

JUDGE LEON SCHYDLOWER

FILED

JOSE EDUARDO GARCIA LUX
c/o ERO EL PASO CAMP EAST MONTANA
6920 Digital Road
El Paso, TX 79936

2025 DEC 29 11:50
WESTERN DISTRICT OF TEXAS
BY 

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

JOSE EDUARDO GARCIA LUX

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-Petitioner,

v.

U.S. 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

-Respondents.

Case No. **EP25CV0748**

PETITION FOR WRIT OF
HABEAS CORPUS

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2 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
3 Immigration Court and the Department of Homeland Security (DHS) have blatantly
4 refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be
5 denied the opportunity to be released on bond.

6 5. Petitioner is a member of the Bond Eligible Class, as he:

- 7 a. does not have lawful status in the United States and is currently detained at the
8 ERO El Paso Montana Detention Facility. He was apprehended by immigration
9 authorities in November 17, 2025;
- 10 b. entered the United States without inspection last year *cf. id.*; and
- 11 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

12 6. Subsequent to Petitioner's arrest, the DHS placed him in removal proceedings
13 pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8
14 USC §1182(a)(6)(A), as someone who entered the United States without inspection.

15 7. The Court should expeditiously grant this petition.

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

21 9. Immigration judges have informed class members in bond hearings that they have
22 been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is
23 not controlling, even with respect to class members, and that instead Immigration Judges
24 remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. &
N. Dec. 216 (BIA 2025) (hereafter "*Matter of Hurtado*")

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

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

7 JURISDICTION

8 12. Petitioner is in the physical custody of Respondents.

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

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

14 VENUE

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

18 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
19 Respondents are employees, officers, and agencies of the United States, and because a
20 substantial part of the events or omissions giving rise to the claims occurred in the
21 Western District of Texas.

22 REQUIREMENTS OF 28 U.S.C. § 2243

23 17. The Court should grant the petition for writ of habeas corpus "forthwith," as the
24 legal issues have already been resolved for class members in *Maldonado Bautista*.

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

8 **PARTIES**

9 19. Petitioner is a citizen of Guatemala who has been in immigration detention since
10 November 17, 2025. After Petitioner was arrested, ICE did not set bond, and Executive
11 Office for Immigration Review (EOIR) will not accept jurisdiction for a bond application
12 based on *Matter of Hurtado* since Petitioner is deemed an “applicant for admission.”
13 This, even though Petitioner has no criminal history, a US citizen child and community
14 ties.

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

20 21. Respondent Department of Homeland Security (DHS) is the federal agency
21 responsible for implementing and enforcing the INA, including the detention and removal
22 of noncitizens.

23 22. Respondent Pamela Bondi is the Attorney General of the United States. She is
24 responsible for the Department of Justice, of which the Executive Office for Immigration

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2 Review and the immigration court system it operates is a component agency. She is sued
3 in her official capacity.

4 23. Respondent Executive Office for Immigration Review (EOIR) is the federal
5 agency responsible for implementing and enforcing the INA in removal proceedings,
6 including for custody redeterminations in bond hearings.

7 **CLAIM FOR RELIEF**

8 **GROUND ONE Violation of the INA:**
9 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

17 27. The order granting class certification in *Maldonado Bautista* further orders that
18 “[w]hen considering this determination with the MSJ Order, the Court extends the same
19 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

20 28. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
21 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
22 § 2201(a).

23 29. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
24 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*.

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2 **GROUND TWO Violation of Due Process:**
3 **Indefinite Detention & Deprivation**

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

6 31. By denying the Petitioner even the opportunity to seek bail, Respondents have
7 effectively guaranteed that Petitioner will remain detained indefinitely.

8 32. That, compounded by depriving Petitioner of access to even the most basic human
9 rights to hygiene have created "extraordinary circumstances" that make the grant of bail
10 necessary to make the habeas remedy, as delineated in *Mapp v. Remo* 241 F.3d 221 (2nd
11 Cir. 2001)

12 **PRAYER FOR RELIEF**

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

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

24 DATED this December 29, 2025.


JOSE EDUARDO GARCIA LUX *Petitioner*