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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA

JOSE GUAMAN LEMA,

Petitioner,

v.

JOHN TSOUKARIS, Field Office Director of  
Enforcement and Removal Operations,  
ATLANTA Field Office, Immigration and  
Customs Enforcement;  
KRISTI NOEM, Secretary, U.S. Department of  
Homeland Security; U.S. DEPARTMENT OF  
HOMELAND SECURITY;  
PAMELA BONDI, U.S. Attorney General;  
EXECUTIVE OFFICE FOR IMMIGRATION  
REVIEW;  
JASON STREEVAL, Warden of STEWART  
DETENTION CENTER,

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner **JOSE GUAMAN LEMA** brings this petition for a writ of habeas  
3 corpus to seek enforcement of their rights as members of the Bond Denial Class certified in  
4 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the  
5 physical custody of Respondents at the **Stewart Detention Center in Lumpkin, Georgia**.

6 Petitioner now faces unlawful detention because the Department of Homeland Security (DHS)  
7 and the Executive Office for Immigration Review (EOIR) have refused to abide by the  
8 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

9 2. On November 20, 2025, the district court granted partial summary judgment on  
10 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and  
11 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-  
12 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025)  
13 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*  
14 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D.  
15 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible  
16 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'  
17 Motion for Partial Summary Judgment).

18 3. The declaratory judgment held that the Bond Denial Class members are detained  
19 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §  
20 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.

21 4. On December 18, 2025, the district court issued an Amended Consolidated Order  
22 and entered final judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,  
23 granting Petitioners' Motion for Partial Summary Judgment, certifying the Bond Eligible Class,  
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1 and vacating the DHS policy under the Administrative Procedure Act. The Court declared that  
2 class members are detained under 8 U.S.C. § 1226(a), not subject to mandatory detention under §  
3 1225(b)(2), and entitled to consideration for release on bond and custody redetermination  
4 hearings before an immigration judge. The Court further clarified that its prior declaratory  
5 judgment applies nationwide and vacated DHS’s July 8, 2025 “Interim Guidance Regarding  
6 Detention Authority for Applicants for Admission” as unlawful. Final judgment was entered as  
7 to Counts I, II, and III of the Amended Class Complaint, and the Bond Eligible Class was  
8 certified under Rule 23(b)(2). *Maldonado Bautista v. Santacruz*, --- F. Supp. 3d ---, 2025 WL  
9 3549826, at \*1–11 (C.D. Cal. Dec. 18, 2025) (Amended Order consolidating MSJ, Class  
10 Certification, and Reconsideration Orders; entering final judgment and vacatur); *id.*, 2025 WL  
11 3549854, at \*2 (Final Judgment).

12 5. Immigration Judges at Stewart Immigration Detention Center continue to decline  
13 jurisdiction following the entry of this binding judgment. The Executive Office for Immigration  
14 Review and its subagency the Immigration Court and the Department of Homeland Security  
15 (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that  
16 others similarly situated to Petitioner be denied the opportunity to be released on bond,  
17 continuing to entertain and accede to DHS’s now-vacated policy.

18 6. Immigration Judges at Stewart Immigration Court continue to consider  
19 themselves bound by *Yajure Hurtado* – the BIA decision in which DHS prevailed on their now-  
20 voided policy conflating all entrants with those apprehended while arriving at the border – but  
21 unbound by *Maldonado Bautista v. Santacruz*.

22 7. Petitioner JOSE GUAMAN LEMA is a member of the Bond Eligible Class, as  
23 he:  
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1 a. does not have lawful status in the United States and is currently detained at the  
2 Stewart Detention Center in Lumpkin, Georgia. He was apprehended by  
3 immigration authorities on November 13, 2025;

4 b. entered the United States without inspection December 27, 2022 and –  
5 according to the DHS’s own official and contemporaneous documentation, was  
6 not apprehended upon arrival, but after entry, and subsequently released under  
7 INA 236 (See Exhibit 1, NTA and I-220A Release Form at 4); and

8 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

9 8. DHS placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has  
10 charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone  
11 who entered the United States without inspection.

12 9. The Court should expeditiously grant this petition.

13 10. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force  
14 and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue  
15 to flagrantly defy the judgment in that case and continue to subject Petitioner JOSE  
16 GUAMAN LEMA to unlawful detention despite his clear entitlement to consideration for  
17 release on bond as a Bond Eligible Class member.

18 11. Even before the most recent orders and clarifications were released, immigration judges  
19 have informed class members in bond hearings that they have been instructed by  
20 “leadership” that the declaratory judgment in *Maldonado Bautista* is not controlling, even  
21 with respect to class members, and that instead IJs remain bound to follow the agency’s  
22 prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) – this,  
23 despite the clear vacatur of the Respondents’ policy of unlawfully detaining unlawful  
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1 entrants under INA 235 instead of INA 236, which is the very policy which *Yajure*  
2 *Hurtado* adopted.

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

6 13. Alternatively, the Court should order Petitioner's release unless Respondents provide a  
7 bond hearing under 8 U.S.C. § 1226(a) within seven days.

8 14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless  
9 Respondents provide a bond hearing under § 1226(a) within seven days.

#### 10 JURISDICTION

11 15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
12 STEWART DETENTION CENTER in LUMPKIN, GEORGIA.

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

16 17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,  
17 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

#### 18 VENUE

19 18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500  
20 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF  
21 GEORGIA, the judicial district in which Petitioner currently is detained.

22 19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
23 Respondents are employees, officers, and agencies of the United States, and because a  
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1 substantial part of the events or omissions giving rise to the claims occurred in the  
2 MIDDLE DISTRICT OF GEORGIA.

3  
4 **REQUIREMENTS OF 28 U.S.C. § 2243**

5 20. The Court must grant the petition for writ of habeas corpus or order Respondents to show  
6 cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an  
7 order to show cause is issued, Respondents must file a return “within three days unless  
8 for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

9 21. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .  
10 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
11 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application  
12 for the writ usurps the attention and displaces the calendar of the judge or justice who  
13 entertains it and receives prompt action from him within the four corners of the  
14 application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

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

17 **PARTIES**

18 23. Petitioner JOSE GUAMAN LEMA is alleged to be a citizen of Ecuador who has been in  
19 immigration detention since November 13, 2025. After Petitioner was arrested, ICE did  
20 not set bond, and Petitioner requested review of his custody by an Immigration Judge. On  
21 December 18th, 2025, the Immigration Judge took no action on Petitioner’s bond request  
22 Stewart (Lumpkin) Immigration Court after the Petitioner withdrew his bond request;  
23 however, that Immigration Court, and the judges assigned to it, have since taken the  
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1 position that they require guidance from EOIR before they can decide whether they have  
2 jurisdiction to hold bond hearings, and until then, *Yajure Hurtado* continues to bind them,  
3 while they remain unbound by either the Partial Summary Judgment issued on November  
4 25, 2025 or the most recent, clarifying order issued December 18th. Petitioner has resided  
5 in the United States since December 27, 2022.

6 24. Respondent JOHN TSOUKARIS is the Director of the Atlanta Field Office of ICE's  
7 Enforcement and Removal Operations division; however, on information and belief, the  
8 DHS is rotating their Field Office Director without publishing a schedule of rotation. As  
9 such, JOHN TSOUKARIS or his unknown, unannounced provisional replacement is  
10 Petitioner's immediate custodian and is responsible for Petitioner's detention and  
11 removal. He or his acting counterpart is named in his or her official capacity.

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

16 26. Respondent Department of Homeland Security (DHS) is the federal agency responsible  
17 for implementing and enforcing the INA, including the detention and removal of  
18 noncitizens.

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

1 28. Respondent Executive Office for Immigration Review (EOIR) is the federal agency  
2 responsible for implementing and enforcing the INA in removal proceedings, including  
3 for custody redeterminations in bond hearings.

4 29. Respondent, Warden Jason Streevalis, is employed by the private, for-profit detention  
5 corporation contracted by the Government as an agent to confine immigrants at Stewart  
6 Detention Center, where Petitioner is detained. He has immediate physical custody of  
7 Petitioner. He is sued in his official capacity.

8 **CLAIMS FOR RELIEF**

9 **COUNT I**  
10 **Violation of the INA**

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

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

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

16 32. The DHS's own contemporaneous documentation shows that Petitioner is properly  
17 detained under 8 U.S.C. § 1226(a) rather than 1225(b)(2).

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

21 34. The order granting class certification in Maldonado Bautista further provides that "[w]hen  
22 considering this determination with the MSJ Order, the Court extends the same declaratory  
23 relief granted to Petitioners to the Bond Eligible Class as a whole."  
24

1 35. Respondents are parties to Maldonado Bautista and bound by the Court’s declaratory  
2 judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

3 36. The Court’s Amended Consolidated Order and Final Judgment issued on December 18,  
4 2025, eliminates any doubt: Petitioner JOSE GUAMAN LEMA’s eligibility for class relief  
5 is abundantly clear and binding on all Immigration Judges nationwide. The Court expressly  
6 extended the declaratory judgment to the Bond Eligible Class as a whole and vacated  
7 DHS’s July 8, 2025 policy under the Administrative Procedure Act.

8 37. By certifying a nationwide class under Rule 23(b)(2) and entering final judgment, the Court  
9 confirmed that members of the Bond Eligible Class—including Petitioner—are detained  
10 under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to consideration for release on  
11 bond and custody redetermination hearings. Respondents and all adjudicators within EOIR  
12 are bound by this judgment, which carries the full “force and effect of a final judgment”  
13 under 28 U.S.C. § 2201(a).

14 38. Any continued reliance on § 1225(b)(2) to deny bond hearings to class members constitutes  
15 a direct violation of federal law and the Court’s binding order.

16 39. By denying other class members a bond hearing under § 1226(a) and asserting that they  
17 are subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s  
18 statutory rights under the INA and the Court’s judgment in Maldonado Bautista.

19  
20 **LEGAL FRAMEWORK**

21 40. The INA prescribes three basic forms of detention for the vast majority of noncitizens in  
22 removal proceedings.

1 41. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal  
2 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are  
3 generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§  
4 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or  
5 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

6 42. Second, the INA provides for mandatory detention of noncitizens subject to expedited  
7 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission  
8 referred to under § 1225(b)(2).

9 43. Last, the INA also provides for detention of noncitizens who have been ordered removed,  
10 including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

11 44. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

12 45. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal  
13 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.  
14 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585.  
15 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,  
16 Pub. L. No. 119-1, 139 Stat. 3 (2025).

17 46. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in  
18 general, people who entered the country without inspection were not considered detained  
19 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and  
20 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal  
21 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

22 47. Thus, in the decades that followed, most people who entered without inspection and were  
23 placed in standard removal proceedings received bond hearings, unless their criminal  
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1 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was  
2 consistent with many more decades of prior practice, in which noncitizens who were not  
3 deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer.  
4 *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)  
5 (noting that § 1226(a) simply “restates” the detention authority previously found at §  
6 1252(a)).

7 48. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly  
8 acknowledged that individuals who have already entered the United States and are not  
9 apprehended within 100 miles of the border or within 14 days of entry are subject to  
10 discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under §  
11 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian  
12 Gershengorn stated: “If they are not detained within 100 miles of the border or within 14  
13 days... then they are under 1226(a) and not 1226(c)” and further clarified, in response to  
14 a question concerning “an alien who has come into the United States illegally without  
15 being admitted [and] who takes up residence 50 miles from the border,” the Government  
16 responded, “The answer is they are held under 1226(a) and that they get a bond  
17 hearing...” Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. \_\_\_\_  
18 (2018) (No. 15-1204). DHS reiterated that such individuals “would be held under  
19 1226(a)” and cited the administrative record to support that position. *Id.* These statements  
20 reflect DHS’s prior litigation stance that § 1226(a) governs detention for noncitizens who  
21 have entered and are residing in the United States, a position directly contrary to the  
22 agency’s current interpretation applying § 1225(b)(2)(A) to such individuals. Having  
23 prevailed in *Jennings* after taking this position, they should be estopped from taking the  
24

1 contrary position now simply because their political or litigation interests have changed.

2 Estoppel in this case is necessary to preserve the predictability inherent in the rule of law  
3 and due process under the Fifth Amendment, as well as to protect the integrity of the  
4 judicial system.

5 49. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected  
6 well-established understanding of the statutory framework and reversed decades of  
7 practice. Of course, ICE is one of two parties in contested administrative proceedings  
8 before EOIR.

9 50. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
10 Applicants for Admission,”<sup>1</sup> claims that all persons who entered the United States  
11 without inspection shall now be subject to mandatory detention provision under §  
12 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and  
13 affects those who have resided in the United States for months, years, and even decades.

14 51. On September 5, 2025, the BIA adopted this same position in a published decision,  
15 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the  
16 United States without admission or parole are subject to detention under § 1225(b)(2)(A)  
17 and are ineligible for IJ bond hearings.

18 52. Since Respondents adopted their new policies, several federal courts have rejected their  
19 new interpretation of the INA’s detention authorities. Courts have likewise rejected  
20 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

21 53. A growing number of federal courts have rejected ICE and EOIR’s expanded  
22 interpretation of the Immigration and Nationality Act’s detention provisions. These

23  
24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention  
2 authority applicable in these cases. For example, courts in Massachusetts, Arizona, New  
3 York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v.*  
4 *Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV  
5 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25  
6 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-  
7 SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass.  
8 Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21,  
9 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

10 54. As of December 18<sup>th</sup>, 2025, the DHS policy was VACATED. *Maldonado Bautista v.*  
11 *Santacruz*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3549826, at \*8-  
12 9 (C.D. Cal. Dec. 18, 2025) (vacating DHS’s July 8, 2025 “Interim Guidance Regarding  
13 Detention Authority for Applicants for Admission” under the Administrative Procedure  
14 Act); *id.*, 2025 WL 3549854, at \*2 (entering final judgment as to Counts I–III).

15 55. These decisions reflect a clear judicial consensus, now binding nationally as to class  
16 members, that the government’s reliance on § 1225(b)(2) is misplaced in cases involving  
17 those whose immigration status lawfully falls under § 1226(a).

18 56. Section 1226 therefore leaves no doubt that it applies to people who face charges of being  
19 inadmissible to the United States, including those who are present without admission or  
20 parole.

21 57. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently  
22 entered the United States and were not free to mingle with the general population after  
23 being free from official restraint. The statute’s entire framework is premised on  
24

1 inspections at the border of people who are “seeking admission” to the United States. 8  
2 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory  
3 detention scheme applies “at the Nation’s borders and ports of entry, where the  
4 Government must determine whether a[] [noncitizen] seeking to enter the country is  
5 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

6 58. Under well-established principles of administrative finality, determinations made by  
7 agencies acting in a judicial capacity are entitled to preclusive effect. The Supreme Court  
8 has long favored application of the common-law doctrines of collateral estoppel and res  
9 judicata to administrative adjudications that have attained finality. “When an  
10 administrative agency resolves disputed issues of fact properly before it, and the parties  
11 have had an adequate opportunity to litigate, courts apply res judicata to enforce repose.”  
12 *United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966); see also *Parklane*  
13 *Hosiery Co. v. Shore*, 439 U.S. 322, 326 (1979). This principle applies equally to  
14 decisions of federal agencies acting in a judicial capacity. *Univ. of Tenn. v. Elliott*, 478  
15 U.S. 788, 798 (1986). Accordingly, where Department of Homeland Security officials  
16 contemporaneously make factual and legal findings regarding whether an individual falls  
17 under INA § 235 or § 236, that determination is binding and final as if rendered by a  
18 court. Individuals classified under § 236 at the border remain subject to § 236 custody  
19 provisions unless a statutory exception applies. *Astoria Fed. Sav. & Loan Ass’n v.*  
20 *Solimino*, 501 U.S. 104, 107–08 (1991).

**FACTS**

1  
2 59. Petitioner JOSE GUAMAN LEMA is a 50-year-old citizen of Ecuador who has resided  
3 in the United States since December 27, 2025. He entered without inspection and was not  
4 apprehended upon arrival. On November 13, 2025, Petitioner was arrested by  
5 immigration authorities in Lumpkin, Georgia and placed in DHS custody at the Stewart  
6 Detention Center. ICE did not set bond, and Petitioner requested review of his custody by  
7 an Immigration Judge. On December 18th, 2025, the Lumpkin Immigration Court took  
8 no action on Petitioner’s bond request when the Petitioner withdrew his bond request.  
9 Since December 18<sup>th</sup>, 2025, judges in the same Immigration Court have continued to  
10 classify Petitioner an “applicant for admission” under 8 U.S.C. § 1225(b)(2) until they  
11 receive further guidance from EOIR on whether or not they, the independent adjudicators  
12 assigned the duty of determining their own jurisdiction, have jurisdiction.

13 60. Petitioner is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. DHS has  
14 charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and placed him in  
15 removal proceedings pursuant to 8 U.S.C. § 1229a. Petitioner is a member of the Bond  
16 Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-  
17 BFM (C.D. Cal.), which includes noncitizens without lawful status who entered without  
18 inspection and are not subject to mandatory detention under the INA.

19 61. Despite the Court’s declaratory judgment and final order in *Maldonado Bautista*—  
20 holding that class members are detained under 8 U.S.C. § 1226(a) and entitled to  
21 consideration for release on bond—Respondents continue to apply § 1225(b)(2) and deny  
22 bond hearings to class members, including Petitioner. Immigration Judges at Stewart  
23 Detention Center have refused jurisdiction, citing agency directives to disregard the  
24

1 Court's earlier rulings, and insisting on awaiting guidance from the 11<sup>th</sup> Circuit or EOIR  
2 to assume jurisdiction. In the meantime, Respondents' continued detention of Petitioner  
3 violates the INA and the binding judgment in Maldonado Bautista.

4  
5 **PRAYER FOR RELIEF**

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

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

16 DATED this 24th day of December, 2025.

17  
18 **/s/ Joshua McCall, Esq.**

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24