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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Husni Sharif ABDI

Petitioner,

Case No:

v.

Pamela BONDI, U.S. Attorney General; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Todd M. LYONS, Acting Director, U.S. Immigration & Customs Enforcement; David EASTERWOOD, Acting Director, St. Paul Field Office, Immigration and Customs Enforcement; Joel BROTT, Sheriff of Sherburne County and Warden of Sherburne County Jail

Respondents.

**VERIFIED PETITION FOR WRIT  
OF HABEAS CORPUS AND  
COMPLAINT FOR DECLARATORY  
RELIEF**

**INTRODUCTION**

1. Petitioner Husni Sharif ABDI is unlawfully detained in the physical and legal custody of Respondents at the Sherburne County Jail in Elks River, Minnesota. The fundamental question presented by this petition is whether the mandatory detention provisions in 8 U.S.C. §1225(b) or the discretionary detention provisions in 8 U.S.C. §1226(a) applies to Petitioner’s detention.
2. On December 2, 2025, Petitioner was arrested in Minneapolis by U.S. Immigration and Customs Enforcement (“ICE”) agents—without cause and without a warrant—

1 while he was a passenger in a vehicle driven by an individual identified by ICE as an  
2 “enforcement target.” [Exhibit 1: I-213 dated 12/2/25]. ICE is an agency within the  
3 U.S. Department of Homeland Security (“DHS”).  
4

- 5 3. At the time of his arrest, Petitioner was in removal proceedings pursuant to 8 U.S.C.  
6 §1229a, with a pending asylum application. He entered the United States on March 11,  
7 2024, and was released on recognizance and placed in removal proceedings two days  
8 later. DHS charges that he is subject to removal under 8 U.S.C. §1182(a)(6)(A)(i)  
9 because he entered the United States without inspection or parole. [Exhibit 2: I-213  
10 dated 3/13/24; Exhibit 3: Notice to Appear].  
11
- 12 4. The Order of Release on Recognizance says that Petitioner was released under 8  
13 U.S.C. §1226 (INA §236). Exhibit 4: Order of Release on Recognizance.  
14
- 15 5. On information and belief, Petitioner has no criminal history in the United States or  
16 elsewhere (*See* Exhibits 1, 2). He fulfilled the conditions of release set by ICE, hired  
17 an attorney who entered appearances on his behalf in immigration court, filed written  
18 pleadings, applied for asylum and provided a copy of his Ethiopian passport.
- 19 6. Petitioner’s apprehension was part of “Operation Metro Surge,” ongoing enforcement  
20 operations launched by ICE and primarily focused on the Minneapolis-St. Paul metro  
21 area of Minnesota. ICE did not have a warrant issued by the Attorney General for his  
22 arrest—Petitioner was merely a passenger in a vehicle and not the target of ICE’s  
23 traffic stop (*See* Exhibit 1, stating that ICE apprehended Petitioner while conducting  
24 “targeted enforcement operations” in Minneapolis).  
25
- 26 7. Respondents detained Petitioner based not on his personal circumstances or  
27 individualized facts but because of policies recently adopted by DHS and the  
28

1 Executive Office for Immigration Review (“EOIR”) asserting that all noncitizens who  
2 have entered the United States without inspection or parole are “arriving aliens” and  
3 subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).  
4

5 8. The Board of Immigration Appeals (“BIA”), the highest administrative body within  
6 the EOIR, issued precedential decisions adopting the same policy. In *Matter of Q. Li*,  
7 29 I. & N. Dec. 66, 69 (BIA 2025), the BIA held that all noncitizens who fall within  
8 the scope of 8 U.S.C. §1225(b)(1) (arriving aliens) must be detained under that section  
9 and are ineligible for any subsequent release on bond under 8 U.S.C. §1226(a). In  
10 *Matter of Yajure Hurtado*, the BIA held that Immigration Judges (“IJ”s) have no  
11 jurisdiction to consider bond for persons charged as “arriving aliens” in removal  
12 proceedings. 29 I &N Dec. 216, 229 (BIA 2025).  
13

14 9. Petitioner filed a motion for a bond hearing with the Fort Snelling, Immigration Court,  
15 citing the decision in *Maldonado Bautista v. Santaacruz*, No. 5:25-CV-01873-SSS-  
16 BFM (C.D.Cal. Nov. 20, 2025) (discussed below). At the hearing on December 9,  
17 2025, the IJ declined to follow *Maldonado Bautista* on grounds there is no final  
18 decision in the case. The IJ relied on *Yajure Hurtado* to find that Petitioner is an  
19 “arriving alien” and subject to mandatory detention under §1225 and that the  
20 immigration court had no jurisdiction over the bond request [Exhibit 5: Bond Order].  
21  
22

23 10. Petitioner asserts that he is not an “arriving alien” as he was not seeking admission at  
24 the time of ICE’s warrantless arrest on December 2. He was a noncitizen in removal  
25 proceedings, residing in the United States. Therefore, 8 U.S.C. §1226(a) applies to  
26 Petitioner’s detention. Section 1226(a) requires ICE to have an arrest warrant issued  
27  
28

1 by the Attorney General and also provides that Petitioner is eligible for conditional  
2 release or bond.

3  
4 11. In a class action that covers Petitioner, the U.S. District Court for the Central District  
5 of California held that the Respondents' policy of detaining noncitizens similarly  
6 situated to Petitioner under §1225(b)(2) is unlawful, and that class members are  
7 entitled to release or bond under §1226(a). *Maldonado Bautista v. Santacruz*, No.  
8 5:25-CV-01873-SSS-BFM (C.D.Cal. Nov. 20, 2025).

9  
10 12. Petitioner brings this petition for a writ of habeas corpus to seek enforcement of his  
11 rights as a member of the Bond Eligible Class certified in *Maldonado Bautista*.

12 13. In addition, or in the alternative, Petitioner seeks relief in his individual capacity and a  
13 judgment declaring that his detention is unlawful and in violation of Petitioner's Due  
14 Process rights and the INA.

15 14. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant  
16 petition for a writ of habeas corpus. Petitioner asks this Court to: (a) find that  
17 Respondents' detention of Petitioner is arbitrary and capricious and in violation of the  
18 law; (b) immediately issue an order preventing Petitioner's transfer out of this district;  
19 (c) order Petitioner's immediate release from detention, or order a bond hearing  
20 before an immigration judge within five days; or (d) order Respondents to show cause  
21 in writing within three days why the Court should not grant the writ of habeas corpus  
22 and other relief requested in the petition.  
23  
24

25 **JURISDICTION**

26 15. This action arises under the Constitution of the United States and the Immigration and  
27 Nationality Act (INA), 8 U.S. C. §1101 et seq.  
28

1 16. This Court has subject matter jurisdiction under 28 U.S.C. §2241(c)(5) (habeas  
2 corpus), 28 U.S.C. §1331 (federal question), the Immigration and Nationality Act, 8  
3 U.S.C. §§1101-1537, regulations implementing the INA, the Administrative  
4 Procedures Act (“APA”), 5 U.S.C. §§701-706, and Article I, section 9, clause 2 of the  
5 United States Constitution (Suspension Clause).  
6

7 17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 *et. seq.*,  
8 the Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*, the All Writs Act, 28 U.S.C.  
9 §1651, and the Immigration and Nationality Act, 8 U.S.C. §1252(e)(2).  
10

#### 11 VENUE

12 18. Venue is proper in the United States District Court for the District of Minnesota  
13 because Petitioner is detained in the physical and legal custody of Respondents at the  
14 Sherburne County Jail in Elks River, Minnesota. *See Braden v. 30th Judicial Circuit*  
15 *Court of Kentucky*, 410 U.S. 484, 493- 500 (1973) (venue lies in the judicial district in  
16 which a petitioner is currently detained.)  
17

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

#### 23 REQUIREMENTS OF 28 U.S.C. § 2243

24 20. The court must grant the petition for writ of habeas corpus or issue an order to show  
25 cause (OSC) to the Respondents “forthwith,” unless the Petitioner is not entitled to  
26 relief. 28 U.S.C. §2243. If an OSC is issued, the court must require the Respondents to  
27  
28

1 file a return “within three days unless for good cause, additional time, not exceeding  
2 twenty days, is allowed.” *Id.*

3  
4 21. Habeas corpus is “perhaps the most important writ known to Constitutional law . . .  
5 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
6 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The  
7 application for the writ usurps the attention and displaces the calendar of the judge or  
8 justice who entertains it and receives prompt action from him within the four corners  
9 of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9<sup>th</sup> Cir. 2000) (citation  
10 omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9<sup>th</sup> Cir. 1954)  
11 (habeas corpus is “a speedy remedy, entitled by statute to special, preferential  
12 consideration to insure expeditious hearing and determination”).  
13

14 22. In this case, the Court should grant the petition for writ of habeas corpus “forthwith,”  
15 and order Respondents to file a return within three days, as Respondents arrested  
16 Petitioner without a warrant and the legal issues have already been resolved for class  
17 members in *Maldonado Bautista*. The reasoning in *Maldonado Bautista* also resolves  
18 the issues for similarly situated noncitizens.  
19

#### 20 **PARTIES**

21  
22 23. Petitioner Husni Sharif ABDI is ethnic Somali and a citizen of Ethiopia. He was  
23 arrested by ICE on December 2, 2025, and has been detained at Sherburne County Jail  
24 since that date. He has resided in the United States since March 11, 2024.

25 24. Respondent Pamela BONDI is the Attorney General of the United States. She is  
26 responsible for the Department of Justice, which operates the EOIR (and the  
27 immigration court system) as a component agency. She is sued in her official capacity.  
28

1 25. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security.  
2 She is responsible for implementing and enforcing the Immigration and Nationality  
3 Act (INA) and oversees ICE, which is responsible for Petitioner's detention. Ms.  
4 Noem has ultimate custodial authority over Petitioner and is sued in her official  
5 capacity.  
6

7 26. Todd M. LYONS, is the Acting Director of U.S. Immigration & Customs  
8 Enforcement, a subagency of DHS. As ICE is responsible for Petitioner's detention,  
9 Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.  
10

11 27. Respondent David EASTERWOOD, is the Acting Director of ICE's St. Paul Field  
12 Office. As such, Mr. Easterwood is Petitioner's immediate custodian and is  
13 responsible for Petitioner's detention and removal. He is named in his official  
14 capacity.  
15

16 28. Respondent Joel BROTT is the Sheriff of Sherburne County and the Warden of  
17 Sherburne County Jail, where Petitioner is detained. He has immediate physical  
18 custody of Petitioner and is sued in his official capacity.  
19

## 20 LEGAL FRAMEWORK

### 21 Respondents' Change in Policy Regarding Mandatory Detention

22 29. In general, under federal immigration law, two statutes govern the detention of  
23 noncitizens in removal proceedings – 8 U.S.C. §§1225 and 1226. Section 1225 applies  
24 to “applicants for admission” – noncitizens who are either “present in the United  
25 States who ha[ve] not been admitted” or who “arrive[] in the United States.” 8 U.S.C.  
26 §1225(a)(1).  
27  
28

1 30. Applicants for admission fall under either §1225(b)(1) or §1225(b)(2). *Jennings v.*  
 2 *Rodriguez*, 583 U.S. 281, 287 (2018). “Section 1225(b)(1) applies to aliens initially  
 3 determined to be inadmissible due to fraud, misrepresentation, or lack of valid  
 4 documentation” as well as “certain other aliens designated by the Attorney General in  
 5 his discretion.” *Id.* (citations omitted). Section 1225(b)(2) serves as a “catchall  
 6 provision that applies to” almost all other applicants for admission not covered by  
 7 §1225(b)(1). *Id.* at 289.

9 31. The mandatory detention statute at issue here, Section §1225(b)(2)(A), provides that  
 10 “a [noncitizen] seeking admission, [who] is not clearly and beyond a doubt entitled to  
 11 be admitted . . . shall be detained for a proceeding under 8 U.S.C. §1229a.” 8 U.S.C.  
 12 §1225(b)(2)(A) (emphasis added).  
 13

14 32. On July 8, 2025, ICE issued interim guidance instructing all ICE employees to  
 15 consider anyone charged with inadmissibility under §1182(a)(6)(A)(i)—i.e., those who  
 16 entered the United States without inspection—to be an “applicant for admission”  
 17 under 8 U.S.C. §1225(b)(2)(A) and therefore subject to mandatory detention. [Exhibit  
 18 6, July 8, 2025 ICE Guidance Regarding Detention Authority for Applications for  
 19 Inspection.] (“July 8 ICE Policy Memo”).  
 20

21 33. The July 8 ICE Policy Memo states that it was issued in coordination with the  
 22 Department of Justice (“DOJ”). EOIR is an agency within the DOJ.  
 23

24 34. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure*  
 25 *Hurtado*. There, the BIA held that all noncitizens who entered the United States  
 26 without inspection or parole are considered “applicants for admission” and are  
 27 therefore ineligible for IJ bond hearings.  
 28

1 35. Petitioner's Notice to Appear charges him with inadmissibility pursuant to INA §  
2 212(a)(6)(A)(i) (codified at 8 U.S.C. § 1182(a)(6)(A)(i)) (Exhibit 3). Therefore, based  
3 on the July 8 ICE Policy Memo (and the IJ at his bond hearing), Petitioner is  
4 purportedly subject to indefinite, mandatory detention, despite his initial release on  
5 conditional parole.  
6

7 36. To the contrary, Petitioner is detained pursuant to 8 U.S.C. §1226(a).

8 37. The discretionary detention statute at issue here, Section §1226(a), applies to the  
9 apprehension and detention of noncitizens who are already present in the United States  
10 and subject to removal. *See Jennings*, 583 U.S. at 288; *Rodriguez v. Garland*, 53 F.4<sup>th</sup>  
11 1189, 1196 (9<sup>th</sup> Cir. 2022).  
12

13 38. If they have an arrest warrant issued by the Attorney General, ICE may arrest and  
14 detain noncitizens in this category pending a decision in removal proceedings.  
15 However most are eligible for release on conditional parole or bond. 8 U.S.C. §1226.<sup>1</sup>  
16 An exception under §1226(c) for noncitizens with enumerated criminal convictions,  
17 does not apply to Petitioner.  
18

19 39. In short, 8 U.S.C. §1225 allows ICE to detain certain noncitizens *seeking admission*  
20 into the United States and §1226 authorizes the government to detain noncitizens  
21 *already in the country* pending the outcome of removal proceedings. *Jennings*, 583  
22 U.S. at 289 (emphasis added).  
23

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26 <sup>1</sup> 8 U.S.C. §1226 (a) Arrest, detention, and release: *On a warrant issued by the Attorney General*,  
27 an alien may be arrested and detained pending a decision on whether the alien is to be removed  
28 from the United States. Except as provided in subsection (c) and pending such decision, the  
Attorney General—(1) may continue to detain the arrested alien; and (2) may release the alien on—  
(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the  
Attorney General; or (B) conditional parole. . . .

1 40. Respondents' treatment of Petitioner since he arrived in the United States supports the  
2 conclusion that he is detained pursuant to §1226(a). Petitioner entered the United  
3 States without inspection on March 11, 2024. Federal authorities released him on  
4 recognizance two days later with an order stating that he was released "under INA  
5 §226 (codified at 8 U.S.C. §1226).

6  
7 41. Noncitizens detained under §1225(b) may not be released on recognizance; they may  
8 only be paroled into the country under 8 U.S.C. §1182(d)(5)(A). Release on  
9 recognizance is a form of "conditional parole" from detention under §1226 that is  
10 distinct from parole under §1182(d)(5)(A). *See Martinez v. Hyde*, No. 25-cv-11613,  
11 2025 WL 2084238, at \*3 (D. Mass. July 24, 2025)).

12  
13 42. Petitioner was not seeking admission on December 2, 2025. ICE apprehended and  
14 detained him in Minnesota, more than one year and eight months after he entered the  
15 United States. Therefore §1226(a) governs his detention.

16  
17 ***Maldonado Bautista Class Action***

18 43. On November 20, 2025, a district court in the Central District of California granted  
19 partial summary judgment on behalf of individual plaintiffs and on November 25,  
20 2025, certified a nationwide class and extended declaratory relief to the entire certified  
21 class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.Supp.  
22 3d ---, 2025 WL 3289861, at \*11 (C.D.Cal. Nov. 20, 2025) (order granting partial  
23 summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*,  
24 No. 5:25-CV-01873-SSS-BFM, --- F.Supp. 3d ---, 2025 WL 3288403, at \*9 (C.D.Cal.  
25 Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond  
26  
27  
28

1 Eligible Class, incorporating and extending declaratory judgment from Order Granting  
2 Motion for Partial Summary Judgment).

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

7 45. The *Maldonado Bautista* court found that DHS and EOIR’s expansive interpretation  
8 of “applicants for admission” (described in the July 8 ICE Policy Memo) would  
9 effectively nullify a portion of the INA through DHS’s legislative or interpretive  
10 exercise of power. The Court held “Neither is appropriate under the separation of  
11 powers.” *Maldonado Bautista*, 2025 WL 3289851, at \*16 (Citing *Loper Bright*  
12 *Enterprises v. Raimondo*, 603 U.S. 369, 386 (2024) (establishing that “[t]he views of  
13 the Executive Branch could inform the judgment of the Judiciary, but [do] not  
14 supersede it.”)).  
15

16  
17 46. The court continued: “Meanwhile, Petitioners’ interpretation—that §1226 is the  
18 governing authority and that they are not “applicants for inspection—is not contrary to  
19 the statutory scheme of the INA. *See generally* 8 U.S.C. §1226. Nowhere in §1226 is  
20 the phrase “applicants for admission,” “inspection,” or “admitted” used in the context  
21 raised in §1225. *Maldonado Bautista*, 2025 WL 3289851, at \*16  
22

23 47. Bond Eligible Class members include:

24 All noncitizens in the United States without lawful status who (1) have  
25 entered or will enter the United States without inspection; (2) were not  
26 or will not be apprehended upon arrival; and (3) are not or will not be  
27 subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at  
28 the time the Department of Homeland Security makes an initial custody  
determination.

1 Order certifying class, No. 5:25-CV-01873-SSS-BFM, --- F.Supp. 3d ---,  
2 2025 WL 3288403, at \*2.

3  
4 48. Petitioner is a member of the Bond Eligible Class, as he does not have lawful status in  
5 the United States and: (1) He had entered the United States without inspection (on  
6 March 11, 2024); (2) He was not seeking admission when U.S. agents apprehended  
7 him in Minneapolis on December 2, 2025, more than one year and eight months after  
8 he arrived in the United States. Petitioner's current detention is therefore not "upon  
9 arrival" and (3) He was not detained under 8 U.S.C. §1226(c) (which applies to  
10 noncitizens with certain categories of criminal convictions), §1225(b)(1) or §1231  
11 when DHS deemed him to be subject to mandatory custody.  
12

13 49. Petitioner is a class member and Respondents are bound by the judgment in  
14 *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C.  
15 §2201(a). Moreover, the class certification order in *Maldonado Bautista* expressly  
16 extends the same declaratory relief granted to the petitioners in that case to the Bond  
17 Eligible Class as a whole. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-  
18 SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025)  
19 (emphasis added).  
20

21  
22 50. On information and belief, the DOJ instructed IJ's across the country to decline to  
23 follow *Maldonado Bautista* because the Court has not issued a final judgment in that  
24 case. This is consistent with what occurred at Petitioner's bond hearing on December  
25 9, 2025. The IJ did not reach the issue whether Petitioner qualifies as a Bond Eligible  
26 Class member, she simply found that she was not bound by the *Maldonado Bautista*  
27 court's decision (Exhibit 5).  
28

1 51. Because Respondents are detaining Petitioner in violation of the declaratory judgment  
2 issued in *Maldonado Bautista*, the Court should accordingly order that within one day,  
3 Respondents must release Petitioner.  
4

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

7 **Mandatory vs. Discretionary Detention for Noncitizens in Removal Proceedings**

8 53. Even if the Court declines to enforce Petitioner's rights as a Bond Eligible Class  
9 member, the Court should adopt the *Maldonado Bautista* court's reasoning and find  
10 that §1226(a), not §1225(b), applies to Petitioner's detention.  
11

12 54. Respondents' position that §1225(b) applies to all persons who have not been admitted  
13 into the United States would render multiple provisions of §1226 superfluous. For  
14 instance, §1226(c)(1)(A), (D), and (E) already require mandatory detention of certain  
15 categories of inadmissible noncitizens. Indeed, Congress added §1226(c)(1)(E)—which  
16 requires detention for certain inadmissible noncitizens charged with crimes including  
17 burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No.  
18 119-1, 139 Stat. 3 (2025).  
19

20 55. If §1225(b) already required mandatory detention of all noncitizens who have not been  
21 admitted, these provisions would be meaningless.  
22

23 56. Several Minnesota District Court cases distinguish between noncitizens who are in the  
24 act of seeking admission and those, like Petitioner, who are already in the United  
25 States and in removal proceedings. The latter, the Court holds in recent cases  
26 challenging Respondent's change in policy, are subject to discretionary detention  
27 under 8 U.S.C. §1226(a).  
28

1 57. In *E-M- v. Noem*, the Court granted a habeas petition filed by a noncitizen in removal  
2 proceedings with a pending asylum application, who was arrested after a traffic stop  
3 by police and transferred to ICE custody. ICE contended that he was subject to  
4 mandatory detention according to the new policy discussed above and set forth in the  
5 July 8 ICE Policy Memo. The Court found that the petitioner in that case was not an  
6 “alien seeking admission” at the time of his arrest and was therefore not subject to the  
7 mandatory detention provisions of §1225(b)(2)(A). No. 0:2025cv03975 (D.Minn.  
8 Nov. 12, 2025) at \*10. The Court cited *Ortiz v. Freden*, --- F.Supp.3d ---, No. 25-CV-  
9 960-LJV, 2025 WL 3085032, at \*5 (W.D.N.Y. Nov. 4, 2025), where the court noted  
10 that “seeking” necessarily implies present-tense action, such that “seeking admission”  
11 means actively trying to acquire “lawful entry. . . after inspection and authorization by  
12 immigration officers.”  
13

14  
15 58. Other Minnesota courts have similarly rejected Respondents’ broad reading of  
16 §1225(b)(2) and have instead construed §1226(a)’s plain language to apply to  
17 detainees in situations like Petitioner’s. *See, e.g., Maldonado v. Olson*, No. 25-3142,  
18 2025 WL 2374411, at \*11(D. Minn. Aug. 15, 2025).  
19

20 59. In *Herrera Avila v. Bondi*, the court found that Section §1225(b)(2) applies to  
21 noncitizens **seeking admission** into the country while Section 1226 applies to the  
22 apprehension and detention of aliens who are **already present** in the country and  
23 eligible for removal., 0:25-cv-03741-JRT-SGE at \*10, \*12 (emphasis in original)  
24 (D.Minn. Oct. 21, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)).  
25

26 60. The Court in *Herrera Avila* acknowledged that the BIA adopted Respondents’ broad  
27 interpretation of §1225(b)(2) in *Yajure Hurtado* but said “[t]he Court joins other  
28

1 courts in disagreeing with the BIA’s interpretation. *See Loper*, 603 U.S. at 412–13  
2 (holding that courts are required to exercise their independent judgment and “may not  
3 defer to an agency interpretation of the law simply because a statute is ambiguous”);  
4 *Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at \*6–7 (E.D. Mich., Sept. 9,  
5 2024) (collecting cases at odds with the BIA’s interpretation of §1225(b)(2) in *Yajure*  
6 *Hurtado*). 0:25-cv-03741-JRT-SGE at \*12, fn. 7 (emphasis in original).

8 61. District courts outside Minnesota have also uniformly rejected DHS and EOIR’s new  
9 interpretation, set forth in the July 8 ICE Policy Memo, because it defies the INA. *See*  
10 *Cardenas v. Almodovar*, No. 25-CV-9169 (JMF), 2025 WL 3215573, at \*1 (S.D.N.Y.  
11 Nov. 18, 2025) (collecting cases) (*citing Bernardo Aquino v. Larose*, No. 25-CV-2904  
12 (RSH-MMP), 2025 WL 3158676, at \*3 (S.D. Cal. Nov. 12, 2025) (“The  
13 overwhelming majority of courts to address the issue have agreed that Section  
14 1226(a), rather than the mandatory detention provision of Section 1225(b)(2)(A),  
15 applies to a noncitizen . . . who has resided in the United States for many years.”),  
16  
17

18 62. The *Maldonado Bautista* court found that DHS and EOIR’s expansive interpretation  
19 of “applicants for admission” (explained above) would effectively nullify a portion of  
20 the INA through DHS’s legislative or interpretive exercise of power. The Court held  
21 “Neither is appropriate under the separation of powers.” *Maldonado Bautista*, 2025  
22 WL 3289851, at \*16 (Citing *Loper*, 603 U.S. at 386 (establishing that “[t]he views of  
23 the Executive Branch could inform the judgment of the Judiciary, but [do] not  
24 supersede it.”)).  
25

26 63. The court continued: “Meanwhile, Petitioners’ interpretation—that §1226(a) is the  
27 governing authority and that they are not “applicants for inspection”—is not contrary  
28

1 to the statutory scheme of the INA. . . Nowhere in §1226 is the phrase “applicants for  
2 admission,” “inspection,” or “admitted” used in the context raised in §1225.”

3 *Maldonado Bautista*, 2025 WL 3289851, at \*16.

4  
5 64. Because Petitioner’s detention is governed by 8 U.S.C. §1226(a), and Respondents  
6 detained him without a warrant issued by the Attorney General, the Court should  
7 order that within one day, Respondents must release Petitioner.

8 65. Alternatively, the Court should order Petitioner’s release unless Respondents provide a  
9 bond hearing under 8 U.S.C. §1226(a) within five days.

10  
11 **CLAIMS FOR RELIEF**

12 **COUNT ONE**

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

14 66. Petitioner restates and realleges all paragraphs as if fully set forth here.

15 67. Petitioner, as a member of the *Maldonado Bautista* Bond Eligible Class, is entitled to  
16 consideration for release on bond under 8 U.S.C. §1226(a).

17  
18 68. The order granting partial summary judgment in *Maldonado Bautista* holds that  
19 Respondents violate the INA when they apply the mandatory detention statute at  
20 §1225(b)(2) to Bond Eligible Class members.

21 69. The order granting class certification in *Maldonado Bautista* further orders that  
22 “[w]hen considering this determination with the Motion for Summary Judgement  
23 Order, the Court extends the same declaratory relief granted to Petitioner to the Bond  
24 Eligible Class as a whole.”  
25  
26  
27  
28

1 70. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory  
2 judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.  
3 § 2201(a).

4  
5 71. By denying Petitioner a bond hearing under §1226(a) and asserting that Petitioner is  
6 subject to mandatory detention under §1225(b)(2), Respondents violated Petitioner’s  
7 statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

8 **COUNT TWO**

9 **Violation of Fifth Amendment Right to Due Process**  
10 **Procedural Due Process**

11 72. Petitioner restates and realleges all paragraphs as if fully set forth here.

12 73. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the  
13 federal government from depriving any person of “life, liberty, or property, without  
14 due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within  
15 the United States, including [noncitizens], whether their presence here is lawful,  
16 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

17  
18 74. To determine whether a civil detention violates a detainee’s Fifth Amendment  
19 procedural due process rights, courts apply the balancing test set forth in *Matthews v.*  
20 *Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852  
21 (6th Cir. 2020) (applying the *Matthews* test in the context of immigration).

22  
23 75. *Matthews* requires a court to consider the following three factors: “(1) the private  
24 interest that will be affected by the official action; (2) the risk of erroneous deprivation  
25 of that interest; and (3) the government’s interest, including the fiscal and  
26 administrative burdens that the additional or substitute procedures entail.” *See Lopez-*  
27  
28

1 *Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug.  
2 29, 2025) at \*9 (citing *Mathews*, 424 U.S. at 335).

3  
4 76. Petitioner was detained without a warrant, based on no individualized circumstances  
5 applicable to him. Further, Petitioner was detained based upon the Respondents' novel  
6 interpretation of existing law, and without notice or any opportunity to contest the  
7 redetermination of his custody. All of the foregoing violates his due process rights.

8 77. Subjecting Petitioner to indefinite, mandatory detention on the flimsy legal pretext of  
9 the July 8 ICE Policy Memo violates his due process rights.

10  
11 **COUNT THREE**

12 **Violation of the Administrative Procedure Act – 5 U.S.C. §706(2)(A), the Immigration**  
13 **and Nationality Act – 8 U.S.C. §1226, and Federal Regulations**  
14 **Not in Accordance with Law and in Excess of Statutory Authority**  
15 **Unlawful Detention**

16 78. Petitioner restates and realleges all paragraphs as if fully set forth here.

17 79. Under the APA, a court shall “hold unlawful and set aside agency action” that is an  
18 abuse of discretion. 5 U.S.C. §706(2)(A).

19 80. An action is an abuse of discretion if the agency “entirely failed to consider an  
20 important aspect of the problem, offered an explanation for its decision that runs  
21 counter to the evidence before the agency, or is so implausible that it could not be  
22 ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of*  
23 *Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
24 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

25 81. To survive an APA challenge, the agency must articulate “a satisfactory explanation”  
26 for its action, “including a rational connection between the facts found and the choice  
27 made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).  
28

1 82. By arresting Petitioner without a warrant and detaining him indefinitely, Respondents  
2 have violated the INA, implementing regulations, and the APA.

3 83. On information and belief, Respondents have made no finding that Petitioner is a  
4 danger to the community or a flight risk. In fact, the Respondents, according the I-213  
5 issued on December 2, 2025, determined that Petitioner has no criminal history and no  
6 adverse immigration history (Exhibit 1). When Respondent was detained briefly in  
7 March 2024, DHS deemed him eligible for release on recognizance (Exhibit 3).

8 84. By detaining Petitioner, a mere passenger and not the target of their traffic stop,  
9 Respondents have further abused their discretion because, since the agency made its  
10 initial determination to release the Petitioner into the United States, there have been no  
11 changes to Petitioner's facts or circumstances that support detention.  
12  
13

14 **COUNT FOUR**

15 **Violation of the Administrative Procedure Act – 5 U.S.C. §706(2)(A)**  
16 **Not in Accordance with Law and in Excess of Statutory Authority**  
17 **Violation of 8 C.F.R. §239.2(c)**

18 85. Petitioner restates and realleges all paragraphs as if fully set forth here.

19 86. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in  
20 accordance with law;” “contrary to constitutional right;” “in excess of statutory  
21 jurisdiction, authority, or limitations;” or “without observance of procedure required  
22 by law.” 5 U.S.C. §706(2)(A)-(D).  
23

24 87. Petitioner does not concede that DHS has the authority to reverse its initial processing  
25 choice to parole him pursuant to §1226(a) and redetain him pursuant to §1225(b)(2).

26 88. Under the APA, an agency must provide “reasoned explanation for its action” and  
27 “may not depart from a prior policy *sub silentio* or simply disregard rules that are still  
28

1 on the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). *see*  
2 *also Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33  
3 (2020) (holding that rescission of immigration policy without considering “particular  
4 reliance interests” is arbitrary and capricious in violation of the APA).  
5

6 **PRAYER FOR RELIEF**

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

- 8 1) Assume jurisdiction over this matter;
- 9 2) Issue an Order to Show Cause ordering that Respondents show cause within  
10 three days as to why this Petition should not be granted;
- 11 3) Declare that Petitioner is a member of the *Maldonado Bautista* Bond Eligible  
12 Class;
- 13 4) Declare that Petitioner’s warrantless arrest and detention without an  
14 individualized determination violates the Due Process Clause of the Fifth  
15 Amendment;
- 16 5) Declare that the application of the July 8 ICE Policy Memo to Petitioner  
17 violates the Due Process Clause of the Fifth Amendment;
- 18 6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from  
19 custody immediately, or, in the alternative, to promptly provide him with a  
20 bond hearing under 8 U.S.C. §1226 before an immigration judge;
- 21 7) Issue an Order prohibiting the Respondents from transferring Petitioner from  
22 the district without the court’s approval;
- 23 8) Award Petitioner attorney’s fees and costs under the Equal Access to Justice  
24 Act, and on any other basis justified under law; and  
25  
26  
27  
28

1 9) Grant any further relief this Court deems just and proper.  
2

3 DATED this 15<sup>th</sup> Day of December, 2025

/s/ Abdulwahid Osman  
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612-605-8410  
*Motion for Admission Pro Hoc Vice  
Pending*

*Attorneys for Petitioner*

14  
15  
16 **VERIFICATION**

17 On this 13<sup>th</sup> day of December, 2025, I declare under penalty of perjury that the foregoing  
18 is true and correct to the best of my knowledge. I make this verification in lieu of and acting on  
19 behalf of Petitioner, Husni Abdi, because Petitioner is currently detained and because of the  
20 urgent nature of the relief requested. I am authorized to make this verification as a member of  
21 the legal team representing the Petitioner, Husni Abdi.  
22

/s/ Robin Chandler Carr  
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