

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 MIDDLE DISTRICT OF FLORIDA

8 JUAN CARLOS HERNANDEZ LOPEZ,

9 Petitioner,

10 v.

11 Ronnie WOODALL, Warden of Florida
12 Baker Correctional Institution; Garrett
13 RIPA, Field Office Director of
14 Enforcement and Removal Operations,
15 Miami Field Office, U.S. Immigration
16 and Customs Enforcement; Kristi
17 NOEM, Secretary, U.S. Department of
18 Homeland Security; U.S.
19 DEPARTMENT OF HOMELAND
20 SECURITY; Pamela BONDI, U.S.
21 Attorney General; EXECUTIVE OFFICE
22 FOR IMMIGRATION REVIEW.

23 Respondents.
24

Case No. 3:26-cv-00117

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Juan Carlos Hernandez Lopez is in the physical custody of
3 Respondents at the Florida Baker Correctional Institution. He now faces unlawful
4 detention because the Department of Homeland Security (DHS) and the
5 Executive Office of Immigration Review (EOIR) have concluded that Petitioner is
6 subject to mandatory detention and have refused to abide by the final judgement
7 issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

8 2. Petitioner is charged with, *inter alia*, having entered the United
9 States without admission or inspection, and also as someone who is not in
10 possession of a valid entry document. 8 U.S.C. §§ 1182(a)(6)(A)(i) and
11 (a)(7)(A)(i)(I).

12 3. Based on this allegation in Petitioner's removal proceedings, DHS
13 denied Petitioner release from immigration custody, consistent with a new DHS
14 policy issued on July 8, 2025, instructing all Immigration and Customs
15 Enforcement (ICE) employees to consider anyone inadmissible under §
16 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or
17 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
18 therefore ineligible to be released on bond.

19 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
20 (BIA or Board) issued a precedent decision, binding on all immigration judges,
21 holding that an immigration judge has no authority to consider bond requests for
22 any person who entered the United States without admission. *See Matter of*
23
24

1 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such
2 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
3 ineligible to be released on bond.

4 5. Petitioner's detention on this basis violates the plain language of the
5 Immigration and Nationality Act (INA). Section 1225(b)(2)(A) does not apply to
6 individuals like Petitioner who previously entered and are now residing in the
7 United States. Instead, such individuals are subject to a different statute, §
8 1226(a), that allows for release on conditional parole or bond. That statute
9 expressly applies to people who, like Petitioner, are charged as inadmissible for
10 having entered the United States without inspection.

11 6. Respondents' new legal interpretation is plainly contrary to the
12 statutory framework and contrary to decades of agency practice applying §
13 1226(a) to people like Petitioner.

14 7. Furthermore, on November 25, 2025, the U.S. District Court for the
15 Central District of California issued an order in *Maldonado Bautista v.*
16 *Santacruz*, certifying a nationwide class of noncitizens who are in immigration
17 detention and being denied access to a bond hearing based on the government's
18 allegation that they entered the United States without admission or inspection
19 (colloquially referred to as "entered without inspection" or "EWI"). *Maldonado*
20 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025
21 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-
22 Petitioners' proposed nationwide Bond Eligible Class, incorporating and
23
24

1 extending declaratory judgment from Order Granting Petitioners' Motion for
2 Partial Summary Judgment).

3 8. On December 18, 2025, the district court entered a final judgement
4 in the nationwide class action *Maldonado Bautista v. Santacruz*. The Court
5 rejected the government's prior argument that the class certification was merely
6 interlocutory. It entered final judgment on Counts I-III, certifying the class and
7 declaring the policy unlawful. *See Maldonado Bautista v. Santacruz*, No. 5:25-
8 CV-01873-SSS-BFM, 2025 WL 3678485 at *1 (C.D. Cal. Dec. 18, 2025). As a class
9 member, Respondent's rights are now adjudicated, and the Government is
10 collaterally estopped from relitigating his detention status. Therefore, as
11 Respondent belongs to the certified class, the immigration court has jurisdiction
12 over his bond hearing.

14 9. The final judgment held that the Bond Denial Class members are
15 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for
16 release on bond under § 1225(b)(2)(A). *See Maldonado Bautista v. Santacruz*,
17 No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 at *1 (C.D. Cal. Dec. 18, 2025)

18 10. Petitioner Juan Carlos Hernandez Lopez is a member of the Bond
19 Eligible Class, as he:

- 20
21 a. does not have lawful status in the United States and is currently
22 detained at the Florida Baker Correctional Institution. He was
23 apprehended by immigration authorities on December 9, 2025;

1 b. entered the United States without inspection over twenty-four years
2 ago and was not apprehended upon arrival, *cf. id.*; and

3 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
4

5 11. While Respondents are bound by the final judgment in *Maldonado*
6 *Bautista*, EOIR and its subagency, the Immigration Court and the DHS, continue
7 to flagrantly defy the judgment in that case and continue to subject Petitioner to
8 unlawful detention despite his clear entitlement to consideration for release on
9 bond as a Bond Eligible Class member.

10 12. Immigration judges have informed class members in bond hearings
11 that they have been instructed by “leadership” that the final judgment in
12 *Maldonado Bautista* is not controlling, even with respect to class members, and
13 that instead IJs remain bound to follow the agency’s prior decision in *Matter of*
14 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15 13. The Court should expeditiously grant this petition.
16

17 14. Because Respondents are detaining Petitioner in violation of the
18 final judgment issued in *Maldonado Bautista*, the Court should accordingly
19 order that within one day, Respondent DHS must release Petitioner.

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

22 **JURISDICTION**
23
24

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Florida Baker Correctional Institution in Sanderson, Florida.

17. 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).

18. 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

19. 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 Middle District of Florida, the judicial district in which Petitioner currently is detained.

20. Venue is also properly 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 Middle District of Florida.

EXHAUSTION

21. Petitioner has exhausted his administrative remedies by requesting a bond hearing before the immigration court. On December 22, 2025, Petitioner filed a Bond Redetermination Request, and an Immigration Judge (IJ) set a bond hearing on December 30, 2025. On December 30, 2025, the IJ found he did not

1 have jurisdiction based on *Matter of Yajure Hurtado*, and denied Petitioner's
2 bond request. *See* Exhibit (Exh.) A.

3 REQUIREMENTS OF 28 U.S.C. § 2243

4 22. The Court should grant the petition for writ of habeas corpus
5 "forthwith," as the legal issues have already been resolved for class members in
6 *Maldonado Bautista*.

7 23. Courts have long recognized the significance of the habeas statute in
8 protecting individuals from unlawful detention. The Great Writ has been referred
9 to as "perhaps the most important writ known to the constitutional law of
10 England, affording as it does a *swift* and imperative remedy in all cases of illegal
11 restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
12 added).
13

14 PARTIES

15 24. Petitioner Juan Carlos Hernandez Lopez is a citizen of Mexico who
16 has been in immigration detention since December 9, 2025. After Petitioner was
17 arrested in the USCIS Tampa Asylum Office at 3924 Coconut Palm Drive, Tampa,
18 FL 33619, ICE did not set bond, and Petitioner requested review of his custody by
19 an IJ. On December 30, 2025, Petitioner was denied bond by an IJ at the Orlando
20 Immigration Court because he was deemed present without admission. *See* Exh.
21 A. Petitioner has resided in the United States since 2001.

22 25. Respondent Garrett Ripa is sued in his official capacity as the
23 Director of the Miami Field Office of ICE's Enforcement and Removal Operations
24

1 division. As such, Garrett Ripa is Petitioner's immediate custodian and is
2 responsible for Petitioner's detention and removal.

3 26. Respondent Kristi Noem is sued in her official capacity as the
4 Secretary of the Department of Homeland Security. She is responsible for the
5 implementation and enforcement of the INA, and oversees ICE, which is
6 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
7 over Petitioner.

8 27. Respondent DHS is the federal agency responsible for implementing
9 and enforcing the INA, including the detention and removal of noncitizens.

10 28. Respondent Pamela Bondi is sued in her official capacity as the
11 Attorney General of the United States. She is responsible for the Department of
12 Justice (DOJ), of which the Executive Office for Immigration Review and the
13 immigration court system it operates is a component agency.

14 29. Respondent EOIR is the federal agency responsible for
15 implementing and enforcing the INA in removal proceedings, including for
16 custody redeterminations in bond hearings.

17 30. Respondent Ronnie Woodall is the Warden of the Florida Baker
18 Correctional Institution, and he has immediate physical custody of Petitioner
19 pursuant to the facility's contract with U.S. Immigration and Customs
20 Enforcement to detain noncitizens and is a legal custodian of Petitioner.
21 Respondent Woodall is a legal custodian of Petitioner.
22

23 LEGAL FRAMEWORK

24

1 31. The INA prescribes three basic forms of detention for the vast
2 majority of noncitizens in removal proceedings.

3 32. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
4 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in §
5 1226(a) detention are generally entitled to a bond hearing at the outset of their
6 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
7 arrested, charged with, or convicted of certain crimes are subject to mandatory
8 detention, *see* 8 U.S.C. § 1226(c).

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

12 34. Last, the INA also provides for detention of noncitizens who have
13 been ordered removed, including individuals in withholding-only proceedings,
14 *see* 8 U.S.C. § 1231(a)–(b).

15 35. This case concerns the detention provisions at §§ 1226(a) and
16 1225(b)(2).

17 36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
18 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
19 (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302–03, 110 Stat. 3009–546,
20 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
21 last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).
22
23
24

1 37. Following the enactment of the IIRIRA, EOIR drafted new
2 regulations explaining that, in general, people who entered the country without
3 inspection were not considered detained under § 1225 and that they were instead
4 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
5 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
6 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

7 38. Thus, in the decades that followed, most people who entered without
8 inspection and were placed in standard removal proceedings received bond
9 hearings, unless their criminal history rendered them ineligible pursuant to 8
10 U.S.C. § 1226(c). That practice was consistent with many more decades of prior
11 practice, in which noncitizens who were not deemed “arriving” were entitled to a
12 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
13 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
14 simply “restates” the detention authority previously found at § 1252(a)).
15

16 39. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
17 policy that rejected well-established understanding of the statutory framework
18 and reversed decades of practice.

19 40. The new policy, entitled “Interim Guidance Regarding Detention
20 Authority for Applicants for Admission,”¹ claims that all persons who entered the
21 United States without inspection shall now be subject to mandatory detention
22

23
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1 provision under § 1225(b)(2)(A). The policy applies regardless of when a person
2 is apprehended and affects those who have resided in the United States for
3 months, years, and even decades.

4 41. On September 5, 2025, the BIA adopted this same position in a
5 published decision, *Matter of Yajure Hurtado*. There, the Board held that all
6 noncitizens who entered the United States without admission or parole are
7 subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond
8 hearings.

9 42. Since Respondents adopted their new policies, dozens of federal
10 courts have rejected their new interpretation of the INA's detention authorities.
11 Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same
12 reading of the statute as ICE.

13 43. Even before ICE or the BIA introduced these nationwide policies, IJs
14 in the Tacoma, Washington, immigration court stopped providing bond hearings
15 for persons who entered the United States without inspection and who have since
16 resided here. There, the U.S. District Court in the Western District of Washington
17 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
18 1225(b), applies to noncitizens who are not apprehended upon arrival to the
19 United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash.
20 2025).

21 44. Subsequently, court after court has adopted the same reading of the
22 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,
23
24

1 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,
2 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
3 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157
4 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
5 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
6 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937
7 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No.
8 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-*
9 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D.
10 Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D.
11 Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL
12 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
13 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No.
14 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v.*
15 *Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27,
16 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----,
17 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No.
18 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
19 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D.
20 Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS
21 (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*,
22 No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v.*
23
24

1 *Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025);
2 *Cetino v. Hardin*, No. 2:25-cv-1037-JES-DNF, 2025 WL 3558138 (M.D. Fla. Dec.
3 12, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566,
4 at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that §
5 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-
6 cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same).

7
8 45. Courts have uniformly rejected DHS’s and EOIR’s new
9 interpretation because it defies the INA. As the *Rodriguez Vazquez* court and
10 others have explained, the plain text of the statutory provisions demonstrates
11 that § 1226(a), not § 1225(b), applies to people like Petitioner.

12 46. Section 1226(a) applies by default to all persons “pending a decision
13 on whether the [noncitizen] is to be removed from the United States.” These
14 removal hearings are held under § 1229a, to “decid[e] the inadmissibility or
15 deportability of a[] [noncitizen].”

16 47. The text of § 1226 also explicitly applies to people charged as being
17 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
18 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
19 default, such people are afforded a bond hearing under subsection (a). As the
20 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific
21 exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the
22 statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing
23
24

1 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400
2 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

3 48. Section 1226 therefore leaves no doubt that it applies to people who
4 face charges of being inadmissible to the United States, including those who are
5 present without admission or parole.

6 49. By contrast, § 1225(b) applies to people arriving at U.S. ports of
7 entry or who recently entered the United States. The statute's entire framework is
8 premised on inspections at the border of people who are "seeking admission" to
9 the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has
10 explained that this mandatory detention scheme applies "at the Nation's borders
11 and ports of entry, where the Government must determine whether a[]
12 [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*,
13 583 U.S. 281, 287 (2018).

14 50. Accordingly, the mandatory detention provision of § 1225(b)(2)(A)
15 does not apply to people like Petitioner, who have already entered and were
16 residing in the United States at the time they were apprehended.

18 **FACTS**

19 51. Petitioner has resided in the United States since on or about 2001
20 and resides in Bradenton, Florida.

21 52. On December 9, 2025 Petitioner attended a biometrics appointment
22 at USCIS's Tampa Asylum Office at 3924 Coconut Palm Drive, Tampa, FL 33619,
23 as he is the derivative on his wife's affirmative asylum case. At this appointment
24

1 on December 9, 2025, ICE arrested Petitioner and eventually brought him to
2 Florida Baker Correctional Institution, where he remains to this day (43 days).

3 53. DHS placed Petitioner in removal proceedings before the Orlando
4 immigration court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with,
5 *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who
6 entered the United States without inspection, and under 8 U.S.C. §
7 1182(a)(7)(A)(i)(I) also as someone who is not in possession of a valid entry
8 document.

9 54. Respondent is a long-time, hard-working resident of the United
10 States, who has established strong community ties in his time in the United
11 States, including his entire immediate family: his wife, who is Deferred Action for
12 Childhood Arrivals (DACA) recipient, and his two U.S. Citizen (USC) children,
13 one of whom has Autism and mental health issues.

14 55. Following Petitioner's arrest and transfer to Florida Baker
15 Correctional Institution, ICE issued a custody determination to continue
16 Petitioner's detention without an opportunity to post bond or be released on
17 other conditions.

18 56. Petitioner subsequently requested a bond redetermination hearing
19 before an IJ on December 22, 2025.

20 57. Pursuant to *Matter of Yajure Hurtado*, the immigration judge found
21 he was unable to consider Petitioner's bond request on December 30, 2025. *See*
22 Exh. A.
23
24

1 58. As a result, Petitioner remains in detention. Without relief from this
2 court, he faces the prospect of months, or even years, in immigration custody,
3 separated from his family and community.

4 **CLAIMS FOR RELIEF**

5 **COUNT 1:**

6 **Violation of the INA**

7 59. Petitioner incorporates by reference the allegations of fact set forth
8 in the preceding paragraphs.

9 60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
10 apply to all noncitizens residing in the United States who are subject to the
11 grounds of inadmissibility. As relevant here, it does not apply to those who
12 previously entered the country and have been residing in the United States prior
13 to being apprehended and placed in removal proceedings by Respondents. Such
14 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1),
15 § 1226(c), or § 1231.

16 61. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
17 continued detention and violates the INA.

18 **COUNT 2:**

19 **Violation of the INA:**

20 **Request for Relief Pursuant to *Maldonado Bautista***

21 62. Petitioner repeats, re-alleges, and incorporates by reference each and
22 every allegation in the preceding paragraphs as if fully set forth herein.
23
24

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

3 64. The order granting class certification in *Maldonado Bautista* holds
4 that Respondents violate the INA in applying the mandatory detention statute at
5 § 1225(b)(2) to class members.

6 65. The order granting class certification in *Maldonado Bautista* further
7 orders that “[w]hen considering this determination with the MSJ Order, the
8 Court extends the same declaratory relief granted to Petitioners to the Bond
9 Eligible Class as a whole.”

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

12 67. By denying Petitioner a bond hearing under § 1226(a) and asserting
13 that he is subject to mandatory detention under § 1225(b)(2), Respondents
14 violate Petitioner’s statutory rights under the INA and the Court’s judgment in
15 *Maldonado Bautista*.

16
17 **COUNT 3:**

18 **Violation of the Bond Regulations**

19 68. Petitioner incorporates by reference the allegations of fact set forth
20 in the preceding paragraphs.

21 69. In 1997, after Congress amended the INA through IIRIRA, EOIR and
22 the then Immigration and Naturalization Service issued an interim rule to
23 interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,
24

1 Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
2 being applicants for admission, [noncitizens] who are present without having
3 been admitted or paroled (formerly referred to as [noncitizens] who entered
4 without inspection) will be eligible for bond and bond redetermination.” 62 Fed.
5 Reg. at 10323 (emphasis added). The agencies thus made clear that individuals
6 who had entered without inspection were eligible for consideration for bond and
7 bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

8
9 70. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a
10 policy and practice of applying § 1225(b)(2) to individual like Petitioner.

11 71. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
12 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

13 **COUNT 4:**

14 **Violation of Due Process**

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

17 73. The government may not deprive a person of life, liberty, or property
18 without due process of law. U.S. Const. amend. V. “Freedom from
19 imprisonment—from government custody, detention, or other forms of physical
20 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v.*
21 *Davis*, 533 U.S. 678, 690 (2001).

22 74. Petitioner has a fundamental interest in liberty and being free from
23 official restraint.
24

75. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

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 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;
- d. 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
- e. Grant any other and further relief that this Court deems just and proper.

DATED this 21st of January, 2026.

Attorney for Petitioner