

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF ARIZONA

3 TAKANG JOHN, EGBE TAKOR,

4 Petitioner,

5 v.

6 Christopher MCGREGOR, Acting Field Office
7 Director, Phoenix Field Office, Enforcement
8 and Removal Operations

8 Jason CILIBERTI, Deputy Field Office
9 Director, Enforcement and Removal
10 Operations, Florence Service Processing Center

10 Kristi NOEM, Secretary, U.S. Department of
11 Homeland Security

11 Todd LYONS, Director US Immigration and
12 Customs Enforcement

13 Pamela BONDI, U.S. Attorney General

14 Daren MARGOLIN, Director Executive Office
15 for Immigration Review

15 Luis ROSA, Jr., Warden of Central Arizona
16 Florence Correctional Complex, Florence,
17 Arizona,

17 Respondents.

Case No.

**MEMORANDUM OF LAW
SUPPORTING PETITIONER'S
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER ANFD PRELIMINARY
INJUNCTION**

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1 INTRODUCTION

2 1. Petitioner brings this petition for a writ of habeas corpus to seek enforcement of his
3 rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No.
4 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents at
5 the Central Arizona Florence Correctional Complex (CAFCC) in Florence, Arizona. He is
6 experiencing unlawful detention because the Department of Homeland Security (DHS) and the
7 Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory
8 judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

19 3. The declaratory judgment held that the Bond Denial Class members who are detained
20 under 8 U.S.C. § 1226(a) may not be denied consideration for release on bond under §
21 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

22 4. Despite the District Court's November 2, 2025, judgement, EOIR, its subagency (the
23 Immigration Court), and DHS have blatantly refused to abide by the declaratory relief.
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1 5. Following *Maldonado Bautista*'s issuance, Petitioner requested a custody
2 redetermination hearing before the Immigration Court in Florence, Arizona.

3 6. On or about December 2, 2025, the Immigration Court vacated Petitioner's scheduled
4 custody redetermination hearing request and unlawfully ordered he be denied the opportunity to
5 be released on bond. The Immigration Judge ruled the declaratory judgment in *Maldonado*
6 *Bautista* is not controlling, even with respect to class members, and added Immigration Judges
7 remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec.
8 216 (BIA 2025).

9 7. On December 18, 2025, the District Court issued a final judgement in favor of
10 plaintiffs and members of the Bond Eligible Class, and declared: (i) the Bond Eligible Class
11 members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under
12 § 1225(b)(2); and (ii) pursuant to Defendant's regulations, *see* 8 C.F.R. §§ 236.1, 1236.1, and
13 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject
14 to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond
15 by immigration officers and, if not released, a custody redetermination hearing before an
16 immigration judge. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
17 Supp. 3d ----, 2025 WL 3289861, at *2 (C.D. Cal. Dec. 18, 2025).

18 8. The District Court's December 18, 2025, final judgment also vacated DHS' policy
19 described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants
20 for Admission" under the Administrative Procedure Act as not in accordance with law, *see* 5
21 U.S.C. § 706(2)(A); granted final judgment as to Claims I, II, and III of the Amended Class
22 Complaint; and certified those complaints for appeal pursuant to Federal Rule of Civil Procedure
23 54(b). *Id.*

1 9. Based on the Immigration Courts' refusal to abide by the District Court's November
2 20, 2025, declaratory judgment and nationwide class certification, Petitioner has not made a
3 subsequent attempt to seek release on bond. The Immigration Courts' and DHS' stance on the
4 subject render such an effort fruitless. "Futility is a traditional exception to judicially created
5 exhaustion requirements because '[i]t makes little sense to require litigants to present claims to
6 adjudicators who are powerless to grant the relief requested.'" *Vasquez-Rodriguez*
7 *v. Garland*, 7 F.4th 888, 895 (9th Cir. 2021) (quoting *Carr v. Saul*, 141 S. Ct. 1352, 1361
8 (2021)); *see also Perez-Guzman v. Lynch*, 835 F.3d 1066, 1073 (9th Cir. 2016) (exhaustion is not
9 required where it would be futile to raise a particular issue before the agency).

- 10 10. Petitioner Takang John is a member of the Bond Eligible Class, as he:
- 11 a. does not have lawful status in the United States and is currently detained at
12 CAFFC in Florence, Arizona as of November 7, 2025. Immigration authorities
apprehended him on or about April 7, 2024, and placed him in removal
proceedings;
 - 13 b. entered the United States without admission or parole more than 20 months ago
and was apprehended shortly after arrival, *cf. id.*; and
 - 14 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

15 11. After apprehending Petitioner on or about April 7, 2024, DHS placed him in removal
16 proceedings pursuant to 8 U.S.C. § 1229a and charged him with inadmissibility pursuant to 8
17 U.S.C. § 1182(a)(6)(A)(i), alien who entered the United States without admission or parole.

18 12. The Court should expeditiously grant this petition.

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

1 14. Because Respondents are detaining Petitioner in violation of the declaratory and final
2 judgments issued in *Maldonado Bautista*, the Court should accordingly order that within one
3 day, Respondent DHS must release Petitioner.

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

6 JURISDICTION

7 16. Petitioner is in the physical custody of Respondents. He is detained at the CAFCC in
8 Florence, Arizona as part of an Intergovernmental Service Agreement (IGSA) with DHS.

9 17. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
10 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
11 Suspension Clause). *See also Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (concluding habeas
12 jurisdiction lie "in only one district: the district of confinement").

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

15 VENUE

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

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

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REQUIREMENTS OF 28 U.S.C. § 2243

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

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

10 **PARTIES**

11 23. Petitioner is a native and citizen of Cameroon. He has been in immigration custody
12 since November 7, 2025, when DHS officers conducting a targeted surveillance unrelated to him
13 at a Chandler, Arizona gas station encountered and arrested him. At that time, Petitioner had a
14 pending Immigration Court hearing scheduled for February 23, 2028, in Phoenix, Arizona. DHS
15 did not set a bond in the Petitioner’s case following his arrest. As a result, Petitioner requested a
16 review of his custody by an IJ. However, on December 2, 2025, an IJ at the Florence, Arizona
17 Immigration Court vacated the Petitioner’s bond request, deeming him “applicant for
18 admission.” Petitioner has resided in the United States since approximately April 7, 2024.

19 24. Respondent Christopher McGregor is the acting Director of the Phoenix Field Office
20 of ICE’s Enforcement and Removal Operations division. As such, he leads and manages all
21 Enforcement and Removal operations within the geographic region encompassing Arizona and is
22 responsible for Petitioner’s detention and removal. He is named in his official capacity.

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1 25. Respondent Jason Ciliberti is the Deputy Field Office Director (DFOD) of the
2 Florence Service Processing Center in Florence, Arizona. As such, DFOD Ciliberti is
3 Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is
4 named in his official capacity.

5 26. Respondent Kristi Noem is DHS Secretary. She is responsible for the implementation
6 and enforcement of the Immigration and Nationality Act (INA), and oversees Immigration and
7 Customs Enforcement (ICE), which is responsible for Petitioner's detention. Ms. Noem has
8 ultimate custodial authority over Petitioner and is sued in her official capacity.

9 27. Respondent Todd Lyons is the Director of US Immigration and Customs
10 Enforcement. Respondent DHS is the federal agency responsible for implementing and
11 enforcing the INA, including the detention and removal of noncitizens.

12 28. Respondent Pamela Bondi is the Attorney General of the United States. She is
13 responsible for the Department of Justice, of which the Executive Office for Immigration Review
14 and the Immigration Court system it operates is a component agency. She is being sued in her
15 official capacity.

16 29. Respondent Daren Margolin is the Director of the Executive Office for Immigration
17 Review and is being sued in his official capacity. Respondent EOIR is the federal agency
18 responsible for implementing and enforcing the INA in removal proceedings, as well as
19 conducting custody redetermination hearings.

20 30. Respondent Luis Rosa, Jr. is employed by Core Civic (a major private prison
21 company) as Warden of CAFCC, where Petitioner is detained as part of an IGSA with DHS. He
22 has immediate physical custody of Petitioner and is being sued in his official capacity.

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

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

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

33. 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.

34. 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.”

35. The order granting final judgment in *Maldonado Bautista* clarifies the government’s obligation after government attorneys and Immigration Judges continued to argue and/or to deny bond hearings to class members.

36. 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).

37. 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 prays that this Court grant the following relief:

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

11 DATED this 30th of December 2025.

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13 Monika Sud-Devaraj
14 *Attorney for Petitioner*
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in this Memorandum of Law Supporting Petitioner's Emergency Motion for a Temporary Restraining Order are true and correct to the best of my knowledge.

Executed on this 30th day of December 2025 in Phoenix, Arizona.

/s/ Monika Sud-Devaraj
Counsel for Petitioner

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CERTIFICATE OF SERVICE

On the 30th day of December 2025, I, Monika Sud-Devaraj, the undersigned, served via certified U.S. Mail, return receipt requested, the attached Complaint, on each person/entity listed below addressed as follows:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Kristi Noem,
Secretary, U.S. Department of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue NW
Washington, DC 20582

Todd M. Lyons
Acting Director, U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Daren Margolin
Director Executive Office of Immigration Review
5107 Leesburg Pike
Falls Church, VA 22041

Christopher D. McGregor
Acting Field Office Director
U.S. Immigration and Customs Enforcement
2035 N. Central Ave.
Phoenix, AZ 85004

Jason Ciliberti
Deputy Field Office Director, ICE
2035 N Central Ave,
Phoenix, AZ 85004

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Luis ROSA, Jr.
Warden of Central Arizona Florence Correctional Complex
1100 Bowling Road
Florence, Arizona 85132

Served via ECF the attached Petition:
Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on 30th
December 2025, at Phoenix, Arizona.

s/ Monika Sud-Devaraj
Counsel for Petitioner