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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ALONZO PEREZ, Heliberto

Petitioner,

v.

Garrett RIPA, in His Official Capacity
as the Miami, FL Field Office Director
of Enforcement and Removal
Operations, Immigration and Customs
Enforcement (ICE); **Kristi A. NOEM**, in
Her Official Capacity as the Secretary,
U.S. Department of Homeland Security
(DHS); Pamela **BONDI**, in Her Capacity
as the U.S. Attorney General responsible
for the EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; and E. K.
CARLTON, in his Official Capacity as
the Warden of the Miami, FL Federal
Detention Center,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner, Heliberto Alonzo Perez, brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), and as a member of the Bond Eligible Class certified in the December 18, 2025, Final Judgment in *Maldonado Bautista v. Santacruz* (see **attached Final Judgment**). Petitioner is in the physical custody of respondents at the Federal Detention Center at 33 NE 4th Street, Miami, FL 33132 and is facing unlawful detention because the respondents i.e., the Department of Homeland Security (DHS), and the Executive Office for Immigration Review (EOIR) refuse to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs, and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. November 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. November 25, 2025) (order certifying Plaintiffs-Petitioners’

1 proposed nationwide Bond Eligible Class, incorporating and extending declaratory
2 judgment from Order Granting Petitioners' Motion for Partial Summary
3 Judgment).

4 3. On December 18, 2025, the U.S. District Court for Central California
5 issued a Final Judgment declaring that the petitioning Bond Eligible Class
6 members are detained under 8 USC §1226(a) and are not subject to mandatory
7 detention under 8 USC §1225(b)(2); and pursuant to 8 CFR §§ 236.1, 1236.1 and
8 1003.19, the class members are detained under 8 USC §1226(a) and not subject to
9 mandatory detention under §1225(b)(2); and they are entitled to consideration for
10 release on bond by immigration officers and, if not released, they are eligible for a
11 custody redetermination hearing before an immigration judge. The order also
12 vacated the DHS Policy Memo of July 8, 2025, regarding Detention Authority for
13 Applicants for Admission, which was not in accordance with the law (see attached
14 **Final Judgment**).

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

19 5. Nonetheless, the Executive Office for Immigration Review and its
20 subagency, the Immigration Court, and the Department of Homeland Security
21

1 (DHS) have blatantly refused to abide by the declaratory relief and have
2 unlawfully ordered that the Petitioner be denied the opportunity to be released on
3 bond.

4 6. Petitioner Heliberto Alonzo Perez is a member of the Bond Eligible
5 Class, as he:

- 7 a. does not have lawful status in the United States and is currently
8 detained at the Miami, FL Federal Detention Center after being
9 apprehended by immigration authorities in St. Lucie County, FL, on
10 December 6, 2025;
- 11 b. entered the United States without inspection over nineteen (19) years
12 ago and was not apprehended upon arrival, *cf. id.*; and
- 13 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

14 7. On September 10, 2020, the DHS's deportation officer arrested the
15 Petitioner pursuant to authority under 8 USC §1226 [INA §236], and on September
16 15, 2020, the DHS placed the respondent in Miami, FL, removal proceedings
17 pursuant to 8 USC § 1229a [INA §240]. The DHS charged the Petitioner as being
18 inadmissible under 8 USC § 1182(a)(6)(A)(i) [INA §212(a)(6)(A)(i)], as someone
19 who entered the United States without inspection.

20 8. On September 21, 2020, the Miami, FL, IJ granted the respondent a
21 \$10,000 bond release under 8 USC 1226(a) [INA §236(a)], and he posted bond.

22 9. The Court should expeditiously grant this petition.

23 10. The judgment in Maldonado Bautista binds respondents, as it has the
24 full "force and effect of a final judgment." 28 USC § 2201(a). Nevertheless,

1 Respondents continue to flagrantly defy the judgment in that case and continue to
2 subject Petitioner to unlawful detention despite his clear entitlement to
3 consideration for release on bond as a Bond Eligible Class member.

4
5 11. Immigration judges have informed class members in bond hearings
6 that they have been instructed by “leadership” that the declaratory judgment in
7 *Maldonado Bautista* is not controlling, even with respect to class members, and
8 that instead IJs remain bound to follow the agency’s prior decision in *Matter of*
9 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

10
11 12. Because Respondents are detaining Petitioner in violation of the
12 declaratory judgment issued in *Maldonado Bautista*, and the Final Judgment of
13 December 18, 2025, the Court should accordingly order that within one day, the
14 respondent DHS must release Petitioner or order the Petitioner’s release unless the
15 respondents or the EOIR provide him with a bond hearing under 8 USC §1226(a)
16 [INA §236(a) within seven days.

17
18 **JURISDICTION**

19
20 13. Petitioner is in the physical custody of Respondents. The Petitioner is
21 detained at the Miami, FL, Federal Detention Center.

22
23 14. This Court has jurisdiction under 28 USC § 2241(c)(5) (habeas
24 corpus), 28 USC § 1331 (federal question), and Article I, section 9, clause 2 of the
United States Constitution (the Suspension Clause).

1 the calendar of the judge or justice who entertains it and receives prompt action
2 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
3 1120 (9th Cir. 2000) (citation omitted).

4 **PARTIES**

5
6 20. Petitioner Heliberto Alonzo Perez is a Mexican citizen who has been
7 in immigration detention since December 6, 2025. On December 6, 2025, the
8 Petitioner was apprehended in St. Lucie County, FL, following his posting of a
9 bond for a misdemeanor traffic arrest, despite his immigration bond release being
10 valid.

11
12 21. The Petitioner has not requested another bond release from the
13 Miami, FL IJ because respondent Bondi has instructed her IJs to disregard the
14 ruling in *Maldonado Bautisa*, and not to consider bond releases under 8 USC
15 §1226(a) [INA §236(a)] for aliens present after entering the United States without
16 inspection because said aliens are “applicants for admission” and subject to the
17 mandatory detention provisions in 8 USC 1 §1225(b)(2)(A) [INA §235(b)(2)(A)],
18 where the IJ lacks jurisdiction (*Matter of Yajure Hurtado*, 29 I. & N. 216 (BIA
19 09/05/2025)).

20
21 22. Respondent Garrett Ripa is the Director of the Miami Field Office of
22 ICE’s Enforcement and Removal Operations operations/division. As such, he is the
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24

1 Petitioner's immediate custodian and is responsible for the Petitioner's detention
2 and removal. He is named in his official capacity.

3 23. Respondent Kristi Noem is the Secretary of the Department of
4 Homeland Security. She is responsible for implementing and enforcing the
5 Immigration and Nationality Act (INA) and oversees ICE, which is responsible for
6 the Petitioner's detention. Ms. Noem has ultimate custodial authority over the
7 Petitioner and is sued in her official capacity.

8 24. Respondent Department of Homeland Security (DHS) is the federal
9 agency responsible for implementing and enforcing the INA, including the
10 detention and removal of noncitizens.

11 25. Respondent Pamela Bondi is the Attorney General of the United
12 States. She is responsible for the Department of Justice, of which the Executive
13 Office for Immigration Review and the immigration court system it operates are
14 component agencies. She is sued in her official capacity.

15 26. Respondent Executive Office for Immigration Review (EOIR) is the
16 federal agency responsible for implementing and enforcing the INA in removal
17 proceedings, including for custody redeterminations in bond hearings.

18 27. Respondent E. K Carlton is employed by the Miami, FL Federal
19 Detention Center as Warden of the facility, where the Petitioner is detained. He has
20 immediate physical custody of the Petitioner and is sued in his official capacity.

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CLAIM FOR RELIEF

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

30. 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.

31. 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.”

32. On December 18, 2025, the U.S. District Court for the Central District of California issued a Final Judgment in *Maldonado Bautista* ruling that the Bond Eligible Class members are being detained under 8 USC §1226(a) and are not subject to mandatory detention under 8 USC §1225(b)(2); and further declared that under 8 CFR §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 USC §1226(a) [INA §236(a)], are not subject to mandatory detention under §1225(b)(2) [§235(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge; and lastly vacated the DHS policy described in the July 8, 2025, “Interim Guidance Regarding Detention Authority for Applicants for Admission” under the Administrative Procedure Act as not in accordance with law (5 USC §706(2)(A)).

1 33. Respondents are parties to *Maldonado Bautista* and bound by the
2 Court's declaratory judgment, which has the full "force and effect of a final
3 judgment." 28 USC § 2201(a).

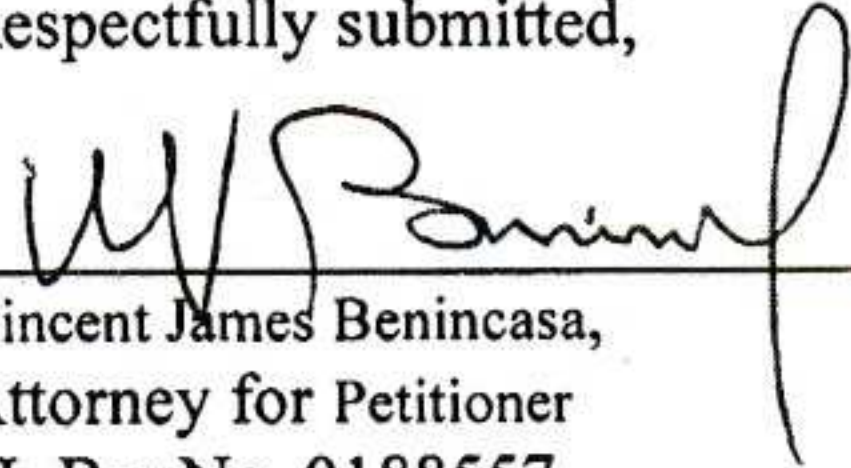
4 34. By denying Petitioner a bond hearing under § 1226(a) and asserting
5 that he is subject to mandatory detention under § 1225(b)(2), Respondents violate
6 Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado
Bautista*.

7 **PRAYER FOR RELIEF**

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

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

19 Respectfully submitted,

20 
21 _____
22 Vincent James Benincasa,
23 Attorney for Petitioner
24 FL Bar No. 0188557
1946 16th Avenue
Vero Beach, FL 32960

December 22, 2025

Date

1 (772) 299-4511
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4 **Verification by Someone Acting on the Petitioner's Behalf**
5 **Pursuant to 28 USC § 2242**

6 I, Vincent James Benincasa, am submitting this verification on behalf of the
7 Petitioner, as I am the Petitioner's attorney. I have discussed the events described in
8 the petition with the Petitioner. Based on those discussions, I hereby verify that the
9 statements made in the foregoing Petition for Writ of Habeas Corpus are true and
10 correct to the best of my knowledge.
11

12
13 Dated: December 22, 2025


14 Vincent James Benincasa
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Lazaro MALDONADO BAUTISTA,
et al., on behalf of themselves and
others similarly situated,

Plaintiffs-Petitioners,

v.

Kristi NOEM, Secretary, Department
of Homeland Security; *et al.*,

Defendants-Respondents.

Case No.: 5:25-cv-01873-SSS-BFM

Judge: The Hon. Sunshine Suzanne Sykes

FINAL JUDGMENT

1 In light of this Court's Order granting Partial Summary Judgment and Class
2 Certification against Respondents in the instant action [Dkt. No. 93], judgment is
3 hereby **ENTERED** in favor of Petitioners and members of the Bond Eligible Class
4 as follows:

5 The Court:

- 6 1. **DECLARES** that the Bond Eligible Class members are detained
7 under 8 U.S.C. § 1226(a) and are not subject to mandatory detention
8 under § 1225(b)(2).
- 9 2. **DECLARES** that, pursuant to Defendants' regulations, *see* 8 C.F.R.
10 §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are
11 detained under 8 U.S.C. § 1226(a), are not subject to mandatory
12 detention under § 1225(b)(2), and are entitled to consideration for
13 release on bond by immigration officers and, if not released, a custody
14 redetermination hearing before an immigration judge.
- 15 3. **VACATES** the Department of Homeland Security policy described in
16 the July 8, 2025, "Interim Guidance Regarding Detention Authority
17 for Applicants for Admission" under the Administrative Procedure
18 Act as not in accordance with law. 5 U.S.C. § 706(2)(A).
- 19 4. **GRANTS** final judgment as to Claims I, II, and III of the Amended
20 Class Complaint, and certifies those claims for appeal pursuant to
21 Federal Rule of Civil Procedure 54(b).

22
23 Dated: December 18, 2025



24
25
26 Hon. Sunshine S. Sykes
27 United States District Court Judge
28

JUDGMENT