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5 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF GEORGIA
6 **WAYCROSS DIVISION**

7 **Angel MARTINEZ ORTIZ,**

8 **Petitioner,**

9 **v.**

10 **Warden of Folkston ICE Processing Center**
(Annex) in their official capacity; KRISTEN
11 **SULLIVAN, Field Office Director of**
Enforcement and Removal Operations,
12 **Atlanta Field Office, Immigration and**
Customs Enforcement; TODD M. LYONS,
13 **Acting Director, U.S. Immigrations &**
Customs Enforcement; KRISTI NOEM,
14 **Secretary, U.S. Department of Homeland**
Security; U.S. Department of Homeland
15 **Security; PAMELA BONDI, U.S. Attorney**
16 **General; and DAREN K. MARGOLIN,**
Director, Executive Office for Immigration
17 **Review,**

18 **Respondents.**

Case No.:

VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS
UNDER 28 U.S.C. § 2241

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1 **INTRODUCTION**

2 1. Petitioner, Angel Martinez Ortiz, brings this petition for a writ of habeas corpus to
3 seek enforcement of Petitioner’s rights as members of the Bond Eligible Class certified in
4 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the
5 physical custody of Respondents at the Folkston Processing Center in Folkston, Georgia.
6 Petitioner now faces unlawful detention because the Department of Homeland Security (DHS)
7 and the Executive Office for Immigration Review (EOIR) have refused to abide by the
8 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

9 2. On November 20, 2025, the district court granted partial summary judgment on
10 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
11 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
12 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
13 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
14 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
15 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible
16 Class, incorporating and extending declaratory judgment from Order Granting Petitioners’
17 Motion for Partial Summary Judgment).

18 3. The declaratory judgment held that the Bond Eligible Class members are detained
19 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under
20 § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

21 4. Nonetheless, EOIR and its subagency the Immigration Court and DHS have
22 blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be
23 denied the opportunity to be released on bond.
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1 5. Petitioner Angel Martinez Ortiz is a member of the Bond Eligible Class, as

2 Petitioner:

3 a. Petitioner is in the physical custody of U.S. Immigration and Customs
4 Enforcement (ICE) within the jurisdiction of this Court.

5 b. entered the United States without inspection in approximately 1998,
6 approximately twenty-eight (28) years ago, *cf. id.*; and

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

8 6. After apprehending Petitioner on or about March 22, 2023 DHS placed Petitioner
9 in removal proceedings pursuant to 8 U.S.C. § 1229a. He was released from ICE Custody on
10 Bond after the Immigration Judge granted bond in his case on April 12, 2023. Since then, he has
11 complied with all Court Orders and Regulations.

12 7. The Petitioner came into the custody of Immigration and Customs Enforcement
13 (“ICE”) after he was detained by the Georgia State Patrol on November 8, 2025. DHS has
14 charged Petitioner as being inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i), as someone who
15 entered the United States without inspection.

16 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
17 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
18 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
19 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
20 Class member.

21 9. Immigration judges have informed class members in bond hearings that they have
22 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not
23 controlling, even with respect to class members, and that instead immigration judges remain
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1 bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
2 (BIA 2025).

3 10. Because Respondents are detaining Petitioner in violation of the declaratory
4 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
5 Respondent DHS must release Petitioner.

6 11. Venue is proper in the Middle District of Georgia Columbus Division because the
7 Petitioner is detained in this District and Respondents exercise legal control here.

8 12. Respondents are federal officials who are responsible for Petitioner's detention
9 and have the authority to produce Petitioner and grant the relief requested.

10 13. The Court should expeditiously grant this petition.

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

13 **JURISDICTION AND VENUE**

14 15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 Folkston Processing Center, Folkston, Georgia. Venue is proper in the Middle District of
16 Georgia Columbus Division.

17 16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
18 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
19 Constitution (the Suspension Clause).

20 17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
21 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

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REQUIREMENTS OF 28 U.S.C. § 2243

18. 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*.

19. 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

20. Petitioner, Angel Martinez Ortiz, is a citizen of Mexico who has been in immigration detention since approximately December, 2025. After Petitioner was detained by ICE, ICE did not set bond, and Petitioner requests review of his custody by an immigration judge.

21. Respondent Warden of the Folkston ICE Processing Center (Annex), where Petitioner is detained. The Warden of the Folkston ICE Processing Center (Annex) has immediate physical custody of Petitioner. The Warden of the Folkston ICE Processing Center (Annex) is sued in the Warden’s official capacity.

22. Respondent Kristen Sullivan is the Acting Director of the Atlanta Field Office of ICE’s Enforcement and Removal Operations division. As such, Acting Director Sullivan is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. She is named in his official capacity.

1 23. Respondent Todd Lyons is the acting Director of U.S. Immigration & Customs
2 Enforcement (ICE). He is responsible for the administration of ICE and the implementation and
3 enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a
4 legal custodian of Petitioner. He is sued in his official capacity.

5 24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is
6 responsible for the implementation and enforcement of the Immigration and Nationality Act
7 (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate
8 custodial authority over Petitioner and is sued in her official capacity.

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

11 26. Respondent Pamela Bondi is the Attorney General of the United States. She is
12 responsible for the Department of Justice, of which the Executive Office for Immigration Review
13 and the immigration court system it operates is a component agency. She is sued in her official
14 capacity.

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

18 28. Respondent Daren K. Margolin is the Director of EOIR, which is the federal agency
19 responsible for implementing and enforcing the INA in removal proceedings, including for
20 custody redeterminations in bond hearings. Respondent Margolin is sued in his official capacity.
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23 **LEGAL FRAMEWORK**

24 29. The INA prescribes three basic forms of detention for the vast majority of noncitizens in

1 removal proceedings.

2 30. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
3 proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)
4 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
5 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of
6 certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

13 34. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
14 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208,
15 Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was
16 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3
17 (2025).

18 35. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
19 general, people who entered the country without inspection were not considered detained under §
20 1225 and that they were instead detained under § 1226(a). *See* *Inspection and Expedited*
21 *Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;*
22 *Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

1 36. Thus, in the decades that followed, most people who entered without inspection and were
2 placed in standard removal proceedings received bond hearings, unless their criminal history
3 rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many
4 more decades of prior practice, in which noncitizens who were not deemed “arriving” were
5 entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. §
6 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
7 simply “restates” the detention authority previously found at § 1252(a)).

8 37. On July 8, 2025, ICE, “in coordination with” the U.S. Department of Justice, announced
9 a
10 new policy that rejected well-established understanding of the statutory framework and reversed
11 decades of practice.

12 38. The new policy, entitled “Interim Guidance Regarding Detention Authority for
13 Applicants
14 for Admission,” claims that all persons who entered the United States without inspection shall
15 now be subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of
16 when a person is apprehended.

17 39. On September 5, 2025, the Board of Immigration Appeals (“BIA”) adopted this same
18 position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all
19 noncitizens who entered the United States without admission or parole are subject to detention
20 under § 1225(b)(2)(A) and are ineligible for a bond hearing before an immigration judge.

1 40. Since Respondents adopted their new policies, dozens of federal courts have rejected
2 their
3 new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of*
4 *Yajure Hurtado*, which adopts the same reading of the statute as ICE.

5 41. Even before ICE or the BIA introduced these nationwide policies, immigration judges in
6 the Tacoma, Washington, immigration court stopped providing bond hearings for persons who
7 entered the United States without inspection and who have since resided here. There, the U.S.
8 District Court in the Western District of Washington found that such a reading of the INA is
9 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
10 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
11 1239 (W.D. Wash. 2025).

12 42. Subsequently, courts have adopted the same reading of the INA's detention authorities
13 and
14 rejected ICE and EOIR's new interpretation. *See, e.g., Vasquez Garcia v. Noem*, No. 25-cv-
15 02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Gomes v. Hyde*, No. 1:25-CV-
16 11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-
17 11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
18 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025),
19 *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
20 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL
21 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025
22 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
23 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM,
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1 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025
2 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,
3 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-
4 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
5 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
6 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
7 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
8 *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal.
9 Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich.
10 Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept.
11 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb.
12 Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)
13 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3
14 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL
15 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

16 43. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies
17 the
18 INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory
19 provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

20 44. Section 1226(a) applies by default to all persons “pending a decision on whether the
21 [noncitizen] is to be removed from the United States.” These removal hearings are held under
22 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
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1 45. The text of § 1226 also explicitly applies to people charged as being inadmissible,
2 including

3 those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s
4 reference to such people makes clear that, by default, such people are afforded a bond hearing
5 under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates
6 ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the
7 statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
8 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025
9 WL 1869299, at *7.

10 46. Section 1226 therefore leaves no doubt that it applies to people who face charges of being
11 inadmissible to the United States, including those who are present without admission or parole.

12 47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
13 entered the United States. The statute’s entire framework is premised on inspections at the border
14 of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed,
15 the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s
16 borders and ports of entry, where the Government must determine whether a[] [noncitizen]
17 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

18 48. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to
19 people like Petitioner, who have already entered and were residing in the United States at the
20 time they were apprehended.

1 **FACTS**

2 49. Petitioner entered the United States in 1998 and has not left the country since.
3 Petitioner has filed prima facie relief as he qualifies for EOIR 42B, Application for Cancellation
4 of Removal for Certain has filed for relief in the form of EOIR 42B, Cancellation of Removal and
5 Adjustment of Status for Certain Nonpermanent Residents. Petitioner has four (4) U.S. citizen
6 children, two of them under 21 years old. Additionally, he has one sister who is LPR. His family
7 depends on him financially and emotionally and is being greatly affected by him detention.

8 50. Petitioner has been detained at the Folkston Processing Center for nearly two
9 months. Without relief from this Court, Petitioner faces the prospect of more months in
10 immigration custody, separated from Petitioner's family and community.

11 **CLAIM FOR RELIEF**

12 **COUNT I**

13 **VIOLATION OF THE INA**
14 **REQUEST FOR RELIEF PURSUANT TO *MALDONADO BAUTISTA***

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

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

19 53. The order granting partial summary judgment in *Maldonado Bautista* holds that
20 Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
21 members.

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

1 70. The government bears the burden to justify continued detention by clear and
2 convincing evidence, which has not occurred.

3 **PRAYER FOR RELIEF**

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

- 5 a. Assume jurisdiction over this matter;
- 6 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
7 Petitioner;
- 8 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
9 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
10 seven days;
- 11 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
12 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
13 law; and
- 14 e. Grant any other and further relief that this Court deems just and proper.

15 DATED this 3rd of February, 2026.

16 *//s/ Elizabeth Hildebrand Matherne*

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

I represent Petitioner, Angel Martinez Ortiz, and submit this verification on his behalf. I 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 3rd of February, 2026.

//s/ Elizabeth Hildebrand Matherne

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