

Karen L. Hoffmann, Esq.
PA ID No. 323622
ELLENBERG LAW GROUP
1500 JFK Blvd., Suite 1825
Philadelphia, PA 19102
(215) 790-1682
karen@sellenberglaw.com

Attorneys for Petitioner

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

Martin Raul DIAZ APARICIO



Petitioner,

v.

Craig LOWE, in his official capacity as
Warden, Pike County Correctional
Facility; Kristi NOEM, in her official
capacity as Secretary, U.S. Department
of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; and Pamela BONDI, U.S.
Attorney General,

Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Martin Raul Diaz Aparicio brings this petition for a writ of habeas corpus as a member 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 Pike County Correctional Facility. 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) (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) (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/Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

5. Petitioner Martin Raul Diaz Aparicio is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Pike County Correctional Facility. He was apprehended by immigration authorities on November 21, 2025;
- b. entered the United States without inspection on or around December 20, 2023;¹ and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

6. After apprehending Petitioner on November 21, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged

¹ See Exhibit B, EOIR Notice to Appear (NTA);

Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. *Id.*

7. The Court should expeditiously grant this petition.

8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

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

10. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

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

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Pike County Correctional Facility.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Middle District of Pennsylvania, the judicial district in which Petitioner currently is believed to be detained.

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

17. Petitioner may be detained in an undisclosed location by an unknown custodian, in which case it would be “impossible to apply the immediate custodian

and district of confinement rules.” *Rumsfeld v. Padilla*, 542 U.S. 426, 450 n.18, S. Ct. 2711, 159 L. Ed. 2d 513 (2004); *Ozturk v. Hyde*, 136 F.4th 382, 392 (2d Cir. 2025); *Demjanjuk v. Meese*, 784 F.2d 1114, 1115-16, 251 U.S. App. D.C. 310 (D.C. Cir. 1986). In such circumstances, “the naming of a more remote custodian—[such as] the Secretary of Homeland Security—satisfies the statutory requirements.” *Ozturk*, 136 F.4th at 392 (citing *Demjanjuk*, 784 F.2d at 1116); *Khalil v. Joyce*, No. 25-01963, 2025 U.S. Dist. LEXIS 63573, 2025 WL 972959, at *29-30 (D.N.J. Apr. 1, 2025).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. See *Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

19. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas

corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

20. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.

21. The Board of Immigration Appeals has issued a published decision holding that people like Petitioner who entered the United States without inspection and therefore have not been admitted are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A). Immigration judges and the BIA are bound by this decision. 8 C.F.R. § 1003.1(g)(1). Exhaustion before the BIA would therefore be futile.

22. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Therefore, any administrative proceedings would be futile because Petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

REQUIREMENTS OF 28 U.S.C. § 2243

23. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

24. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

25. Petitioner Martin Raul Diaz Aparicio is a citizen of Venezuela who has been in immigration detention since November 21, 2025. Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

26. Respondent Warden Craig Lowe is the Warden of the Pike County Correctional Facility. As such, Warden Lowe is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He additionally has immediate physical custody of Petitioner. He is named in his official capacity.

27. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

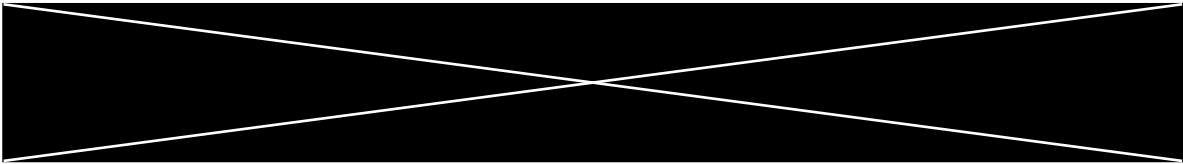
29. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

STATEMENT OF FACTS

30. Petitioner has resided in the United States since December 2023 and lives in West Chester, Pennsylvania with his longtime partner Yolsergis Andreina Torcates Chirinos and his 11-year-old stepson, A.J.S.T. See Petitioner's I-589 Asylum Application and Declaration, attached hereto as Exhibit "A"; *see also* Exhibit B (EOIR NTA).

31. Petitioner has no aggravated felony convictions and as such is not subject to Expedited Removal provisions under INA § 238(b).

32. Petitioner timely applied for asylum in April of 2024.



him to flee Venezuela with his partner and his stepson. *See* Exhibit A, I-589 and Declaration of Petitioner.

33. Petitioner's asylum application has not yet been adjudicated. Upon information and belief, petitioner has complied with all directions and requirements of asylum and immigration officers since submitting his application.

34. Petitioner was complying with the directions and requirements of asylum and immigration officers when he appeared at the Philadelphia ICE ERO field office on November 21, 2025, for a routine check-in. There he was detained and later transferred to the Pike County Correctional Facility.

35. Upon detention, ICE agents seized his Social Security Card and his Employment Authorization Document ("EAD" or "work permit").

36. The seizure and retention of the Petitioner's work permit and SSC is unsupported by law or policy and severely prejudices his ability to function.² The EAD is the explicit federal authorization for him to work, making its continued

² ICE policy states: "If the noncitizen can legally possess the document, and ICE has no operational need to retain the document, then ICE can return the document upon request by the noncitizen or attorney who represents the noncitizen." ICE ERO, Confiscation and Return of Original Documents (Jan. 13, 2023), available at <https://www.ice.gov/doclib/foia/thirdPartyRequests/2023-ICFO-34859.pdf>. However, despite requests from the Petitioner's partner, the agency has failed to do so.

retention by ICE a direct interference with his ability to earn a living to support himself and his family. The driver's license and Social Security card are equally essential for compliance with the basic necessities of life, including travel and verifying identity.

37. Petitioner has an upcoming Master Calendar Hearing on December 22, 2025. *See* EOIR Automated Case Information, attached hereto as Exhibit "B".

38. Petitioner is a partner and stepfather who supports his young stepson financially, emotionally, and developmentally. *See* Letters of Support, attached hereto as Exhibit "C", generally and at C-1 and C-2.

39. Petitioner has no criminal record, either here or in Venezuela. *See* Exh. C.

40. Petitioner is lawfully and gainfully employed as a driver and delivery worker. *See* Petitioner's Employment Authorization Documents, attached hereto as Exhibit "D".

41. Petitioner has strong community ties. *See* Exh. C., generally.

42. Petitioner is neither a flight risk nor a danger to the community.

43. Petitioner has significant motivation to remain in the community in order to have his asylum case properly adjudicated. Petitioner has previously appeared at all appearances where he was required; and has dutifully been pursuing his application for asylum. Petitioner is pursuing his lawful application for asylum

and has no reasonable motive to interfere with immigration proceedings by eloping before his application is adjudicated.

44. Following Petitioner's arrest and detention at the Philadelphia Field Office, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

45. Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*.

46. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIM FOR RELIEF

COUNT I

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

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

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

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

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

COUNT II **Violation of Due Process**

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

54. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

55. Petitioner has a fundamental interest in liberty and being free from official restraint.

56. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring Petitioner's immediate release;
- c. Order the Respondents to return Petitioner's Employment Authorization Document and Social Security Card;
- d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- e. Grant any other and further relief that this Court deems just and proper.

DATED: December 12, 2025

/s/ Karen L. Hoffmann

Karen L. Hoffmann, Esquire
Law Offices of Stanley J. Ellenberg
1500 John F. Kennedy Blvd., Suite 1825
Philadelphia, PA 19102
p. (215) 790-1682
karen@sellenberglaw.com

PA ID #323622

Attorney for petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S
BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney and because Petitioner is detained and is unable to himself verify the contents of this petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 12, 2025

/s/ Karen L. Hoffmann, Esq.
Karen L. Hoffmann, Esquire.
Law Offices of Stanley J. Ellenberg
1500 John F. Kennedy Blvd
Suite 1825
Philadelphia, PA 19102
p. (215) 790-1682
f. (215) 790-9103
karen@sellenberglaw.com
PA ID #323622

Attorney for petitioner

EXHIBIT	DOCUMENT DESCRIPTION
A	Petitioner's I-589 and Declaration
B	EOIR Automated Case Information and Notice to Appear
C	Letters of Support
D	Petitioner's Employment Authorization Documents