

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

FELICIANO CASTILLO-GONZALEZ,)	
)	
Petitioner,)	Civil Action No. 1:25-cv-01350-LJV
)	
v.)	
)	Hon. Judge Lawrence J. Vilardo
JOSEPH E. FREDEN, ET AL.,)	
)	
Respondents.)	
_____)	

**EMERGENCY MOTION FOR RELIEF
FROM A JUDGMENT OR ORDER PURSUANT TO FED. R. CIV. P. 60(b)(6)**

Pursuant to Fed. R. Civ. P. 60(b)(6), the Petitioner, by and through undersigned counsel, moves this Honorable Court to grant him relief from the Court’s order of December 16, 2025 in order to prevent his continued, wrongful detention through December 30, 2025. Counsel for the Petitioner conferred with counsel for the Respondents, and the Respondents oppose this motion. In support of this motion, the Movant states as follows:

In compliance with this Honorable Court’s Text Order dated December 16, 2025, the Respondents have scheduled the Petitioner for a Bond Hearing on December 23, 2025 at 3:30 p.m. **[Exhibit 1 – Notice of Bond Hearing]** Unfortunately, this means that it is highly likely that the Petitioner’s family will be unable to pay the bond until December 29, 2025, which means in turn that it is unlikely that the Petitioner will be released until December 30, 2025, resulting in yet another week of unlawful detention without bond. Specifically, within the past month, counsel for the Petitioner can confirm that Respondents have stopped allowing payment of bonds post-habeas relief order via the electronic U.S. Immigration and Customs Enforcement (“ICE”) CeBonds system (earlier habeas petitioners were able to pay their bonds via the ICE CeBonds system).¹

¹ See <https://www.cebonds.ice.gov> (last visited on December 22, 2025).

Instead, Respondents have required bonds paid after habeas relief has been granted to be paid **in person** at a local ICE Enforcement and Removal Operations office. Unfortunately, ICE office hours for posting bonds are Monday through Friday from 9:00 a.m. to 3:00 p.m., excluding federal holidays as posted on their website.² On December 18, 2025, President Trump announced via Executive Order that all executive departments and agencies of the Federal Government shall be closed and their employees excused from duty on Wednesday, December 24, 2025, and Friday, December 26, 2025, the day before and the day following Christmas Day, respectively.³ Although there is an exception for “*certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 24, 2025, or December 26, 2025, or both, for reasons of national security, defense, or other public need*” which **does** include ICE, apparently, that only extends to arrest and detention, and not release from wrongful detention without bond.

Fed. R. Civ. P. 60(b) provides that, upon motion and just terms, the Court may relieve a party from a final judgment, order, or proceeding for, among other reasons, misconduct by an opposing party, that applying the judgment prospectively is no longer equitable, or any other reason that justifies relief.

First, with regard to “any other reason that justifies relief,” as stated in the first paragraph of the Verified Petition for a Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief filed in this matter on December 10, 2025, the Petitioner is the father of Marco Antonio Gonzalez Silva, an active duty member of the United States Army. **[Exhibit 2 – Birth Certificate**

²See <https://www.ice.gov/detain/detention-management/bonds> (last visited on December 22, 2025).

³See <https://www.whitehouse.gov/presidential-actions/2025/12/providing-for-the-closure-of-executive-departments-and-agencies-of-the-federal-government-on-december-24-2025-and-december-26-2025/> (last visited on December 22, 2025).

of Marco Antonio Gonzalez Silva; Exhibit 3 – Marco Antonio Gonzalez Silva’s Military ID Card] The Petitioner’s son is home on leave from the United States Army for the holidays; he arrived on December 20, 2025 and will be departing on January 1, 2026. **[Exhibit 4 – Flight Itinerary for Marco Antonio Gonzalez Silva]** He, and the rest of the family, as well as the Petitioner, have been greatly distressed by the Petitioner’s ongoing unlawful detention, and are anxious to have him at home.

Second, with regard to the argument that applying the judgment prospectively is no longer equitable, liberty is one of the most basic and fundamental rights afforded under the Bill of Rights, and “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). The Due Process Clause extends to all “persons” regardless of status, including non-citizens whether they are present in the United States lawfully, unlawfully, temporarily, or permanently. *Id.* at 693, 121 S.Ct. 2491; *see also Reno v. Flores*, 507 U.S. 292, 306, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993); *Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *4 (6th Cir. Jan. 18, 2023). At the heart of the Fifth Amendment is the right to be free from deprivation of life, liberty or property without due process of law. U.S. Const. Amend. V. The Petitioner has been detained since **October 29, 2025**, and was wrongfully denied a bond hearing by Respondents on **December 6, 2025**. **[ECF. No. 1-3]** To delay the Petitioner’s release for another week for administrative/technical reasons at this point is unconscionable.

Finally, with regard to misconduct by an opposing party, the Petitioner, in addition to this individual habeas petition, is a class member in *Lazaro Maldonado Bautista, et al., v. Ernesto Santacruz, Jr., et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025). The “Bond Eligible

Class” is defined as “[a]ll 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.” *See Lazaro Maldonado Bautista, et al., v. Ernesto Santacruz, Jr., et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025), ECF. No. 93, p. 4.

As laid out in the district court’s Amended Order Consolidating the Court’s Orders on Motion for Partial Summary Judgment, Class Certification, and Application for Reconsideration or Clarification, issued on December 18, 2025 in that case:

On December 4, 2025, Petitioners filed an Application for Clarification and Reconsideration, which details how Respondents have “persisted in denying class members bond hearings in two ways.” [Dkt. No. 87, “Reconsideration Application” or “Reconsideration App.”; Dkt. No. 91, “Reply to App.”]. Respondents opposed that Reconsideration Application as well. [Dkt. No. 90, Opposition or “Opp. to App.”]. Various supporting exhibits to the Application confirm that IJs continue to deny bond hearings for members of the Bond Eligible Class. [Dkt. No. 87-2 at 11 (suggesting this Court “did not issue a class-wide declaratory judgment”); Dkt. No. 87-2 at 14 (same); Dkt. No. 87-5 at 6 (same); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (same); Dkt. No. 87-9 at 3 (same); Dkt. No. 87-12 at 3 (same); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same).

Id. at pp. 4-5. In other words, after the court in *Maldonado Bautista* had **already** granted partial summary judgment to the named plaintiffs in that case (*see, id.*, at ECF. No. 81, p. 17), and subsequently certified the nationwide class on November 25, 2025, in which order it extended “the same declaratory relief” to the class (*see, id.*, at ECF. No. 82, pp. 14-15), **the Respondents continued in bad faith to refuse to provide class members with bond hearings**, including the Petitioner, whose bond was denied for lack of jurisdiction of the immigration judge on **December 6, 2025**, well after the *Maldonado Bautista* court’s November orders. Worse, the Department of Justice issued internal guidance to Immigration Judges and Department of Homeland Security

(DHS) (the Respondents in this habeas case) attorneys in immigration court urged immigration judges in bad faith to disregard the *Maldonado Bautista* court's declaratory judgment requiring bond hearings for the class purportedly because the court had not entered a final judgment under Rule 54(b). *See, id.*, at ECF. No. 87, p. 9. In fact, this, exactly, is the reason that the Petitioner's bond redetermination was denied on December 6, 2025. [ECF. No. 1-3]

Wherefore, counsel for the Petitioner respectfully requests that this Honorable Court amend its order of December 16, 2025 to either: (1) order the Petitioner's immediate release; or, in the alternative, (2) to require that Respondents accept payment of any bond ordered by the Immigration Judge on December 23, 2025 no later than December 24, 2025 via ICE CeBonds and to release the Petitioner immediately upon payment of the bond.

Dated: December 22, 2025

Respectfully submitted,

s/ Amy Maldonado
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