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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

Omar LOPEZ PEREZ,

Petitioner,


v.

Jason STREEVAL, *in his official capacity as  
Warden of Stewart Detention Center*, and Todd  
LYONS, *in his official capacity as Acting  
Director of Immigration and customs  
Enforcement*, and Ladeon FRANCIS, *Field  
Office Director ICE Atlanta Field Office*, and  
Kristi NOEM, *Secretary of Homeland Security*,  
and Pamela BONDI, *in her official capacity as  
Attorney General, United States Department of  
Justice*

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

Alien File No. 

1 INTRODUCTION

2 1. Petitioner, Omar Lopez Perez, is a forty-six-year-old native and citizen of Mexico  
3 who entered the United States without inspection in 1999 and has resided in the United States for  
4 twenty-six years.

5 2. Petitioner is in the physical custody of Respondents at the Stewart Detention  
6 Center in Lumpkin, Georgia. He now faces unlawful detention because the Department of  
7 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have  
8 concluded Petitioner is subject to mandatory detention.

9 3. Petitioner is charged with, inter alia, having entered the United States without  
10 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 4. Based on this allegation in Petitioner’s removal proceedings, DHS denied the  
12 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,  
13 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone  
14 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without  
15 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and  
16 therefore ineligible to be released on bond.

17 5. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or  
18 Board) issued a precedent decision, binding on all immigration judges, holding that an  
19 immigration judge has no authority to consider bond requests for any person who entered the  
20 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).  
21 The Board determined that such individuals are subject to detention under 8 U.S.C. §  
22 1225(b)(2)(A) and therefore ineligible to be released on bond.

1           6.       Petitioner’s detention on this basis violates the plain language of the Immigration  
2 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who  
3 previously entered and are now residing in the United States. Instead, such individuals are  
4 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.  
5 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for  
6 having entered the United States without inspection.

7           7.       Respondents’ new legal interpretation is plainly contrary to the statutory  
8 framework and contrary to decades of agency practice applying § 1226(a) to people like  
9 Petitioner.

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

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

22          10.       However, the Executive Office for Immigration Review and its subagency the  
23 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to  
24

1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the  
2 opportunity to be released on bond.

3 11. Petitioner is a member of the Bond Eligible Class, as he:

- 4 a. does not have lawful status in the United States and is currently detained at the  
5 Stewart Detention Center. he was apprehended by immigration authorities on or  
6 around December 5, 2025;
- 7 b. entered the United States without inspection over twenty-six years ago and was  
8 not apprehended upon arrival, *cf. id.*; and
- 9 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

10 12. After apprehending Petitioner on or about December 5, 2025, the DHS placed him  
11 in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being  
12 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States  
13 without inspection, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as someone present in the United  
14 States without a valid unexpired visa and without a valid unexpired passport.

15 13. The Court should expeditiously grant this petition.

16 14. 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 in that case and continue to subject Petitioner to unlawful  
19 detention despite her clear entitlement to consideration for release on bond as a Bond Eligible  
20 Class member.

21 15. Immigration judges have informed class members in bond hearings that they have  
22 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not  
23 controlling, even with respect to class members, and that instead IJs remain bound to follow the  
24 agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

1 16. Because Respondents are detaining Petitioner in violation of the declaratory  
2 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,  
3 Respondent DHS must release Petitioner.

4 17. Alternatively, the Court should order Petitioner's release unless Respondents  
5 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

6 **JURISDICTION**

7 18. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
8 Stewart Detention Center in Lumpkin, Georgia.

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

12 20. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
13 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

14 **VENUE**

15 21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
16 500 (1973), venue lies in the United States District Court for the Middle District of Georgia  
17 within the Columbus Division, the judicial district in which Petitioner currently is detained.

18 22. Respondent Streeval is his immediate custodian.

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

**REQUIREMENTS OF 28 U.S.C. § 2243**

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

25. 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**

26. Petitioner Omar Lopez Perez is a citizen and national of Mexico who has been in immigration detention since on or about December 5, 2025. After detaining Petitioner in Hall County, Georgia, ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration judge, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

27. Respondent Jason Streeval is the Warden of the Stewart Detention Center. As such, Respondent Streeval is responsible for the operation of the Detention Center where Petitioner is detained. As ICE contracts with price prisons such as the Stewart Detention Center to house immigration detainees such as the Petitioner, Respondent Streeval has immediate physical custody of the Petitioner.

1 28. Respondent Todd Lyons is the Director of the Field Office of ICE’s Enforcement  
2 and Removal Operations division. As such, Respondent Lyons is being sued in his official  
3 capacity.

4 29. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration  
5 and Customs Enforcement. As such, Respondent Francis is responsible for the oversight of ICE  
6 operations at the Stewart Detention Center. Respondent Francis is being sued in his official  
7 capacity.

8 30. Respondent Kristi Noem is the Secretary of the Department of Homeland  
9 Security. She is responsible for the implementation and enforcement of the Immigration and  
10 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.  
11 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

12 31. Respondent Pamela Bondi is the Attorney General of the United States. She is  
13 responsible for the Department of Justice, of which the Executive Office for Immigration Review  
14 and the immigration court system it operates is a component agency. She is sued in her official  
15 capacity.

16  
17 **LEGAL FRAMEWORK**

18 32. The INA prescribes three basic forms of detention for the vast majority of  
19 noncitizens in removal proceedings.

20 33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal  
21 proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)  
22 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§  
23  
24

1 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of  
2 certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

3 34. Second, the INA provides for mandatory detention of noncitizens subject to  
4 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission  
5 referred to under § 1225(b)(2).

6 35. Last, the INA also provides for detention of noncitizens who have been ordered  
7 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

8 36. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

9 **FACTS**

10 37. Petitioner is a forty-six-year-old native and citizen of Mexico. *See Exhibit 1,*  
11 *Petitioner’s Passport.*

12 38. Petitioner has resided in the United States since 1999 and lives in Buford,  
13 Georgia.

14 39. In December 2025, Petitioner was detained by ICE after being arrested for driving  
15 without a license.

16 40. Petitioner is the father of two (2) United States citizen (USC) children, ages 23  
17 and 17. *See Exhibit 2, Birth Certificates for Petitioner’s USC Children.*

18 41. Petitioner’s criminal history consists only of minor traffic violations.

19 42. Petitioner is neither a flight risk nor a danger to the community.

20 43. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider  
21 Petitioner’s bond request.

1 44. As a result, Petitioner remains in detention. Without relief from this court, he  
2 faces the prospect of months, or even years, in immigration custody, separated from his family  
3 and community.

4 **CLAIMS FOR RELIEF**

5 **Violation of the INA:**  
6 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

14 48. The order granting class certification in *Maldonado Bautista* further orders that  
15 “[w]hen considering this determination with the MSJ Order, the Court extends the same  
16 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

17 49. Respondents are parties to *Maldonado Bautista* and bound by the Court’s  
18 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.  
19 § 2201(a).


20 50. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is  
21 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory  
22 rights under the INA and the Court’s judgment in *Maldonado Bautista*.

23 **PRAYER FOR RELIEF**

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

- 1 a. Assume jurisdiction over this matter;
- 2 b. Order that Petitioner shall not be transferred outside the Middle District of
- 3 Georgia while this habeas petition is pending;
- 4 c. Issue an Order to Show Cause ordering Respondents to show cause why this
- 5 Petition should not be granted within three days;
- 6 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
- 7 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
- 8 1226(a) within seven days;
- 9 e. Declare that Petitioner’s detention is unlawful;
- 10 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
- 11 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
- 12 law; and
- 13 g. Grant any other and further relief that this Court deems just and proper.

14 DATED this 10th day of December, 2025.

15 By:  \_\_\_\_\_  
16 Emily N. Davis, Esq.  
17 *Ross and Pines, LLC*  
18 Attorneys for the Respondent  
19 5555 Glenridge Connector, Suite 435  
20 Atlanta, Ga. 30342  
21 404-812-4300 (tel.)  
22 404-812-4303 (fax.)  
23 emily@rossandpines.com  
24

1 I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition  
2 for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and  
3 belief.

4  
5 /s/ Emily N. Davis

Date: December 10, 2025