

**DETAINED**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In the Matter of

**Veronica CRUZ ESCAMILLA,**

*Petitioner,*

v.

**Daniel A. BRIGHTMAN**, in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations San Diego Field Office; **Kristi NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security; **U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela J. BONDI**, in her official capacity as U.S. Attorney General; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Christopher J. LAROSE**, in his official capacity as Warden of the Otay Mesa Detention Center,

*Respondents*

Case No. '25CV3518 RBM BLM

Agency No. 

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

**IMMIGRATION HABEAS  
CASE**

**PETITION FOR WRIT OF HABEAS CORPUS**

**I. INTRODUCTION**

1  
2 1. Petitioner, Veronica CRUZ ESCAMILLA, brings this petition for a  
3 writ of habeas corpus to seek enforcement of her rights as members of the Bond  
4 Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-  
5 SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents and faces  
6 unlawful detention because the Department of Homeland Security (“DHS”) and the  
7 Executive Office for Immigration Review (“EOIR”) have refused to abide by the  
8 declaratory relief issued on behalf of the certified class in *Maldonado Bautista v.*  
9 *Santacruz*.

10  
11 2. On November 20, 2025, the district court granted partial summary  
12 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a  
13 nationwide class and extended declaratory judgment to the certified class.  
14 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -  
15 ---, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial  
16 summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*  
17 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,  
18 at \*9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed  
19 nationwide Bond Eligible Class, incorporating and extending declaratory judgment  
20 from Order Granting Petitioners’ Motion for Partial Summary Judgment).  
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1           3.     The declaratory judgment held that the Bond Eligible Class members  
2 are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for  
3 release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at  
4 \*11.

5  
6           4.     Nonetheless, the EOIR (including the Immigration Court) and the DHS  
7 have blatantly refused to abide by the declaratory relief and have unlawfully ordered  
8 that Petitioner be denied the opportunity to be released on bond.

9           5.     Petitioner, Ms. Cruz Escamilla, is a member of the Bond Eligible Class,  
10 as she:

- 11           a.     does not have lawful status in the United States and is currently in the  
12 custody of Immigration and Customs Enforcement (“ICE”). She was  
13 apprehended by immigration authorities on November 24, 2025, while  
14 at her Adjustment of Status interview at the USCIS San Diego Field  
15 Office.  
16  
17           b.     entered the United States without inspection approximately 25 years  
18 ago, was not apprehended upon her arrival but instead many years  
19 later at her adjustment of status interview, *cf. id.*; and  
20  
21           c.     is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

22           6.     The Court should expeditiously grant this petition.  
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1 7. Respondents are bound by the judgment in *Maldonado Bautista*, as it  
2 has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless,  
3 Respondents continue to subject Petitioner to unlawful detention despite her clear  
4 entitlement to consideration for release on bond as a Bond Eligible Class member.  
5

6 8. Immigration judges (“IJ”) have almost uniformly denied jurisdiction in  
7 bond proceedings stating that the declaratory judgment in *Maldonado Bautista* is not  
8 controlling, even with respect to class members, and that instead IJs remain bound  
9 to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I.&N. Dec.  
10 216 (BIA 2025). This is what has occurred in the instant case.  
11

12 9. On December 8, 2025, an Otay Mesa Immigration Judge denied  
13 Petitioner’s request for a bond re-determination hearing, stating that “[t]he  
14 Immigration Judge lacks authority to hear the respondent’s request for a bond. Based  
15 on the plain language of section 235(b)(2)(A) of the Immigration and Nationality  
16 Act, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond  
17 requests or to grant bond to aliens who are present in the United States without  
18 admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).” *See*  
19 Exhibit A – Order of the Immigration Judge, dated December 8, 2025.  
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21 10. Because Respondents are detaining Petitioner in violation of the  
22 declaratory relief issued in *Maldonado Bautista*, the Court should accordingly order  
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1 Respondents provide a bond hearing under 8 U.S.C. § 1226(a) *promptly* per  
2 *Maldonado Bautista v. Santacruz*'s declaratory relief.

3  
4 **II. JURISDICTION**

5 11. Petitioner is in the physical custody of Respondents. She was originally  
6 detained at the Otay Mesa Detention Center ("OMDC"), in San Diego, California.  
7 On December 10, 2025, at approximately 5:00 a.m., ICE officers physically removed  
8 Petitioner from her cell at the OMDC. Undersigned counsel's office has been  
9 monitoring the ICE detainee locator system which initially showed her detention at  
10 the OMDC, then no result, and at 3:03pm it indicated that she is being held at the  
11 San Luis Regional Detention Center in San Luis, Arizona.

12  
13 12. We are requesting that this Court assert its  
14 jurisdiction and require Petitioner to be returned to the OMDC or released from  
15 custody as she was initially in this Court's jurisdiction and this transfer by  
16 ICE results in a deprivation of her access to counsel and also the deprivation  
17 of her due process rights under the Constitution.

18  
19 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas  
20 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the  
21 United States Constitution (the Suspension Clause).

1 14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
2 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.  
3 § 1651.

### 4 III. VENUE

5 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.  
6 484, 493- 500 (1973), venue lies in the United States District Court for the Southern  
7 District of California, the judicial district in which Petitioner was last detained.  
8

9 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
10 because Respondents are employees, officers, and agencies of the United States, and  
11 because a substantial part of the events or omissions giving rise to the claims  
12 occurred in the Southern District.  
13

### 14 IV. EXHAUSTION

15 17. Petitioner is not required to exhaust administrative remedies.  
16 Exhaustion for habeas claims is prudential, not jurisdictional. *See Laing v. Ashcroft*,  
17 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be  
18 waived if “administrative remedies are inadequate or not efficacious, pursuit of  
19 administrative remedies would be a futile gesture, [or] irreparable injury will result...”  
20 *Id.* at 1000.  
21

22 18. Administrative remedies would be futile, inadequate, and not  
23 efficacious for Petitioner. Exhausting her constitutional claim would be futile  
24

1 because the agency does not have the authority to rule on constitutional questions.  
2 *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) (“the inability  
3 of the INS to adjudicate the constitutional claim completely undermines most, if not  
4 all, of the purposes underlying exhaustion”).

5  
6 19. Even if exhaustion were not futile, waiver is warranted because  
7 Petitioner’s claim presents purely legal issues, and no purpose is served by requiring  
8 an administrative appeal. *See Hernandez v. Sessions*, 872 F.3d 976, 988–89 (9th Cir.  
9 2017).

10 **V. REQUIREMENTS OF 28 U.S.C. § 2243**

11 20. The Court should grant the petition for writ of habeas corpus  
12 “forthwith,” as the legal issues have already been resolved for class members in  
13 *Maldonado Bautista*.

14  
15 21. Habeas corpus is “perhaps the most important writ known to the  
16 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases  
17 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis  
18 added). “The application for the writ usurps the attention and displaces the calendar  
19 of the judge or justice who entertains it and receives prompt action from him within  
20 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.  
21 2000) (citation omitted).  
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**VI. PARTIES**

22. Petitioner, Veronica Cruz Escamilla, is a citizen of Mexico, who has been in immigration detention since November 24, 2025. After Petitioner was arrested in San Diego at her Adjustment of Status Interview, ICE did not set bond, and Petitioner requested review of her custody. Undersigned counsel asserted before the IJ that Petitioner is eligible for a bond hearing based grant of partial summary judgment in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.).

23. Respondent, Daniel A. Brightman, is the Director of the San Diego Field Office of ICE’s Enforcement and Removal Operations division. As such, Mr. Brightman is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

24. 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.

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



1 31. On July 18, 2025, several weeks after the new DHS policy was  
2 announced, a nationwide class action was filed on behalf of four detained petitioners  
3 in the Central District of California challenging the new mandatory detention policy.  
4 *Maldonado Bautista v. Santacruz* (Case No. 5:25-cv-1873).

5  
6 32. The Central District Court of California granted a temporary restraining  
7 order and ordered bond hearings for the four named petitioners. Because of limits  
8 on the availability of class-wide injunctive relief, the petitioners quickly filed a  
9 motion for class certification and partial summary judgment. Specifically, the  
10 petitioners sought a declaration that all class members are detained under § 1226(a)  
11 and not § 1225(b)(2), and are thus eligible for consideration for bond, and also  
12 sought vacatur of the new DHS and BIA mandatory detention policies.

13  
14 33. On September 5, 2025, the BIA issued a precedential decision, binding  
15 on all IJs, holding that an IJ had no authority to consider bond requests for any person  
16 who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29  
17 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject  
18 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore are ineligible  
19 for release on bond.

20  
21 34. On November 20, 2025, the Central District Court of California granted  
22 partial summary judgment in *Maldonado Bautista v. Santacruz* for the four  
23 petitioners, holding that the government's policy is inconsistent with the plain  
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1 language of the Immigration and Nationality Act (“INA”), and that petitioners are  
2 properly subject to § 1226(a). *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-  
3 01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

4  
5 35. On November 24, 2025, Petitioner attended her Adjustment of Status  
6 interview at the San Diego office and was arrested and taken into custody by ICE,  
7 and held at the OMDC.

8 36. On November 25, 2025, the Court certified a nationwide class of  
9 individuals who are being subject to the government’s new no-bond policy—the  
10 Bond Eligible Class—and expressly “extend[ed] the same declaratory relief granted  
11 to Petitioners to the Bond Eligible Class as a whole.” *Maldonado Bautista v.*  
12 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,  
13 at \*9 (C.D. Cal. Nov. 25, 2025) (emphasis added)

14  
15 37. On December 8, 2025, an Otay Mesa Immigration Judge denied  
16 Petitioner’s request for a bond re-determination hearing, stating that “[t]he  
17 Immigration Judge lacks authority to hear the respondent’s request for a bond. Based  
18 on the plain language of section 235(b)(2)(A) of the Immigration and Nationality  
19 Act, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond  
20 requests or to grant bond to aliens who are present in the United States without  
21 admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).” *See*  
22 Exhibit A – Order of the Immigration Judge, dated December 8, 2025.  
23  
24

1 38. On December 10, 2025, at approximately 5:00 a.m., ICE officers  
2 physically removed Petitioner from her cell at the OMDC. Undersigned counsel's  
3 office has been checking the ICE detainee locator system which initially showed her  
4 detained at the OMDC, then no result, and at 3:03pm it indicated the San Luis  
5 Regional Detention Center in San Luis, AZ. We are requesting that this Court assert  
6 its jurisdiction and require Petitioner to be returned to the OMDC or released from  
7 custody as she was initially in this Court's jurisdiction and this transfer by ICE  
8 results in a deprivation of access to counsel and her due process rights under the  
9 Constitution.  
10

11 39. Petitioner now files the instant petition for writ of habeas corpus to  
12 remedy the violations against the Immigration and Nationality Act.  
13  
14

15 **VIII. CLAIM FOR RELIEF**  
16 **Violation of the INA:**  
17 **Request for Relief Pursuant to *Maldonado Bautista***

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

20 41. As a member of the Bond Eligible Class, Petitioner is entitled to  
21 consideration for release on bond under 8 U.S.C. § 1226(a).  
22  
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1 42. The order granting partial summary judgment in *Maldonado Bautista*  
2 holds that Respondents violate the INA in applying the mandatory detention statute  
3 at § 1225(b)(2) to class members.

4 43. The order granting class certification in *Maldonado Bautista* further  
5 orders that “[w]hen considering this determination with the motion for summary  
6 judgment order, the Court extends the same declaratory relief granted to Petitioners  
7 to the Bond Eligible Class as a whole.”

8 44. Respondents are parties to *Maldonado Bautista* and bound by the  
9 Court’s declaratory judgment, which has the full “force and effect of a final  
10 judgment.” 28 U.S.C. § 2201(a).

11 45. By denying Petitioner a bond hearing under § 1226(a) and asserting that  
12 she is subject to mandatory detention under § 1225(b)(2), Respondents violate  
13 Petitioner’s statutory rights under the INA and the Court’s judgment in *Maldonado*  
14 *Bautista*.

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17 **IX. PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 19
- 20 a. Assume jurisdiction over this matter;
  - 21 b. Issue a writ of habeas corpus requiring Respondents to return Petitioner  
22 to the Southern District of California and release her unless they  
23 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- 24

- 1 c. Award Petitioner attorney's fees and costs under the Equal Access to  
2 Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other  
3 basis justified under law; and  
4  
5 d. Grant any other and further relief that this Court deems just and proper.  
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7 Date: December 10, 2025

Respectfully submitted,

8 /s/ Rose M. Thompson

9 Rose M. Thompson  
10 Attorney at Law  
11 *Attorney for Petitioner*  
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**DETAINED**

*Attorney for Petitioner*

**IN THE UNITED STATES DISTRICT COURT  
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In the Matter of )

**Veronica CRUZ ESCAMILLA,** )

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v. )

**Daniel A. BRIGHTMAN**, in his official )  
capacity as Field Office Director of the )  
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Enforcement and Removal Operations San )

Diego Field Office; **Kristi NOEM**, in her )

official capacity as Secretary of the U.S. )

Department of Homeland Security; U.S. )

**DEPARTMENT OF HOMELAND )**

**SECURITY; Pamela J. BONDI**, in her )

official capacity as U.S. Attorney General; )

**EXECUTIVE OFFICE FOR )**

**IMMIGRATION REVIEW;** )

**Christopher J. LAROSE**, in his official )

capacity as Warden of the Otay Mesa )

Detention Center, )

)

*Respondents* )

**Case No.**

**Agency No.**



**MOTION FOR TEMPORARY  
RESTRAINING ORDER AND  
SUPPORTING MEMORANDUM**

**ORAL ARGUMENT REQUESTED**

**Expedited hearing requested**

**ACTIVE TRANSFER FROM  
JURISDICTION IN PROGRESS**

**MOTION**

**MOTION AND MEMORANDUM FOR TEMPORARY RESTRAINING ORDER**  
Page 1 of 9

1 Petitioner moves the court for the following relief by way of a temporary  
2 restraining order (“TRO”):

3 a) Issuance of an immediate order barring the Respondents from removing  
4 Petitioner from the Southern District Court’s jurisdiction, should the Petitioner be  
5 present in the State of California at the time such order is issued, without notice to  
6 the court and approval by the court;

7 b) Issuance of an order to show cause why this petition should not be  
8 granted within three (3) days.

9 **SUPPORTING MEMORANDUM**

10 **I. LEGAL STANDARD**

11 The standard for a TRO is the same as for preliminary injunction. See *New*  
12 *Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A  
13 TRO is “an extraordinary remedy that may only be awarded upon a clear showing  
14 that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*,  
15 555 U.S. 7, 24 (2008).

16 For preliminary relief, a party must show (a) likelihood of success on the  
17 merits, (b) likely irreparable harm without preliminary relief, (c) the balance of  
18 equities tips in party, and (d) an injunction is in the public interest. *Stormans, Inc.*  
19 *v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter*, 555 U.S. at 20).

20 As alternative test is if “serious questions going to the merits were raised and  
21 the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing  
22 preservation of the status quo when complex legal questions require further  
23 inspection or deliberation. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,

1 1134- 35 (9th Cir. 2011).

2 **II. ARGUMENT.**

3 **A. Petitioner will likely suffer irreparable harm.**

4 Without a TRO, Respondents will likely or are currently in the process of  
5 transferring Petitioner out of the jurisdiction of the Southern District of California.  
6 This morning, December 10, 2025, at approximately 5:00 a.m., ICE officers  
7 physically removed Petitioner from her cell at the Otay Mesa Detention Center  
8 (“OMDC”). Undersigned counsel’s office has been checking the ICE detainee  
9 locator system which initially showed her detention at the OMDC, then no result,  
10 and at 3:03pm it indicated the San Luis Regional Detention Center in San Luis,  
11 AZ. We are requesting that this Court assert its jurisdiction and require Petitioner  
12 to be returned to the OMDC or released from custody as she was initially in this  
13 Court’s jurisdiction and this transfer by ICE results in a deprivation of her access  
14 to counsel and also the deprivation of her due process rights under the  
15 Constitution.

16 Our office has been *unable* to get any confirmation from Respondents or the  
17 AUSA regarding Petitioner’s removal from the OMDC. We had emailed the San  
18 Diego AUSA office on December 8, 2025, informing of our intention to file this  
19 habeas and TRO. No response was received. Any transfer of Petitioner out of this  
20 jurisdiction would cause imminent harm because her attorneys are licensed in  
21 California and would not easily be able to file a habeas petition in another  
22 jurisdiction. Further, she would be physically away from his lawyers and family.  
23 Any transfer by Respondents is not in good faith and would be in an attempt to

1 undermine this court's jurisdiction.

2 Petitioner is the primary caregiver for her 17-year-old U.S. citizen son, who  
3 has a speech and language impairment and a processing deficit. Because of these  
4 challenges, he depends heavily on Petitioner for guidance, daily care, financial  
5 and emotional stability. If she is removed from the District's jurisdiction, the child  
6 will be left without a parent to look after him. This abrupt separation would result  
7 in significant psychological and emotional trauma to both Petitioner and her son.

8 Petitioner also provides essential care for her elderly Lawful Permanent  
9 Resident father who suffers from multiple chronic conditions, including type 2  
10 diabetes, high cholesterol, anemia, and high blood pressure, and has a medical  
11 history of colon cancer, as well as stage III appendiceal carcinoma. Petitioner is  
12 his main source of physical and emotional support. Her absence would likely  
13 cause him significant emotional distress and could lead to a rapid deterioration in  
14 his health.

15 Moreover, Petitioner provides financial assistance to her 21-year-old U.S.  
16 citizen daughter, who is currently attending university. Without her help, her  
17 daughter's ability to dedicate herself to her studies would be compromised,  
18 potentially forcing her to work to cover her expenses and jeopardizing her  
19 education.

20 Petitioner's further detention would also cause the immediate loss of her  
21 employment, which is the sole source of financial support for her family, creating  
22 an economic hardship that would exacerbate the emotional distress she and her  
23 children are already at risk of experiencing.

1           Additionally, Petitioner heavily relies on the support of her family network,  
2 including her children, her U.S. citizens siblings and extended relatives, all of  
3 whom reside in the Southern District of California. Removal from this jurisdiction  
4 would sever her from this essential support system, leaving her isolated and  
5 hindering her ability to remain stable.

6  
7           **B. Likely to succeed on the merits.**

8           Due process requires government action not be irrational and arbitrary. See  
9 *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

10           Petitioner is a citizen of Mexico who entered the United States without  
11 inspection in or about January 2000 near San Ysidro, California. In 2003, she briefly  
12 departed the country, but returned the same year without inspection near San  
13 Ysidro, California. On June 5, 2025, she applied for adjustment of status before the  
14 USCIS, and on November 24, 2025, she appeared for an adjustment of status  
15 interview at the USCIS San Diego Field Office. During her interview, she was  
16 detained and taken into custody by U.S. Immigration and Customs Enforcement  
17 (“ICE”) officers who detained her at the OMDC.

18           Following her detention, Petitioner, through undersigned counsel, requested  
19 an individualized custody hearing pursuant to the class-wide relief established in  
20 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).  
21 There, the Central District of California held that the Bond Eligible class consists  
22 of all noncitizens in the U.S. who meet three criteria: “(1) have entered or will enter  
23 the United States without inspection; (2) were not or will not be apprehended upon  
24

1 arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226 , §  
2 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an  
3 initial custody determination.”.

4 Petitioner meets all of the requirements as recognized in *Maldonado Bautista*  
5 as she entered the U.S. without inspection, was not apprehended at the time of her  
6 entry, and is not detained under 8 U.S.C. § 1226, § 1225(b)(1), or § 1231

7 On November 25, 2025, the Court certified the nationwide bond eligible  
8 class, and extended the same declaratory relief to all class members, making the  
9 judgment binding on all Immigration Judges

10 Despite this clear framework, on December 8, 2025, Petitioner was denied a  
11 bond hearing when an Otay Mesa Immigration Judge found, “[t]he Immigration  
12 Judge lacks authority to hear the respondent’s request for a bond. Based on the plain  
13 language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C.  
14 § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to  
15 grant bond to aliens who are present in the United States without admission. *See*  
16 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).”

17 Respondents are detaining Petitioner in violation of the declaratory judgment  
18 issued in *Maldonado Bautista*, the Court should accordingly order Respondents  
19 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days per *Maldonado*  
20 *Bautista v. Santacruz*’s declaratory relief.

21 As numerous courts have observed, the initial decision to release petitioner  
22 under § 1226(a) precludes the government from later “switch[ing] tracks” to subject  
23 him to mandatory detention under § 1225(b)(2) because petitioner’s release created  
24

1 a “reliance interest . . . so long as [petitioner] abided by the terms of [his] release.”  
2 Salcedo Aceros v. Kaiser, No. 25-cv-06924-EMC, 2025 WL 2637503, at \*8 (N.D.  
3 Cal. Sept. 12, 2025); see also Oliveros v. Kaiser, No. 25-cv-07117-BLF, 2025 WL  
4 2677125, at \*4 (N.D. Cal. Sept. 18, 2025) (“[A]s a matter of statutory authority,  
5 ‘the Government cannot simply switch tracks’ from § 1226(a) to § 1225(b)(2).”) (citing Lopez Benitez v. Francis, No. 25-  
6 cv-05937-DEH, 2025 WL 2371588, at \*5–9 (S.D.N.Y. Aug. 13, 2025) (finding that the petitioner was detained pursuant  
7 to § 1226(a) where he had been released under that statute and consistently treated  
8 under that detention authority)); Souza v. Robbins, No. 1:25-cv-01597-DJC-JDP,  
9 2025 WL 3263897, at \*2 (E.D. Cal. Nov. 23, 2025) (finding that the petitioner was  
10 released under § 1226(a) and could not subsequently be detained pursuant to §  
11 1225(b)(2)); Otero ex rel. CaicedoRuiz v. Kaiser, No. 25-cv-06536-NC, 2025 WL  
12 3301056, at \*8 (N.D. Cal. Nov. 26, 2025) (“It follows that Caicedo-Ruiz was and  
13 is subjected to § 1226(a), and not § 1225(b)(2), and therefore is protected by the  
14 Due Process rights created by § 1226(a). A

15  
16 **C. Balance of equities and public interest tips sharply in favor of**  
17 **TRO.**

18 The balance of hardships tips substantially in favor of Petitioner. “[I]n  
19 addition to the potential hardships facing Plaintiffs in the absence of the  
20 injunction, the court ‘may consider . . . the indirect hardship to their friends and  
21 family members.’” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017),  
22 quoting *Golden Gate Rest. Ass'n v. City & Cty. of San Francisco*, 512 F.3d 1112,  
23 1126 (9th Cir. 2008).

1 Removal from this jurisdiction would separate Petitioner from her family,  
2 which includes a minor U.S. citizen son, aged 17, and her lawful permanent  
3 resident father as well as an adult U.S. citizen daughter, aged 21. The loss of  
4 parental guidance, emotional and physical support, combined with the loss of  
5 financial security, would cause significant emotional distress, fear and anxiety for  
6 her family.

7 Petitioner's son relies on her for basic daily needs, including meals  
8 transportation, schooling and supervision. Disruption of these routines would  
9 interfere with his development and stability. Additionally, no one else is able to  
10 provide full-time care for him, leaving him unprotected. Given this sudden  
11 detention, any harm resulting from continued separation would be immediate and  
12 irreparable. Preventing this separation is crucial for the preservation of her son's  
13 physical, emotional and psychological well-being.

14 The merits of the petition weigh the public interest toward a TRO.  
15 "Generally, public interest concerns are implicated when a constitutional right has  
16 been violated, because all citizens have a stake in upholding the Constitution."  
17 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005); see also *Zepeda v. U.S.*  
18 *I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) ("INS cannot reasonably assert that it is  
19 harmed in any legally cognizable sense by being enjoined from constitutional  
20 violations"). "The public interest also benefits from a preliminary injunction that  
21 ensures that federal statutes are construed and implemented in a manner that  
22 avoids serious constitutional questions." *Rodriguez v. Robbins*, 715 F.3d 1127,  
23 1146 (9th Cir. 2013).

1 **III. CONCLUSION**

2 For the above reasons, a TRO should be granted.

3 Date: December 10, 2025

Respectfully submitted,

4 /s/ Rose M. Thompson

5 Rose M. Thompson

6 Attorney at Law

7 *Attorney for Petitioner*

1 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**  
2 **PURSUANT TO 28 U.S.C. § 2242**

3 I am submitting this verification on behalf of the Petitioner because I am one  
4 of the Petitioner's attorneys. I have discussed with the Petitioner the events described  
5 in this Petition. Based on those discussions, I hereby verify that the statements made  
6 in the attached Petition for Writ of Habeas Corpus are true and correct to the best of  
7 my knowledge.

8 Date: December 10, 2025

Respectfully submitted,

9  
10 /s/ Rose M. Thompson

11 Rose M. Thompson  
12 Attorney at Law

13 *Attorney for Petitioner*  
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Rose Thompson, Cal Bar No. 214003  
ROSE IMMIGRATION LAW  
P.O. Box 23651  
San Diego, CA 92193  
(619) 500-2911

**DETAINED**

*Attorney for Petitioner*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

In the Matter of )

**Veronica CRUZ ESCAMILLA,** )

**Case No.**

*Petitioner,* )

**Agency No.** 

v. )

**DECLARATION IN SUPPORT OF  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**

**Daniel A. BRIGHTMAN,** in his )  
official capacity as Field Office )

Director of the Immigration and )  
Customs Enforcement, Enforcement )

**ORAL ARGUMENT  
REQUESTED**

and Removal Operations San Diego )  
Field Office; **Kristi NOEM,** in her )

official capacity as Secretary of the )  
U.S. Department of Homeland )

**Expedited hearing requested**

Security; **U.S. DEPARTMENT OF )  
HOMELAND SECURITY; Pamela )**

**J. BONDI,** in her official capacity as )  
U.S. Attorney General; **EXECUTIVE )**

**OFFICE FOR IMMIGRATION )  
REVIEW; Christopher J. LAROSE,** )

in his official capacity as Warden of the )  
Otay Mesa Detention Center, )

*Respondents* )

1 Under penalty of perjury, the undersigned does solemnly declare:

- 2 1. My name is Rose M. Thompson. I am a member of the California State Bar  
3 and admitted to practice before this court. If called upon to testify in this  
4 matter, I would be able to give the following evidence:
- 5 2. Petitioner is a citizen of Mexico who entered the United States without  
6 inspection near San Ysidro, California in or about January 2000. She briefly  
7 exited in 2003 and reentered without inspection in 2003. She was *not* caught  
8 after her most recent entry.
- 9 3. On November 24, 2025, Petitioner appeared for her Adjustment of Status  
10 interview at the USCIS San Diego Field Office. During that interview, she  
11 was detained by U.S. Immigration and Customs Enforcement (“ICE”) and  
12 taken into custody at the Otay Mesa Detention Center (“OMDC”).
- 13 4. Following her detention, I requested a bond hearing on her behalf pursuant  
14 to the class-wide relief established in *Maldonado Bautista v. Santacruz*, No.  
15 5:25-CV-01873-SSS-BFM (C.D. Cal.).
- 16 5. On December 8, 2025, an Otay Mesa Immigration Judge denied Petitioner’s  
17 request for a bond re-determination hearing, stating that “[t]he Immigration  
18 Judge lacks authority to hear the respondent’s request for a bond. Based on  
19 the plain language of section 235(b)(2)(A) of the Immigration and  
20 Nationality Act, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack  
21 authority to hear bond requests or to grant bond to aliens who are present in  
22 the United States without admission. See *Matter of Yajure Hurtado*, 29 I&N  
23 Dec. 216 (BIA 2025).”

- 1 6. On December 10, 2025, at approximately 5:00 a.m., ICE officers physically  
2 removed Petitioner from her cell at the OMDC. Undersigned counsel's  
3 office has been checking the ICE detainee locator system which initially  
4 showed her detention at the OMDC, then no result, and at 3:03pm it  
5 indicated the San Luis Regional Detention Center in San Luis, AZ. We are  
6 requesting that this Court assert its jurisdiction and require Petitioner to be  
7 returned to the OMDC or released from custody as she was initially in this  
8 Court's jurisdiction and this transfer by ICE results in a deprivation of her  
9 access to counsel and her due process rights under the Constitution.
- 10 7. On December 8, 2025, the San Diego AUSA office was notified via email  
11 that this habeas petition and TRO would be filed. No response was received.
- 12 8. I have conducted an appropriate inquiry into the circumstances of this case,  
13 and I believe that all factual allegations contained in the petition for habeas  
14 corpus are true.

15  
16 Date: December 10, 2025

Respectfully submitted,

17 /s/ Rose M. Thompson

18 Rose M. Thompson

19 Attorney at Law

20 *Attorney for Petitioner*