

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

RAMIRO LOPEZ MONTOYA,

Petitioner,

v.

MIGUEL VERGARA, Field Office Director of Enforcement and Removal Operations, Harlingen Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JOSE GARCIA LONGORIA, JR., Officer in Charge, Port Isabel Processing Center.

Respondents.

Case No. 1:25-cv-00332

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Ramiro Lopez Montoya was placed into removal proceedings before the Executive Office of Immigration Review (EOIR) on May 5, 2011. At that time, Immigration and Customs Enforcement (ICE) set a bond of \$10,000.00 which was paid by Mr. Lopez Montoya and he was released from custody. From that date until December 6, 2025, when Mr. Lopez Montoya was arrested and detained by ICE in Minnesota without notice and then transferred to the Port Isabel Processing Center, he remained in compliance with all conditions of his release from custody.

2. Petitioner Ramiro Lopez Montoya brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), and of his rights under the

laws and Constitution of the United States. Petitioner is in the physical custody of Respondents at the Port Isabel Processing Center in Los Fresnos, Texas. Mr. Lopez Montoya is unlawfully detained because the Department of Homeland Security (DHS) and the EOIR have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz* and because he is being held without opportunity for a bond hearing in violation of the laws and Constitution of the United States.

3. 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).

4. 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.

5. 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.

6. Petitioner Ramiro Lopez Montoya 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 Processing Center. He was most recently apprehended by immigration authorities on December 6, 2025, in Minnesota, and then transferred to ICE custody at the Port Isabel Processing Center;
- b. entered the United States without inspection over 28 years ago and was not apprehended upon arrival, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. Before apprehending Mr. Lopez Montoya on December 6, 2025, the DHS had placed him in removal proceedings pursuant to 8 U.S.C. § 1229a on May 5, 2011, by issuance of a Notice to Appear. 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 DHS did not allege in the NTA that Mr. Lopez Montoya was an “arriving alien.”

8. Mr. Lopez Montoya was initially released on a bond set by ICE in the amount of \$10,000.00 in May of 2011. That bond was cancelled and returned to Mr. Lopez Montoya when his removal proceedings were administratively closed. Mr. Lopez Montoya remains in removal proceedings under §1229a, has been released from custody from May 2011 until December 6, 2025, and at all times complied with the conditions of his bond and release from custody from May of 2011 to December 6, 2025. When apprehended on December 6, 2025, Petitioner had been scheduled for a master calendar hearing before EOIR in Minnesota on January 5, 2026.

9. The Court should expeditiously grant this petition.

10. 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.

11. 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).

12. 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.

13. 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

14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Port Isabel Processing Center in Los Fresnos, Texas.

15. 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).

16. 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

17. 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 Southern District of Texas, Brownsville Division, the judicial district and division in which Petitioner currently is detained.

18. 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 Southern District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

19. 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*.

20. 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

21. Petitioner RAMIRO LOPEZ MONTOYA is a citizen of Mexico who has been in immigration detention since December 6, 2025. After Petitioner was arrested in Minneapolis, Minnesota, ICE did not set bond, and Petitioner has requested review of his custody by an IJ. Petitioner was previously placed into removal proceedings on May 5, 2011, and released from custody by payment of a bond of \$10,000.00. Petitioner was not detained by ICE from May of 2011 until December 6, 2025, during which time he remained in removal proceedings and in compliance with all terms of his release on bond and other conditions of release. Petitioner has resided in the United States since 1997 and is the father of two United States citizen children.

22. Respondent MIGUEL VERGARA is the Director of the Harlingen Field Office of ICE’s Enforcement and Removal Operations division. As such, MIGUEL VERGARA is

Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. 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.

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

25. 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.

26. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

27. JOSE GARCIA LONGORIA, JR., is the Officer in Charge, Port Isabel Processing Processing Center where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIMS FOR RELIEF

COUNT ONE: Violation of the INA: Request for Relief Pursuant to *Maldonado Bautista*

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

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

30. 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.

31. 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.”

32. 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).

33. 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 TWO: Violation of the INA:
Eligibility for Bond Hearing Under 8 USC §1226(a)**

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

35. Petitioner is not subject to removal proceedings under 8 USC §1225 as he is not a non-citizen seeking admission into the United States. Petitioner was not inspected by immigration officers when arriving in the United States and had already been physically present in the United States for over 15 years when he was detained by immigration agents and placed into removal proceedings under 8 USC §1226.

36. Petitioner has previously been determined by ICE to be in removal proceedings under §1226 and was granted bond, and released on bond, under the provisions of §1226(a).

37. Regardless of his eligibility for relief as a class member under *Maldonado Bautista*, Petitioner is subject to the detention framework under §1226(a) and is entitled to a bond hearing before an immigration judge with the authority to redetermine any bond and/or conditions of release established by the DHS.

**COUNT THREE:
DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT**

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

39. The DHS has previously determined that Petitioner is eligible for release from custody under §1226(a). Such a determination necessarily means that Petitioner is entitled to a bond hearing before an immigration judge to reconsider and determination by DHS as to release on bond and/or conditions.

40. Petitioner relied upon the actions and determinations by DHS that he was subject to the provisions of §1226(a).

41. DHS has not prepared and served upon Petitioner any type of pre-deprivation notice and opportunity to challenge the revocation of Respondent's conditions of release after being released on bond and/or conditions and complying with all conditions of release for over fourteen and one-half years.

42. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

43. Respondent's have violated Petitioner's right to due process under the Fifth Amendment by arbitrarily revoking their prior legal determinations which Petitioner relied upon to his detriment and by not providing Petitioner notice of the basis for the revocation of his release and a pre-detention hearing to challenge the revocation of his release.

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 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. 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 this 16th day of December, 2025.

s/ Stephen O'Connor

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

I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained and immediate relief is sought, counsel verifies this petition on his behalf pursuant to 28 U.S.C. § 2242. 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 16th day of December, 2025.

s/ Bruce D. Nestor

Bruce D. Nestor