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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSE HECTOR CRUZ RODRIGUEZ)
Petitioner,)

Case No. '26 CV0627 CAB DEB

v.)

CHRISTOPHER J. LAROSE,)
WARDEN OF OTAY MESA)
DETENTION CENTER; GREGORY J.)
ARCHAMBEAULT, IMMIGRATION)
AND CUSTOMS ENFORCEMENT)
(ICE) SAN DIEGO FIELD OFFICE)
DIRECTOR; TODD M. LYONS,)
ACTING DIRECTOR OF)
IMMIGRATION AND CUSTOMS)
ENFORCEMENT (ICE/ERO); KRISTI)
NOEM, Secretary of the Department of)
Homeland Security; PAMELA BONDI,)
U.S. Attorney General, in their official)
capacities.)

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Petitioner, Jose H. Cruz Rodriguez (Mr. Cruz) is a citizen of Mexico who Respondents have detained at Otay Mesa Detention Center (AKA Otay Mesa) for a total of five (5) months and twenty five (25) days. His continued detention is unlawful due to Respondent's failure to properly interpret and apply the Immigration and Nationality Act (INA) and subsequent

failure to adhere to an article III Judge's order on *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner brings this action **to seek immediate release.**

2. On November 25, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification, incorporating 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).
4. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court 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 is a member of the Bond Denial Class, as he:
 - a. does not have lawful status in the United States and is currently detained at the Otay Mesa Detention facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about September 24, 2025];
 - b. entered the United States without inspection in 2022 and was not detained immediately after arrival, *cf. id.*; and
 - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
6. Petitioner's detention on August 5, 2025, is also in violation of Due Process Clause of the Fifth Amendment to the U.S. Constitution Procedural Due Process and Substantive Due Process.

7. The Court should expeditiously grant this petition.
8. Respondents are bound by the judgment in *Rodriguez Vazquez*, 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 Denial Class member.
9. The Court should accordingly order that within one day, Respondent DHS must release Petitioner.
10. 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

11. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency with the Department of Homeland Security (DHS). He is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.
12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
14. 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.

15. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9),(f)(l), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

16. 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 District of California, the judicial district in which the Petitioner is currently in custody.

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

PARTIES

18. Petitioner is a citizen of Mexico who most recently arrived in the United States on or about December 20, 1999. He has been in custody of the Department of Homeland Security (DHS) since August 5, 2025. Since that time, his case is currently pending before the Executive Office of Immigration Review Otay Mesa.

19. Christopher J. Larose the Warden of Otay Mesa Detention Center is Petitioner's Immediate Custodian.

20. Gregory J. Archambeault, the Acting Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Archambeault is Petitioner's immediate custodian. He is named in his official capacity.

21. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Gregory J Archambeault and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
23. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.
25. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

STATEMENT OF FACTS

26. Petitioner, Jose H. Cruz-Rodriguez entered the U.S on December 20, 1999, worked and lived in the United States for thirteen (13) years prior to being detained and processed by the DHS on October 12, 2012. Exhibit 1.
27. At that time the DHS released Petitioner on an Order of Release on Recognizance. DHS then placed Petitioner in Removal Proceedings on October 10, 2012. Exhibit 2.
28. Petitioner, DHS and EOIR agreed to administratively close proceedings on March 13, 2015. Exhibit 3.

29. On August 5, 2025, ICE ERO San Diego arrested Petitioner near his home and processed him to Otay Mesa Detention Center. Subsequently re-calendaring his previously administratively closed case. At that time Petitioner had not committed any crimes nor violated any of the terms of his release on recognizance. Exhibit 4.
30. On September 5, 2025, EOIR conducted a bond hearing at which the Immigration Judge granted a \$1,500 bond. Exhibit 5.
31. Petitioner's family immediately attempted to post the bond and the DHS stayed the bond by filing a Notice of ICE Intent to Appeal Custody Determination. Exhibit 6.
32. That same day the Board of Immigration Appeal issued Matter of Jonathan Javier YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025), erroneously holding that all aliens who are present in the U.S. without admission are detained under INA Section 235(b)(2)(A).
33. Petitioner was not permitted to pay the bond.
34. On November 26, 2025, the Court in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.), granted class certification for individuals such as Petitioner.
35. Petitioner and his family again attempted to pay the bond and were denied.
36. On December 18, 2025, Court in Maldonado Bautista, issued a final judgment on the matter. Maldonado Bautista v. Noem, No. 5:25 CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). However, EOIR has continued to deny bond for class members.
37. Petitioner and his family again attempted to pay the bond and DHS did not allow the bond to be posed.
38. On January 7, 2026, the Board of Immigration Appeals formally sustained the DHS' appeal citing Matter of Yajure. Exhibit 8.

39. Petitioner was placed in removal proceedings in 2012 and for three years, he attended hearings before the immigration court and filed applications for relief until his case was administratively closed in 2015.
40. Petitioner has never been arrested by police nor has he committed any crimes in the twenty-six (26) in the United States.
41. Immigration Judges have been instructed to follow Matter of Yajure-Hurtado despite the class action.
42. It also appears that Executive Office for Immigration Review (EOIR) and the Department of Justice may have undocumented instructions to undermine federal habeas relief as indicated by the attached declaration of Attorney Jorge E Artieda. The facts stated in this declaration are echoed throughout the AILA immigration attorney community. Exhibit 9.

CLAIMS FOR RELIEF

Violation fo the INA;

First Claim Request for Relief Pursuant to *Maldonado Buatista*

43. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
44. As members of the Bond Denial Class, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
45. The orders granting partial summary judgment in Maldonado Bautista makes holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

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

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

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

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Procedural Due Process**

49. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

50. Petitioner has a vested liberty interest in his immediate release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See *Morrissey*, 408 U.S. at 487-488.

51. When the government fails to provide a required bond hearing, or when that hearing is rendered a “pro forma”; exercise, **immediate release is the only adequate remedy**. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), when detention loses its relationship to its underlying purpose—such as when there is no significant likelihood of a lawful hearing or removal in the reasonably foreseeable future—it loses its legal justification.

**Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Substantive Due Process**

52. The Due Process Clause of the Fifth Amendment forbids the government from depriving any individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.
53. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.
54. Petitioner, throughout his twenty-six (26) years in the community has never committed a crime and is not a danger to the community. Petitioner's compliance with DHS and EOIR from 2012 onward is evidence that he is not a flight risk.
55. Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See *Jones*, 393 F.3d at 934.
56. The government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray 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 and return him to the position he was in prior to his detention;**
- 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 Petitioners 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.

/s/Lilia Rodriguez
Attorney Name

Counsel for Petitioner

Dated: 02/01/2026

Exhibits		
1	Notice to Appear dated October 10, 2012	13-15
2	Order or Release on Recognizance dated October 10, 2012	16-18
3	Immigration Judge’s Order Granting Joint Motion for Administrative Closure dated March 13, 2015	19-20
4	I-213 Detailing Petitioner’s Unjustified Detention	21-25
5	Immigration Judge’s Order Granting bond of \$1,500	26-27
6	Notice of ICE Intent to Appeal Custody Redetermination dated September 8, 2025	28-29
7	Notice of Appeal dated September 19, 2025	30-34
8	Board Of Immigration Appeal’s Decision sustaining DHS Appeal	35-39
9	Declaration of Attonrey Jorge E Artieda Regarding the new, Perfunctory Nature of Bond hearing before the immigration court “designed to create a veneer of due process while ensuring predetermined outcomes.”	40-47
10	Favorable District Court Cases From Around the US finding detention fro long time residents in the US Unlawful under 8 U.S.C 1225 and applying 8 U.S.C. 1226(a)	48-75

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

I represent Petitioner, Jose Hector Cruz-Rodriguez, 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 1 day of February, 2026.

/s/ Lilia Rodriguez
Attorney Name