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Cal. State Bar No.: 185731

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Counsel for Petitioner

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MIRIAM FRANCISCA RUIZ DIAZ

Petitioners

v.

CHRISTOPHER J. LAROSE, Senior  
Warden, Otay Mesa Detention Center;  
DANIEL A. BRIGHTMAN, San Diego  
Field Office Director, U.S. Immigration &  
Customs Enforcement (ICE); TODD  
LYONS, Acting Director, ICE; KRISTI  
NOEM, U.S. Secretary of Homeland  
Security; PAMELA BONDI, Attorney  
General of the United States

Respondents.

) Case No. 25cv3517-CAB-SBC

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) Agency No.



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) **PETITIONER'S TRAVERSE**  
) **IN SUPPORT OF WRIT OF**  
) **HABEAS CORPUS**

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) Hon. Cathy Ann Bencivengo

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A. THE PETITIONER IS UNLAWFULLY DETAINED BY THE RESPONDENTS IN VIOLATION OF HER DUE PROCESS RIGHTS AND THE PROPER REMEDY IS IMMEDIATE RELEASE AND RETURN TO THE SAME CONDITIONS AS HER 2014 ORDER OF RELEASE ON RECOGNIZANCE.

The Respondents' position is that if the court does not agree with their legal arguments, "the proper remedy would be directing a bond hearing under § 1226(a), to be held within fourteen (14) days." Return, at 15. The Petitioner disagrees. The Petitioner seeks immediate release under the same conditions as her 2014 order of release on recognizance. The Petitioner does not seek a bond hearing before an Immigration judge.<sup>1</sup> Petition, at 19.

A bond hearing before an IJ is a reconsideration of the Respondents' decision to detain. 8 U.S.C. § 1226(a); 8 CFR § 1236.1(d)(1). However, the Respondents' re-detention of the Petitioner was itself unlawful as a violation of her substantive and procedural Fifth Amendment due process rights, an allegation that the Respondents have not even attempted to refute. The proper response to this violation of Constitutional rights, is to declare the detention unlawful and order her

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<sup>1</sup> To the extent that the Petitioner, in the alternative, requests a hearing regarding her detention and release, she requests a hearing before *this Court* or a *neutral* adjudicator where *the Respondents* bear the burden of justifying her detention. Petition, at 19. As amply demonstrated by the litigation in Maldonado Baustista, discussed in section C, *infra*, the immigration courts are not neutral adjudicators; they are under the legal authority of the Attorney General who is a Respondent in this case. They should not continue to be given authority to decide whether Ms. Ruiz Diaz deserves to be free.

release. To order a “custody redetermination” by an IJ is to tacitly condone the Respondents’ re-detention of Ms. Ruiz Diaz and compel her to prove to an IJ that she merits release on payment of bond. The best outcome from a bond hearing before an IJ would be the obligation to pay a bond for her freedom from the Respondents’ unlawful detention. The worst outcome is explained in detail in the Respondents’ return:

The regulations also include a provision that allows DHS to invoke an automatic stay of any decision by an IJ to release an individual on bond when DHS files an appeal of the custody redetermination [to the Board of Immigration Appeals (BIA). 8 C.F.R. § 1003.19(i)(2)] and then “If an automatic stay of a custody decision is invoked by DHS, regulations require the BIA to track the progress of the custody appeal “to avoid unnecessary delays in completing the record for decision.” 8 C.F.R. § 1003.6(c)(3). The stay lapses in 90 days, unless the detainee seeks an extension of time to brief the custody appeal, 8 C.F.R. § 1003.6(c)(4), or unless DHS seeks, and the BIA grants, a discretionary stay. 8 C.F.R. § 1003.6(c)(5). If the BIA denies DHS’s custody appeal, the automatic stay remains in effect for five business days. 8 C.F.R. § 1003.6(d). DHS may, during that five-day period, refer the case to the Attorney General under 8 C.F.R. § 1003.1(h)(1) for consideration. *Id.* Upon referral to the Attorney General, the release is stayed for 15 business days while the case is considered. The Attorney General may extend the stay of release upon motion by DHS. *Id.*

Return, at 5-6. The Petitioner does not challenge these regulations in and of themselves, but merely points out that putting her in the position of seeking bond before an IJ gives the Respondents the opportunity to benefit from their unlawful re-detention and violation of Ms. Ruiz Diaz’s Constitutional rights by using these regulations to delay her release, potentially indefinitely.

The appropriate relief in this case, therefore, is to order Ms. Ruiz Diaz's immediate release from custody under the same conditions the Respondents themselves set for her in 2014 when they released her on her own recognizance. See, Prieto-Cordova v. LaRose, et al., No. 3:25-cv-2824-CAB-DOL (S.D. Cal. Nov. 19, 2025).

**B. THE RESPONDENTS' JURISDICTIONAL ARGUMENTS UNDER 8 U.S.C. § 1252 ARE UNAVAILING**

Ms. Ruiz Diaz is challenging her unlawful re-detention by the Respondents in violation of her Constitutional due process rights. These are legal issues that have nothing to do with the Attorney General's statutory authority under 8 U.S.C. § 1252(g) to commence or adjudicate removal proceedings, or execute removal orders. "A decision to detain Petitioner does not fall within the three discrete actions identified in § 1252(g) and, thus, would not deprive the Court's jurisdiction." Sayed Naser Noor v. Christopher LaRose, et al., No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at \*7 (S.D. Cal. Oct. 1, 2025).

Similarly, 8 U.S.C. § 1252(b)(9) does not limit this Court's jurisdiction because it "does not affect petitions for habeas corpus." Flores-Miramontes v. I.N.S., 212 F.3d 1133, 1139 (9th Cir. 2000); Sayed Naser Noor, supra, at \*7 (citing Jennings v. Rodriguez, 583 U.S. 281, 293 (2018)). Like the petitioner in Sayed Naser Noor, Ms. Ruiz Diaz does not challenge Respondents' decision to

commence or adjudicate removal proceedings or execute removal orders, and thus 8 U.S.C. § 1252(a)(2)(A) and 8 U.S.C. § 1252(e) do not preclude this Court's jurisdiction over her habeas petition. Id. at \*8.

C. THE RESPONDENTS' ARGUMENTS REGARDING MANDATORY DETENTION UNDER 8 U.S.C. § 1225 ARE MOOT

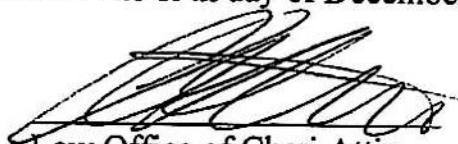
As noted in her Petition, Ms. Ruiz Diaz is a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873 SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Yesterday, the Central District of California entered a final judgment as to the Bond Eligible Class. Maldonado Bautista, ECF No. 94 (Dec. 18, 2025). This judgment "declared the DHS policy [of deeming class members ineligible for bond hearings] unlawful and granted vacatur [of that policy] under the APA." Id., at \*12. The court based its decision to grant the clarification upon new evidence that, "immigration judges ("IJs") continue to deny bond hearings for members of the Bond Eligible Class despite the Court's determination that the DHS policy is unlawful" and "more troubling," "the emergence of the Respondents' direction to IJs that they should *disregard* this Court's orders [...] and 'hold the position that Yajure-Hurtado, remains good law.'" No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, ECF-92, at \* 8-9 . The court emphasized that, "Although the MSJ Order does not grant vacatur of Yajure Hurtado under the APA, Yajure Hurtado is no

longer controlling; the legal conclusion underlying the decision is no longer tenable.” Id., at \* 6.

### CONCLUSION

As discussed in section A, supra, notwithstanding the Central District’s Order that the Respondents’ policy of refusing to hold bond hearings for the certified class is unlawful and vacated, the Petitioner does not seek a bond hearing before an IJ. The Petitioner has been unlawfully re-detained by the Respondents and therefore seeks immediate release under the same conditions as her 2014 order of release on recognizance.

Respectfully submitted on this 19th day of December 2025,

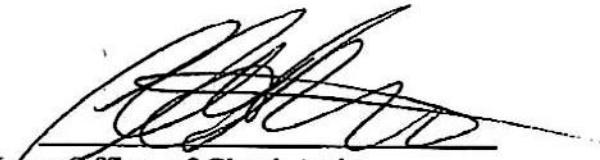


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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was filed on December 19, 2025 through the ECF system and that it will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: December 19, 2025



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