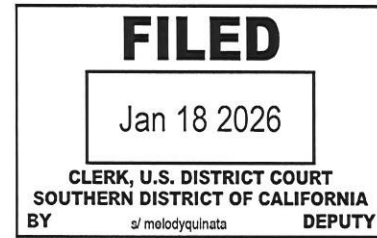


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LUIS ANGEL ONATE VARGAS,

Petitioner,

CASE NO.: '26CV0310 BAS JLB

v.

PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241

Kristi NOEM, Secretary of Homeland Security; Christopher J. LAROSE, Warden, Otay Mesa Detention Center, Daniel A BRIGHTMAN, Field Office Director, San Diego Field Office, United States Immigration and Customs Enforcement; Todd M. LYONS, Acting Director, United States Immigration Customs Enforcement; Pamela Jo BONDI, Attorney General *in their official capacities,*

Respondents.

INTRODUCTION

1. Petitioner Luis Angel Onate Vargas ("Petitioner") is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Otay Mesa Detention Center, located in San Diego, California, within this judicial district. Petitioner

1 brings this action under 28 U.S.C. § 2241 seeking release from unlawful detention,
2 or in the alternative, a bond hearing before an Immigration Judge at which
3 Respondents must justify Petitioner's continued detention by clear and convincing
4 evidence.

5
6 2. Petitioner entered the United States in 2001 and resided continuously
7 in the United States for nearly twenty-four years before being arrested by ICE while
8 going to work in New Jersey on November 18, 2025. Petitioner was not apprehended
9 at or upon arrival to the United States; rather, Petitioner had established a life here
10 with three United States citizen children, steady employment, and deep community
11 ties. Petitioner is therefore detained pursuant to 8 U.S.C. § 1226(a), not the
12 mandatory detention provisions of § 1225(b)(2) that Respondents unlawfully claim
13 apply.
14

15
16 3. Petitioner is a member of the Bond Eligible Class certified by this Court
17 in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.). On
18 December 18, 2025, this Court entered Final Judgment declaring that class members
19 like Petitioner are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and vacating
20 ICE's July 8, 2025 memorandum as "contrary to law." Thus, Petitioner may not be
21 denied consideration for release on bond under § 1225(b)(2). *Maldonado Bautista*,
22 2025 WL 3289861, at *11 Petitioner seeks now enforcement of that judgment and a
23 bond hearing to which he is entitled under § 1226(a).
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JURISDICTION

1
2 4. The Petitioner is in the physical custody of Respondents. Petitioner is
3 detained at the Otay Mesa Detention Facility in California.
4

5 5. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
6 corpus), 28 U.S.C. § 1331 (federal question), Article I, Section 9, Clause 2 of the
7 United States Constitution (the Suspension Clause), 28 U.S.C. § 2201 (Declaratory
8 Judgment Act), and 28 U.S.C. § 1651 (All Writs Act).
9

10 6. This Court may grant relief pursuant to 28 U.S.C. §2241, the
11 Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*, and the All Writs Act, 28 U.S.C.
12 § 1651.
13
14

VENUE

15
16
17 7. Venue is proper in this District under *Braden v. 30th Judicial Circuit*
18 *Court*, 410 U.S. 484 (1973), and 28 U.S.C. § 1391(e) because Petitioner is currently
19 detained at Otay Mesa Detention Center in San Diego, California, which is within
20 the Southern District of California.
21

22 8. Respondent Christopher J. LaRose, Senior Warden of Otay Mesa
23 Detention Center, is Petitioner's immediate custodian and is located within this
24 District.
25

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REQUIREMENTS OF 28 U.S.C. § 2243

1
2 9. Pursuant to 28 U.S.C. § 2243, upon the filing of a habeas corpus
3 petition, "the court shall forthwith award the writ or issue an order directing the
4 respondent to show cause why the writ should not be granted, unless it appears from
5 the application that the applicant or person detained is not entitled thereto." 28
6 U.S.C. § 2243.
7

8
9 10. The writ of habeas corpus "is the fundamental instrument for
10 safeguarding individual freedom against arbitrary and lawless state action." *Fay v.*
11 *Noia*, 372 U.S. 391, 401-02 (1963). Courts are required to act promptly on habeas
12 petitions. See *Yong v. INS*, 208 F.3d 1116, 1119 (9th Cir. 2000) (vacating district
13 court's order staying habeas proceedings and remanding for prompt adjudication).
14

15
16 **PARTIES**

17
18 11. Petitioner Luis Angel Onate Vargas is a native and citizen of Ecuador.
19 Petitioner's Alien Registration Number is . Petitioner is currently
20 detained at Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego,
21 California 92154.
22

23 12. Respondent Christopher J. LaRose is the Senior Warden of Otay Mesa
24 Detention Center and is Petitioner's immediate custodian. He is sued in his official
25 capacity.
26
27
28

1 13. On information and belief, Respondent Daniel A. Brightman is the
2 current Field Office Director responsible for the San Diego Field Office of ICE. He
3 is a legal custodian of the Petitioner and is named in his official capacity.

4 14. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal
5 custodian of Petitioner and is named in his official capacity.
6


7 15. Respondent Kristi Noem is the Secretary of the U.S. Department of
8 Homeland Security ("DHS"). She is responsible for administering and enforcing
9 immigration laws, including the detention of noncitizens. She is sued in her official
10 capacity.
11

12 16. Respondent U.S. Department of Homeland Security is the federal
13 agency responsible for immigration enforcement and the detention of noncitizens.
14

15 17. Respondent Pamela Bondi is the Attorney General of the United States.
16 She is a legal custodian of Petitioner and is named in her individual capacity.
17

18 STATEMENT OF FACTS

19 I. Petitioner's Background

20
21 18. Petitioner Luis Angel Onate Vargas is a 54-year-old native and citizen
22 of Ecuador. 
23

24 19. On or about March 27, 2001, Petitioner entered the United States
25 without inspection via the land border near Phoenix, Arizona. Petitioner was not
26 apprehended at or upon his arrival. He successfully entered the United States and
27
28 proceeded to establish his life in this country.

1 20. For nearly twenty-four years, Petitioner has resided continuously in the
2 United States. During this time, he has become the father of three United States
3 citizen children: a nine-year-old son, a seven-year-old son, and a one-year-old
4 daughter. Petitioner's eldest child suffers from severe allergies requiring specialized
5 medical care that Petitioner has been instrumental in providing.
6

7 21. Petitioner has been employed throughout his time in the United States,
8 most recently at the time of his arrest while going to work. Petitioner has filed tax
9 returns since 2002 and has contributed to his community.
10

11 22. Petitioner has no criminal history. He has never been convicted of any
12 crime in the United States or any other country.
13

14 **II. Petitioner's Arrest and Detention**

15 23. On November 18, 2025, ICE officers arrested Petitioner in New Jersey
16 while he was on his way to work. At the time of his arrest, Petitioner had been living
17 in the United States for nearly twenty-four years.
18

19 24. Petitioner was subsequently transferred to Otay Mesa Detention Center
20 in San Diego, California, where he remains detained.
21

22 25. DHS issued a Notice to Appear ("NTA") charging Petitioner with
23 removability under INA § 212(a)(6)(A)(i), as a noncitizen present in the United
24 States without being admitted or paroled.
25

26 26. Petitioner is pursuing Cancellation of Removal under INA § 240A(b)
27 before the Otay Mesa Immigration Court. This form of relief requires demonstrating,
28

1 among other things, ten years of continuous physical presence and that removal
2 would result in exceptional and extremely unusual hardship to a qualifying relative.

3 27. Petitioner has a United States citizen nephew, Galo Javier Moreno
4 Onate, who has agreed to sponsor Petitioner and has submitted Form I-134 in support
5 of Petitioner's release.
6

7 **III. Bond Proceedings**

8
9 28. On December 16, 2025, Petitioner, through counsel, filed a Motion for
10 Custody Determination before Immigration Judge Guy G. Grande.

11
12 29. On December 19, 2025, Petitioner's counsel withdrew the bond request
13 without prejudice after the Immigration Judge indicated he lacked jurisdiction to
14 grant a bond hearing based on EOIR's interpretation of *Matter of Yajure Hurtado*,
15 29 I&N Dec. 216 (BIA 2025).
16

17 30. Thus, Petitioner has been denied a bond hearing despite being entitled to
18 one under 8 U.S.C. § 1226(a) and its implementing regulations.

19 **IV. Respondents' Unlawful Policy**

20
21 31. On July 8, 2025, ICE Acting Director Todd Lyons issued a
22 memorandum entitled "Interim Guidance Regarding Detention Authority for
23 Applicants for Admission" (the "July 8 Memo"). This memorandum directed ICE
24 personnel to detain all individuals who entered without inspection under §
25 1225(b)(2), regardless of when or where they were apprehended.
26
27
28

1 32. On September 5, 2025, the Board of Immigration Appeals issued
2 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), purporting to strip
3 Immigration Judges of bond authority for individuals who entered without
4 inspection.

5
6 33. On November 25, 2025, in *Maldonado Bautista v. Santacruz*, No. 5:25-
7 cv-01873-SSS-BFM (C.D. Cal.), the Central District of California certified a
8 nationwide class of individuals who: (1) entered the United States without
9 inspection; (2) were not apprehended "upon arrival" to the United States; and (3) are
10 not subject to mandatory detention under § 1226(c), expedited removal under §
11 1225(b)(1), or post-removal-period detention under § 1231.
12

13
14 34. On December 18, 2025, the Court in *Maldonado Bautista* entered Final
15 Judgment declaring that class members are detained under 8 U.S.C. § 1226(a), not §
16 1225(b)(2), and vacating the July 8, 2025 ICE memorandum as "contrary to law."
17

18 35. Petitioner meets all three criteria for membership in the *Maldonado*
19 *Bautista* Bond Eligible Class: (1) he entered without inspection; (2) he was not
20 apprehended upon arrival but rather nearly twenty-four years later; and (3) he is not
21 subject to § 1226(c), § 1225(b)(1), or § 1231.
22

23 36. Despite the *Maldonado Bautista* judgment, Respondents continue to
24 detain Petitioner without providing him a bond hearing.
25

26 ///

27 ///

CLAIMS FOR RELIEF

COUNT I

Violation of the INA:

Request for Relief Pursuant to Maldonado Bautista

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2
3
4 37. Petitioner repeats, re-alleges, and incorporates by reference each and
5 every allegation in the preceding paragraphs as if fully set forth herein.
6

7 38. As a member of the Bond Eligible Class, Petitioner is entitled to
8 consideration for bond under 8 U.S.C. §1226(a).
9

10 39. The order granting partial summary judgment in *Maldonado Bautista*
11 holds that Respondents violate the INA in applying the mandatory detention statute
12 at § 1225(b)(2) to class members.
13

14 40. The order granting certification in *Maldonado Bautista* further orders
15 that “[w]hen considering this determination with the MSJ Order, the Court extends
16 the same declaratory relief granted to Petitioners to the Bond Eligible Class as a
17 whole.”
18

19 41. Respondents are parties to the *Maldonado Bautista* and bound by the
20 Court’s declaratory judgment, which has the full “force and effect of a final
21 judgment.” 28 U.S.C. §2201(a).
22

23 42. The application of §§ 1225(b)(2) to bar Petitioner from receiving a bond
24 hearing before an immigration judge violates Petitioner’s statutory rights under the
25 INA and the Court’s judgment in *Maldonado Bautista*.
26

27 ///

COUNT II

Violation of the Administrative Procedure Act

Unlawful Denial of Bond

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2
3
4 43. Petitioner repeats, re-alleges, and incorporates by reference each and
5 every allegation in the preceding paragraphs as if fully set forth herein.

6 44. The mandatory detention provisions at 8 U.S.C. § 1225(b)(2) does not
7 apply to noncitizens residing in the United States who are subject to the grounds of
8 inadmissibility because they originally entered the United States without inspection
9 or parole. Such noncitizens are detained under the §1226(a), unless they are subject
10 to another detention provision, such as §1225(b)(1), §1226(c) or §1231.
11

12
13 45. The application of §1225(b)(a) to bar Petitioner from receiving a bond
14 redetermination hearing before an immigration judge is arbitrary, capricious, and
15 not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).
16

17 **COUNT III**

18 ***Violation of Procedural Due Process***

19 46. Petitioner repeats, re-alleges, and incorporates by reference each and
20 every allegation in the preceding paragraphs as if fully set forth herein.
21

22 47. The government may not deprive a person of life, liberty, or property
23 without due process of law. U.S. Const. amend V. “Freedom from imprisonment –
24 from government custody, detention, or other forms of physical restraint – lies at the
25 heart of liberty that the Clause protects.” *Zadvydas v. Davies*, 533 U.S. 678, 690,
26 121 S. Ct. 2491, 150 L.Ed 653 (2001)
27
28

1 48. Petitioner has a fundamental interest in liberty and being free from official
2 restraint.

3 49. The government's detention of Petitioner without a bond redetermination
4 hearing to determine whether he is a flight risk or danger to others violates the right
5 to due process.
6

7 **PRAYER FOR RELIEF**

8
9 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 10
11 a. Assume jurisdiction over this matter;
12 b. Issue a writ of habeas corpus requiring that within one day,
13 Respondents release Petitioner;
14 c. Alternatively, issue a writ of habeas corpus requiring Respondents to
15 release Petitioner unless they provide a bond hearing under 8 U.S.C.
16 § 1226(a) within seven days;
17 d. Award Petitioner attorney's fees and costs under the Equal Access to
18 Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other
19 basis justified under law; and
20
21 e. Grant any other and further relief that this Court deems just and proper.
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26 Dated: January 18, 2026
27
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Respectfully submitted,



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