

Jaime H. Castiblanco, Esq.
305 Broadway, Suite 1203
New York, NY 10007
Attorney for Petitioner

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

VILLAVICENCIO ESTRADA, Byron Gustavo

Petitioner,

v.

William JOYCE, Acting New York Field Office
Director, Immigration and Customs
Enforcement, U.S. Department of Homeland
Security; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General.

Respondents.

Case No. 1:26-cv-929

**PETITION FOR WRIT OF
HABEAS CORPUS**

I. Introduction

1. This is a petition for writ of habeas corpus filed on behalf of Byron Villavicencio Estrada (Petitioner) seeking relief to remedy his unlawful detention. Petitioner was detained on December 30, 2025 and remains in the custody of Immigration and Customs Enforcement (ICE), currently being held at the Orange County Correctional Facility in Goshen, NY.

II. Petitioner is a class member in *Maldonado Bautista*, and is eligible to be released on bond or have a bond hearing.

2. Petitioner is a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Doc. 82 (C.D. Cal., Nov. 25, 2025) as he meets all the eligibility criteria defined by the court for class membership. The defined Bond Eligible Class is: "All

noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection, (2) were not or will not be apprehended upon arrival; (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1232 at the time the Department of Homeland Security makes an initial custody determination.” *Id.*

3. Petitioner is a member of the Bond Eligible Class because he: does not have lawful status in the United States, and:

(1) Petitioner entered the United States without inspection over thirty years ago,

(2) was not apprehended upon arrival, and

(3) Petitioner is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

4. By virtue of the Final Judgment issued in the referenced case on December 18, 2025, petitioner is detained under U.S.C. § 1226(a), is not subject to mandatory detention under § 1225(b)(2), and is entitled to consideration for release on bond, and if not released, a custody redetermination hearing before an immigration judge. *See Maldonado Bautista et al. v. Kristi Noem et. al*, No. 5:25-CV-01873-SSS-BFM, Doc. 94 (C.D. Cal., Dec. 18, 2025).

5. On December 18, 2025, the district court in *Maldonado Bautista v. Noem* entered final judgment in favor of individual petitioners and members of the Bond Eligible Class, clarifying that the Partial Summary Judgment entered on November 20, 2025 extends to members of the Class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Doc. 94 (C.D. Cal., Dec. 18, 2025) and *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Doc. 93 (C.D. Cal., Dec. 18, 2025) (Order Consolidating the Court’s Order on Motion For Partial Summary Judgment, Class Certification, and Application for Reconsideration, and Clarification- Which clarifies that the Partial Summary Judgment extends to members of the Bond Eligible Class).

6. The Executive Office of Immigration Review (EOIR) and the Department of Homeland Security (DHS) have refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond, claiming that the Immigration Judges have no jurisdiction in matters of bond determination under *Matter of Yajure Hurtado*.

7. Respondents are bound by the judgment in *Maldonado Bautista*, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to 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.

8. 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.

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

III. By application of *J.G.O. v. Francis*, 2025 WL 3040142 (S.D.N.Y., Oct. 28, 2025) the Court must find that the petitioner’s detention is governed by 8 U.S.C. § 1226(a) and is entitled to be released on bond.

10. In *J.G.O v. Francis*, the petitioner entered into the United States in 2022, applied for asylum, and had lived in the country for two and a half years prior to his detention and initiation of removal proceedings. The government tried to justify *J.G.O*’s ongoing detention, despite prior orders to be released, on a BIA decision reasoned that petitioners like J.G.O. were

being detained under 8 U.S.C. §1225(b)(2), which governs the detention of noncitizens who are applicants for admission, and are actively seeking admission.

11. *J.G.O* asserted that because he was already in the United States and cannot seek admission, 1225(b)(2) does not apply to him. This Court agreed with *J.G.O*'s argument and issued a statutory holding differentiating 8 U.S.C. 1225 and 1226 reasoning that "Courts must give effect to every clause and word of a statute," and when a term is undefined, the court must give it "its given is ordinary meaning". *Lougrin v. United States*, 573 U.S. 351, 358 (2014), *Star Athletica, LLC v. Varsity Brands, Inc.*, 580 U.S. 405, 414 (2017), *United States v. Santos*, 553 U.S. 507, 511 (2008) cited in *J.G.O. v. Francis*, 2025 WL 3040142 (S.D.N.Y. Oct. 28, 2025).

12. The court determined that 8 U.S.C §1225(b)(2) requires three things: 1) that the noncitizen is an applicant for admission, 2) that the officer determine that the noncitizen is not clearly and beyond a doubt entitled to be admitted, and 3) it applies only to noncitizens who are actively admission. *Id.* On the other hand, 8 U.S.C. § 1226 includes only language that would only apply to noncitizens who are already in the United States, adding that section 1226 generally governs the process of arresting and detaining noncitizens once they are inside the United States pending their removal. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

13. In the instant matter, Mr. Villavicencio arrived to the United States over twenty five. years ago, in 1999. He is clearly already in this country, and like petitioner *J.G.O.*, he cannot and is not actively seeking admission. Petitioner Villavicencio entered the United States without inspection, has not been admitted or paroled, and is currently in removal proceedings. Therefore, petitioner Villavicencio's detention is governed by 8 U.S.C § 1226(a) and he is entitled to a bond hearing.

JURISDICTION

11. Petitioner is in physical custody of Respondents. Petitioner is detained at the Orange County Correctional Facility, Goshen, NY.

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 subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

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

VENUE

15. Petitioner is detained at the Orange County Correctional Facility, located at 110 Wells Farm Road, Goshen, NY 10924. Accordingly, as petitioner is being held in Orange County, this court has jurisdiction over this matter. 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 New York, the judicial district in which Petitioner currently is detained.

16. 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 Southern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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*, and pursuant to *J.G.O v. Francis*.

18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

19. No statutory requirement of exhaustion applies to Petitioner’s challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) (“There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.”).

20. Prudential exhaustion may be required in some circumstances. However, Courts may waive prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, of the administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). Petitioner has exhausted all effective remedies available to him. Petitioner filed for a motion to redetermine custody and bond with the immigration judge and his motion was denied. Requiring Petitioner to appeal to the Board of Immigration Appeals (BIA) to prudentially exhaust is not efficient because proceedings at the BIA could take months or years, which would irreparably harm the Petitioner by continuing to deprive him of his liberty. Additionally, the EOIR judge holds that the immigration court has no jurisdiction to hear bond

redetermination cases for individuals like the detainee, reasoning that the Immigration Courts lack jurisdiction as per *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

PARTIES

21. Petitioner Villavicencio is a citizen of Guatemala who has been in immigration detention since December 30, 2025. After Petitioner was detained at Orange County Correctional Facility in Goshen, NY, ICE did not set bond.

22. Respondent William Joyce is the Acting Director of the New York Field Office of ICE's Enforcement and Removal Operations division. As such, Mr. William Joyce is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

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

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

25. 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.

26. 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.

STATEMENT OF FACTS

27. Petitioner is a citizen of Guatemala who entered the United States on or about 1999 and has been residing in the United States for over twenty-five years. On December 30, 2025, Mr. Villavicencio was detained by ICE. Mr. Villavicencio has remained under detention for the past month and is currently being held at the Orange County Correctional Facility in Goshen, NY.

28. December 19, DHS issued a Notice to Appear charging petitioner as removable subject to INA § 212(a)(6)(A)(i) as an “alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” (Exhibit A)

29. On January 21, 2026, Petitioner requested review of his custody by an immigration judge at the New York-Varick Street Immigration Court. (Exhibit C) The Immigration Judge denied Petitioner’s motion to redetermine bond holding that it has no jurisdiction under *Yajure-Hurtado*. (Exhibit D)

30. Mr. Villavicencio is the parent of [REDACTED] Villavicencio, [REDACTED], who are United States Citizen.

31. Mr. Villavicencio has maintained steady employment in the United States for the over twenty five years.

32. The Petitioner has strong ties to the community, a character for helping others and is an active member of his church. Various people and organizations in his community have

gathered and submitted letters in support of Petitioner attesting to his good character and his ties to the community. (Exhibit E)

33. Mr. Villavicencio has a pending I-131 application for Parole in Place. (Exhibit F)

CLAIM FOR RELIEF

COUNT ONE

CONSTITUTIONAL CLAIM

34. Petitioner alleges and incorporates paragraphs 1 through 33 above.

35. Petitioner's detention violates his right to due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT:

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

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

38. 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.

39. The Order for partial summary judgement emphasizes that the Supreme Court has made a clear distinction between detentions of noncitizens under the authority of 8 U.S.C. §§ 1225(b) and 1226, and explained that where a noncitizen, who is already in the country and is awaiting the outcome of removal proceedings, is detained, his detention is conducted pursuant to 8 U.S.C. § 1226, on the other hand, where a noncitizen is seeking admission, the government

may detain him under 8 U.S.C. § 1225(b). *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The Court in *Maldonado Bautista* rejected the Government’s argument that “all noncitizens who are already in the country (regardless of whether they were inspected and authorized by and immigration officer) were “applicants for admission,” as an arbitrary and extensive interpretation that nullifies a “portion of the INA through DHS’s legislative of interpretative exercise of power, which is not appropriate under the separations of powers.” *See Maldonado Bautista v. Santacruz*, (C.D. Cal, Nov. 20, 2025) at 15, 16. Consequently, the Court decided the directives in 8 U.S.C. § 1226(a) persist and that the Attorney General must continue to release the noncitizens detained under §1226(a) on bond or parole.

40. 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).

41. 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*.

42. The court must also apply *J.G.O. v. Francis*, 2025 WL 3040142 (S.D.N.Y. Oct. 28, 2025), and determine that petitioner is eligible to be released on bond or is entitled to a bond hearing under 1226(a).

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 Respondents release Petitioner immediately.

- 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. Enjoin respondents from transferring petitioner out of the Southern District of New York.
- e. 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
- f. Grant any other and further relief that this Court deems just and proper.

DATED this February 2, 2026



Jaime H. Castiblanco, Esq.
Attorney for Petitioner