

KARINA ORDONEZ LAW OFFICE, PLLC

Karina J. Ordonez, Esq., No. 028610

2642 E Thomas Rd.

Phoenix, AZ 85016

Telephone: (480) 729-4119

Facsimile: (602) 296-0460

Karina@karinaordonez.com

Noel Elco Rascón, Esq.

State Bar No.: 030518

RASCON LAW, PLC

2 N. Central Ave., Suite 1800

Phoenix, AZ 85004-2139

Phone: (602) 654-1277

Fax: (602) 641-4185

E-mail: noel@rasconazlaw.com

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Faustino Sanchez-Sanchez

Petitioner,

v.

Luis Rosa, Jr., Warden, Florence Service Processing Center; John Cantu, Field Office Director, Phoenix Arizona Field Office, United States Immigration and Customs Enforcement; Todd Lyon, Acting Director, United States Immigration and Customs Enforcement; Kristi Noem, Secretary of Homeland Security; Pamela Bondi, United States Attorney General, *in their official capacities,*

Respondents.

Civil Action No.:

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY INJUNCTIVE
RELIEF**

1 **PETITION FOR A WRIT OF HABEAS CORPUS AND COMPLAINT FOR**
2 **DECLARATORY INJUNCTIVE RELIEF**

3 **INTRODUCTION**

4 1. Petitioner Faustino Sanchez-Sanchez (Mr. Sanchez-Sanchez) respectfully
5 petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy his
6 unlawful civil immigration detention by Respondents. Mr. Sanchez-Sanchez is a forty-
7 four-year-old husband, father of five U.S. citizen children, and owner of a landscaping
8 company, who has resided in the United States for approximately twenty-seven years.
9

10 2. Mr. Sanchez-Sanchez entered the United States without inspection in 1998
11 and has lived in Arizona since that time. He was detained by Immigration and Customs
12 Enforcement (“ICE”) on August 28, 2025, during a targeted surveillance operation while
13 attempting to locate a different individual, Mr. Sanchez-Sanchez was encountered during
14 a traffic stop, even though he was not the subject of the operation and had lived in the
15 community for decades.
16

17 3. On July 14, 2011, the Department of Homeland Security (“DHS”) issued Mr.
18 Sanchez-Sanchez a Notice to Appear (“NTA”) that expressly classified him as “an alien
19 present in the United States who has not been admitted or paroled,” and did not designate
20 him as an “arriving alien.” The NTA charges Mr. Sanchez-Sanchez as removable under 8
21 U.S.C. § 1182(a)(6)(A)(i), INA § 212(a)(6)(A)(i) as an alien present in the United States
22 without being admitted or paroled, or who arrived in the United States at any time or place
23 other than as designated by the Attorney General.
24
25
26
27

1 4. Despite DHS's express classification of Mr. Sanchez-Sanchez as a non-
2 arriving alien present in the United States, ICE and the Immigration Court have treated him
3 as an "applicant for admission" subject to mandatory detention under 8 U.S.C. §
4 1225(b)(2)(A), thereby denying him a bond hearing under 8 U.S.C. § 1226(a).
5

6 5. On February 2, 2014, the Immigration Judge ("IJ") in Phoenix, Arizona
7 granted DHS's Motion to Administratively Close proceedings.

8 6. On January 15, 2025, an I-360 Self-Petition under the Violence Against
9 Women's Act ("VAWA") and I-485 Adjustment of Status application was filed with US
10 Citizenship and Immigration Services ("USCIS"). On February 21, 2025, USCIS
11 determined that Mr. Sanchez-Sanchez's application established prima facie determination.
12

13 7. On August 8, 2025, Mr. Sanchez-Sanchez was granted an employment
14 authorization document with category C9 (pending adjustment of status application for
15 lawful permanent resident) from August 8, 2025 to August 7, 2030.
16

17 8. On October 28, 2025, the IJ denied Mr. Sanchez-Sanchez's Motion to
18 Terminate Removal Proceedings against him based on his pending VAWA application
19 before USCIS.

20 9. On November 28, 2025, the IJ denied Mr. Sanchez-Sanchez's request for
21 custody redetermination, concluding that the Immigration Court lacked jurisdiction to set
22 bond because Mr. Sanchez-Sanchez is allegedly detained under § 1225. The IJ further held
23 that the Court in *Bautista v Noem*, 5:25-cv-018733-SSS-BFM (C.D. Cal.), did not issue a
24 class-wide injunction.
25
26
27

1 10. Mr. Sanchez-Sanchez is a member of the Bond Eligible Class certified in
2 *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025 &
3 Nov. 25, 2025), which held that class members like Mr. Sanchez-Sanchez, noncitizens
4 arrested in the interior and charged under 8 U.S.C. § 1182(a)(6)(A)(i), are detained under
5 8 U.S.C. § 1226(a) and may not be denied consideration for release on bond under §
6 1225(b)(2)(A).
7

8 11. The District of Arizona has recently rejected the government's attempt to
9 recharacterize similar long-term residents as arriving aliens and applicants for admission
10 after DHS has issued an NTA designating them as "present in the United States without
11 admission." See *Rodrigues da Silva v. Figueroa*, No. CV-25-04015-PHX-JJT, slip op. at 2–
12 4 (D. Ariz. Nov. 18, 2025). This Court held DHS could not reclassify such individuals as
13 arriving aliens in order to impose mandatory detention under § 1225(b)(2)(A).
14

15 12. Respondents' detention of Mr. Sanchez-Sanchez under § 1225(b)(2)(A), in
16 the face of DHS's own NTA classification, the District of Arizona's binding reasoning, and
17 the *Maldonado Bautista* class wide declaratory judgment, violates the Immigration and
18 Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Due Process
19 Clause of the Fifth Amendment.
20

21 13. Mr. Sanchez-Sanchez respectfully asks this Court to order his immediate
22 release, or, in the alternative, order Respondents to provide him with a constitutionally
23 adequate bond hearing under § 1226(a) within seven (7) days, at which the Government
24 bears the burden to justify continued detention.
25
26
27

1 **JURISDICITON**

2 14. Mr. Sanchez-Sanchez is in the physical custody of Respondents. Mr.
3 Sanchez-Sanchez is detained at the Florence Service Processing Center, in Florence,
4 Arizona.

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

9
10 16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
11 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

12 **VENUE**

13 17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484,
14 493- 500 (1973), venue lies in the United States District Court for the District of Arizona,
15 the judicial district in which Mr. Sanchez-Sanchez currently is detained.

16
17 18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
18 Respondents are employees, officers, and agencies of the United States, and because a
19 substantial part of the events or omissions giving rise to the claims occurred in the District
20 of Arizona.

21
22 **REQUIREMENTS OF 28 U.S.C. § 2243**

23 19. The Court should grant the petition for writ of habeas corpus “forthwith,” as
24 the legal issues have already been resolved for class members in *Maldonado Bautista*.

25 20. Habeas corpus is “perhaps the most important writ known to the
26 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of
27

1 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).
2 “The application for the writ usurps the attention and displaces the calendar of the judge or
3 justice who entertains it and receives prompt action from him within the four corners of
4 the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
5

6 **PARTIES**

7 21. Mr. Sanchez-Sanchez is a native and citizen of Mexico who entered the
8 United States without inspection in 1998. He has resided continuously in Arizona for
9 approximately twenty-seven (27) years. He is forty-four (44) years old, a husband, father
10 to five (5) US Citizen children, and the primary financial and emotional support for his
11 family. He is a business owner of a landscaping company since 2018. He is married and is
12 the father of five (5) children, Lipzy (24), Amy (19), D [REDACTED] (17), Y [REDACTED] (7) and N [REDACTED] (3),
13 all of whom reside with him in Phoenix, Arizona. Mr. Sanchez-Sanchez has no criminal
14 record, has never attempted to flee from authorities.
15
16

17 22. Respondent Christopher McGregor is the *Acting* Field Office Director of the
18 Phoenix Field Office of ICE’s Enforcement and Removal Operations and is Mr. Sanchez-
19 Sanchez’s immediate ICE custodian.
20

21 23. Respondent Kristi Noem is the Secretary of the U.S. Department of
22 Homeland Security. She is responsible for the implementation and enforcement of the
23 Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Mr.
24 Sanchez-Sanchez’s detention. Ms. Noem has ultimate custodial authority over Mr.
25 Sanchez-Sanchez and is sued in her official capacity.
26
27

1 24. Respondent U.S. Department of Homeland Security (DHS) is the federal
2 agency responsible for implementing and enforcing the INA, including the detention and
3 removal of noncitizens.

4
5 25. Respondent Pamela Bondi is the Attorney General of the United States. She
6 is responsible for the Department of Justice, of which the Executive Office for Immigration
7 Review and the immigration court system it operates is a component agency. She is sued
8 in her official capacity.

9
10 26. Respondent Executive Office for Immigration Review (EOIR) is the federal
11 agency responsible for implementing and enforcing the INA in removal proceedings,
12 including for custody redeterminations in bond hearings.

13
14 27. Respondent Luis Rosa, Jr. is the Warden of the Florence Service Processing
15 Center in Florence, Arizona, where Mr. Sanchez-Sanchez is detained and in whose
16 immediate physical custody Mr. Sanchez-Sanchez is held.

17 **FACTUAL BACKGROUND**

18 **A. Mr. Sanchez-Sanchez's Residence and Family Ties**

19
20 28. Mr. Sanchez-Sanchez entered the United States without inspection in or
21 around May 8, 1998 at or near Douglas, Arizona and has remained in the United States
22 since that time. He is a landscaping business owner in Phoenix, as the primary financial
23 and emotional support to his wife and children. Members of the community describe him
24 as a person with "honesty, strong work ethic, and devotion to his family" and a "lives
25 with integrity and has built his life here in accordance with our laws and values" all
26 "qualities that strengthen our neighborhoods."
27

1 29. Mr. Sanchez-Sanchez lives with his wife and their five children in Phoenix,
2 Arizona. He is deeply involved in their daily lives and has strong community and family
3 ties.

4
5 30. Mr. Sanchez-Sanchez has no criminal history of any kind, no prior
6 immigration-related absconding, and a record of responsible conduct in the United States.

7 B. Detention, NTA, Immigration Court Proceedings

8
9 31. On August 28, 2025, ICE officers conducted an operation targeting another
10 individual. Mr. Sanchez-Sanchez was not the subject of the warrant but was nonetheless
11 detained during a traffic stop and taken into immigration custody.

12 32. DHS issued an NTA to Mr. Sanchez-Sanchez on July 14, 2011. In the
13 section describing Mr. Sanchez-Sanchez's classification, DHS did not check the box
14 stating "You are an arriving alien." Instead, DHS checked the box indicating that Mr.
15 Sanchez-Sanchez is "an alien present in the United States who has not been admitted or
16 paroled."
17

18 33. The NTA alleges that Mr. Sanchez-Sanchez (1) is not a citizen or national
19 of the United States, (2) is a native and citizen of Mexico, (3) entered the United States at
20 or near Douglas, Arizona on or about May 8, 1998, and (4) "was not then admitted or
21 paroled after inspection by an Immigration Officer." Based on these allegations, DHS
22 charged Mr. Sanchez-Sanchez as removable under 8 U.S.C. § 1182(a)(6)(A)(i) as "an
23 alien present in the United States without being admitted or paroled, or who arrived in the
24 United States at any time or place other than as designated by the Attorney General."
25
26
27

1 34. Mr. Sanchez-Sanchez was placed in standard removal proceedings under 8
2 U.S.C. § 1229a, not expedited removal under § 1225(b)(1). The NTA reflects no
3 designation that Mr. Sanchez-Sanchez is an “arriving alien,” and DHS did not invoke
4 credible-fear procedures or other § 1225(b)(1) mechanisms.
5

6 35. Removal proceedings were administratively closed on February 3, 2014 by
7 an IJ in Phoenix, Arizona. Removal proceedings were re-calendared based on the
8 warrantless arrest on August 28, 2025.
9

10 36. Subsequent to the *Maldonado Bautista* class declaratory injunction, Mr.
11 Sanchez-Sanchez requested a custody redetermination on November 26, 2025. Mr.
12 Sanchez-Sanchez submitted a written request for a custody redetermination hearing
13 pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 1236.1(d), given that he is not an applicant
14 for admission but rather a long-term resident detained pursuant to a warrant and thus is
15 bond-eligible under § 1226(a).
16

17 C. December 4, 2025 Bond Decision

18 37. On December 4, 2025, the Immigration Court conducted a custody
19 redetermination hearing. In a written order of the same date, the IJ denied Mr. Sanchez-
20 Sanchez’s bond request “because the Court has not been shown to have jurisdiction to set
21 bond with respect to this Respondent. The court in *Bautista v Noem*, 5:25-cv-018733-
22 SSS-BFM (C.D. Cal.), granted class classification and partial summary judgment for the
23 plaintiff’s in that case, but did not issue a class-wide declaratory judgement. The court
24 also did not issue a class-wide injunction, which would not be permitted by law. Until
25 and unless the *Bautista* court issues a class-wide declaratory judgment or injunction, the
26
27

1 *Bautista* court’s opinion and partial grant of summary judgment does not constitute a
2 judgment. See, e.g., Fed R. Civ P. 54(b).” See Exh. D.

3 38. Thus, the IJ both (a) accepted DHS’s contention that Mr. Sanchez-Sanchez
4 is detained under § 1225 as an “applicant for admission” and therefore not bond-eligible,
5 and (b) that the *Bautista* court did issue a class-wide declaratory judgment or an
6 injunction, while still placing the burden on Mr. Sanchez-Sanchez.
7

8 39. Mr. Sanchez-Sanchez remains detained at Florence Service Processing
9 Center without ever having received a bond hearing under § 1226(a) at which the
10 Government bears the burden to justify continued detention by clear and convincing
11 evidence, as required by due process.
12

13 **CLAIM FOR RELIEF**

14 **COUNT ONE**

15 **Violation of the INA and Declaratory Judgment – Improper Application of 8**
16 **U.S.C. § 1225(b)(2)(A) Instead of 8 U.S.C. § 1226(a)**

17 40. Petitioner incorporates by reference paragraphs 1-39 above as though fully
18 set forth herein.

19 41. Mr. Sanchez-Sanchez is a long-term resident arrested during a traffic stop
20 and re-calendared removal proceedings under 8 U.S.C. § 1229a, charged under §
21 1182(a)(6)(A)(i). DHS expressly classified him in the NTA as an “alien present in the
22 United States who has not been admitted or paroled,” and did not designate him as an
23 “arriving alien.”
24

25 42. Under the INA’s structure and implementing regulations, including 8 C.F.R.
26 § 235.3(c)(1), such individuals are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A).
27

1 The Supreme Court has recognized that § 1226 governs detention of “aliens already in the
2 country pending the outcome of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S.
3 281, 289 (2018).

4
5 43. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D.
6 Cal. Nov. 20, 2025 & Nov. 25, 2025), the court held that members of the Bond Eligible
7 Class—including noncitizens arrested in the interior and charged under §
8 1182(a)(6)(A)(i)—are detained under § 1226(a) and may not be denied consideration for
9 release on bond by misclassifying them as applicants for admission under § 1225(b)(2)(A).
10

11 44. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
12 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
13 § 2201(a).

14 45. The District of Arizona has agreed with this interpretation, holding that
15 where DHS issues an NTA that does not classify a person as an arriving alien but instead
16 as “present in the United States without admission,” Respondents cannot later
17 recharacterize that person as an arriving alien to justify mandatory detention under §
18 1225(b)(2)(A). *Rodrigues da Silva v. Figueroa*, No. CV-25-04015-PHX-JJT, slip op. at 2–
19 4 (D. Ariz. Nov. 18, 2025).
20

21
22 46. Respondents’ continued reliance on § 1225(b)(2)(A) to detain Mr. Sanchez-
23 Sanchez, in direct conflict with his NTA classification, *Maldonado Bautista’s* declaratory
24 judgment, and recent District of Arizona precedent, violates the INA and the binding
25 declaratory judgment applicable to Mr. Sanchez-Sanchez as a Bond Eligible Class member.
26
27

COUNT TWO

Violation of the Administrative Procedure Act – Arbitrary, Capricious, and Contrary to Law

47. Petitioner incorporates by reference paragraphs 1–46 above.

48. The APA requires that agency action, findings, and conclusions not be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5

U.S.C. § 706(2)(A).

49. The IJ and EOIR acted arbitrarily and contrary to law by disregarding the plain terms of Petitioner’s NTA and recharacterizing him as an arriving alien and applicant for admission, despite DHS’s express decision not to designate him as such and despite controlling case law in this District and nationwide.

50. The IJ’s reliance on *Matter of M-S-*, *Matter of Lemus*, and *Matter of Joseph* to conclude that all individuals “present in the United States without having been admitted” are applicants for admission fails to account for the statutory structure distinguishing § 1225 from §1226, for the close temporal and geographic context of those decisions (involving recent border crossers), and for the more recent weight of District Court authority rejecting DHS’s expansive interpretation.

51. Following *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts do not defer to agency interpretations under *Chevron*. The Ninth Circuit has confirmed that courts must exercise independent judgment in interpreting the INA. See, e.g., *Lopez v. Garland*, 116 F.4th 1032, 1036 (9th Cir. 2024). Respondents’ continued reliance on an unpersuasive, overbroad reading of § 1225 is inconsistent with this requirement.

1 58. Mr. Sanchez-Sanchez is a long-term resident detained under a statute, 8
2 U.S.C. § 1226(a), that permits discretionary release based on an individualized assessment
3 of danger and flight risk. Under Ninth Circuit precedent, due process requires a bond
4 hearing at which the Government bears the burden of proving by clear and convincing
5 evidence that the noncitizen is a danger or flight risk. *Hernandez v. Sessions*, 872 F.3d 976,
6 991–93 (9th Cir. 2017).

8 59. Mr. Sanchez-Sanchez has never received such a hearing. Instead, the IJ
9 denied jurisdiction based on an erroneous statutory classification and applied the burden-
10 shifting framework of *Matter of Joseph*, which is appropriate only in the limited context of
11 determining whether mandatory detention applies, not for long-term residents properly
12 detained under § 1226(a).

14 60. Mr. Sanchez-Sanchez has no criminal record, substantial and longstanding
15 family and community ties, a fixed residence in Phoenix, Arizona, and a long history of
16 peaceful residence in the United States. Under the *Matter of Guerra*, 24 I. & N. Dec. 37,
17 38–39 (B.I.A. 2006), factors—fixed address, long residence, strong family and community
18 ties, lack of criminal history, and no history of absconding—Mr. Sanchez-Sanchez plainly
19 merits release.
20

22 61. Respondents' continued detention of Mr. Sanchez-Sanchez without a
23 constitutionally adequate bond hearing violates the Due Process Clause of the Fifth
24 Amendment.
25
26
27

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;
- c. Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judges violates the INA, APA and Due Process;
- d. Declare the Petitioner’s detention is unlawful;
- e. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or in the alternative, provide Petitioner with a bond hearing within seven (7) days and order Petitioner’s release on conditions the Court Deems just and proper;
- f. Award reasonable attorneys’ fees and costs pursuant to the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

/s/Karina J. Ordonez
Karina J. Ordonez
Karina Ordonez Law Office PLLC
2642 E Thomas Rd.
Phoenix, AZ 85016

/s/Noel Elco Rascón
Noel Elco Rascón, Esq.
RASCON LAW, PLC
2 N. Central Ave., Suite 1800
Phoenix, AZ 85004-2139
Counsels for Petitioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

EXHIBIT LIST

- A. Notice to Appear dated July 14, 2011
- B. I-213 dated August 28, 2025
- C. Immigration Judge Order dated October 28, 2025
- D. Immigration Judge Order dated December 4, 2025
- E. Prima Facie Determination regarding I-360 Self-Petition for VAWA

CERTIFICATE OF SERVICE

I certify that on the 9th day of December, 2025, I electronically transmitted this document to the Clerk's office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing.

In addition, Counsel mailed the Petition for Writ of Habeas Corpus and Attached Exhibits as follows:

Luis Rosa, Jr.
Warden of Florence Service Processing Center
3250 N. Pinal Parkway
Florence, AZ, 85132

Christopher McGregor
Acting Field Office Director,
Phoenix Arizona Field Office,
United States Immigration and Customs Enforcement
2035 N Central Ave,
Phoenix, AZ 85004

TODD M. LYONS,
Acting Director,
United States Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

KRISTI NOEM,
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20528

PAMELA JO BONDI,
United States Attorney General,
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Finally, Counsel also emailed the US Attorney's Office Civil Chief Katherine Branch at her email address to Katherine.branch@usdoj.gov and Mr. Christopher McGregor to his email address chrisopher.d.mcgregor@ice.dhs.gov

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Date: December 9, 2025

BY: /s/Karina J. Ordonez
Karina J. Ordonez, Esq.,
Attorney for Petitioner