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DETAINED

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT

10 MARTINEZ ZAYAS, Duniesky

11 Petitioner,

12 v.

13 Adam GORDON, Field Office Director of
14 Enforcement and Removal Operations, San
15 Diego Field Office, Immigration and Customs
16 Enforcement; Kristi NOEM, Secretary, U.S.
17 Department of Homeland Security; U.S.
18 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Jeremy CASEY
Warden of Imperial Regional Detention
Facility,

19 Respondents.

Case No. 3:26-cv-00237-BAS-DEB

**TRAVERSE TO RESPONDENTS'
RETURN AND REQUEST FOR
CONDITIONAL ABEYANCE OR
ALTERNATIVE RELIEF**

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1 Petitioner accepts Respondents' concession that he is detained under 8 U.S.C. § 1226(a)
2 and entitled to a bond hearing under § 1226(a), consistent with the final judgment in *Maldonado*
3 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), ECF No. 94 (entered Dec. 18,
4 2025), which declares Bond Eligible Class members (including Petitioner) not subject to
5 mandatory detention under § 1225(b)(2)(A) and vacates the unlawful July 8, 2025 DHS Interim
6 Guidance.

7 No stay of the Maldonado Bautista final judgment appears in the district or appellate
8 dockets; the judgment remains binding and enforceable nationwide unless altered on appeal.

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10 Petitioner's detention has lasted nearly one year (since 2/12/2025) without individualized
11 bond review, despite prior humanitarian parole (I-94 admit until 6/12/2025), pending I-485
12 (received 10/9/2024, with DHS expedite requests), minor pending traffic charges (no
13 conviction), compliance, and strong equities/community ties. Habeas relief remains necessary to
14 secure release from illegal/prolonged custody, as in analogous cases granting release where §
15 1226 governs but process denied.

16 **REQUEST FOR RELIEF**

17 Petitioner respectfully requests the court:

- 18 a. Hold the petition in abeyance conditioned on Respondents scheduling and holding a §
19 1226(a) bond hearing before an IJ within 14 days of this Order (or such time as the Court
20 deems appropriate);
- 21 b. Require Respondents to file a status report within 7 days after the hearing, detailing
22 outcome;
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- 1 c. Retain jurisdiction; if no hearing occurs or IJ denies jurisdiction, allow Petitioner to move
- 2 to lift abeyance for immediate release or further enforcement;
- 3 d. In the alternative, grant the writ and order Petitioner's immediate release on conditions
- 4 similar to prior parole (or own recognizance), given prolonged unreasonable detention
- 5 violating INA/due process;
- 6 e. Grant such other relief as just and proper.

7 DATED this 1st of February, 2026.

8 *s/ Morris Jacob Wilner*
 9 MORRIS JACOB WILNER
 10 *Attorney for Petitioner*

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