

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS**

PEREZ AJTUM, DANNY.

Petitioner,

v.

DAVID HARDIN, Warden of Glades Detention Center; **TODD LYONS**, Acting Director U.S. 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.

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Danny Perez Ajtum brings this petition for a writ of habeas corpus pursuant to 28 USC §2241 and the Administrative Procedure Act, 5 U.S.C. § 701, et seq., (a) to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition. *alternatively*, (b) to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)

2. Petitioner is in the physical custody of Respondents at the Glades Detention Center. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the

Executive Office for Immigration Review (“EOIR”) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

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

5. On December 18, 2025, the district court Rule 54(b) final judgment and clarification order further confirm that *Maldonado Bautista* is not advisory or provisional, but operative merits determination rejecting DHS’s no-bond framework under § INA 235 and reaffirming bond jurisdiction under § 236(a)

6. Nonetheless, the EOIR and its subagency the Immigration Court and the DHS, have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

7. Petitioner Danny Perez Ajtum is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Glades County Detention Center (“Glades”). He was apprehended by immigration authorities on or about December 9, 2025.
- b. entered the United States without inspection over six years ago on or about December 3, 2018, was apprehended upon arrival and released shortly.
- c. His original proceedings were dismissed on October 25, 2023.
- d. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

8. After apprehending Petitioner on or about December 9, 2025, the DHS has not placed him in removal proceedings again 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. Respondent requested a bond hearing that was denied based on lack of jurisdiction.

10. The Court should expeditiously grant this petition.

11. 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 to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

12. 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).

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

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

PRELIMINARY STATEMENT

15. Petitioner, Danny Perez Ajtum, is a twenty-one (21) native and citizen of Guatemala. ("Danny" or "Petitioner").

16. Petitioner entered the United States on December 3, 2018, when he was fourteen (14) years old. He was apprehended and then released by ICE and removal proceedings were initiated.

17. Petitioner obtained a predicate order making the findings required for Special Immigrant Juvenile ("SIJ") classification, including reunification with at least one parent was no viable and that return to Guatemala was not in his best interest. Based on that predicate order, Petitioner filed Form I-360 (SIJ) with U.S. Citizenship and Immigration Services ("USCIS") on October 12, 2021. Petitioner's I-360 was approved by USCIS on July 13, 2022, and he was granted deferred action ("DA") from removal from the United States of America by DHS.

18. Petitioner's SIJ based EB-4 priority date is October 12, 2021. Practice advisories from national experts and recent Visa Bulletin analysis confirm that SIJ youth adjust through the employment based fourth preference ("EB-4") category, and that they may not file Form I-485, Application to Register Permanent Residency or Adjust Status to lawful permanent resident in the United States of America. Petitioner may not file his I-485 until his priority date becomes current

under the Visa Bulletin. The Department of State (“DOS”) report EB-4 cut-off dates cluster around mid-February 2021 and March 2021 for SIJ based cases, which means that the Petitioner’s October 12, 2021, priority date is now only a few months behind the dates DOS is actively processing.

19. On October 25, 2023, at the Miami Immigration Court, Immigration Judge (“IJ”) granted the Petitioner’s motion to dismiss removal proceedings against the Petitioner, based on the Petitioner’s approved I-360 with USCIS and eligibility for I-485 adjustment of status.

20. Despite the above, on December 9, 2025, Petitioner was re-detained without the possibility of a bond.

21. When Petitioner requested a bond hearing, DHS opposed on the basis of jurisdiction citing *Matter of Yajure Hurtado* and the IJ conceded that they were instructed to ignore *Maldonado Bautista* and rely on *Matter of Yajure Hurtado*. Consequently, no action was taken on his bond redetermination motion.

22. At the time of this Petition, Danny has been detained at Glades in the custody of Immigration and Customs Enforcement (“ICE”) under the Government’s decision not to honor the declaratory judgment issued in *Maldonado Bautista*. Danny has not had the opportunity to challenge his detention before a neutral decision-maker.

23. Immigrants like Petitioner filed motion for bond redetermination which was denied on the basis of lack of jurisdiction, ignoring, *Maldonado Bautista*.

JURISDICTION

24. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Glades County Detention Center located at 1297 E SR 78 Moore Haven in, Florida.

25. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101 *et seq.*

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

27. Petitioner challenges the Attorney General’s treatment of him as an “alien seeking admission”, whose detention is governed by §1225 (a)(2) rather than §1226(a). Cf. *Madu v U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) (“While [§1252(g)] bars courts from reviewing certain exercises of discretion by the attorney general, it does not proscribe substantive review of the underlying legal bases for those discretionary decision and actions.”).

28. Petitioner seeks the Court answer to a legal question-whether he is subject to mandatory detention under § 1225 (b)(2) or discretionary detention under § 1226(a). See *Grigorian v Bondi*, No. 25-Cv_22914-RAR, 2025 WL 2604573 at *3-4 (S.D. Fla. Sept. 9, 2025) (finding Section 1252(g) inapplicable to an alien’s challenge of immigration detention based on Ice’s noncompliance with statutory requirements when revoking an order of supervised release).

29. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

30. 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 Southern Florida the judicial district in which Petitioner currently is detained.

31. 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 Southern Florida District.

REQUIREMENTS OF 28 U.S.C. § 2243

32. The Court should grant the petition for writ of habeas corpus and issue an order to show cause (“OSC”) to the respondents “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*, unless the petitioner is not entitled to relief. 28 U.S.C. §2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

33. 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

34. Petitioner Danny Perez Ajtum is a citizen of Guatemala who has been in immigration detention since December 9, 2025. After Petitioner was detained, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On January 6, 2026, IJ took no

action on Petitioner's bond because he was deemed an "applicant for admission." Petitioner has resided in the United States since 2018.

35. Respondent David Hardin is Warden of Glades Detention Center. As such, David Hardin is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

36. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the implementation and enforcement of the "INA," and oversees ICE. Respondent Lyons is a legal custodian of Petitioner.

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

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

CLAIM FOR RELIEF

COUNT I

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

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

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

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

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

45. Further, Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

46. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

47. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

48. By categorically revoking Danny’s release, Respondents have violated the APA.

49. Respondents have made no finding that Danny is a danger to the community.

50. Respondents have made no finding that Danny is a flight risk, in fact, he has an approved I-360 SIJ application with deferred action and is literally awaiting the availability of his visa in order to adjust his status to a lawful permanent resident.

51. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

52. Respondents have already considered Danny’s facts and circumstances and determined that he was neither a danger to the community or a flight risk when they initially released him from detention in 2018, when they conducted criminal background checks before granting him deferred action and when the IJ dismissed his removal proceedings in 2023, unopposed by DHS. There have been no derogatory changes to the facts that justify this revocation of his release. The fact that Danny was granted release in 2018 under much weaker facts and circumstances shows that Respondents do not conder him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT II
Violation of Fifth Amendment Right to Due Process

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. Respondents' categorical detention of Petitioner without an individualized bond determination violates the Due Process Clause of the Fifth Amendment.
55. Once a noncitizen enters the United States, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
56. Petitioner's years-long physical presence, prior release from custody, grant of deferred action, and favorable discretionary determinations give rise to a protected liberty interest that cannot be extinguished by agency fiat. See *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).
57. Respondents made no individualized finding that Petitioner is a danger to the community or a flight risk. Their categorical detention policy violates due process and cannot withstand constitutional scrutiny
58. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT III

Violation of the INA – Independent Statutory Entitlement to Bond Under 8 U.S.C. § 1226(a)

59. The allegations in the above paragraphs are realleged and incorporated herein.
60. Even apart from Respondents' refusal to comply with *Maldonado Bautista*, Petitioner's detention is independently unlawful because it is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).
61. Section 1225 applies primarily to noncitizens "arriving" at the border or seeking admission. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). Section 1226(a), by contrast, is the "default rule" governing noncitizens already present in the United States. *Id.* at 303.

62. Petitioner entered the United States years ago, has resided continuously in the United States, was previously released from custody, granted deferred action, issued work authorization, and had his prior removal proceedings dismissed. Under Supreme Court precedent and persuasive district authority, Respondents may not retroactively classify him as an applicant for admission.
63. Because Petitioner is detained under § 1226(a), Respondents' categorical denial of a bond due to lack of jurisdiction violates the INA.
64. Further, the 11th Circuit in *Ortiz-Bouchet v U.S Att. Gen.*, 714 F.3d 1353 (11th Cir. 2013), held that the statutory "application for admission" language in the INA is unambiguous and does not encompass post-entry adjustment of status, thus reaffirming its position in *Lanier*, 631 F. 3d at 1366. *Ortiz-Bouchet* is a binding precedent and reaffirms that the Petitioner, now detained over six (6) years post his entry into the United States cannot now be determined to be an applicant for admission and therefore subject to mandatory detention.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

- d. Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- e. Issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- f. Issue an Order prohibiting the Respondents from transferring Danny Perez Ajtum from the district without the court's approval;
- g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- h. Grant any other and further relief that this Court deems just and proper.

DATED this 13 day of January, 2026.

Respectively Submitted

s/ Claudia Phaneuf

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Danny Perez Ajtum, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 13 day of January 2026.

s/ Claudia Phaneuf

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