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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

MOSAWAR AZALYAR,

Petitioner,

v.

Kevin RAYCRAFT, Acting Field Office
Director of Enforcement and Removal
Operations, Columbus Field Office,
Immigration and Customs Enforcement; Kristi
NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Richard
JONES, Lead Administrator of BUTLER
COUNTY CORRECTIONAL COMPLEX

Respondents.

Case No. 1:25-cv-00916

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner, Mosawar Azalyar, brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at the Butler County Correctional Complex. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (See **Exhibit A**, order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (See **Exhibit B**, order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

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

4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to

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

3 5. Petitioner, Mosawar Azalyar 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 Butler County Correctional Complex. He was apprehended by immigration
6 authorities on December 10, 2025;
7 b. entered the United States without inspection over three years ago and was not
8 apprehended upon arrival, *cf. id.*; and
9 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

10 6. After apprehending Petitioner on September 27, 2022, the DHS placed him in
11 removal proceedings pursuant to 8 U.S.C. § 1229(a). DHS has charged Petitioner as being
12 inadmissible under section 212(a)(7)(A)(i)(I) and section 212(a)(6)(A)(i) of the INA as someone
13 who entered the United States without inspection.

14 7. The Court should expeditiously grant this petition.

15 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
16 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
17 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
18 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
19 Class member.

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

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

3 22. Respondent Department of Homeland Security (DHS) is the federal agency
4 responsible for implementing and enforcing the INA, including the detention and removal of
5 noncitizens.

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

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

13 25. Respondent Richard Jones is the Butler County Sheriff and is the lead
14 administrator of the Butler County Correctional Complex where Petitioner is detained. He has
15 immediate physical custody of Petitioner. He is sued in his official capacity.

16
17 **FIRST CLAIM FOR RELIEF**

18 **Violation of the INA:**

19 **Request for Relief Pursuant to *Maldonado Bautista***

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

22 27. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for
23 release on bond under 8 U.S.C. § 1226(a).
24

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

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

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

9 31. On July 8, 2025, ICE, in coordination with DOJ, issued a new policy entitled
10 "Interim Guidance Regarding Detention Authority for Applicants for Admission," requiring all
11 noncitizens who entered the United States without inspection to be subject to mandatory
12 detention without bond. ECF No. 1, PageID.13.

13 32. While the bond hearing has not yet been denied, the government has instructed
14 Immigration Judges not to honor the *Maldonado Bautista* judgment and to revert back to the
guidance in the July 8th policy guidelines.

15 33. By a recent count, the Respondent's new position that *all* noncitizens who came
16 into the United States illegally, but since have been living in the United States, *must be*
17 *detained* until their removal proceedings are completed — has been challenged in at least 362
18 cases in federal district courts. The challengers have prevailed, either on a preliminary or final
19 basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different
20 courts spread across the United States. *Mercado v. Francis*, 2025 U.S. Dist. LEXIS 232876, *9,
2025 LX 542178, __ F.Supp.3d __, 2025 WL 3295903.

21 34. Without this court asserting jurisdiction and a temporary restraining order
22 prohibiting the transportation of Petitioner out of the Court’s jurisdiction, it is very likely that
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1 Petitioner will be transported out of the Court's jurisdiction prior to having a decision on the
2 pending bond request.

3 35. The anticipated denial of Petitioner's bond hearing request under § 1226(a) based
4 on the argument that he is subject to mandatory detention under § 1225(b)(2), violates
5 Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

6 36. Petitioner is not subject to § 1225(b)(2) because he was apprehended on
7 December 10th, 2025, after having been in the US for over three years and was therefore not
8 apprehended upon arrival or "seeking admission" when he was apprehended.

9 37. Relevant here, noncitizens arrested and detained under Section 1226 have a right
10 to request a custody redetermination (i.e. a bond hearing) before an Immigration Judge. *Lopez-*
11 *Campos v. Raycraft*, 2025 U.S. Dist. LEXIS 169423, *8, 2025 LX 315102, 2025 WL 2496379.
12 *See also* 8 C.F.R. §§ 1236.1(c)(8), (d)(1).

13 SECOND CLAIM FOR RELIEF

14 **Violation of the Due Process Clause of the Fifth Amendment to the United States 15 Constitution**

16 38. Petitioner realleges and incorporates by reference the foregoing paragraphs as if
17 fully set forth herein.

18 39. The Due Process Clause of the United States Constitution applies to "all persons
19 within the United States, including aliens, whether their presence is lawful, unlawful, temporary,
20 or permanent." *Zadydas v. Davis*, 533 U.S. 678, 679 (2001).

21 40. Immigration detention must further the twin goals of ensuring a noncitizen's
22 appearance during removal proceedings and preventing danger to the community.

23 41. In light of these goals, Petitioner's detention is wholly unjustified. Indeed, it bears
24 no reasonable relation to any legitimate government purpose.

42. Petitioner is not a flight risk. He does not own a valid passport and has legitimate
fears of persecution in Afghanistan—which is why he has applied for asylum in the United
States.

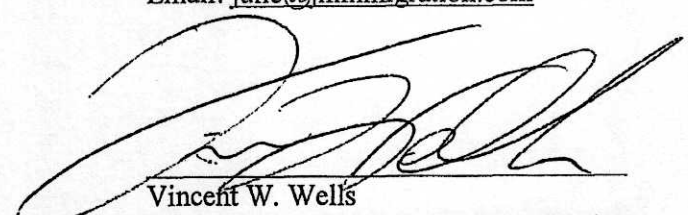
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DATED this 11th day of December, 2025.

Respectfully submitted,



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