FABIAN SERRATO (Cal. Bar No. 202792)
SERRATO LAW FIRM, PC
217 North Main Street, Suite 300
Santa Ana, CA 92701
fabian@serratolaw.com
T: +1 (714) 775-6654
email: fabian@serratolaw.com

Attorney for *Petitioner*

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BERTA PEREZ BONILLA

Petitioner,

vs.

CHRISTOPHER J. LAROSE *in his official capacity*, Senior Warden, Otay Mesa Detention Center; PATRICK DIVVER *in his official capacity*, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE ERO"); TODD LYONS *in his official capacity*, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM *in her official capacity*, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI *in her official capacity*, Attorney General of the United States,

Respondents.

Civil Action File No. '25CV3818 LL BJW

Agency No. A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. COMES NOW Petitioner Berta Perez Bonilla ("Petitioner"), and files this Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241. Petitioner is a native and citizen of Mexico currently held in the physical custody of the UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE") at the Otay Mesa Detention Center in San Diego, California. Petitioner now faces unlawful detention because the Department of Homeland Security ("DHS" or "the Department") and the Executive Office for Immigration Review ("EOIR") are holding her in violation of the Immigration and Nationality Act, Pub. L. 82–414, 66 Stat. 163 ("INA"); the Administrative Procedure Act, Pub. L. 79–404, 60 Stat. 237 ("APA"), and; the Fifth Amendment of the United States Constitution. Petitioner is being detained without recourse, at the whim of the enforcement agency.

2. Petitioner has been living in the United States for nineteen years after last entering without having been inspected or admitted by an immigration officer. At present, Petitioner is being held in civil immigration detention at the Otay Mesa Detention Center in San Diego, California. Prior to her arrest by immigration officers in October of this year, Petitioner was living with her four United States citizen children in Lake Elsinore, California. In her two decades of residency in the United States, Petitioner has incurred no criminal convictions. Petitioner has a pending application for asylum and withholding of removal as well as cancellation of removal and adjustment of status before the San Diego Immigration Court. Petitioner seeks a Writ of Habeas Corpus from this Court ordering her release as well as the additional forms of relief described forthwith so she may return to her children and continue her case before the Immigration Court from her home in Lake Elsinore.

JURISDICTION

3. This Court has jurisdiction under art I. § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. §§ 1131 and 2241(c)(1) & (3) as Petitioner is presently in custody under color of the authority of the United States, and

such custody is in violation of the Constitution, laws, or treaties of the United States. *See Mayers v. United States INS*, 175 F.3d 1289 (11th Cir. 1999); *Henderson v. Reno*, 157 F.3d 106, 122 (2d Cir. 1998), *cert. denied sub. nom.*; *Reno v. Navas*, 119 S. Ct. 1141 (1999).

4. This Court may grant the requested relief pursuant to 28 U.S.C. § 2241 *et seq.;* the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701-706; the All Writs Act, 28 USC § 1651; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and; the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1252(e)(2).

VENUE

5. A petition for writ of habeas corpus challenging present physical confinement must generally be filed in the district of confinement. 28 U.S.C. § 2241(a); see *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (holding that a habeas corpus petition should be brought against the "immediate custodian"—the person in direct control of the challenged confinement). Moreover, several of the material events from which the instant petition arises took place within this District's territorial jurisdiction, wherein records and witnesses pertinent to such events are also located. See *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 493-94 (1973) (holding that "traditional venue considerations" favor bringing a petition for habeas corpus in the forum in which the underlying claim developed). Lastly, under 28 U.S.C. § 1391(e), venue is proper because Petitioner is in Respondents' physical custody in this District. See *Reuben H. Donnelley Corp. v. F.T.C.*, 580 F.2d 264, 266 n.3 (7th Cir. 1978) (ruling that, for purposes of determining proper venue pursuant to § 1391(e)(1), federal officers reside in the location where they perform their official duties); *Braden*, U.S. 484 at 494-5 ("The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.") (citing *Wales v. Whitney*, 114 U. S. at 574 (1885)).

EXHAUSTION

6. Petitioner has exhausted her administrative remedies to the extent required by law, and her only remedy is by way of the instant Petition. *See, e.g., McKart v. United States*, 395 U.S. 185, 193 (1969) (holding that exhaustion is not necessary in cases where pursuit of further administrative remedies would prove futile and the issues posed are purely questions of law).

REQUIREMENTS OF 28 U.S.C. §§ 2241 and 2243

7. The Court must grant the Petition for Writ of Habeas Corpus or issue an Order to Show Cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

PARTIES

8. Petitioner is a 48-year old citizen and national of Mexico who has been living in California for the past nineteen years after having last entered the United States without having been inspected or admitted by an immigration officer. At present, Petitioner is being held by Respondents at the Otay Mesa Detention Center in San Diego, California.

9. Respondent Christopher J. LaRose ("Respondent LaRose") is sued in his official capacity as Senior Warden of the Otay Mesa Detention Center ("OMDC") located at 7488 Calzada de la Fuente in San Diego, California. OMDC is a private facility owned and operated by CoreCivic, Inc. pursuant to a detention services agreement with ICE. Respondent LaRose handles daily operations at OMDC. As such, Respondent LaRose is Petitioner's physical and legal custodian.

10. Respondent Patrick Divver ("Respondent Divver") is sued in his official capacity as Director of Enforcement and Removal Operations ("ERO") at the ICE San Diego Field Office. Located at 880 Front Street, Number 2242, in San Diego, California, the ICE San Diego Field Office manages the arrest, detention, and

subsequent custody status of noncitizens in San Diego and Imperial County. Because Petitioner is being held in immigration detention within the territorial jurisdiction of the ICE San Diego Field Office, Respondent Divver exercises legal authority over Petitioner's present custody. Hence, Respondent Divver is a legal custodian of Petitioner.

11. Respondent Todd Lyons ("Respondent Lyons") is sued in his official capacity as Acting Director of ICE, the federal executive agency that identifies, apprehends, and detains removable noncitizens. ICE is headquartered at 500 12th Street Southwest in Washington, District of Columbia. Respondent Lyons has legal authority over the enforcement activity carried out by Respondents LaRose and Divver as well as all of ICE generally. Accordingly, Respondent Lyons is a legal custodian of Petitioner.

12. Respondent Kristi Noem ("Respondent Noem") is sued in her official capacity as Secretary of the Department of Homeland Security ("DHS" or "the Department"). Respondent Noem oversees the enforcement activity of ICE, which includes determining custody status of apprehended noncitizens. Respondent Noem has legal authority over the enforcement actions of Respondents LaRose, Divver, and Lyons as well as the Department at large. Respondent Noem is therefore a legal custodian of Petitioner.

13. Pamela Bondi ("Respondent Bondi") is sued in her official capacity as the Attorney General of the United States. The Office of the Attorney General is located at the U.S. Department of Justice, 950 Pennsylvania Avenue Northwest in Washington, District of Columbia. As the chief law enforcement officer of the Federal Government, Respondent Bondi is charged with faithfully administering the immigration laws of the United States. 8 U.S.C. § 1103(g). Accordingly, Respondent Bondi is legally responsible for Petitioner's detention and, as such, is a legal custodian of Petitioner.

STATEMENT OF FACTS

14. Petitioner was born on [redacted] in Silao de la Victoria, Guanajuato, Mexico. (EXH. A).

15. On or around April 11, 2006, Petitioner entered the United States at or near Otay Mesa, California. (EXH. B). At that time, Petitioner was neither inspected nor admitted by an immigration officer. (*Id.*). Petitioner has not left the United States since then.

16. For nearly two decades, Petitioner has resided in the Southern California area, where she has worked to support her family as a housekeeper. In that time, Petitioner raised four children, all American citizens born in the United States. (EXH. C). Additionally, Petitioner has cemented herself as a highly regarded member of her community. (EXH. D).

17. In early October of this year, Petitioner was apprehended by immigration officers while riding as a passenger in her partner's car. Petitioner and her partner were stopped by immigration officers at a roadside checkpoint. Petitioner was arrested after she was unable to provide evidence she was lawfully present in the United States.

18. Following her arrest, the Department initiated removal proceedings under INA § 240, 8 U.S.C. § 1229a, through issuance of a Notice to Appear ("NTA) dated October 6, 2025. (EXH B). The NTA charges Petitioner as removable pursuant to INA § 212(a)(6)(A)(i). (*Id.*).

19. Petitioner has a pending application for cancellation of removal and adjustment of status as well as asylum and withholding of removal before the Otay Mesa Immigration Court. Additionally, Petitioner has a pending application for T nonimmigrant status ("T visa") before the United States Citizenship and Immigration Services ("USCIS").

LEGAL BACKGROUND

20. The infrastructure of civil immigration detention arises from the INA and its multiple provisions of the Government's custodial authority. Immigration and Nationality Act, 8 U.S.C. §§ 1101-1537. *See, generally, Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023) (identifying four statutory provisions authorizing the detention of noncitizens in removal proceedings: § 1231(a) (final removal order); § 1225(b) (expedited removal or referral for hearing); 1226(a) (general arrest and release authority), and; 1226(c) (exception to discretionary release due to commission of specified offenses). The Supreme Court has distinguished between §§ 1225 and 1226 by pointing to the operation of the former as generally mandatory and the latter as mostly discretionary. *Jennings v. Rodriguez*, 583 U.S. 281, 287-9 (2018). Generally put, the applicability of mandatory as opposed to discretionary detention turns largely on whether the detained noncitizen is

I. an "applicant for admission" who is "seeking admission" at the time of apprehension under the meaning of § 1225, or

II. a noncitizen otherwise apprehended within the United States in formal removal proceedings under INA § 240, 8 U.S.C. § 1229(a).

See Jennings, 583 U.S. at 289 (drawing a temporal comparison between noncitizens "seeking entry into the United States" and those noncitizens who entered at some point in the past and were later apprehended in the country's interior). Still, whether arising from § 1225 or § 1226, the Government's power to hold noncitizens in mandatory detention is by no means unrestrained. *See Id.*, 583 U.S. at 289, 300-1 (interpreting the INA as authorizing mandatory detention under §§ 1225(b)(1) and (b)(2) and § 1226(c) only until a certain point and authorizing release prior to that point under certain circumstances).

I. Arriving Noncitizens Deemed Inadmissible Under § 1225(b)

21. In *Jennings*, 583 U.S. at 287, the class of noncitizens first identified by the Court as subject to mandatory detention are those who fall under the scope of §

1225(b), which "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.*, 583 U.S. at 287, 297 (parenthetical explanation in the original). More specifically, these "applicants for admission fall into one of two categories, those covered by §1225(b)(1) and those covered by §1225(b)(2)." *Id.*

a. Expedited Removal of Applicants for Admission Under § 1225(b)(1)

22. In cases of inadmissibility due to fraud, misrepresentation, or lack of valid entry documentation, § 1225(b)(1)(A)(i) permits the Government to remove applicants for admission "without further hearing or review." *Id.* "But 'if a §1225(b)(1) alien 'indicates either an intention to apply for asylum . . . or a fear of persecution, then that alien is referred for an asylum interview." *Jennings*, 583 U.S. at 287 (citing § 1225(b)(1)(A)(ii)) (alterations in original); *see also* 8 U.S.C. § 1225(b)(1)(B)(i) ("An asylum officer shall conduct interviews of aliens referred under subparagraph (A)(ii) [of § 1225(b)(1)], either at a port of entry or at such other place designated by the Attorney General.").

b. The "Catchall" Provision of § 1225(b)(2)

23. With respect to those applicants for admission not covered by § 1225(b)(1), the Supreme Court refers to § 1225(b)(2) as the "catchall provision that applies to all applicants for admission not covered by §1225(b)(1)." *Jennings*, 583 U.S. at 837. Notably, "[s]ection 1225(b)(1) aliens are detained for 'further consideration of the application for asylum,' and §1225(b)(2) aliens are in turn detained for '[removal] proceeding[s].'") (citations omitted) (alterations in original). Nevertheless, as decided by the *Jennings* Court, both §§1225(b)(1) and (b)(2) "mandate detention of applicants for admission" until the conclusion of their respective proceedings. *Id.*, 583 U.S. at 297. Similarly, § 1225(b)(2) detainees are not left entirely without recourse. For them, however, the INA allocates release authority exclusively to DHS. INA § 212(d)(5); 8 U.S.C. § 1182(d)(5) (granting the Department discretion to issue parole

for "urgent humanitarian reasons or significant public benefit" to detained applicants for admission on a case-by-case basis).

II. Exemption from § 1226 Discretionary Release

24. In addition to applicants for admission subject to § 1225(b), the *Jennings* Court contemplates the detention authority applicable to noncitizens already inside the United States who are deemed removable because they were inadmissible at the time of entry. *Jennings*, 583 U.S. at 288, 138 S. Ct. at 837 ("Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal."). The Court begins its discussion of § 1226 by distinguishing between noncitizens subject only to discretionary detention under subsection (a) and those statutorily exempt from discretion under subsection (c). *Id.* 583 U.S. at 289, 138 S. Ct. at 838.

25. The "default rule" of § 1226(a) permits the Government to release a detained noncitizen who is not subject to § 1226(c), which states that the Government "shall take into custody" noncitizens pending a final order of removal who have committed certain crimes. INA §§ 236(a), (c), 8 U.S.C. §§ 1226(a), (c); *see Jennings*, 583 U.S. at 288, 138 S. Ct. at 837 (holding that "§1226(c) mandates detention of any alien falling within its scope and that detention may end prior to the conclusion of removal proceedings 'only if' the alien is released for witness-protection purposes"); *see also* 8 C.F.R. § 1236.1(d)(1) (authorizing an immigration judge to exercise discretion in redetermining the Department's initial custody status of a noncitizen detained pursuant to INA § 236(a)).

26. In other words, noncitizens pending a final order of removal are eligible for discretionary release under section 1226(a) so long as they are neither "criminal aliens" pursuant to the statutory exemption of section 1226(c) nor "applicants for admission" for purposes of mandatory detention under section 1225(b). INA §§ 235 and 236, 8 U.S.C. §§ 1225 and 1226.

III. Misapplication of INA Section 235 in the Wake of *Yajure Hurtado*

27. Following a July 8, 2025, DHS policy classifying all unlawful entrants as "applicants for admission," the Board of Immigration Appeals ("BIA") wrongly decided that any noncitizen who previously entered the United States without inspection is nevertheless an "applicant for admission" for purposes of INA § 235(b)(2), as amended, 8 U.S.C. § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Consequently, the BIA concluded that noncitizens such as Petitioner, who has been living in the United States for two years, is nonetheless "seeking admission" such that he is subject to mandatory detention under § 1225.

28. To reach this conclusion, the BIA grafts the Jennings Court's use of the term "catchall provision," *Jennings*, 583 U.S. at 287, onto the distinct facts of *Yajure Hurtado*, 29 I&N Dec. at 218. The facts and issues in *Jennings* are not analogous to those in *Yajure Hurtado*. In *Jennings*, the detained noncitizen was a lawful permanent resident, and the Supreme Court looked to the statutory language of the INA to determine whether its detention provisions entitle him to a bond hearing every six months. *Id.* As used in *Jennings*, the term "catchall provision" refers to section 1225(b)(2), which applies to those arriving noncitizens who are not subject to the expedited removal provision of § 1225(b)(1) and who do not claim a fear of persecution upon removal. *Jennings*, 583 U.S. at 287, 138 S. Ct. at 837 (citations omitted).

29. In contrast, in *Yajure Hurtado*, the detained noncitizen entered the United States without inspection and proceeded to reside in the country's interior for several years before being apprehended by ICE and placed in full removal proceedings by DHS. *See Yajure Hurtado*, 29 I&N Dec. at 216-7. Unlike in *Jennings*, where the Supreme Court decided only on the issue of noncitizen detainees' right to periodic bond hearings, the issue addressed by the BIA in *Yajure Hurtado* is "the Immigration Judge's authority to hold a bond hearing for [a noncitizen] present in the United States who has not been admitted after inspection." Id. 29 I&N Dec. at 216. To resolve that

issue, the BIA overstretches the Supreme Court's characterization of section 1225(b)(2) as a "catchall provision" to engineer the inclusion of all noncitizen unlawful entrants—regardless of whether they are, in fact, seeking admission. *Id.*

30. Yet following *Yajure Hurtado*, this Court and several others in this Circuit have since undertaken their own plain language analysis of sections 1225 and 1226, holding instead that noncitizens who have been living in the United States for years are subject to the detention provisions of § 1226. *See, Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *4 (S.D. Cal. Oct. 30, 2025) (listing cases); Rodriguez v. Bostock, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) (listing cases).

31. This Court is not bound by the BIA's "newly-minted interpretation of § 1225(b)(2)(A)." *Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 LX 482036, at *27 (D.N.J. Sep. 26, 2025) (referencing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400-01 (2024) (holding that courts are not required to defer to an agency's reasonable interpretation of an ambiguous law as they are vested with ultimate authority to interpret and give meaning to federal statutes by Article Three of the United States Constitution); *see; e.g. Gutierrez v. Baltasar*, Civil Action No. 25-CV-2720-RMR, 2025 LX 434276, at *25 (D. Colo. Oct. 17, 2025) ("[T]his Court joins other courts throughout the nation and finds that DHS has adopted a policy that likely violates federal law.").

32. In fact, on November 25, 2025, the Central District of California certified the following nationwide class:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

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). Additionally, the court extended previously granted declaratory judgment holding that the Bond Denial Class members are detained under § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Id.* Critically, on December 18, 2025, the Central District of California issued a subsequent order entering final judgement and clarifying it had indeed "declared the DHS Policy unlawful and granted vacatur under the APA." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025, LX 523334, at *86-7 (C.D. Cal. Dec. 18, 2025) (attached hereto as "EXH. E").

CLAIMS FOR RELIEF

COUNT ONE

Respondents Have Exceeded Their Mandatory Detention Authority In Violation of the INA: Request for Relief Pursuant to *Maldonado Bautista*

33. Petitioner restates and realleges all paragraphs as if fully set forth herein.

34. Consistent with the holdings of the majority of district courts nationwide and the declaratory judgment issued in *Maldonado Bautista*, the terms of Petitioner's detention are governed not by § 1225 but rather the discretionary detention framework of section § 1226(a), which applies to noncitizens in formal removal proceedings who were residing in the United States at the time of apprehension. *Id.*, 2025, LX 523334, at *86-7; *see Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *4 (S.D. Cal. Oct. 30, 2025) (listing cases); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) (listing

cases). Accordingly, in holding Petitioner under § 1225 and denying her the opportunity to request release on bond, Respondents are violating the detention provisions of the INA by misclassifying Petitioner as an "applicant for admission" who is "seeking admission" before an examining immigration officer. INA § 235, 8 U.S.C. § 1225.

35. In classifying Petitioner under § 1225, the Department incorrectly conflates "applicant for admission" with "seeking admission" as used in that section. But "[t]he plain text of § 1225(b)(2)(A) requires a noncitizen present without admission to be actively seeking lawful entry." *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 LX 484516, at *17 (S.D. Cal. Nov. 4, 2025) (internal citations omitted). Petitioner has been residing in the United States for nearly two decades. At the time of her last entry, Petitioner was *not* inspected or admitted by an immigration officer. Instead, Petitioner was apprehended nineteen years later—in June of this year. In all of this time, Petitioner has submitted no application for lawful entry. Instead, Petitioner has conceded removability and filed applications for various forms of relief from removal before the Immigration Court. Accordingly, Petitioner cannot reasonably be construed as "seeking admission" at the time she was detained. *See, e.g., Hernandez v. Baltazar*, Civil Action No. 1:25-cv-03094-CNS, 2025 LX 416077, at *22 (D. Colo. Oct. 24, 2025) ("Absent Respondents' sudden about-face, applying § 1225(b)(2)(A)'s mandatory detention provision to noncitizens present in the country for decades would not make sense. The Court joins the many other courts nationwide who have declined to accept Respondents' novel new interpretation of decades-old law.").

36. In fact, Respondents' charging documents indicate inasmuch. Petitioner was placed in formal removal proceedings under INA § 240, 8 U.S.C. § 1229a. Both the NTA and the charging document Form I-213 list Petitioner as removable pursuant to INA 212(a)(6)(A)(i). 8 U.S.C. § 1182(a)(6)(A)(i) ("An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.").

37. Moreover, because she is neither a criminal noncitizen nor a flight risk, Petitioner is not subject to the mandatory detention provision of § 1226(c) and merits release from custody. *See, generally*, *Matter of Patel*, 15 I&N Dec. 666 (BIA 1976); *Matter of Daryoush*, 18 I&N Dec. 352 (BIA 1982); *Matter of Garcia-Garcia*, 25 I. & N. Dec. 93 (BIA 2009). As such, Respondents acted contrary to the detention provisions of the INA by subjecting Petitioner to mandatory detention under § 1225 rather than the appropriate discretionary scheme of § 1226.

38. Lastly, 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); *Lazaro Maldonado Bautista et al. v Ernesto Santacruz Jr et al*, 5:25-cv-01873, (C.D. Cal. 2025). By denying Petitioner a bond hearing under § 1226(a) on the basis that she is subject to mandatory detention under § 1225, Respondents are violating Petitioner's statutory rights under the INA and the court's judgment in *Maldonado Bautista*. (*Id.*)

COUNT TWO

Petitoner's Detention Violates Fifth Amendment Due Process

39. Petitioner restates and realleges all paragraphs as if fully set forth here.

40. The United States Constitution prohibits the Government from depriving any person—regardless of immigration status—of "life, liberty, or property, without due process of law." U.S. Const. amend. V; see, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.") (referencing *Plyler v. Doe*, 457 U.S. 202, 210, 72 L. Ed. 2d 786 (1982)); *see also Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 U.S. Dist. LEXIS 165015, at *31 (D. Md. Aug. 24, 2025) ("This precious right to be free from arbitrary detention extends to noncitizens present in the United States - even those with final orders of removal.") (quoting *Zadvydas*, 533 U.S. at 493).

41. While the government has discretion to detain individuals under § 1226(a), such detention authority it is not "unlimited" and must comport with constitutional due process. *Zadvydas v. Davis*, 533 U.S. at 698; *accord Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) ("The government's discretion to incarcerate non-citizens is always constrained by the requirements of due process.").

42. By reading § 1225(b)(2) as reaching all noncitizen unlawful entrants, the BIA has retroactively wrested jurisdiction from immigration judges to grant release on bond to noncitizens such as Petitioner, who entered the United States without having been admitted or paroled as described in INA § 240, 8 U.S.C. § 1182(a)(6)(A)(i), and who has been residing in the country's interior for decades. Put another way, the BIA's reinterpretation of § 1225 allows Respondents to classify *all* noncitizens with unlawful entries as "applicants for admission," thereby using that section's mandatory detention provision to do away with the due process protections previously afforded to noncitizens subject only to discretionary detention under § 1226(a).

43. Consequently, in one fell swoop, the BIA has cleared the way for Respondents to bypass the constitutional due process protections recognized by the Supreme Court as they apply to noncitizens like Petitioner. *See, e.g., Zadvydas* 533 U.S. at 693 ("[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."); *see also Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953).

44. In this Circuit, the *Mathews* balancing test determines whether Petitioner's continued custodial detention violates her Fifth Amendment right to procedural due process as a civil detainee. *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893 (1976). More specifically, in assessing the constitutional adequacy of the Government's actions, the *Mathews* test considers three factors: First, the private interest that will be affected by the official action; Second, the risk of an erroneous deprivation of such

interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, and; Third, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, 424 U.S. at 335, 96 S. Ct. at 903 (referencing *Goldberg v. Kelly*, 397 U.S. 254, 263-7 (1970)). Here, all three of the *Mathews* factors weigh decidedly in Petitioner's favor.

45. First, Petitioner's private interest is her freedom. See *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 U.S. Dist. LEXIS 165015, at *34 (D. Md. Aug. 24, 2025) (finding a similarly situated plaintiff to Petitioner to have "perhaps the most acute private interest known to personkind short of life itself: bodily freedom."). Petitioner has been taken from her home, kept away from her four children, and in all that time detained without recourse. Moreover, the deprivation of Petitioner's private interest in being free of bodily restraint has the potential to continue until she is subject to a final order of removal.

46. Second, the risk of erroneous deprivation of Petitioner's bodily freedom has already fully manifested: by incorrectly misclassifying Petitioner as an "applicant for admission" subject to § 1225 mandatory detention, Respondents have kept Petitioner unlawfully detained without recourse. In furtherance of this violation, despite the judgement in *Maldonado Bautista*, Respondents are nevertheless denying Petitioner her constitutionally protected right to be heard at a custody redetermination hearing, thereby leaving Petitioner with no recourse outside the instant Petition. *Id.* 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); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.

Supp. 3d ----, 2025, LX 523334, at *86-7 (C.D. Cal. Dec. 18, 2025) (order entering final judgement as to the previously granted relief.

47. Lastly, in consideration of the third *Mathews* factor, the fiscal and administrative burden to the Government entailed by releasing Petitioner are minimal considering Petitioner is able to show she merits release in consideration of the balance factors under 8 C.F.R. § 241.4(f) and *Matter of Patel*, 15 I&N Dec. 666 (BIA 1976) ((requiring the Immigration Court to consider (1) local family ties; (2) prior arrests, convictions, and appearances at hearings; (3) employment history; (4) membership in community organizations; (5) manner of entry and length of time in the U.S.; (6) immoral acts; and (7) financial ability to post bond). Petitioner is not a flight as she would not abandon her livelihood, family, and the country she has known to be home for nearly twenty years. Moreover, Petitioner is a not a risk to public safety. In all her time residing in the United States, Petitioner has incurred no criminal conviction. In fact, by releasing Petitioner, the Government would relieve itself of the administrative and fiscal costs of keeping her in further detention. *See Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 LX 482036, at *29 (D.N.J. Sep. 26, 2025) ("The third Mathews factor also weighs in [Petitioner's] favor as neither the government nor the public has a significant interest in detaining a long-term resident of the United States with no criminal history who is participating in cancellation of removal proceedings, which are civil in nature.") (referencing 8 U.S.C. § 1229).

48. In sum, under *Mathews*, Petitioner's continued detention violates her Fifth Amendment right to procedural due process and the judgement in *Maldonado Bautista* because Petitioner is a member of the Bond Eligible Class as she is in full removal proceedings under INA § 240 and not subject to mandatory detention under § 1225 or 1226(c), Petitioner's detention serves no legitimate governmental purpose as she poses no risk of flight or threat to public safety or national security, and the Government would incur no additional burden by releasing Petitioner.

COUNT THREE

Petitioner's Detention is Unlawful Under the APA

49. Petitioner restates and realleges all paragraphs as if fully set forth here. A reviewing court has authority to "hold unlawful and set aside" agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An agency rule is arbitrary and capricious if, for example, the agency "offered an explanation for its decision that runs counter to the evidence before the agency" or "is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *accord Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007).

51. As discussed above, Petitioner is not subject to mandatory detention under § 1225(b) as she is not an applicant for admission seeking admission under that section. Accordingly, Respondents' continued detention of Petitioner under § 1225 is unlawful under the APA as it is *not* in accordance with the judgement in *Maldonado Bautista* or United States immigration law as prescribed in the INA. 8 U.S.C. §§ 1225-6. 5 U.S.C. § 706(2)(A).

52. Lastly, because Respondents violated Petitioner's procedural due process rights under the Fifth Amendment, Petitioner's detention is unlawful under the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause directing Respondents to show cause as to why the instant Petition should not be granted;

(3) Declare that Petitioner's detention under § 1225 does not accord with the INA, APA, and due process requirements of the Fifth Amendment of the United States Constitution;

(4) Issue a Writ of Habeas Corpus ordering Respondents to IMMEDITALY release Petitioner from DHS custody; or, in the alternative, to provide Petitioner with a custody redetermination hearing within forty-eight hours before an Immigration Judge under § 1226(a), at which time the Government shall bear the burden of justifying by clear and convincing evidence that Petitioner poses a flight risk or danger to the community or national security if not detained;

(6) Issue an order permanently enjoining Respondents from arresting, re-arresting, or otherwise detaining Petitioner under § 1225 and absent compliance with constitutional protections, which include at a minimum a pre-deprivation notice of at least seven days before a pre-deprivation hearing at which time the Government shall bear the burden of justifying by clear and convincing evidence that Petitioner poses a flight risk or danger to the community if not detained

(7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(8) Declare that Petitioner's continued detention under § 1225 is unconstitutional and unlawful as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;

(9) Declare that Respondents' conduct is unlawful under the Administrative Procedure Act, 5 U.S.C. § 706, as not in accordance with law, and;

/ / /

(10) 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.

Respectfully submitted this December 29, 2025.

SERRATO LAW FIRM, PC

By: /S/ Fabian Serrato, Esq.
Fabian Serrato (CA SBN 202792)
217 Main Street, 3rd Fl
Santa Ana, CA 92701
Tel: (714) 775-6654
Fax: (714) 775-6654
Email: fabian@serratolaw.com
Attorney for Petitioner

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Petitioner's Mexican Passport
B	Notice to Appear (*dated October 6, 2025*)
C	Petitioner's Children's California Birth Certificates
D	Petitioner's Good Moral Character Reference Letters
E	Orders in *Lazaro Maldonado Bautista et al. v Ernesto Santacruz Jr et al*, 5:25-cv-01873, (C.D. Cal. 2025)

Exhibit B

Allegations: Admits All; | Charges: Sustains All;
Designated Country: MEXICO |

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] File No: [redacted]

DOB: [redacted] Event No: [redacted]

In the Matter of:

Respondent: BERTA PEREZ-BONILLA currently residing at:

[redacted] SAN DIEGO, CALIFORNIA, 92154 +1 (619) 671-8700

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO ;
3. You arrived in the United States at or near Otay Mesa, CA , on or about April 1, 2006 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

7488 CALZADA DE LA FUENTE SAN DIEGO CA US 92154

(Complete Address of Immigration Court, including Room Number, if any)

on October 16, 2025 *(Date)* at 08:00 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

RODOLFO R PLASCENCIA JR
Date: 2025.10.07 16:17:01 -07:00
0545724887.CBP.1

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer)

Date: October 06, 2025 Murrieta, California

(City and State)

EOIR – 1 of 3

Allegations: Admits All | Charges: Sustains All
Designated Country: MEXICO

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at **www.uscis.gov/i-589**. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at **http://www.ice.gov/contact/ero**, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is SPANISH

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Refused to Sign
(Signature of Respondent)

Before:
SCOTT M STOPPER
Date: 2025.10.07 15:27:12 -07:00
0470658895.CBP
Border Patrol Agent
(Signature and Title of Immigration Officer)

Date: 10/07/2025

Certificate of Service

This Notice To Appear was served on the respondent by me on October 7, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to Sign
(Signature of Respondent if Personally Served)

SCOTT M STOPPER
Date: 2025.10.07 15:27:08 -07:00
0470658895.CBP
Border Patrol Agent
(Signature and Title of officer)

EOIR – 2 of 3

Allegations: Admits All; | Charges: Sustains All;
Designated Country: MEXICO |

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3

Exhibit D

Cristina Vasquez Caudillo

[redacted]

[redacted]

RE: Character Reference for Berta Perez Bonil

To Whom It May Concern,

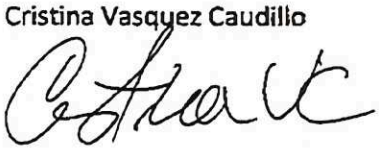
I, Cristina Vasquez Caudillo, am a naturalized U.S. Citizen, born July 15, 1994, in the city of Guanajuato, Mexico. I reside at [redacted] Lake Forest, California and declare under penalty of perjury. I am writing this character reference in support of Berta Perez Bonilla's application for immigration.

I have known Berta for over 20 years, ever since I was a young girl, and throughout these years I have seen how much of a hard worker she truly is. Practically raising her children as a single mother, she never left her responsibilities as a mother and head of the household. Berta is the kind of person that goes above and beyond for others not only for her family and friends but for those she notices need help.

Her kindness and empathy reach many regardless of who they are. These qualities will make a significant positive impact on any environment she finds herself in. I have no doubts she would be an excellent asset to her community.

If you have any further questions, please don't hesitate to reach out

Cristina Vasquez Caudillo



June 19, 2025

Maria Angeles Caudillo

[redacted]

RE: Character Reference for Berta Perez Bonilla

To Whom it May Concern,

I, Maria Angeles Caudillo, have known Berta for at least forty years. We were neighbors since we were kids growing up in Mexico. Then we reunited here in the United States and have been each other's support throughout the years. Berta has been an aunty figure in my children's life. She is like a sister to me. My husband and I became godparents to Berta's older Son for his baptismal sacrament twenty-five years ago.

Berta is trustworthy, honest and has arduously worked to support and raise her Children. I have my own house cleaning business, and she continues to help me whenever one of my employees needs to take a day off. I know I can always count on her help; not only at work, but through any situation that I might need her support.

Her life experiences have strengthen her moral character. However, her charismatic and happy demeanors are always contagious to those who surround her. She makes my world a happier place.

Through Berta's daily actions of respect for everyone she knows in her community and the respect that she has for this country, I know she will continue to contribute to this beautiful nation in positive ways.

Please reach out to me with any further question

Ma. Angeles Caudillo

Maria Angeles Caudillo

[redacted]

Blair, Linda

Subject: Recommendation for Ms. Berta Pérez Bonilla

To Whom It May Concern,

It is my honor to write this letter of recommendation for Ms. Berta Pérez Bonilla, whom I have known personally and professionally for over nine years. During this time, Berta has worked for me as a housekeeper, and I have come to know her as a person of exceptional character, integrity, and dedication.

Berta is trustworthy, dependable, hardworking, and always punctual. Every month, for the past 9 years, she consistently performs her work with great care and professionalism, managing not only my household but also several other homes and businesses. Her ability to handle multiple responsibilities efficiently speaks to her discipline, reliability, and strong sense of commitment.

Berta also embodies the qualities that make for an outstanding U.S. citizen:

Good moral character – She is honest, respectful, and demonstrates integrity in everything she does.

Dependable and hardworking – She has built a strong reputation through years of consistent, high-quality work.

Community involvement – Berta donates her time to her local church, volunteering regularly and supporting community programs.

Responsibility and stability – She manages her personal and professional duties with care and accountability.

Respect for American values – She has a deep appreciation for the principles of hard work, freedom, and opportunity that define the United States.

I have no doubt that Berta will continue to contribute positively to her community and to this country. She is exactly the kind of person who would make a dedicated and responsible U.S. citizen.

Please feel free to contact me if you need any additional information or insight regarding her character and contributions.

Sincerely,

Linda Blair

10/22/25

Linda Blair
Business Advisor/Thryv
Cell:714-931-2553
www.ThryvWithLinda.com

Re: Character Reference for Ms. Berta Perez Bonilla

To Whom It May Concern,

My name is Mike Gray, and I am writing to offer my sincere support for Ms. Berta Perez Bonilla, whom I have had the privilege of knowing for the past twelve years. During this time, Berta has been a consistent, trusted, and valued presence in our lives.

Berta is a person of great integrity, kindness, and humility. She takes tremendous pride in her work and approaches every task with care and professionalism. Over the years, I have come to know her as someone who is deeply dependable and honest — a person I have complete trust in. She is respectful, thoughtful, and always carries herself with grace and dignity.

Beyond her reliability, what stands out most is Berta's warmth and positive spirit. She is the kind of person who brightens the day of anyone she interacts with. She communicates clearly in English, connects well with people from all walks of life, and has built strong, genuine relationships across our community.

I have no hesitation in saying that Berta contributes positively to those around her and exemplifies the values of hard work, honesty, and compassion. I believe she would continue to be a valuable and upstanding member of our community if given the opportunity to remain here.

Thank you for taking the time to consider my perspective. Please know that I hold Berta in the highest regard and have every confidence in her character.

Respectfully,

11/26/25

Mike Gray

[redacted]

November 7, 2025

To whom it may concern:

I am writing to recommend and support that Berta Perez Bonilla stay in the United States.
Berta has been my housekeeper for the last eight years. She is dedicated, reliable and hard working. But most of all Berta is an honest person. Due to our work schedule, I leave the house key in a specified place, she leaves the key on the table and ensures all the doors are locked when she leaves.
I have had many housekeepers through the years but Berta has been the best one.
I've never asked their immigration status but observed that these women are hardworking, diligent and pleasing to their customers.
I do understand the current deportation of illegal immigrants, however I support the process of allowing Berta to stay

In the United States and grant her the opportunity to become a citizen. She is a great person that makes a positive impact to the community. I appreciate the opportunity support Berta.

Sincerely,
Jill Hall
[redacted]

Recommendation for Ms. Berta Pérez Bonilla

Dear Sir/ Madam,

I wanted to take the time to write a letter of recommendation for Ms. Berta Pérez Bonilla, who has been my housekeeper for 5 years now. In that time, I have come to know Berta as an individual of great moral fiber, trustworthiness and grace.

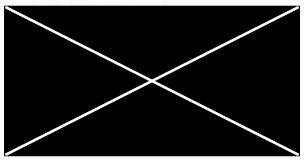
Berta was recommended to me by my next door neighbor, and he raved about how Berta was very professional, hard working and kind. These are qualities that I think exemplify the type of immigrant that is a credit to the USA.

I myself emigrated to the USA 20 years ago from Scotland, and while over there I worked in the immigration system for some time, as a guard at a detention center. I understand very well how some people come into a country, make little effort to assimilate, and do not respect the values of their adopted country. But Berta is not like that, and instead she embodies the qualities that would make for an exceptional U.S. citizen.

Berta is honest, respectful, dependable and hardworking. She manages her duties with maturity and professionalism. She also has a deep appreciation for the principles of hard work, freedom, and opportunity. The kind of principles that are the bedrock of our great country, and have been for centuries.

Please contact me if you have any questions.

Sincerely,
Simon Beal



Laura Martinez

From: Noushin Pietraszuk [redacted]
Sent: Monday, November 17, 2025 3:33 PM
To: Laura Martinez
Subject: Berta perez

To Whom It May Concern:

I am writing wholeheartedly to recommend Berta Perez, who has been my trusted housekeeper for over six years. From the moment she started, Berta brought an incredible work ethic, reliability, and warmth to my home. She consistently goes above and beyond, managing everything from deep cleaning to organizing complex schedules with a smile. Her attention to detail and proactive problem-solving have made my life noticeably easier, whether it's tackling last-minute tasks or ensuring my home always feels welcoming. Beyond her skills, Berta embodies values that reflect the American spirit-honesty, kindness, and perseverance. She is very honest and when she finds money in the house laying around she always puts it on the counter for me. It is hard to find such honest people these days given how expensive life is. She is always on time and has never been inconsistent with her work ethic. She is a family oriented lady and is the kind of citizenry we can use more of in this country; head down, hard working, and just wants to add her contributions to our community. I firmly believe Berta would be an outstanding addition to our American way of life, contributing her positive outlook and hard work to our peoples. Please feel free to contact me if you have more questions.

Sincerely,
Mark Pietraszuk

[redacted]

ANDREW J. BOTROS, ESQ. ΔΨΦΩ
MATTHEW S. BLADO, ESQ. Δ*
JENNA A. BAMFORD, ESQ.
ORION J. BYLSMA, ESQ. Δ
MICHELE M. VALLAT, ESQ.
EMILIZA P. SAN DIEGO, ESQ. Δ
KATHLYNN M. CADIENTE, ESQ. Δ

ANDREW J. BOTROS, APC

Δ CERTIFIED SPECIALIST – FAMILY LAW
Ω CERTIFIED SPECIALIST – APPELLATE LAW
Ψ FELLOW, AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
Φ FELLOW, INTERNATIONAL ACADEMY OF FAMILY LAWYERS
*OF COUNSEL

November 18, 2025

SENT VIA E-MAIL ONLY

Re: In re Berta Perez

To whom it may concern,

My name is Andrew Botros and I am a practicing family law and appellate attorney in California. I live in Aliso Viejo. I am writing to express my sincere support for Ms. Berta Perez, who has been my housekeeper for approximately four years. During this time, I have come to know Berta as hardworking, trustworthy, and reliable.

Berta consistently demonstrates exceptional professionalism. She is always on time—without exception—and approaches her work with diligence, care, and pride. The quality of her work is outstanding, and her strong work ethic is evident each time she comes to my home.

I want to emphasize the trust I have in Berta. She has the access code to my front door, something I would only entrust to someone of the highest integrity. She has never once given me a reason to doubt her honesty, reliability, or character. In fact, her presence brings peace of mind, knowing that my home is in the hands of someone so responsible and conscientious.

Beyond her professionalism, Berta has a warm and pleasant demeanor. She is respectful, kind, and easy to interact with. My mother, who spends 3 months a year with me, thinks the world of her and enjoys making coffee for her during her visits—something she does only when she feels a genuine connection with someone. This speaks to the comfort and trust Berta naturally builds with those around her.

Berta is a hardworking individual who contributes greatly to the lives of the people she works with and to the broader community. She is the type of person who makes a positive impact simply by being who she is.

For all these reasons, I offer my unequivocal support for Berta Perez and respectfully ask that you take this letter into consideration as a reflection of her character, reliability, and the meaningful role she plays in our community.

Thank you for your time and thoughtful consideration,

Very truly yours,

Andrew J. Botros, CFLS, CALS

Exhibit E

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date December 18, 2025

Title *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez	Not Reported
Deputy Clerk	Court Reporter

Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: (IN CHAMBERS) ORDER GRANTING IN PART AND DENYING IN PART PETITIONERS' EX PARTE APPLICATION FOR RECONSIDERATION OR CLARIFICATION [DKT. NO. 87]

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Ex Parte Application for Reconsideration or Clarification regarding the Court's Prior Order on their Motion for Class Certification. [Dkt. No. 87, "Application" or "App."; *see also* Dkt. No. 41, "Motion for Class Certification"; Dkt. No. 82, "Class Certification Order"]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 90, Opposition or "Opp."]. Petitioners filed their Reply on December 12, 2025. [Dkt. No. 91, "Reply"].

I. FACTUAL AND PROCEDURAL BACKGROUND

For sake of brevity, the Court incorporates the factual background from the Prior Order on the Motion for Partial Summary Judgment, the Amended Class Complaint, and the pleadings related to this Application. [*See* Dkt. No. 15,

"Amended Class Complaint" or "ACC"; Dkt. No. 81, "MSJ Order"; *see also* App.; Opp.; Reply].

On November 20, 2025, the Court granted Petitioners' Motion for Partial Summary Judgment but denied their request to enter final judgment due to the pending class certification motion. [*See* MSJ Order]. The following week, on November 25, 2025, the Court granted Petitioners' Motion for Class Certification pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. [*See generally* Class Certification Order]. The certified class was defined as:

- **Bond Eligible Class**: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

[*Id.* at 15].

Petitioners now bring this Application seeking clarification to "eliminate any doubt regarding [Defendant Respondents'] legal obligations and ensure [their] compliance." [App. at 3].

For the following reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Petitioners' Application.

II. LEGAL STANDARD

Courts in this judicial district consistently utilize Local Rule 7-18 to adjudicate motions for reconsideration in civil and criminal matters. *E.g.*, *Feltzs v. Cox Commc'n Cal., LLC*, 562 F. Supp. 3d 535, 539 (C.D. Cal. 2021); *United States v. Biden*, No. 2:23-CR-599, 2024 WL 3892452, at *2–3 (C.D. Cal. Aug. 19, 2024); *In re Pioneer Corp.*, No. 2:18-CV-4524, 2018 WL 4963126, at *2 (C.D. Cal. Aug. 27, 2018) (applying Local Rule 7-18 to a motion for reconsideration of an order authorizing discovery); *Patrick Collins, Inc. v. Does*, No. 8:12-CV-977, 2012 WL 12893290, at *5 (C.D. Cal. Dec. 14, 2012).

A. Local Rule 7-18

Local Rule 7-18 requires that a motion for reconsideration be made within fourteen days after the entry of the subject order and based only on the grounds of:

> (a) a material difference in fact or law from that presented to the Court that, in the exercise of reasonable diligence, could not have been known to the party moving for reconsideration at the time the Order was entered, or (b) the emergence of new material facts or a change of law occurring after the Order was entered, or (c) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered.

L.R. 7-18.

B. Federal Rule of Civil Procedure 60

Federal Rule of Civil Procedure 60 provides grounds for relief from a judgment or order. *See generally* Fed. R. Civ. P. 60. There are two separate categories under Rule 60 that allow for relief: (1) non-substantive corrections of clerical mistakes; and (2) substantive corrections for grounds enumerated in Rule 60(b)(1)–(6). *Id.*

1. Rule 60(a)

Under Federal Rule of Civil Procedure 60(a), a court may correct clerical mistakes or mistakes arising from an oversight or omission whenever one is found in a judgment or order. But Rule 60(a) does not permit substantive changes. *See Blanton v. Anzalone*, 813 F.2d 1574, 1577 n.2 (9th Cir. 1987). In other words, Rule 60(a) allows a court to clarify an order to correct a failure to memorialize part of its decision, to reflect necessary implications of the original order, to ensure the court's purpose is fully implemented, or to permit enforcement. *Tattersalls, Ltd. v. DeHaven*, 745 F.3d 1294, 1298 (9th Cir. 2014) ("The touchstone of Rule 60(a) . . . is fidelity to the intent behind the original judgment.") (citation modified). Rule 60(a) does not allow a court to make corrections under the guise of mere clarification that "reflect a new and subsequent intent because it perceives its original judgment to be incorrect." *Garamendi v. Henin*, 683 F.3d 1069, 1080 (9th Cir. 2012).

2. Rule 60(b)

In contrast, Rule 60(b)(5) "encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances." *Frew v. Hawkins*, 540 U.S. 431, 441 (2004) (citing *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 380 (1992)). Rule 60(b) permits parties to be relieved from "a final judgment, order, or proceeding" when "the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable." *See* Fed. R. Civ. P. 60(b)(5). Among the reasons to relieve a party from a final judgment, order, or proceeding in Rule 60(b) is a catchall provision of "any other reason that justifies relief." Rule 60(b)(6).

III. DISCUSSION

Petitioners' Application requests the following from the Court: (1) appoint additional class counsel under Federal Rule of Civil Procedure 23(g), (2) reconsider the MSJ Order or clarify the Class Certification Order as to final or binding classwide declaratory relief, (3) direct entry of final judgment pursuant to Federal Rule of Civil Procedure 54(b), and (4) expressly confirm that the MSJ Order both declared *and vacated* the challenged agency actions. [App. at 3–4].

Respondents oppose the Application, arguing that the requested issues for reconsideration and/or clarification are inappropriate where no final judgment has been entered, or where the requested relief is either premature or cannot be granted on a classwide basis. [Opp. at 3–9]. The Opposition makes no mention nor argument against including additional class counsel.

As the various grounds for reconsideration and clarification vary, the Court takes each in turn.

A. Inclusion of Appointed Class Counsel

Petitioners' request to include additional class counsel is simple and uncontested. [Reply at 3, 9]. Petitioners included in their Motion for Class Certification the following class counsel: Northwest Immigrant Rights Project, American Civil Liberties Union Foundation ("ACLU") Immigrants' Rights Project, ACLU Foundation of Southern California, and USC Gould School of Law Immigration Clinic. [Dkt. No. 41 at 36]. The Court evaluated the adequacy of each counsel in the Class Certification Order; however, the full order inadvertently

excluded the proposed class counsel from the ACLU Immigrants' Rights Project and ACLU Foundation of Southern California. [Class Certification Order at 15].

To correct this oversight, the Court clarifies pursuant to Rule 60(a) that the initial order intended to include each counsel noted by Petitioners in the Motion for Class Certification.

The Class Certification Order is hereby **AMENDED** to include My Khanh Ngo, Judy Rabinovitz, Michael K.T. Tan, and Noor Zafar of the ACLU Immigrants' Rights Project and Eva Bitran of the ACLU of Southern California as additional class counsel.

B. Clarification of MSJ Order's Application to APA Claims

Petitioners' Application includes a request to clarify whether the MSJ Order extended to its Administrative Procedure Act ("APA") claims. [App. at 11–12].

Respondents raise three objections to this request for clarification, each of which suggests the requested relief is premature and overbroad: (1) Petitioners seek relief distinct from what was requested in the Amended Class Complaint, (2) the Court has not resolved whether classwide vacatur relief is appropriate, and (3) Petitioners' Application is contrary to the Court's directive for a status conference.[1] [Opp. at 9–12].

Upon the Court's review of Respondents' briefing, there is only one argument carrying merit: that the MSJ Order does not apply to vacatur of *Yajure Hurtado*. Petitioners failed to include any request to vacate the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

The Court recognizes the BIA issued the decision in *Yajure Hurtado* weeks after Petitioners filed their Motion for Partial Summary Judgment. Petitioners could not have included a request to vacate the decision in their Amended Class Complaint or their Motion for Partial Summary Judgment. However, as Respondents indicate, Petitioners never amended their request for relief through a Second Amended Class Complaint after the BIA issued *Yajure Hurtado*. [Opp. at 9].

---

[1] The Court does not discuss here Respondents' argument that Petitioners' request goes against the Court's directive for resolving pending issues, but instead incorporates its reasoning in Part III.C regarding the grounds for reconsideration. [*See* Opp. at 12]. *See infra* Part III.C.2.

Even though the Amended Class Complaint contains allegations that Respondents have violated the APA through unlawful policies, there are no allegations that those unlawful policies include the decision in *Yajure Hurtado*. To tack on a new subject of relief without proper amendment would bypass Federal Rule of Civil Procedure 15. The proper mechanism for Petitioners to seek relief against the decision in *Yajure Hurtado* is to amend the Amended Class Complaint, not through an Application for Reconsideration.

The Court, therefore, **DENIES** Petitioners' Application to Reconsider relief pertaining to *Yajure Hurtado*. Nevertheless, the Court observes that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. *See Yajure-Hurtado*, 29 I. & N. Dec. at 220–28 (subjecting noncitizens present in the United States without inspection to § 1225 and denying them bond hearings for lack of jurisdiction). In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not "applicants for admission," and therefore not subject to mandatory detention under § 1225. [MSJ Order at 12–17]. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts "to *ignore*, not follow, 'the reading the court would have reached' had it exercised its independent judgment). Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable.

The Court now addresses the other relief at issue in the Application. Because vacatur is a necessary consequence of declaring an agency action unlawful, vacatur of the DHS Policy is within the scope of the MSJ Order. Detailed reasoning and discussion of potential jurisdictional issues are discussed in the Amended Consolidated Order to be issued shortly after this Order. Accordingly, the Court **GRANTS** Petitioners' Application to clarify that the MSJ Order encompassed Count III of the Amended Class Complaint and granted classwide vacatur of the unlawful DHS policy.[2]

[2] Respondents also argue that "a court cannot grant declaratory relief prior to the entry of a final judgment." [Opp. at 6 (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975))]. Because the Court reconsiders its decision that previously denied entry of final judgment, there is no reason to consider this argument. *See infra* Part III.C.

C. Entry of Final Judgment

With the scope of the MSJ Order and Class Certification Order clarified, the Court now considers whether it should revisit its previous decision to deny entry of final judgment.[3]

Previously, the Court declined to enter final judgment pursuant to Rule 54(b) "[b]ecause Petitioners [had] filed a pending motion for class certification." [MSJ Order at 17]. At the time of denying Petitioners' request for entry of final judgment on November 20, 2025, the Court had yet to decide whether class certification was appropriate.

The Court had sequenced the motions in this manner, as the Motion for Partial Summary Judgment required the Court to consider a single question of law while the Motion for Class Certification entailed a wider scope of issues for claims in the Amended Class Complaint. *See Wright v. Schock*, 742 F.2d 541, 543–44 (9th Cir. 1984) (recognizing a district court's discretion to rule on a motion for summary judgment before class certification "[u]nder the proper circumstances—where it is more practicable to do so and where the parties will not suffer significant prejudice"). Because the MSJ Order did not enter final judgment, Respondents would face no significant, if any, prejudice.

Petitioners now request that the Court reconsider its initial decision to decline entry of final judgment. [App. at 7, 11–12]. Referencing Local Rule 7-18, Petitioners present new material facts that warrant reconsideration. [*Id.* at 11]. Namely, the Application provides numerous declarations indicating Respondents' failure to comply with the Court's orders by continuing to deny bond hearings for class members and/or Respondents' issuing guidance to disregard the Court's declaratory judgment. [*Id.* at 8–9].

Respondents' Opposition asserts that the status conference set for January 16, 2026, is more appropriate to resolve outstanding issues because "a final declaratory judgment will not simplify the complex issues presented" and "will cause substantial confusion as well as overlapping and inconsistent legal obligations." [Opp. at 2–3]. In doing so, Respondents argue that "[w]ithout

[3] The parties' respective arguments as to the binding effect of the MSJ Order and the Class Certification Order are no longer relevant given the Court's decision to enter final judgment by granting the Application. [Opp. at 4–5; Reply at 4–5]. The Court finds no need to address these arguments.

preclusive effect, a declaratory judgment is little more than an advisory opinion." [*Id.* at 4].

The Court examines as a threshold matter whether reconsideration is proper.

1. Requirements for a Motion for Reconsideration

Local Rule 7-18 requires parties to base a motion for reconsideration on one of three grounds: (1) a material difference in fact or law from that presented to the Court that not known to the moving party at the time the Order was entered; (2) new material facts or a change of law occurring after the Order was entered; or (3) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered. L.R. 7-18.

Indeed, circumstances have changed since the Court's MSJ Order, something Respondents do not contest in the Opposition. The record now reflects the Court's rulings on both Petitioners' Motion for Partial Summary Judgment and Motion for Class Certification, the consequences of which present an altered landscape to that of Respondents' conduct at the time this matter was initiated.

With this in mind, the Court also notes that the Application also presents grounds for reconsideration due to newly emerged facts that fall under two categories.

New Facts Pertaining to IJ's Lack of Compliance. The Application details that Respondents have "persisted in denying class members bond hearings in two ways." [App. at 8]. The various supporting exhibits attached to the Application confirm that immigration judges ("IJs") continue to deny bond hearings for members of the Bond Eligible Class despite the Court's determination that the DHS Policy is unlawful. [*Id.*; *see e.g.*, Dkt. No. 87-2 at 5–8, 11–12, 14–15; Dkt. No. 87-5 at 6–7; Dkt. No. 87-7 at 4–7; Dkt. No. 87-8 at 5–8; Dkt. No. 87-9 at 5–6; Dkt. No. 87-11 at 3–4; Dkt. No. 87-12 at 3–4; Dkt. No. 87-13 at 4–5; Dkt. No. 87-14 at 4–5; Dkt. No. 87-15 at 3–4; Dkt. No. 87-16 at 3–4; Dkt. No. 87-17 at 3–4]. This is the case in at least ten other states. [*Id.*].

In these determinations, IJs have cited to this Court's order, choosing to disregard the declaratory relief granted because it did not enter final judgment or due to some misunderstanding on part of the IJs as to the effect or nature of the Court's orders. [Dkt. No. 87-2 at 11 (suggesting this Court "did not issue a class-wide declaratory judgment"); Dkt. No. 87-2 at 14 (same); Dkt. No. 87-5 at 6 (same); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (same); Dkt. No. 87-9 at 3

(same); Dkt. No. 87-12 at 3 (same); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

This uniform practice by IJs might be attributed to the nature of Petitioners' motion being a "Motion Partial Summary Judgment," the Court's phrasing in its MSJ Order and/or Class Certification Order, or the Court's decision to deny the request for entry of final judgment in the MSJ Order. In any event, the Court finds that the subsequent developments affecting the Bond Eligible Class members in this matter are material, which warrant reconsideration of whether to enter final judgment.

New Facts Pertaining to Respondents' Policies. Similarly, and perhaps more troubling, is the emergence of the Respondents' direction to IJs that they should *disregard* this Court's orders. [App. at 9]. Petitioners have provided evidence that the Office of Immigration Litigation issued a memorandum instructing IJs to "hold the position that *Yajure Hurtado* remains good law." [Dkt. No. 87-3 at 2; *see also* Dkt. No. 87-2 at 11 (adhering to *Yajure Hurtado*); Dkt. No. 87-2 at 14 (reasoning that *Yajure-Hurtado* is an independent ground for denying a bond hearing); Dkt. No. 87-5 at 6 (denying bond for lack of jurisdiction pursuant to *Yajure Hurtado*); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (stating it was the "position of the [DOJ]" to continue heeding *Yajure Hurtado*); Dkt. No. 87-9 at 3 (adhering to *Yajure Hurtado*); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

Because the Court has now decided both the Motion for Partial Summary Judgment and Class Certification Motion, and considering the newly emerged facts as to noncompliance, the posture of this case presents materially different circumstances that would compel reconsideration.

Consistent with the discussion above, the Court finds the Application has provided adequate grounds for this Court's reconsideration under Local Rule 7-18. For the reasons discussed below, the Court finds it appropriate to enter final judgment as to the claims encompassed within the MSJ Order: Counts I, II, and III.[4]

[4] Claims IV and V of the Amended Class Complaint remain in this action, as they were not included within the scope of the Partial Motion for Summary Judgment.

2. Entry of Final Judgment

Rule 54(b) allows a court to direct final judgment "when an action presents more than one claim for relief or when multiple parties are involved." Fed. R. Civ. Proc. 54(b). Such entry is appropriate "as to one or more, but fewer than all, claims or parties *only if* the court expressly determines that there is no just reason for delay." *Id.* (emphasis added).

Moreover, Rule 54(b) acknowledges that "any order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(b). This is an exercise of a Court's inherent authority and power to modify its own interlocutory orders. *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 888 (9th Cir. 2001).

A request from a party for a court to exercise this authority generally comes in the form of a motion for reconsideration. *See e.g.*, *Moore v. Grundman*, No. 11-CV-1570-DMS-WMc, 2012 WL 1252711, at *1 (S.D. Cal. April 13, 2012); *Baldwin v. United States*, 823 F. Supp. 2d 1087, 1098 (D.N. Mariana Islands 2011); *Whitsit v. Walker*, No. C-09-2387-JL, 2009 WL 5125858, at *1 (N.D. Cal. Dec. 21, 2009); *Rhodes v. Robinson*, No. 1:02-CV-05018-LJO-DLB, 2008 WL 1766975, at *1 (E.D. Cal. Apr. 17, 2008); *Network Signatures, Inc. v. ABN-AMRO, Inc.*, No. 8:06-CV-00629-JVS-RNBx, 2007 WL 760187,1 at *1 (C.D. Cal. Apr. 10, 2007).

When a Court chooses to modify, the only requirement for the exercise of this power is that the court "has not been divested of jurisdiction over the order." *Baykeeper*, 254 F.3d at 888. The Court confirms that it still possesses jurisdiction over the MSJ Order and Class Certification Order, as no interlocutory appeal or certification of appeal under Rule 23(f) has been filed.

Because the Court still has jurisdiction, it must articulate sufficient cause for the modification. *See Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 13 n.14 (1983). To determine whether there is "any just reason for delay," the Court must consider "judicial administrative interests as well as the equities involved." *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980). The Ninth Circuit has found "Rule 54(b) certification is proper if it will aid expeditious decision of the case." *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794, 797 (9th Cir. 1991) (citation modified). Whether to make an express determination under

Rule 54(b) is "exclusively within the District Court's discretion." *Atterbury v. Carpenter*, 310 F.2d 126, 126 (9th Cir. 1962).

Indeed, entry of final judgment here will likely aid expeditious decision of the case. As discussed above, the Court is in a posture distinct from where it stood on November 20, 2025. On November 20, 2025, the Court declined entry of final judgment, reasoning final judgment was not appropriate due to the pending motion for class certification. [MSJ Order at 17]. The impact of class certification on the nature of the case provided adequate justification for delay in the entry of final judgment. The Court then issued its Class Certification Order on November 25, 2025. [*See* Class Certification Order].

Because of that change in procedural posture, the Court finds that the previous reasons supporting delay in entry of final judgment pursuant to Rule 54(b) no longer exist. Furthermore, because new facts indicate Respondents have counseled the noncompliance with the Court's orders as discussed in Part III.B.1. Evidence of these circumstances present exigent circumstances that may cause irreparable harm to those detained without a bond hearing, where they are otherwise entitled to one. *See* Fed. R. Civ. P. 54(b). [*See also* Reply at 9 (detailing the harm that Bond Eligible Class members face in light of Respondents' policies)].[5]

Finding no just reason for delay, the Court **GRANTS** Petitioners' Application to Reconsider as to the previous denial of final judgment. The Court hereby **ENTERS** final judgment in this action as to Counts I, II, and III of the Amended Class Complaint.

IV. CONCLUSION

Accordingly, the Court hereby **GRANTS IN PART** and **DENIES IN PART** Petitioners' Application for Reconsideration and Clarification as follows:

- the Application is **GRANTED** as to the additional class counsel;
- the Application is **DENIED** as to including vacatur of *Matter of Yajure Hurtado* in the judgment;

[5] The Court's decision here moots Respondents' arguments regarding the tentative nature of the declaratory relief and its preclusive effect. [Opp. at 2–3, 4].

- the Application is **GRANTED** as to the clarification that the MSJ Order declared the DHS Policy unlawful and granted vacatur under the APA; and

- the Application is **GRANTED** as to the prior request to enter final judgment. The Court hereby **ENTERS** final judgment as to Counts I, II, and III.

An Amended Order consolidating the MSJ Order and Class Certification Order, clarifying the issues encompassed in this Motion, and detailing the judgment will be issued separately.[6]

IT IS SO ORDERED.

[6] Consistent with Rule 60(a), the clarifications in this Order make no substantive corrections to the effect of its prior orders. The portion of this Amended Order incorporating the Court's reconsideration of its prior denial to enter final judgment and subsequent entry of final judgment is the only substantive change. Such changes are permissible and governed by Rule 60(b)(6).