

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

MIKHEILI MORBEDADZE,

Petitioner,

v.

CARLOS CISNEROS, IN HIS OFFICIAL
CAPACITY, ASOD, PORT ISABEL
DETENTION CENTER;

MIGUEL VERGARA, IN HIS OFFICIAL
CAPACITY AS ICE ENFORCEMENT AND
REMOVAL OPERATIONS, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE);

TODD LYONS, IN HIS OFFICIAL
CAPACITY, AS ACTING DIRECTOR, US
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE);

KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS, SECRETARY OF THE U.S.
DEPARTMENT OF HOMELAND
SECURITY;

PAMELA BONDI, IN HER OFFICIAL
CAPACITY, US ATTORNEY GENERAL

Respondents.

Case No. 1:25-cv-330

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

EXPEDITED REQUEST

INTRODUCTION

1. Petitioner Mikheili Morbedadze (“Mr. Morbedadze”) brings this petition for a writ of habeas corpus to seek enforcement of his 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 Port Isabel Detention Center. 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 and its subagency the 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, Mr. Morbedadze, 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 Port Isabel Service Detention Center, Los Fresnos, Texas. He was apprehended by immigration authorities on September 27, 2025.
- b. entered the United States without inspection over 3 years and was apprehended in 2025 at a immigration checkpoint, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

6. After apprehending Petitioner on September 27, 2025, at a immigration checkpoint the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection and § 1182(a)(7)(A)(i)(I), as someone with no valid documentation to enter.

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 three days, 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 (7) days where the Government bears the burden to show why he is a flight risk or a danger.

12. Even if the Court does not find Petitioner to be a member of the class action, Mr. Morbedadze is unlawfully detained and held in ICE custody without bond because Respondents are unlawfully detaining him under 8 U.S.C. § 1225(b)(2), not § 1226(a).

JURISDICTION

13. The petitioner is in the physical custody of Respondents. Petitioner is detained at the Port Isabel Detention Center, 27991 Buena Vista Blvd, Los Fresnos, Texas 78566.

14. 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).

15. 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

16. 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 Eastern District, the judicial district in which Petitioner currently is detained.

17. 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 Eastern District.

EXHAUSTION OF REMEDIES

18. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).

19. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge (“IJ”) because of the Board of Immigration Appeals (“BIA”) recent decision holding that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile).

20. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of her due process rights, and it would therefore be futile for her to pursue administrative remedies. *Reno v. Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).

REQUIREMENTS OF 28 U.S.C. § 2243

21. 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*. Alternatively, this Court should join the many others who have held that noncitizens arrested inside the United States, after years of entry, cannot be treated as “arriving,” and therefore detained under 8 U.S.C. § 1225(b)(2).

22. 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).

FACTS

23. Mr. Mikheli Morbedadze is a thirty-three-year-old native and citizen of Georgia.
24. After fleeing Georgia due to persecution suffered for his membership in the LGBTQ+ community as a bisexual male, he entered the United States on or about January 14, 2022.
Ex B.
25. DHS issued a Notice to Appear (NTA #1) pursuant to 8 U.S.C. § 1229a, dated January 18, 2022, stating that was present in the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as someone present without admission or parole. Ex. C.
26. NTA #1, ordered Petitioner to appear at the Varick Street Immigration Court on May 10, 2022.
27. That same date, DHS released Petitioner in accordance with 8 U.S.C. § 1226(a). release on recognizance, after making a determination that he was not a flight risk or danger to the community. Ex D.
28. As part of the release, DHS imposed certain conditions on the Petitioner. Ex. D.
29. Petitioner timely filed his Form I-589, due to harm suffered for his membership in the LGBTQ+ community, as a bisexual man, with U.S. Citizenship and Immigration Services because DHS never filed NTA #1 with the immigration court in New York.

30. The petitioner also filed and received his work authorization card and a Social Security card.¹
31. The petitioner was awaiting an interview with USCIS.
32. On or about September 27, 2025, Petitioner was arrested at a checkpoint by DHS.
33. DHS issued a second NTA dated October 10, 2025, charging the Petitioner on two grounds of inadmissibility, including 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection and § 1182(a)(7)(A)(i)(I), as someone with no valid documentation to enter. Ex. G.
34. Petitioner maintains that he did not violate the conditions of his release.

PARTIES

35. Petitioner MIKHELIL MORBEDADZE is a citizen of Georgia who has been in immigration detention since September 27, 2025, after the Petitioner was arrested at a checkpoint between McAllen and Corpus Christi, Texas.
36. 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 and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of Texas; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. She is sued in her official capacity. Respondent Noem's

¹ Petitioner has his work authorization at the detention center, but Counsel was able to obtain his Social Security card received in connection with his work authorization.

address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

37. 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 operates as a component agency. She routinely transacts business in the District of Texas in this capacity; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g) (2007); and as such is a custodian of the Petitioner. She is sued in her official capacity. At all times relevant hereto, Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530- 0001.

38. Respondent Todd M. LYONS is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Texas, Brownsville Division, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent Lyons exercises control over and is custodian of persons held at ICE facilities nationally. He is the Petitioners' immediate custodian and responsible for Petitioner's detention. He is sued in his official capacity. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

39. Respondent CARLOS CISNEROS is the ASOD at the PORT ISABEL DETENTION CENTER, where the petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

40. Respondent, MIGUEL VERGARA, is ICE Field Officer Director of Detention and Removal. Respondent Vergara is a custodial official acting within the boundaries of the judicial district of the United States Court for the Southern District of Texas, Brownsville Division. Pursuant to Respondent Vergara's orders, Petitioner remains behind bars.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE INA:

Request for Relief Pursuant to Maldonado Bautista

41. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
42. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
43. 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.
44. 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.”
45. 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).

46. 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*.

SECOND CLAIM FOR RELIEF
VIOLATION OF 8 U.S.C. §§ 1226(a), 1225(b),
Mandatory Detention For Those Seeking Admission

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

48. On January 7, 2022, Mr. Morbedadze, entered the United States without inspection.

49. Because DHS previously exercised its discretion to release Petitioner on his own recognizance from detention under 8 U.S.C. § 1226(a), the government lacks authority to re-detain him under § 1225(b)'s mandatory provisions. At the time of Petitioner's re-arrest in September 2025, Petitioner had been living in the United States for three years, had a pending asylum application with USCIS, and a work permit. Therefore, Petitioner was not subject to detention pursuant to § 1225(b), and any custody must proceed, if at all, under § 1226(a).

50. Petitioner's continuing re-detention is therefore unlawful.

51. Petitioner incorporates all factual allegations as though restated here.

52. ICE re-detained Mr. Morbedadze without reasonable suspicion and continues to do so in violation of his constitutional rights protected under the Fifth Amendment.

53. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

54. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

55. First, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690).
56. Whereas here, the government has released the Petitioner on parole to apply for asylum, Respondent’s cannot simply re-arrest and re-detain Petitioner for no reason at all.
57. The Government’s authority to re-arrest a noncitizen and revoke their release is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. To protect that interest, due process requires notice and a hearing prior to any re-arrest, at which the individual is afforded the opportunity to advance their arguments for why their release should not be revoked.
58. Second, the Due Process Clause requires that any deprivation of Petitioner’s liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying less rigorous standard for “deportable aliens”).
59. Petitioner’s ongoing imprisonment does not satisfy that rigorous standard, as there was no material change since the Petitioner was released from custody, and had a pending asylum case pending with the immigration court.
60. Third, “the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.” *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).

61. Detaining Mr. Morbedadze was arbitrary because he had initially been released pending his removal proceedings, has authorization to work in the United States, and has no criminal arrests or convictions.

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 Respondents to respond within three day, Respondents release Petitioner;
- c. Return Petitioner's government issued documents which were confiscated by DHS;
- d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) where they carry the burden within seven days;
- e. 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
- f. Grant any other and further relief that this Court deems just and proper.

DATED this 15th of December, 2025.

/s/ David H. Square
DAVID H. SQUARE, ESQ.
SD TX FED. NO. 1155619
TX S. CT. 24076013
LAW OFFICE OF DAVID H. SQUARE, PLLC
225 PALM BLVD.
BROWNSVILLE, TX 78520
T: (956) 421-1010
E: DAVID@LAWOFFICEOFDHS.COM

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, MIKHEILI MORBEDADZE, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15th day of December 2025.

/s/ David H. Square
David H. Square, Esq.