

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Radai Inocencio Inocencio,)	
Plaintiff)	
)	
vs.)	PETITION FOR WRIT OF
)	HABEAS CORPUS
Warden, FLORIDA SOFT SIDE)	
SOUTH;)	
)	
Miami Field Office Director,)	
Enforcement and Removal Operations,)	
IMMIGRATION AND CUSTOMS)	
ENFORCEMENT;)	
)	
Pamela Bondi, ATTORNEY GENERAL;)	
)	
AND)	
)	
Kristi Noem, SECREATRY OF THE)	
DEPARTMENT OF HOMELAND)	
SECURITY)	
Defendant.)	

INTRODUCTION

1. Petitioner Radai Inocencio Inocencio brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Clas certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Mr. Inocencio Inocencio is a native and citizen of Mexico who first entered the United States without inspection nearly twenty-five years ago. He is the father of a seventeen year old US Citizen child. The Petitioner, who was driving with a valid license, was stopped by Florida Highway Patrol on or about December 21, 2025. The Petition was detained despite having a pending asylum application with USCIS and transferred to

the custody of ICE. Petitioner is in the physical custody of the Respondents at the Florida Soft Side South facility. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the final judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. 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).
3. 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.
4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

5. On December 18, 2025, the Court entered a final judgement on behalf of the certified class and declared DHS' position in regards to mandatory detention unlawful for the class members.
6. Petitioner Radai Inocencio Inocencio 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 Florida Soft Side South Facility. He was apprehended by immigration authorities on or about December 21, 2025;
 - b. entered the United States without inspection nearly twenty-five 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.
7. After apprehending Petitioner on December 21, 2025, DHS is detaining him for 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.
8. Respondents are bound by the judgment in *Maldonado Bautista*. Nevertheless, Respondents continue to flagrantly 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.
9. 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).

10. Because Respondents are detaining Petitioner in violation of the final judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.
11. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, §9, cl 2 of the United States Constitution (Suspension Clause).
13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Venue is proper because the Petitioner is detained at the Florida Soft Side South, 54575 Tamiami Trail E, Ochopee, FL 34141 which is within this District. *See Exhibit A.*
15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees, officers, and agents of the United States and the detention which gave rise to this claim is ongoing in the district.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

17. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved many times in this jurisdiction. Additionally, the legal issues have also been addressed in the Central District of California which certified a nationwide class related to the exact issue at hand. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM.
18. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

19. Petitioner Radai Inocencio Inocencio is a citizen of Mexico who has been in immigration detention since on or about December 21, 2025. After Petitioner was arrested driving to Homestead, Florida from the Florida Keys, ICE declined to set bond and is of the position that the Petitioner is subject to mandatory detention. Petitioner has resided in the United States since 2001.
20. Respondent Warden, Florida Soft Side South is employed as the Warden of the Florida Soft Side South Facility where the Petition is detained. He has immediate physical custody of the Petitioner. He is sued in his official capacity.
21. Respondent Miami Field Office Director is the Director of the Miami Field Office of ICE’s Enforcement and Removal Operations division. As such, the Miami Field Office

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

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

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

CLAIM FOR RELIEF

Violation of the INA:

24. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
25. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
26. 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.
27. 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.”
28. Respondents are parties to Maldonado Bautista and bound by the Court's final judgment.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Alternatively, issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 24th day of December 2025.

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's wife. I am aware of the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: December 24, 2025



Erika Luna