

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, through counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and urgently moves for a Temporary Restraining Order (“TRO”) and an Order to Show Cause why a preliminary injunction should not issue restraining Respondents from removing Petitioner or transferring Petitioner outside the Southern District of Florida pending a final adjudication. In support, Petitioner alleges as follows:

INTRODUCTION

1. Petitioner, Mamadou Lamine Barry (“Mr. Barry”), brings this petition for a writ of habeas corpus to seek enforcement of his right 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 County Detention Center in Moore Haven, Florida. 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. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

6. Petitioner MAMADOU LAMINE BARRY 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. He was apprehended by immigration authorities on December 1, 2025;
- b. entered the United States without inspection over two years ago and was not apprehended upon arrival, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. After apprehending Petitioner on December 1, 2025, DHS placed him in removal proceedings 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.

8. The Court should expeditiously grant this petition.

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).

10. Nevertheless, Respondents continue to 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.

11. 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 Immigration Judge (“IJ”) remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

12. 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.

13. Alternatively, the Court should order the Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Glades County Detention Center in Moore Haven, Florida.

15. This Court has 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).

16. This Court may grant relief pursuant to 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

17. 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 eleventh district, the judicial district in which Petitioner currently is detained.

18. Venue is proper in this District under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because Petitioner is presently detained within this District at the Glades County Detention Center in Moore Haven, Florida, which is within the jurisdiction of this Court.

19. Venue is also proper 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 eleventh district.

REQUIREMENTS OF 28 U.S.C. § 2243

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*.

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 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

22. Petitioner MAMADOU LAMINE BARRY is a citizen of Guinea who has been in immigration detention since December 1, 2025. After Petitioner was arrested in Hoboken, New Jersey, ICE held him without bond.

23. On January 12, 2026, Petitioner was denied bond by an IJ at the Pompano Beach, Florida immigration court because:

“Currently, Respondent's manner of entry renders the Court without jurisdiction to grant a bond. see Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Respondent's arrest for False Alarm in New Jersey causes the Court to find that Respondent is public safety risk. Respondent has not met his burden in establishing he is a suitable bond risk. see Matter of R-A-V-P-. Respondent has not presented an original ID document.” See Exhibit A, Bond Order.

24. Respondent JUAN AGUDELO is the Acting Field Office Director of the Miami Field Office of ICE's Enforcement and Removal Operations division. As such, JUAN AGUDELO is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

25. 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.

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

27. 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.

28. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

29. Respondent DAVID HARDEN is the Warden of the Glades County Detention Center where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIM FOR RELIEF

COUNT ONE

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

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

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

32. 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.

33. 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.”

34. 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).

35. 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*.

COUNT TWO
UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY
GOVERNED BY 8 U.S.C. § 1226
(Misapplication of Mandatory Detention Statute)

36. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
37. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that he is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."
38. Such argument is legally erroneous. Section 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019).
39. Petitioner plainly falls within § 1226. He has resided in the United States for over a two years, with deep community ties, employment, and no serious criminal record. He was arrested in New Jersey -- hundreds of miles from any border or port of entry—and immediately transferred to Moore Haven, Florida where DHS generated paperwork issuing a Warrant to continue removal proceedings.
40. The charging document itself expressly alleges that Petitioner is "present in the United States without admission or parole," language that presumes residence in the interior and confirms that he was not in the process of seeking admission.

41. Taken together, these contradictions underscore the arbitrariness of Petitioner’s detention and the government’s mischaracterization of his case. See Exhibit B, Notice to Appear.
42. Recent precedent confirms that long-term residents like Petitioner are detained under § 1226, not § 1225. In *Lopez Benitez v. Francis*, No. 25-cv-10960, 2025 WL 4094843 (D. Mass. July 8, 2025), the court held that a noncitizen who had lived in the U.S. just over two years was governed by § 1226, rejecting the government’s argument that unlawful presence alone made him “seeking admission.”
43. Similarly, in *Martinez v. Hyde*, No. 25-cv- 11613, 2025 WL 2084238 (D. Mass. July 24, 2025), the court concluded that § 1225(b) “had no application” to a person already residing in the U.S., even though she was charged as inadmissible under INA § 212(a)(6)(A)(i). And in *Rodriguez v. Bostock*, No. 25-cv-524, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025), the court emphasized that interior arrests for inadmissibility grounds are necessarily governed by § 1226.
44. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. See *Martinez*, 2025 WL 2084238, at *7 (rejecting interpretation that would “nullify” Congress’s amendment to § 1226(c)); *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 “apply to different classes” of noncitizens).
45. In sum, Petitioner was not “seeking admission” within the meaning of § 1225(b) but was “already in the country” within the meaning of *Jennings*, 583 U.S. at 288–89. Her custody is governed by § 1226(a), under which detention is discretionary and subject to

individualized bond hearings. DHS's argument is contrary to law, unsupported by the record, and must be set aside.

COUNT THREE
Violation of Fifth Amendment Right to Due Process

46. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause and in violation of her constitutional rights to due process of law.
47. The Fifth Amendment's Due Process Clause applies to "all 'persons' within the United States," regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It prohibits the federal government from depriving any person of liberty without due process of law.
48. Even in the immigration context, due process requires that when detention is discretionary, the individual is entitled to an individualized custody determination before a neutral decisionmaker, supported by reliable evidence, and applying the correct legal standards. See *Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (B.I.A. 2018) (citing *Matter of Fatahi*, 26 I. & N. Dec. 791, 793–94 (B.I.A. 2016); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1112–13 (B.I.A. 1999), modified on other grounds, *Matter of Garcia Arreola*, 25 I. & N. Dec. 267 (B.I.A. 2010)).
49. DHS's own records highlight the arbitrariness of Petitioner's detention. On the one hand, the charging document expressly alleges that he is "present in the United States who has not been admitted or paroled," language that presumes interior residence and confirms his custody should fall under § 1226.
50. DHS denied him the process to which he is entitled — including consideration for release on bond — and exemplified the arbitrary government action the Fifth Amendment prohibits.

51. In sum, DHS's refusal release the Petitioner and deprive him of liberty despite an Immigration Judge's order granting his release violates due process of law. This Court should order Petitioner's immediate release.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petition shall not be transferred outside the Middle District of Florida;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- d. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- e. Alternatively, 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; and
- f. Grant any other and further relief that this Court deems just and proper.

Respectfully Submitted



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