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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT

MARTINEZ ZAYAS, Duniesky

Petitioner,

v.

Adam GORDON, Field Office Director of
Enforcement and Removal Operations, San
Diego Field Office, 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; Jeremy CASEY
Warden of Imperial Regional Detention
Facility,

Respondents.

Case No. '26CV0237 BAS DEB

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner Duniesky Martinez Zayas brings this petition for a writ of habeas
3 corpus to seek enforcement of their rights as members of the Bond Denial Class certified in
4 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the
5 physical custody of Respondents at the Imperial Regional Detention Facility, He now faces
6 unlawful detention because the Department of Homeland Security (DHS) and the Executive
7 Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued
8 on behalf 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.

21 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
22 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
23 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
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1 opportunity to be released on bond, resulting in nearly one year of prolonged detention without
2 individualized custody review.

3 5. Petitioner Duniesky Martinez Zayas is a member of the Bond Eligible Class, as
4 he:

- 5 a. is a noncitizen in the United States without lawful status and is currently detained
6 at the Imperial Regional Detention Facility. He entered the United States without
7 inspection on September 23, 2023, and was paroled under the Cuban
8 Humanitarian Parole program (marked as arriving alien on Form I-94, admit until
9 June 12, 2025); he was not apprehended upon arrival;
- 10 b. was apprehended inside the United States on February 12, 2025, after an arrest for
11 reckless driving, running a stop sign, and failure to obey traffic control signal (no
12 conviction yet; criminal proceedings ongoing with hearing in February 2026 and
13 dismissal anticipated); and
- 14 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), (pending minor traffic
15 offenses do not qualify as mandatory detention crimes) or § 1231.

16 6. After apprehending Petitioner on February 12, 2025 the DHS placed him in
17 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as INA
18 (Immigration and Nationality Act) 212(a)(7)(A)(i)(I), as someone who is not in possession of
19 valid lawful status, despite his prior parole under humanitarian program and pending I-485
20 Application for Lawful Permanent Residence (received October 9, 2024; DHS has requested
21 expedites multiple times to no avail).

22 7. The Court should expeditiously grant this petition.

23 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
24 “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.

1 19. Petitioner Duniesky Martinez Zayas is a citizen of Cuba who has been in
2 immigration detention since February 15, 2025. After Petitioner was arrested in Miami, ICE did
3 not set bond, and Petitioner requested review of his custody by an IJ. On January 05, 2025,
4 Petitioner was denied bond by an IJ at the Imperial Immigration court because he was deemed an
5 “arriving alien.” Petitioner has resided in the United States since his initial entry in 2023.

6 20. Respondent Adam Gordon is the Director of the San Diego Field Office of ICE’s
7 Enforcement and Removal Operations division. As such, Adam Gordon is Petitioner’s
8 immediate custodian and is responsible for Petitioner’s detention and removal. He is named in
9 his official capacity.

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

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

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

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

- 1 a. Assume jurisdiction over this matter;
- 2 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
- 3 Petitioner on conditions similar to his prior parole or on his own recognizance
- 4 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
- 5 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
- 6 seven days;
- 7 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
- 8 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
- 9 law; and
- 10 e. Grant any other and further relief that this Court deems just and proper.

11 DATED this 12 of January, 2026.



13 MORRIS JACOB WILNR
14 *Attorney for Petitioner*