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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Jorge DIAZ GARCIA,

Petitioner,

v.

Jason STREEVAL, *in his official capacity as
Warden of Stewart Detention Center*, and Todd
LYONS, *in his official capacity as Acting
Director of Immigration and customs
Enforcement*, and Ladeon FRANCIS, *Field
Office Director ICE Atlanta Field Office*, and
Kristi NOEM, *Secretary of Homeland Security*,
and Pamela BONDI, *in her official capacity as
Attorney General, United States Department of
Justice*

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Alien File No.



1 **INTRODUCTION**

2 1. Petitioner, Jorge Diaz Garcia, is a forty-one-year-old native and citizen of Mexico
3 who entered the United States without inspection in or around 2003 and has resided in the United
4 States for over twenty years.

5 2. Petitioner is in the physical custody of Respondents at the Stewart Detention
6 Center in Lumpkin, Georgia. He now faces unlawful detention because the Department of
7 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
8 concluded Petitioner is subject to mandatory detention.

9 3. Petitioner is charged with, inter alia, having entered the United States without
10 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 4. Based on this allegation in Petitioner's removal proceedings, DHS denied the
12 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
13 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
14 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
15 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
16 therefore ineligible to be released on bond.

17 5. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
18 Board) issued a precedent decision, binding on all immigration judges, holding that an
19 immigration judge has no authority to consider bond requests for any person who entered the
20 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
21 The Board determined that such individuals are subject to detention under 8 U.S.C. §
22 1225(b)(2)(A) and therefore ineligible to be released on bond.

1 6. Petitioner's detention on this basis violates the plain language of the Immigration
2 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
3 previously entered and are now residing in the United States. Instead, such individuals are
4 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
5 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
6 having entered the United States without inspection.

7 7. Respondents' new legal interpretation is plainly contrary to the statutory
8 framework and contrary to decades of agency practice applying § 1226(a) to people like
9 Petitioner.

10 8. Further, on December 18, 2025, the District Court of Central California entered
11 Final Judgment in the nationwide class action *Maldonado Bautista v. Santacruz*. See *Maldonado*
12 *Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025). This final
13 judgment certified Bond Eligible Class members and declared that *Yajure-Hurtado* was no
14 longer tenable. See *Order Granting in Part and Denying in Part Petitioner's Ex Parte*
15 *Application for Reconsideration or Clarification [DKT. No. 87]*, 5:23-cv-01873-SSS-BFM, EC
16 No. 92 at 6 (C.D. Cal. Dec. 18, 2025).

17 9. The judgment holds that Bond Denial Class members are detained under 8 U.S.C.
18 § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A).

19 10. However, the Executive Office for Immigration Review and its subagency the
20 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
21 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
22 opportunity to be released on bond.

23 11. Petitioner is a member of the Bond Eligible Class, as he:
24

- 1 a. does not have lawful status in the United States and is currently detained at the
2 Stewart Detention Center. He was apprehended by immigration authorities on or
3 around January 20, 2026;
- 4 b. entered the United States without inspection over twenty years ago and was not
5 apprehended upon arrival, *cf. id.*; and
- 6 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7 12. After apprehending Petitioner on or about January 20, 2026, the DHS placed him
8 in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
9 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
10 without inspection. *See Exhibit 1, Petitioner's I-862, Notice to Appear.*

11 13. The Court should expeditiously grant this petition.

12 14. Respondents are bound by the judgment in *Maldonado Bautista*. Nevertheless,
13 Respondents continue to flagrantly defy the judgment in that case and continue to subject
14 Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond
15 as a Bond Eligible Class member.

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

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

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

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JURISDICTION

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

19. 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).

20. 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

21. 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 Georgia within the Columbus Division, the judicial district in which Petitioner currently is detained.

22. Respondent Streeval is his immediate custodian.

23. 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 Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

24. 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*.

25. 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

1 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
2 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
3 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

4 **PARTIES**

5 26. Petitioner Jorge Diaz Garcia is a citizen and national of Mexico who has been in
6 immigration detention since on or about January 20, 2026. After detaining Petitioner in Georgia,
7 ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration
8 judge, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
9 2025). Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

10 27. Respondent Jason Streeval is the Warden of the Stewart Detention Center. As
11 such, Respondent Streeval is responsible for the operation of the Detention Center where
12 Petitioner is detained. As ICE contracts with price prisons such as the Stewart Detention Center
13 to house immigration detainees such as the Petitioner, Respondent Streeval has immediate
14 physical custody of the Petitioner.

15 28. Respondent Todd Lyons is the Director of the Field Office of ICE’s Enforcement
16 and Removal Operations division. As such, Respondent Lyons is being sued in his official
17 capacity.

18 29. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration
19 and Customs Enforcement. As such, Respondent Francis is responsible for the oversight of ICE
20 operations at the Stewart Detention Center. Respondent Francis is being sued in his official
21 capacity.

22 30. Respondent Kristi Noem is the Secretary of the Department of Homeland
23 Security. She is responsible for the implementation and enforcement of the Immigration and
24

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

7 LEGAL FRAMEWORK

8 32. The INA prescribes three basic forms of detention for the vast majority of
9 noncitizens in removal proceedings.

10 33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
11 proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)
12 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
13 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of
14 certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

15 34. Second, the INA provides for mandatory detention of noncitizens subject to
16 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
17 referred to under § 1225(b)(2).

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

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

21 FACTS

22 37. Petitioner is a forty-one-year-old native and citizen of Mexico. *See Exhibit 2,*
23 *Petitioner's Passport.*

1 38. Petitioner has resided in the United States since 2003 and lives in Georgia.

2 39. In January 2026, Petitioner was detained by ICE as a collateral arrest.

3 40. Petitioner is the father of one (1) United States citizen (USC) children who is nine
4 years old. See **Exhibit 3**, *Birth Certificate for Petitioner's USC Child*.

5 41. Petitioner's criminal history consists only of minor traffic violations.

6 42. Petitioner is neither a flight risk nor a danger to the community.

7 43. On October 13, 2025, Petitioner, through counsel, filed a Motion for Bond with
8 the immigration judge. See **Exhibit 3**, *Petitioner's Motion for Bond Filed with the Immigration*
9 *Judge*.

10 44. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
11 Petitioner's bond request.

12 45. As a result, Petitioner remains in detention. Without relief from this court, he
13 faces the prospect of months, or even years, in immigration custody, separated from his family
14 and community.

15 **CLAIMS FOR RELIEF**

16 **Violation of the INA:**
17 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

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

4 50. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
5 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
6 § 2201(a).

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

10 **PRAYER FOR RELIEF**

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

- 12 a. Assume jurisdiction over this matter;
- 13 b. Order that Petitioner shall not be transferred outside the Middle District of
14 Georgia while this habeas petition is pending;
- 15 c. Issue an Order to Show Cause ordering Respondents to show cause why this
16 Petition should not be granted within three days;
- 17 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
18 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
19 1226(a) within seven days;
- 20 e. Declare that Petitioner’s detention is unlawful;
- 21 f. 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 g. Grant any other and further relief that this Court deems just and proper.

2 DATED this 28th day of January, 2026.

3 By: *Carlos E. Solomiany*
4 Carlos E. Solomiany, Esq.
5 *Ross and Pines, LLC*
6 Attorneys for the Respondent
7 5555 Glenridge Connector, Suite 435
8 Atlanta, Ga. 30342
9 404-812-4300 (tel.)
10 404-812-4303 (fax.)
11 carlos@rossandpines.com
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3 I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition
4 for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and
5 belief.

6 /s/ Carlos E. Solomiany

Date: January 28, 2026