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Counsel for Petitioner
Brigido Rodriguez Miralrio

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BRIGIDO RODRIGUEZ MIRALRIO,

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Pamela BONDI, U.S. Attorney
General; Todd LYONS, Acting Director,
Immigration and Customs Enforcement; Gregory J.
ARCHAMBEAULT, Director, San Diego Field
Office, Immigration and Customs, CHRISTOPHER
J. LAROSE, Senior Warden, Otay Mesa Detention
Center; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; IMMIGRATION
AND CUSTOMS ENFORCEMENT; and U.S.
DEPARTMENT OF HOMELAND SECURITY,

Respondents.

Case No. '25CV3723 AGS B JW

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241; VERIFIED
PETITION**

PETITIONER'S A NO 

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I. INTRODUCTION

1. Petitioner, Brigido Rodriguez Miralrio, by and through undersigned counsel, respectfully files this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with a Complaint for Declaratory and Injunctive Relief.

Petitioner seeks immediate relief from his continued and unlawful detention by the U.S. Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”) at the Otay Mesa Detention Center, where he has been detained since November 19, 2025. (*See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)).

2. Mr. Rodriguez Miralrio is a long-term resident of the United States who has been continuously present since his entry without inspection in 2002. He is the father of three U.S. citizen children, ages 28, 25, and 18, with whom he maintains strong family ties and ongoing financial and emotional support. He has a pending VAWA self-petition and previously held employment authorization and a Social Security number. Although he has a single DUI conviction from 2022, he has no history of violent offenses and poses neither a danger to the community nor a flight risk. He is currently in removal proceedings under INA § 240 and has multiple avenues of relief available to him under U.S. immigration law. (*See 8 U.S.C. §§ 1229a, 1229b; Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)).

3. Despite his lengthy residence, substantial family ties, pending immigration relief, and eligibility for release, DHS continues to detain Mr. Rodriguez Miralrio

1 without affording him a meaningful bond hearing, asserting that he is subject to
2 mandatory detention. This position is legally erroneous. Courts have repeatedly
3 held that noncitizens who entered without inspection, were not apprehended at the
4 time of entry, and are not detained under INA §§ 235(b), 236(c), or 1231, are
5 instead detained pursuant to INA § 236(a) and are entitled to an individualized
6 bond hearing. (*See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202–03 (9th Cir.
7 2022); *Velasco Lopez v. Decker*, 978 F.3d 842, 852 (2d Cir. 2020)). Mr.
8 Rodriguez Miralrio squarely falls within this category, rendering his continued
9 detention without bond unlawful and in violation of his statutory and
10 constitutional due process rights. (*See Demore v. Kim*, 538 U.S. 510, 531 (2003);
11 *Zadvydas*, 533 U.S. at 690). Accordingly, this Court’s intervention is necessary to
12 remedy the ongoing deprivation of his liberty.
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15 II. JURISDICTION

- 16
- 17 4. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner Brigido
18 Rodriguez Miralrio is currently in custody under color of the authority of the
19 United States, and he seeks relief on the ground that his detention violates the
20 Constitution and laws of the United States. (*See Boumediene v. Bush*, 553 U.S.
21 723, 771 (2008); *Singh v. Holder*, 638 F.3d 1196, 1201 (9th Cir. 2011)). Habeas
22 corpus is the proper vehicle to challenge unlawful immigration detention, as
23 consistently recognized by federal courts. (*See Zadvydas*, 533 U.S. at 687;
24 *Demore*, 538 U.S. at 516–17).
- 25
- 26 5. Neither 8 U.S.C. § 1252(g) nor any other provision of the Immigration and
27 Nationality Act strips this Court of jurisdiction over this action. Petitioner does
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1 not challenge any decision to commence removal proceedings, adjudicate his
2 case, or execute a removal order. Rather, he challenges the lawfulness of his
3 continued detention and the government’s failure to provide him with a
4 constitutionally adequate bond hearing. Courts have repeatedly held that such
5 detention-related claims fall squarely within this Court’s habeas jurisdiction and
6 are not barred by § 1252. (*See Jennings, 583 U.S. at 292; Nielsen v. Preap, 586*
7 *U.S. 392, 414 (2019)*). Accordingly, this Court has authority to adjudicate Mr.
8 Rodriguez Miralrio’s habeas petition and grant appropriate relief.
9
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11 **III. VENUE**

- 12 6. Venue is proper in the United States District Court for the Southern District of
13 California pursuant to 28 U.S.C. § 1391(e), because Respondents are officers and
14 employees of the United States and the events giving rise to the claims occurred
15 in this district;
16
17 7. Venue is also proper under *Braden v. 30th Judicial Circuit Court of Kentucky*,
18 410 U.S. 484, 493–500 (1973), because Petitioner Brigido Rodriguez Miralrio is
19 currently detained within this District at the Otay Mesa Detention Center in Otay
20 Mesa, California.

21 **IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

- 22 8. Under 28 U.S.C. § 2241, federal courts are authorized to entertain petitions for a
23 writ of habeas corpus from individuals who are “in custody” under federal
24 authority in violation of the Constitution, laws, or treaties of the United States.
25 (*See Zadvydas, 533 U.S. at 687*).
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1 9. Petitioner Brigido Rodriguez Miralrio satisfies these requirements. He is currently
2 in federal immigration custody, and he alleges that his continued detention is not
3 authorized by statute and violates his constitutional right to due process. (*See*
4 *Jennings, 583 U.S. at 292*). Because Petitioner contends that he is being
5 unlawfully restrained under federal law, this Court’s habeas jurisdiction is
6 properly invoked.
7

8 10. 28 U.S.C. § 2243 requires that courts act expeditiously upon receipt of a habeas
9 petition.
10

11 11. The statute provides that the court “shall forthwith award the writ or issue an
12 order directing the respondent to show cause why the writ should not be granted,
13 unless it appears from the application that the applicant or person detained is not
14 entitled thereto.” (*See Allen v. Duckworth, 6 F.3d 458, 460 (7th Cir. 1993)*)
15

16 12. Once such an order issues, the custodian must respond within three days unless
17 additional time is granted for good cause. These provisions reflect Congress’s
18 clear intent that habeas petitions, particularly those challenging unlawful
19 detention, receive prompt judicial review. (*See Boumediene, 553 U.S. at 783*).
20

21 13. Petitioner has alleged a prima facie entitlement to relief, including unlawful
22 detention without a bond hearing under an incorrect legal standard, thereby
23 triggering the Court’s duty to act swiftly.

24 14. Here, Petitioner is in custody under color of federal immigration law and
25 challenges that custody on both statutory and constitutional grounds. Nothing on
26 the face of this Petition suggests that he is not entitled to relief; to the contrary, his
27 claims are substantial and legally sound. (*See Singh, 638 F.3d at 1203*).
28

1 Accordingly, pursuant to § 2243, the Court should promptly issue an order to
2 show cause and require Respondents to justify the legality of Petitioner's
3 continued detention.
4

5 15. The summary nature of habeas corpus and the protections embodied in the
6 Suspension Clause demand immediate judicial intervention where, as here, an
7 individual's liberty is restrained without lawful authority. (*See Boumediene*, 553
8 *U.S. at 746*).

9
10 **V. PARTIES**

11 16. Petitioner Brigido Rodriguez Miralrio is a citizen of Mexico who entered the
12 United States without inspection in 2002 and has resided continuously in the
13 United States since that time. He is currently detained at the Otay Mesa Detention
14 Center in San Diego, California. Mr. Rodriguez Miralrio is the father of three U.S.
15 citizen children, ages 28, 25, and 18, with whom he maintains strong family and
16 financial ties. He has a pending VAWA self-petition, and previously held
17 employment authorization and a Social Security number. Although he has a single
18 DUI conviction from 2022, he has no history of violent offenses. He is presently
19 in removal proceedings under INA § 240 and appears prima facie eligible for
20 relief from removal, including relief under VAWA, making his continued
21 detention without a bond hearing unlawful.
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24 **VI. RESPONDENTS**

25 17. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention
26 Center and has immediate physical custody over Petitioner. As the local
27 custodian, the Warden is responsible for the day-to-day administration of the
28

1 detention facility where Petitioner is held. The Warden is sued in his/her official
2 capacity as a representative of the entity exercising direct custody over Petitioner.

3
4 18. Respondent GREGORY J. ARCHAMBEAULT is the Director of the San Diego
5 Field Office, which has jurisdiction over immigration enforcement and detention
6 operations in this region (including at the Imperial Regional Detention Facility).

7 This Respondent has supervisory authority over Petitioner's custody and
8 detention conditions. He is sued in his official capacity.

9
10 19. Respondent KRISTI NOEM, in her official capacity as the Secretary of the
11 Department of Homeland Security, is the highest-ranking official in DHS. She has
12 ultimate authority over ICE and the enforcement of immigration laws, including
13 detention policy. DHS, under Respondent Noem's direction, is responsible for the
14 decision to continue Petitioner's detention and to designate him as subject to
15 mandatory custody. She is sued in her official capacity.

16
17 20. Respondent PAMELA BONDI, in her official capacity as the Attorney General of
18 the United States, oversees the U.S. Department of Justice, which includes the
19 Executive Office for Immigration Review (EOIR). EOIR encompasses the
20 nation's Immigration Courts and the Board of Immigration Appeals (BIA). The
21 Attorney General has ultimate authority over immigration court procedures,
22 including the availability of bond hearings and the interpretation of detention
23 statutes through precedent decisions. Respondent Bondi is sued in her official
24 capacity.

25
26 21. Respondent EOIR (Executive Office for Immigration Review) is a component of
27 the U.S. Department of Justice responsible for adjudicating immigration
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1 proceedings. EOIR includes the Immigration Judges who conduct removal and
2 bond proceedings, as well as the BIA which issues appellate administrative
3 decisions. EOIR is sued as a Respondent because it is responsible for
4 administering the bond hearing process (or lack thereof) at issue in this case.
5 EOIR has failed to provide Petitioner a custody redetermination process, and
6 Petitioner seeks relief to compel EOIR to perform its duty to afford him a bond
7 hearing under the correct legal standards.
8

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10 **VII. LEGAL FRAMEWORK**

11 22. Federal immigration law authorizes the detention of noncitizens under several
12 distinct statutory provisions, depending on the individual's posture at the time of
13 apprehension and the stage of removal proceedings. Proper classification under
14 these detention statutes is critical, because it determines whether a noncitizen is
15 eligible for release on bond or is subject to mandatory detention without bond.
16

17 23. The Immigration and Nationality Act ("INA") draws a fundamental distinction
18 between discretionary detention under INA § 236(a) and mandatory detention
19 under narrowly defined provisions such as INA §§ 236(c), 235(b), and 241(a).
20 See *Jennings v. Rodriguez*, 583 U.S. 281, 288–90 (2018); *Demore v. Kim*, 538
21 U.S. 510, 521–22 (2003).
22

23 **A. INA § 236(a) (8 U.S.C. § 1226(a)), Discretionary Detention with Bond**

24 **Eligibility**

25 24. INA § 236(a) is the default detention authority for noncitizens who are already
26 present in the United States and are placed in removal proceedings under INA §
27 240. It provides that the Attorney General (now the Secretary of DHS by
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delegation) “may” arrest and detain a noncitizen pending a decision on removal and “may release” the noncitizen on bond or conditional parole, except as provided in subsection (c). 8 U.S.C. § 1226(a).

25. Unless a specific mandatory detention provision applies, detention under § 236(a) carries with it the right to seek an individualized bond hearing before an Immigration Judge. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 988–90 (9th Cir. 2017).

26. Section 236(a) governs the detention of the vast majority of noncitizens in removal proceedings, including long-term residents who entered without inspection but were not apprehended at the border and were later arrested in the interior of the United States. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202–03 (9th Cir. 2022).

B. INA § 236(c) (8 U.S.C. § 1226(c)), Mandatory Detention for Certain Criminal or Terrorism Grounds

27. INA § 236(c) creates a limited exception to bond eligibility for a narrow class of noncitizens with specified criminal convictions or terrorism-related grounds. See 8 U.S.C. § 1226(c)(1).

28. Mandatory detention under § 236(c) applies only to those individuals who fall squarely within the enumerated statutory categories.

29. The Supreme Court upheld the constitutionality of § 236(c) in *Demore v. Kim*, but emphasized that such detention was intended to be brief and applied only to a limited group of noncitizens with serious criminal histories. 538 U.S. at 529–31.

1 30. Mr. Rodriguez Miralrio does not fall within § 236(c). He has a single
2 misdemeanor DUI offense from 2022, which does not trigger mandatory
3 detention under § 236(c) and does not render him ineligible for bond. See *Preap*,
4 586 U.S. 392, 407–08 (2019); *Singh*, 638 F.3d at 1203.

6 **C. INA § 235(b) (8 U.S.C. § 1225(b)), Mandatory Detention of “Applicants for
7 Admission”**

8 31. INA § 235(b) governs the treatment of “applicants for admission,” a term
9 historically reserved for individuals at the threshold of entry, those presenting
10 themselves at a port of entry or apprehended at or near the border while
11 attempting to enter without inspection. See 8 U.S.C. § 1225(a)(1); *Jennings*, 583
12 U.S. at 289. Under § 235(b), if an applicant for admission is not “clearly and
13 beyond a doubt” entitled to admission, the statute provides that the individual
14 “shall be detained” during removal proceedings. 8 U.S.C. § 1225(b)(2)(A).
15

16 32. Section 235(b)(1) applies to expedited removal for certain recent entrants or
17 individuals with fraudulent documents, while § 235(b)(2) functions as a catch-all
18 provision for other arriving aliens. Critically, Congress intended § 235(b) to apply
19 to individuals encountered in the immediate context of entry, not to long-term
20 residents apprehended years after entering the United States. See *Torres v. Barr*,
21 976 F.3d 918, 934 (9th Cir. 2020); *Orozco v. Garland*, 60 F.4th 684, 695 (9th Cir.
22 2023).
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25 **D. INA § 241(a) (8 U.S.C. § 1231), Post-Final Order Detention**

26 33. INA § 241(a) governs detention after a noncitizen has been ordered removed. It
27 mandates detention during a 90-day removal period and permits continued
28

1 detention in limited circumstances thereafter. See *Zadvydas v. Davis*, 533 U.S.
2 678, 689–92 (2001).

3
4 34. Section 241(a) does not apply here because Mr. Rodriguez Miralrio does not have
5 a final order of removal and remains in pending § 240 proceedings.

6 **E. Application of the Statutory Framework to Mr. Rodriguez Miralrio**

7 35. The dispositive legal question in this case is whether Mr. Rodriguez Miralrio’s
8 detention is governed by INA § 236(a) or INA § 235(b). The government
9 contends that he is an “applicant for admission” subject to mandatory detention
10 under § 235(b) solely because he entered without inspection in 2002. That
11 position misreads the statutory scheme and has been repeatedly rejected by
12 federal courts.
13

14 36. Mr. Rodriguez Miralrio entered the United States more than two decades ago, was
15 not apprehended at the border, and was arrested in the interior of the country
16 during a routine enforcement action. He was placed in removal proceedings under
17 INA § 240, the statutory mechanism used for individuals already present in the
18 United States. See *Jennings*, 583 U.S. at 289–90. As such, he is properly detained,
19 if at all, under INA § 236(a).
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21 37. Federal courts in the Southern District of California have uniformly rejected the
22 government’s attempt to apply § 1225(b)(2)(A) to long-term interior residents like
23 Mr. Rodriguez Miralrio. See, e.g.:

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- 25 • *Beltran v. Noem*, No. 25-cv-2650-LL, 2025 WL 3078837, at *5 (S.D. Cal. Nov. 4,
26 2025) (“The plain text of § 1225(b)(2) does not support applying it to noncitizens
27 who have been residing in the United States for years.”);
28

- 1 • *Lopez v. Warden, Otay Mesa Det. Ctr.*, No. 25-CV-2527-RSH-SBC, 2025 WL
- 2 3005346, at *4 (S.D. Cal. Oct. 27, 2025);
- 3 • *Esquivel-Ipina v. LaRose*, No. 25-CV-2672-JLS-BLM, 2025 WL 2998361, at *5
- 4 (S.D. Cal. Oct. 24, 2025);
- 5 • *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *6
- 6 (S.D. Cal. Oct. 30, 2025);
- 7 • *Garcia v. Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431, at *8 (S.D.
- 8 Cal. Sept. 3, 2025).
- 9

10 38. In *Maldonado Bautista v. Santacruz*, the Central District of California confronted

11 this precise issue and rejected DHS’s attempt to categorically deny bond hearings

12 to noncitizens who entered without inspection but were living in the United States

13 prior to apprehension. The court held that such individuals are detained under

14 INA § 236(a), not § 235(b), and are therefore entitled to seek bond before an

15 Immigration Judge.

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18 39. The court certified a nationwide Bond Eligible Class defined as:

19 40. “All noncitizens in the United States without lawful status who (1) have entered

20 or will enter the United States without inspection, (2) were not or will not be

21 apprehended upon arrival, and (3) are not or will not be subject to detention under

22 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time DHS makes an initial

23 custody determination.”

24

25 41. The court extended declaratory relief to the class, expressly holding that DHS’s

26 July 2025 no-bond policy was unlawful as applied to class members and

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28

1 inconsistent with the INA's text and structure. See *Califano v. Yamasaki*, 442
2 U.S. 682, 702 (1979); *Bresgal v. Brock*, 843 F.2d 1163, 1170–71 (9th Cir. 1987).

3
4 42. Mr. Rodriguez Miralrio falls squarely within the Bond Eligible Class. He entered
5 without inspection in 2002, was not apprehended at entry, is not subject to §
6 236(c), § 235(b)(1), or § 1231, and was placed in § 240 proceedings after interior
7 arrest. Accordingly, as a matter of federal law, his detention is governed by INA §
8 236(a), and he is entitled to an individualized bond hearing.

9
10 43. Respondents' refusal to provide such a hearing is contrary to the INA, binding
11 declaratory relief, and long-standing immigration practice. This Court should
12 therefore apply the correct statutory framework, recognize Mr. Rodriguez
13 Miralrio's bond eligibility, and grant relief to remedy his unlawful detention.

14 **VIII. FACTS**

15
16 44. Petitioner entered the United States without inspection more than twenty years ago
17 and has re, Mr. Rodriguez Miralrio remained continuously present in the country
18 since that time.

19
20 45. During his decades-long residence in the United States, Mr. Rodriguez Miralrio has
21 built a stable life rooted in family, work, and community. He has three U.S. born
22 daughter who are 28, 25 and 18 years old.

23
24 46. In addition, Mr. Rodriguez Miralrio intends to seek cancellation of removal under
25 INA § 240A(b) in his removal proceedings.

26
27 47. He appears prima facie eligible for this relief: he has far more than ten years of
28 continuous physical presence, has demonstrated good moral character through the
despite having a misdemeanor DUI conviction and consistent tax compliance, and

1 his removal would result in exceptional and extremely unusual hardship to his U.S.
2 family.

3 48. These pending forms of relief demonstrate that Mr. Rodriguez Miralrio has viable
4 pathways to lawful status and strong incentives to appear at all future hearings.

5 49. Mr. Rodriguez Miralrio has deep ties to his community. He has filed income tax
6 returns for many years, maintained steady employment prior to detention, and is
7 widely regarded as dependable and hardworking by those who know him. Family
8 members, friends, and community leaders have provided letters attesting to Mr.
9 Rodriguez Miralrio's integrity, responsibility, and the emotional and financial
10 support he provides to his loved ones.
11

12 50. He poses no danger to the community and presents no flight risk. All traditional
13 bond factors weigh heavily in favor of his release.
14

15 51. Despite his long-standing residence and exemplary record, Mr. Rodriguez Miralrio
16 was arrested by ICE in or around November 2025, during a routine interior
17 enforcement action unrelated to any border activity.
18

19 52. He was subsequently placed in removal proceedings under INA § 240. ICE has
20 taken the position that Mr. Rodriguez Miralrio is categorically ineligible for bond
21 hearing.
22

23 53. ICE declined to set a bond, on the ground that Mr. Rodriguez Miralrio is an
24 "arriving alien" subject to mandatory detention under INA § 235(b). Under this
25 unprecedented interpretation, the government asserts that Mr. Rodriguez Miralrio
26 must remain detained for the duration of his removal proceedings solely because he
27
28

1 entered the United States without inspection, regardless of the passage of decades
2 or his strong equities.

3
4 54. Historically, individuals in Mr. Rodriguez Miralrio's circumstances were detained,
5 if at all, under INA § 236(a), which expressly permits release on bond. This drastic
6 shift stems from a July 2025 ICE policy memorandum instructing that all
7 individuals who entered without inspection are ineligible for bond and barred from
8 seeking a bond hearing, regardless of length of residence or community ties.

9
10 55. The Board of Immigration Appeals subsequently adopted this interpretation in
11 Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), concluding that
12 immigration judges lack authority to grant bond to any person who entered without
13 inspection.

14
15 56. As a result, long-term residents like Mr. Rodriguez Miralrio are subjected to
16 prolonged detention with release possible only through discretionary parole, which
17 DHS has not offered in this case.

18
19 57. This blanket no-bond policy has already been challenged and rejected by federal
20 courts as unlawful.

21
22 58. In *Maldonado Bautista v. Santacruz*, the Central District of California addressed
23 this precise issue, involving a class of detainees indistinguishable from Mr.
24 Rodriguez Miralrio. The court held that individuals who entered without inspection
25 but were living in the interior of the United States are detained under INA § 236(a),
26 not § 235(b), and are therefore entitled to seek bond before an immigration judge.

27
28 59. The court issued a declaratory judgment invalidating DHS's July 2025 no-bond
policy. Numerous federal courts have likewise rejected the government's position,

- 1 and the continued detention of individuals under that policy lacks lawful
- 2 justification.
- 3 60. Mr. Rodriguez Miralrio squarely falls within the Bond Eligible Class defined in
- 4 Maldonado Bautista. He entered without inspection decades ago, was not
- 5 apprehended at or near the border, and is not subject to detention under INA §§
- 6 236(c), 235(b)(1), or 1231.
- 7
- 8 61. Nevertheless, Respondents have failed to provide Mr. Rodriguez Miralrio with a
- 9 bond hearing as required by law.
- 10
- 11 62. He remains detained, separated from his family and suffering ongoing harm.
- 12 63. Each additional day of detention inflicts irreparable injury and underscores the
- 13 urgent need for this Court’s intervention.

14 **IX. FIRST CLAIM FOR RELIEF**

15 **Mr. Rodriguez Miralrio’s Detention is in Violation of 8 U.S.C. § 1226(a)**

- 16
- 17 64. Mr. Rodriguez Miralrio’s Detention is in Violation of 8 U.S.C. § 1226(a)
- 18 Petitioner incorporates by reference the allegations of fact set forth in the
- 19 preceding paragraphs:
- 20 65. Section 1225(b)(2)’s mandatory detention provisions do not apply to Mr.
- 21 Rodriguez Miralrio because he has been continuously present and residing in the
- 22 United States for over two decades. Section 1225(b)(2) applies only to individuals
- 23 who are “applicants for admission” at the time of apprehension, not to long-term
- 24 residents who entered without inspection and were living in the U.S. prior to
- 25 detention.
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1 66. As a long-term resident, Mr. Rodriguez Miralrio is properly detained under
2 Section 1226(a), which permits release on bond unless Section 1226(c) or Section
3 1231 govern, neither of which apply here. Mr. Rodriguez Miralrio’s continued
4 detention without a bond hearing is therefore unlawful and directly contravenes
5 the statutory framework, including the plain language and intent of Section
6 1226(a).

7
8 67. Courts have consistently held that § 1225(b)(2) applies only at or near the time of
9 entry and not to individuals apprehended in the interior. (See *Orozco v. Garland*,
10 60 F.4th 684, 695 (9th Cir. 2023); *Mendoza v. Sessions*, 891 F.3d 672, 678 (7th
11 Cir. 2018)).

12
13 **X. SECOND CLAIM FOR RELIEF**

14 **Violation of the Administrative Procedure Act (APA) (5 U.S.C. § 706 – Agency Action**
15 **Not in Accordance with Law, in Excess of Authority, and Arbitrary and Capricious)**

16
17 68. Petitioner incorporates by reference all preceding paragraphs as if set forth fully
18 herein: Under the Administrative Procedure Act, a court must “hold unlawful and
19 set aside agency action” that is arbitrary and capricious, an abuse of discretion, or
20 otherwise not in accordance with law, that is contrary to constitutional right or
21 power, or is in excess of statutory jurisdiction, authority, or limitations. 5 U.S.C. §
22 706(2)(A)–(C).

23
24 69. Mr. Rodriguez Miralrio’s detention under Section 1225(b)(2) is arbitrary and
25 capricious, exceeds the agency’s statutory authority, and is not in accordance with
26 the law. It violates the INA and Mr. Rodriguez Miralrio’s Fifth Amendment right
27 to due process.
28

1 70. Agency reinterpretations that contradict the INA’s text and long-standing practice
2 violate the APA. (See *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16–17
3 (2020); *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 105 (2015)
4

5 71. Accordingly, Respondents’ actions contravene 5 U.S.C. § 706(2) and should be
6 set aside as unlawful agency action.

7 **XI. THIRD CLAIM FOR RELIEF**

8 **Violation of the Fifth Amendment (Due Process Clause)**

9 **(Unconstitutional Prolonged Detention Without Individualized Hearing)**

10 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

11 72. The Fifth Amendment guarantees that no person shall be deprived of liberty
12 without due process of law, a protection extended to all persons on U.S. soil,
13 including noncitizens like Mr. Rodriguez Miralrio.
14

15 73. Due process has both procedural and substantive components, both of which
16 Respondents have violated. By detaining Mr. Rodriguez Miralrio for a prolonged
17 period with no opportunity to contest his confinement, Respondents have
18 deprived him of liberty arbitrarily and without the fundamental safeguard of a
19 hearing.
20

21 74. Procedural Due Process: At minimum, due process requires fair procedures before
22 depriving an individual of liberty, including the opportunity to be heard at a
23 meaningful time and in a meaningful manner.
24

25 75. Mr. Rodriguez Miralrio has been confined without any hearing before a neutral
26 adjudicator to challenge the necessity of his detention, a complete denial of
27 process in violation of the Fifth Amendment.
28

- 1 76. Courts have recognized that pretrial or preventive detention must be carefully
2 limited and include robust procedural protections; no comparable protections have
3 been afforded here.
- 4
5 77. Applying the *Mathews v. Eldridge* factors, (1) Mr. Rodriguez Miralrio's private
6 interest in liberty is substantial; (2) the risk of erroneous deprivation is high due to
7 the lack of any hearing; and (3) the government's interest can be protected
8 through bond hearings, which impose minimal administrative burden.
- 9
10 78. The government's blanket denial of any process tilts the balance entirely against
11 Mr. Rodriguez Miralrio's liberty without justification.
- 12
13 79. Substantive Due Process: The Fifth Amendment also protects against arbitrary
14 governmental actions. Freedom from detention is a fundamental liberty interest,
15 and civil immigration detention must bear a reasonable relation to the purposes
16 for which it is imposed.
- 17
18 80. Mr. Rodriguez Miralrio's prolonged detention without individualized findings is
19 excessive and bears no reasonable relation to any legitimate purpose, particularly
20 given his lack of criminal history and strong community ties.
- 21
22 81. Detention based solely on a general category (entry without inspection) is
23 arbitrary and fails to account for individual circumstances.
- 24
25 82. Principles from *Zadvydas v. Davis*, 533 U.S. 678 (2001), demonstrate that civil
26 detention becomes constitutionally suspect when prolonged without justification;
27 similarly, lower courts have recognized the necessity of bond hearings after
28 extended pre-removal detention.

1 83. Here, Mr. Rodriguez Miralrio has been denied any individualized assessment,
2 rendering his detention both arbitrary and substantively unreasonable, in violation
3 of the Fifth Amendment. While due process does not guarantee release, it
4 guarantees a fair opportunity to contest detention.
5

6 84. By denying Mr. Rodriguez Miralrio that opportunity, Respondents have violated
7 constitutional requirements.

8 85. Mr. Rodriguez Miralrio’s continued incarceration without a bond hearing deprives
9 him of liberty without due process of law, and this Court should declare such
10 detention unconstitutional and order appropriate relief, including immediate
11 release or a prompt bond hearing.
12

13 **XII. FOURTH CLAIM FOR RELIEF**

14 **Mr. Rodriguez Miralrio’s Detention Falls Under the *Maldonado Bautista* “Bond**
15 **Eligible Class” Certification and DHS’s Interpretation of Section 1225(b)(2) As**
16 **Applied to Brigido is Unlawful**

17 Petitioners incorporate by reference all preceding paragraphs as if set forth fully herein.

18 86. Mr. Rodriguez Miralrio is a member of the certified Bond Eligible Class in
19 *Maldonado Bautista v. Santacruz*.

20 87. The continued denial of any bond hearing to Mr. Rodriguez Miralrio is in direct
21 violation of the declaratory judgment and class-wide relief issued by the U.S.
22 District Court in that case.
23

24 88. The *Maldonado Bautista* court explicitly declared that DHS’s policy of subjecting
25 class members to mandatory detention under INA § 235(b) is unlawful, and it held
26 that class members must be treated as detained under INA § 236(a) (8 U.S.C. §
27 1226(a)).
28

- 1 89. This means that Mr. Rodriguez Miralrio is legally entitled to a custody
2 redetermination (bond) hearing before an Immigration Judge. By refusing to
3 provide such a hearing and continuing to detain him as if § 235(b) applied,
4 Respondents are violating a binding federal judgment.
5
- 6 90. The Central District of California’s decision in Maldonado Bautista constitutes a
7 nationwide declaratory judgment binding DHS, EOIR, and their officers, including
8 Respondents here, with respect to all class members.
9
- 10 91. Respondents Noem and Bondi, in their capacities as DHS Secretary and U.S.
11 Attorney General, are fully aware of the outcome. They have no lawful basis to
12 ignore the court’s declaration.
13
- 14 92. The judgment has effectively determined Mr. Rodriguez Miralrio’s rights; he must
15 be afforded a bond hearing under § 236(a).
16
- 17 93. Continuing to detain Mr. Rodriguez Miralrio without a bond hearing not only
18 violates the INA as construed by the court, but also undermines the rule of law and
19 the authority of a federal court judgment.
20
- 21 94. The Maldonado Bautista court found that the government’s no-bond policy was
22 inconsistent with the INA’s text and structure. It granted summary judgment to the
23 class representatives, then extended that relief to the class.
24
- 25 95. By detaining Mr. Rodriguez Miralrio without bond, Respondents are treating him in
26 a manner that the court has declared unlawful. Each day of such detention
27 constitutes a continuing legal violation.
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96. Under the principle of res judicata and class action relief, Respondents cannot
relitigate or disregard these determinations; they are obliged to comply.

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97. Accordingly, Mr. Rodriguez Miralrio asks this Court to enforce the declaratory relief from Maldonado Bautista.

98. This Court should declare that Mr. Rodriguez Miralrio’s designation as an INA § 235(b) detainee is incorrect and unlawful, and that he is entitled to a bond hearing as a matter of law.

99. The Court should order Respondents to promptly provide Mr. Rodriguez Miralrio a bond hearing in compliance with the Maldonado Bautista judgment, or alternatively, order his immediate release.

100. Habeas corpus relief is warranted because Mr. Rodriguez Miralrio is “in custody in violation of the laws of the United States,” specifically in violation of the INA as authoritatively interpreted by the District Court.

XIII. FIFTH CLAIM FOR RELIEF

Mr. Rodriguez Miralrio’s Detention is in Violation of DHS and EOIR Bond Regulations

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein.

101. In 1997, Congress amended the INA through the IIRIRA. EOIR and the then-Immigration and Naturalization Service issued guidance interpreting and applying IIRIRA. Specifically, under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323. This guidance clearly establishes that individuals who entered without inspection but are

1 long-term residents are eligible for consideration for bond and bond hearings before
2 immigration judges under § 1226(a) and its implementing regulations.

3
4 102. Notwithstanding this guidance, EOIR has adopted a policy, as reflected in
5 Matter of Yajure Hurtado, applying § 1225(b)(2) to individuals like Mr. Rodriguez
6 Miralrio.

7 103. This policy is inconsistent with the INA, the IIRIRA framework, and
8 applicable EOIR regulations (8 C.F.R. §§ 236.1, 1236.1, 1003.19).

9
10 104. By continuing to detain Mr. Rodriguez Miralrio without providing a bond
11 hearing, Respondents are violating both the INA and the implementing regulations.

12 105. Their actions are arbitrary, capricious, contrary to law, and exceed their
13 statutory authority. Mr. Rodriguez Miralrio is entitled to a bond hearing before an
14 Immigration Judge in accordance with § 1226(a) and the applicable EOIR
15 regulations.

16
17 106. Respondents' failure to provide such a hearing constitutes ongoing,
18 unlawful detention, justifying relief from this Court.

19 **XIV. PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 21 a. Assume jurisdiction over this Petition, as this matter falls squarely within the
22 Court's habeas corpus and federal question jurisdiction.
23
24 b. Declare that Petitioner's detention under INA § 235(b) is unlawful. In particular,
25 Petitioner seeks a declaratory judgment that he is not properly classified as an
26 "applicant for admission" subject to mandatory detention, and that the continued
27 denial of a bond hearing violates the Immigration and Nationality Act, the
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Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

- c. Issue an Order to Show Cause, requiring Respondents to show cause within three days why this Petition should not be granted.
- d. Declare that Petitioner is entitled to a custody redetermination hearing under INA § 236(a). This declaration should make clear that Petitioner must be treated as a § 236(a) detainee and afforded a prompt individualized hearing where the government must justify his continued detention by clear and convincing evidence of flight risk or danger, and where conditions of release (including bond or other appropriate conditions) can be considered.
- e. Issue a Writ of Habeas Corpus or Order directing Respondents to remedy Petitioner’s unlawful detention, specifically by:
 - Immediately releasing Petitioner from custody under reasonable conditions of supervision (such as reporting to ICE or posting a reasonable bond) as an interim measure while removal proceedings are pending; OR
 - In the alternative, if the Court elects not to order outright release, ordering Respondents to provide Petitioner with a constitutionally adequate custody redetermination hearing before an Immigration Judge within seven (7) days of the Court’s Order. Such a hearing should comply with due process, including placing the burden on DHS to prove by clear and convincing evidence that Petitioner’s continued detention is necessary because he poses a flight risk or danger, in light of his strong equities. If the Immigration

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Judge does not issue a bond decision within that timeframe, the Court should require Petitioner's immediate release.

- f. Enjoin Respondents from transferring Petitioner outside the jurisdiction of the Southern District of California during the pendency of this action. Such an injunction is necessary to preserve the Court's jurisdiction and prevent Respondents from frustrating Petitioner's ability to seek relief (for example, by moving him to a distant facility or attempting to moot the petition).
- g. Award attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other applicable law, if Petitioner prevails. Respondents' positions lack substantial justification, and Petitioner has been forced to seek court intervention at considerable expense. An award of fees and costs is justified in the interests of justice.
- h. Declare that Mr. Rodriguez Miralrio's detention is governed by 8 U.S.C. § 1226(a) and that his detention under 8 U.S.C. § 1225(b)(2) is unlawful.
- i. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted on:

Dated: December 22, 2025

/s/ Daniel S. Castaneda
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: December 22, 2025

/s/ Daniel S. Castaneda
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