

UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO  
DENVER DIVISION

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PEDRO TREJO TREJO,

*Petitioner,*

v.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

Case No. 1:25-cv-4026

**JUAN BALTASAR**, in his official  
capacity as Warden of Denver Contract  
Detention Facility;

**ROBERT GUADIAN**, in his official  
capacity, Director of the Denver Field  
Office for U.S. Immigration and  
Customs Enforcement;

**TODD LYONS**, in his official capacity  
as Acting Director, U.S. Immigration  
and Customs Enforcement;

**KRISTI NOEM**; in her official capacity  
as Secretary of the U.S. Department of  
Homeland Security,

**PAM BONDI**, in her official capacity as  
Attorney General of the United States,

**SIRCE OWEN**, in her official capacity,  
Acting Director for Executive Office for  
Immigration Review;

**EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW;**

*Respondents.*

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## INTRODUCTION

1. This case challenges the unlawful detention of PEDRO TREJO TREJO (“Petitioner” or “Mr. Trejo Trejo” who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Denver Contract Detention Facility.

2. Petitioner challenges his detention under 8 U.S.C. §1225.

## PARTIES

3. Petitioner, PEDRO TREJO TREJO has lived in the United States for approximately 25 to 26 years. Prior to Petitioner’s detention on or about November 23, 2025, he was residing in Hillsborough County, Florida. Petitioner is currently detained at the Denver Contract Detention Facility.

4. Respondent, JUAN BALTASAR, is sued in his official capacity as Warden of the Denver Contract Detention Facility where Petitioner is currently detained.

5. Respondent, ROBERT GUADIAN, in his official capacity as Director of the Denver Field Office for U.S. Immigration and Customs Enforcement;

6. Respondent, TODD LYONS, is sued in his official capacity as the Acting Director of Immigration and Customs Enforcement (“ICE”).

7. Respondent, KRISTIN NOEM is sued in her official capacity as the Secretary of the Department of Homeland Security.

8. Respondent, PAM BONDI is sued in her official capacity as the Attorney General of the United States. The Attorney General controls the Department of Justice, which has within its control the Executive Office for Immigration Review and the immigration court system.

9. Respondent, SIRCE OWEN, in her official capacity, Acting Director for Executive Office for Immigration Review;

10. Respondent, Executive Office for Immigration Review (EOIR) is a federal agency responsible for overseeing immigration bond hearings.

### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

12. Venue is proper in this district because Respondent, Warden JUAN BALTASAR, is Petitioner's immediate custodian and under 28 U.S.C. § 1391(e)(1)

because Respondents are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.

**STATEMENT OF FACTS AND PROCEDURAL HISTORY**

13. Petitioner was born in Mexico in 1975. Petitioner came to the United States in 1999 and has remained in the United States for the last 25 years.

14. On November 23, 2025, Petitioner was the passenger in a vehicle that was stopped by law enforcement for a moving violation in the State of Florida. Law enforcement determined that Petitioner entered the United States without authorization and Petitioner was taken into custody.

15. Petitioner was initially transferred to the Baker County Detention Center, in Baker County, Florida.

16. Petitioner was transferred to the Denver Contract Detention Facility in Denver, Colorado, where he is currently detained. ICE is holding Petitioner with no bond.

17. On July 8, 2025, DHS issued a notice to all ICE employees declaring that 8 U.S.C. §1225(b)(2) applies to any alien present in the United States, “who has not been admitted...whether or not at a designated port of arrival.” *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The notice states, “it is the position of

DHS that such aliens are subject to detention under INA §235(b) [8 U.S.C. §1225(b)] and may not be released from ICE custody except by INA §212(d)(5) parole.” *Id.* The notice also states “[t]hese aliens are also ineligible for a custody redetermination hearing (bond hearing) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that ‘arriving aliens’ have historically been treated.” *Id.*

18. On September 5, 2025, the Board of Immigration Appeals decided *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Yajure Hurtado*, the BIA held that an immigration judge lacks authority to hear a noncitizen’s bond request if that noncitizen entered the United States without inspection, even if that noncitizen has resided within the United States for more than 2 years. *Id.* *Matter of Yajure Hurtado* is a published and precedential decision that is binding on immigration judges. 8 C.F.R. §1003.1(g)(2).

19. On November 20, 2025, the district court in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-CFM (C.D.Cal.) granted partial summary judgment on behalf of individual plaintiffs challenging the interpretation that noncitizens who entered without inspection fell under the mandatory detention provision in 8 U.S.C. §1225. On November 25, 2025, the district court in

*Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-CFM (C.D.Cal.) certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (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). The declaratory judgment stated that the Bond Denial Class members are detained under 8 U.S.C. §1226(a), and therefore may not be denied for release consideration under 8 U.S.C. §1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.

20. Petitioner does not have lawful status in the United States and is currently detained, he entered the United States without inspection approximately 25 years ago and was not apprehended upon arrival, and he is not detained under 8 U.S.C. §1226(c), §1225(b)(1), or §1231.

### **LEGAL FRAMEWORK**

21. This petition concerns the legal interpretation and interplay between two statutory provisions, 8 U.S.C. §1225 and 8 U.S.C. §1226, governing detention of noncitizens placed in removal proceedings.

22. Respondents have detained Petitioner under 8 U.S.C. §1225, which applies to the inspection, detention and removal of applicants for admission. An

“applicant for admission” is defined as “[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters.” 8 U.S.C. §1225(a)(1).

23. 8 U.S.C. §1225(2)(A) requires detention “...in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted...” [emphasis added].

24. “Applicants for admission” who are “seeking admission” must remain in custody throughout immigration proceedings. 8 U.S.C. §1225(b)(2); see also *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

25. However, 8 U.S.C. §1225 does not apply to Petitioner because he has remained continuously inside the United States for approximately 25 years and is not “seeking admission”, which is required for that provision to apply. Rather, Petitioner is entitled to a bond hearing under 8 U.S.C. §1226(a).

26. 8 U.S.C. §1226(a) is the general detention statute that provides the framework for arrest, detention and release of noncitizens in removal

proceedings. A person arrested and detained under 8 U.S.C. §1226(a) may be released on a bond of at least \$1,500 or on conditional parole. 8 U.S.C. §1226(a)(2).

27. 8 C.F.R. §236.1(d)(1) provides the regulatory framework for immigration judges to consider motions for bond reconsideration when DHS makes an initial determination that the noncitizen should be detained.

28. As opposed to a noncitizen arriving at the border, a noncitizen already present inside the United States “has a constitutional liberty interest to remain in the U.S.” *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

29. Respondents’ own agencies have historically applied §1226(a) to noncitizens who have entered the United States without inspection and have since resided inside the United States, while applying §1225(b)(2) only to those encountered at the border. *Maldonado v. Feely et al.*, Case No. 25-cv-01542-RFB-EJY (D.Nev. Sept. 17, 2025).

30. Respondents’ interpretation of §1225(b)(2) is in contradiction to the plain meaning of the statutes, the legislative history of each statute, and the interpretation of each statute by courts in multiple jurisdictions.

31. District Courts throughout the nation, including the First, Second, Fifth, Sixth, Eighth, Ninth Tenth and Eleventh Circuits, have all held that 8 U.S.C. §1225(b)(2) does not apply to noncitizens who are detained inside the United

States. See *Garcia Cortes v. Noem*, No. 25-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Mendoza Gutierrez, v. Baltazar*, No. 25-2720, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Loa Caballero v. Baltazar*, No. 25-03120, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Nava Hernandez v. Baltazar*, No. 25-03094, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Bautista v. Noem*, 2025 U.S. Dist. LEXIS 227222 (M.D. Fla. November 19, 2025); *Merino v. Ripa et al.*, Case No. 25-23845-CIV-MARTINEZ (S.D. Florida October 15, 2025); *J.A.M. v. Streeval*, 2025 U.S. Dist. LEXIS 215437 (M.D. Fla. November 1, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025);

*Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

32. The district court's order in *Maldonado Bautista* on November 25, 2025 granted declaratory relief to members of the certified class nationwide. *Maldonado Bautista*, 2025 WL 3289861, at \*11.

33. Respondents have refused to abide by the declaratory relief order and have continued to deny motions for bond redetermination on jurisdiction grounds for members of the certified class.

### **CLAIMS FOR RELIEF**

#### **Count One Relief Pursuant to *Maldonado Bautista***

34. Petitioner realleges all paragraphs above as if fully set forth here.

35. Petitioner is a member of the Bond Eligible Class in *Maldonado Bautista* and is therefore entitled to release and/or a bond redetermination hearing pursuant to 8 U.S.C. §1226(a).

36. The order granting partial summary judgment holds that Respondents violate the Immigration and Nationality Act ("INA") by applying the mandatory detention statute of 8 U.S.C. §1225(b)(2) to class members.

37. The district court's order has the full force and effect of a final judgment. 28 U.S.C. §2201(a).

38. Respondents have continued to detain Petitioner in violation of the district court's order and have continued to deny motions for bond redetermination based on *Matter of Yajure Hurtado*.

**Count Two**  
**Violation of the Immigration and Nationality Act, 8 U.S.C. §1226(a) and Regulations**

39. Petitioner realleges all paragraphs above as if fully set forth here.

40. 8 U.S.C. §1226(a) provides Petitioner with statutory right to a bond redetermination hearing.

41. Respondents have unlawfully detained Petitioner under 8 U.S.C. §1225(b)(2), which applies only to "applicants for admission" who are "seeking admission."

42. Respondents have detained Petitioner in violation of the regulatory procedure outlined in 8 C.F.R. §236.1, §1236.1. and §1003.19.

**Count Three**  
**Violation of the Fifth Amendment of the U.S. Constitution**  
**Substantive Due Process**

43. Petitioner's detention is in violation of Petitioner's Fifth Amendment right to liberty with due process.

44. The Due Process Clause of the Fifth Amendment applies to all persons within the United States, which includes noncitizens “whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).

45. Petitioner was detained based on a mistaken interpretation of the relevant immigration detention statutes

**Count Four**  
**Violation of the Fifth Amendment of the U.S. Constitution**  
**Procedural Due Process**

46. Plaintiff realleges all paragraphs above as if fully set forth here.

47. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government’s interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

48. The first factor, the private interest at issue, favors Petitioner. “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.” *Zadvyda*, 533 U.S. at 690.

49. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, statutory provisions and regulations specify the circumstances when a noncitizen shall be detained and when a noncitizen is eligible for release and what procedures the noncitizen is afforded in seeking release. Respondents violated those statutes and regulations here, leaving the risk of erroneous deprivation of liberty not just high, but certain.

50. The third factor, the government’s interest, also favors Petitioner. When the government misinterprets the law, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. The government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law.

51. For these reasons, detaining Petitioner under §1225, as opposed to §1226 has failed to provide Petitioner with the procedural due process he is entitled to under §1226.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. 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) within seven days;
- d. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- e. Award Petitioner costs and reasonable attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. §504 ; and
- f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

DATED: December 16, 2025

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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge. This verification is not made by Petitioner because Petitioner is in custody in a different state and the need to file this petition is urgent.

DATED: December 16, 2025

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