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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA
8

9 ELIDA GUERRERO AGUILAR,

10 Petitioner,

11 v.

12 Patrick, DIVVER, Field Office Director of
13 Enforcement and Removal Operations, San
Diego Field Office, Immigration and Customs
14 Enforcement; Todd M. LYONS, Acting
Director, U.S. Immigration and Customs
15 Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
16 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
17 General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Christopher J.
18 LAROSE, Warden of Otay Mesa Detention
Facility,

19 Respondents.
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Case No. '26CV0015 TWR AHG

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner, Elida Guerrero Aguilar, brings this petition for a writ of habeas corpus
3 to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical
5 custody of Respondents at the Otay Mesa Detention Facility. He now faces unlawful detention
6 because the Department of Homeland Security (DHS) and the Executive Office for Immigration
7 Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the
8 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 Central District of California entered a final judgment
22 in *Maldonado Bautista*, certifying the nationwide class and declaring the policy of detaining
23 those individuals that entered the United States without inspection under § 1225(b)(2) unlawful.
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2 5. Nonetheless, the Executive Office for Immigration Review and its subagency the
3 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
4 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
5 opportunity to be released on bond.

6 6. Petitioner, Elida Guerrero Aguilar Cabrera, is a member of the Bond Eligible
7 Class, as she:

- 8 a. does not have lawful status in the United States and is currently detained at the
9 Otay Mesa Detention Facility. She was apprehended by immigration authorities in
10 December 12, 2025 at an immigration check in appointment;
11 b. entered the United States without inspection in 2000, more than 25 years ago and
12 was not apprehended upon arrival, *cf. id.*; and
13 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

14 7. After apprehending Petitioner on December 12, 2025, the DHS placed her in
15 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
16 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
17 without inspection.

18 8. The Court should expeditiously grant this petition.

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

24 10. 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

1 controlling, even with respect to class members, and that instead IJs remain bound to follow the
2 agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

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

8 JURISDICTION

9 13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
10 Otay Mesa Detention Facility in San Diego, California.

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

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

16 VENUE

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

20 17. 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 Southern
23 District of California.

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DATED this 1 of January, 2026

Respectfully Submitted:

/s/ Tina Malek
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CA Bar No. 265543
Counsel for Petitioner