The Honorable Roy K. Altman

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Cleofas GONZALES JUAN, Petitioner, v. Garrett J. RIPA, *et al.*, Respondent.	Case No. 1:25-cv-25924-RKA

PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Cleofas Gonzales Juan, through undersigned Counsel, respectfully submits this Traverse in response to Respondents' Return [ECF No. 11]. The Return fails to rebut the Petition's central showing: Petitioner is unlawfully detained under an incorrect statutory provision, in violation of the Immigration and Nationality Act ("INA"), binding federal court precedent, and the Constitution. Respondents' arguments rely on a statutory interpretation that courts in this District have repeatedly rejected, disregard the binding declaratory judgment in *Maldonado Bautista v. Santacruz*, and mischaracterize both the statutory text and the structure of the INA. For the reasons below, the Petition should be granted.

I. Respondents' Improper-Party Argument Fails

Respondents erroneously argue that all parties except Assistant Field Office Director Charles Parra should be dismissed because he is the sole immediate physical custodian. [ECF No.

11 at 3-4]. As an initial matter, Petitioner has explicitly named Charles Parra, his immediate custodian at the Krome North Service Processing Center, in his official capacity. The Court indisputably possesses jurisdiction to grant the requested habeas relief against the proper custodian. Respondents' argument ignores the well-established principle that supervisory officials may be named when the habeas petition challenges systemic policies, not merely day-to-day physical custody.

Furthermore, naming higher-level supervisory officials, including the Attorney General and the Secretary of the Department of Homeland Security (DHS), is entirely proper in cases challenging systemic agency policies and constitutional violations. These officials exercise ultimate legal control over the unconstitutional policies and sweeping statutory misinterpretations that have resulted in Petitioner's unlawful detention. They are necessary parties to afford Petitioner complete declaratory and injunctive relief.

II. Respondents' Misinterpret 8 U.S.C. § 1225(b)(2) and the Term "Applicant for Admission

Respondents erroneously contend that because Petitioner entered the United States without inspection, he is perpetually an "applicant for admission" subject to mandatory detention under § 1225(b)(2)(A). [ECF No. 11 at 4-6]. This argument ignores the plain text of the statute.

Section 1225(b)(2)(A) specifically limits mandatory detention to an alien actively "seeking admission". As numerous federal courts have recognized, "seeking admission" is an active participial phrase modifying the noun alien, narrowing its meaning to one who is attempting to obtain lawful admission at the border or a port of entry. Courts have noted that the phrase "implies action—something that is currently occurring, and . . . would most logically occur at the border upon inspection." *See Soto Gonzalez v. Bondi*, Case No. 0:26-cv-60102-WPD, 2026 U.S. Dist. LEXIS 17123, at *7 (S.D. Fla. Jan. 28, 2026) *quoting Lopez-Campos v. Raycraft,* No. 2:25-cv-

12486, 797 F. Supp. 3d 771, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025). Petitioner has resided in the United States continuously since 1997. At the time of his interior arrest in September 2025, Petitioner was not at a border, port of entry, or functional equivalent. He was not actively attempting to cross a border or "seek admission" in any ordinary sense of the term. Treating a decades-long resident as an arriving alien actively "seeking admission" distorts the plain, everyday meaning of the statutory text.

Furthermore, Respondents' own charging document, the Notice to Appear (NTA) issued on September 15, 2025, classifies Petitioner as an "alien present in the United States who has not been admitted or paroled"—it does *not* check the box for an "arriving alien". [ECF No. 3-2]. As recognized in *Duvallon Boffill v. Field Office Director*, Case No. 1:25-cv-25179-JB, 2025 U.S. Dist. LEXIS 228852, at *15 (S.D. Fla. Nov. 20, 2025), this exact classification places the individual squarely within the ambit of § 1226, not § 1225.

Moreover, unlike § 1225, § 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings[.]" *See Jennings v. Rodriguez,* 583 U.S. 281, 289, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018). Section 1226(a) sets out a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General," and authorizes the Attorney General to "continue to detain the arrested alien[,]" release him on a "bond of at least $1,500[,]" or release him on "conditional parole[,]" 8 U.S.C. § 1226(a)(1)-(2). DHS issued a Warrant for Arrest of Alien against Petitioner on September 14, 2025. [ECF No. 3-1]. The Warrant for Arrest specifically states that it's being issued pursuant to sections 236 and 287 of the Immigration and Nationality Act.

III. Respondents' Interpretation of § 1226 Renders the Statute Superfluous

Respondents argue that 8 U.S.C. § 1226(a) does not apply to Petitioner. However, the Supreme Court has made clear that § 1226 serves as the "default rule" and "catchall" that "applies to aliens already present in the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018).

Respondents' reading of § 1225(b)(2)(A) would swallow § 1226 whole. Moreover, if every noncitizen who ever entered without inspection were subject to mandatory detention under § 1225(b)(2)(A), then Congress's recent amendments would be completely meaningless. Specifically, in January 2025, Congress enacted the Laken Riley Act, which added § 1226(c)(1)(E) to mandate detention for noncitizens who are inadmissible for being present without admission *and* who have been charged with or convicted of certain crimes. If Respondents were correct that § 1225(b)(2)(A) already mandates detention for *all* noncitizens present without admission, then Congress would have had absolutely no reason to enact § 1226(c)(1)(E). Under basic rules of statutory construction, the Court must reject an interpretation that renders an entire statutory provision void or superfluous.

IV. Under *Loper Bright*, Respondents' Reliance on Agency Interpretation is Flawed

Respondents invoke *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024), arguing that prior agency practice of providing bond hearings does not control [ECF No. 11 at 14]. However, *Loper Bright* defeats the government's position here. Under *Loper Bright*, this Court owes no deference to the Board of Immigration Appeals' (BIA) novel and expansive interpretation of the INA in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). More importantly, on February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado* under the Administrative Procedure Act. *See Maldonado Bautista v.*

Santacruz, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). The court held that DHS and EOIR were acting unlawfully in continuing to apply the BIA decision.

Agencies have no special competence in resolving statutory ambiguities; courts do. Over a hundred federal district courts have employed independent statutory construction to conclude that the BIA and DHS's interpretation is "wrong, and plainly so." *See Gimenez Rivero v. Mina et al*, Case No. 6:26-cv-00066-RBD-NWH, 2026 U.S. Dist. LEXIS 13724, at *9 (M.D. Fla. Jan. 26, 2026); *see also Bernal v. Morris et al*, Case No. 1:25-cv-25159-KMV, 2025 U.S. Dist. LEXIS 268793, at *6-*10 (S.D. Fla. Nov. 19, 2025) (collecting cases).

V. Petitioner's Mandatory Detention Violates Due Process

Respondents argue that Petitioner's detention does not violate due process, citing the mandatory detention scheme upheld in *Demore v. Kim*, 538 U.S. 510 (2003). [ECF No. 11 at 14-15]. This reliance is misplaced. *Demore* addressed the constitutionality of 8 U.S.C. § 1226(c), a specific carve-out for *criminal* aliens. Petitioner has resided in the United States for nearly three decades, owns a home, and is the father of three U.S. citizen children. [ECF No. 1 at 11; ECF No. 3 at 13]. He has no criminal record beyond minor traffic infractions and poses no flight risk or danger to the community. [ECF No. 1 at 12; ECF No. 3 at 14].

The Supreme Court has long recognized that "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States". *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Holding a long-term resident with deep community ties in indefinite, mandatory detention without an individualized hearing violates the fundamental liberty interests protected by the Fifth Amendment. As of this filing, Petitioner has now been detained and separated from his wife and three U.S. citizen children for five months (161 days).

VI. Immigration Courts are in Direct Violation of Federal Orders

Respondents attempt to minimize the binding nature of the federal class-action litigation in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), arguing the judgment is not binding in this District. [ECF No. 11 at 15-16]. However, Petitioner is undisputedly a member of the certified "Bond Eligible Class". Despite this, Respondents and the Immigration Courts continue to flagrantly violate federal orders by categorically refusing to grant bond hearings. Petitioner has requested bond from the Immigration Court on two separate occasions, December 11, 2025 and January 8, 2026, both times subsequent to the holding in *Maldonado Bautista* certifying the "Bond Eligible Class." Despite being fully notified of the *Maldonado Bautista* class certification, the Immigration Judge each time refused jurisdiction. This is not merely the rogue action of a single Immigration Judge, but a coordinated nationwide policy of defiance.

On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action. Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

Most recently, on February 18, 2026, the United States District Court for the Central District of California in *Maldonado Bautista* issued an order enforcing its final judgment and explicitly vacating the BIA's decision in *Matter of Yajure Hurtado* under the Administrative Procedure Act, rendering the agency policy contrary to law. Even after this order, Immigration

Judges have continued refusing to conduct bond hearings for bond eligible class members such as Petitioner, asserting that they are waiting for further guidance. (Undersigned Counsel observed bond hearings at the Miami Immigration Court via WebEx on February 20, 2026, where the Immigration Judge stated that he was awaiting further guidance from EOIR).

Because the EOIR has previously issued a nationwide directive ordering Immigration Judges to affirmatively refuse jurisdiction over bond hearings for noncitizens like Petitioner,[1] Petitioner has no functioning administrative remedy, no access to the statutory bond process, and no avenue to challenge his detention except through habeas corpus. The Constitution does not permit an executive agency to nullify federal court judgments or to suspend statutory rights by internal directive. Where the agency has closed the only statutory door Congress provided, habeas relief is not only appropriate, it is the sole mechanism capable of restoring the rule of law.

VII. Conclusion

Respondents' application of 8 U.S.C. § 1225(b)(2)(A) to Petitioner contradicts the plain text of the INA, renders recent Congressional amendments meaningless, and relies on an agency decision that has been officially vacated. Because the Immigration Court continues to systemically refuse jurisdiction over Petitioner's bond requests in open defiance of federal court orders, this Court should order Petitioner's immediate release.

Accordingly, Petitioner respectfully requests that this Court grant the Amended Petition for Writ of Habeas Corpus and order Petitioner's immediate release from custody, or, in the alternative, order Respondents to provide an individualized bond hearing before an Immigration Judge within seven (7) days, where Respondents' bear the burden of proof to show by clear and

[1] *See* https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista

convincing evidence that he is a flight risk and/or danger to persons or property and that no alternatives to detention exist to mitigate that risk.

DATED this 22nd of February, 2026.

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CERTIFICATE OF SERVICE

I, Lorraine Margarita Marte, hereby certify that on February 22, 2026, I electronically filed the attached "Petitioner's Traverse to Respondents' Return to Amended Petition for Writ of Habeas Corpus" and any accompanying exhibit with the Clerk of the Court for the United States District Court for the Southern District of Florida by using the CM/ECF system.

DATED this 22nd of February, 2026.

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