

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Omar GOMEZ,)
(Agency No. A ))

Petitioner,)

vs.)

CIVIL ACTION FILE

Jason STREEVAL, Warden, Stewart)
Detention Center;)

Ladeon FRANCIS, Field Office)
Director of Atlanta for The U.S.)

Case No.: _____

Immigration and Customs Enforcement;)

Todd M. LYONS, Acting Director of)
U.S. Immigration and Customs)

Enforcement;)

Kristi NOEM, Secretary of)
the Department of Homeland Security;)

Habeas Corpus

in their official capacities,)

28 U.S.C. §2241

Respondents.)

_____)

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

Petitioner Omar Gomez, by and through his undersigned counsel, hereby respectfully petitions this Honorable Court for a writ of habeas corpus to seek 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.), Mr. Gomez alleges as follows:

INTRODUCTION

1. Petitioner is in the physical custody of Respondents at the Stewart Detention Center (SDC) in Lumpkin, Georgia. 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 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

5. Petitioner Omar Gomez 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 Stewart Detention Center (SDC) in Lumpkin, Georgia. He was apprehended by immigration authorities on November 16, 2025;

b. entered the United States without inspection over 18 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.

6. After apprehending Petitioner on November 16, 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. He was denied bond due to jurisdiction and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). See Exhibits 1 and 2.

7. The Court should expeditiously grant this petition.

8. 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 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. However, on December 18, 2025, the United States District Court for the Central District of California entered a judgment in favor of Petitioners and members of the Bond Eligible Class. Specifically, the Court declared that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2). The Court also declared that, pursuant to Defendants’ regulations, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. The

Court order also vacates the Department of Homeland Security policy described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A). Finally, the Court grants final judgment as to Claims I, II, and III of the Amended Class Complaint, and certifies those claims for appeal pursuant to Federal Rule of Civil Procedure 54(b).

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

12. 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 AND VENUE

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Stewart Detention Center (SDC) in Lumpkin, Georgia.

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

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

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

17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia (Columbus Division).

REQUIREMENTS OF 28 U.S.C. § 2243

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

19. 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

20. Petitioner, Omar Gomez, is a citizen of Guatemala who has been in immigration detention since November 16, 2025. After Petitioner was arrested, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On December 10, 2025, Petitioner was denied bond by an IJ at the Stewart Immigration Court because he was deemed an “applicant for admission.” Petitioner has resided in the United States since June 2007.

21. Respondent Jason Streewal is the Warden of SDC, where Petitioner Omar Gomez is currently detained. He is Petitioner’s immediate custodian and is named in his official capacity. See Doe, 108 F.4th at 1194-97

22. Respondent Ladeon Francis is the Field Office Director of the Atlanta Field Office of ICE with administrative jurisdiction over Mr. Omar Gomez’s case. He is Mr. Omar Gomez’s legal custodian and is named in his official capacity.

23. Respondent Todd M. Lyons is the Acting Director of ICE. is responsible for ICE’s policies, practices, and procedures, including those relating to the detention of immigrants. He is a legal custodian of Petitioner and is named in his official capacity.

24. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (“DHS”), an agency of the United States, is responsible for the

administration of the immigration laws. 8 U.S.C. § 1103(a). She is a legal custodian of Petitioner and is named in her official capacity.

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

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

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

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

28. 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.”

29. 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).

30. 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 Mr. Omar Gomez prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- (3) 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;
- (4) 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
- (5) Grant any other and further relief which this Honorable Court deems just and proper.

This 24TH day of December, 2025

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'DL Lunel', written over a horizontal line.

By: David L. Lunel, Esq.
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