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6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
9

10 JASBIR,
11 aka Jasbir, No Name

Petitioner,

12 v.

13 **WARDEN**, Imperial Regional Adult Detention
14 Facility, **FIELD OFFICE DIRECTOR**, San
15 Diego Field Office, U.S. Immigration and
16 Customs Enforcement (ICE); **TODD M.**
17 **LYONS**, in his official capacity as Acting
18 Director of U.S. Immigration and Customs
19 Enforcement (ICE); **KRISTI NOEM**, in her
official capacity as Secretary of the U.S.
Department of Homeland Security
(DHS); **PAMELA BONDI**, in her official
capacity as Attorney General of the United
States,

Respondents.

Case No. '26CV0579 JES BJW

**PETITION FOR WRIT OF
HABEAS CORPUS**

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I. INTRODUCTION

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1. Petitioner Jasbir (also known as Jasbir, No Name) brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to remedy her ongoing unlawful custody and restraint on liberty by Respondents and 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.) Petitioner is in physical custody of Respondents at the Imperial Regional Detention Facility. She 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*.

2. Petitioner entered the United States on January 26, 2023. She was apprehended shortly after her entry but was released on her own recognizance for the purpose of continuing her removal proceedings. U.S. Immigration and Customs Enforcement (“ICE”) issued an Order of Release on Recognizance pursuant to INA § 236 on January 26, 2023. Petitioner was re-arrested by ICE on December 25, 2025, and remains in custody without a constitutionally adequate custody determination by a neutral decisionmaker.

3. Before re-detaining her on December 25, 2025, Respondents did not provide Petitioner with any written notice explaining the basis for the revocation of her release. Nor did they provide a hearing before a neutral decision maker where ICE was required to justify the basis for re-detention or explain why Petitioner is a flight risk or danger to the community.

- 1 4. Petitioner has been in ICE custody since December 25, 2025, and is currently
2 detained at the Imperial Regional Adult Detention Facility. Despite being a
3 member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*,
4 and Petitioner remains detained without a lawful statutory basis, without bond
5 eligibility, and without any procedural endpoint.
- 6 5. While in detention, on or about January 16, 2026, through the different
7 counsel, Petitioner filed a Motion for a Bond Hearing. On January 22, 2026, the
8 Immigration Judge at the Imperial Immigration Court denied bond, concluding
9 that Petitioner is an “applicant for admission” subject to mandatory detention
10 under INA § 235(b) and expressly refusing to follow *Maldonado Bautista* on the
11 ground that the case itself is not a nationwide injunction and does not purport to
12 vacate, stay, or enjoin *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025).
- 13 6. Her physical detention and the associated restraints on liberty constitute “custody”
14 for habeas purposes. Removal proceedings remain pending, no final order of
15 removal exists, and ICE has never afforded Petitioner a neutral
16 custody redetermination hearing. As a result, Petitioner’s continued detention
17 violates due process and exceeds ICE’s lawful authority.
- 18 7. Petitioner respectfully requests that this Court issue an Order to Show Cause
19 forthwith pursuant to 28 U.S.C. § 2243, and grant prompt judicial review.
20 Petitioner further requests that the Court terminate her unlawful detention and
21 restraints, or, in the alternative, order her immediate release or an individualized
22 custody hearing during the pendency of this Petition being a member of the Bond
23 Eligible Class certified in *Maldonado Bautista v. Santacruz*.
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- 1 8. As a result, Petitioner is trapped in custody with no available administrative
2 mechanism for release, leaving habeas corpus as her only avenue for
3 relief. Absent intervention by this Court, Petitioner's detention will continue
4 indefinitely. This detention is arbitrary, unlawful, and unconstitutional.
- 5 9. As courts in this district have recently held in multiple cases, due process
6 demands a hearing prior to the government's decision to terminate a person's
7 liberty. Functionally identical cases across the country have been found to have a
8 "likelihood of success on the merits" or have resulted in the writ being
9 issued. *See, e.g., Barco Mercado v. Francis*, ___ F. Supp. 3d. ___, No. 25-cv-
10 6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (noting that, in
11 "350" of the "362" opinions to address this issue, the petitioners" prevailed, either
12 on a preliminary or final basis," and these cases were "decided by over 160
13 different judges sitting in about fifty different courts"); *Mosqueda v. Noem*, No.
14 5:25- cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025)
15 ("[P]etitioners are likely to succeed on the merits of their claims because section
16 1226(a), not section 1225(b)(2), likely governs their detention."); *Vazquez v.*
17 *Feeley*, No. 2:25-cv-01542-RFB- EJY, 2025 WL 2676082, at *11 (D. Nev. Sept.
18 17, 2025) (same); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL
19 2782499, at *1 (W.D. Wash. Sept. 30, 2025)

20 II. JURISDICTION

- 21 10. This action arises under the Constitution of the United States, the Immigration
22 and Nationality Act (INA), 8 U.S.C. § 1101, et seq., and the habeas corpus
23 statutes, 28 U.S.C. § 2241, et seq. 8. This Court has subject matter jurisdiction
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1 under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and
2 Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

3 11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et
4 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs
5 Act, 28 U.S.C. § 1651.

6 III. VENUE

7 12. Venue is proper because Petitioner is in Respondents' custody at the Imperial
8 Adult Detention Center in Imperial, California. Pursuant to *Braden v. 30th*
9 *Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in
10 the judicial district in which the Petitioner is currently is in custody.

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

15 IV. REQUIREMENTS OF 28 U.S.C. §§ 2241 AND 2243

16 14. The Court must grant the petition for writ of habeas corpus or issue an order to
17 show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled
18 to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
19 Respondents to file a return “within three days unless for good cause additional
20 time, not exceeding twenty days, is allowed.” *Id.*

21 15. Habeas corpus is “perhaps the most important writ known to the constitutional
22 law . . . affording as it does a swift and imperative remedy in all cases of illegal
23 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The
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1 application for the writ usurps the attention and displaces the calendar of the
2 judge or justice who entertains it and receives prompt action from him within the
3 four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
4 2000) (citing *Ruby v. United States*, 341 F.2d 585, 587 (9th Cir. 1965)); see also
5 *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is
6 “a speedy remedy, entitled by statute to special, preferential consideration to
7 insure expeditious hearing and determination”).

8 V. EXHAUSTION

9 16. Exhaustion is prudential, not jurisdictional, in immigration habeas cases.

10 17. Petitioner has exhausted all other administrative remedies by applying for an
11 Immigration bond hearing on January 16, 2026. As the Immigration Judge found
12 no jurisdiction to hear her Bond request, no adequate administrative remedy exists
13 to challenge the legality of Petitioner’s continued detention.

14 18. Requiring further exhaustion would be futile and would subject Petitioner to
15 continued unlawful detention without effective relief.

16 VI. PARTIES

17 19. Petitioner: Jasbir (also known as Jasbir, No Name), an adult noncitizen currently
18 detained by ICE at the Imperial Regional Adult Detention Facility.

19 20. Respondent WARDEN, Imperial Regional Adult Detention Facility,

20 21. Respondent FIELD OFFICE DIRECTOR, San Diego Field Office, U.S.
21 Immigration and Customs Enforcement (ICE);

22 22. Respondent TODD M. LYONS, in his official capacity as Acting Director of U.S.
23 Immigration and Customs Enforcement (ICE);

1 23. Respondent KRISTI NOEM, in her official capacity as Secretary of the U.S.
2 Department of Homeland Security (DHS);

3 24. Respondent PAMELA BONDI, in her official capacity as Attorney General of the
4 United States.

5 All Respondents are sued in their official capacities.

6 **VII. FACTUAL AND PROCEDURAL BACKGROUND**

7 **A. Arrest and Initiation of Removal Proceedings**

8 25. Petitioner was arrested by ICE on January 26, 2023, shortly after entering the
9 United States without inspection, and was released on her own recognizance on
10 January 26, 2023;

11 26. On January 26, 2023, DHS served Petitioner with a Notice to Appear (Form I-
12 862) charging her as removable.

13 27. On December 25, 2025, ICE re-arrested Petitioner. She did not receive written
14 notice of the reason for her re-detention.

15 28. Prior to the Petitioner's re-arrest, ICE did not assess whether she presented a
16 flight risk or danger to the community, or whether her re-arrest was justified for
17 some other reason.

18 29. Prior to Petitioner's re-detention, she never received a hearing before a neutral
19 decisionmaker to determine if her re-detention is justified and she
20 has remained in ICE custody since that date.

21 **B. Order of Release on Recognizance**

22 30. On January 26, 2023, ICE issued an Order of Release on Recognizance (Form I-
23 220A) pursuant to INA § 236.
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1 31. The Order reflects that Petitioner was not subject to mandatory detention and was
2 released under ICE’s discretionary custody authority.

3 32. Conditions of release included mandatory reporting, travel and residence
4 restrictions, participation in Alternatives to Detention (“ATD”), including
5 electronic monitoring, and broad compliance obligations subject to unilateral ICE
6 enforcement.

7 **C. Current Custody and Ongoing Proceedings**

8 33. Petitioner’s removal proceedings remain pending, and no final order of removal
9 has been entered.

10 34. Petitioner’s next Master Calendar Hearing is scheduled for January 29, 2026,
11 before Immigration Judge Attia, Olga E. in the Imperial Immigration Court.

12 35. Petitioner filed a Form I-589 Application for Asylum and Withholding of
13 Removal on April 15, 2023, which remains pending.

14 36. While in detention, on or about January 16, 2026, through the different
15 counsel, Petitioner filed a Motion for a Bond Hearing. On January 22, 2026, the
16 Immigration Judge at the Imperial Immigration Court denied bond concluding
17 that Petitioner is an “applicant for admission” subject to mandatory detention
18 under INA § 235(b) and expressly refusing to follow *Maldonado Bautista* on the
19 ground that the case itself is not a nationwide injunction and does not purport to
20 vacate, stay, or enjoin *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025).

21 **VIII. LEGAL FRAMEWORK**

22 37. Due process requires that if DHS seeks to re-arrest a person like Petitioner—who
23 has lived in the United States for years without incident after DHS first released
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1 her, and has attended all required immigration check-ins and complied with the
2 terms of his release—the government must afford a hearing before a neutral
3 decisionmaker to determine whether redetention is justified, and whether the
4 person is a flight risk or danger to the community.

5 38. “Freedom from imprisonment—from government custody, detention, or other
6 forms of physical restraint—lies at the heart of the liberty protected by the Due
7 Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

8 39. Consistent with this principle, individuals released on parole or other forms of
9 conditional release have a liberty interest in their “continued liberty.” *Morrissey v.*
10 *Brewer*, 408 U.S. 471, 482 (1972).

11 40. Such liberty is protected by the Fifth Amendment because, “although
12 indeterminate, [it] includes many of the core values of unqualified liberty,” such
13 as the ability to be gainfully employed and live with family, “and its termination
14 inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

15 41. To protect against arbitrary re-detention and to ensure the right to liberty, due
16 process requires “adequate procedural protections” that test whether the
17 government’s asserted justification for a noncitizen’s physical confinement
18 “outweighs the individual’s constitutionally protected interest in avoiding
19 physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

20 42. Due process thus guarantees notice and an individualized hearing before a neutral
21 decisionmaker to assess danger or flight risk before the revocation of an
22 individual’s release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The
23 fundamental requisite of due process of law is the opportunity to be heard at
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1 a meaningful time in a meaningful manner.” (citation modified)); see also, e.g.,
2 *Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether
3 there is probable cause or reasonable ground to believe that the arrested parolee
4 has committed . . . a violation of parole conditions” and that such determination
5 be made “by someone not directly involved in the case” (citation modified)).

6 **IX. CLAIM FOR RELIEF**

7 **Violation of Fifth Amendment Right to Due Process**

8 **Procedural Due Process**

9 43. Petitioner restates and realleges all the prior paragraphs as if fully set forth herein.

10 44. Due process does not permit the government to re-detain Petitioner and strip her
11 of her liberty without written notice and a pre-deprivation hearing before a neutral
12 decisionmaker to determine whether re-detention is warranted based on danger or
13 flight risk. See *Morrissey*, 408 U.S. at 487–88. Such written notice and a hearing
14 must occur prior to any re-detention.

15 45. Respondents revoked Petitioner release and deprived her of liberty without
16 providing her written notice and a meaningful opportunity to be heard by a neutral
17 decisionmaker prior to her re-detention.

18 46. Accordingly, Petitioner’s re-detention violates the Due Process Clause of the Fifth
19 Amendment.

20 **CLAIM FOR RELIEF**

21 **Violation of the INA:**

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

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

1 48. 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 49. The order granting partial summary judgment in *Maldonado Bautista* holds that
4 Respondents violate the INA in applying the mandatory detention statute at
5 § 1225(b)(2) to class members.

6 50. 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
8 same declaratory relief granted to Petitioners to the Bond Eligible Class as a
9 whole.”

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

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

17 **PRAYER FOR RELIEF**

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

- 19 a. Assume jurisdiction over this matter;
- 20 b. Issue an Order to Show Cause ordering Respondents to show cause within three
21 days as to why this Petition should not be granted as required by 28 U.S.C. §
22 2243;
- 23 c. Issue a Writ of Habeas Corpus ordering Respondents to release Jasbir from
24 custody immediately and permanently enjoining her re-detention during the
pendency of her removal proceeding absent written notice and a hearing prior to
re-detention where Respondents must prove by clear and convincing evidence that

1 she is a flight risk or danger to the community and that no alternatives to
2 detention would mitigate those risks;

- 3 d. Declare that Jasbir's re-detention while removal proceedings are ongoing without
4 first providing an individualized determination before a neutral decisionmaker
5 violates the Due Process Clause of the Fifth Amendment;
- 6 e. Alternatively, issue a writ of habeas corpus requiring Respondents to release
7 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
8 seven days;
- 9 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
10 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
11 law; and
- 12 g. Grant any other and further relief that this Court deems just and proper.

13
14 Respectfully submitted,

15 Dated: January 28, 2026

16 -

17 /s/ Prince Girn

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