

ENTERED

December 23, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FERNANDO GARCIA	§	CIVIL ACTION NUMBER
TOBON,	§	4:25-cv-06145
Petitioner,	§	
	§	
	§	
versus	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
GRANT DICKEY, <i>et al</i> ,	§	
Respondents.	§	

ORDER

Petitioner Fernando Garcia Tobon filed a petition for writ of *habeas corpus* on December 19, 2025. Dkt 1. He alleges that he entered the United States without inspection on or around January 2002 when he was 15 years old. Id at ¶41. He states he was taken into ICE custody on or around October 7, 2025, after being arrested for allegedly discharging a firearm. Id at ¶43. He alleges that his detention under 8 USC §1225(b) is unlawful and that he should instead be detained under 8 USC §1226(a), which may entitle him to a bond hearing. See id at ¶4.

Petitioner alleges violations of (i) the Due Process Clause of the Fifth Amendment, (ii) the INA, (iii) the APA, and (iv) the class-wide declaratory judgment issued in *Maldonado Bautista v Santacruz*, 2025 WL 3289861 (CD Cal). Id at ¶¶51–92. Among other relief, he seeks a writ of *habeas corpus* directing Respondents to release him from custody unless they provide him a bond hearing within seven days. Id at 30 ¶c.

The undersigned has previously determined that the Government may properly apply 8 USC §1225(b)(2)(A) in these circumstances. See *Montoya Cabanas v Bondi*, 2025 WL 3171331 (SD Tex); *Maceda Jimenez v Thompson*, 2025

WL 3265493 (SD Tex). Such determination would appear to dispose of all contentions in the petition, absent distinguishing facts or other legal authority that causes reconsideration.

The undersigned is also of the preliminary view that the referenced class-certification order in *Maldonado Bautista* doesn't control disposition of this case as it far exceeds the jurisdiction of the district court issuing that order. See also *Lopez v Lyons*, 2025 WL 3683918, *9 (ND Tex) (determining the same).

To the extent Petitioner requests immediate release prior to service of Respondents, it is DENIED.

That said, and even though not requested, Petitioner is entitled to a show-cause order pursuant to 28 USC §2243.

Respondents are thus ORDERED to show cause with a filing that establishes the propriety of Petitioner's continued detention. Such filing must be made by December 31, 2025, absent extension.


Petitioner may file any reply by January 3, 2026.

Hearing will be set if determined necessary after briefing closes. But a hearing will be set upon affirmative request by either party, either by Zoom or in person.

It is ORDERED that the Clerk will email this order to USATXS.CivilNotice@usdoj.gov to provide notice of this action to Respondents. Such service doesn't substitute for the requirements of formal service but is instead intended only to provide the Government notice and an opportunity to be heard at this initial juncture.

SO ORDERED.

Signed on December 23, 2025, at Houston, Texas.



Honorable Charles Eskridge
United States District Judge