

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

AZAMAT MURZABAEV

Petitioner,

-against-

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE); MARCOS CHARLES, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; ALEJANDRO N. MAYORKAS, Secretary, U.S. Department of Homeland Security; KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; and PAM BONDI, in her official capacity as Attorney General of the United States, and WARDEN, El Paso Camp East, in their official capacity as custodian of petitioner, Respondents.

Respondents.

BRIEF

Case No.: EP-25-CV-00647-DB

STATEMENT OF FACTS/PROCEDURAL HISTORY AND ARGUMENT

This brief is submitted on behalf of AZAMAT MURZABAEV (“Petitioner”), who previously filed a Petition for a Writ of Habeas Corpus (“Petition”) challenging his unlawful detention by ICE/DHS as violative of the Due Process Clause of the Fifth Amendment. As a background matter, subsequent to Petitioner filing his Petition, the undersigned filed a motion for admission pro hac vice, which was granted by the order dated December 11, 2025. This order was accompanied by another order, dated December 11, 2025, which, in pertinent part, instructed the Petitioner “to submit additional briefing to address: (1) whether Petitioner is a member of the

nationally certified Bond Eligible Class; 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 before the Court no later than December 15, 2025”. Copies of two orders referenced to above are attached hereto as **Exhibit A**.

The court in *Maldonado Bautista* granted class certification under Rule 23(b)(2) for a nationwide Bond Eligible Class of noncitizens who entered the United States without inspection, were not apprehended upon arrival, and are not subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231. The court further held in *Maldonado Bautista* that because petitioners contend their detention is governed by § 1226 rather than § 1225, the jurisdictional limits of § 1252(e) do not apply, and § 1252(f) does not prohibit classwide declaratory relief. The court found that all Rule 23(a) requirements (numerosity, commonality, typicality, and adequate representation) were satisfied. The court concluded that classwide declaratory relief is appropriate because petitioners challenge a system-wide DHS policy applicable to the entire class. The relief sought would not mandate release, but would require access to individualized bond hearings under § 1226(a). Having previously ruled on summary judgment that DHS’s interpretation of the INA was unlawful, the court extended the same declaratory relief to the certified class as a whole and appointed a class representative and class counsel.

In the case at bar, the Petitioner might not qualify as a member of the Bond Eligible Class certified in *Maldonado Bautista* because he might not satisfy the class definition. The certified class is limited to noncitizens who “entered the United States without inspection.” Petitioner, by contrast, was inspected by an immigration officer upon entry (as was stated in his Petition , paragraph 1, the Petitioner “...entered the United States at or near the San Ysidro Port of Entry

on or about September 24, 2024 and applied for asylum on the same date.”). Accordingly, Petitioner falls outside the scope of the certified class, irrespective of the Rule 23(a) class-certification criteria.

It is further submitted that, regardless of whether the Petitioner qualifies as a member of the Bond Eligible Class, he qualifies at minimum for an individualized bond hearing, as detailed in the Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Diana Rubin", is written over a horizontal line.

Diana Rubin, Esq.,
Attorney for Petitioner
AZAMAT MURZABAEV

Date: December 15, 2025

EXHIBIT A

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

AZAMAT MURZABAEV,
Petitioner,

v.

**TODD LYONS, *Acting Director, United
States Immigration and Customs
Enforcement, et al.,***
Respondents.

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EP-25-CV-00647-DB

ORDER ON MOTION FOR ADMISSION PRO HAC VICE

On this day, the Court considered Attorney Diana Rubin’s (“Attorney Rubin”) “Motion for Admission Pro Hac Vice,” filed in Petitioner Azamat Murzabaev’s above-captioned case on December 11, 2025. ECF No. 2. Therein, Attorney Rubin “moves this Court to grant admission to the . . . Western District of Texas pro hac vice to represent [Petitioner] Azamat Murazabaev in this case.” *Id.* After due consideration, this Motion is granted.

Accordingly, **IT IS HEREBY ORDERED** that Attorney Rubin’s “Motion for Admission Pro Hac Vice,” ECF No. 2, is **GRANTED**.

IT IS FURTHER ORDERED that Attorney Rubin is **GRANTED LEAVE** to appear pro hac vice on behalf of the Petitioner in this case.

IT IS FURTHER ORDERED that Attorney Rubin apply for admission to practice in the Western District of Texas in compliance with Local Rule for the Western District of Texas AT-1 **WITHIN SIXTY DAYS** of the entry of this Order and diligently pursue that application until admitted to practice before this Court. Should Attorney Rubin choose not to pursue admission, they will not be allowed to appear in any other action in the Western District of Texas until they have been formally admitted to practice.

IT IS FINALLY ORDERED that Attorney Rubin **REGISTER** as a filing user with the Court's Case Management/Electronic Case Files (CM/ECF) program within **TEN DAYS** of the entry of this Order in compliance with the administrative policies and procedures for electronic filing in the Western District of Texas.

SIGNED this **11th** day of **December 2025**.



THE HONORABLE DAVID BRIONES
SENIOR UNITED STATES DISTRICT JUDGE

Texas – El Paso Division. *See United States v. United Mine Workers of Am.*, 330 U.S. 258, 293 (1947) (“[T]he District Court had the power to preserve existing conditions while it was determining its own authority to grant injunctive relief.”); *cf. Brownback v. King*, 592 U.S. 209, 218-19 (2021); *see also Santiago v. Noem*, No. 3-25-CV-361-KC, 2025 WL 2606118, at *2–3 (W.D. Tex. Sept. 9, 2025) (collecting cases). The Court also sets an expedited briefing schedule for Respondents to show cause to why Petitioner’s writ shall not be granted, as well as all other claims for relief raised in the Petition, ECF No. 1.

Accordingly, **IT IS HEREBY ORDERED** that Respondents **SHALL NOT** (1) remove or deport Petitioner from the United States, or (2) transfer Petitioner from any facility outside the boundaries of the El Paso Division of the Western District of Texas, until the Court orders otherwise or this case is closed.

IT IS FURTHER ORDERED that Respondents **SHOW CAUSE** why such writ should not be granted by filing a response no later **no later than December 15, 2025.**

Additionally, on November 25, 2025, the Central District of California certified a national class in *Maldonado Bautista v. Santacruz*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025):

Bond Eligible Class: 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.

Maldonado Bautista, 2025 WL 3288403, at *1. In addition, the Central District of California extended to the Bond Eligible Class as a whole the declaratory relief it had previously granted: that the Department of Homeland Security Policy of mandatory detention for all applicants for admission under § 1225 is unlawful. *Maldonado Bautista*, 2025 WL 3288403, at *9.

Accordingly, both Parties are **ORDERED** to submit additional briefing to address: (1) whether Petitioner is a member of the nationally certified Bond Eligible Class; 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 before the Court **no later than December 15, 2025.**

IT IS FURTHER ORDERED that should Petitioner wish to file a reply, Petitioner shall file a reply **no later than December 17, 2025.**

SIGNED this **11th** day of **December 2025.**



THE HONORABLE DAVID BRIONES
SENIOR UNITED STATES DISTRICT JUDGE