

1
2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF OKLAHOMA

4 GUTIERREZ RAMIREZ, ABEL,

5 Petitioner,

Case No.

6 v.

- 7 1. KRISTI NOEM, Secretary, U.S.
8 Department of Homeland Security
9 2. U.S. DEPARTMENT OF HOMELAND
10 SECURITY;
11 3. PAMELA BONDI, U.S. Attorney
12 General;
13 4. JOSHUA JOHNSON, Enforcement and
14 Removal Operations, Immigration and
15 Customs Enforcement, Dallas Field
16 Office Director;
17 5. DAREN MARGOLIN, Director of
18 EXECUTIVE OFFICE FOR
19 IMMIGRATION REVIEW, in his official
20 capacity;
21 6. SCARLETT GRANT, Warden of
22 Cimmaron Correctional Facility, in her
23 official capacity

24 Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS**

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. 2241 AND INJUNCTIVE RELIEF

1 INTRODUCTION

2 1. Petitioner Abel Gutierrez Ramirez brings this petition for a writ of habeas corpus
3 to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical
5 custody of Respondents at the Cimarron Correctional Facility at 3200 S Kings Hwy, Cushing,
6 OK 74023. He now faces unlawful detention because the Department of Homeland Security
7 (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the
8 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

9 2. On November 20, 2025, the district court granted partial summary judgment on
10 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
11 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
12 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
13 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
14 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
15 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
16 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
17 Motion for Partial Summary Judgment).

18 3. The declaratory judgment held that the Bond Denial Class members are detained
19 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
20 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

21 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
22 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
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1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
2 opportunity to be released on bond.

3 5. Petitioner Abel Gutierrez Ramirez is a member of the Bond Eligible Class, as he:

4 a. does not have lawful status in the United States and is currently detained at the
5 Cimarron Detention Facility. He was apprehended by immigration authorities on
11/17/2025.

6 b. entered the United States without inspection over 20 years ago in February of
2001, and was not apprehended upon arrival, *cf. id.*; and

7 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

8 6. After apprehending Petitioner on 11/17/2025, the DHS placed him in removal
9 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible
10 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

11 7. The Court should expeditiously grant this petition.

12 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
13 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
14 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
15 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
16 Class member.

17 9. Immigration judges have informed class members in bond hearings that they have
18 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not
19 controlling, even with respect to class members, and that instead IJs remain bound to follow the
20 agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21 10. On December 18, 2025, the District Court entered Final Judgement in the
22 nationwide class action. This Final Judgement is critical to the instant Petition for three reasons:
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- 1 a. Finality & Preclusion: The Court rejected the Government's argument that the
2 class certification was merely interlocutory. It entered Final Judgment on Counts
3 I-III, certifying the class and declaring the policy unlawful. As a class member,
4 Petitioner's rights are now adjudicated, and the Government is collaterally
5 estopped from relitigating their detention status.
- 6 b. Futility of Exhaustion: The Court entered Final Judgment specifically because it
7 found "troubling" evidence that the Department of Justice issued a memorandum
8 instructing Immigration Judges to disregard the federal court's prior orders and
9 "hold the position that Yajure-Hurtado remains good law." This judicial finding
10 confirms that administrative exhaustion is futile, as the agency has prejudged the
11 issue in bad faith.
- 12 c. Yajure-Hurtado is "No Longer Tenable": The Court explicitly held that "the core
13 holding of Yajure-Hurtado cannot be squared with the [Court's] Order... Yajure-
14 Hurtado is no longer controlling; the legal conclusion underlying the decision is
15 no longer tenable."

16 11. Because Respondents are detaining Petitioner in violation of the declaratory
17 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
18 Respondent DHS must release Petitioner.

19 12. Alternatively, the Court should order Petitioner's release unless Respondents
20 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

21 **JURISDICTION**

22 13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
23 Cimarron Correctional Facility.

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

4 15. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
5 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6 **VENUE**

7 16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
8 500 (1973), venue lies in the United States District Court for the Northern District of Oklahoma,
9 the judicial district in which Petitioner currently is detained.

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

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

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

19 **PARTIES**

20 19. Petitioner Abel Gutierrez Ramirez is a citizen of Mexico who has been in
21 immigration detention since 11/17/2025, after the Petitioner was arrested in Oklahoma City,
22 Oklahoma.

1 20. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security. She is responsible for the implementation and enforcement of the Immigration and
3 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
4 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

5 21. Respondent Department of Homeland Security (DHS) is the federal agency
6 responsible for implementing and enforcing the INA, including the detention and removal of
7 noncitizens.

8 22. Respondent Pamela Bondi is the Attorney General of the United States. She is
9 responsible for the Department of Justice, of which the Executive Office for Immigration Review
10 and the immigration court system it operates is a component agency. She is sued in her official
11 capacity.

12 23. Respondent Joshua Johnson is the Director of the Dallas Field Office of ICE's
13 Enforcement and Removal Operations division. As such, Joshua Johnson is Petitioner's
14 immediate custodian and is responsible for Petitioner's detention and removal. He is named in
15 his official capacity.

16 24. Respondent Daren Margolin is the Director of the Executive Office for
17 Immigration Review, he is sued in his official capacity.

18 25. Respondent Executive Office for Immigration Review (EOIR) is the federal
19 agency responsible for implementing and enforcing the INA in removal proceedings, including
20 for custody redeterminations in bond hearings.

21 26. Respondent Scarlett Grant is the Warden of the Cimmaron Correction Facility,
22 where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her
23 official capacity.

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CLAIM FOR RELIEF

COUNT I

**Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista***

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

28. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

29. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

30. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

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

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

COUNT III

Violation of Due Process

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

34. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government

1 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
2 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 35. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 36. The government’s detention of Petitioner without a bond redetermination hearing
6 to determine whether he is a flight risk or danger to others violates his right to due process.

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8 **PRAYER FOR RELIEF**

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

- 10 a. Assume jurisdiction over this matter;
- 11 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
12 Petitioner;
- 13 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
14 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
15 seven days;
- 16 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
17 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
18 law; and
- 19 e. Grant any other and further relief that this Court deems just and proper.

20 DATED this 22nd of December, 2025.

21 s/ Sam Wargin
22 Sam Wargin
23 *Michael Brooks-Jiménez, P.C.*
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