

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CASE NO. 25-1782

RECEIVED

DEC 23 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Oriana Lorena Atencio Epiayu, Moises
Alejandro Atencio Epiayu,

Petitioners,

Case No.

SA25CA1883

XR

v.

PETITION FOR WRIT OF
HABEAS CORPUS

Mary De Anda-Ybarra, Field Office Director of
Enforcement and Removal Operations, El Paso
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Bobby Thompson,
Warden of South Texas Family Residential
Center,

Respondents.

1 INTRODUCTION

2 1. Petitioners, Oriana Lorena Atencio Epiayu and her minor son, M [REDACTED]
3 [REDACTED] bring this petition for a writ of habeas corpus to seek enforcement of their rights
4 as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-
5 CV-01873-SSS-BFM (C.D. Cal.) Petitioners are in the physical custody of Respondents at the
6 South Texas Family Residential Center located in Dilley, Texas. They now face unlawful
7 detention because the Department of Homeland Security (DHS) and the Executive Office for
8 Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf
9 of the certified class in *Maldonado Bautista v. Santacruz*.

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

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

22 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
23 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
24

1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
2 opportunity to be released on bond.

3 5. Petitioners Oriana Lorena Atencio Epiayu and Moises Alejandro Atencio Epiayu
4 are members of the Bond Eligible Class, as they:

- 5 a. do not have lawful status in the United States and are currently detained at the
6 South Texas Family Residential Center located in Dilley, Texas. They were
7 apprehended by immigration authorities on November 20, 2025;
- 7 b. entered the United States without inspection over three years ago and were not
8 apprehended upon arrival, *cf. id.*; and
- 8 c. are not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

9 6. After apprehending Petitioner on November 20, 2025, the DHS placed them in
10 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
11 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
12 without inspection.

13 7. The Court should expeditiously grant this petition.

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

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

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

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

6 **JURISDICTION**

7 12. Petitioners are in the physical custody of Respondents. Petitioners are detained at
8 the South Texas Family Residential Center located in Dilley, Texas.

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

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

14 **VENUE**

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

18 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
19 Respondents are employees, officers, and agencies of the United States, and because a
20 substantial part of the events or omissions giving rise to the claims occurred in the Western
21 District of Texas and Respondents resided in San Antonio prior to being detained in South Texas
22 Family Residential Center located in Dilley, Texas.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

19. Petitioners Oriana Lorena Atencio Epiayu and Moises Alejandro Atencio Epiayu are citizens of Colombia who have been in immigration detention since November 20, 2025. After Petitioners were arrested in San Antonio, Texas at the ICE facility during a routine-scheduled check-in appointment by ICE, ICE did not release Petitioners as they had previously, ICE did not set bond, and Petitioners requested review of their custody by an IJ. Respondents requested a Custody Redetermination Hearing in early December. On December 8, 2025, their custody redetermination hearing was set to December 10, 2025. Before the custody redetermination hearing could even take place, on December 8, 2025, Petitioners were denied bond by an IJ at the Pearsall Immigration Court because they were deemed an “applicant for admission” and the IJ noted that their request for a change in custody status of the respondent be DENIED for the following reason(s): ***Matter of Yajure-Hurtado applies, 29 I&N Dec. 2016 (BIA2025)*** Ordering that the Respondent’s request for redetermination of custody status was

1 denied for lack of jurisdiction. Petitioners have resided in the United States since November 2,
2 2022.

3 20. Respondent Mary De Anda-Ybarra is the Director of the El Paso Field Office of
4 ICE's Enforcement and Removal Operations division who is acting director and leader for
5 Dilley, Texas. As such, Mary De Anda-Ybarra is Petitioner's immediate custodian and is
6 responsible for Petitioner's detention and removal. She is named in her official capacity.

7 21. Respondent Kristi Noem is the Secretary of the Department of Homeland
8 Security. She is responsible for the implementation and enforcement of the Immigration and
9 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
10 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

14 23. Respondent Pamela Bondi is the Attorney General of the United States. She is
15 responsible for the Department of Justice, of which the Executive Office for Immigration Review
16 and the immigration court system it operates is a component agency. She is sued in her official
17 capacity.

18 24. Respondent Executive Office for Immigration Review (EOIR) is the federal
19 agency responsible for implementing and enforcing the INA in removal proceedings, including
20 for custody redeterminations in bond hearings.

21 25. Respondent Bobby Thompson is employed by the GEO Group as Warden of the
22 South Texas Family Residential Center, where Petitioners are detained. He has immediate
23 physical custody of Petitioners. He is sued in his official capacity.

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

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

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

28. 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.

29. 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.”

30. 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).

31. By denying Petitioner a bond hearing under § 1226(a) and asserting that they are 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

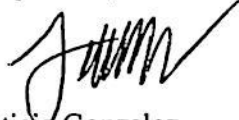
WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioners;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioners unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

- 1 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
2 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and
4 e. Grant any other and further relief that this Court deems just and proper.
5

6 DATED this 16th of December, 2025.

7 Respectfully submitted,

8 

9 Leticia Gonzalez
10 5000 San Pedro
11 San Antonio, Texas 78212
12 (210)293-9393/ fax(210)405-3310
13 l.gonzalez@gonzalezlawyer.com
14 State Bar of Texas: 24036151

15 *Attorneys for Petitioners*
16
17
18
19
20
21
22
23
24