

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ANTOLIN APARICIO MEDINO,

A# 

Petitioner,

v.

TONY NORMAND, Warden of Folkston ICE
Processing Center,

LADEON FRANCIS, Field Office Director of
Enforcement and Removal Operations, Atlanta
Field Office;

TODD LYONS, in his official capacity as
Acting director of Immigration and Customs
Enforcement;

KRISTI NOEM, Secretary, U.S. Department
of Homeland Security; and

PAMELA BONDI, U.S. Attorney General.

Respondents.

Civile Action No.: CV 525-210

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner ANTOLIN APARICIO MEDINO, A# [REDACTED] is a 47-year old native and citizen of Mexico who entered the United States without detection in 2000. On or about August 2025, he was arrested in the interior of the United States. He is not and has never been placed in expedited removal proceedings. He is current currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Folkston ICE Processing Center in Folkston, Georgia (“Folkston”). (See **Exhibit A – ICE Detainee Locator**). He is subject to ongoing removal proceedings pursuant to 8 U.S.C. § 1226(a). (See **Exhibit B – NTA**).
2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).
1. DHS asserts that because Antolin Aparicio Medino was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Folkston detainee. *Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534 (S.D. Ga. Nov. 4, 2025). (See **Exhibit C, Antonio Aguirre Villa v. Normand**).
2. Courts have also rejected the Government’s position on a class-wide basis as well. In *Maldonado Bautista v. Santacruz*, the Central District of California granted partial summary judgment declaring that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs detention for long-present interior arrestees placed directly into § 240 proceedings, and

days later certified a nationwide Bond-Eligible Class and ordered access to § 236(a) bond hearings for class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification and injunctive relief). (See **Exhibit D, Maldonado Bautista v. Santacruz**). Despite the federal court order, DHS counsel and immigration judges at Stewart Immigration Court continue to follow *Yajure*.

3. Petitioner seeks a writ of habeas corpus directing Respondents to release Petitioner immediately. Alternatively, Petitioner seeks a writ of habeas corpus directing Respondents to provide Petitioner with a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

JURISDICTION

3. 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).
4. 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.
5. Additionally, this Court has authority to issue a declaratory judgment and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202.

6. Habeas relief is available to challenge the fact, duration, and conditions of immigration detention, as well as the constitutionality of the procedures by which DHS seeks to effectuate removal, where a petitioner does not seek review of a final order of removal itself. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001).
7. Petitioner’s claims challenge only his civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)’s channeling provision. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not “questions of law or fact arising from” removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner’s release under § 1226(a) or barring application of § 1225 as to Petitioner—and does not “enjoin or restrain the operation” of any statute within § 1252(f)(1)’s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).
8. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts’ authority to “enjoin or restrain the operation” of the INA’s detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief “with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner—e.g., directing Petitioner’s release under § 1226(a) or precluding DHS from enforcing the “arriving alien” definition of §

1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carve-out.

9. Section 1252(g) is likewise inapplicable. It is a “narrow” jurisdictional bar that applies only to three discrete decisions or actions: “to commence proceedings, adjudicate cases, or execute removal orders.” *Reno v. Am.-Arab Anti- Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS’s use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention-related claims and challenges to custody procedures fall outside § 1252(g). See *id.* at 482–83; *cf. Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

VENUE

10. Habeas petitions generally are filed in the district court with jurisdiction over the filer’s place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241.
11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston ICE Processing Center in Stewart, Georgia. **(See Exhibit A – ICE Detainee Locator)**. 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 Georgia, the judicial district in which Petitioner currently is detained.
12. Additionally, with respect to Petitioner’s non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. §

1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in the Southern District of Georgia. Furthermore, the Respondents are officers of United States agencies, the Petitioner resides within this District, and there is no real property involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

- 16 . The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
- 17 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

18. Petitioner ANTOLIN APARICIO MEDINO is a 47-year-old citizen and national of Mexico who has resided in the United States since 2000, after entering the United States undetected. He is currently detained at the Folkston ICE Processing Center.
19. Respondent TONY NORMAND is employed by The GEO Group, Inc. as Warden of the Folkston ICE Processing Center, where Petitioner is detained. This Respondent is

responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Warden of the Folkston ICE Processing Center has immediate physical custody of the Petitioner and is sued in his or her official capacity.

20. Respondent LaDeon Francis is the Atlanta Field Office Director (FOD) for ICE. As such, Respondent Francis is responsible for the oversight of ICE operations at the Folkston ICE Processing Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is the immediate legal custodian of Petitioner.
21. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.
22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.
23. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

24. Petitioner acknowledges that under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the proper respondent to the habeas claim is the immediate custodian, and Petitioner does not rely on these officials as “habeas respondents.” Petitioner names federal officials in their official capacities solely to ensure the Court can issue effective relief on non-habeas claims, consistent with *Rumsfeld v. Padilla*. To the extent the Court deems them improper Respondents on the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as Respondents on the non-core claims, such as declaratory judgment and injunctive relief, so that effective, agency-directed relief can issue to the officials with authority to implement it.

EXHAUSTION OF REMEDIES

25. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges in the Stewart Immigration Court are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion futile. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. Futility is further underscored by *Maldonado Bautista v. Santacruz*, which has already required 8 U.S.C. § 1226(a) bond access for similarly situated interior arrestees nationwide, reinforcing that the Government’s § 1225(b)(2) position is unlawful and is currently being ignored by DHS counsel and immigration judges at Stewart Immigration Court. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025).

26. Petitioner is not required to exhaust his administrative remedies. Accordingly, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.

STATEMENT OF FACTS

18. Mr. Antolin Aparicio Medino is a citizen and national of Mexico born on 
 Petitioner entered the United States undetected at an unknown place along the U.S.-Mexico border in 2000 and has continuously resided in the United States.
19. Mr. Antolin Aparicio Medino resides in Atlanta, Georgia, where he works and raises his three U.S. Citizen children. All children are under the age of twenty one and rely on Mr. Antolin Aparicio Medino for financial support and parental care.
20. On or about August 2025, Mr. Antolin Aparicio Medino was arrested by the Gwinnett County Police Department on charges of Driving Under the Influence. To date, these charges remain pending.
21. Mr. Antolin Aparicio Medino was transferred to ICE custody on or about August 11, 2025.
22. On or about August 11, 2025, DHS placed DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) (dated and allegedly served on November 13, 2025) charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)). **(See Exhibit B – NTA).**
23. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

LEGAL FRAMEWORK

24. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for “any alien” arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody-redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).
25. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. See 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years’ continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).
26. In *Aguirre Villa v. Normand* (S.D. Ga. Nov. 4, 2025), the court rejected the government’s *Yajure* theory and held that § 1226(a) governs interior arrests charged into § 240, not § 1225(b)(2). The judge explained that “the expression ‘alien seeking admission’ plainly describes [an] individual taking some action, and, given the placement in the statute, that action would likely occur at the border upon inspection,” so “an individual like Petitioner, who has resided inside the United States for some period of time, is not an ‘alien seeking admission.’” *Id.* at *18-19. Reading § 1225 to cover long-settled EWIs would “render § 1226(a) essentially irrelevant.” The judge noted “Respondents were unable to identify any category of individuals who would be subject to § 1226(a)”, and that such a construction would also nullify Congress’s 2025 Laken Riley Act amendments to § 1226(c). *Id.* at *23-25. The court found *Matter of Yajure Hurtado* “unpersuasive,” aligned with the already large

and still growing district-court consensus, and concluded the petitioner is entitled to discretionary bond under § 1226(a).

27. The same statutory reading has now been adopted in class-wide relief. In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute’s two-track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs detention during § 240 removal proceedings for long-present interior arrestees.

CLAIMS FOR RELIEF

COUNT I

Declaratory Judgment

28. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.
29. Petitioner requests a declaration from this Court that Petitioner is not an applicant for admission “seeking admission” or “an arriving alien” subject to mandatory detention under 8 U.S.C. §§ 1225(b)(1) or (b)(2). Petitioner further requests a declaration that Petitioner’s current detention by Respondents, if justified at all, is governed solely by 8 U.S.C. § 1226(a).

COUNT II

Statutory Violation of the Immigration and Nationality Act: No-Bond Detention in Violation of 8 U.S.C. § 1226(a) and Unlawful Detention Under Improper Statutory Classification (INA §§ 1225 vs. 1226)

30. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.
31. Since Petitioner is not an applicant for admission “seeking admission” or an “arriving alien” subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2) and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), Petitioner is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).
32. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231 (which is not the case with Petitioner).
33. Petitioner’s continued detention under § 1225(b)(2) is unauthorized by statute, contrary to longstanding agency practice, and in violation of the INA and APA.

COUNT III
Violation of the Bond Regulations

34. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.
35. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission,

[noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

36. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

37. The application of § 1225(b)(2) to Petitioner unlawfully mandates Petitioner’s continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV
Procedural Due Process (U.S. Const. amend. V)

38. The allegations in the above paragraphs are realleged and incorporated herein.

39. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents’ position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT IV
Procedural Due Process (U.S. Const. amend. V)

40. The allegations in the above paragraphs are realleged and incorporated herein.

41. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment,

solely on a categorical theory rejected by this Court days ago, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter under 28 U.S.C. §§ 2241 and 1331 and the Suspension Clause;
- b. Enjoin and prevent the Respondents from relocating the Petitioner to a different detention center during these proceedings.
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;
- d. Declare that Petitioner is not an “applicant for admission” “1225(b), seeking admission” or an “arriving alien” and that Petitioner’s detention is unlawful;
- e. Declare that Respondents may properly detain Petitioner, if at all, only pursuant to 8 U.S.C. § 1226(a)
- f. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately or, in the alternative, within three (3) days provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a), where the government bears the burden to prove, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community;
- g. Enjoin Respondents from re-detaining Petitioner in the future pursuant to 8 U.S.C. § 1225;

- h. 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
- i. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 3rd day of December, 2025.

____//Eszter Bardi//_____
Eszter Bardi
Georgia Bar # 200449
Attorney for Petitioner
Sonoda Law Firm
1849 Clairmont Road
Decatur, GA 30033
Phone: 470-755-9520
Fax: 404-393-8399
Email: ebardi@sonodalaw.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

Respectfully submitted this 3rd day of December, 2025.

//Eszter Bardi//
Eszter Bardi
Georgia Bar # 200449
Attorney for Petitioner
Sonoda Law Firm
1849 Clairmont Road
Decatur, GA 30033
Phone: 470-755-9520
Fax: 404-393-8399
Email: ebardi@sonodalaw.com

Addendum:

DEFENDANTS:

TONY NORMAND, Warden of Folkston Detention Center,

LADEON FRANCIS, Field Office Director of ICE, Atlanta, Field Office,

TODD LYONS, Acting director of Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security;

PAMELA BONDI, U.S. Attorney General



Main Menu

Search Results: 1

ANTOLIN APARICIO MEDINO

Country of Birth : Mexico

A-Number:

Status : In ICE Custody

State: GA

Current Detention Facility: Folkston D Ray ICE Processing Center

** Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

Related Information

- Helpful Info**
- Status of a Case
- About the Detainee Locator
- Brochure
- ICE ERO Field Offices
- ICE Detention Facilities
- Privacy Notice

External Links

[Privacy - Terms](#)

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED] 1978

Event No: ATL2508000499

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: 1385456128

File No: [REDACTED]

In the Matter of:

Respondent: ANTOLIN APARICIO MEDINA currently residing at:

146 Cca Rd Lumpkin, GEORGIA 318153823

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

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 entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are 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.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

146 CCA Rd Lumpkin GA 31815.

(Complete Address of Immigration Court, including Room Number, if any)

on August 28, 2025 at 8:30 am to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

J 7322 PINCUS - SDDO

(Signature and Title of Issuing Officer)

Date: August 11, 2025

Atlanta, GA

(City and State)

EOIR - 1 of 4

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

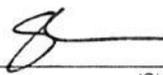
This Notice To Appear was served on the respondent by me on August 11, 2025 in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

REFUSED TO SIGN

(Signature of Respondent if Personally Served)

 _____
BRIAN BANKS - Deportation Officer
(Signature and Title of officer)

EOIR - 2 of 4

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

**** Referral Service**

***** Private Attorney**

<http://www.justice.gov/eoir/list-pro-bono-legal-service-providers>

Atlanta Immigration Court

Atlanta, Georgia

Catholic Charities Atlanta*

2305 Parklake Drive, Suite 150
Atlanta, GA 30345
(678)-222-3920

Intake for new clients is done by telephone between 8 a.m. and 12 noon, Monday to Friday. Call (678) 222-3920.

Will not take cases involving drugs, aggravated felonies, fraud, or persons convicted of spouse or child abuse or neglect.

Will charge nominal fee except for no fee for the homeless, detained, juvenile, and VAWA clients only.

Small consultation fee, other services are billed on a sliding scale.

Will not take cases that are best resolved by a designated school officer.

Unable to take cases from North Carolina.

The Latin American Association (LAA)*

2750 Buford Highway
Atlanta, GA 30324
Tel: 404-471-1889
Fax: 404-389-0472

www.thelaa.org

Access to Law Foundation*

2415 Beaver Run Road, Ste. B
Norcross, GA 30071

Tel: (770) 685-1499
Fax: 1-888-308-1931

P.O. Box 1614, Norcross, GA 30091
www.accesstolawfoundation.org

Will represent indigent aliens in asylum proceedings

Will provide free legal services to indigent aliens

Monday to Friday 9:am to 5:00 pm

By appointment only call (770) 685-1499

All types of immigration cases including SIJS and family court proceedings

Multilingual-Spanish, French, Hindi, Urdu

Kids in Need of Defense (KIND)*

Atlanta Office

600 Peachtree St NE, Suite 5200

Atlanta, GA 30308

Tel: (404)885-3629

Fax: (404) 885-3900

infoatlanta@supportkind.org

www.supportkind.org

KIND only represents minors and unaccompanied children

KIND ayuda a menores de edad y nino/as no-acompanados

NORTH CAROLINA JUSTICE AND COMMUNITY DEVELOPMENT CENTER

Immigrants Legal Assistance Project

224 S. Dawson Street
Raleigh, NC 27611

1-888-251-2776

<http://www.ncjustice.org/ilap>

Attorneys: Attracta Kelly and Jeff Summerlin-Long

Paralegal: Cristin Ruggle

Will represent asylum seekers.

Languages: Spanish

New clients accepted only on Tuesdays, must call FIRST between 9 a.m. and 5 p.m.

No walk in clients.

As required by 8 C.F.R. § 1003.61, the Office of the Chief Immigration Judge (OCIJ) maintains a list of organizations and attorneys qualified under the regulations who provide free legal services. The information posted on this list is provided to OCIJ by the Free Legal Services Providers, The Executive Office for Immigration Review (EOIR) does not endorse any of these organizations or attorneys. Additionally, EOIR does not participate in, nor is it responsible for, the representation, decisions or performance of these organizations or attorneys.

FILE COPY

I acknowledge that I have received a copy of this list of legal services.
Reconozco que he recibido una copia de esta lista de servicios legales.

REFUSED TO SIGN

8/12/2025

Date Provided



APARICIO MEDINA, Antolin

Alien's Signature

Rt. Index

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ANTONIO AGUIRRE VILLA,

Petitioner,

v.

WARDEN TONY NORMAND, et al.,

Respondents.

CIVIL ACTION NO.: 5:25-cv-89

ORDER AND REPORT AND RECOMMENDATION

Petitioner filed a Petition for Writ of Habeas Corpus and Complaint for Declarative and Injunctive Relief under 28 U.S.C. § 2241. Petitioner seeks release from Immigration and Customs Enforcement (“ICE”) detention at the Folkston Detention Center. He claims he has been unconstitutionally detained despite an immigration judge’s order releasing him on a \$10,000.00 bond. Doc. 1 at 1–2.

Petitioner, through counsel, filed a Motion for Order to Show Cause. Doc. 5. Counsel asks the Court to: (1) direct the Clerk of Court to serve a copy of the 28 U.S.C. § 2241 Petition served upon the United States Attorney’s Office; (2) require Respondent to respond to the Petition within three days; (3) require Respondents to produce a copy of the record for Petitioner’s immigration proceedings; and (4) order Respondents to produce Petitioner’s body so the Court can have custody over Petitioner during the resolution of this cause of action. *Id.* at 2. Petitioner has also filed an Emergency Motion for Temporary Restraining Order,” seeking the same remedy he seeks in the Petition itself: “to restrain ICE from continuing to unlawfully detain him.” Doc. 7 at 2.

Rule 4 of the Rules Governing Section 2254 Cases mandates that, unless “it plainly appears from the petition . . . that the petitioner is not entitled to relief,” the “judge must order the respondent to file an answer, motion, or other response within a fixed time.”¹ Rule 4 of the Rules Governing Section 2241 Cases. “In every case, the clerk must serve a copy of the petition and any order on the respondent and on the attorney general or other appropriate officer of the state involved.” *Id.* The Court has reviewed the Petition, as Rule 4 mandates. Petitioner’s claims against Respondent Normand do not appear plainly futile. However,

[t]he federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is “the person who has custody over [the petitioner].” 28 U.S.C. § 2242; *see also id.* § 2243 (“The writ, or order to show cause shall be directed to the person having custody of the person detained”). The consistent use of the definite article in reference to the custodian indicates that there is generally only one proper respondent to a given prisoner’s habeas petition. This custodian, moreover, is “the person” with the ability to produce the prisoner’s body before the habeas court. We summed up the plain language of the habeas statute over 100 years ago in this way: These provisions contemplate a proceeding against some person who has the *immediate custody* of the party detained, with the power to produce the body of such party before the court or judge, that he may be liberated if no sufficient reason is shown to the contrary.

Rumsfeld v. Padilla, 542 U.S. 426, 434–35 (2004) (internal citations and quotation marks omitted). Accordingly, the only proper Respondent in this action is Warden Tony Normand. Therefore, I recommend Respondents Todd Lyons, George Sterling, Kristi Noem, and Pamela Bondi all be dismissed. *See id.* at 435 (“[L]ongstanding practice confirms that in habeas challenges to present physical confinement—“core challenges”—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.”). Furthermore, as described above, the Court does not take custody of the Petitioner’s body but rather may direct the Respondent to

¹ The Rules Governing Section 2254 Cases may also apply to habeas actions brought under Section 2241. Rule 1(b) of the Rules Governing Section 2254 Cases.

“produce the body before the habeas court.” Id. at 434. Therefore, I deny Petitioner’s request for the Court to order Respondent to produce Petitioner’s body or for the Court to take custody of Petitioner during the pendency of this case.

Consequently, the Court **GRANTS in part** and **DENIES in part** Petitioner’s Motion for Order to Show Cause. The Court directs the United States Marshal to serve a copy of the Petition, doc. 1, Petitioner’s Motion for TRO, doc. 5, and a copy of this Order by registered or certified mail upon: (1) the Attorney General of the United States; (2) the named Respondent; and (3) the civil process clerk at the office of the United States Attorney for the Southern District of Georgia. See Fed. R. Civ. P. 4(i).

Given the emergent nature of the cause and associated Motion for TRO, the Court **ORDERS** Respondent to show cause, in writing, why Petitioner’s writ should not be granted by filing an Answer within **14 days** of service of the Petition. See Rule 5 of the Rules Governing Section 2254 Petitions. Respondent’s Answer must address the allegations in the Petition. In addition, the Respondent must attach to the answer parts of any transcript that the respondent considers relevant. See Rule 5(c) of the Rules Governing Section 2254 Petitions. To that end, the Court directs Respondent to produce a copy of the record of Petitioner’s immigration proceedings, including any bond proceedings. Id. The Court also directs Respondent to respond to Petitioner’s Motion for TRO within **7 days** of filing his Answer. Once an attorney has entered an appearance on Respondent’s behalf, the Court will set a briefing schedule for the parties and direct argument as to whether a hearing is necessary on the Motion for TRO. The Court **DIRECTS** the Clerk of Court to serve a courtesy copy of this Order on the United States Attorney for the Southern District of Georgia.

Therefore, the Court **GRANTS in part** and **DENIES in part** Petitioner's Motion for Order to Show Cause. Doc. 5. I **RECOMMEND** that the Court **DISMISS** Respondents Lyons, Sterlin, Noem, and Bondi. Any objections to this Report and Recommendation shall be filed within 14 days of today's date. Objections shall be specific and in writing. Any objection that the Magistrate Judge failed to address a contention raised in the Complaint must be included. Failure to file timely, written objections will bar any later challenge or review of the Magistrate Judge's factual findings and legal conclusions. 28 U.S.C. § 636(b)(1)(C); Harrigan v. Metro Dade Police Dep't Station #4, 977 F.3d 1185, 1192–93 (11th Cir. 2020). To be clear, a party waives all rights to challenge the Magistrate Judge's factual findings and legal conclusions on appeal by failing to file timely, written objections. Harrigan, 977 F.3d at 1192–93; 11th Cir. R. 3-1. A copy of the objections must be served upon all other parties to the action.

Upon receipt of objections meeting the specificity requirement set out above, a United States District Judge will make a de novo determination of those portions of the report, proposed findings, or recommendation to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made herein. Objections not meeting the specificity requirement set out above will not be considered by the District Judge. A party may not appeal a Magistrate Judge's report and recommendation directly to the United States Court of

Appeals for the Eleventh Circuit. Appeals may be made only from a final judgment entered by or at the direction of a District Judge.

SO ORDERED and **REPORTED** and **RECOMMENDED**, this 19th day of September, 2025.



BENJAMIN W. CHEESBRO
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

PLAINTIFF Antonio Aguirre Villa	COURT CASE NUMBER 5:25-cv-89
DEFENDANT Normand et al	TYPE OF PROCESS Petition, TRO, Order

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Tony Normand, Warden, Folkston Detention Center
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
3026 Highway 252 East, Folkston, GA 31537

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW Karen Weinstock Weinstock Immigration Lawyers 1827 Independence Square Atlanta, GA 30338	Number of process to be served with this Form 285	3
	Number of parties to be served in this case	3
	Check for service on U.S.A.	X

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of: John E. Triplett, Clerk of Court	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 912-650-4020	DATE 9/19/2025
---	---	----------------------------------	-------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process _____	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk _____	Date _____
---	------------------------	---------------------------------	--------------------------------	---	---------------

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (*See remarks below*)

Name and title of individual served (<i>if not shown above</i>)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode
Address (<i>complete only different than shown above</i>)	Date _____ Time _____ <input type="checkbox"/> am <input type="checkbox"/> pm
Signature of U.S. Marshal or Deputy _____	

Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS:

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

PLAINTIFF Antonio Aguirre Villa	COURT CASE NUMBER 5:25-cv-89
DEFENDANT Normand et al	TYPE OF PROCESS Petition, TRO, Order

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Civil Process Clerk, Office of the United States Attorney Southern District of Georgia

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

P.O. Box 8970, Savannah, GA 31412

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	Number of process to be served with this Form 285	3
	Number of parties to be served in this case	3
	Check for service on U.S.A.	X

Karen Weinstock
Weinstock Immigration Lawyers
1827 Independence Square
Atlanta, GA 30338

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of: John E. Triplett, Clerk of Court	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 912-650-4020	DATE 9/19/2025
---	---	----------------------------------	-------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. <i>(Sign only for USM 285 if more than one USM 285 is submitted)</i>	Total Process _____	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk _____	Date _____
--	------------------------	---------------------------------	--------------------------------	---	---------------

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (*See remarks below*)

Name and title of individual served (<i>if not shown above</i>)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode
Address (<i>complete only different than shown above</i>)	Date _____ Time _____ <input type="checkbox"/> am <input type="checkbox"/> pm
Signature of U.S. Marshal or Deputy _____	

Service Fee	Total Mileage Charges including <i>endeavors</i>	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS:

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

PLAINTIFF Antonio Aguirre Villa	COURT CASE NUMBER 5:25-cv-89
DEFENDANT Normand et al	TYPE OF PROCESS Petition, TRO, Order

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Attorney General of the United States Pamela J. Bondi
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
950 Pennsylvania Ave., NW, Washington, DC 20530

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW Karen Weinstock Weinstock Immigration Lawyers 1827 Independence Square Atlanta, GA 30338	Number of process to be served with this Form 285	3
	Number of parties to be served in this case	3
	Check for service on U.S.A.	X

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (*Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service*):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of: John E. Triplett, Clerk of Court	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 912-650-4020	DATE 9/19/2025
---	---	----------------------------------	-------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. <i>(Sign only for USM 285 if more than one USM 285 is submitted)</i>	Total Process _____	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk _____	Date _____
--	------------------------	---------------------------------	--------------------------------	---	---------------

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (*See remarks below*)

Name and title of individual served (<i>if not shown above</i>)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode
Address (<i>complete only different than shown above</i>)	Date _____ Time _____ <input type="checkbox"/> am <input type="checkbox"/> pm
Signature of U.S. Marshal or Deputy _____	

Service Fee	Total Mileage Charges including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS:

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date November 25, 2025

Title Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING PLAINTIFF
PETITIONERS' MOTION FOR CLASS CERTIFICATION
[DKT. NO. 41]**

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Motion for Class Certification. [Dkt. No. 41, "Motion"; Dkt. No. 15]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 59, Opposition or "Opp."]. Petitioners filed their Reply on September 19, 2025. [Dkt. No. 61, "Reply"]. For the following reasons, Petitioners' Motion is **GRANTED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Court will not repeat the facts of this case for the sake of brevity. For reference to the factual background, please refer to the Prior Order on the Motion for Partial Summary Judgment, the First Amended Complaint ("FAC"), and the pleadings papers related to this motion. [See Dkt. No. 15, "First Amended Complaint" or "FAC"; Dkt. No. 81, "MSJ Order". See generally Dkt. Nos. 41, 59, 61].

On August 11, 2025, Petitioners filed this Motion, seeking declaratory relief and vacatur against Respondents' policies for two proposed classes:

- **Bond Eligible 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.
- **Adelanto Class:** All noncitizens in the United States without lawful status who (1) have or will have proceedings before the Adelanto Immigration Court; (2) have entered or will enter the United States without inspection; (3) were not or will not be apprehended upon arrival; and (4) 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 noncitizen is scheduled for or requests a bond hearing.

[See Motion at 14].

On November 14, 2025, the Court heard argument from the parties on the Motion. At the hearing, the parties agreed to proceed with the Bond Eligible Class only consistent with their briefing on the redundancy of the Adelanto Class. [See also Opp. at 24; Reply at 4 n.1]. With the scope of the Motion limited to the Bond Eligible Class only, the Court now considers whether class certification is proper.

II. LEGAL STANDARD

“A party seeking class certification must satisfy the requirements of Federal Rule of Civil Procedure 23(a) and the requirements of at least one of the categories under Rule 23(b).” *Wang v. Chinese Daily News*, 737 F.3d 538, 542 (9th Cir. 2013).

In determining whether to certify a class, a district court “take[s] the substantive allegations of the complaint as true,” however, “the court also is required to consider the nature and range of proof necessary to establish those allegations.” *In re Coordinated Pretrial Proceedings in Petroleum Prods. Antitrust Litig.*, 691 F.2d 1335, 1342 (9th Cir. 1982).

A. Rule 23(a) Prerequisites

“Rule 23(a) ensures that the named plaintiffs are appropriate representatives of the class whose claims they wish to litigate.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011). A party seeking class certification must demonstrate the following prerequisites under Rule 23(a): “(1) numerosity of plaintiffs; (2) common questions of law or fact predominate; (3) the named plaintiff’s claims and defenses are typical; and (4) the named plaintiff can adequately protect the interests of the class.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir.1992) (citing Fed.R.Civ.P. 23(a)). The party may not rest on mere allegations, but must provide facts to satisfy these requirements. *Doninger v. Pac. Northwest Bell, Inc.*, 564 F.2d 1304, 1309 (9th Cir.1977).

The district court must conduct a “rigorous analysis” and conclude that all four requirements—commonly shorthanded as numerosity, commonality, typicality, and adequate representation—are satisfied. *Wang*, 737 F.3d at 542–43 (quoting *Wal-Mart*, 564 U.S. at 349).

B. Rule 23(b)(2) Requirements

“In addition to the requirements of Rule 23(a), a proposed class must also meet the requirements of one or more of the ‘three different types of classes’ set forth in Rule 23(b).” *Senne v. Kan. City Royals Baseball Corp.*, 934 F.3d 918, 927 (9th Cir. 2019). Here, Petitioners seek certification under Rule 23(b)(2). [Motion at 36–39].

Rule 23(b)(2) requires that “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2).

III. DISCUSSION

As a threshold matter, Respondents oppose class certification, arguing that statutory limits preclude the requested method of relief. [Opp. at 14–15]. Respondents further challenge the propriety of class certification by arguing that

Petitioners cannot demonstrate commonality and typicality, and that the proposed classes do not qualify for Rule 23(b)(2) relief. [Opp. at 15–24].¹

A. 8 U.S.C. § 1252

Respondents suggest 8 U.S.C. § 1252(e)(1)(B) precludes class certification in this action. [Opp. at 14]. Section 1252(e)(1)(B) limits judicial review by preventing courts from “certify[ing] a class under Rule 23 . . . in any action for which judicial review is authorized under a subsequent paragraph of this subsection.” § 1252(e)(1)(B). Respondents are correct that § 1252(e)(3)(A) limits “[j]udicial review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia,” and limits challenges to the constitutionality of a section or regulation, or whether certain regulations, policies, or procedures are inconsistent with the INA or violates other laws. [Opp. at 14–15]. See § 1252(e)(3)(A). However, invoking § 1252(e)(1)(B) as a bar to relief is illusory.

Respondents’ argument assumes that Petitioners “challenge an alleged new policy that all [noncitizens]² who entered the United States without inspection are

¹ The Opposition further contends that the Adelanto Class is redundant and should not be certified. [Opp. at 24]. Petitioners concede this argument, and maintain that a nationwide Bond Eligible Class suffices. [Reply at 4 n.1].

² This Order uses the term “noncitizen” in place of “alien.” The Court follows the U.S. Supreme Court and Ninth Circuit, where the use of the term “noncitizen” has become a common practice. See *Patel v. Garland*, 596 U.S. 328 (2022) (Barrett, J.); *United States v. Palomar-Santiago*, 593 U.S. 321 (2021) (Sotomayor, J.); *Barton v. Barr*, 590 U.S. 222, 226 n.2, (2020) (Kavanaugh, J.) (“This opinion uses the term ‘noncitizen’ as equivalent to the statutory term ‘alien.’” (citing 8 U.S.C. § 1101(a)(3))); *Avilez v. Garland*, 69 F.4th 525 (9th Cir. 2023); *Arce v. United States*, 899 F.3d 796 (9th Cir. 2018). Additionally, this Court thinks it is prudent to “avoid language that reasonable readers might find offensive or distracting—unless the biased language is central to the meaning of the writing.” *Chicago Manual of Style Online* 5.253, <https://www.chicagomanualofstyle.org/book/ed17/part2/ch05/psec253.html>. As noted by the Ninth Circuit, “[t]he word alien can suggest ‘strange,’ ‘different,’ ‘repugnant,’ ‘hostile,’ and ‘opposed[.]’” *Avilez*, 69 F.4th at 527 n.1 (citing *Alien, Webster’s Third New International Dictionary* 53 (2002)). Accordingly, because the word “noncitizen” is synonymous and does not encompass such negative connotations, the Court finds “noncitizen” is a better word choice. See *Alien* and

subject to mandatory detention under § 1225(b)(2)(A).” [Opp. at 14]. However, as discussed in the Order on the Motion for Partial Summary Judgment, Petitioners have maintained their position that they are detained under § 1226 and are therefore entitled to receive bond hearings rather than remain in mandatory detention. [Reply at 6].

Because the premise of Petitioners’ claim is that the proper governing authority over their detention is § 1226 rather than § 1225, the Court does not find § 1252(e)(3)(A) prohibits this Court from ruling on this Motion.

B. Rule 23(a)

The Court now considers whether the proposed class meets the requirements of Rule 23(a).

1. Numerosity

Numerosity is satisfied if “the class is so large that joinder of all members is impracticable.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998)). Generally, courts find the numerosity requirement satisfied “when a class includes at least 40 members.” *Rannis v. Recchia*, 380 Fed. Appx. 646, 651 (9th Cir. 2010)).

Respondents do not dispute that Petitioners have satisfied numerosity. [See *generally* Opp.]. The Court finds numerosity is satisfied given the factual circumstances surrounding the putative class members and geographic scope of the proposed class. [Motion at 28 (suggesting that “at a minimum there are thousands of Bond Eligible Class members”)].

The Bond Eligible Class includes individuals that were detained following “Operation At Large,” which entailed a 3,000 daily arrest quota of putative class members in Los Angeles, California. [Motion at 27]. Where the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”) continue to increase immigration-related arrests in cities across the country, the Court finds that Petitioners have demonstrated by a preponderance of evidence that numerosity is satisfied. [See Department of Homeland Security, *ICE Launches Operation Midway Blitz in Honor of Katie Abraham to Target Criminal Illegal [Noncitizens] Terrorizing Americans in Sanctuary Illinois* (Sept. 8, 2025)

Noncitizen, *American Heritage Dictionary of English Language* 44, 1198 (5th ed. 2011).

(documenting “Operation Midway Blitz” in Chicago, Illinois); Department of Homeland Security, *DHS Launches Operation Charlotte’s Web to Target Criminal Illegal [Noncitizens] Terrorizing Americans in Charlotte, North Carolina* (Nov. 15, 2025) (indicating “surging resources for Operation Charlotte’s Web in North Carolina”).

Based on data from the Executive Office of Immigration Review (“EOIR”) and DHS’s reports of its operations, the Court finds the Bond Eligible class satisfies the numerosity requirement. [See Motion at 2628].

2. Commonality

The second Rule 23(a) requirement is commonality. This prong requires “a plaintiff . . . show that ‘there are questions of law or fact common to the class.’” *Dukes*, 564 U.S. at 349 (quoting Fed. R. Civ. Proc. 23(a)(2)). The proposed class’s claims must “depend upon a common contention.” *Id.* And the common contention “must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* Accordingly, “what matters to class certification . . . is not the raising of common questions—even in droves—but rather, the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation.” *Id.* at 350.

Commonality is “construed permissively.” *Hanlon*, 150 F.3d at 1019. Thus, “[a]ll questions of fact and law need not be common to satisfy the rule.” *Id.*; see also *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012) (“Where the circumstances of each particular class member vary but retain a common core of factual or legal issues with the rest of the class, commonality exists”).

Rather, the “standard is “readily met” when plaintiffs seek prospective relief “challeng[ing] a system-wide practice or policy that affects all of the putative class members.” *Mansor*, 345 F.R.D. at 204. Indeed, the Ninth Circuit has held that “in a civil-rights suit . . . commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all of the putative class members.” *Gonzalez*, 975 F.3d at 808 (citations omitted).

There is little question here that Petitioners seek declaratory relief to challenge a newly adopted DHS policy that affects all putative class members. [Motion at 28–32]. Nevertheless, Respondents argue the proposed class lacks

commonality because there are “obvious differences between purported class members,” which would require “different answers depending on individualized circumstances.” [Opp. at 16].

However, the Court does not find the difference among putative class members so obvious. Although it is possible that individuals may have differing charges of inadmissibility when they are arrested, the deprivation of their right to a bond hearing is a common injury. Such common injury can be resolved in a single stroke upon the determination that the new DHS policy is in violation of their due process rights. *See Rodriguez v. Hayes*, 591 F.3d 1105 (9th Cir. 2010) (describing commonality as “look[ing] only for some shared legal issue or a common core of facts”).

The Court’s MSJ Order rejected Respondents’ proposed interpretation of the INA, which subjected Petitioners and those similarly situated to mandatory detention. [MSJ Order at 1017]. As a matter of law, Respondents’ interpretation runs counter to the plain language of the INA, foundational principles of statutory interpretation, and the INA’s statutory scheme. [*Id.*]. In other words, the interpretive consequences of Respondents’ interpretation and corresponding agency practices stemming from that interpretation injure Petitioners and putative class members in a common manner.

Where the class definition outlines an adequate basis to define this kind of injury, the Court finds commonality has been satisfied.

3. Typicality

The third requirement of Rule 23(a) is typicality. “The claims of the representative party must be typical of the class claims.” *Gonzalez*, 975 F.3d at 809 (citing Fed. R. Civ. P. 23(a)(3)). “[R]epresentative claims are ‘typical’ if they are reasonably co-extensive with those of absent class members; they need not be substantially identical.” *Hanlon*, 150 F.3d at 1020; *Schwartz v. Harp*, 108 F.R.D. 279, 282 (C.D.Cal.1985). Typicality looks to “whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992).

“Typicality refers to the nature of the claim or defense of the class representative, and not to the specific facts from which it arose or the relief

sought.” *Hanon*, 976 F.2d at 508. Typicality is a “permissive standard,” *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003), but class certification is inappropriate “if there is a danger that absent class members will suffer if their representative is preoccupied with defenses unique to it.” *Hanon*, 976 F.2d at 508.

Together, commonality and typicality “serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical” and whether the class representative’s and class claims are “so interrelated that the interests of the class members will be fairly and adequately protected in their absence.” *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982)

Respondents contest typicality by suggesting that “half of [the named Petitioners] will be subject to mandatory detention if and when they apply for immigration benefits.” [Opp. at 18]. But Petitioners and the putative class members face essentially identical factual circumstances that satisfy typicality.

Petitioners arrived in the United States without inspection. [Dkt. No. 1 at 6–7]. They were later arrested and detained at an ICE Processing Center and were denied bond hearings by an IJ, who claimed a lack of jurisdiction. [See *id.*; Dkt. No. 5]. At the time of their arrest, Petitioners were charged inadmissible under grounds that did not place them under mandatory detention as required by § 1225(b)(1), § 1226(c), or § 1231. [Dkt. No. 1 ¶¶ 43, 48, 53, 58]. Despite this, Petitioners remained in detention until the Court granted their TRO. [See Dkt. No. 5; Dkt. No. 14, “Prior Order”]. After the TRO, Petitioners were granted individualized bond hearings.

A named plaintiff is not typical if “there is a danger that absent class members will suffer if their representative is preoccupied with defenses unique to it.” *DZ Rsrv. v. Meta Platforms, Inc.*, 96 F.4th 1223, 1238 (9th Cir. 2024). Respondents posit that Petitioners cannot show typicality because “if and when [named Petitioners] apply for a U-visa and cancellation of removal, respectively, they will . . . be subject to mandatory detention under § 1225(b)(2).” [Opp. at 18]. Not only does the record fail to support the premise that Petitioners will take such a course of action, but the Court also has doubts as to whether such action would necessitate mandatory detention. [See Reply at 7].

Much like the Petitioners, putative class members are noncitizens who already arrived in the United States without inspection, or will enter the United States and not face inspection. [Motion at 14]. In other words, putative class

members are inadmissible, but not subject to mandatory detention under § 1225(b)(1), § 1226(c), or § 1231. Where those individuals are subject to mandatory detention due to Respondents' improper interpretation of the INA, Petitioners' claims present the same circumstances as those of the Bond Eligible Class. Therefore, Petitioners' claims can be considered typical of Bond Eligible Class's.

The Court thus finds that Petitioners have satisfied the typicality requirement for the Bond Eligible Class.

4. Adequacy

The final requirement of Rule 23(a) is adequacy. Adequacy looks at whether “the representative parties will fairly and adequately protect the interests of the class.” *See Hanlon*, 150 F.3d at 1020 (quoting Fed. R. Civ. P. 23(a)(4)). To evaluate adequacy, the Court looks to whether (1) the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) whether named plaintiffs and their counsel prosecute the action vigorously on behalf of the class” *See Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th Cir. 1978)). The named plaintiffs and their counsel must have “sufficient ‘zeal and competence’ to protect the interests of the rest of the class.” *Doe v. Wolf*, 424 F. Supp. 3d 1028, 1043 (S.D. Cal. 2020) (quoting *Fendler v. Westgate-Cal. Corp.*, 527 F.2d 1168, 1170 (9th Cir. 1975)).

Respondents do not appear to contest adequacy. Nevertheless, the Court evaluates whether there are any conflicts of interest or concerns associated with named Petitioners and their counsel.

i. Named Petitioner's Adequacy

The Court turns first to the adequacy of the named Plaintiff Petitioner: Lazaro Maldonado Bautista.

Bautista has lived in Los Angeles, California since 2021 and has no criminal history. [Dkt. No. 41-14 ¶¶ 3, 6, “Declaration of Lazaro Maldonado Bautista”]. He was arrested on June 6, 2025 during an ICE operation in Los Angeles, California. [Dkt. No. 1 at 5–6]. Following his arrest, ICE detained Bautista at Adelanto ICE Processing Facility. [Declaration of Lazaro Maldonado Bautista ¶ 7]. Upon requesting a bond hearing before an immigration court, Bautista attended a hearing at which an IJ concluded that he was subject to mandatory detention and that the IJ lacked jurisdiction to consider his request for release on bond. [*Id.* ¶ 9].

Bautista, along with the other named Petitioners, received a bond hearing only after this Court granted their Application for a TRO. [*Id.* ¶ 12; *see also* Dkt. No. 5].

Having now been released on bond, Bautista expresses his interest in representing the class and his understanding of the responsibilities of doing so. In a declaration submitted to the Court, Bautista explains he “want[s] to be a named plaintiff in this case.” [Declaration of Lazaro Maldonado Bautista at ¶ 13]. Furthermore, Bautista indicates his understanding that he “would represent a large number of people who have entered the United States without inspection” and “ICE is not considering [those people] for bond.” [*Id.*]. The declaration further states he understands he “would represent people who are currently in detention and who have been denied consideration for bond for the same reason as [himself].” [*Id.* ¶ 14]. As part of his role as class representative, Bautista declares that his role would require representing “the interests of all class members in this lawsuit and that it is [his] responsibility to represent the interests of each class as a whole and not just [his] own personal interests.” [*Id.* ¶ 15].

Based on his declaration, Bautista asserts that he is an adequate representative of the class; he seeks for the putative class members the same relief he received, and, as of the filing of the complaint, shares the same interests as absent class members. *See Doe v. Wolf*, 424 F. Supp. 3d 1028, 1043-44 (S.D. Cal. 2020). Nothing in the record suggests that Bautista has any conflicts of interest. Bautista has a “mutual goal” with the other class members to challenge the allegedly unlawful practices and to “obtain declaratory . . . relief that would not only cure this illegality but remedy the injury suffered by all current and future class members.” [Motion at 35 (quoting *Nightingale v. U.S. Citizenship & Immigr. Servs.*, 333 F.R.D. 449, 462 (N.D. Cal. 2019))].

The Court finds he is an adequate representative of the Bond Eligible Class.

ii. Class Counsel’s Adequacy

Counsel for the proposed class have shown that they have experience litigating class actions on immigration matters. The two attorneys from the USC Gould School of Law Immigration Clinic—Mr. Niels W. Frenzen and Ms. Jean E. Reisz—have litigated and presented arguments in immigration cases in numerous federal district courts and represented clients in approximately fifty petitions before two Circuit Courts of Appeals. [Dkt. 41-21 ¶¶ 2–4]. Moreover, the attorneys from the Northwest Immigrant Rights Project (NWIRP) have a decade or

more of experience working in immigration law. [See Dkt. No. 44-19 (explaining that Adams has many years of experience); *id.* ¶ 5 (explaining that Madrid has worked for NWIRP since 2013); *id.* ¶ 6 (explaining that Kang has worked for NWIRP since 2014); *id.* ¶ 7 (explaining that Korthius has worked for NWIRP since 2018). Notably, Mr. Matt Adams has litigated “hundreds of cases and personally argued on behalf of immigrants before immigration judges, the Board of Immigration Appeals, federal district courts, the Ninth Circuit Court of Appeals, and the United States Supreme Court.” [Dkt. No. 41-19 ¶ 3]. He has “successfully moved for class certification and been approved by federal courts as class counsel in sixteen different class actions on behalf of immigrants.” [*Id.*].

The Motion further mentions the qualification of counsel from the American Civil Liberties Union, given their deep knowledge of immigration law and experience litigating class actions and complex federal cases. [Motion at 35–36]/ The combined experience of class counsel is more than adequate.

Finally, the Court finds nothing in the record to suggest that the attorneys have any conflicts of interest with other class members. Accordingly, the Court concludes that counsel meet Rule 23(a)(4)’s adequacy requirement.

C. Rule 23(b)(2)

Because the proposed class has met the requirements of Rule 23(a), the Court now turns to Rule 23(b). Petitioners seek class certification under Rule 23(b)(2), “which permits the Court to certify a class if ‘the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.’” *Jane Doe 1 v. Nielsen*, 357 F. Supp. 3d 972, 991 (N.D. Cal. 2018).

The Ninth Circuit has previously concluded that “[n]either [Rule 23] nor due process necessarily requires that the district court rule on class certification before granting or denying a motion for summary judgment.” *Wright v. Schock*, 742 F.2d 541, 545 (9th Cir. 1984). See also *Estakhrian v. Obenstine*, 859 F. App’x 121, 122 (9th Cir. 2021). As a preliminary matter, the Court’s MSJ Order already determined that Respondents’ interpretation of the INA cannot be squared with the statutory text and statutory scheme, and articulated the proper interpretation of the INA that applies to Petitioners. [See MSJ Order]. The MSJ Order, therefore, makes clear that this proposed class is appropriate for certification under Rule 23(b)(2). However, because the MSJ Order precedes this ruling on the class

certification motion, the Court addresses Respondents’ concerns regarding certification and further articulates why Rule 23(b)(2)’s standards are met.

“Class certification under Rule 23(b)(2)” requires that “the primary relief sought is declaratory or injunctive.” *Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010). Petitioners “seek declaratory relief and vacatur for [the Bond Eligible Class].” [Motion at 38]. Respondents raise two arguments to oppose class certification: (1) that § 1252(f)(1) prohibits the requested classwide relief, and (2) that the requested relief will not address the Bond Eligible Class’s injuries as a whole. [Opp. at 19–23].

1. Section 1252(f)’s Prohibition of Class Actions

The Ninth Circuit’s recent decision in *Al Otro Lado v. Executive Office for Immigration Review* addresses Respondents’ first argument. *See Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 120 F.4th 606, 625–26 (9th Cir. 2024). In this case, the Ninth Circuit rejected the Government’s argument that classwide declaratory relief was prohibited by § 1252(f). 120 F.4th at 1123–24. Nevertheless, Respondents insist that the requested declaratory relief would interfere with the Government’s efforts to detain noncitizens under § 1225(b)(2), and that is “impermissibly coercive.” [Opp. at 20–21]. However, the Supreme Court has acknowledged that a declaratory judgment, “[t]hough it may be persuasive, . . . is not ultimately coercive.” *Steffel v. Thompson*, 415 U.S. 452, 471 (1974).

The Court further notes that the statutory text further supports the availability of classwide declaratory relief. *Compare* § 1252(e)(1)(A) (prohibiting courts from entering “declaratory, injunctive, or other equitable relief” in any action to exclude under § 1225(b)(1) *with* § 1252(f)(1) (specifically noting that this subsection is a “[l]imit on injunctive relief”). Therefore, the requested relief for the Bond Eligible Class authorized by Rule 23(b)(2) is not incompatible with § 1252(f).

2. Whether Classwide Relief is Appropriate

Respondents next argue that classwide declaratory relief is not appropriate, as “the relief sought would not be uniform and applicable to all class members.” [Opp. at 22]. Respondents suggest the class definition “draw[s] no clear distinctions between [noncitizens] entering without inspection and [noncitizens] present without inspection such that no single declaratory judgment would cover all putative class members.” [*Id.* at 22–23]. In other words, Respondents take

issue with an overbroad class definition, and further argue that due process may call for dissimilar procedural protections. [*Id.*].

The Court recognizes that Respondents could not benefit from the Court’s reasoning in the MSJ Order at the time of submitting their Opposition. However, the MSJ Order has now clarified two important concerns in this matter: (1) that Respondents’ interpretation of the INA is incorrect; and (2) the relief requested by Petitioners would merely make available to Petitioners and putative class members the statutory protections imbued by the INA. [MSJ Order at 11, 16]. The accessibility of the INA’s statutory protections to noncitizens is therefore uniform.

Rule 23(b)(2) “does not require [courts] to examine the viability or bases of class members’ claims for declaratory and injunctive relief, but only to look at whether class members seek uniform relief from a practice applicable to all of them.” *Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010); *see also Parsons v. Ryan*, 754 F.3d 657, 688 (9th Cir. 2014). This inquiry “does not require an examination of the viability or bases of the class members’ claims for relief, does not require that the issues common to the class satisfy a Rule 23(b)(3)-like predominance test, and does not require a finding that all members of the class have suffered identical injuries.” *Parsons*, 754 F.3d at 688. Thus, “‘it is sufficient’ to meet the requirements of Rule 23(b)(2) that ‘class members complain of a pattern or practice that is generally applicable to the class as a whole.’” *Rodriguez*, 591 at 1125 (citations omitted).

Consistent with the MSJ Order, Petitioners indeed clarify that the requested declaratory relief is generally applicable to all members of the Bond Eligible Class. According to Petitioners, the new DHS policy applies to the members of the proposed Bond Eligible Class. Where the DHS policy renders all of the Bond Eligible Class subject to mandatory detention under § 1225(b)(2), the putative class members have been deprived of their right to a bond hearing under § 1226(a). [Motion at 37–38]. The declaratory relief requested—a ruling that the policy violates Petitioners’ and putative class members’ statutory and constitutional rights—would provide the entire class with relief from continued deprivation of their rights. [*Id.* at 13, 38]. Petitioners explain that “[a] single declaratory judgment requiring [IJs] to provide individualized custody determinations at bond hearings” would apply to the class as a whole.” [*Id.* at 38].

Crucially, a classwide order declaring the DHS policy in violation of the class members’ rights would not ensure their release on bond; it merely secures a

right to an individualized hearing. Any differences that may exist in class members' entitlement to be released is a different matter than their entitlement to a hearing. Respondents' concerns regarding uniform relief does not speak to the latter.

“The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the [defendant's] conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.” *Dukes*, 564 U.S. at 360. The MSJ Order has already found Respondents' interpretation of the INA to be contrary to the statutory text and statutory scheme, and mutually exclusive of Petitioners' interpretation. Because the proper interpretation of the INA preserves a noncitizen's right to an individualized bond hearing after arrest, the MSJ Order illustrates the indivisible nature of the relief. The Court finds similar cases from this judicial district instructive.

In *Franco-Gonzales v. Napolitano*, the Court found a class action under Rule 23(b)(2) was maintainable where the plaintiffs claimed that the defendants “[had] failed, on a systemic basis, to have adequate procedures in place to both identify mentally incompetent [noncitizens] and provide them with necessary safeguards.” *Franco-Gonzales*, No. CV 10-02211 DMG DTBX, 2011 WL 11705815 (C.D. Cal. Nov. 21, 2011). Petitioners present very similar circumstances here. Respondents have failed, on a systemic basis, to provide Petitioners and putative class members with the necessary safeguards imbued by the INA in violation of their rights.

Moreover, in *Inland Empire-Immigrant Youth Collective v. Nielsen*, the Court found class certification under Rule 23(b)(2) was appropriate because “to certify a class that is *not* nationwide in scope might result in the application of unlawful practices based solely on geographic location, a piecemeal situation that would lead to arbitrary results.” *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 1061408 at *12 (C.D. Cal. Feb. 26, 2018). With this in mind, the Court finds a nationwide Bond Eligible Class is appropriate.

Accordingly, Petitioners satisfy Rule 23(b)(2). When 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.

IV. CONCLUSION

For these reasons, Petitioners' Motion for Class Certification is **GRANTED** as to the Bond Eligible Class and **DENIED** as to the Adelanto Class. [Dkt. No. 41]. The Court **ORDERS** that the following class be certified:

The Bond Eligible Class is **CERTIFIED** as to Petitioners' claims that the DHS Policy violates the INA and Due Process. The class certified is defined as follows:

- **Bond Eligible 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.

The Court appoints Lazaro Maldonado Bautista as the representative for the Bond Eligible Class. The Court appoints attorneys Niels W. Frenzen and Jean E. Reisz of the USC Gould School of Law Immigration Clinic and Matt Adams, Glenda M. Aldana Madrid, Leila Kang, and Aaron Korthuis of the Northwest Immigrant Rights Project as class counsel.

The Court **SETS** a status conference for **January 16, 2026**, and **ORDERS** parties to submit a Joint Status Report on **January 9, 2026**, which shall include how the parties will proceed with this matter.

IT IS SO ORDERED.