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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT, CALIFORNIA

9 EDGAR MAYORAL GARCIA,

10 Petitioner,

'25CV3466 JES MMP

11 v.

**PETITION FOR WRIT OF  
HABEAS CORPUS; FOR AN ORDER  
TO SHOW CAUSE WITHIN  
3 DAYS; AND TO ENJOIN  
TRANSFER FROM THE  
JURISDICTION**

12 DANIEL BRIGHTMAN, Field Office Director  
13 of Enforcement and Removal Operations, San  
14 Diego Field Office, Immigration and Customs  
15 Enforcement; KRISTI NOEM, Secretary, U.S.  
16 Department of Homeland Security; U.S.  
17 DEPARTMENT OF HOMELAND  
SECURITY; Pamela BONDI, U.S. Attorney  
General; CHRISTOPHER LAROSE, Warden  
of OTAY MESA DETENTION FACILITY,  
EOIR.

18 Respondents.  
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1 INTRODUCTION

2 1. Petitioner EDGAR MAYORAL GARCIA brings this petition for a writ of habeas  
3 corpus to seek enforcement of his right to a custody hearing as a member of the Bond Denial  
4 Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.),  
5 as well as under long standing statutory and constitutional law. Petitioner is in the physical  
6 custody of Respondents at the Otay Mesa Detention Facility. He now faces continued unlawful  
7 detention because the Department of Homeland Security (DHS) has refused to abide by the  
8 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*,  
9 and is further violating Petitioner's. . *In addition to requesting an order for a bond hearing,*  
10 *Petitioner seeks an immediate order to prevent the Respondents from removing him from the*  
11 *jurisdiction of this Court during the pending of these proceedings.*

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

21 3. The declaratory judgment held that the Bond Denial Class members are detained  
22 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §  
23 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.

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

5 5. On December 2, 2025, the Petitioner was apprehended on his way to work in San  
6 Diego County, CA. Petitioner cooperated with the agents responding to all inquiries regarding  
7 his nationality and authorization to be in the United States. He was thereafter detained and  
8 placed in removal proceedings. On that same date, ICE issued a notice of custody determination  
9 indicating that Petitioner's detention by the Department of Homeland Security was pursuant to  
10 INA section 236, 8 U.S.C. *section 236*. [Exhibits 1 and 2]

11 6. On December 8, 2025, the Immigration Court denied Petitioner's bond hearing. The  
12 Immigration Judge found that she lacked authority to redetermine the petitioner's custody based  
13 on case precedent from the Immigration Board of Appeals in *Yajure Hurtado*, 29 I&N Dec. 216  
14 (BIA 2025) despite the District Court's subsequent order in *Maldonado Bautista*, 2025 WL  
15 3289861, at \*11.

16 7. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full  
17 "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue  
18 to flagrantly defy the judgment and continue to subject Petitioner to unlawful detention despite  
19 his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

#### 20 VENUE AND JURISDICTION

21 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
22 Otay Mesa Detention Center, an ICE detention center, located within San Diego County, and  
23 Christopher LaRose is his immediate custodian as the Warden of the facility. As such, venue is  
24

1 proper in this Court. 28 U.S.C. section 2241(d) and 1391 (e) *Braden v. 30th Judicial Circuit*  
2 *Court of Kentucky*, 410 U.S. 484, 493- 500 (1973),

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

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

7 10. The Court should grant the petition for writ of habeas corpus “forthwith,” as the  
8 legal issues have already been resolved for class members by its sister court in *Maldonado*  
9 *Bautista*.

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

16 **PARTIES**

17 12. Petitioner Edgar Mayoral Garcia is a 45-year-old native of Mexico who has been  
18 in immigration detention since December 2, 2025. He last entered the U.S. in 2008, and was not  
19 apprehended by DHS at the time. He has resided in the U.S. for nearly 3 decades and is married  
20 to a U.S. Citizen with whom he shares 3 U.S. born children, ages 12, 7, and 5. He supports the  
21 family by holding down two jobs, and has also been an acting pastor at his Church for close to 20  
22 years.



1 19. No statutory exhaustion requirement applies. *8 U.S.C. section 2241; Laing v. Ashcroft*,  
2 *370 F.3d 994, 998 (9<sup>th</sup> Cir. 2004)*. Nonetheless Petitioner requested a hearing which the  
3 Immigration Judge declined to hear on December 8, 2025. Moreover, additional agency steps  
4 would be futile as the Board of Immigration Appeals [“BIA”] published the decision in *Matter*  
5 *of Yajure Hurtado, 28 I&N Dec. 216 (BIA 2025)*. In its decision the BIA shares DHS’s reading  
6 of 8 U.S.C. section 1225(b) (2), finding that noncitizens who entered the country without  
7 inspection are ineligible for release on bond. [Exhibit 3] Therefore, Petitioner has exhausted his  
8 administrative remedies to the extent required by law, and his only remedy is by this judicial  
9 action.

10 **CLAIMS FOR RELIEF**

11 **The Petitioner’s Detention without a Custody Hearing is in Direct Conflict with**  
12 **Precedential Case Law and Statutory Law**

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

15 21. The legal framework to be part of a Bond Eligible Class Member requires

- 16 a. The petitioner have no lawful status and be detained by DHS;  
17 b. Entered the U.S. without inspection and was not apprehended upon arrival;  
18 c. Is not detained under 8.U.S.C. sections 1226 (c ), 1225(b ), or 1231.

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

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



1 as he is given no venue to show that he is not subject to mandatory detention under section 1226  
2 (c). The risk is further heightened by the apparent lack of an independent adjudicator. *Marcello*  
3 *v. Bonds*, 39 U.S. 302, 305-306 (1955). Counsel thus posits that the Defendants are in violation  
4 of the *Maldonado Bautista* precedent, the statutory framework in the INA and the code of federal  
5 regulations, as well as the Fifth Amendment/ Due Process Clause

6  
7 **PRAYER FOR RELIEF**

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

- 9 a. Assume jurisdiction over this matter;
- 10 b. Enjoin Respondents to refrain from transferring Petitioner out of the jurisdiction  
11 during the pendency of these proceedings;
- 12 c. Order Respondents to file a response within 3 business days of the filing of this  
13 petition as to why Petitioner should not be given a custody hearing;
- 14 d. Issue a writ of habeas corpus requiring Respondents to release Petitioner within  
15 on day;
- 16 e. Alternatively, issue a writ of habeas corpus requiring Respondents to release  
17 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within  
18 seven days;
- 19 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act  
20 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
21 law; and
- 22 g. Grant any other and further relief that this Court deems just and proper.

23 DATED : December 8, 2025

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**EXHIBIT LIST**

EXHIBIT 1 NOTICE TO APPEAR P.9

EXHIBIT 2 NOTICE OF ICE CUSTODY DETERMINATION P.10

EXHIBIT 3 IMMIGRATION JUDGE ORDER DENYING BOND HEARING P.11

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

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

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: EDGAR MAYORAL-GARCIA

currently residing at:

7488 Calzada de la Fuente San Diego, CALIFORNIA 92154

(619) 671-8700

(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 TECATE, CA, on or about September 17, 2008;
4. You were not then admitted or paroled after inspection by an Immigration Officer, OR at that time you arrived at a time or place other than as designated by the Attorney General.

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:

7488 CALZADA DE LA FUENTE, SAN DIEGO, CALIFORNIA 92154. OTAY MESA DETENTION CENTER

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

on December 15, 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.

L. JOHNSON - SDDO

(Signature and Title of Issuing Officer)

Date: December 2, 2025

SAN DIEGO, CA

(City and State)

DEPARTMENT OF HOMELAND SECURITY  
NOTICE OF CUSTODY DETERMINATION

Alien's Name: MAYORAL-GARCIA, EDGAR

A-File Number: [REDACTED]

Date: 12/02/2025

Event ID: [REDACTED]

Subject ID: [REDACTED]

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

Detained by the Department of Homeland Security.

Released (check all that apply):

Under bond in the amount of \$ \_\_\_\_\_

On your own recognizance.

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

JOHNSON, L. 7079 [Signature]  
Name and Signature of Authorized Officer

12/02/2025 5:33 PM  
Date and Time of Custody Determination

SDDO  
Title

ICE ENFORCEMENT AND REMOVAL OPERATIONS 880 FRONT STREET #2242 SAN DIEGO, CA US 92101  
Office Location/Address

You may request a review of this custody determination by an immigration judge.

I acknowledge receipt of this notification, and

I do request an immigration judge review of this custody determination.

I do not request an immigration judge review of this custody determination.

refused to sign  
Signature of Alien

12/02/2025  
Date

The contents of this notice were read to MAYORAL-GARCIA, EDGAR in the ENGLISH language.  
(Name of Alien) (Name of Language)

CHAN, K 7699 [Signature]  
Name and Signature of Officer

\_\_\_\_\_  
Name or Number of Interpreter (if applicable)

Deportation Officer  
Title



UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OTAY MESA IMMIGRATION COURT

Respondent Name:

MAYORAL-GARCIA, EDGAR

To:

von Posern, Susan Brooke  
265 Santa Helena  
Suite 120  
Solana Beach, CA 92075

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/08/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

Denied, because

The Immigration Judge lacks authority to hear the respondent's request for a bond. Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

Granted. It is ordered that Respondent be:

- released from custody on his own recognizance.
- released from custody under bond of \$
- other:

Other:

The court in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.), granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. Thus, the *Bautista* litigation is currently still pending, there is no final judgment, and there is no binding effect at this time.

Request for alternate bond amount DENIED.

**CERTIFICATE OF ELECTRONIC SERVICE**

**Edgar Mayoral Garcia**

I, SUSAN VON POSERN, CONFIRM THAT ON DECEMBER 8, 2025, I UPLOADED THE ATTACHED PETITION FOR WRIT OF HABEAS CORPUS INTO THE PACER SYSTEM, AND THAT NO SEPARATE SERVICE IS REQUIRED AS ALL PARTIES ARE PARTICIPATING IN THE SYSTEM.

//S//SUSAN VON POSERN