

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JOHN DOE

Petitioner

v.

SCARLET GRANT, Warden, Cimarron Correctional Facility; **ROBERT CERNA**, Acting Field Office Director of Dallas Field Office, U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security; and **PAMELA BONDI**, Attorney General of the United States, in their official capacities

Respondents.

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, John Doe, brings this petition for a writ of habeas corpus to challenge his continued detention under an unlawful interpretation of 8 U.S.C. § 1225(b)(2)(A). In *Maldonado Bautista v. Santaacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025), the district court rejected DHS's categorical application of § 1225(b)(2)(A) to noncitizens in § 1229a proceedings once the border inspection process has concluded. That statutory interpretation governs Petitioner's detention and confirms that his custody is authorized, if at all, under 8 U.S.C. § 1226(a).

2. Petitioner is a native and citizen of El Salvador who has sought protection based in part on persecution related to sexual orientation who has lived in the United States since approximately 2014. He is currently confined at the Cimarron Correctional Facility in Oklahoma.

3. Petitioner was arrested in August 2025 on a DUI charge, served the criminal sentence imposed, and has remained in continuous detention solely due to an immigration hold since September 2025. Despite the completion of his criminal case, Petitioner has not been meaningfully considered for release by Immigration and Customs Enforcement (“ICE”). Efforts to seek administrative relief have proven futile, as Petitioner has been repeatedly told to wait without being afforded a timely or meaningful custody determination.

4. Petitioner does not dispute that he was arrested in August 2025 for a DUI offense. He served the criminal sentence imposed by the state court and has completed all punishment associated with that conduct. No criminal court ordered continued detention based on danger to the community. Petitioner’s ongoing confinement is therefore not criminal in nature, but purely civil immigration detention, which may not be imposed as additional punishment or allowed to function as a de facto life-threatening penalty through prolonged detention and denial of medical care.

5. Petitioner remains detained notwithstanding his eligibility for bond consideration under the governing statute, properly construed. As explained in *Maldonado Bautista*, detention of noncitizens placed in removal proceedings following interior arrests is authorized, if at all, under 8 U.S.C. § 1226(a), which requires an individualized custody determination and permits release on bond. Continued detention is especially unjustified given Petitioner’s serious medical conditions, including HIV and a history of cerebral aneurysm, which place him at heightened risk of irreparable harm in a detention setting that has failed to provide adequate medical care. Immediate judicial intervention is therefore required.

6. On July 8, 2025, the Department of Homeland Security (“DHS”) issued administrative guidance entitled *Interim Guidance Regarding Detention Authority for Applicants*

for Admission, asserting that noncitizens who entered the United States without inspection and were later encountered in the interior should be treated as “applicants for admission” subject to detention under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), and categorically ineligible for bond. Relying on this guidance, immigration courts nationwide began denying bond jurisdiction to long-term residents placed in removal proceedings under 8 U.S.C. § 1229a, notwithstanding decades of precedent recognizing detention authority under INA § 236(a), 8 U.S.C. § 1226(a), for such individuals.

7. DHS has also recently attempted to extend *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), beyond its narrow arrival-parole context to deny bond to long-term residents based solely on historical border encounters. That interpretation is inconsistent with the statutory scheme and has no application to Petitioner’s present detention, which arises from a later interior arrest long after any arrival or inspection process had concluded.

8. As set forth below, the district court in *Maldonado Bautista* rejected DHS’s interpretation, vacated the July 2025 guidance, and entered final declaratory judgment confirming that detention in these circumstances is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2). While Petitioner does not seek relief based on class membership, the court’s statutory analysis confirms that DHS lacks authority to categorically deny bond consideration once the border inspection process has ended.

9. Accordingly, Petitioner seeks an order directing Respondents to comply with the governing detention statute by either releasing Petitioner from custody or, in the alternative, providing a prompt, individualized bond hearing under 8 U.S.C. § 1226(a).

FACTUAL BACKGROUND

10. Petitioner, John Doe, is a native and citizen of El Salvador who has lived in the United States since approximately August 2014. Since his entry, Petitioner has resided in the interior of the United States for over a decade and has established significant ties to this country, including long-term residence, steady employment, and close family relationships (Exhibit 2).

11. Petitioner fully served the sentence imposed by the state criminal court for the DUI offense. The criminal court did not order continued incarceration, did not find that Petitioner posed an ongoing danger to the community, and did not impose detention based on public safety concerns. But for the immigration detainer, Petitioner would have been released from criminal custody.

12. Petitioner was apprehended by immigration authorities in the interior of the United States, long after his initial entry and far from any port of entry. He was not apprehended at the border, did not present himself for admission, and was not taken into custody as part of a border or arrival process. Rather, Petitioner was transferred into immigration custody following a state DUI arrest in Oklahoma, after he had completed the criminal court process and would otherwise have been eligible for release but for an immigration detainer.

13. Petitioner does not pose a danger to the community and is not a flight risk. The state criminal court found that Petitioner was eligible for release on bond, and no criminal court determined that he required continued detention for public safety reasons. Petitioner has consistently complied with government processes, appeared when required, and has not attempted to evade authorities.

14. Petitioner suffers from serious and chronic medical conditions, including a history of cerebral aneurysm and HIV, which require consistent monitoring, specialized medical care, and

uninterrupted medication. Since his detention, Petitioner's health has deteriorated, and detention officials have failed to provide adequate evaluation, treatment, or follow-up care. Continued detention places Petitioner at substantial risk of serious harm and potentially life-threatening complications.

15. Continued civil detention under these conditions functions as a disproportionate and dangerous escalation of punishment wholly unrelated to Petitioner's completed criminal case. A DUI conviction—after which the state court authorized release—cannot lawfully be transformed into a prolonged civil detention that materially accelerates serious medical decline. Immigration detention is not punitive, and it may not be imposed in a manner that predictably endangers life or health.

16. Here, detention has already caused measurable harm. Prior to detention, Petitioner's HIV was medically undetectable and stable. **Since detention, his viral load has become detectable and significantly elevated. Detention officials failed to respond appropriately to neurological symptoms associated with a known cerebral aneurysm—symptoms that Petitioner had been instructed to treat as medical emergencies.** Under these circumstances, continued detention is not merely restrictive; it is medically dangerous.

JURISDICTION

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma (Exhibit 1).

18. 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).

19. 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

20. 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 of Oklahoma, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

22. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved by federal courts, including in *Maldonado Bautista v. Santacruz*.

23. 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).

**EXHAUSTION OF ADMINISTRATIVE REMEDIES
WOULD BE FUTILE**

24. Although habeas petitioners generally are expected to exhaust available administrative remedies, exhaustion is not required where pursuit of such remedies would be futile. *See e.g., Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004). Here, exhaustion would be futile because Petitioner’s continued detention rests on a categorical legal position—namely, the denial of bond jurisdiction under § 1225(b)(2)—that has already been resolved as a matter of statutory interpretation by the district court in *Maldonado Bautista v. Santacruz*.

25. Immigration Judges lack authority to disregard controlling statutory interpretations issued by federal district courts. Because the sole issue presented is a purely legal one that has been conclusively resolved by a federal district court, requiring Petitioner to pursue additional administrative remedies would serve no purpose and would only prolong unlawful detention.

PARTIES

26. Petitioner John Doe is a citizen and native of El Salvador who has been in the custody of U.S. Immigration and Customs Enforcement (“ICE”) since September 2025. Petitioner entered the United States without inspection on August 7, 2014.

27. Respondent Robert Cerna is the Director of the Dallas Field Office of ICE’s Enforcement and Removal Operations division. As such, Robert Cerna is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

28. 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.

29. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

30. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the EOIR and the immigration court system it operates is a component agency. She is sued in her official capacity.

31. Respondent EOIR is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

32. Respondent Scarlet Grant is employed by the Cimarron Correctional Facility as Warden of the Cimarron Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

GOVERNING BOND AND DETENTION FRAMEWORK
UNDER INA § 1226(a)

33. Detention and release of noncitizens not subject to mandatory detention is governed by § 1226(a). That provision authorizes DHS to detain or release individuals on bond or conditional parole, and expressly confers jurisdiction on Immigration Judges to conduct custody redetermination hearings. 8 C.F.R. §§ 1003.19, 1236.1(d)(1).

34. Mandatory detention applies only to the narrow categories enumerated in INA §§ 236(c), 235(b)(1), and 241, 8 U.S.C. §§ 1226(c), 1225(b)(1), and 1231. Where none of those provisions applies, detention authority rests exclusively with § 1226(a), and denial of bond jurisdiction is not permitted.

35. Accordingly, the threshold legal question in custody disputes of this kind is not whether release should be granted, but whether detention authority arises under § 1226(a) or § 1225(b)(2). That statutory question has been resolved by multiple district courts, including *Maldonado Bautista*.

DHS AND EOIR HAVE MISAPPLIED MATTER OF Q. LI TO EXTEND § BEYOND ITS LIMITED CONTEXT

36. Respondents now rely on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), to categorically deny bond to noncitizens who were initially apprehended near the border years earlier, even where the current detention arises from a later interior arrest. *Q. Li* addressed a narrow factual scenario involving a noncitizen who was apprehended immediately after unlawful entry, detained without a warrant as an arriving applicant for admission, released on parole under INA § 212(d)(5), and later returned to custody following termination of that parole. The Board concluded that such an individual remained detained under § 1225(b) because the initial border apprehension and parole were part of a continuous arrival process.

37. That holding does not control Petitioner's case. Petitioner's present detention does not arise from a border apprehension, parole termination, or continuation of an arrival-related custody determination. Rather, Petitioner lived in the United States for more than a decade following his initial entry and was taken into immigration custody only after a separate, unrelated interior arrest in 2025. DHS did not re-detain Petitioner as a returning parolee or as part of an uninterrupted border inspection process, but instead invoked § 1225(b)(2)(A) long after any arrival-related detention had ended.

38. Nothing in *Q. Li* authorizes DHS to resurrect § 1225(b)(2) detention authority years after release into the interior, nor does it permit the government to treat a long-term resident as perpetually "arriving" based solely on a historical border encounter. To extend *Q. Li* in that

manner would collapse the distinct statutory schemes Congress created in §§ 1225 and 1226 and would permit indefinite mandatory detention untethered from the purposes of the arrival inspection process.

39. Accordingly, even under the government's own reliance on *Q. Li*, Petitioner's detention is governed by § 1226(a), requiring an individualized custody determination and eligibility for bond.

**LEGAL EFFECT OF VACATUR AND THE NON-APPLICABILITY OF
MATTER OF YAJURE-HURTADO**

40. Under the Administrative Procedure Act, courts must "hold unlawful and set aside agency action" that is "not in accordance with law." 5 U.S.C. § 706(2)(A). The *Maldonado Bautista v. Santacruz* court expressly vacated the DHS policy interpretation that formed the legal foundation for denying bond jurisdiction to noncitizens encountered in the interior.

41. Because *Matter of Yajure-Hurtado* expressly relied on that now-vacated DHS guidance, its legal premise no longer applies under the statutory framework governing post-inspection detention. As the district court made clear, the issue is not formal vacatur of agency precedent, but the absence of any viable legal basis for applying § 1225(b)(2) to class members in contravention of the court's binding statutory interpretation.

42. Agency adjudicators may not continue to apply an interpretation that conflicts with a final declaratory judgment resolving the governing statute. Where such conflict exists, the judgment controls.

43. Nonetheless, the EOIR and its subagency, the Immigration Court, and 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.

PETITIONER'S DETENTION IS GOVERNED BY §1226(a), NOT §1225(b)

44. Petitioner satisfies the statutory criteria for detention under § 1226(a) because his current custody arises from a post-entry interior arrest, not from an arrival or inspection process. To the extent Respondents contend that Petitioner falls outside the Maldonado Bautista class definition based on a historical border encounter, that argument misapplies both Maldonado and *Matter of Q. Li* and does not alter the governing detention statute.

45. Petitioner's current detention is governed by 8 U.S.C. § 1226(a) because it arises from a post-entry interior arrest that occurred years after his initial entry into the United States and long after any border or arrival inspection process had concluded. Petitioner was not taken into immigration custody as part of an admission, inspection, or parole determination, but rather following a separate and unrelated interior criminal arrest in 2025, after which he completed his criminal sentence and was transferred to ICE custody.

46. Although Respondents assert detention authority under 8 U.S.C. § 1225(b)(2)(A), that provision applies only to noncitizens who are detained as "applicants for admission" during the arrival or inspection process. It does not authorize DHS to impose mandatory detention years after a noncitizen has been released into the interior of the United States and subsequently encountered through a later, independent enforcement action. Treating Petitioner as perpetually "arriving" based solely on a historical border encounter would improperly collapse the distinct detention schemes Congress established in §§ 1225 and 1226.

47. The district court's decision in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025), confirms that DHS's categorical reliance on § 1225(b)(2) to deny bond to noncitizens placed in § 1229a removal proceedings following interior arrests is inconsistent with the INA. While Respondents may contend that Petitioner does not fall within the

precise class definition certified in *Maldonado Bautista* due to a prior border encounter, nothing in that decision—or in the INA—authorizes DHS to revive § 1225(b)(2) detention authority long after the border inspection process has ended.

48. Nor does *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), alter this conclusion. *Q. Li* involved a narrow factual scenario in which detention followed directly from termination of parole that had been granted as part of a continuous arrival process. Petitioner’s detention, by contrast, is not tethered to parole termination or an uninterrupted border-related custody determination, but instead stems from a later interior arrest following more than a decade of residence in the United States. Under these circumstances, detention authority lies, if at all, under § 1226(a), and Petitioner is entitled to an individualized custody determination and consideration for release on bond.

CLAIMS FOR RELIEF

I.

Violation of the INA: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

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

50. The Immigration and Nationality Act establishes distinct detention frameworks depending on the noncitizen’s posture at the time of custody. Where a noncitizen is arrested in the interior of the United States and placed in removal proceedings under 8 U.S.C. § 1229a, detention authority arises, if at all, under 8 U.S.C. § 1226(a), which authorizes discretionary detention subject to individualized custody determinations and bond consideration.

51. Respondents are unlawfully detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A), a provision that applies only to noncitizens detained as “applicants for admission” during the

arrival or border inspection process. Petitioner's current detention does not arise from any admission, inspection, or parole determination, but instead from a later interior arrest occurring years after his entry and long after any border-related process had concluded.

52. DHS's interpretation—treating Petitioner as perpetually subject to § 1225(b)(2) based solely on a historical border encounter—contravenes the statutory structure of the INA and unlawfully collapses the distinct detention schemes Congress created in §§ 1225 and 1226.

53. In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025), the district court rejected DHS's categorical application of § 1225(b)(2) to noncitizens placed in § 1229a proceedings following interior arrests, holding that detention in such circumstances is governed by § 1226(a). Although Petitioner does not rely on class membership for relief, the court's statutory analysis confirms that DHS lacks authority to deny bond consideration under § 1225(b)(2) once the border inspection process has ended.

54. By asserting detention authority under § 1225(b)(2) and categorically denying Petitioner access to a bond hearing, Respondents are acting contrary to the INA and in excess of their statutory authority.

55. Because Respondents are detaining Petitioner under an inapplicable statute and refusing to provide the individualized custody determination required by § 1226(a), Petitioner's continued detention is unlawful, and habeas relief is warranted.

II.

Denial of Bond Consideration Violates Due Process

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

57. The Fifth Amendment prohibits civil immigration detention without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

58. Although *Zadvydas v. Davis* addressed post-order detention under 8 U.S.C. § 1231, the Supreme Court’s reasoning confirms that immigration detention must remain closely tethered to its statutory purpose and be accompanied by adequate procedural protections.

59. Where detention is governed by § 1226(a), due process requires an individualized custody determination that provides a meaningful opportunity to seek release.

60. Here, Petitioner’s continued detention rests on a categorical denial of any bond hearing, foreclosing the only procedure available to challenge custody.

61. The denial of bond consideration – regardless of the length of detention – results in arbitrary civil confinement without individualized review and violates the Fifth Amendment’s Due Process Clause. Habeas relief is therefore warranted.

62. Further, the categorical denial of any bond hearing based on an inapplicable detention statute is especially arbitrary where Petitioner has already completed his criminal sentence and no neutral decisionmaker has assessed whether continued detention is necessary. Due process requires more than reliance on a resolved criminal charge to justify ongoing civil confinement—particularly where detention itself is exacerbating serious medical conditions.

III.

Violation of Substantive Due Process – Dangerous Conditions of Confinement

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

64. Civil immigration detention violates substantive due process where conditions pose an unreasonable risk to detainee health or safety.

65. Respondents have demonstrated deliberate indifference to Petitioner's serious medical needs, including failure to evaluate neurological symptoms consistent with stroke risk and failure to appropriately monitor HIV progression.

66. Continued detention under these conditions is punitive, excessive, and unconstitutional. Immediate release is required.

PRAYER FOR RELIEF

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

- a) Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241 and the Constitution of the United States;
- b) Issue an immediate writ of habeas corpus ordering Respondents to release Petitioner from immigration detention forthwith, because continued detention is unlawful, unreasonable, and poses a serious risk to Petitioner's life and health;
- c) Alternatively, if the Court does not order immediate release, order Respondents to provide Petitioner with an expedited bond hearing within no more than three (3) days, at which:
 - the government bears the burden of proving, by clear and convincing evidence, that Petitioner is both a flight risk and a danger to the community; and
 - the Immigration Judge must consider Petitioner's medical conditions, length of detention, family and community ties, and availability of conditions of release;
- d) Order that, if Respondents fail to comply with the timeline set by this Court, Petitioner shall be released immediately under appropriate conditions of supervision;
- e) Grant such other and further relief as this Court deems just, equitable, and necessary to prevent irreparable harm to Petitioner.

Respectfully submitted,

s/Melissa M. Henry

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Dated: 2/2/2026

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

I represent Petitioner, John Doe, 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 2nd day of February, 2026

s/Melissa M. Henry
Melissa M. Henry