

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

SANTANA SOLIS, Hilario

Case No.

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

MATTHEW MORDANT, Warden of Florida
Soft Side South, **GARRETT RIPA**, Director of
Miami Field Office; **TODD LYONS**, Acting
Director U.S. Immigration and Customs
Enforcement, **Kristi NOEM**, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; **Pamela BONDI**, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW.

Respondents.

INTRODUCTION

1. Petitioner, Hilario Santana Solis, brings this petition for a writ of habeas corpus pursuant to 28 USC §2241 and the Administrative Procedure Act, 5 U.S.C. § 701, et seq., (a) to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition. *alternatively*, (b) to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)

2. Petitioner is in the physical custody of Respondents at the Florida Soft Side South colloquially known as “**Alligator Alcatraz**”. He now faces unlawful detention because the

Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

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

5. On December 18, 2025, the district court Rule 54(b) final judgment and clarification order further confirm that *Maldonado Bautista* is not advisory or provisional, but operative merits determination rejecting DHS’s no-bond framework under § INA 235 and reaffirming bond jurisdiction under § 236(a)

6. Nonetheless, the EOIR and its subagency the Immigration Court and the DHS, have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

7. Petitioner Hilario Santana Solis is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at **Alligator Alcatraz**. He was apprehended by immigration authorities on or about January 13, 2026.
- b. entered the United States without inspection over twenty years ago on or about the year 2003 via Phoenix, Arizona, and was never apprehended upon arrival.
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

8. After apprehending Petitioner on or about 5January 13, 2026, the DHS has not 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.

9. Respondent requested a bond hearing that was denied based on lack of jurisdiction.

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.

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

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

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

PRELIMINARY STATEMENT

15. Petitioner, Hilario Santana Solis, is a sixty-seven (67) native and citizen of Mexico. ("Hilario" or "Petitioner").

16. Petitioner entered the United States in or about the year 2003, when he was forty-four (44) years old. He was not apprehended by ICE or Customs and Border Patrol ("CBP").

17. He is now sixty-seven (67) years old and suffers from chronic asthma, and is on mandatory inhaler (Ventolin) and prescribed Montelukast 10 mg daily to control his asthmatic symptoms.

18. Respondent is widowed and is the father of four children and several grandchildren, residing in the United States.

19. Respondent is not a threat to public safety. He has no gang affiliations. There is no history of smuggling, trafficking, immigration fraud, or reentries. Respondent has no or no felonious criminal arrests or convictions. Respondent is not a flight risk. Respondent is a man of good moral character and not a danger to society.

20. On January 13, 2026, Petitioner was detained as a passenger in a motor vehicle en route to work, without the possibility of a bond while. He was not charged for any traffic violations, nor has he received any traffic citations. It appears to be an ICE operation targeting individuals of a certain demography.

21. Petitioner requested a bond hearing, which was denied on the basis of jurisdiction citing *Matter of Yajure Hurtado*. Consequently, bond was denied on the basis of lack of jurisdiction.

22. At the time of this Petition, has been detained at **Alligator Alcatraz** in the custody of ICE under the Government's decision not to honor the declaratory judgment issued in *Maldonado Bautista*. Hilario has not had the opportunity to challenge his detention before a neutral decision-maker.

23. Immigrants like Petitioner filed motion for bond redetermination which was denied on the basis of lack of jurisdiction, ignoring, *Maldonado Bautista*.

JURISDICTION

24. Petitioner is in the physical custody of Respondents. Petitioner is detained at **Alligator Alcatraz** located at the Dade-Collier Training and Transition Airport in Ochopee, Florida, within the Everglades.

25. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 *et seq.*

26. This Court has subject matter 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). See also: *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) and *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025).

27. Petitioner challenges the Attorney General's treatment of him as an "alien seeking admission", whose detention is governed by §1225 (a)(2) rather than §1226(a). Cf. *Madu v U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) ("While [§1252(g)] bars courts from reviewing

certain exercises of discretion by the attorney general, it does not proscribe substantive review of the underlying legal bases for those discretionary decision and actions.”].

28. Petitioner seeks the Court answer to a legal question-whether he is subject to mandatory detention under § 1225 (b)(2) or discretionary detention under § 1226(a). See *Grigorian v Bondi*, No. 25-Cv_22914-RAR, 2025 WL 2604573 at *3-4 (S.D. Fla. Sept. 9, 2025) (finding Section 1252(g) inapplicable to an alien’s challenge of immigration detention based on Ice’s noncompliance with statutory requirements when revoking an order of supervised release).

29. This Court may grant relief under the habeas corpus statutes, 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

30. 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 Florida the judicial district in which Petitioner currently is detained.

31. 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 Florida District.

REQUIREMENTS OF 28 U.S.C. § 2243

32. The Court should grant the petition for writ of habeas corpus and issue an order to show cause (“OSC”) to the respondents “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*, unless the petitioner is not entitled to relief. 28 U.S.C. §2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

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

PARTIES

34. Petitioner Hilario Santana Solis is a citizen of Mexico who has been in immigration detention since January 13, 2026. After Petitioner was detained, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On January 23, 2026, IJ denied the Petitioner’s bond because he was deemed an “applicant for admission.” Petitioner has resided in the United States since 2005.

35. Respondent, Matthew Mordent, is the Warden of **Alligator Alcatraz**. As such, Matthew Mordent is the immediate custodian of the Respondent. He is named in his official capacity.

36. Respondent, Garrett Ripa, is Director of Miami Field Office, U.S. Immigration and Customs Enforcement. As such, Garrett Ripa is responsible for Petitioner’s detention and removal. He is named in his official capacity.

37. Respondent, Todd Lyons, is sued in his official capacity as the Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the implementation and enforcement of the “INA,” and oversees ICE. Respondent, Todd Lyons, is a legal custodian of Petitioner.

38. 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.

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

CLAIM FOR RELIEF

COUNT I

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

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

43. 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.”

44. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

45. 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*.

46. Further, Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

47. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

48. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

49. By categorically revoking Carlos's release, Respondents have violated the APA.

50. Respondents have made no finding that Carlos is a danger to the community.

51. Respondents have made no finding that Hilario is a flight risk.

52. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

53. Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT II
Violation of Fifth Amendment Right to Due Process

54. The allegations in the above paragraphs are realleged and incorporated herein.

55. Respondents' categorical detention of Petitioner without an individualized bond determination violates the Due Process Clause of the Fifth Amendment.

56. Once a noncitizen enters the United States, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

57. Petitioner's years-long physical presence which gives rise to a protected liberty interest that cannot be extinguished by agency fiat. See *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

58. Respondents made no individualized finding that Petitioner is a danger to the community or a flight risk. Their categorical detention policy violates due process and cannot withstand constitutional scrutiny

59. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT III
Violation of the INA – Independent Statutory Entitlement to Bond Under 8 U.S.C. § 1226(a)

60. The allegations in the above paragraphs are realleged and incorporated herein.

61. Even apart from Respondents' refusal to comply with *Maldonado Bautista*, Petitioner's detention is independently unlawful because it is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).

62. Section 1225 applies primarily to noncitizens "arriving" at the border or seeking

admission. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). Section 1226(a), by contrast, is the “default rule” governing noncitizens already present in the United States. *Id.* at 303.

63. Petitioner entered the United States over twenty (20) years ago, has resided continuously in the United States and has resided in the United States for over a decade. Respondents may not retroactively classify him as an applicant for admission.

64. Because Petitioner is detained under § 1226(a), Respondents’ categorical denial of a bond due to lack of jurisdiction violates the INA.

65. Further, the 11th Circuit in *Ortiz-Bouchet v U.S Att. Gen.*, 714 F.3d 1353 (11th Cir. 2013), held that the statutory “application for admission” language in the INA is unambiguous and does not encompass post-entry adjustment of status, thus reaffirming its position in *Lanier*, 631 F. 3d at 1366. *Ortiz-Bouchet* is a binding precedent and reaffirms that the Petitioner, now detained over twenty (20) years post his entry into the United States cannot now be determined to be an applicant for admission and therefore subject to mandatory detention.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Declare that Petitioner’s detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

- e. 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;
- f. Issue an Order prohibiting the Respondents from transferring Hilario Santana Solis from the district without the court's approval;
- g. 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
- h. Grant any other and further relief that this Court deems just and proper.

DATED this 26th day of January 2026.

Respectively Submitted

/s/ Jacqueline I. Rojas-Torres

Jacqueline I. Rojas-Torres
Florida Bar # 1064532
Immigration Counsels LLC
7301 Wiles Road, Suite 205
Coral Springs, Florida 33067
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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

DATED this 26th day of January 2026.

/s/ Jacqueline I. Rojas-Torres

Jacqueline I. Rojas-Torres
Florida Bar # 1064532
Immigration Counsels LLC
7301 Wiles Road, Suite 205
Coral Springs, Florida 33067
Attorney for Petitioner