

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

Marvin Gonzalez Roblero,	)	
Petitioner	)	
	)	
vs.	)	PETITION FOR WRIT OF
	)	HABEAS CORPUS
Warden, FLORIDA SOFT SIDE SOUTH;	)	
	)	
Miami Field Office Director,	)	
Enforcement and Removal Operations,	)	
IMMIGRATION AND CUSTOMS	)	
ENFORCEMENT;	)	
	)	
Pamela Bondi, ATTORNEY GENERAL;	)	
	)	
AND	)	
	)	
Kristi Noem, SECREATRY OF THE	)	
DEPARTMENT OF HOMELAND	)	
SECURITY	)	
Respondents.	)	

INTRODUCTION

1. Marvin Gonzalez Roblero is a twenty year old native and citizen of Guatemala who entered the United States in 2022, at the age of seventeen, as an Unaccompanied Alien Child (UAC). He was processed by the Department of Health and Human Services and released to the custody of a sponsor in the United States. *See Department of Health and Human Services, Office of Refugee Resettlement Verification of Release as Exhibit A.* His release was pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), codified in relevant part at 8 U.S.C. § 1232.

2. By releasing the Petitioner to the custody of his sponsor, the Office of Refugee Resettlement (ORR) was required to find that the Petitioner's release did not present a danger to the community or a flight risk. 8 U.S.C. §1232(c)(2)(A).
3. Mr. Gonzalez Roblero filed an I-589 Application for Asylum, Withholding, and Protection under the Convention Against Torture with United States Citizenship and Immigration Services (USCIS) on November 8, 2023. That application remains pending and it is the Petitioner's position that USCIS retains initial jurisdiction of that application due to his status as a UAC. *See I-589 Receipt as Exhibit B*. He recently paid the annual asylum fee on October 31, 2025. *See I-589 Annual Asylum Fee Receipt as Exhibit C*.
4. Mr. Gonzalez Roblero was detained by ICE on or about January 10, 2026. At the time of his detention, there had not been a material change in circumstances. DHS' decision to detain Mr. Gonzalez Roblero absent a material change in circumstances was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. It was also a violation of his substantive and procedural due process rights.
5. ICE is holding the Petitioner without bond because it alleges he is subject to mandatory detention pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). He remains in the custody of the Respondents at the Florida Soft Side South. *See ICE Locator Printout as Exhibit D*.
6. The Petitioner also brings this petition for a writ of habeas corpus, in the alternative, to seek enforcement of his rights as a member of the Bond Denial Clas certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) He faces continued unlawful detention because the Department of Homeland Security (DHS)

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

7. 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).
8. 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.
9. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
10. On December 18, 2025, the Court entered a final judgement on behalf of the certified class and declared DHS' position in regards to mandatory detention unlawful for the class members.

11. Petitioner, Marvin Gonzalez Roblero 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 Florida Soft Side South facility. He was apprehended by immigration authorities on or about January 10, 2026;
- b. entered the United States without inspection over three 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.

12. After apprehending Petitioner on January 10, 2026, the DHS had declined to set bond and detained the Petitioner as someone who entered the United States without inspection.

13. Respondents are bound by the judgment in *Maldonado Bautista*. 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.

14. 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).

15. Because Respondents are detaining Petitioner in violation of law and the Court should accordingly order that, within one day, Respondent DHS must release Petitioner.

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

JURISDICTION

17. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, §9, cl 2 of the United States Constitution (Suspension Clause).
18. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

19. Venue is proper because the Petitioner is detained at the Florida Soft Side South, 54575 Tamiami Trail E, Ochopee, FL 34141 which is within this District which is within this District.
20. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees, officers, and agents of the United States and the detention which gave rise to this claim is ongoing in the district.

REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents “forthwith,” 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).
22. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved many times in this jurisdiction. Additionally, the legal issues have also been addressed in the Central District of California which

certified a nationwide class related to the exact issue at hand. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM.

23. 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

24. Petitioner Marvin Gonzalez Roblero is a citizen of Guatemala who has been in immigration detention since on or about January 10, 2026. After Petitioner was arrested, ICE declined to set bond and is of the position that the Petitioner is subject to mandatory detention. Petitioner entered the United States as an Unaccompanied Alien Child (UAC) and has resided in the United States since 2022.
25. Respondent Warden, Florida Soft Side South is employed as the Warden of the Florida Soft Side South Facility where the Petition is detained. He has immediate physical custody of the Petitioner. He is sued in his official capacity.
26. Respondent Miami Field Office Director is the Director of the Miami Field Office of ICE’s Enforcement and Removal Operations division. As such, the Miami Field Office Director is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

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 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.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Substantive Due Process

29. Petitioner repeats, re-alleges, and incorporates by reference the allegation in paragraphs 1-28 as if fully set forth herein.
30. The substantive component of the Due Process Clause of the Fifth Amendment to the United States Constitution protects the Petitioner's liberty interests.
31. ICE's decision to detain the Petitioner after his previous release from custody pursuant to the TVPRA was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and therefore a violation of the Petitioner's Substantive Due Process Rights.

SECOND CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Procedural Due Process

32. Petitioner repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1-28 as if fully set forth herein.

33. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)
34. The Petitioner has a liberty interest in freedom from detention. The government violated Petitioner’s procedural due process rights when they re-arrested and detained Petitioner after previously releasing him pursuant to the requirements of the TVPRA.
35. It is a longstanding principle recognized in both federal and state law that “where one has been released on bail he cannot be rearrested in the same jurisdiction on the same charge on which he was originally arrested.” *Williams v. Dart*, 967 F.3d 625, 635 (quoting *United States ex rel. Heikkinen v. Gordon*, 190 F.2d 16, 19 (8th Cir. 1951)); *McGilvery v. Morehead*, 2 Cal. 607, 609 (1852) (“When a party is once arrested and discharged, he cannot be arrested again in the same action . . . [because a] different rule might . . . lead to harassing arrests.”).
36. This same principle has been applied to illegal aliens who are released on bail and subsequently re-arrested. See *Carlson v. Landon*, 342 U.S. 524, 546 (1952) (reversing denial of habeas corpus to detainee released on bail then re-arrested under original warrant); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969-70 (N.D. Cal. 2019) (holding that noncitizen habeas petitioner’s due process rights were violated after he was released on bond and subsequently rearrested without a demonstration that circumstances had changed); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1058 (N.D. Cal. 2021) (granting preliminary injunction on procedural due process claim and ordering that the government could only re-detain a noncitizen previously released on bond after providing the noncitizen with notice and hearing); *In re Sugay*, 17 I. & N. Dec. 637, 640 (BIA1981)(holding that when a previous bond determination has been

made by an immigration judge, no change should be made by a District Director absent a change of circumstance).

37. There were no material changes in the Petitioner's circumstances which justified his detention in 2026, more than three years after his initial release from custody.

THIRD CLAIM FOR RELIEF

Violation of the INA:

38. Petitioner repeats, re-alleges, and incorporates by reference the allegations in paragraphs 1-28 as if fully set forth herein.

39. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

40. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, see 8 U.S.C. § 1226(c).

41. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).

42. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)-(b).

43. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2).

44. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub.

L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended in 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

45. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
46. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
47. On July 8, 2025, ICE, “in coordination with the Department of Justice (DOJ),” announced a corresponding policy that rejected the well-established understanding of

the statutory and regulatory framework and reversed decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

48. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
49. On September 5, 2025, the Board of Immigration Appeals (BIA), issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission, and are therefore ineligible for bond hearings under 8 U.S.C. § 1225(b)(2)(A).
50. DHS’s and DOJ’s interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Plaintiffs. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
51. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); see also *Diaz Martinez*, 2025 WL 2084238, at *8 (“[O]ur

immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.”(quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

52. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Mr. Gonzalez Roblero, who have already entered and were residing in the United States at the time they were apprehended.

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

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

55. 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.”

56. Respondents are parties to *Maldonado Bautista* and bound by the Court’s final judgment.

57. In *Maldonado Bautista*, the Court has already certified a nationwide class of individuals exactly like Mr. Gonzalez Roblero. That Court held that those individuals are entitled to consideration for release on bond under 8 U.S.C. § 1226(a). The Court further held

that the Respondents are violating the INA in applying the mandatory detention statutes to people like Mr. Gonzalez Roblero.

58. 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*.

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. Alternatively, issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. 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;
- e. 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
- f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 19th day of January 2026.

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I am aware of the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: January 19, 2026

/s/ Fairuze Sofia

Fairuze Sofia