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6
7 **UNITED STATES DISTRICT COURT**
8 **MIDDLE DISTRICT OF FLORIDA**
9 **FORT MYERS DIVISION**

10 MAYKEL TORRES JIMENEZ,

11 Petitioner,

12 v.

13 DAVID HARDING, Warden of Glades
14 Detention Center; GARRETT RIPA
DIRECTOR, Miami Field Office, U.S.
15 Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S.
16 Department of Homeland Security;
Pamela BONDI, U.S. Attorney General,
17 Executive Office for Immigration Review.

18 Respondents.
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23
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Case No.: _____

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1
2 1. Petitioner Maykel Torres Jimenez (A ) brings this petition
3 for a writ of habeas corpus to seek enforcement of his rights as members of the Bond
4 Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
5 BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at the Glades
6 County Detention Center, located at 1279 East Sr 78, Moore Haven, FL 33471. *See*
7 Exhibit 1 ICE Detainee Locator.

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

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

1 4. The declaratory judgment held that the Bond Denial Class members are
2 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for
3 release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at
4 *11.

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

10 6. On December 18, 2025, a Final Judgment was entered on *Maldonado*
11 *Bautista* declaring that Bond Eligible Class members are detained under 8. U.S.C
12 §1226(a) and not subject to mandatory detention; declaring that Bond Eligible Class
13 members are entitle to consideration for release on bond by immigration officers or
14 entitle for a bond hearing before an immigration judge; vacating DHS policy
15 “Interim Guidance regarding Detention Authority for Applicants for Admission”
16 from July 8, 2025; and granting final judgment to Claims I, II, and III of the
17 Amended Class Complaint. *Maldonado Bautista*, 2025 WL 3289861.
18

19 7. Petitioner Maykel Torres Jimenez is a member of the Bond Eligible
20 Class, as he:

- 21 a. does not have lawful status in the United States and is currently
22 detained at the Glades County Detention Center. He was apprehended
23 by immigration authorities on or about November 4, 2025;
24 b. entered the United States without inspection over 4 years ago and was
 apprehended at or near the border and soon after entry, released on their

1 own recognizance, and subsequently re-detained by immigration authorities
2 after living in the United States for a period of time; and

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

4 8. After Petitioner entry on or about June 20, 2021, the DHS placed him
5 in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as
6 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the
7 United States without inspection. *See* Exhibit 2 NTA.

8 9. The Court should expeditiously grant this petition.

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

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

19 12. At the bond hearing held on December 12, 2025, the Immigration
20 Judge (“IJ”) stated that the court lacked authority to redetermine Respondent’s
21 custody status because Respondent was deemed an applicant for admission subject to
22 mandatory detention under INA § 235(b)(2)(A), relying on *Matter of Yajure Hurtado*,
23 29 I. & N. Dec. 216 (BIA 2025).
24

1 13. The INA imposes mandatory detention of noncitizens subject to
2 expedited removal under 8 U.S.C. § 1225(b)(1) and of an “applicant for admission, if
3 the examining immigration officer determines that an alien seeking admission is not
4 clearly and beyond a doubt entitled to be admitted” under Section 1225(b)(2).
5 Individuals detained under Section 1225(b) receive no bond hearing, see 8 U.S.C. §
6 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A), and can only be released under humanitarian
7 parole at the arresting agency’s discretion. See *Jennings v. Rodriguez*, 583 U.S. 281,
8 288 (2018); 8 U.S.C. § 1192(d)(5).

9
10 14. 8 U.S.C. § 1226 authorizes the detention of noncitizens arrested “on a
11 warrant” pending the resolution of standard removal proceedings before an IJ. See 8
12 U.S.C. § 1229(a). Unless they have been arrested, charged with, or convicted of
13 certain enumerated crimes, which would subject them to mandatory detention until
14 their removal proceedings are concluded, see 8 U.S.C. § 1226(c), an individual
15 detained under Section 1226(a) can be released by ICE on bond or conditional
16 parole. See 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8). If release is denied by ICE,
17 the detainee can seek a custody redetermination before an Immigration Judge, i.e.,
18 bond hearing, at the outset of their detention. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).
19 At the hearing, the noncitizen may present evidence to show they are not a flight risk
20 or danger to the community and should therefore be released on bond. See generally
21 *Matter of Guerra*, 24 I. & N. Dec. 37, 50 (BIA 2006).

22
23 15. The Supreme Court summarizes the interplay between Sections 1226
24 and 1225 as follows: “In sum, U.S. immigration law authorizes the Government to

1 detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1)
2 and (b)(2). It also authorizes the Government to detain certain [noncitizens] already
3 in the country pending the outcome of removal proceedings under §§ 1226(a) and
4 (c).” *Jennings*, 582 U.S. at 289 (emphasis added).

5 16. In Petitioner’s case a noncitizen who has already entered the United
6 States and has been placed into removal proceedings is not “seeking admission”
7 within the meaning of § 235(b)(2). Interpreting § 235(b)(2) to apply to all noncitizens
8 present without admission, regardless of whether they are already inside the United
9 States and in removal proceedings, would improperly collapse the statutory
10 distinction between § 235, which governs arriving noncitizens, and § 236, which
11 governs noncitizens already present in the United States, rendering § 236 largely
12 superfluous and contradicting the structure of the detention scheme enacted by
13 Congress.
14

15 17. DHS’s own conduct in this case confirms the statutory basis of
16 Petitioner’s detention. At the time of his release from DHS custody, DHS issued
17 Petitioner a Form I-220A, Order of Release on Recognizance, which was the method
18 by which Petitioner was released. The issuance of a Form I-220A necessarily reflects
19 the exercise of authority under INA § 236(a). A Form I-220A may be issued only to
20 individuals detained pursuant to § 236(a) and is categorically unavailable to
21 individuals detained under INA § 235(b).
22
23
24

1 18. In this case, DHS charged Petitioner under INA § 212(a)(6)(A)(i) as a
2 noncitizen present without admission, issued an I-220A Order of Release on
3 Recognizance, declined to grant parole under INA § 212(d)(5), and placed Petitioner
4 into removal proceedings. These actions affirmatively classified Petitioner as a
5 noncitizen already present in the United States and detained pursuant to INA §
6 236(a).

7 19. Once DHS has processed and released a noncitizen under § 236(a), it
8 may not later retroactively reclassify that individual as an arriving alien or subject
9 them to mandatory detention under § 235(b). The statutory basis for detention is
10 fixed at the initial custody determination. DHS lacks authority to convert
11 discretionary § 236(a) custody into mandatory § 235(b) custody after the fact.
12

13 20. Respondents' actions further violate the Due Process Clause of the Fifth
14 Amendment. Even where DHS has statutory authority to detain under § 236(a), due
15 process requires that DHS actually exercise discretion before depriving a person of
16 liberty. Detention without notice, without an individualized custody determination,
17 without any finding of flight risk or danger, and without any showing of changed
18 circumstances is constitutionally impermissible.

19 21. The Supreme Court has repeatedly held that civil immigration
20 detention is constitutionally permissible only when it is reasonably limited in
21 duration and accompanied by adequate procedural safeguards. *Zadvydas v. Davis*, 533
22 U.S. 678, 690–91 (2001) (holding that indefinite civil detention raises serious
23 constitutional problems); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (upholding
24

1 mandatory detention only as brief and finite); *Jennings v. Rodriguez*, 583 U.S. 281,
2 308–09 (2018) (confirming that constitutional challenges to prolonged detention
3 remain available).

4 22. Even where the agency asserts mandatory detention under 8 U.S.C. §
5 1225(b), Federal Courts retain authority to determine whether such detention
6 exceeds statutory limits or violates due process. As the Supreme Court has explained,
7 habeas courts remain the proper forum for resolving constitutional challenges to
8 immigration detention. *Jennings v. Rodriguez*, 583 U.S. at 308–09. Accordingly, this
9 Court may grant habeas relief, including ordering an individualized bond hearing,
10 where categorical detention without individualized review is unlawful.
11

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

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

17 25. Even if the Court concludes that Petitioner is not a member of the
18 *Maldonado Bautista* class, the same legal analysis applies: Petitioner is detained under
19 § 1226(a) and is therefore entitled to an individualized bond hearing.¹
20

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22
23 ¹ *Del Valle Castillo v. Wamsley*, No. 2:25-cv-02054-TMC (W.D. Wash. Nov. 26, 2025), Dkt. 28, at *4
24 (“[T]he fact that Petitioners are not Bond Denial Class members does not prevent them from seeking
habeas relief on similar legal grounds.”).

JURISDICTION

26. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Glades County Detention Center in Moore Haven, Florida.

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

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

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

31. 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*.

EXHAUSTION

PARTIES

35. Respondent David Hardin is employed as the Warden of the Glades County Detention Center, is sued in his official capacity as the official responsible for overseeing Glades County Detention Center, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner.

36. Respondent Garrett Ripa is the Director of the Miami Field Office, U.S. Immigration and Customs Enforcement, is sued in his official capacity. The Miami

1 Field Office is the Field Office that oversees the Glades County Detention Center in
2 where Petitioner is currently detained.

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

8 38. Respondent Pamela Bondi is the Attorney General of the United States.
9 She is responsible for the Department of Justice, of which the Executive Office for
10 Immigration Review and the immigration court system it operates is a component
11 agency responsible for implementing and enforcing the INA in removal proceedings,
12 including for custody redeterminations in bond hearings. She is sued in her official
13 capacity.

14 FACTS

15 39. Petitioner Maykel Torres Jimenez is a native and citizen of Cuba. He
16 last entered the United States on June 20, 2021 and has resided continuously in the
17 United States for over four (4) years.

18 40. Petitioner was arrested at the Miami Immigration Court when attended
19 his hearing. ICE did not set bond and Petitioner requested review of his custody
20 before the IJ. The IJ denied bond on December 12, 2025, citing *Matter of Yajure*
21 *Hurtado*. See Exhibit 3 IJ Order.

1 41. Petitioner's removal proceedings are pending before the Miami
2 Immigration Court. He applied for Asylum and his application is currently pending.

3
4 **CLAIM FOR RELIEF**

5 **Count I**

6 **Violation of the INA:**

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

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

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

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

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

19 46. Respondents are parties to *Maldonado Bautista* and bound by the Court's
20 declaratory judgment and the final judgment entered on December 18, 2025, which
21 has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

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

25 **COUNT II**

26 **VIOLATION OF FIFTH AMENDMENT**

27 **Procedural Due Process**

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

3 49. Procedural due process requires that the government be constrained
4 before it acts in a way that deprives individuals of liberty interests protected under
5 the Due Process Clause of the Fifth Amendment to the United States Constitution.

6 50. To determine whether a civil detention violates a detainee's due process
7 rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319
(1976).

8 51. Pursuant to *Mathews*, courts weigh the following three factors: (1) "the
9 private interest that will be affected by the official action"; (2) "the risk of an
10 erroneous deprivation of such interest through the procedures used, and the probable
11 value, if any, of additional or substitute procedural safeguards"; and (3) "the
12 Government's interest, including the function involved and the fiscal and
13 administrative burdens that the additional or substitute procedural requirement
14 would entail." *Mathews*, 424 U.S. at 335.

15 52. Petitioner has a significant interest at stake. Being free from physical
16 detention by one's own government "is the most elemental of liberty interests." See
17 *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

18 53. Petitioner is being held in the same conditions as criminal inmates and
19 is far from his family, who desperately require both his financial assistance and
20 logistical support.

21 54. There is a large risk of erroneous deprivation of Petitioner liberty
22 interest through the procedures used in this case (in this case none) and there are
23 available alternative procedures which would ameliorate those risks.

24 55. The risk of deprivation is high because, contrary to law, Respondents
refuse to afford Petitioner any meaningful bond redetermination hearing or other

1 individualized and constitutionally adequate hearing under 8 U.S.C. § 1226 and 8
2 C.F.R. §§ 1003.19(i)(2).

3 56. Respondents have not determined Petitioner to be flight risk or danger
4 to the community or any other individualized factors; rather, they have unilaterally
5 deprived Petitioner of his liberty based upon an erroneous reinterpretation of legal
6 authority that strains credulity and runs against the grain of long-standing precedent,
7 existing statutory and regulatory authority, and established agency policies and
8 practices as well as an overwhelming amount of District Court authority holding
9 same detention is unlawful.

10 57. There are no significant governmental interest at stake related to
11 Petitioner's continued detention because his availability for removal proceedings
12 may be secured by less restrictive means, i.e., bond, in light of the fact that Petitioner
13 is neither a danger to any community nor a flight risk.

14 58. As a direct and proximate result of the violation of Petitioner's
15 procedural due process rights, Petitioner has suffered and will continue to suffer
16 injury.

17 **COUNT III**
18 **VIOLATION OF ADMINISTRATIVE PROCEDURE ACT**
19 **Deprivation of Liberty Contrary to Law**

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

22 60. Under § 706(a) of the APA, final agency action can be set aside if it is
23 "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
24 law . . . in excess of statutory jurisdiction, authority, or limitations, or short of
statutory right; . . . [or] without observance of procedure required by law." See 5
U.S.C. § 706(2)(A), (C)-(D).

62. Respondents have denied under erroneous and ultra vires authority Petitioner any bond redetermination hearing or other individualized hearing with constitutionally adequate procedures.

64. Additionally, Petitioner has no criminal history or other history that provides any basis or justification for his continued detention and/or denial of a bond redetermination hearing or other individualized hearing with constitutionally adequate procedures.

66. As a direct and proximate result of his wrongful, unlawful, and ultra vires detention by Respondents absent any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226(a), Petitioner has suffered and will continue to suffer injury.

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

1 law,” including if it fails to make a rational connection between the facts found and
2 the decision made. See 5 U.S.C. § 706(2)(A).

3 69. Respondents have failed to articulate any facts or sufficient legal
4 authority that forms a basis for their decision to detain Petitioner let alone any
5 rational connection between the facts found and their adverse decision made.

6 70. Due to the lack of any meaningful bond redetermination hearing,
7 Respondents have made no determinations of fact at issue.

8 71. As discussed, supra, Petitioner is being detained in direct violation of
9 the governing statutory and regulatory scheme, as interpreted by the Supreme Court.
10 Petitioner’s continued detention absent any meaningful bond redetermination
11 hearing or other individualized and constitutionally adequate hearing under 8 U.S.C.
§ 1226(a) is unlawful.

12 72. The adverse action by Respondents is therefore arbitrary and
13 capricious.

14 73. As a direct and proximate result of his wrongful, unlawful, and ultra
15 vires detention by Respondents absent any meaningful bond redetermination hearing
16 or other individualized and constitutionally adequate hearing under 8 U.S.C. §
17 1226(a), Petitioner has suffered and will continue to suffer injury.

18 PRAYER FOR RELIEF

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

- 20 a. Assume jurisdiction over this matter;
- 21 b. Enjoin the Respondents from transferring Petitioner outside the
22 jurisdiction of the U.S. District Court for the Middle District of Florida;
- 23
- 24

- c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- e. Record judgment against Respondents as to Counts II-IV declaring that Petitioner's continued detention to be contrary to law, arbitrary and capricious, and violative of the Fifth Amendment of the U.S. Constitution;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 25 of January, 2026.

/s/ Vanessa McCarthy
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus true and correct to the best of my knowledge and belief.

Dated this 25 day of January 2026.

/s/ Vanessa McCarthy
Vanessa McCarthy, Esq.
Florida Bar 109072