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**DETAINED-DELANEY HALL**

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEW JERSEY**

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**ISMAEL ARRIAGA MIRANDA,**

**A** 

**Petitioner,**

**Civil Action No.**

**v.**

**FIRST PETITION FOR WRIT  
OF HABEAS CORPUS AND  
COMPLAINT FOR  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

**PAM BONDI,**

**Hon.**

**Attorney General of the  
United States of America, and,**

**KRISTI NOEM,**

**Secretary of the Department of  
Homeland Security, (DHS) and,**

**TODD LYONS,**

**Acting Director,  
United States Immigration and  
Customs Enforcement (ICE), and,**

**LUIS SOTO,**

**Director,  
Delaney Hall Detention Facility,  
Respondents.**

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**VERIFIED HABEAS CORPUS PETITION**

**INTRODUCTION**

1. Petitioner Ismael Arriaga Miranda has been residing in the United States since 1998 and was first apprehended by immigration authorities on Thanksgiving Day, November 27, 2025 in Plainfield, New Jersey in a targeted immigration enforcement action.
2. He is currently detained at the Delaney Hall Detention Facility in Newark, NJ, by immigration authorities, and is the subject of pending removal hearings.
3. Petitioner is charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i).
4. Petitioner sought a bond redetermination hearing before an immigration judge. On December 17, 2025, he was denied bond redetermination because the immigration judge held that he lacked jurisdiction over the bond hearing based on new agency policy that all persons who entered without inspection are deemed applicants for admission to the United States and are ineligible for bond redetermination hearings based on the immigration statute, 8 U.S.C. § 1225(b)(2)(A); *Matter of Yajure*

*Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) (holding that based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.)

5. Section 1225(b)(2)(A) states that an applicant for admission seeking admission shall be detained for a removal proceeding. It is the position of the Executive Office for Immigration Review (EOIR), which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.
6. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States. Instead, such individuals are subject to detention under a different statute, § 1226(a), and eligible for release on bond.
7. Nevertheless, earlier in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

8. EOIR has already applied this reasoning in a May 22, 2025 BIA decision, finding that a noncitizen who had been residing in the United States for almost ten years and had entered into the United States without documents was ineligible for bond.
9. This reading is a violation of the statute and due process.
10. As such, Petitioner seeks an order of declaratory and injunctive relief and set aside relief under the Administrative Procedure Act requiring that they be provided bond redetermination hearings before the immigration judge.
11. In addition, the Petitioner brings this petition for writ of a habeas corpus enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents at the Delaney Detention Facility in Newark, NJ. He now faces unlawful detention because the Department of Homeland Security (DHS) and the EOIR have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*. No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)
12. 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. Nov. 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. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).
13. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.
  14. Nonetheless, the EOIR and the DHS have refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
  15. Petitioner Ismal Arriaga Miranda is a member of the Bond Eligible Class, as he:
    - a. does not have lawful status in the United States and is currently

detained at the Delaney Hall Detention Center in Newark, NJ. He was apprehended by immigration authorities on November 27, 2025.

- b. entered the United States without inspection over 27 years ago and was not apprehended upon arrival, *cf. id.*; and
  - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
16. After apprehending Petitioner on November 27, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection and 8 U.S.C. § 1182(a)(7)(A)(i)(I) as someone not in possession of a valid visa or other valid document at time of entry.
17. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, EOIR denied bond for the Petitioner on December 17, 2025, indicating that it lacks jurisdiction over bond proceedings. **Exhibit A.**
18. On December 18, 2025, the U.S. District Court for the Central District of California entered a clarifying order and Final Judgment in the nationwide class action *Maldonado Bautista v. Santacruz*. **Exhibit B**
19. This Final Judgment is critical to the instant Petition for three reasons:

- a. Finality & Preclusion: The Court rejected the Government's argument that the class certification was merely interlocutory. It entered Final Judgment on Counts I-III, certifying the class and declaring the policy unlawful. As a class member, Petitioner's rights are now adjudicated, and the Government is collaterally estopped from relitigating their detention status. Exhibit B
- b. Futility of Exhaustion: The Court entered Final Judgment specifically because it found "troubling" evidence that the Department of Justice issued a memorandum instructing Immigration Judges to disregard the federal court's prior orders and "hold the position that *Yajure-Hurtado* remains good law." This judicial finding confirms that administrative exhaustion is futile, as the agency has prejudged the issue in bad faith. **Exhibit B**
- c. *Yajure-Hurtado* is "No Longer Tenable": Although it did not vacate the holding in *Yajure-Hurtado*, the Court explicitly held that

"the core holding of *Yajure-Hurtado* cannot be squared with the [Court's] Order... *Yajure-Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable."

**Exhibit B**

20. Petitioner requests that this Court take judicial notice of this Final Judgment and grant the Writ of Habeas Corpus to enforce these established rights against the local custodian.
21. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondent DHS must release Petitioner immediately.
22. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.
23. The Petitioner hereby petitions the U.S. District Court to declare his detention unlawful and stay his removal outside of the New Jersey jurisdiction. The Petitioner is currently still in removal proceedings pending before the Elizabeth Immigration Court.

**JURISDICTION**

24. This action arises under Customary International Law, the United States

Constitution and the Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq.. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 et. seq., and Art. I & 9, Clause 2 of the United States Constitution (Suspension Clause). Petitioner is detained at the Delaney Hall Detention Center, New Jersey under the authority of the United States in violation of the Constitution and laws of the United States.

### **VENUE**

25. Venue lies in this Court because Petitioner is detained at the Delaney Hall Detention Center in Newark, New Jersey.

### **PARTIES**

26. Petitioner is a 44-year-old male, native and citizen of Mexico, a father of three US-born minor children, who has been detained at the Delaney Hall Detention Facility since Thanksgiving Day on November 27, 2025. He seeks issuance of a writ of habeas corpus.
27. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.
28. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security the agency in charge of

- administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.
29. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.
30. Respondent John Tsoukaris is sued in his official capacity as the Director of the Delaney Hall Detention Facility and in this capacity he is the Petitioner's actual physical custodian.

### **LEGAL BACKGROUND**

31. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.
32. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to

- mandatory detention, *see* 8 U.S.C. § 1226(c).
33. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).
  34. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
  35. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
  36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).
  37. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited

Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

38. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
39. Respondents’ new policy turns this well-established understanding on its heads and violates the statutory scheme.
40. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240- TMC, 2025 WL 1193850, at \*12 (W.D. Wash.

- Apr. 24, 2025).
41. Despite this finding from a federal court, in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.
  42. A May 22, 2025 unpublished BIA decision confirms that EOIR is taking this same position that noncitizens who entered the United States without admission or parole are ineligible for immigration judge bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
  43. This is now a widespread position applying across the United States.
  44. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
  45. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
  46. The text of § 1226 also explicitly applies to people charged as being

inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.
48. Most recently, 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. Nov. 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. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

49. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.
50. Nonetheless, the EOIR and its subagency, the Immigration Court, and the DHS have refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
51. Petitioner Ismael Arriaga Miranda is a member of the Bond Eligible Class, as he:
  - d. does not have lawful status in the United States and is currently detained at the Delaney Hall Detention Facility in Newark, NJ. He was apprehended by immigration authorities on November 27, 2025.
  - e. entered the United States without inspection over 27 years ago and

was not apprehended upon arrival, *cf. id.*; and

- f. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
52. After apprehending Petitioner on November 27, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection and 8 U.S.C. § 1182(a)(7)(A)(i)(I) as someone not in possession of a valid visa or other valid document at time of entry. The Respondents have not proven the charges, the Petitioner has not conceded the charges, and the Immigration Court has not sustained any of the charges as of yet. The Petitioner has yet to appear for his first hearing to defend against these charges.
53. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.
54. Immigration judges have informed class members in bond hearings that

- they have been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
55. Respondent is a member of the Bond Eligible Class in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), as clarified by the court’s Order Granting in Part and Denying in Part Petitioners’ Ex Parte Application for Reconsideration or Clarification dated December 18, 2025. A true and correct copy of this Clarification Order is hereto attached as **Exhibit B**.
56. The class consists of noncitizens without lawful status who entered the United States without inspection, were not apprehended upon arrival, and are not subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time the Department of Homeland Security made its initial custody determination.
57. Respondent satisfies each element of the class definition.
58. Furthermore, in this December 18, 2025 Clarification Order, the district court explained that, although the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec 216 (BIA 2025) was not vacated, it is “no longer controlling” as “the legal conclusion underlying the decision is no

longer tenable.” **Exhibit B.**

59. In addition to this Clarification Order and also dated December 18, 2025, the district court in *Maldonado Bautista* entered final judgment, confirming that DHS’s detention policy treating Bond Eligible Class members as subject to mandatory detention under INA § 1225(b) is unlawful, vacated that policy under the Administrative Procedure Act, and declared that class members are detained pursuant to INA § 1226(a) and entitled to consideration for release on bond, including a bond hearing before an immigration judge if not released by DHS.
60. No stay has been issued and the judgment remains binding.
61. Although habeas petitioners are “ordinarily required to exhaust their administrative remedies,” they “need not exhaust administrative remedies where the issue presented involves only statutory construction.” *Moscato v. Fed. Bureau of Prisons*, 98 F.3d 757, 760 (3d Cir. 1996); *Vasquez v. Strada*, 684 F.3d 431, 433–34 (3d Cir. 2012) (citing *Bradshaw v. Carlson*, 682 F.2d 1050, 1052 (3d Cir. 1981)). Petitioner's claims turn on how INA Sections 235 and 236 are construed. Exhaustion “is likewise not required when it would be futile.” (*Rose v. Lundy*, 455 U.S. 509, 516 n.7 (1982)). In *Yajure Hurtado*, the Board of Immigration Appeals, construing Sections 235 and 236, held that IJs “lack authority to hear

bond requests or to grant bond to aliens . . . who are present in the United States without admission.” 29 I. & N. Dec. at 225. Because the BIA has “predetermined the statutory issue,” the Petitioner has “no reasonable prospect of obtaining relief” through administrative remedies. *Corona Diaz*, 2025 WL 3022170, at \*3 (citing *Gonzalez v. O’Connell*, 355 F.3d 1010, 1018–19 (7th Cir. 2004)); *del Cid*, 2025 WL 2985150, at \*13. Therefore, exhaustion is not required.

62. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondent DHS must release Petitioner immediately.

### FACTS

63. Petitioner, Ismael Arriaga Miranda is a 44-year-old male, native and citizen of Mexico, who entered the United States without inspection in 1998 and has not left the United States since.
64. Petitioner is a father of three US citizen children and is married to their mother.
65. Petitioner is a homeowner and business owner with significant community and family ties in New Jersey and throughout the United States.

66. Petitioner was placed in removal proceedings following a targeted stop by the Immigration and Customs Enforcement (ICE) agents on Thanksgiving Day on November 27, 2025.
67. A Notice to Appear in Removal Proceedings was issued to the Petitioner on November 27, 2025. **Exhibit C.**
68. In Removal Proceedings, the Petitioner will apply for cancellation of Removal proceedings based on exceptionally and extremely unusual hardship to his three US citizen minor children, who are 18-, 16- and 12-years old respectively, who are enrolled in school in New Jersey.
69. On December 17, 2025, Petitioner had a custody redetermination hearing before the Honorable Immigration Judge R. Rastegar at the Elizabeth Immigration Court. The Judge denied the Petitioner's bond request due to lack of jurisdiction pursuant to Matter of Yajure Hurtado. Petitioner requested bond redetermination pursuant to being a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), but the Immigration Judge indicated that the Immigration Court is not bound by *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).
70. The Petitioner does not have a final order of removal.
71. The Petitioner's removal proceedings are pending before the Elizabeth

Immigration Court.

## **CLAIM FOR RELIEF**

### **COUNT I**

72. The allegations contained in paragraphs above are repeated and realleged as though fully set forth herein.
73. Petitioner's continued detention violates the Due Process clause of the United States Constitution.

### **COUNT II**

74. The allegations contained in paragraphs above are repeated and realleged as though fully set forth herein.
75. Petitioner's detention is not authorized by the Immigration and Nationality Act.

### **COUNT III**

#### **Request for Relief Pursuant to *Maldonado Bautista***

76. The allegations contained in paragraphs above are repeated and realleged as though fully set forth herein.
77. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
78. The order granting final judgment in *Maldonado Bautista* holds that

Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

79. 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.”
80. 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).
81. 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*.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court:

1. Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediate release the Petitioner from custody;
2. Prohibit Respondents to transfer the Petitioner outside of New Jersey;
3. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;
4. Grant any other and further relief that this Court may deem necessary and proper.

/S/ Alexandra Miron

\_\_\_\_\_  
Alexandra Miron

Dated: December 22, 2025

17 Academy Street, Suite 1101

Newark, New Jersey 07102

(862) 230-2311

Attorney for Petitioner

## VERIFICATION

I, Ismael Arriaga Miranda, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the plaintiff-petitioner in this matter and am personally familiar with the facts of my case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

Executed on December 22, 2025

*/s/ Ismael Arriaga Miranda*

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ISMAEL ARRIAGA MIRANDA

## VERIFICATION BY COUNSEL

I, Alexandra Miron, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the attorney for plaintiff-petitioner in this matter and am personally familiar with the facts of his case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.
3. I have also reviewed the documents attached to this habeas petition and confirm that they are true copies of the originals and that all the facts or allegations ascertained therein are true and correct to the best of my knowledge and experience.

Executed on December 22, 2025,

/S/ Alexandra Miron

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Alexandra Miron

**LIST OF EXHIBITS IN SUPPORT OF HABEAS PETITION**

- A. EOIR Decision dated December 17, 2025, denying bond for Petitioner;
- B. Maldonado Bautista clarifying order and final judgment dated December 18, 2025;
- C. Notice to Appear initiating removal proceedings against the Petitioner;

**A**

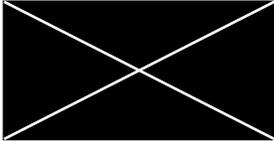


**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
ELIZABETH IMMIGRATION COURT**

Respondent Name:

ARRIAGA MIRANDA, ISMAEL

To:



A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/17/2025

**ORDER OF THE IMMIGRATION JUDGE**

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because  
Matter of Hurtado, 29 I&N Dec. 216 (BIA 2025).
  
- Granted. It is ordered that Respondent be:
  - released from custody on his own recognizance.
  - released from custody under bond of \$
  - other:
  
- Other:



Immigration Judge: Rastegar, Ramin 12/17/2025

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved

Appeal Due: 01/16/2026

### Certificate of Service

This document was served:

Via:  Mail |  Personal Service |  Electronic Service |  Address Unavailable

To:  Alien |  Alien c/o custodial officer |  Alien atty/rep. |  DHS

Respondent Name : ARRIAGA MIRANDA, ISMAEL | A-Number : 

Riders:

Date: 12/17/2025 By: DUARTE, ORDALINA, Court Staff

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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



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

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—  
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date December 18, 2025

Title *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez  
Deputy Clerk

Not Reported  
Court Reporter

Attorney(s) Present for Plaintiff(s):  
None Present

Attorney(s) Present for Defendant(s):  
None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING IN PART AND DENYING IN PART PETITIONERS’ EX PARTE APPLICATION FOR RECONSIDERATION OR CLARIFICATION [DKT. NO. 87]**

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino’s (collectively, “Petitioners”) Ex Parte Application for Reconsideration or Clarification regarding the Court’s Prior Order on their Motion for Class Certification. [Dkt. No. 87, “Application” or “App.”; *see also* Dkt. No. 41, “Motion for Class Certification”; Dkt. No. 82, “Class Certification Order”]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia (“Respondents”) have filed their Opposition to this Motion. [Dkt. No. 90, Opposition or “Opp.”]. Petitioners filed their Reply on December 12, 2025. [Dkt. No. 91, “Reply”].

**I. FACTUAL AND PROCEDURAL BACKGROUND**

For sake of brevity, the Court incorporates the factual background from the Prior Order on the Motion for Partial Summary Judgment, the Amended Class Complaint, and the pleadings related to this Application. [*See* Dkt. No. 15,

“Amended Class Complaint” or “ACC”; Dkt. No. 81, “MSJ Order”; *see also* App.; Opp.; Reply].

On November 20, 2025, the Court granted Petitioners’ Motion for Partial Summary Judgment but denied their request to enter final judgment due to the pending class certification motion. [See MSJ Order]. The following week, on November 25, 2025, the Court granted Petitioners’ Motion for Class Certification pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. [See generally Class Certification Order]. The certified class was defined as:

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

[*Id.* at 15].

Petitioners now bring this Application seeking clarification to “eliminate any doubt regarding [Defendant Respondents’] legal obligations and ensure [their] compliance.” [App. at 3].

For the following reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Petitioners’ Application.

## II. LEGAL STANDARD

Courts in this judicial district consistently utilize Local Rule 7-18 to adjudicate motions for reconsideration in civil and criminal matters. *E.g.*, *Feltz v. Cox Commc’n Cal., LLC*, 562 F. Supp. 3d 535, 539 (C.D. Cal. 2021); *United States v. Biden*, No. 2:23-CR-599, 2024 WL 3892452, at \*2–3 (C.D. Cal. Aug. 19, 2024); *In re Pioneer Corp.*, No. 2:18-CV-4524, 2018 WL 4963126, at \*2 (C.D. Cal. Aug. 27, 2018) (applying Local Rule 7-18 to a motion for reconsideration of an order authorizing discovery); *Patrick Collins, Inc. v. Does*, No. 8:12-CV-977, 2012 WL 12893290, at \*5 (C.D. Cal. Dec. 14, 2012).

**A. Local Rule 7-18**

Local Rule 7-18 requires that a motion for reconsideration be made within fourteen days after the entry of the subject order and based only on the grounds of:

- (a) a material difference in fact or law from that presented to the Court that, in the exercise of reasonable diligence, could not have been known to the party moving for reconsideration at the time the Order was entered, or
- (b) the emergence of new material facts or a change of law occurring after the Order was entered, or
- (c) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered.

L.R. 7-18.

**B. Federal Rule of Civil Procedure 60**

Federal Rule of Civil Procedure 60 provides grounds for relief from a judgment or order. *See generally* Fed. R. Civ. P. 60. There are two separate categories under Rule 60 that allow for relief: (1) non-substantive corrections of clerical mistakes; and (2) substantive corrections for grounds enumerated in Rule 60(b)(1)–(6). *Id.*

**1. Rule 60(a)**

Under Federal Rule of Civil Procedure 60(a), a court may correct clerical mistakes or mistakes arising from an oversight or omission whenever one is found in a judgment or order. But Rule 60(a) does not permit substantive changes. *See Blanton v. Anzalone*, 813 F.2d 1574, 1577 n.2 (9th Cir. 1987). In other words, Rule 60(a) allows a court to clarify an order to correct a failure to memorialize part of its decision, to reflect necessary implications of the original order, to ensure the court’s purpose is fully implemented, or to permit enforcement. *Tattersalls, Ltd. v. DeHaven*, 745 F.3d 1294, 1298 (9th Cir. 2014) (“The touchstone of Rule 60(a) . . . is fidelity to the intent behind the original judgment.”) (citation modified). Rule 60(a) does not allow a court to make corrections under the guise of mere clarification that “reflect a new and subsequent intent because it perceives its original judgment to be incorrect.” *Garamendi v. Henin*, 683 F.3d 1069, 1080 (9th Cir. 2012).

## 2. Rule 60(b)

In contrast, Rule 60(b)(5) “encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances.” *Frew v. Hawkins*, 540 U.S. 431, 441 (2004) (citing *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 380 (1992)). Rule 60(b) permits parties to be relieved from “a final judgment, order, or proceeding” when “the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable.” *See* Fed. R. Civ. P. 60(b)(5). Among the reasons to relieve a party from a final judgment, order, or proceeding in Rule 60(b) is a catchall provision of “any other reason that justifies relief.” Rule 60(b)(6).

## III. DISCUSSION

Petitioners’ Application requests the following from the Court: (1) appoint additional class counsel under Federal Rule of Civil Procedure 23(g), (2) reconsider the MSJ Order or clarify the Class Certification Order as to final or binding classwide declaratory relief, (3) direct entry of final judgment pursuant to Federal Rule of Civil Procedure 54(b), and (4) expressly confirm that the MSJ Order both declared *and vacated* the challenged agency actions. [App. at 3–4].

Respondents oppose the Application, arguing that the requested issues for reconsideration and/or clarification are inappropriate where no final judgment has been entered, or where the requested relief is either premature or cannot be granted on a classwide basis. [Opp. at 3–9]. The Opposition makes no mention nor argument against including additional class counsel.

As the various grounds for reconsideration and clarification vary, the Court takes each in turn.

### A. Inclusion of Appointed Class Counsel

Petitioners’ request to include additional class counsel is simple and uncontested. [Reply at 3, 9]. Petitioners included in their Motion for Class Certification the following class counsel: Northwest Immigrant Rights Project, American Civil Liberties Union Foundation (“ACLU”) Immigrants’ Rights Project, ACLU Foundation of Southern California, and USC Gould School of Law Immigration Clinic. [Dkt. No. 41 at 36]. The Court evaluated the adequacy of each counsel in the Class Certification Order; however, the full order inadvertently

excluded the proposed class counsel from the ACLU Immigrants’ Rights Project and ACLU Foundation of Southern California. [Class Certification Order at 15].

To correct this oversight, the Court clarifies pursuant to Rule 60(a) that the initial order intended to include each counsel noted by Petitioners in the Motion for Class Certification.

The Class Certification Order is hereby **AMENDED** to include My Khanh Ngo, Judy Rabinovitz, Michael K.T. Tan, and Noor Zafar of the ACLU Immigrants’ Rights Project and Eva Bitran of the ACLU of Southern California as additional class counsel.

### **B. Clarification of MSJ Order’s Application to APA Claims**

Petitioners’ Application includes a request to clarify whether the MSJ Order extended to its Administrative Procedure Act (“APA”) claims. [App. at 11–12].

Respondents raise three objections to this request for clarification, each of which suggests the requested relief is premature and overbroad: (1) Petitioners seek relief distinct from what was requested in the Amended Class Complaint, (2) the Court has not resolved whether classwide vacatur relief is appropriate, and (3) Petitioners’ Application is contrary to the Court’s directive for a status conference.<sup>1</sup> [Opp. at 9–12].

Upon the Court’s review of Respondents’ briefing, there is only one argument carrying merit: that the MSJ Order does not apply to vacatur of *Yajure Hurtado*. Petitioners failed to include any request to vacate the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

The Court recognizes the BIA issued the decision in *Yajure Hurtado* weeks after Petitioners filed their Motion for Partial Summary Judgment. Petitioners could not have included a request to vacate the decision in their Amended Class Complaint or their Motion for Partial Summary Judgment. However, as Respondents indicate, Petitioners never amended their request for relief through a Second Amended Class Complaint after the BIA issued *Yajure Hurtado*. [Opp. at 9].

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<sup>1</sup> The Court does not discuss here Respondents’ argument that Petitioners’ request goes against the Court’s directive for resolving pending issues, but instead incorporates its reasoning in Part III.C regarding the grounds for reconsideration. [See Opp. at 12]. See *infra* Part III.C.2.

Even though the Amended Class Complaint contains allegations that Respondents have violated the APA through unlawful policies, there are no allegations that those unlawful policies include the decision in *Yajure Hurtado*. To tack on a new subject of relief without proper amendment would bypass Federal Rule of Civil Procedure 15. The proper mechanism for Petitioners to seek relief against the decision in *Yajure Hurtado* is to amend the Amended Class Complaint, not through an Application for Reconsideration.

The Court, therefore, **DENIES** Petitioners' Application to Reconsider relief pertaining to *Yajure Hurtado*. Nevertheless, the Court observes that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. *See Yajure-Hurtado*, 29 I. & N. Dec. at 220–28 (subjecting noncitizens present in the United States without inspection to § 1225 and denying them bond hearings for lack of jurisdiction). In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not “applicants for admission,” and therefore not subject to mandatory detention under § 1225. [MSJ Order at 12–17]. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts “to ignore, not follow, ‘the reading the court would have reached’ had it exercised its independent judgment). Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable.

The Court now addresses the other relief at issue in the Application. Because vacatur is a necessary consequence of declaring an agency action unlawful, vacatur of the DHS Policy is within the scope of the MSJ Order. Detailed reasoning and discussion of potential jurisdictional issues are discussed in the Amended Consolidated Order to be issued shortly after this Order. Accordingly, the Court **GRANTS** Petitioners' Application to clarify that the MSJ Order encompassed Count III of the Amended Class Complaint and granted classwide vacatur of the unlawful DHS policy.<sup>2</sup>

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<sup>2</sup> Respondents also argue that “a court cannot grant declaratory relief prior to the entry of a final judgment.” [Opp. at 6 (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975))]. Because the Court reconsiders its decision that previously denied entry of final judgment, there is no reason to consider this argument. *See infra* Part III.C.

### C. Entry of Final Judgment

With the scope of the MSJ Order and Class Certification Order clarified, the Court now considers whether it should revisit its previous decision to deny entry of final judgment.<sup>3</sup>

Previously, the Court declined to enter final judgment pursuant to Rule 54(b) “[b]ecause Petitioners [had] filed a pending motion for class certification.” [MSJ Order at 17]. At the time of denying Petitioners’ request for entry of final judgment on November 20, 2025, the Court had yet to decide whether class certification was appropriate.

The Court had sequenced the motions in this manner, as the Motion for Partial Summary Judgment required the Court to consider a single question of law while the Motion for Class Certification entailed a wider scope of issues for claims in the Amended Class Complaint. *See Wright v. Schock*, 742 F.2d 541, 543–44 (9th Cir. 1984) (recognizing a district court’s discretion to rule on a motion for summary judgment before class certification “[u]nder the proper circumstances—where it is more practicable to do so and where the parties will not suffer significant prejudice”). Because the MSJ Order did not enter final judgment, Respondents would face no significant, if any, prejudice.

Petitioners now request that the Court reconsider its initial decision to decline entry of final judgment. [App. at 7, 11–12]. Referencing Local Rule 7-18, Petitioners present new material facts that warrant reconsideration. [*Id.* at 11]. Namely, the Application provides numerous declarations indicating Respondents’ failure to comply with the Court’s orders by continuing to deny bond hearings for class members and/or Respondents’ issuing guidance to disregard the Court’s declaratory judgment. [*Id.* at 8–9].

Respondents’ Opposition asserts that the status conference set for January 16, 2026, is more appropriate to resolve outstanding issues because “a final declaratory judgment will not simplify the complex issues presented” and “will cause substantial confusion as well as overlapping and inconsistent legal obligations.” [Opp. at 2–3]. In doing so, Respondents argue that “[w]ithout

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<sup>3</sup> The parties’ respective arguments as to the binding effect of the MSJ Order and the Class Certification Order are no longer relevant given the Court’s decision to enter final judgment by granting the Application. [Opp. at 4–5; Reply at 4–5]. The Court finds no need to address these arguments.

preclusive effect, a declaratory judgment is little more than an advisory opinion.” [*Id.* at 4].

The Court examines as a threshold matter whether reconsideration is proper.

### 1. Requirements for a Motion for Reconsideration

Local Rule 7-18 requires parties to base a motion for reconsideration on one of three grounds: (1) a material difference in fact or law from that presented to the Court that not known to the moving party at the time the Order was entered; (2) new material facts or a change of law occurring after the Order was entered; or (3) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered. L.R. 7-18.

Indeed, circumstances have changed since the Court’s MSJ Order, something Respondents do not contest in the Opposition. The record now reflects the Court’s rulings on both Petitioners’ Motion for Partial Summary Judgment and Motion for Class Certification, the consequences of which present an altered landscape to that of Respondents’ conduct at the time this matter was initiated.

With this in mind, the Court also notes that the Application also presents grounds for reconsideration due to newly emerged facts that fall under two categories.

***New Facts Pertaining to IJ’s Lack of Compliance.*** The Application details that Respondents have “persisted in denying class members bond hearings in two ways.” [App. at 8]. The various supporting exhibits attached to the Application confirm that immigration judges (“IJs”) continue to deny bond hearings for members of the Bond Eligible Class despite the Court’s determination that the DHS Policy is unlawful. [*Id.*; see e.g., Dkt. No. 87-2 at 5–8, 11–12, 14–15; Dkt. No. 87-5 at 6–7; Dkt. No. 87-7 at 4–7; Dkt. No. 87-8 at 5–8; Dkt. No. 87-9 at 5–6; Dkt. No. 87-11 at 3–4; Dkt. No. 87-12 at 3–4; Dkt. No. 87-13 at 4–5; Dkt. No. 87-14 at 4–5; Dkt. No. 87-15 at 3–4; Dkt. No. 87-16 at 3–4; Dkt. No. 87-17 at 3–4]. This is the case in at least ten other states. [*Id.*].

In these determinations, IJs have cited to this Court’s order, choosing to disregard the declaratory relief granted because it did not enter final judgment or due to some misunderstanding on part of the IJs as to the effect or nature of the Court’s orders. [Dkt. No. 87-2 at 11 (suggesting this Court “did not issue a class-wide declaratory judgment”); Dkt. No. 87-2 at 14 (same); Dkt. No. 87-5 at 6 (same); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (same); Dkt. No. 87-9 at 3

(same); Dkt. No. 87-12 at 3 (same); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

This uniform practice by IJs might be attributed to the nature of Petitioners' motion being a "Motion Partial Summary Judgment," the Court's phrasing in its MSJ Order and/or Class Certification Order, or the Court's decision to deny the request for entry of final judgment in the MSJ Order. In any event, the Court finds that the subsequent developments affecting the Bond Eligible Class members in this matter are material, which warrant reconsideration of whether to enter final judgment.

***New Facts Pertaining to Respondents' Policies.*** Similarly, and perhaps more troubling, is the emergence of the Respondents' direction to IJs that they should *disregard* this Court's orders. [App. at 9]. Petitioners have provided evidence that the Office of Immigration Litigation issued a memorandum instructing IJs to "hold the position that *Yajure Hurtado* remains good law." [Dkt. No. 87-3 at 2; *see also* Dkt. No. 87-2 at 11 (adhering to *Yajure Hurtado*); Dkt. No. 87-2 at 14 (reasoning that *Yajure-Hurtado* is an independent ground for denying a bond hearing); Dkt. No. 87-5 at 6 (denying bond for lack of jurisdiction pursuant to *Yajure Hurtado*); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (stating it was the "position of the [DOJ]" to continue heeding *Yajure Hurtado*); Dkt. No. 87-9 at 3 (adhering to *Yajure Hurtado*); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

Because the Court has now decided both the Motion for Partial Summary Judgment and Class Certification Motion, and considering the newly emerged facts as to noncompliance, the posture of this case presents materially different circumstances that would compel reconsideration.

Consistent with the discussion above, the Court finds the Application has provided adequate grounds for this Court's reconsideration under Local Rule 7-18. For the reasons discussed below, the Court finds it appropriate to enter final judgment as to the claims encompassed within the MSJ Order: Counts I, II, and III.<sup>4</sup>

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<sup>4</sup> Claims IV and V of the Amended Class Complaint remain in this action, as they were not included within the scope of the Partial Motion for Summary Judgment.

## 2. Entry of Final Judgment

Rule 54(b) allows a court to direct final judgment “when an action presents more than one claim for relief or when multiple parties are involved.” Fed. R. Civ. Proc. 54(b). Such entry is appropriate “as to one or more, but fewer than all, claims or parties *only if* the court expressly determines that there is no just reason for delay.” *Id.* (emphasis added).

Moreover, Rule 54(b) acknowledges that “any order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(b). This is an exercise of a Court’s inherent authority and power to modify its own interlocutory orders. *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 888 (9th Cir. 2001).

A request from a party for a court to exercise this authority generally comes in the form of a motion for reconsideration. *See e.g., Moore v. Grundman*, No. 11-CV-1570-DMS-WMc, 2012 WL 1252711, at \*1 (S.D. Cal. April 13, 2012); *Baldwin v. United States*, 823 F. Supp. 2d 1087, 1098 (D.N. Mariana Islands 2011); *Whitsit v. Walker*, No. C-09-2387-JL, 2009 WL 5125858, at \*1 (N.D. Cal. Dec. 21, 2009); *Rhodes v. Robinson*, No. 1:02-CV-05018-LJO-DLB, 2008 WL 1766975, at \*1 (E.D. Cal. Apr. 17, 2008); *Network Signatures, Inc. v. ABN-AMRO, Inc.*, No. 8:06-CV-00629-JVS-RNBx, 2007 WL 760187,1 at \*1 (C.D. Cal. Apr. 10, 2007).

When a Court chooses to modify, the only requirement for the exercise of this power is that the court “has not been divested of jurisdiction over the order.” *Baykeeper*, 254 F.3d at 888. The Court confirms that it still possesses jurisdiction over the MSJ Order and Class Certification Order, as no interlocutory appeal or certification of appeal under Rule 23(f) has been filed.

Because the Court still has jurisdiction, it must articulate sufficient cause for the modification. *See Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 13 n.14 (1983). To determine whether there is “any just reason for delay,” the Court must consider “judicial administrative interests as well as the equities involved.” *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980). The Ninth Circuit has found “Rule 54(b) certification is proper if it will aid expeditious decision of the case.” *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794, 797 (9th Cir. 1991) (citation modified). Whether to make an express determination under

Rule 54(b) is “exclusively within the District Court’s discretion.” *Atterbury v. Carpenter*, 310 F.2d 126, 126 (9th Cir. 1962).

Indeed, entry of final judgment here will likely aid expeditious decision of the case. As discussed above, the Court is in a posture distinct from where it stood on November 20, 2025. On November 20, 2025, the Court declined entry of final judgment, reasoning final judgment was not appropriate due to the pending motion for class certification. [MSJ Order at 17]. The impact of class certification on the nature of the case provided adequate justification for delay in the entry of final judgment. The Court then issued its Class Certification Order on November 25, 2025. [See Class Certification Order].

Because of that change in procedural posture, the Court finds that the previous reasons supporting delay in entry of final judgment pursuant to Rule 54(b) no longer exist. Furthermore, because new facts indicate Respondents have counseled the noncompliance with the Court’s orders as discussed in Part III.B.1. Evidence of these circumstances present exigent circumstances that may cause irreparable harm to those detained without a bond hearing, where they are otherwise entitled to one. *See* Fed. R. Civ. P. 54(b). [See also Reply at 9 (detailing the harm that Bond Eligible Class members face in light of Respondents’ policies)].<sup>5</sup>

Finding no just reason for delay, the Court **GRANTS** Petitioners’ Application to Reconsider as to the previous denial of final judgment. The Court hereby **ENTERS** final judgment in this action as to Counts I, II, and III of the Amended Class Complaint.

#### IV. CONCLUSION

Accordingly, the Court hereby **GRANTS IN PART** and **DENIES IN PART** Petitioners’ Application for Reconsideration and Clarification as follows:

- the Application is **GRANTED** as to the additional class counsel;
- the Application is **DENIED** as to including vacatur of *Matter of Yajure Hurtado* in the judgment;

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<sup>5</sup> The Court’s decision here moots Respondents’ arguments regarding the tentative nature of the declaratory relief and its preclusive effect. [Opp. at 2–3, 4].

- the Application is **GRANTED** as to the clarification that the MSJ Order declared the DHS Policy unlawful and granted vacatur under the APA; and
- the Application is **GRANTED** as to the prior request to enter final judgment. The Court hereby **ENTERS** final judgment as to Counts I, II, and III.

An Amended Order consolidating the MSJ Order and Class Certification Order, clarifying the issues encompassed in this Motion, and detailing the judgment will be issued separately.<sup>6</sup>

**IT IS SO ORDERED.**

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<sup>6</sup> Consistent with Rule 60(a), the clarifications in this Order make no substantive corrections to the effect of its prior orders. The portion of this Amended Order incorporating the Court’s reconsideration of its prior denial to enter final judgment and subsequent entry of final judgment is the only substantive change. Such changes are permissible and governed by Rule 60(b)(6).

C

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: ISMAEL ARRIAGA MIRANDA currently residing at:

[REDACTED]

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near an unknown place, on or about an unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

625 EVANS ST, RM 148A, ELIZABETH, NEW JERSEY 072010000. ELIZABETH DETENTION CENTER  
(Complete Address of Immigration Court, including Room Number, if any)

on December 18, 2025 at 9:00 am to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

P6698 SILVA - SBDQ  
(Signature and Title of Issuing Officer)

Date: November 27, 2025

NEWARK, NJ  
(City and State)

EOIR - 3 of 16

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on November 27, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

[X] in person [ ] by certified mail, returned receipt # \_\_\_\_\_ requested [ ] by regular mail

[ ] Attached is a credible fear worksheet.

[X] Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused To Sign

(Signature of Respondent if Personally Served)

P0131 MARGEOTES - Deportation Officer (Signature and Title of officer)

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**Authority:**

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

**Purpose:**

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

**Routine Uses:**

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

**Disclosure:**

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

Alien's Name ARRIAGA MIRANDA, ISMAEL	File Number <del>XXXXXXXXXX</del> Event No: <del>XXXXXXXXXX</del>	Date 11/27/2025
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THE SERVICE ALLEGES THAT YOU:

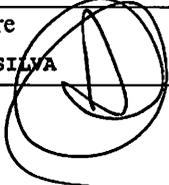
Immigration and Nationality Act; and/or

6. You are an immigrant not in possession of a valid unexpired passport, or other suitable travel document, or document of identity and nationality.

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature P6698 SILVA 	Title SDDO
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