearings, unless their criminal history rendered them ineligible pursuant to 8
2 U.S.C. § 1226(c). This was consistent with many more decades of prior
3 practice, in which noncitizens who were not deemed “arriving” were entitled to
4 a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
5 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that
6 § 1226(a) simply “restates” the detention authority previously found at §
7 1252(a)).

8
9 **B. The Government’s Recent Change In Position**

10 28. On July 8, 2025, ICE, “in coordination with” the DOJ, announced a
11 new policy that rejected well-established understanding of the statutory
12 framework and reversed decades of practice. The new policy, entitled “Interim
13 Guidance Regarding Detention Authority for Applicants for Admission,”¹
14 claims that all persons who entered the United States without inspection are
15 considered applicants for admission and shall now be subject to mandatory
16 detention provision under § 1225(b)(2)(A). The policy applies regardless of
17 when a person is apprehended and affects those who have resided in the United
18 States for months, years, and even decades.

19 29. On September 5, 2025, the BIA adopted this same position in a
20 published decision holding that all noncitizens who entered the United States
21 without admission or parole are subject to detention under § 1225(b)(2)(A) and
22 are ineligible for IJ bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec.
23 216 (BIA 2025).

24 30. Federal judges within this jurisdiction and nationwide have widely
25 rejected this new interpretation of the INA’s detention authorities, *including* in
26 situations where a noncitizen entered without inspection, was detained near the
27

28 ¹ Available at <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>

1 border, released under § 1226(a), then re-detained under the guise of § 1225(b).
2 See, e.g., *J.S.H.M. v. Wofford*, No. 1:25-CV-01309, 2025 WL 2938808 (E.D.
3 Cal. Oct. 16, 2025) (Judge Jennifer L. Thurston finding that § 1226 applied to a
4 petitioner who had been detained at the border after entering without
5 inspection, released on discretionary parole, and was re-detained due to alleged
6 reporting violations); *Sandigo Manzanarez v. Bondi*, No. 1:25-cv-1536, 2025
7 WL 3247258 (E.D. Cal. Nov. 20, 2025) (Judge Dena Coggins granting
8 temporary restraining order and immediate release for a petitioner who had
9 been detained at the border after entering without inspection, released on his
10 own recognizance, then re-detained at a June 2025 check-in); *Singh Singh v.*
11 *Andrews*, No. 25-cv-1438, 2025 WL 3563221 (E.D. Cal. Dec. 12, 2025)
12 (Magistrate Judge Erica P. Grosjean granting petition and ordering immediate
13 release upon finding that § 1226(a) applied to a man who was apprehended at
14 the border after entering without inspection, released and placed on ISAP, then
15 re-detained after an alleged reporting violation); *Hernandez Nieves v. Kaiser*,
16 No. 3:25-cv-06921, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025) (similarly
17 ordering release and enjoining the government from re-detaining without
18 notice and a pre-deprivation hearing after petitioner had been released on his
19 own recognizance); *Rueda Padilla v. Bowen*, No. 2:25-cv-10780, 2025 WL
20 3251368 (C.D. Cal. Nov. 21, 2025) (similarly ordering immediate release and
21 enjoining re-detention without a pre-deprivation hearing where a man had been
22 paroled after a border detention and re-detained at an ICE check-in); *Rosado v.*
23 *Figueroa*, No. 2:25-cv-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025)
24 (granting habeas for a woman who had been initially detained at the border
25 after entering without inspection, paroled, awaiting INA § 240 proceedings,
26 and then re-detained); *O.F.B. v. Maldonado*, No. 25-CV-6336, 2025 WL
27 3277677 (E.D.N.Y. Nov. 25, 2025) (holding that § 1226 applied to a re-
28 detained man who had been previously paroled in at the border because he was

1 not seeking admission at the time of his re-detention but rather awaiting INA §
2 240 proceedings); *Lopez-Arevelo v. Ripa*, No. EP-25-cv-337, 2025 WL
3 2691828 (W.D. Tex. Sept. 22, 2025) (granting habeas in re-detention of a
4 previously paroled man awaiting INA § 240 proceedings).

5 **C. The Statute Upon Which This Detention Was Based**
6

7 31. When DHS classifies a noncitizen as detained, and released, under §
8 1226(a), they cannot later “switch tracks” and change the statute of that
9 person’s detention. *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 WL
10 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (citing *Lopez-Benitez v. Francis*, No.
11 25 Civ. 5937, 2025 WL 2371588, at *5 (S.D.N.Y. Aug. 13, 2025) (where “it is
12 indisputable” that DHS treated the petitioner as subject to § 1226, “[t]he court
13 cannot credit Respondents’ new position...which was adopted post hoc and
14 raised for the first time in this litigation”). Logically, “[s]ections 1226(a) and
15 1225(b) cannot be applied simultaneously” because “...one provides for
16 discretionary release with procedural protections, while the other mandates
17 detention without discretion.” *Id.* As a result, once the government initially
18 applies § 1226(a) when releasing a noncitizen on his or her own recognizance
19 and granting conditional parole, that statute continues to apply at the time of
20 re-detention. *Id.*

21 32. Respondent’s own documents explicitly cited 8 U.S.C. § 1226 when
22 they released Mr. Oliveira in January 14, 2025. **Exhibit (“Exh.”) A (Notice of**
23 **Custody Determination)**. Respondents further placed Mr. Oliveira in regular
24 INA § 240 removal proceedings under 8 U.S.C. § 1229a, as opposed to
25 expedited removal proceedings applicable to arriving aliens under § 1225(b)
26 (1), and charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i),
27 because he entered the United States without inspection. **Exh. B (NTA).**
28

1 33. Accordingly, the mandatory detention provision of § 1225(b)(2)(A)
2 does not apply to people like Mr. Oliveira, who had already entered the United
3 States at the time of apprehension, consistent with how Respondents
4 documented his apprehension and processed his release.

5 **D. Applicable Class Action of Bond Eligible Noncitizens**
6

7 34. On December 18, 2025, the Central District of California issued a
8 final order on a nationwide class action in *Maldonado Bautista v. Santacruz*,
9 No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). **Exh. F (Maldonado**
10 **Bautista Final Order)**; *see also Maldonado Bautista v. Santacruz*, No. 5:25-
11 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal.
12 Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-
13 Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,
14 --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order
15 certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class,
16 incorporating and extending declaratory judgment from Order Granting
17 Petitioners' Motion for Partial Summary Judgment).

18 35. This final order expressly held that noncitizens who entered the
19 United States without inspection are eligible for bond hearings before
20 immigration judges under INA § 236(a), 8 U.S.C. § 1226(a). **Exh. F.** The order
21 also vacated the July 8, 2025, "Interim Guidance Regarding Detention
22 Authority for Applicants for Admission" as it is not in accordance with the
23 Administrative Procedure Act. 5 U.S.C. § 706(2)(A). **Exh. F.**

24 36. The Bond Eligible Class encompasses noncitizens who were initially
25 apprehended after entering without inspection, released on their own
26 recognizance, and then re-detained. *See Maldonado Bautista*, 2025 WL
27 3289861, at *11.

28 37. Mr. Oliveira is a member of the Bond Eligible Class because he:

- a. does not have lawful status in the United States and is currently detained at the Mesa Verde ICE Processing Facility after being apprehended by the immigration authorities on December 4, 2025;
- b. entered the United States without inspection at a time or place unknown to the immigration authorities and was not apprehended upon his arrival, but rather thereafter in the interior of the U.S., *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 because Respondents released him from custody under § 1226(a).

38. The Court should expeditiously grant this petition. Respondents are bound by this final judgment, yet have been flagrantly defying the declaratory judgment previously issued in that case even though a declaratory judgment carries the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

39. Because Respondents are detaining Mr. Oliveira in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release him.

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

STATEMENT OF FACTS

41. Mr. Oliveira [REDACTED] entered the United States without inspection on December 15, 2024 [REDACTED]. After his entry, CBP detained him [REDACTED]. [REDACTED] ICE then placed Mr. Oliveira in removal proceedings under 8 U.S.C. § 1229a.

42. On January 14, 2025, ICE released Mr. Oliveira from custody under 8 U.S.C. § 1226. **Exh. A.** Specifically, in the January 14, 2025 “Notice of

1 Custody Determination” that ICE issued Mr. Oliveira, they indicated that he
2 was released under § 1226(a). The Notice reads:

3 Pursuant to the authority contained in section 236 of the Immigration
4 and Nationality Act and part 236 of title 8, Code of Federal
5 Regulations, I have determined that, pending a final administrative
determination in your case, you will be:

6 ☐ Detained by the Department of Homeland Security
7 ☒ Released (check all that apply):

8 ☐ Under bond in the amount of \$ _____

9 ☐ On your own recognizance

10 ☒ Under other conditions [Additional document(s) will be
provided.]

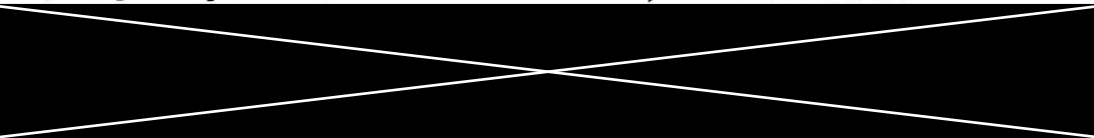
11 43. **Exh. A**; *see also* 8 U.S.C. § 1226(a).

12 44. DHS also issued Mr. Oliveira a parole document, valid for one year.
13 **Exh. C (Interim Notice Authorizing Parole)**. After his release, Mr. Oliveira
14 reported regularly to ICE as instructed, to the best of his knowledge and
15 abilities, while remaining within the confines of the geographical limitations he
16 was given. **Exh. D (Declaration of Counsel)**.

17 45. On October 15, 2025, ICE scheduled Mr. Oliveira for an in-person
18 check-in appointment, at which time ICE placed him on an ankle monitor.

19 **Exh. E (ISAP GPS Monitoring Agreement)**.

20 46. On or about November 27, 2025, ICE scheduled Mr. Oliveira for an
21 impromptu in-person check-in on December 4, 2025. **Exhibit D**.



22
23
24 48. On December 4th, Mr. Oliveira went with counsel to the San
25 Francisco ICE field office. **Exhibit D**. Once called in, a female officer asked
26 Mr. Oliveira a series of questions, alleged that he had committed reporting
27 violations, and had a male officer detain him. **Exhibit D**. He was not informed
28 that the purpose of the appointment was to re-detain him; he was not presented

1 with any evidence or meaningful opportunity to respond to the allegations; nor
2 was he provided a neutral adjudicator to make a custody re-determination.

3 **Exhibit D.**

4 49. On December 19, 2025, Mr. Oliveira had his first immigration court
5 hearing and Respondents maintained the charge of removability against Mr.
6 Oliveira as falling under INA § 212(a)(6)(A), 8 U.S.C. 1182(a)(6)(A), for
7 having been found present in the U.S. without being admitted or paroled.

8 50. ICE continues to detain Mr. Oliveira at the Mesa Verde ICE
9 Processing Facility in Bakersfield, California.

10 **CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 **Violation Of The INA**

13
14 51. Mr. Oliveira incorporates by reference the allegations of fact set forth
15 in the preceding paragraphs.

16 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
17 apply to all noncitizens residing in the United States who are subject to the
18 grounds of inadmissibility. As relevant here, it does not apply to those who
19 entered the country prior to being apprehended and placed in removal
20 proceedings by Respondents. Such noncitizens are detained under § 1226(a),
21 unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

22 53. The application of § 1225(b)(2) to Mr. Oliveira unlawfully mandates
23 his continued detention and violates the INA.

24
25 **SECOND CLAIM FOR RELIEF**

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

27 54. Mr. Oliveira repeats, re-alleges, and incorporates by reference each
28 and every allegation in the preceding paragraphs as if fully set forth herein.

55. The final order in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members. **Exh. F.**

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

57. 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.” See *Maldonado Bautista*, 2025 WL 3288403 at *9.

58. Respondents are parties to *Maldonado Bautista* and bound by the Court's final judgment.

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

THIRD CLAIM FOR RELIEF

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

Procedural Due Process

63. Mr. Oliveira re-alleges and incorporates by reference the paragraphs above.

64. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

65. Mr. Oliveira has a vested liberty interest in his release from immigration custody. Due process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator.

1 66. Prior to any re-arrest, the government must provide him with a
2 hearing before a neutral adjudicator. At the hearing, the neutral adjudicator
3 would evaluate, *inter alia*, whether clear and convincing evidence
4 demonstrates, taking into consideration alternatives to detention,
5 dangerousness and flight risk. During any custody determination hearing that
6 occurs, this Court or, alternatively, a neutral adjudicator, must consider
7 alternatives to detention when determining whether Mr. Oliveira's re-detention
8 is warranted, such as returning him to the ankle monitoring arrangement he
9 was in previously.

10 67. The Court must therefore order that ICE release Mr. Oliveira from his
11 current unlawful custody.

12 **FOURTH CLAIM FOR RELIEF**

13 **Arbitrary and Capricious Agency Action (APA, 5 U.S.C. § 706)**

14
15 68. Mr. Oliveira re-alleges and incorporates by reference the paragraphs
16 above.

17 69. Respondents acted arbitrarily, capriciously, and contrary to law when
18 they re-detained Mr. Oliveira alleging that he is subject to mandatory detention
19 under 8 U.S.C. § 1225(b), in direct contradiction of their previous
20 determination that he could be released from custody under § 1226(a). 5
21 U.S.C. § 706(2)(A).

22 70. Respondents acted arbitrarily, capriciously, and contrary to law when
23 they re-detained Mr. Oliveira on December 4th, nearly two months after his
24 last in person appointment on October 15th, at which time Respondents
25 deemed ankle monitoring to be a satisfactory resolution to his alleged reporting
26 violations. 5 U.S.C. § 706(2)(A).

27 71. Respondents' conduct further violates administrative due process and
28 the Fifth Amendment, as they failed to provide Mr. Oliveira with a pre-

1 deprivation of liberty process prior to his re-detention, which should have
2 involved proper notice, a meaningful opportunity to respond to the alleged
3 reporting violations, and fair consideration of his unique circumstances that
4 would support his continued non-detention.

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, Mr. Oliveira requests that the Court:

- 8 a. Assume jurisdiction over this matter;
9 b. Issue a writ of habeas corpus requiring that within one day,
10 Respondents release Mr. Oliveira;
11 c. Alternatively, issue a writ of habeas corpus requiring Respondents to
12 release Mr. Oliveira unless they provide a bond hearing under 8
13 U.S.C. § 1226(a) within seven days;
14 d. Award Mr. Oliveira attorney's fees and costs under the Equal Access
15 to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any
16 other basis justified under law; and
17 e. Grant any other and further relief that this Court deems just and
18 proper.

19
20 Respectfully submitted,

21 Date: December 23, 2025

/s/ Sara Silvia Rosell
Sara Silvia Rosell, Attorney at Law

23 *Attorney for Petitioner*
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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Mr. Oliveira because I am his attorney. As Mr. Oliveira's attorney, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: December 23, 2025

/s/ Sara Silvia Rosell

Sara Silvia Rosell, Attorney at Law

Attorney for Petitioner