UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

GERMAN JOSUE MEZA MURILLO, Petitioner, v. WARDEN of Folkston Ice Processing Center; KRISTIN SULLIVAN, Acting Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO") Field Office, Atlanta; KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); and PAMELA BONDI, Attorney General of the United States, in their official capacities, Respondents.	)	Case No. _____ **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner German Josue Meza Murillo, a citizen of Honduras, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of his detention by Immigration and Customs Enforcement ("ICE"), a component of the U.S. Department of Homeland Security ("DHS"). He

is currently detained at the Folkston ICE Processing Center in Georgia, and has been detained in ICE custody since on or about December 18, 2025.

2. Petitioner faces unlawful detention because the DHS and Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention based on a recently released ICE memo directing a new interpretation of the law. *See* Ex. 1, ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission" dated July 8, 2025 (hereinafter "ICE Memo").

3. Petitioner entered the U.S. on an unknown date in 2018 or 2019, but was not taken into immigration custody until on or about December 18, 2025, where Respondents then issued him a Notice to Appear. *See* Ex. 2, Notice to Appear ("NTA"). The NTA charged Petitioner as removable under § 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), which states: "[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." INA § 212(a)(6)(A)(i); 8 U.S.C. § 1182(a)(6)(A)(i). *See id.*

4. Based on this allegation in Petitioner's removal proceeding, DHS denied Petitioner release from immigration custody, consistent with the new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i) –i.e., those who entered the U.S. without

inspection–to be an "applicant for admission" under 8 § 1225(b)(2)(A) and therefore subject to mandatory detention. This memo admittedly stated that it "has revisited its legal position on detention and release authorities." *See* Ex. 1, ICE Memo. It further stated that the DHS policy was issued "in coordination with the Department of Justice (DOJ)."

5. Under 8 U.S.C. §1225(b)(2)(A), an applicant for admission seeking admission shall be detained for a removal proceeding. It is now the position of the EOIR, which houses both the Board of Immigration Appeals ("BIA") and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

6. However, § 1225(b)(2)(A) does not apply to individuals like Petitioner, who were already present in the United States when taken into custody. Instead, such individuals are subject to detention under a different statute, § 1226(a), and eligible for release on bond.

7. Nevertheless, the July 2025 ICE Memo instructs its attorneys to coordinate with the Department of Justice to reject bond redetermination hearings for applicants who previously arrived in the United States without documents.

8. The BIA adopted the same position as the July 8, 2025 ICE policy by issuing a decision holding that an immigration judge has no authority to consider bond requests for any person who entered the U.S. without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228-29 (BIA 2025).

9. On November 25, 2025, the U.S. District Court for Central District of California rejected this position, issuing an order certifying a nationwide class consisting of noncitizens who have entered the United States without inspection and who were not apprehended upon arrival and who are not otherwise subject to detention under INA §§ 236(c), 235(b)(1), or 241. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification).[1]

10. The Petitioner sought a bond redetermination before an Immigration Judge ("IJ") on this basis. *See* Ex. 3, Petitioner's Bond Request; Ex. 4, Bond Evidence. The evidence shows that he was very active in his church, named a "co-pastor" for two years, and regularly served the homeless. *See* Ex. 4. The evidence also shows a long history of residence in the U.S. *See id.* Before being detained, Petitioner lived in Charlotte with his wife of six years and their child.

[1]On November 20, 2025, the Court issued an order granting declaratory relief concluding that the detention of class members is governed by INA § 236(a) and that class members are not subject to mandatory detention pursuant to INA § 235(b)(2). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgement). *Maldonado Bautista* rejected the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Notably, Petitioner's wife is also pregnant with their second child, who is due to be born this month, [redacted]. *See id.*

11. The U.S. District Court for the Central District of California issued a final judgment on December 18, 2025. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.) (Order of Final Judgment). In its final order, the Court declared the class is detained under INA § 236(a) (8 U.S.C. § 1226(a))—not INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), and thus, class members are entitled to bond consideration. *See id.* The decision also vacated DHS's new "policy" as articulated in its July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" as unlawful under the Administrative Procedure Act ("APA"). *Id.*

12. On January 2, 2025, the Immigration Judge ("IJ") refused to adjudicate Petitioner's request on the basis of lack of jurisdiction. *See*; Ex. 5, IJ Bond Denial. The IJ concluded that Petitioner is not eligible for release on bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), and as such the Court did not have jurisdiction to hold a bond hearing. *See id.* Petitioner remains detained.

13. Any appeal to the BIA is futile. Petitioner is within the 30-day window to file appeal to the BIA but due to DHS's new policy being issued "in coordination with DOJ," which oversees the immigration courts, such appeal will

be futile and take months of further detention. Petitioner will be filing an appeal to preserve his rights, but it will not remedy the current harm of unlawful detention.

14. Petitioner's detention on the above basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

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

16. Notably, the vast majority of federal courts to consider this issue, including this Court as well as the Middle District of Georgia, have agreed. *See, e.g.*, *Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure Hurtado*); *see also J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

17. As such, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within three (3) days.

JURISDICTION AND VENUE

18. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq*.

19. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

20. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

21. "A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, . . . be brought in any judicial district in which a defendant in the action resides . . . *See* 28 U.S.C. § 1391(e).

22. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which

breaks down into two subquestions— (1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).

23. Under *Padilla*, the "immediate custodian" of the detained petitioner is the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 ("The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.")

24. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the ICE Processing Center in Folkston, Georgia. *See id.* Because this Court has jurisdiction over actions arising in Folkston, Georgia, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. Petitioner has exhausted his administrative remedies to the extent required by law. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, "that does not mean that courts may disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense." *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). "To properly exhaust

administrative remedies, a petitioner must comply with an agency's deadlines and procedural rules." *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act's (PLRA) exhaustion requirement)). It is the Respondent's burden to prove that the Petitioner has "failed to exhaust all available administrative remedies." *Id.* at 1307.

26. However, in detention cases such as the Petitioner's, appeals to the Board of Immigration Appeals ("BIA") take several months or years. Thus, here, requiring the Petitioner to appeal his bond denial to the BIA to prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive him of his liberty, and would be futile so long as *Matter of Hurtado* remains in effect. *See McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992) *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause "undue prejudice to subsequent assertion of a court action" or "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because "the administrative body is shown to be biased or has otherwise predetermined the issue before it") (internal quotation marks omitted).

27. Additionally, the BIA is the improper venue to adjudicate constitutional issues, as it lacks the authority to rule that Respondents' actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

REQUIREMENTS OF 28 U.S.C. § 2243

28. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") 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).

29. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

30. Petitioner is a noncitizen who is currently detained at the Folkston ICE Processing Center. He is in the custody, and under the direct control, of Respondents and their agents.

31. Respondent Warden of the Folkston ICE Processing Center is sued in their official capacity. Respondent Warden is the immediate custodian of the Petitioner.

32. Respondent Kristin Sullivan is sued in her official capacity as the Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office. Respondent Sullivan is a legal custodian of Petitioner and has authority to release him.

33. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

34. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases

and to oversee the EOIR, which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK

35. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to "discretionary judgment," "action," or "decision" by the Attorney General with respect to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003)).

36. Petitioner asserts that (1) his Fifth Amendment right to due process of law was violated when the Respondents subjected him to mandatory detention with no individualized hearing despite his living in the interior of the country for several years; (2) the Respondents' actions violated both the INA and the APA when they detained him under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a); and (3) the Respondents' actions in denying Petitioner an individualized bond hearing violated the final nationwide declaratory judgment in *Maldonado Bautista*.

A. Due Process

37. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom 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).

38. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

39. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

40. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement

"outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

41. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.; Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

42. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

43. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

44. First, incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

45. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982)

(requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

46. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

47. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process." *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

48. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could

mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted.

49. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez v. U.S. Att'y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip

searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

50. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

B. INA

51. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), as Respondents assert, but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

> in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, The alien shall be detained for a proceeding under section 1229a of this title [i.e., removal proceedings].

52. Petitioner maintains that he is detained under 8 U.S.C. § 1226(a), which provides that:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General -
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on -

> (A) bond of at least $1,500 with security approved by, and containing conditions described by, the Attorney General; or
>
> (B) conditional parole; but
>
> (3) may not provide the alien with work authorization ... unless the alien is lawfully admitted for permanent residence or otherwise would ... be provided such authorization.

53. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's "first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Id.* (citing, *inter alia, Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 477 (1992)).

54. Notably, the issue presented in this action is nearly identical to that this Court has recently decided, finding that the petitioner's detention was governed by 8 U.S.C. § 1226(a). *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure Hurtado*).

C. APA

55. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

56. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

D. Maldonado Bautista Injunction

57. Under *Maldonado Bautista v. Santacruz*, the district court's injunction extends to all noncitizens, such as Petitioner, who entered the United States without inspection but were not apprehended upon arrival and who were later re-arrested in the interior. *See Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.) (Order of Final Judgment).

58. Petitioner is thus a member of the Bond Eligible Class under *Bautista*, as he:

> a. does not have lawful status in the United States and is currently detained at the Stewart Detention Center;

B. entered the U.S. without inspection on or about 2018 or 2019; and

c. was then detained years later on or about December 18, 2025, by immigration authorities after residing in the United States for years.

59. Thus, by virtue of the final declaratory judgment issued in *Maldonado Bautista*, Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a).

CLAIMS FOR RELIEF

COUNT ONE
Respondents Violated Petitioner's Fifth Amendment Right to Due Process
Procedural Due Process

60. The allegations in the above paragraphs are realleged and incorporated herein.

61. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

62. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

63. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. Respondents' refusal to provide Petitioner with an individualized bond hearing—and the IJ's reliance on *Matter of Yauri Hurtado* to conclude that no jurisdiction exists—violated Petitioner's rights under the Due Process Clause.

64. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means.

65. The Respondents have shown neither that the continued detention of petitioner following his initial detention is reasonably related to the original purpose nor that the *Mathews* tests are satisfied. And importantly, no procedural safeguards were provided to the Petitioner as the IJ found he had no right to a bond hearing under *Matter of Hurtado*.

66. Petitioner has been a resident of the United States since at least 2019. He was arrested in the interior in 2025, yet DHS asserts mandatory detention under INA § 235 without initiating expedited removal or processing him as an actual applicant for admission. The government's reclassification of Petitioner as an

"applicant for admission," without statutory basis and without meaningful opportunity to contest that designation, deprives him of liberty without due process. Civil detention without an individualized determination of danger or flight risk is unconstitutional. *See Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510 (as limited by subsequent authority); U.S. Const. amend. V.

67. Accordingly, due process requires he be afforded an individualized bond hearing under § 1226(a), or that he be released from custody immediately.

COUNT TWO

Statutory Violation: Petitioner is Detained Under INA § 236, Not § 235

68. The allegations in the above paragraphs are realleged and incorporated herein.

69. Here, the Petitioner is clearly not an "applicant for admission." His NTA charged him as an "alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General," and thus, he should be treated by law as someone who had already entered the U.S. Accordingly, his detention is governed exclusively by INA § 236(a).

70. Respondents did not process the Petitioner as an arriving alien, did not initiate expedited removal, and did not issue or reinstate a removal order. The IJ's reliance on *Hurtado* was thus contrary to the statutory framework, which mandates bond jurisdiction in § 236(a) cases.

71. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class or classes of aliens who should be detained under the provision, but governs more generally the "apprehension and detention of aliens." As opposed to the inspection regime for aliens entering the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as "authoriz[ing] the government to detain certain aliens already in the country pending the outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis added).

72. Because Respondents did not issue, reinstate, or execute any expedited removal order, detention is governed by 8 U.S.C. § 1226(a). The IJ's refusal to exercise bond jurisdiction contradicts the plain text of §§ 1225 and 1226, longstanding agency practice, and federal case law holding that DHS's charging decision determines the statutory detention authority. By treating Petitioner as subject to § 1225(b) detention without statutory authorization, Respondents acted *ultra vires* and contrary to law.

73. Noncitizens processed under § 236 retain a statutory right to a bond hearing. The IJ's conclusion that *Hurtado* removes all bond jurisdiction whenever

DHS claims § 235 authority grants the agency unfettered power to eliminate bond hearings for any noncitizen arrested in the interior, simply by re-labeling them as an "applicant for admission" without following statutory procedures for expedited removal. Such a reading raises grave Due Process concerns and cannot reflect congressional intent.

74. Because Petitioner is detained under § 236(a), he is entitled to an individualized custody hearing, and the IJ's refusal to consider bond violated the INA.

75. Thus, Petitioner was entitled to a bond hearing "at the outset of detention" as established by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.l(d)(l), 1236.l(d)(l)).

76. This Court came to the same conclusion in *Villa v. Normand* regarding the applicability of INA § 236 and § 235 to detained immigrants who had been living in the interior of the country for a time before being arrested and detained without a bond hearing. *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure Hurtado*).

77. Petitioner is therefore entitled to a prompt bond hearing or immediate release.

COUNT THREE

Respondents Violated of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law
and in Excess of Statutory Authority Unlawful Detention

78. Petitioner restates and realleges all paragraphs as if fully set forth here.

79. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

80. Here, by detaining the Petitioner without any consideration of his individualized facts and circumstances, Respondents have violated the APA.

81. Respondents have made no finding that Petitioner is a danger to the community.

82. Respondents have made no finding that Petitioner is a flight risk.

83. The IJ's refusal to conduct a bond hearing based on *Matter of Yauri Hurtado* constitutes final agency action that is contrary to statutory text, unsupported by facts, and irrational. Applying *Hurtado* to Petitioner's facts is arbitrary, capricious, and legally erroneous. The resulting deprivation of bond eligibility is therefore unlawful under the APA.

84. Thus, the Petitioner is entitled to a prompt bond hearing or immediate release.

COUNT FOUR

Respondents Violated Federal Judgment

Petitioner is a Valid Class Member under Maldonado Bautista

85. Petitioner restates and realleges all paragraphs as if fully set forth here.

86. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

87. Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his entitlement to consideration for release on bond as a Bond Eligible Class member.

88. Petitioner entered without inspection in 2018 or 2019, at least seven years ago. He was arrested in 2025 by ICE after living in the interior. Thus, he is a Bond Eligible Class Member.

89. Additionally, regardless of class membership, the court's final judgment in *Maldonado Bautista* also vacated the ICE Memo, finding it violated the APA.

90. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista,* the Court should accordingly order that Respondents must provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within three days.

91. Alternatively, the Court should order Petitioner's immediate release.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that the Petitioner's detention violates the INA;
4. Declare that the Petitioner's detention violates the APA;
5. Declare that Petitioner is entitled to a bond hearing under the final judgment in *Maldonado Bautista*;
6. Issue a Writ of Habeas Corpus ordering Respondents to conduct a bond hearing within three (3) days, or in the alternative, immediately release Petitioner from custody;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Brittany S. Pierce
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Counsel for Petitioner

Dated: January 22, 2026

PETITIONER'S EXHIBITS

EXHIBIT 1 - **ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission," dated July 8, 2025**

EXHIBIT 2 - **Notice to Appear**

EXHIBIT 3 - **Petitioner's Bond Request**

EXHIBIT 4 - **Bond Evidence**

EXHIBIT 5 - **IJ Order Denying Bond**

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent German Josue Meza Murillo, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 22nd day of January, 2026.

/s/Brittany S. Pierce
Brittany S. Pierce