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17 **UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF ARIZONA**
19 **PHOENIX, ARIZONA**

20 Jonathan Abdiel Sandoval Andrade;

21 Plaintiff,

22 v.


23 Kristi Noem, Secretary, U.S. Department
24 of Homeland Security (DHS); Pamela
25 Bondi, Attorney General of the United
26 States, Executive Office for Immigration
27 Review (EOIR); Christopher McGregor,
28 Acting Field Office Director, ICE
Enforcement and Removal Operations,
Phoenix Field Office; Fred Figueroa,
Warden, Eloy Detention Center,

Defendants.

Case No. _____
Immigration Number: 

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241**

I. INTRODUCTION

1. Plaintiff Jonathan Abdiel Sandoval Andrade () , by and through undersigned counsel, respectfully requests this Honorable Court order the Executive Office for Immigration Review (EOIR) in Eloy, Arizona to conduct an individualized custody hearing in accordance with 8 U.S.C. § 1226(a). There are two bases to order Defendants to provide Plaintiff a custody hearing. First, Plaintiff is a member of the *Maldonado Bautista*

1 bond eligible class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,
2 – F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Second, Defendant’s
3 assertion of mandatory detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful, and Plaintiff’s
4 custody is properly governed by 8 U.S.C. § 1226(a).

5 2. Plaintiff is a 30-year-old single male, citizen of Mexico. In 2005, Plaintiff
6 entered the United States without inspection and has not since departed the country. On
7 October 21 2025, the Pinal County Sheriff’s Office detained Plaintiff for a traffic violation
8 and transferred him to ICE custody. On October 27, 2025, DHS initiated removal proceedings
9 against Plaintiff alleging he entered the United States without admission or parole. Plaintiff
10 is detained by DHS at the Eloy Detention Center in Eloy, Arizona. Plaintiff requested a bond,
11 and on November 17, 2025, the Immigration Judge in Eloy EOIR denied the request finding
12 Plaintiff was subject to mandatory detention. After the *Maldonado Bautista* class
13 certification, Plaintiff requested a second custody determination on the basis of class
14 membership. On December 1, 2025, the Immigration Judge in Eloy EOIR denied the request
15 on the basis “the order provided does not include a declaratory judgment or injunction.”

16 3. Plaintiff is a member of the Bond Eligible Class, as he:

- 17 a. does not have lawful status in the United States and is currently detained
18 at the Eloy Detention Center. He was apprehended by DHS on or about
19 October 22, 2025;
- 20 b. entered the United States without inspection 20 years ago and was not
21 apprehended upon arrival;
- 22 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

23 4. Defendants violated Plaintiff’s right to be released upon payment of a bond
24 under the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1226(a), and agency
25 regulations, 8 C.F.R. §§ 1003.19(a), 1236.1(d). Defendants’ coordinated action to hold
26 Plaintiff under mandatory detention is not in accordance with law, defies the declaratory
27 judgment in *Maldonado Bautista*, and violates Plaintiff’s right to due process.

28 5. Plaintiff will suffer irreparable and immediate injury from continued unlawful

1 detention unless the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 is granted.
2 The Court should order Plaintiff's release unless Defendants provide a bond hearing under
3 8 U.S.C. § 1226(a) within seven days.

4 **II. JURISDICTION**

5 6. This Court has jurisdiction over petitions for Habeas Corpus pursuant to 28
6 U.S.C. § 2241. The Plaintiff is in the custody of the United States.

7 7. This Court has jurisdiction over civil actions brought under 28 U.S.C. § 1331
8 because this action arises under the Constitution and laws of the United States. This Court has
9 jurisdiction pursuant to 28 U.S.C. § 1361 which authorizes actions in district court, "to compel
10 an officer or employee of the United States or agency thereof to perform a duty owed to the
11 plaintiff."

12 8. The aid of the Court is invoked under 28 U.S.C. § 2201 and 2202, authorizing
13 a declaratory judgement.

14 9. This Court has jurisdiction pursuant to the Administrative Procedures Act
15 (APA) to set aside agency action not in accordance with law and order the agency to perform
16 a duty owed to Plaintiff under 5 U.S.C. § 706.

17 10. Plaintiff concurrently files a motion for a temporary restraining order and/or
18 preliminary injunction to protect his right to be protected from deprivation of liberty without
19 due process of law.

20 **III. VENUE**

21 11. Venue is asserted pursuant to 28 U.S.C. § 1391(e) because the Plaintiff is being
22 detained in Eloy, Arizona, Defendants are the U.S. Government, and no real property is
23 involved in the action.

24 **IV. Exhaustion**

25 12. Exhaustion is a prudential rather than a jurisdictional requirement. *Singh v.*
26 *Holder*, 638 F.3d 1196, 1203 n. 3 (9th Cir. 2011). Waiver of exhaustion is appropriate "where
27 administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
28 would be a futile gesture, irreparable injury will result, or the administrative proceedings

1 would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation
2 marks omitted).

3 13. In the instant case, the Immigration Judge found Plaintiff subject to mandatory
4 detention and refused to acknowledge the *Maldonado Bautista* bond eligible class
5 membership. Defendants’ refusal to follow the law and recognize the protected class is an
6 ongoing harm. DHS and DOJ have coordinated to implement this policy to subject Plaintiff
7 to mandatory detention, and appeal to the Board of Immigration Appeals (BIA), an office
8 directed by the Department of Justice, will not provide relief.

9 **V. PARTIES**

10 14. Plaintiff, Jonathan Abdiel Sandoval Andrade is a native and citizen of Mexico,
11 and is currently detained by DHS in Eloy, Arizona. He is not subject to mandatory detention
12 under 8 U.S.C. § 1225(b)(1), § 1226(c), or § 1231.

13 15. Defendant Kristi Noem is the Secretary of the Department of Homeland
14 Security (DHS), responsible for overseeing and directing Immigration and Customs
15 Enforcement (ICE).

16 16. Defendant Pamela Bondi is the Attorney General of the United States.
17 Defendant is the head of the United States Department of Justice and responsible for the entire
18 department, which includes the Executive Office for Immigration Review (EOIR), including
19 the BIA.

20 17. Defendant Christopher McGregor, Acting Field Office Director of ICE
21 Enforcement and Removal Operations in Phoenix, Arizona, is responsible for Plaintiff’s
22 custody in Eloy, Arizona. Defendant McGregor is also responsible for the acceptance and
23 processing of the payment of bond and release of ICE detainees in Eloy, Arizona.

24 18. Defendant Fred Figueroa is the Warden at the ICE contract facility Eloy
25 Detention Center, operated by CoreCivic. Defendant Fred Figueroa is responsible for
26 Plaintiff’s physical custody.

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28

1 **VI. FACTUAL ALLEGATIONS**

2 19. Plaintiff is a citizen of Mexico who last entered the United States without
3 inspection in 2005. He has resided in the United States since that date and has five U.S.
4 citizen children. Plaintiff has not previously sought admission.

5 20. On October 22, 2025, DHS took Plaintiff into custody and, on October 27,
6 2025, placed him into removal proceedings before Eloy EOIR by issuing a Notice to Appear
7 alleging Plaintiff entered the United States without admission or parole at an unknown date
8 and place. The Notice to Appear does not allege Plaintiff is an arriving alien. DHS detained
9 Plaintiff at the Eloy Detention Center, in Eloy, Arizona.

10 21. On November 7, 2025, DHS filed form I-261 charging Plaintiff as inadmissible
11 under 8 U.S.C. § 1182(a)(2)(6)(A)(i) for being present in the United States without being
12 admitted or paroled.

13 22. Pursuant to a July 8, 2025, DHS “Interim Guidance Regarding Detention
14 Authority for Applicant for Admission” DHS and the DOJ coordinated to argue and hold
15 anyone they alleged to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) subject to
16 mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

17 23. On November 11, 2025, Plaintiff requested a custody redetermination hearing
18 with Eloy EOIR submitting proof of his continuous presence in the United States and family
19 ties.

20 24. On November 17, 2025, the Eloy EOIR conducted a custody redetermination
21 hearing where Plaintiff argued he should be accorded a bond under 8 U.S.C. § 1226(a).

22 25. On November 17, 2025, the immigration judge issued a summary decision
23 denying bond stating: “No Jurisdiction. [Plaintiff] present without admission. See Matter of
24 Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).”

25 26. On November 20, 2025, the Federal District Court, Central District of
26 California, granted partial summary judgment to petitioners in *Maldonado Bautista v.*
27 *Santacruz*, declaring that non-citizens who entered without inspection who are not subject to
28 8 U.S.C. § 1225(a), § 1225(b)(1), or § 1231, are not “applicants for admission” under 8 U.S.C.

1 § 1225(b)(2)(A), and their detention is unambiguously governed by 8 U.S.C. § 1226. *See* No.
2 5:25-CV-01873-SSS-BFM, – F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

3 27. On November 25, 2025, the Federal District Court, Central District of
4 California, certified a Bond Eligible Class:

5 “All noncitizens in the United States without lawful status who
6 (1) have entered or will enter the United States without
7 inspection; (2) were not or will not be apprehended upon arrival;
8 and (3) are not or will not be subject to detention under 8 U.S.C.
9 § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of
10 Homeland Security makes an initial custody determination.”

11 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, – F. Supp. 3d ----, 2025
12 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

13 28. On the basis of the Central District of California’s orders of declaratory
14 judgment and certification of class membership, on November 26, 2025, Plaintiff changed
15 circumstances and requested another custody hearing. Plaintiff provided copies of both the
16 November 20, 2025, and November 25, 2025, orders of Partial Summary Judgement and Class
17 Certification in *Maldonado Bautista*.

18 29. On December 1, 2025, the Immigration Judge in Eloy EOIR denied the request
19 for custody hearing stating: “No material change in circumstance since the prior bond
20 redetermination. 8 C.F.R. 100319(e). The order provided does not include declaratory
21 judgment or injunction.”

22 VII. LEGAL FRAMEWORK

23 30. 8 U.S.C. § 1226(a) governs the general detention and release of non-citizens in
24 removal proceedings: “an alien may be arrested and detained pending a decision on whether
25 the alien is to be removed from the United States . . . and (2) may release the alien on- (A)
26 bond of at least \$1500 . . . or (B) conditional parole.” 8 C.F.R. §§ 1003.19(a), 1236.1(d),
27 provide the parameters for EOIR to provide bond hearings to non-citizens pending removal
28 proceedings.

31. 8 U.S.C. § 1226(c), amended by the Laken Riley Act, Pub. L. No. 119-1, 139
Stat. 3 (2025), provides for the mandatory detention of inadmissible non-citizens with certain

1 criminal convictions and conduct. The statute and the amendments made by the Laken Riley
2 Act intentionally precludes some, but not all, inadmissible non-citizens under 8 U.S.C.
3 1182(a)(6)(A)(i) from being granted bond.

4 32. The INA provides for mandatory detention of certain non-citizens with final
5 orders of removal under 8 U.S.C. § 1231, suspected terrorists under 8 U.S.C. § 1226a, non-
6 citizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), and those “seeking
7 admission” and being reviewed for admissibility at the time of arrival under 8 U.S.C. §
8 1225(b)(2).

9 33. Plaintiff seeks release under 8 U.S.C. § 1226(a) as a non-citizen domiciled in
10 the United States subject to removal proceedings under 8 U.S.C. § 1229a and as a member of
11 the *Maldonado Bautista* Bond Eligible Class. Defendants purport to deny Plaintiff’s release
12 under 8 U.S.C. § 1225(b)(2)(A) and refuse to implement the class certification.

13 34. 8 U.S.C. § 1225 governs the processing of arriving aliens and recent entrants,
14 and is not a detention statute. The only mention of “mandatory detention” comes under 8
15 U.S.C. § 1225(b)(1)(B)(IV) stating that applicants for admission pending asylum interviews
16 “subject to the procedures under this clause shall be detained pending final determination of
17 credible fear of persecution” 8 U.S.C. § 1225(b)(1)(A)(iii)(II) explicitly excludes from
18 expedited removal non-citizens who can show they have been “physically present in the
19 United States continuously for the 2-year period immediately prior to the date of the
20 determination of inadmissibility.”

21 35. 8 U.S.C. § 1225(b)(2)(A) applies to a non-citizen “who is an applicant for
22 admission, if the examining officer determines that an alien seeking admission is not clearly
23 and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under
24 1229a of this title.”

25 36. Plaintiff never sought or requested admission at the time of entry. Plaintiff’s
26 20 years of physical presence and not having sought admission, excludes him from § 1225.
27 The entire thrust and language of § 1225 concerns only persons being inspected at the time
28 of arrival, or within two years of unlawful entry. 8 U.S.C. §§ 1229a, 1226 govern custody and

1 removal proceedings of all other non-citizens.

2 37. Defendants' application of § 1225(b) to Plaintiff renders all references to
3 inadmissible non-citizens under § 1226 superfluous.

4 38. There is no Ninth Circuit precedent to support Defendants' holding Plaintiff
5 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

6 39. 8 U.S.C. § 1225(b)(2)(A) explicitly applies to "applicants for admission"
7 "seeking admission." 8 U.S.C. § 1101(a)(13)(A) defines "admission" to mean "the lawful
8 entry of the alien *into* the United States after inspection and authorization by an immigration
9 officer." (Emphasis added). The literal and plain meaning of "seeking admission" means the
10 non-citizen is contemporaneously attempting to enter the United States.

11 40. Recently, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), Defendants applied
12 mandatory detention under 8 U.S.C. § 1225(b)(2) to applicants for admission who are
13 "arrested and detained without a warrant *while arriving* in the United States" acknowledging
14 the temporal limit of the phrase. (Emphasis Added).

15 41. The Ninth Circuit has previously interpreted the statutes in question. In *Torres*
16 *v. Barr*, 976 F.3d 918, 923-926 (9th Cir. 2020)(en banc), the Ninth Circuit provides a
17 thorough analysis, finding that applying for admission means seeking physical entry into the
18 country from outside the United States or at a port of entry. The *Torres* decision holds that
19 the idea of seeking admission is limited in time, and cannot continue without limit once the
20 non-citizen is already in the United States. *Id.* at 926. "Accordingly, inadmissibility must be
21 measured at the point in time that an immigrant actually submits an application for entry into
22 the United States." *Id.*; *See also*; *Negrete-Ramirez v. Holder*, 741 F.3d 1047, 1051 (9th Cir.
23 2014) ("The definition refers expressly to *entry into* the United States, denoting by its plain
24 terms passage into the country from abroad at a port of entry.") Based on the Ninth Circuit's
25 statutory analysis, the term "seeking admission" cannot apply to a person already inside the
26 United States for over 20 years.

27 42. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA held that
28 all persons inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), are subject to mandatory detention

1 under 8 U.S.C. § 1225(b)(2)(A). This is a clear implementation of the July 8, 2025 DHS
2 “Interim Guidance Regarding Detention Authority for Applicant for Admission” rejecting
3 decades of legal acceptance and practice that § 1226(a) governs the detention of non-citizens
4 inadmissible under § 1182(a)(6)(A)(i). *Matter of Yajure Hurtado*, 29 I&N Dec. at 221, asks
5 who does § 1225(b)(2)(A) apply to if not to persons living in the United States without
6 admission? 8 C.F.R. § 235.3(b)(3) clearly answers the question:

7 *In the expedited removal process*, the Service may not charge an
8 alien with any additional grounds of inadmissibility other than
9 section 212(a)(6)(C) or 212(a)(7) of the Act. If an alien appears
10 to be inadmissible under other grounds contained in section
11 212(a) of the Act, and if the Service wishes to pursue such
12 additional grounds of inadmissibility, the alien shall be detained
13 and referred for a removal hearing before an immigration judge
14 pursuant to sections 235(b)(2) and 240 of the Act for inquiry
15 into all charges.

12 (Emphasis added). 8 U.S.C. 1101(a)(13)(C) specifies that certain returning LPRs can also be
13 considered applicants for admission and referred for removal proceedings under 240 if
14 determined to be inadmissible at the time of entry. 8 U.S.C. § 1225(b)(2) would apply to
15 inadmissible non-citizens seeking admission using visas and green cards, and not subject to
16 § 1225(b)(1). Defendants fail to read 8 U.S.C. § 1225 as a whole. Subsections (b)(1) and
17 (b)(2) work in tandem, not separately. None of the legislative history cited in *Matter of*
18 *Yajure Hurtado* indicates an intention to subject all persons who entered without inspection
19 to mandatory detention, and indeed, there is no express provision of the law stating such.

20 43. The BIA in *Yajure Hurtado* argues congress had no intent to provide any benefit
21 to persons who entered without admission and established prolonged physical presence. The
22 statutory language directly belies this claim. Under 8 U.S.C. § 1225(b)(1)(A)(iii)(II),
23 Congress expressly excluded from the expedited removal provision non-citizens present
24 without admission with at least 2 years of physical presence. Congress expressly provided
25 other benefits to unlawful entrants who establish domicile in the United States. *See* 8 U.S.C.
26 § 1229a(b)(1) (10 years continuous physical presence); 8 U.S.C. § 1229a(b)(2) (3 years
27 physical presence for VAWA relief).

28 44. Pursuant to *Loper Bright Enterprises v. Raimondo*, 44 S. Ct. 2244(2024), this

1 Court is not bound to the Agency’s interpretation of INA. . *Yajure Hurtado* lacks any validity
2 or persuasiveness due to its outright failure to interpret the statutory definition of “admission”
3 under 8 U.S.C. §§ 1101(a)(4), (a)(13)(A). The BIA’s decision in *Yajure Hurtado* is written
4 with the outcome in mind, rather than with a sincere intent to explore and understand the law.

5 45. The November 20, 2025, declaratory judgment in *Maldonado Bautista v.*
6 *Santacruz*, See No. 5:25-CV-01873-SSS-BFM, – F. Supp. 3d ----, 2025 WL 3289861 (C.D.
7 Cal. Nov. 20, 2025), explicitly declares the statutory language unambiguous that non-citizens
8 inadmissible under § 1182(a)(6)(A)(i) are detained pursuant to § 1226(a), unless subject to
9 8 U.S.C. § 1225(a), § 1225(b)(1), or § 1231. Persons who entered years prior without
10 inspection cannot be said to be “seeking admission” as defined in the INA.

11 46. To give force to the declaratory judgment, on November 25, 2025 the District
12 Court in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, – F. Supp. 3d ----,
13 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) certified the Bond Eligible Class that
14 includes Plaintiff, ordering EOIR to provide individualized bond hearings to class members
15 pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. §§ 1003.19(a), 1236.1(d). “When considering
16 this determination with the MSJ Order, the Court extends the same declaratory relief granted
17 to Petitioners to the Bond Eligible Class as a whole.”

18 **VIII. CLAIMS FOR RELIEF**

19 47. Plaintiff realleges paragraphs 1 through 46 herein as fully set forth, and
20 Plaintiff’s continued detention is a violation of Due Process rights under Amendment V, U.S.
21 Constitution and not in accordance with the INA.

22 48. Pursuant to the APA, the Defendants refusal to provide Plaintiff a bond hearing
23 pursuant to 8 U.S.C. § 1226(a) is arbitrary, capricious, and not in accordance with the law.

24 49. This Court has jurisdiction to review the Defendants’ action and order
25 Defendants to provide Plaintiff an individualized bond hearing.

26 50. Should defendants fail to provide a bond hearing, this Court has jurisdiction to
27 order Plaintiff’s immediate release;

28 51. Plaintiff is eligible for payment of attorney’s fees, related expenses, and costs

1 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

2 **IX. PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays that the Court grant the following relief:

- 4 (1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;
- 5 (2) Restrain Defendants from moving Plaintiff out of the judicial district;
- 6 (3) That the Court grant the petition for habeas corpus and order Defendants to provide
- 7 Plaintiff an individualized bond hearing within 7 days;
- 8 (4) Declare Plaintiff is a member of the *Maldonado Baustista* Bond Eligible Class;
- 9 (5) Order Plaintiff's immediate release if Defendants fail to provide Plaintiff a bond
- 10 hearing;
- 11 (6) That the Court order payment of Plaintiff's attorney's fees and costs pursuant to EAJA;
- 12 (7) That the Court grant further relief as this Court deems proper under the circumstances.

13 RESPECTFULLY SUBMITTED, this day 17th day of December, 2025,

14 Perez Law Office, PLLC

CROSSROADS LAW GROUP PLLC

15 s/ Sabrina Perez-Arleo

s/ Gabriel G. Leyba, Esq.

16

Sabrina Perez-Arleo
Attorneys for Plaintiff

Gabriel G. Leyba

17 **LIST OF ATTACHMENTS**

18 Exhibit	Description
19 A	November 17, 2025, Immigration Judge Bond Order
20 B	December 1, 2025, Immigration Judge Bond Order
21 C	October 27, 2025, Form I-862 Notice to Appear
22 D	November 7, 2025, Form I-261 Additional Charges of Inadmissibility/Deportability

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CERTIFICATE OF SERVICE

On the 17th day of December, 2025, I, Gabriel G. Leyba, the undersigned, served via certified U.S. Mail, the attached **Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241**, on each person/entity listed below addressed as follows:

Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

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Warden, Eloy Detention Center
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s/ Gabriel G. Leyba, Esq.