

1 Jessica Anleu, Esq.
2 ZAVA IMMIGRATION LAW GROUP, PLLC
3 5333 N. 7th Street, Suite B214
4 Phoenix, AZ 85014
5 Tel: (602) 795-5550
6 jessica@zavaimmigration.com
7 Attorney for Petitioner

8 UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA
10 PHOENIX, ARIZONA

11 Rendy Erick Diaz Mendez


12 Petitioner,

13 v.

14 Kristi Noem, Secretary, U.S. Department of
15 Homeland Security; Pamela Bondi,
16 Attorney General of the United States,
17 Executive Office for Immigration Review
(EOIR); Corina Almeida, Chief Counsel,
18 Immigration and Customs Enforcement
(ICE), Office of Principal Legal Advisor,
19 Florence; John Cantu, Field Office
20 Director, ICE Enforcement and Removal
21 Operations, Phoenix; Luis Rosa, Jr.,
22 Warden, Florence Detention Center,

23 Respondents.

Case No. 2:25-cv-04717-JJT (JZB)

Immigration Number: A 

**PETITIONER'S REPLY IN
SUPPORT FOR PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

24 Petitioner, Rendy Erick Diaz Mendez, through counsel, respectfully submits this Reply
25 to Respondents' Response (Doc. 7).

26 **I. INTRODUCTION**

27 Respondents seek dismissal on the theory that Petitioner's membership in the
28 *Maldonado Bautista* class action bars individual habeas relief. That position is untenable.
When Respondents filed their response (and opposition) on December 19, 2025, they
acknowledged that *Maldonado Bautista* had reached final summary judgment and that the

1 class action had been certified. Yet rather than comply with that ruling by releasing
2 Petitioner – or at minimum honoring the Immigration Judge’s alternative \$5,000 bond
3 determination- Respondents chose continued detention and continued litigation.
4 Respondents’ argument rests on the extraordinary claim that Rule 23 operates as a
5 jurisdictional “off-switch” for habeas corpus. Although the legality of Petitioner’s detention
6 under 8 U.S.C. § 1225(b)(2) has been adjudicated legally incorrect by the *Maldonado*
7 *Bautista* litigation, Respondents contend that the mere existence of a class action deprives
8 this Court of authority to remedy his ongoing confinement. Accepting that position would
9 create a constitutional vacuum in which detention is acknowledged to be unlawful yet
10 insulated by judicial enforcement.
11
12

13 Dismissal would leave Petitioner in a “rights without remedies” trap- where his legal
14 position has been vindicated by a class action, yet he remains in physical custody with no
15 mechanism for enforcement.
16

17 The plain text, structure, and legislative history of the Immigration and Nationality Act
18 (“INA”), as well as recent controlling authority, confirm that individuals such as Petitioner,
19 who entered the United States years ago and have been continuously present, are not
20 “applicants for admission¹” under 8 U.S.C. § 1225(b)(2), but are instead subject to 8 U.S.C.
21 § 1226(a), which permits a bond hearing before an Immigration Judge.
22
23
24
25
26

27 ¹ As defined in 8 USC §1101(4), “application for admission” has reference to the application
28 for admission into the United States and not to the application for the issuance of an
immigrant or nonimmigrant visa.

1 The Government's position has been repeatedly rejected by multiple federal courts,
2 including within the District of Arizona and other districts across the nation.² *Echevarria v.*
3 *Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282, at *5–6 (D. Ariz. Oct. 3, 2025);
4 *Rodrigues da Silva v. Figueroa*, No. CV-25-04015-PHX-JJT, slip op. at 2–4 (D. Ariz. Nov.
5 18, 2025); *see also Quinapanta v. Bondi*, No. 25-cv-01114, 2025 WL 3157867, at *6 (W.D.
6 Wis. Nov. 12, 2025) (“[M]ore than 45 district courts have now rejected similar arguments
7 made by Respondents here and ordered bond hearings for noncitizens who, like petitioner,
8 were apprehended within the United States years after entering without admission or
9 inspection unless implicated by any criminal activity covered by §1226(c). These decisions,
10 along with a growing number of others, including this Court, have concluded that the
11 statutory text, the statute's history, Congressional intent, and §1226(a)'s application for the
12 past three decades support its application to noncitizens in petitioner's position.”) (quoted
13 in *Sanchez-Sanchez v Rosa, Jr*, 2:25-cv-04586-SHD-DMF (D. Ariz. December 19, 2025)).

17 The continued detention of Petitioner without access to a bond hearing violates the Due
18 Process Clause of the Fifth Amendment and the limits on immigration detention recognized
19 by the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*,
20 533 U.S. 678 (2001); and *Demore v. Kim*, 538 U.S. 510 (2003).

22 This Court should exercise its habeas jurisdiction and adjudicate Petitioner's challenge
23 to his ongoing detention.
24
25
26

27 ² *More than 100 Judges Have Ruled Against Trump Admin's Mandatory Detention Policy*,
28 POLITICO (Oct. 31, 2025), <https://perma.cc/H6MZ-VC2Z>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II. STATUTORY COUNTERARGUMENTS.

A. Section 1225(b)(2) Does Not Apply to Noncitizens Long Present in the United States.

The Government misapplies § 1225(b)(2), which by its plain terms applies only to arriving aliens or those seeking admission at a port of entry, not to individuals who entered without inspection years ago and are later apprehended within the interior.

Courts across jurisdictions, including *Echevarria v. Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282, at *4–6 (D. Ariz. Oct. 3, 2025), and *Martinez v. Hyde*, No. 25-cv-10863, 2025 WL 2084238, at *8–10 (D. Mass. July 24, 2025), have rejected the Government’s “applicant for admission” theory. As Judge Lanza held in *Echevarria*, the statutory “fiction” of § 1225(a)(1) does not extend indefinitely to justify indefinite, bondless detention of those living in the interior years after entry.

To hold otherwise would erase Congress’s deliberate separation between §§ 1225 and 1226—rendering § 1226(a) meaningless for noncitizens who entered unlawfully but have established ties and long residence in the United States.

B. Section 1226(a) Governs Petitioner’s Detention

Petitioner was not apprehended while “arriving” or during “inspection.” He has resided in the U.S. since 2008 and was placed in § 240 removal proceedings under 8 U.S.C. § 1229a in July 2025. By the Government’s own exhibit, he was charged under INA § 212(a)(6)(A)(i) (entry without inspection). Such individuals are within the ambit of § 1226(a) detention authority, which allows for discretionary release on bond or parole pending completion of proceedings.

1 Every appellate-level decision interpreting the INA post-*Jennings* recognizes that §
2 1226, not § 1225, governs individuals apprehended within the interior. *See Matter of M-S-*,
3 27 I. & N. Dec. 509, 513–14 (A.G. 2019); *Echevarria*, 2025 WL 2821282, at *5; *Martinez*,
4 2025 WL 2084238, at *9; *De La Cruz v. Shanahan*, No. 17-cv-1029, 2018 WL 3122054, at
5 *6–7 (S.D.N.Y. June 26, 2018).

6
7
8 *C. Legislative History Confirms the Limited Scope of § 1225*

9 Congress enacted § 1225(a)(1) to close the procedural loophole that previously rewarded
10 those who crossed unlawfully with more favorable “deportation” procedures. It was not
11 designed to create a perpetual “applicant for admission” category that strips due process
12 protections from long-term residents.

13
14 The Government’s argument that § 1225 authorizes mandatory, indefinite detention of
15 anyone ever present without admission contradicts both the statutory text and *Zadvydas*, 533
16 U.S. at 701, which prohibits reading immigration statutes to permit potentially endless
17 detention without express congressional authorization.

18
19 *D. Membership in a Rule 23(b)(2) Class Does Not Divest This Court of*
20 *Individual Habeas Jurisdiction.*

21 Respondents rely on the overbroad proposition that the certification of a Rule
22 23(b)(2) class mandates the dismissal of all individual habeas petitions raising overlapping
23 legal issues. This is a mischaracterization of the law. The writ of habeas corpus is an
24 individualized remedy of constitutional dimension, designed specifically to provide a “swift
25 and imperative” check on unlawful physical restraint. *See Fay v. Noia*, 372 U.S. 391, 400
26 (1963). Ninth Circuit jurisprudence confirms that a pending class action does not
27
28

1 automatically extinguish an individual's right to seek habeas relief, especially where the
2 class mechanism is insufficient to address an ongoing deprivation of liberty.

3
4 Courts in this Circuit have emphasized that habeas petitioners cannot be forced to
5 await the outcome of protracted class litigation when doing so results in an unreasonable
6 delay of an individual liberty claim. Dismissal is inappropriate where, as here, the habeas
7 petition seeks immediate, individualized relief that is not presently available through the
8 class action. *See Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir. 1979) (noting that individual
9 claims may proceed where the habeas petition seeks relief that cannot be obtained through the
10 class mechanism).

11
12 The *Maldonado Bautista* litigation is currently an inadequate vehicle for Petitioner's
13 release for three reasons:

14
15 (1) the *Maldonado Bautista* court has not yet issued a specific injunction ordering
16 bond hearings for individual class members;

17
18 (2) the case is currently certified for appeal, creating an indefinite timeline for final
19 resolution; and

20
21 (3) Respondents explicitly maintain that *Maldonado Bautista* "does not obligate"
22 them to provide Petitioner with a bond hearing or give effect to the Immigration Judge's
23 findings. (Doc. 7 at 4, n.1).

24
25 To dismiss this Petition would be to suspend Petitioner's right to the writ in favor of
26 a procedural device that—by Respondents' own admission—currently offers him no
27 practical path to liberty.
28

1 E. The Gillespie Decision in Inapposite to Individual Petitions.

2 Respondents rely on *Gillespie v. Crawford*, 858 F.2d 1101 (5th Cir. 1988), to contend
3 that Petitioner must pursue relief exclusively through class representatives, citing the court's
4 statement "urg[ing] further action through the class representative and attorney, including
5 contempt proceedings, or by intervention in the class action." Respondents
6 mischaracterize *Gillespie* to argue that Petitioner is categorically barred from pursuing
7 individual habeas relief and must proceed exclusively through class
8 representatives. *Gillespie* does no such thing.
9
10

11 *Gillespie* is readily distinguishable. There, the plaintiffs sought equitable and
12 declaratory relief challenging allegedly unconstitutional conditions across the Texas prison
13 system. The Fifth Circuit concluded that permitting parallel individual actions seeking
14 systemic relief would "interfere with the orderly administration of the class action and risk
15 inconsistent adjudications." *Id.* The concern was not the mere existence of individual
16 actions, but the risk that competing court orders directing statewide prison reform would
17 create confusion and undermine coordinated relief. It was this potential for conflicting,
18 system-wide mandates—not any categorical bar on individual litigation—that prompted the
19 court to invoke its supervisory authority and channel such claims through the class action.
20
21 See *id.*
22

23 However, where a Petitioner challenges the fact or duration of confinement—the
24 "heart of habeas corpus"—individualized review is mandatory. *Preiser v. Rodriguez*, 411
25 U.S. 475, 484 (1973). While a prisoner might be stayed from suing over "COVID measures"
26 pending a class action (see *Herrera v. Birkholz*, No. 22-cv-07784-RSWL-JDE, 2022 WL
27
28

1 18396018, at *4-6 (C.D. Cal. Dec. 1, 2022), *report and recommendation adopted*, 2023 WL
2 319917 (C.D. Cal. Jan. 18, 2023), the Supreme Court has never held that a person's right to
3 challenge the fact or duration of their physical detention can be stayed indefinitely behind a
4 programmatic class action.
5

6 As such, *Gillespie*, *Herrera*, and *Crawford* neither held nor implied that individual
7 habeas jurisdiction is foreclosed. Accordingly, *Gillespie* is inapposite and provides no
8 support for Respondents' position.
9

10 F. This Court's Order Would Directly Enforce the Legal Conclusion from
11 *Maldonado Bautista*.

12 This Court's order would not duplicate the class action; rather, it would directly
13 enforce the class-action ruling that 8 U.S.C. § 1226(a), not § 1225(b)(2), applies to
14 Petitioner. The *Maldonado Bautista* court has already granted partial summary judgment
15 and clarified that its ruling applies to the class. *Maldonado Bautista v. Santacruz*, 5:25-cv-
16 01873-SSS-BFM (Docs. 81, 92, 93, 94). This confirms that Petitioner is being held under
17 the wrong statutory framework.
18

19 Respondents' own admission highlights the necessity of this Court's intervention.
20 Respondents acknowledge that ICE's Enforcement and Removal Operations (ERO) treats
21 the Immigration Judge's (IJ) alternative bond findings as a "nullity" absent a specific court
22 order. (Doc. 7 at 5, n.2). Petitioner is not asking this Court to relitigate the merits of
23 the *Maldonado Bautista* decision, but to provide the enforcement mechanism necessary to
24 give that decision effect. Without an order from this Court, Petitioner remains unlawfully
25 detained under a mandatory detention statute that the courts have already determined does
26 not apply to him.
27
28

1 G. Respondents' Theory Creates A "Catch-22" Due Process Violation.

2 Respondents' position creates a procedural trap:

- 3 1. They argue Petitioner is a mandatory member of the *Bautista* class with no right to
4 opt-out.
5 2. They argued that because he is a class member, he is barred from filing an individual
6 habeas petition;
7 3. They admit the class action provides no current mechanism for his release.

8 Respondents essentially argue that Petitioner is 'bound' for the purposes of losing his
9 right to sue, but they are 'not bound' for the purposes of providing him relief. This 'one-way'
10 application of Rule 23 is a paradigmatic violation of the Fifth Amendment. This result would
11 leave Petitioner in a "legal vacuum," held without a bond hearing and stripped of any forum
12 to challenge that detention. Such 'procedural limbo'—characterized by the lack of a prompt
13 and effective means to challenge detention—renders alternative procedures an inadequate
14 substitute for the writ of habeas corpus in violation of the Suspension Clause. *See*
15 *Boumediene*, 553 U.S. at 779. The government's desire to avoid "parallel litigation" does
16 not give it the power to sacrifice an individual's right to a bond hearing in the name of
17 administrative convenience.
18

19 H. Petitioner's Detention is Unlawful and Violates Due Process and the APA.

20 Because Petitioner is detained under the wrong statutory provision, his ongoing custody
21 is "not in accordance with law" and must be set aside under the APA, 5 U.S.C. § 706(2)(A).
22 Under the correct provision—§ 1226(a)—he is statutorily eligible for bond. The IJ has
23 24 25 26 27 28

1 already made the factual findings necessary to effectuate release: Petitioner is not a danger,
2 and a minimal bond suffices to mitigate any flight risk.

3 Prolonged civil detention without a lawful statutory basis also raises grave Due Process
4 concerns. “Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint—lies at the heart of the liberty” protected by the Fifth
6 Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause applies
7 to all “persons” in the United States, regardless of status. *Id.* at 693. It cannot be squared
8 with permanently mandatory detention of long-term residents who have never had their
9 custody reviewed under the proper statute.
10
11

12
13 I. Section 2243 Requires the Court to Grant the Writ Forthwith.

14 Under 28 U.S.C. § 2243, once the return is filed, the Court must “summarily hear
15 and determine the facts and dispose of the matter as law and justice require.” There is no
16 material factual dispute here:

- 17
- 18 • Petitioner entered without inspection more than 17 years ago and has lived in
19 Arizona ever since.
 - 20 • He was arrested in the interior on November 12, 2025, and placed into § 1229a
21 proceedings;
 - 22 • He has never been processed under expedited removal or inspected at a port
23 of entry;
24

25 The IJ denied bond solely based on *Hurtado*’s jurisdictional holding.

26 Because the legality of Petitioner’s detention turns purely on the correct
27 interpretation of the INA, and because § 1226(a) plainly governs, the Court should grant the
28

1 writ “forthwith” and declare that Petitioner is detained under § 1226(a), invalidate
2 Respondents’ reliance on § 1225(b)(2), and order that he be provided an individualized bond
3 hearing before an IJ under § 1226(a) and 8 C.F.R. §§ 1003.19, 1236.1 within 48 hours.
4

5 **III. CONCLUSION**

6 The government seeks to transform a class-action lawsuit into a shield against
7 Constitutional accountability. Because *Maldonado Bautista* provides no present relief and
8 cannot extinguish the right to individualized habeas review, this Court should deny the
9 request to dismiss. For the foregoing reasons, and those stated in Petitioner’s opening
10 petition, Petition respectfully requests that this Court:
11

- 12 1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;
- 13 2) Declare that Petitioner is detained under 8 U.S.C. § 1226(a), not § 1225(b)(2);
- 14 3) Should order Respondents to give immediate effect to the Immigration Judge’s
15 alternative bond determination of \$5,000 as a means of providing the 'swift and
16 imperative' relief required by the writ
17
- 18 4) Alternatively, the Court should Order Respondents to provide Petitioner an
19 individualized bond hearing under § 1226(a) before an IJ within 48 hours;
20
- 21 5) Enjoin Respondents from transferring Petitioner outside this District pending
22 compliance;
23
- 24 6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and
25 on any other basis justified under law; and
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7) Grant such other and further relief as this Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 22nd day of December 2025.

By: s/ Jessica Anleu, Esq.
Jessica Anleu, Esq.
Attorney for Petitioner
jessica@zavaimmigration.com