

1 Katherine Vazquez, Esq.
Katherine.esq@1512law.com
2 1512 LAW FIRM
1512 W Flagler Street, Ste 201
3 Miami, FL 33135
(305) 631-0990
4 Attorney for Petitioner

5
6 UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
7 CIVIL DIVISION

8 Nelson ROSELLO BRITO,

9 Petitioner,

Case No.

10 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

11 Garrett RIPA, Field Office Director of
Enforcement and Removal Operations, Miami
12 Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
13 Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
14 SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
15 IMMIGRATION REVIEW; William PAYNE,
Warden of Glades County Detention Center,

16 Respondents.
17
18
19
20
21
22
23
24

INTRODUCTION

1
2 1. Petitioner NELSON ROSELLO BRITO 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.). This case
5 challenges the government's authority to indefinitely detain a noncitizen without any finding of
6 dangerousness or flight risk. It asks that this Court grant the petitioner release from prolonged
7 immigration detention or a bond hearing before a neutral arbiter.

8 2. Petitioner is in the physical custody of Respondents at the Glades County Detention
9 Center. He now faces unlawful detention because the Department of Homeland Security (DHS)
10 and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory
11 judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

12 3. On November 20, 2025, the district court granted partial summary judgment on
13 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
14 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
15 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
16 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*
17 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
18 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
19 Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion
20 for Partial Summary Judgment).

21 4. On December 18, 2025, The *Maldonado Bautista* Court entered a final judgment
22 against the respondents and declared that all Bond Eligible Class members "are detained under 8
23 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2)" and accordingly
24

1 “are entitled to consideration for release on bond by immigration officers and, if not released, a
2 custody redetermination hearing before an immigration judge.” *Maldonado Bautista v. Noem*, No.
3 5:25-cv-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

4 5. The *Maldonado Bautista* Court’s final judgment also vacated DHS’s July 8, 2025
5 Interim Guidance as unlawful under the APA, thereby nullifying the nationwide policy used to
6 deny bond hearings and conclusively defining class members’ detention authority and rights.

7 6. Nonetheless, the Executive Office for Immigration Review and its subagency the
8 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
9 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
10 opportunity to be released on bond.

11 7. Petitioner NELSON ROSELLO BRITO is a member of the Bond Eligible Class, as
12 he:

- 13 a. does not have lawful status in the United States and is currently detained at the
14 Glades County Detention Center. He was apprehended by immigration
15 authorities on July 09, 2025;
16 b. entered the United States without inspection over three years ago and was not
17 apprehended upon arrival, *cf. id.*; and
18 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

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

21 9. Immigration judges have informed class members in bond hearings that they have
22 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not
23
24

1 controlling, even with respect to class members, and that instead IJs remain bound to follow the
2 agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

3 10. The Court should expeditiously grant this petition.

4 11. Because Respondents are detaining Petitioner in violation of the final judgment
5 issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent
6 DHS must release Petitioner.

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

9 **JURISDICTION**

10 13. Petitioner is in the physical custody of Respondents. Petitioner is unlawfully
11 detained at the Glades County Detention Center in Moore Haven, Florida.

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

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

17 **VENUE**

18 16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
19 500 (1973), venue lies in the United States District Court for the Middle District, the judicial
20 district in which Petitioner currently is detained.

21 17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
22 Respondents are employees, officers, and agencies of the United States, and because a substantial
23 part of the events or omissions giving rise to the claims occurred in the Middle District.
24

REQUIREMENTS OF 28 U.S.C. § 2243

18. 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*.

19. 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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. Plaintiffs need not exhaust administrative remedies if “the administrative body is shown to be biased or has otherwise predetermined the issue before it.” *Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *3 (M.D. Fla. Nov. 7, 2025) (requiring the petitioner to make a bond request would be futile because the result is predetermined by *Yajure Hurtado*).

21. Petitioner submitted a custody redetermination/parole request to ICE on September 12, 2025, which Respondent denied on September 14, 2025.

22. On December 4, 2025, Petitioner then submitted a custody redetermination before an Immigration Judge, which was denied based on lack of jurisdiction under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

23. On December 30, 2025, Petitioner submitted a second custody redetermination before an Immigration Judge pursuant to the *Maldonado Bautista* Court’s final judgment. The Immigration Judge denied the motion alleging no jurisdiction.

24. Administrative exhaustion should be excused because any further appeal to the BIA on the denial of bond would be futile due to its ruling in *Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025).

25. Petitioner has therefore exhausted all available administrative remedies and attempting to pursue additional administrative remedies would be futile.

PARTIES

26. Petitioner NELSON ROSELLO BRITO is a citizen of Cuba who has been in immigration detention since July 09, 2025. Petitioner has resided continuously in the United States since March 2, 2022.

27. Respondent Garrett Ripa is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations division. As such, Garrett Ripa is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

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

29. Respondent U.S. Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

30. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review

1 and the immigration court system it operates is a component agency. She is sued in her official
2 capacity.

3 31. Respondent Executive Office for Immigration Review (EOIR) is the federal agency
4 responsible for implementing and enforcing the INA in removal proceedings, including for custody
5 redeterminations in bond hearings.

6 32. Respondent Warden William Payne is employed as Warden of the Glades County
7 Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner.
8 He is sued in his official capacity.

9 **STATEMENT OF FACTS**

10 33. Petitioner is a fifty-six-year-old (56) citizen of Cuba who entered the United
11 States on or around March 2, 2022. (*Exhibit A: Notice to Appear*).

12 34. On March 03, 2022, Respondents released Petitioner into the United States under
13 an order of recognizance. (*Exhibit B: Form I-220A Order of Release on Recognizance*).

14 35. The DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS
15 has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who
16 entered the United States without inspection and classified him as an “applicant for admission”.

17 36. Petitioner appeared for his immigration court hearing on July 9, 2025. However,
18 Respondents orally moved to dismiss the removal proceedings and Petitioner objected. The
19 Immigration Judge dismissed the proceedings, which prevented Petitioner from presenting his
20 asylum claim after waiting nearly three years for a hearing. (*Exhibit C: Immigration Judge’s Order*
21 *of Dismissal*).

22 37. Immediately upon exiting the court room, Respondents arrested Petitioner and
23 placed him into ICE custody. Petitioner is currently detained at Glades County Detention Center
24

1 and has been in custody for over 195 days, with no clear end to his detention in the reasonably
2 foreseeable future. (*Exhibit D: Notice to EOIR: Alien Address*).

3 38. Petitioner is statutorily eligible for release on a reasonable bond, as he is not subject
4 to mandatory detention, poses no threat to national security, and does not present a risk of flight.

5 39. Petitioner is not a danger to the community as Petitioner has no criminal history in
6 the United States, including any traffic infractions, and has maintained a record of good moral
7 character since his arrival.

8 40. Petitioner has strong ties in this community and is not a flight risk as Petitioner's
9 Spouse and Biological Son are both actively pursuing adjustment of status in the United States.
10 (*Exhibit E: Spouse and Biological Son's Adjustment of Status Receipts*).

11 41. Petitioner has a pending Form I-589 asylum application where he alleges a claim
12 of fear if returned to Cuba. (*Exhibit F: Petitioner's I-589 Receipt*).

13 42. Petitioner has a pending Form I-131 Parole application with U.S. Citizenship and
14 Immigration Services. (*Exhibit G: Petitioner's I-131 Receipt*).

15 43. Petitioner has continuously resided in the United States since March 2, 2022.

16 44. Petitioner is a law-abiding member of society who has filed income tax returns for
17 years 2023 and 2024, demonstrating his compliance with U.S. laws and civic obligations. (*Exhibit*
18 *H: Petitioner's Federal Income Tax Returns*).

19 45. Petitioner has a United States citizen Sponsor, Petitioner's first-generation cousin,
20 who has executed a sworn affidavit affirming her commitment to provide financial assistance to
21 Petitioner and to ensure Petitioner's appearance at all Immigration Court proceedings. Petitioner's
22 Sponsor is a law-abiding member of society who operates an architectural business in Miami,
23 Florida. (*Exhibit I: U.S. Citizen Sponsor's Sworn Affidavit*).

1 46. Prior to his detention, Petitioner was working, paying for his taxes, and providing
2 for his family. Petitioner's employer has submitted a letter of support. Petitioner's continued
3 detention deprives his family of his companionship and income. (*Exhibit J: Employer's Letter of*
4 *Support*).

5 47. Petitioner fully complied with all immigration requirements. He completed
6 biometrics, appeared at all required proceedings, obtained lawful identification, and maintained
7 steady employment. (*Exhibit K: Petitioner's Driver License and Social Security*).

8 48. Petitioner submitted a custody redetermination/parole request to ICE, seeking
9 release from Respondent's custody on September 12, 2025. Respondent denied that request on
10 September 14, 2025. (*Exhibit L: Order of Custody Determination*)

11 49. On December 4, 2025, Petitioner submitted a custody redetermination before the
12 Immigration Judge pursuant to *Maldonado Bautista's* partial summary judgment. On December
13 16, 2025, the Immigration Judge found that it lacked jurisdiction to conduct a bond hearing
14 pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15 50. On December 30, 2025, Petitioner submitted a second custody redetermination
16 before the Immigration Judge based on new circumstances following the *Maldonado Bautista*
17 Court's final judgment. On January 16, 2026, the Immigration Judge again denied Petitioner's
18 motion, citing lack of jurisdiction and stating that "the court is bound by the Board's decision in
19 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)." (*Exhibit M: Immigration Judge's*
20 *Order Denying Bond*).

21 51. Petitioner's continued detention serves no legitimate purpose, as he poses no risk
22 of flight, no danger to the community, and is statutorily eligible for release on a reasonable bond.
23
24

CLAIM FOR RELIEF

53. Petitioner re-alleges, and incorporates by reference the paragraphs above.

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

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

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

1 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *4 (M.D. Fla. Nov. 7, 2025) (quoting *Jennings*
2 *v. Rodriguez*, 583 U.S. 281, 287 (2018).

3 61. Petitioner is not subject to detention under 8 U.S.C. § 1225(b) because, although he
4 was apprehended shortly after entering the United States, the government failed to designate him
5 for expedited removal at that time. Instead, DHS released Petitioner into the country on his own
6 recognizance and allowed Petitioner to remain in the United States for more than two years. Thus,
7 Petitioner is ineligible for expedited removal. *See Hernandez Giron v. Noem*, No. 2:25-CV-01201-
8 SPC-NPM, 2026 WL 60351, at *3 (M.D. Fla. Jan. 8, 2026) (finding that the petitioner was detained
9 under § 1226(a) and ineligible for expedited removal because the DHS allowed the Petitioner to
10 stay in this country for more than two (2) years).

11 62. Petitioner's detention is governed by 8 U.S.C. § 1226(a) because Petitioner has
12 resided within the United States for more than two years prior to his arrest. *See Dyovenson Dixon*
13 *v. Noem*, No. 2:25-CV-1067-KCD-DNF, 2026 WL 124311, at *2 (M.D. Fla. Jan. 16, 2026)
14 (finding that 8 U.S.C. § 1226(a) governs individuals who are already in the country and these
15 individuals may be released on bond or conditional parole if they are not a flight risk or a danger
16 to the community). Petitioner is not an alien seeking admission because he was arrested three years
17 after his unlawful entry.

18 63. Petitioner is not a flight risk or a danger to the community because Petitioner's
19 immediate family is actively pursuing adjustment of status, Petitioner has no criminal history in
20 the United States, and Petitioner has a U.S. citizen sponsor who has ensured Petitioner will appear
21 at all immigration proceedings.

22 64. As a noncitizen detained under section 1226(a), Petitioner has a right to a bond
23 hearing which the Immigration Judge has denied based on lack of jurisdiction twice.
24

1 65. There is no significant likelihood that Petitioner will be removed in the reasonably
2 foreseeable future because Petitioner has been detained for over six months while improperly
3 placed in expedited removal.

4 66. The Government can reasonably keep tabs on the noncitizen through reasonable
5 conditions of supervision while it continues removal efforts.

6 67. Petitioner has endured over six months of unlawful detention, during which he has
7 suffered emotional distress and was forced to spend the 2025 holiday season confined in custody,
8 separated from his family and loved ones.

9 **Count Two: Constitutional Claim**

10 68. Petitioner alleges and incorporates by reference the paragraphs above.

11 69. Petitioners' detention violates his right to substantive and procedural due process
12 guaranteed by the Fifth Amendment to the U.S. Constitution.

13 **PRAYER FOR RELIEF**

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

- 15 a. Assume jurisdiction over this matter;
- 16 b. Issue a writ of habeas corpus requiring that within twenty-four hours,
17 Respondents release Petitioner on a \$1,500.00 bond;
- 18 c. Alternatively, issue a writ of habeas corpus requiring Respondents, within seven
19 (7) days, to either release Petitioner on a \$1,500.00 bond or bring Petitioner for an
20 individualized bond hearing before an immigration judge;
- 21 d. If Respondents release Petitioner, they shall facilitate his transportation from the
22 detention facility by notifying his counsel when and where he may be collected;
- 23 e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
24 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
 law; and

1 f. Grant any other and further relief that this Court deems just and proper.
2

3 DATED this 22 day of January, 2026.
4

5 /s/ Katherine Vazquez

6 Katherine Vazquez
7 Katherine.esq@1512law.com
8 1512 LAW FIRM
9 1512 W Flagler Street, Suite 201
10 Miami, FL 33135
11 (305) 631-0990
12

13 *Attorney for Petitioner*
14
15
16
17
18
19
20
21
22
23
24