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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jose Adalberto Rivas-Pimentel,
Alien 

Petitioner,
v.

Pamela Bondi, in her official capacity as Attorney
General,

Kristi Noem, in her official capacity as Secretary of
the Department of Homeland Security,

U.S. Department of Homeland Security,

John Cantu, in his official capacity as Acting Field
Office Director of the Phoenix Field Office for U.S.
Immigration and Customs Enforcement,

Warden of Florence Correctional Center,

Todd Lyons, in his official capacity as Acting ICE
Field Office Director,
Respondents.

Case No. 2:25-cv-04720-PHX-
KML (CDB)

**PETITION FOR A WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241**

**PETITIONER'S REPLY TO
RESPONDENT'S RESPONSE
TO THE COURT'S ORDER TO
SHOW CAUSE REGARDING
A PETITION FOR WRIT OF
HABEAS CORPUS**

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ARGUMENT 1

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ARGUMENT

I. *Bautista* Confirms That the Petitioner is Detained Under §1226 and Entitled to a Bond Hearing

On November 20, 2025, the Central District of California granted partial summary judgment to the plaintiffs in *Maldonado Bautista v. Santacruz*, as the Judge ruled that the Government’s no-bond policy is “at odds with the plain language of the INA” and that “§ 1226(a) is the appropriate governing authority over the Petitioners’ detention” No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *8-*9 (C.D. Cal. Nov. 20, 2025). Five days later, the court certified a nationwide “Bond Eligible Class” under Fed. R. Civ. Pro 23(b)(2) and explicitly “extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.” *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the court entered final judgment in favor of the Petitioner class, declaring (1) the Respondents’ “no bond/§ 1225(b)(2) policy unlawful, (2) vacated that policy under the APA, and (3) Bond Eligible Class members are detained under 8 U.S.C. §1226(a) and are not subject to mandatory detention under §1225(b)(2), and *Maldonado Bautista v. Santacruz*, 2025 WL 367485 (C.D. Cal. Dec. 18, 2025).

Both the facts surrounding the Petitioner’s claim and the Respondents’ own concession demonstrate that the Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista*. The Petitioner is a member of the Bond Eligible Class because he (1) entered the U.S. without inspection in 2008, (2) was not apprehended upon arrival, and (3) is not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. The Respondents do not oppose this determination, as they expressly stated that the Petitioner “appears to be a member” of the Bond Eligible Class. Courts have already begun relying on the final judgment in *Maldonado*

1 *Bautista* in circumstances virtually indistinguishable from those of the Petitioner. *See Aguilar-*
2 *Perez v. LaRose*, No. 25-cv-3409-LL-DDL, Order at 2 (S.D. Cal. Dec. 22, 2025) (recognizing
3 that after *Bautista*'s partial final judgment, respondents "acknowledge Petitioner is entitled to
4 a bond hearing pursuant to 8 U.S.C. § 1226(a)" and ordering ICE to arrange a bond hearing).
5 Accordingly, the Petitioner respectfully requests that this Court grant his petition for a writ of
6 habeas and enforce his statutory rights under the INA and the Court's judgment in *Maldonado*
7 *Bautista v. Noem*.

9
10 **II. The Pending Appeal in *Bautista* Does Not Prevent This Court from Granting**
11 **Habeas Relief**

12 Federal Rule of Civil Procedure 62(c) provides that injunctions "are not stayed after
13 being entered, even if an appeal is taken" unless the court orders otherwise. Fed. R. Civ. P.
14 62(c)(1). This rule applies in both the Ninth Circuit and Federal Circuit proceedings. *See*
15 *Hawkins v. Risley*, 984 F.2d 321, 324 (9th Cir. 1993) (holding that "the preclusive effects of a
16 lower court cannot be suspended simply by taking an appeal that remains undecided").

17 Although Respondents note that an appeal is pending in the Ninth Circuit in opposition
18 to *Maldonado Bautista*, they have not alleged, nor does it appear, that enforcement of the final
19 judgment is stayed. Recent district courts applying *Maldonado Bautista* in individual habeas
20 cases have held that injunctions are not stayed after entry, even if an appeal is taken, unless the
21 court orders otherwise to enforce *Maldonado Bautista*'s declaratory judgment. *See Armenta-*
22 *Rosales v. Noem*, No. 25-cv-3505-DMS-BLM, Order at 3–4 (S.D. Cal. Dec. 19, 2025)
23 (citing *Hawkins* and holding that *Bautista*'s final judgment continues to govern class members'
24 detention while the appeal proceeds, then directing respondents to provide bond hearings within
25 seven days). As such, although an appeal is pending, no stay has been entered and should
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1 therefore have no bearing on this Court's finding that Petitioner is a member of the Bond
2 Eligible Class and entitled to habeas relief.

3
4 **III. The Court Should Grant the Petition and Order Immediate Release or A
5 Prompt, Constitutionally Adequate Bond Hearing**

6 The Petitioner respectfully requests his immediate release and the grant of his petition
7 for a writ of habeas corpus arising from his prolonged detention of 73+ days, which resulted
8 from the violation of his due process rights. The purpose of a preliminary injunction is to return
9 the parties to the status quo ante, which is "not simply [] any situation before the filing of a
10 lawsuit, but instead [] 'the last uncontested status which preceded the pending controversy.'" *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000). The Respondents do
11 not deny that the Petitioner was detained on October 21, 2025, and has since been held in
12 detention pursuant to § 1225(b)(2)(A), a clear misapplication of the INA. The Respondents also
13 do not argue that the Petitioner presents a flight risk or poses any danger to the community.
14 Because the Respondents do not assert any other basis for the Petitioner's detention beyond the
15 incorrect designation, which has resulted in his unlawful and prolonged detention, the
16 appropriate remedy is the Petitioner's immediate release.
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20 Several habeas corpus cases in the 9th Circuit have resulted in orders granting immediate
21 release of immigration detainees, particularly involving prolonged detention, due process
22 violations, and unlawful application of detention statutes. *See Tam v. I.N.S.* 14 F. Supp.2d 1184,
23 1190 (E.D. Cal. 1998) (finding that "petitioner possesses a very strong likelihood of prevailing
24 on the merits" and determining the petition would not pose a danger to the community and
25 ordering release on conditions). Similarly, recent 2025 cases have resulted in grants of
26 immediate release where unlawful application of detention statutes is the basis for prolonged
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1 detention. In *Otilio B.F. v. Andrews*, the court found that the plaintiff's detention was a violation
2 of his Fifth Amendment procedural due process rights. A preliminary injunction and the
3 detainee's immediate release were granted. 2025 WL 3152480, 1 at 12* (E.D. Cal. Nov. 11,
4 2025). *See also Lepe v. Andrews*, 2025 WL 2716910, 10* (E.D. Cal Sep. 23, 2025) (finding
5 that because "the government [did] not assert any other basis for petitioner's detention" and
6 "does not argue that petitioner presents a flight risk or danger [to the] public," immediate release
7 was appropriate.)
8

9
10 As stated above, the Respondents do not dispute Petitioner's verified factual allegations
11 and offer no substantive defense of his continued custody. Instead, they suggest that, if the
12 Court grants relief, it "should be consistent with what courts in this district have generally
13 ordered in similar cases," namely, "a bond hearing ... within seven (7) days." Here, immediate
14 release would be the more appropriate remedy because habeas relief concerns custody, not
15 procedure. The core of habeas relief is release from unlawful custody, not merely a remand for
16 the agency to try again. Where the illegality is clear and Respondents have already had an
17 opportunity to justify detention but failed to do so, the more appropriate remedy is release rather
18 than yet another defective or delayed custody proceeding.
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21 *Maldonado Bautista* has already resolved the key legal question that 8 U.S.C. § 1226
22 governs here, not 8 U.S.C. § 1225. By the Respondent's own concessions, the Petitioner is an 8
23 U.S.C. § 1226 detainee who has never had a valid bond hearing. Given the nationwide
24 declaratory and vacatur relief in *Maldonado Bautista* and the Respondents' concession that
25 Petitioner is a Bond Eligible Class member, continued detention here is not just procedurally
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1 flawed; it is substantively unjustified, which should weigh in favor of Petitioner's immediate
2 release.

3
4 The Petitioner has been detained since October 21, 2025, for 73 days. Due to this
5 prolonged, unjustified, unlawful detention, the Petitioner has suffered irreparable harm that
6 worsens each day. The Petitioner has been deprived of access to his family, specifically to his
7 two minor U.S. citizen children, ages 4 and 8, who rely heavily on the Petitioner for emotional,
8 financial, and psychological support. The Petitioner and his children are suffering extreme
9 emotional and psychological hardship due to this separation, which has also led to extreme
10 financial strain on the household, as the Petitioner is the household's main financial provider.
11 In addition to the hardship this has caused his two children, both his Lawful Permanent Resident
12 (hereinafter "LPR") parents are suffering tremendously in the wake of the Petitioner's absence,
13 as he is their primary caretaker and they struggle with significant health issues. The Petitioner
14 is also suffering from depression, loss of appetite, increased anxiety, and insomnia as a result
15 of this prolonged detention.
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18 The Petitioner has resided in the U.S. since 2008 and has no criminal history. The
19 Petitioner also has substantial family and community ties in the U.S., including his two U.S.
20 citizen minor children, both his elderly LPR parents, and several aunts, uncles, cousins, and
21 friends with lawful status in the U.S. Additionally, the Petitioner has a pending I-130, Alien
22 Relative Petition, on his behalf, which creates a lawful pathway in the future. Despite these
23 factors, which weigh in favor of the Petitioner's release, the Respondents have not offered this
24 Court a justified reason for the Petitioner's continued detention. Under these circumstances,
25 granting immediate release would restore the Petitioner's status quo ante litem. Alternatively,
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1 should this Court oppose immediate release, the Petitioner requests that he be granted a prompt,
2 constitutionally adequate bond hearing within seven (7) days.

3 4 **IV. Conclusion**

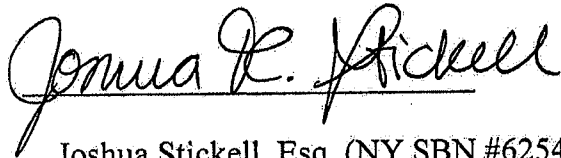
5 Because Respondents have conceded Petitioner's membership in the Bond Eligible
6 Class in *Maldonado Bautista* and have not alleged any justified basis for Petitioner's
7 continued detention, the Petitioner respectfully requests that the Court: (1) order the
8 Respondents to release the Petitioner immediately, or, alternatively, schedule a prompt bond
9 hearing before an IJ within seven (7) days, with *Singh*-compliant procedural safeguards,
10 including: (i) the Government bearing the burden to prove by clear and convincing evidence
11 that the Petitioner is a danger to the community or a flight risk justifying continued detention,
12 with consideration of less restrictive alternatives and the ability to pay any bond, and with
13 well-reasoned, on-the-record findings and a contemporaneous transcript that allows for
14 meaningful review; (2) issue a narrowly tailored, as-applied injunction prohibiting the
15 Respondents from continuing to detain the Petitioner under § 1225 and/or from denying him
16 access to § 1226 custody processes pending final judgment on the merits of the case; (3)
17 enjoin the Respondents from re-detaining him absent either (i) a further order from this Court
18 or (ii) a pre-deprivation, *Singh*-compliant bond hearing meeting the standards above; (4)
19 enjoin the Respondents from transferring or removing the Petitioner while the action is
20 pending and/or until they have complied with the Court's orders, and require 72 hours' notice
21 to counsel before any proposed movement; (5) stay the Petitioner's removal proceedings
22 and/or removal during the pendency of this habeas action to preserve the Court's jurisdiction
23 and ensure effective relief; (6) award reasonable attorneys' fees and costs pursuant to 28
24 U.S.C. § 2412 (EAJA); and (9) retain jurisdiction to grant such other and further relief as is
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just and proper.

Without this Court's intervention, the Petitioner will continue to be unlawfully detained, separated from his family, and forced to suffer preventable hardships.

Respectfully submitted,



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