

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Candelario Rincon Chavero, Petitioner,)	
)	
)	
v.)	Civil Action No. 3:25-CV-00638-DB
)	
Pamela Jo Bondi, Attorney General of the United States of America, et al. Respondents.)	
)	
)	

**PETITIONER’S BRIEF REGARDING CLASS MEMBERSHIP PURSUANT TO
*MALDONADO BAUTISTA***

On December 10, 2025, this Court ordered both parties to submit additional briefing:¹ “to address (1) whether Petitioner is a member of the nationally certified Bond Eligible Class[in *Maldonado Bautista*]; and (2) what affect if any the declaratory relief granted in *Maldonado Bautista v. Santacruz*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) has on Petitioner’s claims.” ECF No. 3 at 3.

First, Petitioner is clearly a member of the Bond Eligible Class outlined in *Maldonado Bautista v. Santacruz*, *id.*, which *should* secure his right to a custody redetermination hearing. However, the Executive Office for Immigration Review, under Respondent Bondi’s direction, has directed Immigration Judges to find that the declaratory relief granted to class members is not controlling, even with respect to class members, and that Immigration Judges remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As

¹ Petitioner will separately reply to Respondents’ December 15, 2025 Response to Petition for Writ of Habeas Corpus prior to the Court-ordered deadline of December 17, 2025. *See* ECF No. 5. The instant brief only addresses the Court’s order for briefing related to the *Maldonado Bautista* class action.

such, Petitioner's claim remains unchanged as he is still unable to access a custody redetermination before an Immigration Judge.

I. PETITIONER IS A MEMBER OF THE BOND ELIGIBLE CLASS IN *MALDONADO BAUTISTA*.

Petitioner, Mr. Rincon Chavero, is a member of the Bond Eligible Class in *Maldonado Bautista*, 2025 WL 3288403 at *1 (C.D. Cal. Nov. 25, 2025). As this Court noted in its Order, the Central District of California certified a national class, called the Bond Eligible Class, consisting of:

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.

Id. Petitioner meets each of these requirements.

First, Petitioner most recently entered the United States without inspection in May of 2022² and has remained in the United States continuously for the last three-and-a-half years. *See* ECF No. 2 at 1 (including the DHS's Notice to Appear charging Petitioner of being a noncitizen "present in the United States who has not been admitted or paroled). Thus, he meets the first requirement.

Second, Petitioner was not apprehended upon arrival to the United States in 2022. *See id.* (stating that Petitioner arrived at an unknown date and time instead of detailing events of arrest

² In their brief, Respondents aver that Petitioner "entered the United States unlawfully in April of 2006 and was detained into ICE/ERO custody in the Chicagoland area in November of 2005." Petitioner contests these facts. He entered the United States in 1991, left briefly and reentered in 1997, and lived in Las Cruces, New Mexico until he briefly returned to Mexico in 2022 and reentered the United States unlawfully in May 2022. He was not in Chicago in November 2005 and was not arrested by ICE/ERO at that time. Regardless, the differing timelines do not affect Petitioner's class membership because each timeline confirms that Petitioner was not apprehended upon arrival, as the government mistakenly claims he was arrested five months prior to what they allege was his most recent entry. Thus, even if Respondent's alleged timeline was correct, which it is not, that would have no bearing on Petitioner's class membership.

upon arrival). Thus, he meets the second requirement.

Finally, Petitioner is not subject to any of the mandatory detention provisions outlined in the Bond Eligible Class. Section § 1226(c) involves individuals with certain criminal histories and arrests, *see* 8 U.S.C. § 1226(c); Petitioner has no criminal convictions or arrests, so he is not subject to mandatory detention under 8 U.S.C. § 1226(c). Section 1225(b)(1) involves a noncitizen “who is arriving in the United States,” *see* 8 U.S.C. § 1225(b)(1)(A)(i), or is otherwise unable to prove they have been “physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility,” *see* 8 U.S.C. § 1225(b)(1)(A)(iii). Petitioner was not “arriving in the United States” at the time of his arrest and has been physically present in the United States continuously for the last three-and-a-half years, so this provision does not apply to him. Finally, § 1231 involves noncitizens previously ordered removed, *see* 8 U.S.C. § 1231; Petitioner is actively in his removal proceedings and has not yet been ordered removed. As such, § 1231 does not apply to him. Thus, Petitioner meets the third and final requirement to be a class member.

In conclusion, Petitioner is clearly a member of the Bond Eligible Class in *Maldonado Bautista*, 2025 WL 3288403 at *1. Respondents did not contest this conclusion in their brief or provide any information otherwise alleging he is not a class member. *See* ECF No. 5 at 10-11. Thus, it is clear that Petitioner is a member of the Bond Eligible Class.

II. WHILE THE DECLARATORY RELIEF IN *MALDONADO BAUTISTA* SHOULD SECURE PETITIONER’S RIGHT TO A CUSTODY REDETERMINATION HEARING, HIS PETITION REMAINS UNCHANGED DUE TO THE GOVERNMENT’S POSITION THAT THERE IS NO CLASS-WIDE JUDGMENT OR OTHER PRECLUSIVE EFFECT IN THE CLASS ACTION.

In *Maldonado Bautista*, the court first granted declaratory relief to the case’s named petitioners by declaring “unlawful” the DHS’s new detention policy and the Board of Immigration

Appeal’s matching conclusion in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—that Immigration Judges lack jurisdiction to conduct custody redetermination hearings for individuals present in the United States without being admitted. *Maldonado Bautistia*, 2025 WL 3289861 at *3, 17 (C.D. Cal. Nov. 20, 2025). The court granted the named petitioners’ motion for partial summary judgment and found “the statutory provisions to be unambiguous and consistent with only Petitioners’ interpretation[.]” *Id.* at 16-17. In its order, the court stated that “it is unambiguous that ‘applicants for admission’ do not include noncitizens already in the United States like Petitioners—individuals that were not determined inadmissible by an ‘examining immigration officer.’” *Id.* at *14. The court continued, holding that 8 U.S.C. § 1226(a) is the appropriate governing authority over the detention of the Petitioners, who are present in the United States and have not been inspected and authorized by an immigration officer. *Id.* In sum, the court declared unlawful the holding in *Yajure Hurtado*, 29 I&N Dec. at 228, that Immigration Judges “have no authority to redetermine the custody conditions of a[noncitizen] who crossed the border unlawfully without inspection, even if that [noncitizen] has avoided apprehension for more than 2 years.” *See Maldonado Bautista*, 2025 WL 3289861 at *16-17.

Next, the *Maldonado Bautista* court certified the “bond eligible class . . . as to Petitioners’ claims that the DHS Policy violates the INA and Due Process.” *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 at *9. In its order, the court specified: “the Court extends *the same declaratory relief* granted to Petitioners *to the Bond Eligible Class as a whole.*” *Id.* (emphasis added). Thus, the court declared unlawful the government’s detention of all class members—not just the case’s named petitioners—without a custody redetermination hearing. *Id.*

As such, the *Maldonado Bautista* court ultimately overturned *Yajure Hurtado* and found that Immigration Judges *do* have authority to determine the custody conditions of class members.

Id.

However, as outlined in the Respondents' brief, the government's position is that *Maldonado Bautista* is not a final declaratory judgment and so class members, like Petitioner, remain ineligible for custody redetermination hearings. *See* ECF No. 5 at 10-11. The leadership of the Executive Office for Immigration Review has directed Immigration Judges to continue following *Yajure Hurtado* and find they have no jurisdiction over custody redetermination hearings for noncitizens who entered without inspection—for all the same reasons outlined in the Respondents' brief. *See id.* ("Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members."). As such, in practice, the declaratory relief granted in *Maldonado Bautista* has no true effect on Petitioner's underlying claims as he remains detained in violation of statute and in violation of his due process rights, as outlined in his Petition. *See* ECF No. 1.

Thus, Petitioner's only option to assert his right to a custody redetermination hearing is through the instant Petition.

III. CONCLUSION

In conclusion, Petitioner is a member of the Bond Eligible Class in *Maldonado Bautista* which should allow him to access a custody redetermination hearing. However, Respondents' and the government's position is that *Maldonado Bautista* has no preclusive effect as to class members, so Petitioner's claim remains unchanged as he continues to be wrongfully subject to mandatory detention without access to a custody redetermination hearing.

Dated: December 15, 2025

/s/ Ruby Powers

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