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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GENARO CRUZ ARREOLA,

Petitioner,

v.

DANIEL A. BRIGHTMAN, Field Office
Director of ICE Enforcement and
Removal Operations, San Diego,
California; CHRISTOPHER L. LA
ROSE, Warden, Otay Mesa Detention
Center; TODD LYONS, Acting Director
of ICE; Kristi NOEM, Secretary, U.S.
Department of Homeland Security;
Pamela BONDI, U.S. Attorney General.

Respondents.

Case No. **'26CV0491 AGS BLM**

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT
FOR INJUNCTIVE
RELIEF**

INTRODUCTION

1
2 1. Petitioner, Genaro Cruz Arreola, brings this petition for a writ of
3 habeas corpus to seek enforcement of his rights as a member of the Bond Denial
4 Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM
5 (C.D. Cal.) Petitioner is in the physical custody of Respondents at Otay Mesa
6 Detention Center. He now faces unlawful detention because the Department of
7 Homeland Security (DHS) and the Executive Office for Immigration Review
8 (EOIR) have refused to abide by the declaratory judgment issued on behalf of the
9 certified class in *Maldonado Bautista v. Santacruz*.
10

11 2. On November 20, 2025, the district court granted partial summary
12 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a
13 nationwide class and extended declaratory judgment to the certified class.
14 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -
15 ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial
16 summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*
17 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,
18 at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed
19 nationwide Bond Eligible Class, incorporating and extending declaratory judgment
20 from Order Granting Petitioners' Motion for Partial Summary Judgment).
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1 3. The declaratory judgment held that the Bond Denial Class members
2 are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration
3 for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL
4 3289861, at *11.

5 4. Following class certification, the *Maldonado Bautista* court issued
6 declaratory relief on December 18, 2025, vacating the Department of Homeland
7 Security policy that required ICE agents to treat every person who entered without
8 inspection as “seeking admission” and thereby subject to mandatory detention.
9 This ruling effectively established that class members are entitled to bond hearings
10 rather than automatic mandatory detention.
11

12 5. Nonetheless, the Executive Office for Immigration Review and its
13 subagency the Immigration Court and the Department of Homeland Security
14 (DHS) have blatantly refused to abide by the declaratory relief and have
15 unlawfully ordered that Petitioner be denied the opportunity to be released on
16 bond.
17

18 6. Petitioner is a member of the Bond Eligible Class, as he:
19

- 20 a. does not have lawful status in the United States and is currently
21 detained at the Otay Mesa Detention Center. He was apprehended by
22 immigration authorities on December 1, 2025, when he appeared for
23 his adjustment of status appointment in San Diego, California, at the
24 U.S. Citizenship & Immigration Services field office.
- 25 b. entered the United States without inspection in 1993 and was not
26 apprehended upon arrival;

- c. made two subsequent departures, one in 1998 and a final one in 2005; at neither re-entry was he detained.
- d. has not departed the United States since that date.
- e. has no criminal or other bars.
- f. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. After apprehending Petitioner on December 1, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

8. On December 22, 2025, the immigration judge at the Otay Mesa Detention Facility issued an order allegedly denying bond, simply stating “no jurisdiction” without providing any further clarification as to why no jurisdiction was found. It is noteworthy that the order issued by the immigration judge does not state whether the bond was denied or granted. It simply states, “no jurisdiction.”

9. Since then, Petitioner has remained detained.

10. The Court should expeditiously grant this petition.

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

1 12. Immigration judges have informed class members in bond hearings
2 that they have been instructed by “leadership” that the declaratory judgment in
3 *Maldonado Bautista* is not controlling, even with respect to class members, and
4 that instead IJs remain bound to follow the agency’s prior decision in *Matter of*
5 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
6

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

10 14. As Petitioner has already had a bond hearing, there is no exhaustion
11 required and his immediate release is sought with this petition.
12

13 JURISDICTION

14 15. Petitioner is in the physical custody of Respondents. Petitioner is
15 detained at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San
16 Diego, California 92154.

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

21 17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
22 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
23 U.S.C. § 1651.
24

VENUE

18. 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 Southern judicial district of California in which Petitioner currently is detained.

19. 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 Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

20. 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*.

21. 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).

22.

PARTIES

23. Petitioner Gabino Erasto Modesto is a citizen of Mexico who has been in immigration detention since November 10, 2025. He is married to a U.S. citizen and has three U.S. citizen minor children, one of whom suffers from a significant hearing problem for which medical treatment is being provided.

24. After Petitioner was arrested in San Diego, California, ICE did not set bond, and Petitioner has remained in custody. Petitioner remains subject to a determination by Respondents that he is subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A) as an “applicant for admission.” Petitioner has resided in the United States since 1999.

25. Respondent Joseph Freden is the Director of the San Diego, California Field Office of ICE’s Enforcement and Removal Operations division. As such, Director Freden is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

26. 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.

1 27. Respondent Department of Homeland Security (DHS) is the federal
2 agency responsible for implementing and enforcing the INA, including the
3 detention and removal of noncitizens.

4 28. Respondent Pamela Bondi is the Attorney General of the United
5 States. She is responsible for the Department of Justice, of which the Executive
6 Office for Immigration Review and the immigration court system it operates is a
7 component agency. She is sued in her official capacity.

8 29. Respondent Executive Office for Immigration Review (EOIR) is the
9 federal agency responsible for implementing and enforcing the INA in removal
10 proceedings, including for custody redeterminations in bond hearings.

11 30. Respondent Christopher J. La Rose is employed by CoreCivic as
12 Warden of the Otay Mesa Detention Center where Petitioner is detained. He has
13 immediate physical custody of Petitioner. He is sued in his official capacity.

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16 **CLAIM FOR RELIEF**

17 **Violation of the INA:**

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

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

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

1 33. Nevertheless, the order issued by the immigration judge on December
2 12, 2025, stating, without more, “no jurisdiction,” fails to provide Petitioner with
3 any meaningful hearing and precludes him from further reconsideration. This order
4 provides no justification for the finding of “no jurisdiction,” effectively precluding
5 Petitioner from providing any form of valid basis for release, i.e. no flight risk and
6 no danger to the community.
7

8 34. The order granting final summary judgment in *Maldonado Bautista*
9 holds that Respondents violate the INA in applying the mandatory detention statute
10 at § 1225(b)(2) to class members.
11

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

17 36. Respondents are parties to *Maldonado Bautista* and bound by the
18 Court’s declaratory judgment, which has the full “force and effect of a final
19 judgment.” 28 U.S.C. § 2201(a).
20

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

EXHAUSTION OF REMEDIES

32. No statutory exhaustion requirement applies. 8 U.S.C. section 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Moreover, additional agency steps would be futile as the Board of Immigration Appeals [“BIA”] published the decision in *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision the BIA shares DHS’s reading of 8 U.S.C. section 1225(b) (2), finding that noncitizens who entered the country without inspection are ineligible for release on bond. Therefore, Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by this judicial action.

The Petitioner’s Detention without a Custody Hearing Violates Due Process and the Fifth Amendment

33. Petitioner reiterates and incorporates by reference paragraphs 1 through 24 as if fully set forth herein.

34. Additionally, the Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision maker.

Due process protects all persons within the U.S. regardless of legal status.

Zadvydas v. Davis, 533 U.S. 678, 698 (2001) A vital liberty interest is at stake

when an individual is subject to detention by the government. According to

Zadvydas, the government may only deprive a non-citizen of physical liberty when

1 it serves a legitimate purpose, commonly understood to include securing one's
2 appearance at future hearings.

3 35.The BIA's new interpretation of 8 U.S.C. section 1225(b) set forth in
4 *Yajure* strips Petitioner of that protection by randomly classifying him as an
5 "applicant for admission" despite his last entry being 20 years ago wherein he
6 was not stopped by DHS. An arbitrary designation as an arriving alien precludes
7 him from the opportunity to establish that he is neither a flight risk nor a threat to
8 the community. His continued confinement thus bears no reasonable, non-punitive
9 relationship to any legitimate aim and is constitutionally arbitrary.
10

11 36.Applying the long-standing precedent of *Mathews v. Eldridge*, 424 U.S.
12 319 (1976), Petitioner's liberty interest is paramount, and the risk of erroneous
13 deprivation is extreme as he is given no venue to show that he is not subject to
14 mandatory detention under section 1226 (c). The risk is further heightened by the
15 apparent lack of an independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-
16 306 (1955). Counsel thus posits that the Defendants are in violation of the
17 *Maldonado Bautista* precedent, the statutory framework in the INA and the code of
18 federal regulations, as well as the Fifth Amendment/ Due Process Clause.
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21 PRAYER FOR RELIEF

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

- 23 a. Assume jurisdiction over this matter;
- 24

- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Confirm that no further exhaustion is needed;
- d. Enjoin Respondents from transferring Petitioner out of this Court's jurisdiction during the pendency of this action;
- e. 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
- f. Grant any other and further relief that this Court deems just and proper.

DATED this 23rd day of January 2026

/s/ NORA E. MILNER
NORA E. MILNER
ATTORNEY FOR PETITIONER