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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

DAVID VARGAS HERNANDEZ,

Petitioner,

Case No.

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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

Respondents.

1 INTRODUCTION

2 1. Petitioner **DAVID VARGAS HERNANDEZ** brings this petition for a writ of
3 habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified
4 in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in
5 the physical custody of Respondents at the **Stewart Detention Center in Lumpkin, Georgia**.
6 Petitioner now faces unlawful detention because the Department of Homeland Security (DHS)
7 and the Executive Office for Immigration Review (EOIR) have refused to abide by the
8 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

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

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

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

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

22 7. Petitioner DAVID VARGAS HERNANDEZ is a member of the Bond Eligible
23 Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Stewart Detention Center in Lumpkin, Georgia;
- b. entered the United States without inspection; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

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

9. The Court should expeditiously grant this petition.

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

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

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

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

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

8 JURISDICTION

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

11 16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
12 1331 (federal question), and Article I, section 9, clause 2 of the United States
13 Constitution (the Suspension Clause).

14 17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
15 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

16 VENUE

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

20 19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
21 Respondents are employees, officers, and agencies of the United States, and because a
22 substantial part of the events or omissions giving rise to the claims occurred in the
23 MIDDLE DISTRICT OF GEORGIA.
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1 24. Respondent JOHN TSOUKARIS is the Director of the Atlanta Field Office of ICE's
2 Enforcement and Removal Operations division; however, on information and belief, the
3 DHS is rotating their Field Office Director without publishing a schedule of rotation. As
4 such, JOHN TSOUKARIS or his unknown, unannounced provisional replacement is
5 Petitioner's immediate custodian and is responsible for Petitioner's detention and
6 removal. He or his acting counterpart is named in his or her official capacity.

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

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

14 27. 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
16 Review and the immigration court system it operates is a component agency. She is sued
17 in her official capacity.

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

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

3 **CLAIMS FOR RELIEF**

4 **COUNT I**
5 **Violation of the INA**

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

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

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

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

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

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

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

21 36. The Court's Amended Consolidated Order and Final Judgment issued on December 18,
22 2025, eliminates any doubt: Petitioner DAVID VARGAS HERNANDEZ's eligibility for
23 class relief is abundantly clear and binding on all Immigration Judges nationwide. The
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1 Court expressly extended the declaratory judgment to the Bond Eligible Class as a whole
2 and vacated DHS’s July 8, 2025 policy under the Administrative Procedure Act.

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

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

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

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15 **LEGAL FRAMEWORK**

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

18 41. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
19 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are
20 generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
21 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or
22 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

7 45. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
8 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
9 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.
10 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
11 Pub. L. No.119-1, 139 Stat. 3 (2025).

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

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

1 (noting that § 1226(a) simply “restates” the detention authority previously found at §
2 1252(a)).

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

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

5 50. The new policy, entitled “Interim Guidance Regarding Detention Authority for
6 Applicants for Admission,”¹ claims that all persons who entered the United States
7 without inspection shall now be subject to mandatory detention provision under §
8 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and
9 affects those who have resided in the United States for months, years, and even decades.

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

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

17 53. A growing number of federal courts have rejected ICE and EOIR’s expanded
18 interpretation of the Immigration and Nationality Act’s detention provisions. These
19 courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention
20 authority applicable in these cases. For example, courts in Massachusetts, Arizona, New
21 York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v.*
22 *Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV

23 ¹ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
24 [applications-for-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

1 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25
2 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
3 SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass.
4 Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21,
5 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

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

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

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

17 57. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
18 entered the United States and were not free to mingle with the general population after
19 being free from official restraint. The statute’s entire framework is premised on
20 inspections at the border of people who are “seeking admission” to the United States. 8
21 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
22 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether a[] [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

3 **FACTS**

4 58. Petitioner DAVID VARGAS HERNANDEZ is a 50-year-old citizen of Mexico who has
5 resided in the United States since December 27, 2025. He entered without inspection and
6 was not apprehended upon arrival. Petitioner was arrested by immigration and placed in
7 DHS custody at the Stewart Detention Center. Judges in the same Immigration Court
8 have continued to classify others like Petitioner as an “applicant for admission” under 8
9 U.S.C. § 1225(b)(2) until they receive further guidance from EOIR on whether or not
10 they, the independent adjudicators assigned the duty of determining their own
11 jurisdiction, have jurisdiction.

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

18 60. Despite the Court’s declaratory judgment and final order in *Maldonado Bautista*—
19 holding that class members are detained under 8 U.S.C. § 1226(a) and entitled to
20 consideration for release on bond—Respondents continue to apply § 1225(b)(2) and deny
21 bond hearings to class members, including Petitioner. Immigration Judges at Stewart
22 Detention Center have refused jurisdiction, citing agency directives to disregard the
23 Court’s earlier rulings, and insisting on awaiting guidance from the 11th Circuit or EOIR
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1 to assume jurisdiction. In the meantime, Respondents' continued detention of Petitioner
2 violates the INA and the binding judgment in Maldonado Bautista.

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4 **PRAYER FOR RELIEF**

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

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

15 DATED this 2nd day of January, 2026.

16
17 **/s/ Joshua McCall, Esq.**
18 Joshua McCall, Esq.
19 Attorney for Defendant
20 Georgia Bar No. 280076
21 The McCall Firm, LLC
201 Forrest Avenue, Suite A
20 Gainesville, Georgia 30501
21 Telephone: (678) 696-5348
21 Email: Josh@mccallatlaw.com

22 *Attorney for Petitioner*
23
24