

provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cecilia Fuentes Amaro

(b) County of Residence of First Listed Plaintiff Stewart County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Elizabeth Hildebrand Matherne,
Wannamaker Crimmigration, PO Box 920005, Peachtree Corners, GA 30010, (470)
749-9996

DEFENDANTS

Jason Streeval, Warden, Stewart Detention Center, et al.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input checked="" type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 2241

Brief description of cause:
Petition for Writ of Habeas Corpus

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

01/23/2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ Elizabeth Hildebrand Matherne

FOR OFFICE USE ONLY

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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

CECILIA FUENTES AMARO,
Petitioner,

v.

**JASON STREEVAL, Warden of Stewart
Detention Center; KRISTEN SULLIVAN,
Field Office Director of Enforcement and
Removal Operations, Atlanta Field Office,
Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, U.S.
Immigrations & Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department
of Homeland Security; U.S. Department of
Homeland Security; PAMELA BONDI, U.S.
Attorney General; and DAREN K.
MARGOLIN, Director, Executive Office for
Immigration Review,**
Respondents.

Case No.:
**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS
UNDER 28 U.S.C. § 2241**

1 INTRODUCTION

2 1. Petitioner, Cecilia Fuentes Amaro, brings this petition for a writ of habeas corpus
3 to seek enforcement of Petitioner’s rights as members of the Bond Eligible 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 Stewart Detention Center in Lumpkin, Georgia.
6 Petitioner now faces unlawful detention because the Department of Homeland Security (DHS)
7 and the Executive Office for Immigration Review (EOIR) have refused to abide by the
8 declaratory judgment issued 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 Eligible 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, EOIR and its subagency the Immigration Court and DHS have
22 blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be
23 denied the opportunity to be released on bond.

1 5. Petitioner Cecilia Fuentes Amaro is a member of the Bond Eligible Class, as
2 Petitioner:

- 3 a. does not have lawful status in the United States and is currently
4 detained at the Stewart Detention Center in Lumpkin, Georgia;
5 b. was apprehended by immigration authorities on or about October 23,
6 2025;
7 c. entered the United States without inspection approximately 23 years
8 ago and was not apprehended upon arrival, *cf. id.*; and
9 d. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

10 6. After apprehending Petitioner on or about November 11, 2025, the DHS placed
11 Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as
12 being inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I), as someone who
13 entered the United States without inspection.

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 immigration judges remain
23
24

1 bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
2 (BIA 2025).

3 10. In January 2026, Petitioner submitted a Motion for Bond and Custody
4 Redetermination to the Stewart Immigration Court. The Stewart Immigration Court scheduled
5 Petitioner for a custody redetermination and bond hearing on January 6, 2026. On January 6,
6 2026, the immigration judge denied Petitioner's Motion for Bond and Custody Redetermination
7 based on the immigration judge's finding that the immigration judge lacked jurisdiction pursuant
8 to the *Matter of Yajure Hurtado*.

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

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

14
15 **JURISDICTION**

16 13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
17 Stewart Detention Center in Lumpkin, Georgia.

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

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

1 **VENUE**

2 16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
3 500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the
4 judicial district in which Petitioner currently is detained.

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

9
10 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

13 19. Habeas corpus is “perhaps the most important writ known to the constitutional
14 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
15 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
16 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
17 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
18 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

19
20 **PARTIES**

21 20. Petitioner, Cecilia Fuentes Amaro, is a citizen of Mexico who has been in
22 immigration detention since approximately October 27, 2025. After Petitioner was apprehended
23 by ICE, which did not set bond, and Petitioner requested review of Petitioner’s custody by an
24

1 immigration judge. On January 6, 2026, Petitioner was denied bond by an immigration judge at
2 the Stewart Immigration Court because Petitioner was deemed an “applicant for admission” and
3 subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner has resided in the United
4 States since 2003.

5 21. Respondent Jason Streeval is employed by CoreCivic as Warden of the Stewart
6 Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner.
7 He is sued in his official capacity.

8 22. Respondent Kristen Sullivan is the Acting Director of the Atlanta Field Office of
9 ICE’s Enforcement and Removal Operations division. As such, Acting Director Sullivan is
10 Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. She is
11 named in her official capacity.

12 23. Respondent Todd M. Lyons is the Acting Director of ICE, which is the federal
13 agency responsible for implementing and enforcing the INA, including the detention and
14 removal of noncitizens. Respondent Lyons has control over the actions of Respondent Sullivan
15 and ICE in general. Respondent Lyons is a legal custodian of Petitioner and is sued in his official
16 capacity.

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

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

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

3 33. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

4 34. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
5 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
6 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
7 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
8 139 Stat. 3 (2025).

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

14 36. Thus, in the decades that followed, most people who entered without inspection
15 and were placed in standard removal proceedings received bond hearings, unless their criminal
16 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
17 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
18 were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8
19 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that
20 § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

21 37. On July 8, 2025, ICE, “in coordination with” the U.S. Department of Justice,
22 announced a new policy that rejected well-established understanding of the statutory framework
23 and reversed decades of practice.

24

1 38. The new policy, entitled “Interim Guidance Regarding Detention Authority for
2 Applicants for Admission,” claims that all persons who entered the United States without
3 inspection shall now be subject to mandatory detention under § 1225(b)(2)(A). The policy
4 applies regardless of when a person is apprehended, and affects those who have resided in the
5 United States for months, years, and even decades.

6 39. On September 5, 2025, the Board of Immigration Appeals (“BIA”) adopted this
7 same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all
8 noncitizens who entered the United States without admission or parole are subject to detention
9 under § 1225(b)(2)(A) and are ineligible for a bond hearing before an immigration judge.

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

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

20 42. Subsequently, courts have adopted the same reading of the INA’s detention
21 authorities and rejected ICE and EOIR’s new interpretation. *See, e.g., Vasquez Garcia v. Noem*,
22 No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Gomes v. Hyde*, No.
23 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No.

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1 CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
2 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025),
3 *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
4 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL
5 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025
6 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
7 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM,
8 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025
9 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,
10 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-
11 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
12 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
13 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
14 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
15 *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal.
16 Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich.
17 Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept.
18 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb.
19 Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)
20 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3
21 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL
22 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

23

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1 43. Courts have uniformly rejected DHS's and EOIR's new interpretation because it
2 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
3 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

4 44. Section 1226(a) applies by default to all persons "pending a decision on whether
5 the [noncitizen] is to be removed from the United States." These removal hearings are held under
6 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

7 45. The text of § 1226 also explicitly applies to people charged as being inadmissible,
8 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
9 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
10 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
11 creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions,
12 the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
13 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025
14 WL 1869299, at *7.

15 46. Section 1226 therefore leaves no doubt that it applies to people who face charges
16 of being inadmissible to the United States, including those who are present without admission or
17 parole.

18 47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
19 recently entered the United States. The statute's entire framework is premised on inspections at
20 the border of people who are "seeking admission" to the United States. 8 U.S.C. §
21 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
22 applies "at the Nation's borders and ports of entry, where the Government must determine
23
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1 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
2 U.S. 281, 287 (2018).

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

6
7 **FACTS**

8 49. Petitioner entered the United States in 2003 and, since then, has resided in the
9 United States.

10 50. Petitioner has deep roots here in this country. Petitioner has resided in the United
11 States for nearly twenty-three years and has six U.S. citizen children, including one child who
12 has a growth hormone deficiency and another child who has serious medical issues that prevent
13 Petitioner from being able to work or drive. Prior to Petitioner’s detention, Petitioner had been
14 the caregiver of Petitioner’s children, and Petitioner has maintained a fixed address. Petitioner is
15 an integral part of Petitioner’s family and community.

16 51. On October 23, 2025, Petitioner was detained due to a traffic stop and for driving
17 without a license. Other than this nonviolent traffic offense, Petitioner has no criminal history.
18 Petitioner is neither a danger to the community nor a flight risk.

19 52. Following Petitioner’s arrest on October 2025, ICE took Petitioner into its
20 custody and DHS issued Petitioner a Notice to Appear, placing Petitioner in removal proceedings
21 pursuant to 8 U.S.C. § 1229a. ICE charged Petitioner with being inadmissible under, *inter alia*, 8
22 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection. ICE
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1 took Petitioner into custody and made a determination to continue Petitioner's detention at
2 Stewart Detention Center.

3 53. In January 2026, Petitioner requested a custody redetermination hearing before an
4 immigration judge.

5 54. On January 6, 2026, pursuant to *Matter of Yajure Hurtado*, the immigration judge
6 denied bond, holding that the immigration judge lacked jurisdiction to consider Petitioner's bond
7 request. (*Please see Exhibit 1*).

8 55. Petitioner has been detained at the Stewart Detention Center for nearly three
9 months. Without relief from this Court, Petitioner faces the prospect of more months in
10 immigration custody, separated from Petitioner's family and community.

11 56. Petitioner has filed application a Form EOIR-42B, Application for Cancellation of
12 Removal and Adjustment of Status for Certain Nonpermanent Residents.

13 57. While Petitioner has been detained for nearly three months, Petitioner has been
14 denied the ability to meaningfully participate in Petitioner's claims for cancellation of removal,
15 and to communicate with the attorney representing Petitioner in the removal proceedings, gather
16 relevant documents, and locate key witnesses.

17
18 **CLAIM FOR RELIEF**

19 **COUNT I**

20 **Violation of the INA:**

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

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

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

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

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

9 62. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
10 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
11 § 2201(a).

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

15 **COUNT II**

16 **Violation of the INA:**

17 64. Petitioner incorporates by reference the allegations in the preceding paragraphs.

18 65. Assuming, *arguendo*, that *Maldonado Bautista* does not apply, find that Petitioner
19 is currently detained under § 1226(a) and therefore not subject to mandatory detention as
20 required by § 1225(b)(2). *See J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094
21 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D.
22 Ga. Nov. 24, 2025).

1 **COUNT III**

2 **Violation of the Bond Regulations**

3 66. Petitioner incorporates by reference the allegations in the preceding paragraphs.

4 67. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
5 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
6 Specifically, under the heading of “Apprehension, Custody, and Detention of Aliens,” the
7 agencies explained that “[d]espite being applicants for admission, aliens who are present without
8 having been admitted or paroled (formerly referred to as aliens who entered without inspection)
9 will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323. The agencies thus
10 made clear that individuals who had entered without inspection were eligible for consideration
11 for bond and bond hearings before immigration judges under 8 U.S.C. § 1226 and its
12 implementing regulations.

13 68. Nonetheless, pursuant to *Matter of Yajure Hurtado*, Respondents have a policy
14 and practice of applying § 1225(b)(2) to individuals like Petitioner.

15 69. The application of § 1225(b)(2) to Petitioner unlawfully mandates Petitioner’s
16 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

17
18 **COUNT IV**

19 **Violation of Fifth Amendment Due Process**

20 70. Petitioner incorporates by reference the allegations in the preceding paragraphs.

21 71. The government may not deprive a person of life, liberty, or property without due
22 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
23
24

1 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
2 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 72. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 73. The government’s detention of Petitioner without a bond redetermination hearing
6 to determine whether Petitioner is a flight risk or danger to others violates Petitioner’s right to
7 due process.

8 74. Additionally, being denied the right to pursue Petitioner’s pending cancellation of
9 removal in a non-detained setting where Petitioner is free to gather evidence and locate
10 witnesses, Petitioner would be deprived of the freedom to pursue Petitioner’s legal rights and
11 would violate Petitioner’s right to due process.

12
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 one day, Respondents release
17 Petitioner;
- 18 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
19 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
20 seven days;
- 21 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
22 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
23 law; and
24

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

3 DATED this 23rd of January 2026.
4

//s/ Elizabeth Hildebrand Matherne

5 _____
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