

1 Jose Torres, Esq. 362715
Moonveil Legal, PC
2 7546 Parkway Dr. Apt. 1U
La Mesa, California 91942
3 Office: 619.573.1138
Fax: 619.694.5180
4 Email: jose@moonveilfirm.com

5 *Counsel for*
6 **Almali Samet**

7
8
9
10 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT

11 Almali Samet,

Petitioner,

Case No. '26CV360 RBM MMP

12
13 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

14 Patrick Divver, Field Office Director of
15 Enforcement and Removal Operations, San
Diego Field Office, Immigration and Customs
16 Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
17 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
18 General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Christopher J.
19 LaRose, Warden of Otay Mesa Detention
Center,

20 Respondents.
21
22
23
24

1 INTRODUCTION

2 1. Pctitioner Almali Samet ("Mr. Samet), 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 Otay Mesa Detention Center. He now faces unlawful
6 detention because the Department of Homeland Security (DHS) and the Executive Office for
7 Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf
8 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
24

1 abide by the declaratory relief and have unlawfully denied the opportunity to be released on
2 bond.

3 5. Petitioner Mr. Samet is a member of the Bond Eligible Class, as he:

4 a. does not have lawful status in the United States and is currently detained at the
5 Otay Mesa Detention Center. He was apprehended by immigration authorities on
December 30, 2025.

6 b. entered the United States without inspection over 24 years ago and was not
apprehended upon arrival, *cf. id.*; and

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

8 6. After apprehending Petitioner on December 30, 2025, the DHS placed him in
9 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
10 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
11 without inspection.

12 7. The Court should expeditiously grant this petition.

13 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
14 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
15 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
16 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
17 Class member.

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

1 10. Because Respondents are detaining Petitioner in violation of the declaratory
2 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
3 Respondent DHS must release Petitioner.

4 11. Alternatively, the Court should order Petitioner's release unless Respondents
5 provide a bond hearing under 8 U.S.C. § 1226(a) within seven (7) days.

6 **JURISDICTION**

7 12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
8 Otay Mesa Detention Center in San Diego, California.

9 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
10 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
11 Constitution (the Suspension Clause).

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

14 **VENUE**

15 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
16 500 (1973), venue lies in the United States District Court for the Southern District, the judicial
17 district in which Petitioner currently is detained.

18 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
19 Respondents are employees, officers, and agencies of the United States, and because a
20 substantial part of the events or omissions giving rise to the claims occurred in the Southern
21 District.

22 //

23 //

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

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

13 25. Respondent Christopher J. LaRose is employed by CoreCivic as Warden of the
14 Otay Mesa Detention Center, where Petitioner is detained. He has immediate physical custody of
15 Petitioner. He is sued in his official capacity.

16 **CLAIM FOR RELIEF**

17 **Violation of the INA:**

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

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

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

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

