

UNITED STATES DISTRICT COURT FOR
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MIGUEL ROMERO GARCIA,

Petitioner,

v.

Bobby Thompson, Warden, South Texas
Detention Facility; Miguel Vergara, Field
Office Director of Immigration and Customs
Enforcement, Enforcement and Removal
Operations San Antonio Field Office, Kristi
Noem; Secretary of the U.S. Department of
Homeland Security; and Pamela Bondi,
Attorney General of the United States, in their
official capacities, United States Department of
Homeland Security, Executive Office of
Immigration Review

Respondents.

Case No. 5:26-cv-546

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, A#  Miguel Romero Garcia, brings this petition for a writ of habeas corpus 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.) Petitioner is in the physical custody of Respondents at the South Texas Detention Facility in Pearsall, Texas. 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*.
2. 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).

3. 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.

4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (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.

5. Petitioner, A#  Miguel Romero Garcia is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained South Texas Detention Facility in Pearsall, Texas. He was apprehended by immigration authorities on December 13, 2025.
- b. entered the United States without inspection over 19 years ago and was not apprehended upon arrival, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

6. After apprehending Petitioner on November 5, 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.

7. The Court should expeditiously grant this petition.

8. 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.

9. 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).

10. 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.

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

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the South Texas Detention Facility in Pearsall, Texas. 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).

13. 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

14. 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 Western District, the judicial district in which Petitioner currently is detained.

15. 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 Western District.

REQUIREMENTS OF 28 U.S.C. § 2243

16. 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*.

17. 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

18. Petitioner, As , Miguel Romero Garcia is a citizen of Mexico who has been in immigration detention since December 13, 2025. After Petitioner was arrested in San Antonio, Petitioner requested review of his custody by an IJ. Petitioner has resided in the United States since 2007.

19. Respondent Bobby Thompson, is employed by the U.S. Government as Warden of at South Texas Detention Facility in Pearsall, Texas. where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

20. Respondent Miguel Vergara is the Director of the San Antonio Field Office of ICE's Enforcement and Removal Operations division. As such, Miguel Vergara is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

21. 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.

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

23. 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. He is sued in her official capacity.

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

FACTUAL BACKGROUND

25. Petitioner, Miguel Romero Garcia, A[REDACTED] was born on [REDACTED] 1986, and is thirty-nine (39) years old. He entered the United States in August 2007 and has resided continuously in this country since that time, establishing nearly two decades of residence. Petitioner has a pending application for asylum, and his next Master Calendar Hearing is scheduled for March 3, 2026.
26. Petitioner is married and lives with his wife and their three children, all of whom are United States citizens, ages eighteen (18), fifteen (15), and four (4). One of Petitioner's children, his son [REDACTED] receives special education services and requires additional academic and caretaking support. Petitioner has consistently served as the head of household and primary financial provider, supporting his family through lawful employment and responsible conduct.
27. Throughout his residence in the United States, Petitioner has maintained steady employment, including work in construction and later as a mechanic operating from his home. He has faithfully filed and paid his taxes, demonstrating full compliance with financial and legal obligations. Prior to detention, Petitioner and his family rented housing for many years and consistently paid rent on time. More recently, the family purchased a home and land, further evidencing Petitioner's deep roots, stability, and long-term commitment to the United States.
28. Petitioner suffers from a history of chronic abdominal pain and sought medical care on numerous occasions prior to his detention. After repeated medical visits, Petitioner was referred to a specialist and scheduled to undergo an esophagogastroduodenoscopy (EGD) to diagnose and treat his condition. Petitioner was advised that, if the EGD did not

resolve his symptoms, surgical intervention might be required. Petitioner was unable to attend this critical specialist appointment due solely to his detention, and his medical provider has since emphasized the importance of returning for follow-up care upon his release.

29. On December 13, 2025, Petitioner was taken into immigration custody and has remained detained since that date. As of the filing of this action, Petitioner has been detained for approximately forty-five (45) days. His detention is civil in nature and has occurred despite his longstanding residence in the United States, stable employment, and strong family and property ties.

30. Petitioner's continued detention has caused severe and ongoing hardship to his family. His wife and children have been deprived of their primary source of financial support and daily parental care, creating emotional distress and financial instability within the household. These hardships are particularly acute given the needs of Petitioner's son  who requires special educational support and assistance that Petitioner regularly provided prior to detention.

31. Absent immediate judicial intervention, Petitioner faces continued detention despite his pending asylum application, compliance with all immigration proceedings, deep family and community ties, and significant unmet medical needs. Each additional day of detention exacerbates the harm to Petitioner and his U.S. citizen family and threatens his health, liberty, and ability to meaningfully participate in his ongoing immigration proceedings.

ARGUMENT

32. Petitioner filed this habeas petition challenging his detention without a bond hearing.

33. Petitioner advances two principal arguments. First, he contends that his continued detention with a denied bond hearing violates the Due Process Clause. Second, he argues that 8 U.S.C. § 1225(b)(2) does not authorize his detention.

34. Respondents, however, assert detention authority under 8 U.S.C. § 1225(b)(1), not § 1225(b)(2). See ECF No. 5 at 2. Section 1225(b)(1) governs expedited removal and applies only to certain “arriving” aliens and to noncitizens who have not “been physically present in the United States continuously for the 2-year period immediately prior to the date” they were determined inadmissible under that provision. 8 U.S.C. § 1225(b)(1)(A)(i).

35. Section 1225(b)(1) further mandates detention only for a limited subset of such individuals. See 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Petitioner does not fall within the categories of noncitizens subject to mandatory detention under § 1225(b)(1).

36. Nonetheless, Petitioner reasonably anticipates Respondents’ reliance on 8 U.S.C. § 1225(b)(2). Respondents have repeatedly invoked § 1225(b)(2) in nearly identical cases before this Court. See, e.g., *Urquiza-Orozco v. Bondi et al.*, No. 5:25-cv-01428-XR (W.D. Tex. Nov. 20, 2025); *Vega v. Thompson et al.*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 21, 2025).

37. Respondents further assert in this case that “[e]ven if this Court were to order [Petitioner’s] release from custody, he would be subject to re-arrest as an alien present within the United States without having been admitted.” ECF No. 5 at 2. This assertion reflects Respondents’ anticipated reliance on arrest and detention authority under § 1225(b)(2).

38. Accordingly, both § 1225(b)(1) and § 1225(b)(2) are at issue. The dispositive statutory question is whether either provision applies to Petitioner. If neither § 1225(b)(1) nor § 1225(b)(2) governs Petitioner's detention, Respondents may detain him only under 8 U.S.C. § 1226(a), which entitles him to a bond hearing. See, e.g., *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025).

CLAIMS FOR RELIEF

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

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

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

41. 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.

42. 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.”

43. 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).

Violation of Due Process Rights

44. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,

detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

45. Petitioner has a fundamental interest in liberty and being free from official restraint.
46. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.
47. The government has shown no reason, whatsoever, that there are either changed circumstances or any other reasons for the re-detention of Petitioner, nor was the Petitioner given any notice prior to his re-detention, thus violating his due process rights.
48. 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*.

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. 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;
- d. 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
- e. Grant any other and further relief that this Court deems just and proper.

DATED this 29th of January, 2026.

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

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