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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Gaspar Gernaldo Ramirez Rafael,
Petitioner,

v.

Miami Field Office Director, Immigration and
Customs Enforcement and Removal Operations
("ICE/ERO"); Acting Director of U.S.
Immigration and Customs Enforcement
("ICE"); U.S. Immigration and Customs
Enforcement ("ICE"); U.S. Secretary of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY ("DHS"); Attorney
General of the United States; WARDEN,
Warden of Florida Soft Side South Detention
Center.

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

EXPEDITED HEARING REQUESTED

A Number 

1 **INTRODUCTION**

2 1. Petitioner, Gaspar Gernaldo Ramirez Rafael, brings this Petition for a Writ of
3 Habeas Corpus to seek enforcement of his 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 Florida Soft Side South Detention Center. He now
6 faces unlawful detention because the Department of Homeland Security (DHS) and the
7 Department of Justice (DOJ) have refused to abide by the declaratory judgment issued on behalf
8 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.

1 4. Petitioner Gaspar Gernaldo Ramirez Rafael is a member of the Bond Eligible

2 Class, as he:

- 3 a. Arrived in the United States and was apprehended upon arrival but was released
4 on his own recognizance; and
5 b. Thereafter was physically present in the United States at liberty for nearly 7 years
6 prior to current detention; and
7 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7 5. Respectfully, the Court should expeditiously grant this Petition.

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

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

17 8. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued
18 a precedent decision, binding on all immigration judges, holding that an immigration judge has
19 no authority to consider bond requests for any person who entered the United States without
20 admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board
21 determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
22 therefore ineligible to be released on bond

23 9. Alternatively, even assuming *arguendo* that Petitioner is not a member of the
24 *Maldonado Bautista* class, Petitioner’s detention violates the plain language of the Immigration

1 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
2 previously entered and are now residing in the United States at liberty for many years. Instead,
3 such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on
4 conditional parole or bond.

5 10. On or about December 23, 2025, in *Ariza v. Noem*, et al, a decision was issued as
6 for a Petition for Habeas Corpus *See Ariza v. Noem*, et al, No. 4:25-CV-165-RGJ, 2025 WL
7 3722014, at *7 (W.D. Ky. Dec. 23, 2025).

8 11. In *Ariza v. Noem*, *id*, the Court held a noncitizen who has been physically
9 present in the United States in liberty for many years after arrival to the United States, is
10 not “seeking admission” within the meaning of 8 U.S.C. § 1225 and therefore is properly
11 detained under 8 U.S.C. § 1226(a). The case at bar involves virtually the same fact pattern,
12 where the Petitioner is a noncitizen who has been physically present in the United States at
13 liberty for almost seven (7) years, and therefore is not “seeking admission” within the
14 meaning of 8 U.S.C. § 1225, entitling him to a bond hearing pursuant to 8 U.S.C. § 1226(a).

15 **JURISDICTION**

16 12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Florida
17 Soft Side South Detention Center, in Ochopee, Florida.

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

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

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VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court should grant this Petition for Writ of Habeas Corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

19. 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

1 20. Petitioner Gaspar Gernaldo Ramirez Rafael is a citizen of Guatemala who has
2 been in immigration detention since on or about December 29, 2025. Petitioner has resided in the
3 United States at liberty since sometime in 2019.

4 21. Respondent is the Field Office Director for the Miami Field Office, Immigration
5 and Customs Enforcement and Removal Operations (“ICE”). The Miami Field Office is
6 responsible for local custody decisions relating to non-citizens charged with being removeable
7 from the United States, including the arrest, detention, and custody statutes of non-citizens. As
8 such, the Miami Filed Office Director is Petitioner’s immediate custodian and is responsible for
9 Petitioner’s detention and removal. He is sued in his official capacity.

10 22. Respondent is the acting director of U.S. Immigration and Customs Enforcement,
11 and has authority over the actions of ICE in general. Respondent is therefore a legal custodian of
12 the Petitioner. Respondent is sued in his official capacity.

13 23. Respondent U.S. Immigration and Customs Enforcement is the federal agency
14 responsible for custody decisions relating to non-citizens charged with being removable from the
15 United States, including the arrest, detention, and custody status of non-citizens.

16 24. Respondent is the U.S. Secretary of Homeland Security (DHS) and has authority
17 over the actions of all other DHS Respondents in this case, as well as all operations of DHS.
18 Respondent is a legal custodian of Petitioner and is charged with faithfully administering the
19 immigration laws of the United States. Respondent is sued in her official capacity.

20 25. Respondent U.S. Department of Homeland Security is the federal agency that has
21 authority over the actions of ICE and all other DHS Respondents.

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1 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
2 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
3 139 Stat. 3 (2025).

4 34. Following the enactment of the IIRIRA, EOIR (as part of the DOJ) drafted new
5 regulations explaining that, in general, people who entered the country without inspection were
6 not considered detained under § 1225 and that they were instead detained under § 1226(a). *See*
7 *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of*
8 *Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

9 35. Thus, in the decades that followed, most people who entered without inspection
10 and were placed in standard removal proceedings received bond hearings, unless their criminal
11 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
12 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
13 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
14 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
15 “restates” the detention authority previously found at § 1252(a)).

16 36. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
17 rejected well-established understanding of the statutory framework and reversed decades of
18 practice.

19 37. The new policy, entitled “Interim Guidance Regarding Detention Authority for
20 Applicants for Admission,”¹ claims that all persons who entered the United States without
21 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
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23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 policy applies regardless of when a person is apprehended, and affects those who have resided in
2 the United States for months, years, and even decades.

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

7 39. Since Respondents adopted their new policies, dozens of federal courts have
8 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
9 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

10 40. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma,
11 Washington, immigration court stopped providing bond hearings for persons who entered the
12 United States without inspection and who have since resided here. There, the U.S. District Court
13 in the Western District of Washington found that such a reading of the INA is likely unlawful and
14 that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the
15 United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

16 41. Subsequently, court after court has adopted the same reading of the INA's
17 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
18 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
19 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
20 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
21 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
22 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
23 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,

1 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
2 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
3 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
4 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
5 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
6 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
7 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
8 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
9 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
10 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
11 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
12 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
13 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
14 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
15 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
16 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
17 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
18 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

19 42. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
20 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
21 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

1 43. Section 1226(a) applies by default to all persons “pending a decision on whether
2 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
3 § 1229a, to “decide the inadmissibility or deportability of a noncitizen.”

4 44. The text of § 1226 also explicitly applies to people charged as being inadmissible,
5 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph
6 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
7 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
8 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
9 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
10 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025
11 WL 1869299, at *7.

12 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
13 recently entered the United States. The statute’s entire framework is premised on inspections at
14 the border of people who are “seeking admission” to the United States. 8 U.S.C.
15 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
16 applies “at the Nation’s borders and ports of entry, where the Government must determine
17 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
18 U.S. 281, 287 (2018).

19 46. Accordingly, the mandatory detention provision of § 1225 does not apply to
20 people like Petitioner, who have already entered and were residing in the United States in liberty
21 for many years.

22 47. The decision in *Yajure* makes all other remedies futile for the Petitioner, thus the
23 necessity for this Petition.

FACTS

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48. Petitioner is a twenty-eight (28) year old citizen of Guatemala.

49. Petitioner arrived in the United States on or about February 25, 2019.

50. Upon arrival and after apprehension, he was released on his own recognizance on or about February 28, 2019.

51. After his release, Petitioner was physically present in the United States at liberty for nearly seven (7) years.

52. His current detention arises solely from a separate arrest on or about December 29, 2025.

53. Accordingly, the relevant inquiry for determining whether a noncitizen was apprehended “upon arrival” is the most recent arrest resulting in the current detention, not a historical encounter years earlier that ended in release on Petitioner’s own recognizance.

54. Looking to the current December 29, 2025, arrest, Petitioner was plainly not apprehended upon arrival, as he has lived in the United States for close to seven (7) years at liberty after apprehension upon arrival to the United States.

55. Petitioner has no criminal history.

56. Based on the analysis herein, the Petitioner satisfies all three (3) prongs required to be part of the Maldonado Bautista class.

57. Petitioner is neither a flight risk nor a danger to the community. Petitioner has strong ties to the community where he lives with family in Port St. Lucie, including his partner and their two (2) minor children, a boy who is eight (8) years old and a girl who is three (3) years old and is a born US citizen.

1 58. Petitioner's partner and mother of his children has severe medical issues that
2 impact her ability to work and care for their two (2) small children. She recently had a
3 complicated eye surgery and suffers from critical vision issues and severe migraines that cause
4 her to struggle to care for their two (2) small children alone. Petitioner's release is imperative for
5 the care, support, and to provide for his two (2) young children.

6 59. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
7 Petitioner's bond request, necessitating this Petition and the remedies requested herein.

8 60. As a result, Petitioner remains in detention. Without relief from this Court, he
9 faces the prospect of months, or even years, in immigration custody, separated from his family,
10 who desperately need his support due to his partner's medical condition.

11 61. In both the case at bar and *Ariza, id*, the Petitioners were both apprehended upon
12 arrival to the United States and released shortly thereafter- Ariza on parole and the Petitioner on
13 his own recognizance. Their release, and their subsequent years at liberty living in the United
14 States, under the plain reading of the statute indicates that they are not "arriving aliens" and **not**
15 subject to mandatory detention under §1225, but are eligible for bond hearing under 8 U.S.C. §
16 1226(a).

17
18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 **Violation of the INA:**

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

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

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

1 70. Nonetheless, pursuant to *Matter of Yajure Hurtado*, the EOIR, which is part of the
2 DOJ, has a policy and practice of applying § 1225 to individuals like Petitioner.

3 71. The application of § 1225 to Petitioner unlawfully mandates [his] continued
4 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

5
6 **COUNT III**
Violation of Due Process

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

9 73. The government may not deprive a person of life, liberty, or property without due process
10 of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,
11 detention, or other forms of physical restraint—lies at the heart of the liberty that the
12 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

13 74. Petitioner has a fundamental interest in liberty and being free from official restraint.

14 75. The government’s detention of the Petitioner by classifying him under §1225 is contrary
15 to the current case law. Pursuant to *Ariza*, Section 1225 does not apply to aliens who have
16 been continuously present in the United States at liberty for multiple years as they are not
17 considered “seeking admission.” *Ariza v. Noem*, et al, No. 4:25-CV-165-RGJ, 2025 WL
18 3722014, at *7 (W.D. Ky. Dec. 23, 2025).

19 76. Petitioner arrived in the United States on or about February 25, 2019, and was
20 apprehended upon arrival but released on his own recognizance on or about February 28,
21 2019.

22 77. As in *Ariza*, *id*, Petitioner spent years in liberty in the United States and therefore entitled
23 to a bond hearing pursuant to 8 U.S.C. § 1226(a).
24

1 78. The government's detention of Petitioner pursuant to § 1225 violates his right to due
2 process.

3 **PRAYER FOR RELIEF**

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

- 5 a. Assume jurisdiction over this matter;
- 6 b. Order that Petitioner shall not be transferred outside the MIDDLE DISTRICT OF
7 FLORIDA while this Petition is pending;
- 8 c. Ordering the Respondents respond to this Petition urgently based on the severe
9 medical conditions specified in facts section herein;
- 10 d. Issue a Writ of Habeas Corpus requiring that within one day, Respondents release
11 Petitioner;
- 12 e. Alternatively, issue a Writ of Habeas Corpus requiring Respondents to release
13 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
14 seven (7) days;
- 15 f. Declare that Petitioner's detention is unlawful;
- 16 g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
17 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
18 law; and
- 19 h. Grant any other and further relief that this Court deems just and proper.
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DATED this 5th day of January, 2026.

Respectfully Submitted,

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