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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

EDGAR PEREZ GARCIA,

Petitioner,

v.

Sam Olson, Field Office Director of
Enforcement and Removal Operations, Kansas
City Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Don Jones,
Director of Kay County Detention Center,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner, Edgar Perez Garcia, brings this petition for a writ of habeas corpus to
3 seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical
5 custody of Respondents at the Kay County, Oklahoma Detention Facility. He now faces
6 unlawful detention because the Department of Homeland Security (DHS) and the Executive
7 Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued
8 on behalf 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
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1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
2 opportunity to be released on bond.

3 5. Petitioner Edgar Perez Garcia 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 Kay County, Oklahoma Detention Facility. He was apprehended by immigration
6 authorities on July 30, 2025
7 b. entered the United States without inspection over 12 years ago and was not
8 apprehended upon arrival, *cf. id.*; and
9 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

8 6. After apprehending Petitioner on July 30, 2025, the DHS placed him in removal
9 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as “an alien present in the
10 United States who has not been admitted or paroled” and being inadmissible under 8 U.S.C. §
11 1182(a)(6)(A)(i). DHS also charged the Petitioner under 8 U.S.C. § 1182(a)(7)(A)(i)(I), although
12 there is nothing in the record or in Form I-213 to demonstrate that the Petitioner is an “applicant
13 for admission.”

14 7. The Court should expeditiously grant this petition.

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

20 9. Immigration judges have informed class members in bond hearings that they have
21 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not
22 controlling, even with respect to class members, and that instead IJs remain bound to follow the
23 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 days.

6 **JURISDICTION**

7 12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
8 Kay County, Oklahoma Detention Facility.

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 1, 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 Western District of Oklahoma,
17 the judicial 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 Western
21 District of Oklahoma.

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REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

18. 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

19. Petitioner Edgar Perez Garcia is a citizen of Guatemala who has been in immigration detention since July 30, 2025. After Petitioner was arrested in Lenexa, Kansas, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On January 5, 2026 Petitioner was denied bond by an IJ who appeared virtually at the Kay County Detention Facility from Otero, New Mexico because Petitioner was deemed an “applicant for admission.” The Immigration Judge denied bond prior to any argument from Petitioner’s Counsel, indicating that *Matter of Yajure Hurtado* still dictated the decision. In the written order, the Immigration Judge denied bond “because flight Risk: Form of relief is speculative; manner of entry into the United States; lack of ties to the United States. *Matter of Hurtado*.” Petitioner has resided in the United States since 2013. He has always resided in the Kansas City area since that time. He has a brother who is a lawful permanent resident with whom he was residing with prior to his detention. The Petitioner also cooperated with a Department of Labor investigation into the restaurant where he was working when he was detained. The Department had previously released

1 the Petitioner's brother to Petitioner in approximately 2017 or 2018 when his brother first arrived
2 in the United States. Petitioner had previously ensured his brother attended all of his own
3 removal proceedings prior to his brother receiving lawful resident status. Petitioner has an
4 application for asylum as well as a Petition for T-Nonimmigrant Status based on being a victim
5 of trafficking that is currently pending with USCIS.

6 20. Respondent Sam Olson is the Director of the Chicago Field Office of ICE's
7 Enforcement and Removal Operations division, which oversees the Kansas City Field Office. As
8 such, Sam Olson is Petitioner's immediate custodian and is responsible for Petitioner's detention
9 and removal. He is named in his official capacity.

10 21. Respondent Kristi Noem is the Secretary of the Department of Homeland
11 Security. She is responsible for the implementation and enforcement of the Immigration and
12 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
13 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

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

1 25. Respondent Done Jones is employed by the Kay County Detention Center as
2 Director of the Kay County Detention Center, where Petitioner is detained. He has immediate
3 physical custody of Petitioner. He is sued in his official capacity.

4 **CLAIM FOR RELIEF**
5 **Violation of the INA:**
6 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

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

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

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

23 **PRAYER FOR RELIEF**

24 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;

- 1 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
2 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
3 seven days;
- 4 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
5 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
6 law; and
- 7 e. Grant any other and further relief that this Court deems just and proper.

8
9 DATED this 22nd of January, 2026.

10 Respectfully submitted,

11
12 //s// Danielle Moncayo Wingfield

13 MONCAYO LEGAL, LLC

14 Danielle Moncayo Wingfield

15 KS#26391, MO#73577, EOIR#AA005604

16 12755 S. Mur-Len Road, Ste. B6

17 Olathe, KS 66062

18 P: 913-295-9299

19 danielle@moncayolegal.com

20 ATTORNEY FOR PLAINTIFF
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