

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF GEORGIA
3 WAYCROSS JUDICIAL CIRCUIT

4 Martinez Flores, Marvin Antonio,

5 Petitioner,

6 v.

7 George STERLING, Field Office
8 Director of Enforcement and Removal
9 Operations, Atlanta Field Office,
10 Immigration and Customs Enforcement;
11 Kristi NOEM, Secretary, U.S.
12 Department of Homeland Security; U.S.
13 DEPARTMENT OF HOMELAND
14 SECURITY; Pamela BONDI, U.S.
15 Attorney General; EXECUTIVE
16 OFFICE FOR IMMIGRATION
17 REVIEW; WARDEN of Folkston
18 Detention Center

19 Respondents.
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Case No.

CV 526-025

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

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3 1. Petitioner Marvin Antonio Martinez Flores brings this petition for a writ of
4 habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified
5 in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in
6 the physical custody of Respondents at the Folkston ICE Processing Center and now faces
7 unlawful detention as 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. **Petitioner is Marvin Antonio Martinez Flores. He is from Nicaragua and**
11 **entered the United States in the year 2022. He was apprehended on or about December 28,**
12 **2022, and was subsequently permitted to enter the United States on a grant of**
13 **“humanitarian parole” under 8 U.S.C. § 1182(d)(5) [INA 212(d)(5)]. He is not subject to a**
14 **removal order. He was arrested on December 1, 2025, and is presently detained at Folkston**
15 **ICE Processing Center. He has not yet applied for bond as doing so would be futile.**

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

3 4. The declaratory judgment held that the Bond Denial Class members are detained
4 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
5 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

6 5. Nonetheless, the Executive Office for Immigration Review and its subagency the
7 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
8 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
9 opportunity to be released on bond under 8 U.S.C. § 1226(a) under an erroneous interpretation
10 that Petitioner is encompassed within the ‘mandatory detention’ provision of 8 U.S.C. § 1225(b).

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

- 12 a. does not have lawful status in the United States and is currently detained at the
13 Folkston ICE Processing Center. He was apprehended by immigration authorities
14 on November 21, 2025;
- 15 b. entered the United States without inspection nearly three years ago and was not
16 apprehended upon arrival, *cf. id.*; and
- 17 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

18 7. After apprehending Petitioner, DHS placed him/her in removal proceedings
19 pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C.
20 § 1182(a)(6)(A)(i) as someone who entered the United States without inspection, and as
21 inadmissible under and 8 U.S.C. § 1182(a)(7)(A)(i)(I) as someone who entered the United States
22 without proper admission documents.

23 8. The Court should expeditiously grant this petition.

24 9. 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

1 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
2 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
3 Class member.

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

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

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

13 II. JURISDICTION

14 13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 Folkston ICE Processing Center in Folkston, Georgia.

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

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

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III. VENUE

16. 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 Georgia, the judicial district in which Petitioner currently is detained.

17. 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 Georgia.

18. If venue is proper at the time of filing, the district court ordinarily retains jurisdiction even if Petitioner is transferred to another district. *Ex Parte Endo*, 323 U.S. 283, 304-305 (1944).

IV. REQUIREMENTS OF 28 U.S.C. § 2243

19. Petitioner is presently kept in immigration detention and is therefore “in custody” of Respondents by and through their various agents. *Carafas v. LaVallee*, 391 U.S. 234, 237-38 (1968) (“... the ‘in custody’ determination is made at the time the habeas petition is filed.”); *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (Same); *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004) (“[O]ur understanding of custody has broadened to include restraints short of physical confinement.”).

20. 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*. Quoting 28 U.S.C. § 2243.

21. 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

1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
2 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
3 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
4 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

5 **V. PARTIES**

6 **22. Petitioner is Marvin Antonio Martinez Flores. He is from Nicaragua and**
7 **entered the United States in the year 2022. He was apprehended on or about December 28,**
8 **2022, and was subsequently permitted to enter the United States on a grant of**
9 **“humanitarian parole” under 8 U.S.C. § 1182(d)(5) [INA 212(d)(5)]. He is not subject to a**
10 **removal order. He was arrested on December 1, 2025, and is presently detained at Folkston**
11 **ICE Processing Center. He has not yet applied for bond as doing so would be futile.**

12 23. Respondent George Sterling is the Director of the Atlanta Field Office of ICE’s
13 Enforcement and Removal Operations division. As such, George Sterling is Petitioner’s
14 immediate custodian and is responsible for Petitioner’s detention and removal. He is sued in his
15 official capacity.

16 24. Respondent Kristi Noem is the Secretary of the Department of Homeland
17 Security. She is responsible for the implementation and enforcement of the Immigration and
18 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
19 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

1 as the immigration court “is biased or has predetermined the issue” due to *Matter of Yajure-*
2 *Hurtado*. Quoting *Iddir v. INS*, 301 F.3d 492, 500.

3 31. Under the doctrine of exhaustion of remedies, a petitioner must generally
4 ‘exhaust’ all administrative remedies before seeking relief in federal court. *Thompson v. United*
5 *States Marine Corp*, D.C. Docket No. 09-80312-CV-KLR (unpublished). Exhaustion is a
6 prudential requirement rather than jurisdictional. *Hull v. IRS*, No. 10-1410, 2011 WL 3835402
7 (10th Cir. Aug. 31, 2011); see also William Funk, *Exhaustion of Administrative Remedies – New*
8 *Dimensions Since Darby*, 18 Pace Environmental Law Review (2000) (Tracing the doctrine out
9 of common law and federal equity jurisdiction).

10 32. When Congress imposes an exhaustion remedy by statute, exhaustion is generally
11 required. *Coit Indep. Jt. Venture v. FSLIC*, 489 U.S. 561, at 579 (1989) (citing *Weinberger v.*
12 *Salfi*, 422 U.S. 749, 766 (1975); *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 50-51
13 (1938). If exhaustion is not *explicit* in a statute, then “courts are guided by congressional intent in
14 determining whether application of the doctrine would be consistent with the statutory scheme.
15 *Coit, supra* (citing *Patsy v. Florida Board of Regents*, 457 U.S. 496, 502 (1982).

16 33. The INA does have an exhaustion provision, which only applies in the context of
17 “final orders of removal.” 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal
18 only if the alien has exhausted all administrative remedies ...”). This exhaustion provision is not
19 jurisdictional. *Santos-Zacaria v. Garland*, 498 U.S. ____ (2023).

20 34. Petitioner is not subject to a final order of removal (or any order of removal); so,
21 § 1252(d)(1) is inapplicable. So, the INA does not impose an explicit exhaustion requirement
22 that can apply here. Nor can § 1252(d)(1) be read to *implicitly* impose an exhaustion
23 requirement. The Court need not engage in statutory interpretation as “[w]here statutory
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1 language is plain and unambiguous, courts give effect to the statute as written without engaging
2 in statutory construction.” *In re Adoption of Doe*, 156 Idaho 345, 349.

3 35. Even if this Court found § 1252(d)(1) to be ambiguous, which it is not, plain text
4 interpretation reveals § 1252(d)(1) does not impose an applicable exhaustion requirement. *See*
5 Antonin Scalia & Bryan A. Gardner, *Reading Law: The Interpretation of Legal Texts* (1st Ed.
6 2012) (The “Supremacy of the Text Principle” (The words of a governing text are of paramount
7 concern, and what they convey, in their context, is what the text means), “Omitted Case Canon”
8 (*casus omissus pro omisso habendus est* – nothing is to be added to what the text state or
9 reasonably implies), “Negative Implication Canon” (*expression unius est exclusion alterius* – the
10 expression of one thing implies the exclusion of alternatives), and the “Whole Text Canon” (The
11 text must be construed as a whole) each demonstrate Congress did not impose an exhaustion
12 requirement – either expressly or by implication. *See also A Dozen Canons of Statutory and*
13 *Constitutional Text Construction*, [Judicature.duke.edu Articles](https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-construction/), available at
14 [https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-](https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-construction/)
15 [construction/](https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-construction/)).

16 36. Even if the doctrine of exhaustion did apply, Petitioner satisfies several
17 exceptions to it. Exhaustion is excused if:

- 18 (1) Requiring exhaustion of administrative remedies causes prejudice, due to
unreasonable delay or an ‘indefinite timeframe for administrative action’;
- 19 (2) The agency lacks the ability or competence to resolve the issue or grant the
relief requested;
- 20 (3) Appealing through the administrative process would be futile because the
agency is biased or has predetermined the issue; or
- 21 (4) where substantial constitutional questions are raised.

Iddir v. INS, 301 F.3d 492, 500 (7th circuit case citing *McCarthy v. Madigan*, 503 U.S.
22 140, 146-48 (1992); *Bowen v. City of New York*, 476 U.S. 467, 483 (1986); *Mathews v.*
Diaz, 426 U.S. 67, 76 (1976); *Gibson v. Berryhill*, 411 U.S. 564, 575 (1973); *Houghton v.*
23 *Shafer*, 392 U.S. 639, 640 (1968); *McNeese v. Board of Educ.*, 373 U.S. 668, 675
(1963)).

1 37. Here, exhaustion would be futile. Immigration judges continue to rely on a
2 September 5, 2025 BIA decision, *Yajure-Hurtado*, which holds “Based on the plain
3 language of [...] 8 U.S.C. § 1225(B)(2)(A) (2018), Immigration Judges lack authority to
4 hear bond requests or grant bond to aliens who are present in the United States without
5 admission. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). BIA therefore
6 asserts that all “applicants for admission”, a class that encompasses more than fourteen
7 million people¹, are detained under 8 U.S.C. § 1225(b) and therefore subject to
8 “mandatory detention” and ineligible for release on bond. This interpretation is wrong. It
9 defies due process, plain text interpretation of the INA, common sense, and at least one
10 federal court order discussed more thoroughly below. *See Lazaro Maldonado Bautista v.*
11 *Ernesto Santacruz Jr*, 5:25-cv-01873, (C.D. Cal.) (A declaratory judgment binds the
12 immigration courts and expressly forbids the interpretation of 8 U.S.C. § 1225(b)
13 advanced by BIA in *Yajure-Hurtado*). Immigration judges continue to make this
14 interpretation in apparent reliance on the orders of executive branch supervisors as to the
15 supposed inapplicability of the Maldonado-Baustista class action, or misguided
16 interpretation of 8 U.S.C. § 1225(b), § 1226(a), and the general tenor of the due process
17 clause and its historical foundations.

18 38. See also *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992) (“an
19 administrative remedy may be inadequate where the administrative body is shown to be
20 biased or has otherwise predetermined the issue before it.” Citing

21
22 ¹See Jeffrey S. Passel and Jens Manuel Krogstad, *U.S. Unauthorized Immigrant Population Reached a Record 14*
23 *Million in 2023*, Pew Research, Sept. 12, 2025, accessible at <https://www.pewresearch.org/race-and-ethnicity/2025/08/21/u-s-unauthorized-immigrant-population-reached-a-record-14-million-in-2023/#:~:text=The%20number%20of%20unauthorized%20immigrants%20in%20the%20United%20States%20reached,a%20comprehensive%20and%20detailed%20estimate> (Describing that “Unauthorized immigrants were 27% of
24 the U.S. foreign-born population in 2023”, consisting of “14.0 million [people]...”)

1 *Gibson v. Berryhill*, 411 U. S., at 575, n. 14; *Montana National Bank of*
2 *Billings v. Yellowstone County*, 276 U. S. 499, 505 (1928) (taxpayer seeking refund not
3 required to exhaust where "any such application [would have been] utterly futile since the
4 county board of equalization was powerless to grant any appropriate relief" in face of
5 prior controlling court decision – here, similarly, BIA has expressly demonstrated its
6 belief that IJs lack jurisdiction to grant a bond to the Petitioner); *Houghton v. Shafer*,
7 392 U. S. 639, 640 (1968); *Association of National Advertisers, Inc. v. FTC*, 201 U. S.
8 App. D. C. 165, 170-171, 627 F.2d 1151, 1156-1157 (1979) (bias of Federal Trade
9 Commission chairman), cert. denied, 447 U. S. 921 (1980); *Patsy v. Florida*
10 *International University*, 634 F.2d 900, 912-913 (CA5 1981) (*en banc*) (administrative
11 procedures must "not be used to harass or otherwise discourage those with legitimate
12 claims"), rev'd on other grounds sub nom. *Patsy v. Board of Regents of Florida*, 457 U. S.
13 496 (1982)).

14 39. Immigration judges make this erroneous interpretation of the INA in apparent
15 reliance on the orders of supervisors as to the supposed inapplicability of *Maldonado-Bautista*,
16 or on various misguided interpretations of 8 U.S.C. § 1225(b) and § 1226(a), and a failure to
17 account for the general tenor of the due process clause and its historical roots. Immigration
18 judges continue to treat *Yajure-Hurtado* as binding, while treating the federal class action
19 *Maldonado-Bautista* as if it is not. This flips *Loper-Bright* on its head. *Loper-Bright Enterprises*
20 *v. Raimondo*, 603 US ___ (2024) (Overturning the Chevron doctrine, *Chevron U.S.A. Inc. v.*
21 *NRDC*, 467 U.S. 837 (1984), and providing that agency interpretations of ambiguous statutory
22 provisions are not entitled to deference).

40. DHS has classified Petitioner as an applicant for admission; therefore, requesting bond in immigration court would be futile, as the immigration court is highly likely to deny it and erroneously apply 8 U.S.C. § 1225(b) to him. *See Matter of Yajure-Hurtado*.

41. Dozens of federal district courts, in addition to Maldonado-Bautista, have concluded 8 U.S.C. § 1226(a) does generally govern the detention of an applicant for admission, and that 8 U.S.C. § 1225(b) does not. For twenty-eight such decisions outside the eleventh circuit, see footnote 3.² Within the eleventh circuit, see also *J.A.M. v. Streeval*, No. 4:25-CV-342

² For twenty-eight district court decisions favorable to the Petitioner's position that 8 U.S.C. § 1226(a) governs the Petitioner's detention (each from outside the 11th circuit), see the following set of cases.

First Circuit:

- *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (Noting disagreement with BIA analysis in *Yajure-Hurtado*);
- *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025) (Ruling the Petitioner was entitled to a bail hearing);
- *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (Ordering a bond hearing and ruling that detaining an individual solely on the basis of his prior arrest violates due process);
- *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (Ordering that Petitioner receive a bond hearing governed by section 1226 rather than 1225(b));
- *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025) (Court found detention unlawful and ordered his release, denying the Government's motion for reconsideration);
- *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (Ordering ICE to release the Petitioner within 48 hours); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) ("The government's interpretation contravenes the plain text of Section 1226(a) and would render superfluous Section 1226(c)...");

Second Circuit:

- *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (Granting the Petition, where ICE agents "violently detained" Petitioner as he left a scheduled immigration court appearance in Manhattan "in violation of the Due Process Clause and the Fourth Amendment.");
- *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) (Granting petition for the writ of habeas corpus);

Fourth Circuit:

- *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (Respondents arrested Petitioner while he was on his way to work, took him into custody, Petitioner was then granted a bond by an immigration judge who concluded § 1226(a) governed, Respondents refused to accept payment of the bond, the government invoked a regulatory stay pursuant to 8 C.F.R. § 1003.19(i)(2) to continue detaining the Petitioner as his favorable bond decision was on appeal before the BIA, the Court grants the petition for the writ);

Fifth Circuit:

- *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (Court finds (1) habeas jurisdiction encompasses a challenge to the statutory authority by which Respondent contends her detention without bond unlawful, (2) Court did not find persuasive Respondents argument that Petitioner failed to exhaust administrative remedies "because this Court is the proper form in which Petitioner can bring her ... constitutional claims." (3) Court grants Temporary Restraining Order concluding Petitioner is likely to succeed on the merits in showing mandatory detention under § 1225 "was erroneous" and that "she is entitled to a bond hearing under section 1226(a).");

(CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) (Granting habeas relief in a consolidated case with similar facts, ordering bond hearings under 8 U.S.C. § 1226(a)).

VII. LEGAL FRAMEWORK

42. Noncitizens in immigration proceedings are entitled to protections under the Fifth Amendment Due Process clause. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for court or is a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. At issue is the lawfulness of Petitioner’s detention without bond. Petitioner anticipates the primary legal dispute in this case involves a question of statutory interpretation regarding what provision of the Immigration and Nationality Act (INA) governs his detention. Petitioner argues 8 U.S.C. § 1226(a) governs the detention and therefore that Petitioner may apply for and receive bond under a discretionary framework. More than twenty-eight federal

Sixth Circuit:

- *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (disagreeing with BIA’s analysis in *Yajure Hurtado*);
- *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (Granting writ, finding detention without a bond hearing is unlawful, a violation of Petitioner’s due process rights, and ordering his immediate release – or alternatively – a bond hearing within seven (7) days);

Eighth Circuit:

- *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025) (Ordering release on bond);
- *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) (Court finds “the government is unlawfully detaining Petition in violation of his Due Process rights by invoking a unilateral automatic stay of the bond duly appointed by” an immigration judge, and “orders Respondents to immediately release Petitioner.”);
- *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept 3, 2025) (Same as *Cortes Fernandez, supra*);
- *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (Court concludes § 1226’s discretionary detention scheme applies);
- *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025) (Judge ruled the Petitioner was being held unlawfully and ordered her released on bond);
- *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (Granting Preliminary Injunction favoring Petitioner);
- *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025) (Judgment favoring Petitioner);

Ninth Circuit:

- *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025) (distinguishing *Yajure Hurtado*);
- *Caicedo Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025) (Granting TRO ordering Respondents to immediately release Petitioners from custody, enjoining re-detention without a pre-detention hearing before a neutral decisionmaker, and, inter alia, enjoining Respondents from transferring Petitioners out of custody without the Court’s prior approval);

1 district courts agree with Petitioner’s position that 8 U.S.C. § 1226(a) governs and § 1225(B)
2 does not. See *Footnote 3, above*. 8 U.S.C. § 1225(b) cannot be properly read to apply to
3 Petitioner’s detention. Petitioner is being deprived of his right to request or receive bond based
4 on improper, ultra vires application of § 1225(b).

5 44. Agency interpretations of ambiguous statutory provisions are not entitled to
6 deference. *Loper Bright Enterprises v. Raimondo*, 602 U.S. 574 (2024) (Overruling *Chevron*
7 *U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), noting agency
8 interpretations are entitled to “respect” only to the extent those interpretations have the power to
9 persuade (citing *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)). Therefore, this Court is not
10 bound by *Yajure-Hurtado, supra*.

11 VIII. CLAIMS FOR RELIEF

12 COUNT ONE: Request for Relief Pursuant to *Maldonado Bautista*

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

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

17 47. The order granting partial summary judgment in *Maldonado Bautista* holds that
18 Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
19 members.

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

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

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

4 **COUNT TWO: Violation of Fifth Amendment Due Process**

5 51. Respondents are unlawfully detaining the Petitioner by depriving him of a bond
6 hearing under 8 U.S.C. § 1226(a) and erroneously considering him to be bound by 8 U.S.C. §
7 1225(b). “Freedom from imprisonment—from government custody, detention, or other forms of
8 physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*.

9 52. Notwithstanding applicability of *Maldonado-Bautista*, Petitioner remains eligible
10 for habeas relief because his detention violates the due process clause. U.S. Const. Amend. V.
11 The Due Process Clause entitles aliens to due process in deportation proceedings. *Reno v. Flores*,
12 507 U.S. 292, 306 (1993); *Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S.
13 678 (2001); *see also Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (Criminal law case in which
14 the Supreme Court noted in dicta that “At the least, due process requires that the nature and
15 duration of commitment bear some reasonable relation to the purpose for which the individual is
16 committed.”)

17 53. “[I]mpermissible punishment before trial” violates substantive due process
18 protections. *United States v. Salerno*, 481 U.S. 739, 746 (1987).). In *Salerno*, the Court
19 analyzed whether the Bail Reform Act of 1984 complied with the requirements of Fifth
20 Amendment due process. Justice Rehnquist writing for the majority held the Bail Reform Act of
21 1984 did *not* violate the substantive due process clause, reasoning: “[p]reventing danger to the
22 community is a legitimate regulatory goal and the incidents of detention are not excessive in
23 relation to that goal, *since the Act carefully limits the circumstances under which detention*
24 *may be sought to the most serious of crimes, the arrestee is entitled to a prompt hearing, the*

1 *maximum length of detention is limited by the Speedy Trial Act, and detainees must be*
2 *housed apart from convicts.* Thus, the Act constitutes a permissible regulation, rather than
3 impermissible punishment.” (emphasis added).

4 54. Unlike Salerno, the interpretation of 8 U.S.C. § 1225(b) Respondent’s and BIA in
5 *Yajure-Hurtado* put forward does not “carefully limit” the circumstances of detention – it does
6 the polar opposite and transmutes a narrow exception into a general rule to the utter disregard of
7 the manner in which this transmogrification renders 8 U.S.C. § 1226(a) superfluous along with
8 other broad swathes of the INA. Nor does it afford Petitioner or those like him a “prompt
9 hearing” - it does the polar opposite, and claims authority to strip away Petitioner’s right to
10 request a bond hearing or receive bond. Nor does it describe any limits whatsoever as to how
11 long people like Petitioner may continue to be detained. Salerno therefore shows application of
12 8 U.S.C. § 1225(b) is “impermissible punishment before trial” demonstrating the
13 unconstitutionality of such interpretation.

14 **COUNT THREE: Violation of the Eighth Amendment**

15 55. The Eighth Amendment provides “Excessive bail shall not be required, nor
16 excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. Amend. VIII.

17 56. By denying Petitioner the right to any amount of bail and erroneously applying 8
18 U.S.C. § 1225(b) to him, Respondents violate the Eighth Amendment.

19 57. Respondents also violate the Eighth Amendment because the detention is an
20 “impermissible punishment before trial.” *Salerno*, discussed above.

21 58. Courts have found deportation to not be a “punishment” for a crime. *Wong Wing*
22 *v. United States*, 163 U.S. 228, 236 (1896) (Citing *Fong Yue Ting v. United States*, 149 U.S. 698,
23 730 (1893) *Elia v. Gonzales*, 431 F.3d 268, 276 (6th Cir. 2005); *Briseno v. Immigr. &*
24

1 *Naturalization Serv.*, 192 F.3d 1320, 1323 (9th Cir. 1999); *Oliver v. U.S. Dep't of Just., Immigr.*
2 *& Naturalization Serv.*, 517 F.2d 426, 428 (2d Cir. 1975) (despite its “severe ... consequences,”
3 deportation is not a criminal punishment) (*Quoting Harisiades v. Shaughnessy*, 342 U.S. 580,
4 594 (1952)).

5 59. Here, Petitioner does not assert otherwise. Petitioner agrees the current legal
6 framework does not recognize deportation or “removal” to be a punishment for a crime.
7 However, it does not follow from this premise that no immigration detention – however
8 gruesome its conditions, however arbitrary its imposition, or whatever set of Constitutional rights
9 get trampled over to accomplish such detention, as with the right to apply for and receive a bond
10 out of detention – could *ever* amount to “punishment” such that Eighth Amendment protections
11 would extend. Rather, the Eighth Amendment can and does apply to immigration detention in
12 certain circumstances. Admittedly, the Supreme Court has not yet had opportunity to lay out the
13 precise contours of those circumstances as the Supreme Court has not yet addressed the issue.
14 The Supreme Court has never held the Eighth Amendment does not apply to immigration. See
15 *Hariasiades v. Shaughnessy*, Justice Douglas’s dissent 342 U.S. 580, 598-600 (1952) (“The
16 power of deportation is ... an implied one. The right to life and liberty is an express one. Why
17 this implied power should be given priority over the express guarantee of the Fifth Amendment
18 has never been satisfactorily answered ... The expulsion of a race may be within the inherent
19 powers of a despotism. History, before the adoption of this constitution, was not destitute of
20 examples of the exercise of such a power, and its framers were familiar with history, and wisely
21 ... they gave to this government no general power to banish ... Banishment is punishment in the
22 practical sense. It may deprive a man and his family of all that makes life worthwhile.”); See also
23 *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (Describing the deliberate indifference standard for
24

1 Eighth Amendment claims based on deliberate indifference to serious medical needs); *Helling v.*
2 *McKinney*, 509 U.S. 25, 33 (1933) (Even where the harm has not yet occurred, a prisoner can
3 still file a successful Eighth Amendment claim regarding the conditions of his or her
4 confinement, recognizing a remedy for unsafe conditions where a tragic event has not yet
5 occurred); *see also* Carl Kenneth Lipscombe, *Tylenol and an Ice Pack: An Inadequate*
6 *Prescription for HIV/AIDS in Immigration Detention Centers*, 11 *CARDOZO PUB. L. POL'Y*
7 *& ETHICS J.* 529 (2013); *Jones v. Cunningham*, 371 U.S. 236, 238–40 (1963) (noting that
8 habeas corpus is not limited to situations where the applicant is in custody, but can be used by
9 aliens, members of the military and other situations where one's liberty is restrained); *Bell v.*
10 *Wolfish*, 441 U.S. 520, 526 n.6 (1979) (Supreme Court has “left for another day the question of
11 the propriety of using a writ of habeas corpus to obtain review of the conditions of confinement,
12 as distinct from the fact or length of the confinement itself.”, also at page 535 noting pretrial
13 detainees “may not be punished prior to an adjudication of guilt in accordance with due process
14 of law.”)

15 60. Respondents are detaining Petitioner at Folkston ICE Processing Center. People
16 have died in detention at this location.³ Respondents deny Petitioner his right to request a bond
17 hearing under 8 U.S.C. § 1226(a). This creates a colorable Eighth Amendment claim and
18 provides another basis for habeas relief.

19 **COUNT FOUR: Violation of the Immigration and Nationality Act**

20 _____
21 ³ For discussion on the death of Jaspal Singh, a 57 year old man from India at Folkston ICE Processing Center, See
22 *Advancing Justice Atlanta.org*, Shut Down Folkston ICE Processing Center Campaign Statement on Death of Jaspal
23 Singh, Statement Released in April 2024, (Available at <https://www.advancingjustice-atlanta.org/news/statement-on-death-of-jaspal-singh>) (“To prevent what they referred to as an ‘Indian Mass Hunger Strike’ ICE and the private
24 prison company guards retaliated by putting hunger strikers in solitary confinement, placing them on suicide watch, blocking access to commissary and medicine, using intimidation tactics to force individuals into eating, and transferring Sikh asylum seekers to detention centers where they would be isolated from other Sikhs... individuals from Cuba and Pakistan also went on hunger strike, ... numerous men were hospitalized ... ICE force-fed at least one Indian national who was transferred to Stewart [Detention Center] in May 2018.”)

1 DATED this 8th of January, 2026.

2 Respectfully Submitted,

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