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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Julio BERDUO BERDUO,

Petitioner,

v.

Jason STREEVAL, *in his official capacity as
Warden of Stewart Detention Center*, and Todd
LYONS, *in his official capacity as Acting
Director of Immigration and customs
Enforcement*, and Ladeon FRANCIS, *Field
Office Director ICE Atlanta Field Office*, and
Kristi NOEM, *Secretary of Homeland Security*,
and Pamela BONDI, *in her official capacity as
Attorney General, United States Department of
Justice*

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Alien File No.



1 INTRODUCTION

2 1. Petitioner, Julio Berduo Berduo, is a forty-two-year-old native and citizen of
3 Guatemala who entered the United States without inspection in or around 2013 and has resided
4 in the United States for twelve years.

5 2. Petitioner is in the physical custody of Respondents at the Stewart Detention
6 Center in Lumpkin, Georgia. He now faces unlawful detention because the Department of
7 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
8 concluded Petitioner is subject to mandatory detention.

9 3. Petitioner is charged with, inter alia, having entered the United States without
10 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 4. Based on this allegation in Petitioner’s removal proceedings, DHS denied the
12 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
13 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
14 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
15 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
16 therefore ineligible to be released on bond.

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

1 6. Petitioner’s detention on this basis violates the plain language of the Immigration
2 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
3 previously entered and are now residing in the United States. Instead, such individuals are
4 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
5 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
6 having entered the United States without inspection.

7 7. Respondents’ new legal interpretation is plainly contrary to the statutory
8 framework and contrary to decades of agency practice applying § 1226(a) to people like
9 Petitioner.

10 8. Further, on December 18, 2025, the District Court of Central California entered
11 Final Judgment in the nationwide class action *Maldonado Bautista v. Santacruz*. See *Maldonado*
12 *Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025). This final
13 judgment certified Bond Eligible Class members and declared that *Yajure-Hurtado* was no
14 longer tenable. See *Order Granting in Part and Denying in Part Petitioner’s Ex Parte*
15 *Application for Reconsideration or Clarification [DKT. No. 87]*, 5:23-cv-01873-SSS-BFM, EC
16 No. 92 at 6 (C.D. Cal. Dec. 18, 2025).

17 9. The judgment holds that Bond Denial Class members are detained under 8 U.S.C.
18 § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A).

19 10. However, the Executive Office for Immigration Review and its subagency the
20 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
21 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
22 opportunity to be released on bond.

23 11. Petitioner is a member of the Bond Eligible Class, as he:
24

- 1 a. does not have lawful status in the United States and is currently detained at the
2 Stewart Detention Center. he was apprehended by immigration authorities on or
3 around December 17, 2025
- 4 b. entered the United States without inspection over twelve years ago and was not
5 apprehended upon arrival, *cf. id.*; and
- 6 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

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

11 13. The Court should expeditiously grant this petition.

12 14. Respondents are bound by the judgment in *Maldonado Bautista*. Nevertheless,
13 Respondents continue to flagrantly defy the judgment in that case and continue to subject
14 Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond
15 as a Bond Eligible Class member.

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

20 16. Because Respondents are detaining Petitioner in violation of the declaratory
21 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
22 Respondent DHS must release Petitioner.

23 17. Alternatively, the Court should order Petitioner’s release unless Respondents
24 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

1
2 **JURISDICTION**

3 18. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
4 Stewart Detention Center in Lumpkin, Georgia.

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

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

10 **VENUE**

11 21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
12 500 (1973), venue lies in the United States District Court for the Middle District of Georgia
13 within the Columbus Division, the judicial district in which Petitioner currently is detained.

14 22. Respondent Streeval is his immediate custodian.

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

19
20 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

1 operations at the Stewart Detention Center. Respondent Francis is being sued in his official
2 capacity.

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

7 31. Respondent Pamela Bondi is the Attorney General of the United States. She is
8 responsible for the Department of Justice, of which the Executive Office for Immigration Review
9 and the immigration court system it operates is a component agency. She is sued in her official
10 capacity.

11
12 **LEGAL FRAMEWORK**

13 32. The INA prescribes three basic forms of detention for the vast majority of
14 noncitizens in removal proceedings.

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

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

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

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

4 **FACTS**

5 37. Petitioner is a forty-two-year-old native and citizen of Guatemala. *See Exhibit 1,*
6 *Petitioner's Work Permit.*

7 38. Petitioner has resided in the United States since 2013 and lives in Georgia.

8 39. In October 2025, Petitioner was detained by ICE while driving with a valid
9 Georgia driver's license. Petitioner had previously been released on a bond order in 2019 and has
10 not violated any of the conditions of his bond.

11 40. Petitioner is the father of three (3) United States citizen (USC) children, ages 11,
12 2, and 1. *See Exhibit 2, Birth Certificates for Petitioner's USC Children.*

13 41. Petitioner's has no criminal history.

14 42. Petitioner is neither a flight risk nor a danger to the community.

15 43. On December 23, 2025, Petitioner, through counsel, filed a Motion for Bond with
16 the immigration judge. *See Exhibit 3, Petitioner's Motion for Bond Filed with the Immigration*
17 *Judge.*

18 44. The immigration judge indicated that he was going to deny petitioner's request for
19 bond due to a lack of jurisdiction based on *Matter of Yajure Hurtado* while ignoring *Maldonado*
20 *Bautista*. Counsel for petitioner withdrew the bond motion. *See Exhibit 4, Immigration Judge's*
21 *Grant of Bond Withdrawal.*

1 45. As a result, Petitioner remains in detention. Without relief from this court, he
2 faces the prospect of months, or even years, in immigration custody, separated from his family
3 and community.

4 **CLAIMS FOR RELIEF**

5 **Violation of the INA:**
6 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

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

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

20 51. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
21 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory
22 rights under the INA and the Court’s judgment in *Maldonado Bautista*.

23 **PRAYER FOR RELIEF**

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

- 1 a. Assume jurisdiction over this matter;
- 2 b. Order that Petitioner shall not be transferred outside the Middle District of
- 3 Georgia while this habeas petition is pending;
- 4 c. Issue an Order to Show Cause ordering Respondents to show cause why this
- 5 Petition should not be granted within three days;
- 6 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
- 7 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
- 8 1226(a) within seven days;
- 9 e. Declare that Petitioner's detention is unlawful;
- 10 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
- 11 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
- 12 law; and
- 13 g. Grant any other and further relief that this Court deems just and proper.

14 DATED this 8th day of Janaury, 2026.

15 By: Carlos E. Solomiany
16 Carlos E. Solomiany, Esq.
17 *Ross and Pines, LLC*
18 Attorneys for the Respondent
19 5555 Glenridge Connector, Suite 435
20 Atlanta, Ga. 30342
21 404-812-4300 (tel.)
22 404-812-4303 (fax.)
23 carlos@rossandpines.com
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I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Carlos E. Solomiany

Date: January 8, 2026