

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Jorge Alberto Lemus Rivera,)
)
 Petitioner,)
)
 v.)
)
 Dawn Ceja, Warden,)
 Denver Contract Detention Facility (Aurora),)
)
 Acting Director of Denver Field Office,)
 U.S. Immigration and Customs Enforcement,)
)
 Kristi Noem, Secretary,)
 U.S. Department of Homeland Security, and)
)
 Pamela Bondi, U.S. Attorney General,)
)
 Todd M. Lyons, Acting Director)
 U.S. Immigration and Customs Enforcement)
)
 in their official capacities,)
)
 Respondents.)
 _____)

Case No.
**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Jorge Alberto Lemus Rivera (hereinafter “Petitioner”) is a noncitizen alien present in the United States since July 2019. In November 2025, Petitioner was detained by U.S. Immigration and Customs Enforcement (“ICE”) officers and has been in administrative detention at the Denver Contract Detention Facility operated by the GEO Group, located at 3130 Oakland

Street, Aurora, Colorado 80010, ever since. The Department of Homeland Security (“DHS”) has claimed Petitioner is subject to mandatory detention and is being detained pursuant to 8 U.S.C. § 1225(b)(2)(A).

2. Petitioner is filing this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). His current detention is unlawful because 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*.

3. 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).

4. 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.

5. 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.

6. Petitioner is a member of the Bond Eligible Class, as he:
 - a. does not have lawful status in the United States and is currently detained at the Denver Contract Detention Facility. He was apprehended by immigration authorities in November 2025;
 - b. entered the United States without inspection six years ago and, although he was briefly apprehended upon arrival, was released on his own recognizance almost immediately. No removal proceedings were ever commenced against him, *cf. id.*; and
 - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. After apprehending Petitioner, 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.

8. The Court should expeditiously grant this petition.

9. 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.

10. 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).

11. 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.

12. In addition, Petitioner's detention is unconstitutional, as it is in violation of his due process rights guaranteed by the Fifth Amendment of the U.S. Constitution, and is in violation of immigration statutes governing mandatory detention. Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

13. Accordingly, in addition to the above requests based on *Maldonado Bautista*, Petitioner asks this Court to find that his constitutional rights have been violated by his current ICE detention and order his immediate release.

JURISDICTION

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

15. 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 (Suspension Clause). Because Petitioner is currently in custody in this District, 28 U.S.C. § 2241 jurisdiction lies in this Court.

16. 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

17. Venue is proper because Petitioner is detained at Denver Contract Detention Facility in Aurora, Colorado, which is within the jurisdiction of this District. In addition, venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events giving rise to the claims occurred in this District and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

18. This venue is also consistent with the Supreme Court's recent directive that a habeas petition challenging removal under the Alien Enemies Act be filed in the petitioner's district of confinement. See *Trump v. J.G.G.*, 604 U.S. ____ (2025) (*per curiam*). Petitioner's custodial location in this District makes the District of Colorado the proper and only venue for this habeas action.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

20. 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) (emphasis added).

21. The Supreme Court reaffirmed that habeas jurisdiction remains available to test the legality of executive detention in immigration cases. In *Trump v. J.G.G.*, the Supreme Court held that challenges to removal under the Alien Enemies Act must be brought in habeas and that due process requires notice and an opportunity to seek habeas relief. Likewise, in *Riley v. Bondi*, 604 U.S. (2025), the Court explained that Board of Immigration Appeals (BIA) decisions in withholding-only proceedings are not final orders of removal and that the thirty-day deadline in 8 U.S.C. § 1252(b)(1) is a non-jurisdictional claims-processing rule.

PARTIES

22. Petitioner is a noncitizen alien currently administratively detained pursuant to 8 U.S.C. § 1225(b)(2)(A) and is confined at the Denver Contract Detention Facility in Aurora, Colorado, operated by The GEO Group, Inc. Petitioner is in the immediate physical custody of the Warden and in the legal custody and control of ICE, acting via the Denver Field Office.

23. Respondent Dawn Ceja is sued in her official capacity as the Warden of Denver Contract Detention Facility. She has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Respondent Dawn Ceja is a legal custodian of Petitioner.

24. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

25. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

26. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement, and in his current capacity as the Acting Director of ICE's Denver Field Office. In these capacities, he is the legal custodian of Petitioner and has authority to release Petitioner, and he exercises supervisory authority over custody determinations and detention operations in Denver and nationwide.

LEGAL FRAMEWORK

27. The Suspension Clause ensures that "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." U.S. Const. art. I, § 9, cl. 2. Federal courts are authorized to grant habeas relief to any person held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

28. The Supreme Court has repeatedly affirmed that noncitizens are entitled to due process and may invoke habeas to challenge unlawful detention or removal. In *Trump v. J.G.G.*, the Court vacated removal orders entered under the Alien Enemies Act because detainees had not been afforded notice or an opportunity to seek habeas relief. The Court emphasized that the Alien Enemies Act provides for detention but does not itself confer exclusive jurisdiction; thus, habeas remains the proper vehicle to test the legality of such detention. In *Riley v. Bondi*, the

Court held that BIA orders in withholding-only proceedings are not final removal orders and clarified that the thirty-day filing deadline in 8 U.S.C. § 1252(b)(1) is a non-judicial claims-processing rule. These decisions confirm that habeas jurisdiction lies in the district of confinement when other statutes do not provide an exclusive remedy.

29. The Fifth Amendment guarantees that no person shall be “deprived of life, liberty, or property, without due process of law.” *U.S. Const. amend. V*. This protection applies to all “persons” within the United States, including noncitizens. See *Trump v. J.G.G.*, 604 U.S. at 10 (due process requires notice and a meaningful opportunity to be heard before removal under the Alien Enemies Act). Additionally, due process forbids detention that is arbitrary or prolonged beyond a constitutionally permissible duration. The Supreme Court has instructed that immigration detention must bear a reasonable relation to its purpose and cannot continue indefinitely when removal is not reasonably foreseeable.

30. The INA and its implementing regulations prescribe procedures governing detention, removal, and applications for relief. For example, 8 U.S.C. § 1226 governs pre-final-order detention and authorizes release on bond or parole. 8 U.S.C. § 1231(a) governs post-final-order detention and limits detention to a period reasonably necessary to effect removal. The implementing regulations, set forth in Title 8 of the Code of Federal Regulations, require DHS and the immigration courts to provide notice, hearings, and an opportunity to present evidence. Violations of these statutes or regulations, such as failing to conduct a timely custody review or refusing to consider release on bond, may render detention unlawful and warrant habeas relief.

EXHAUSTION OF REMEDIES

31. Petitioner is seeking a writ of habeas corpus after exhausting all other potential remedies for release. He was arrested and detained in November 2025. Soon thereafter, he requested a custody redetermination hearing from the Aurora Immigration Court. His request was granted and a bond hearing was held on January 28, 2026. The Aurora court denied Petitioner's request for release on bond after finding that the court lacked jurisdiction to grant bond because Petitioner was detained upon entry to the U.S. pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). The Aurora court did, however, acknowledge the strong humanitarian factors presented in Petitioner's case, including that he is *prima facie* eligible for a U nonimmigrant visa from the U.S. Citizenship and Immigration Services (USCIS) which he has already applied for, and that he has no known criminal record. The Immigration Judge's decision to include this recognition, and denying only because of a lack of jurisdiction, strongly implies that the Aurora court would have released Petitioner on bond were it not for the jurisdictional issue. Accordingly, Petitioner has exhausted his available remedies.

32. The constitutional challenge presented under 28 U.S.C. § 2241 concerns the length and lawfulness of custody and cannot be resolved through any additional agency proceeding. In the alternative, if any discretionary DHS request were deemed available, exhaustion should be excused because further pursuit would be futile in light of the fact that Petitioner has already been denied bond, and continued detention would cause irreparable harm.

STATEMENT OF FACTS

33. Petitioner is a 44-year-old citizen of Honduras who last entered the U.S. without inspection on July 19, 2019 along with this three-year-old daughter. Upon entry, Petitioner and his daughter were apprehended by Customs and Border Protection (CBP) agents but were released on their own recognizance that same day within a matter of hours. Petitioner and his daughter were issued *Notice to Appear* (“NTA”) charging documents from DHS, but they were never filed and Petitioner and his daughter were never placed into removal proceedings. Petitioner went on to build a life for himself and his family in Colorado, and he now has two U.S. citizen children, aged three and two years old.

34. In 2020, Petitioner’s noncitizen daughter, Dailerin, was [REDACTED]
[REDACTED] Her victimization in this crime rendered her *prima facie* eligible for a U nonimmigrant visa from USCIS. She applied for such in November 2022. Subsequently, Petitioner applied for the same status as the derivative family member of his daughter. His Form I-918A, *Petition for Qualifying Member of U-1 Recipient* has been pending with USCIS since April 2025.

35. In late November 2025, Petitioner was arrested by U.S. Immigration and Customs Enforcement (ICE) officers during a traffic stop. Petitioner was driving his vehicle in Colorado Springs, Colorado, when he noticed that multiple unmarked vehicles had been following him for a substantial amount of time. Eventually, the unmarked vehicles pulled him over. Officers dressed in civilian clothing and face coverings, wearing tactical vests as their only indication of government agency affiliation, then arrested Petitioner and told him that he had a warrant out for his arrest. Petitioner was then transferred to the Denver ICE Contract Detention Facility in

Aurora, Colorado, where he has remained in administrative detention ever since. He is now in removal proceedings before the Aurora Immigration Court and has already been denied release on bond after the Aurora court found it did not have jurisdiction to grant bond pursuant to *Matter of Q. Li*.

CLAIMS FOR RELIEF

COUNT ONE

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

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 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.”

40. 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).

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*.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

42. The allegations in the above paragraphs are re-alleged and incorporated herein.

43. Respondents’ detention of Petitioner violates the Due Process Clause of the Fifth Amendment, which regulates that the government may not deprive a person of life, liberty, or property without due process of law. The Supreme Court has affirmed that, “[f]reedom 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*, U.S. at 690. Respondents have deprived Petitioner of liberty without notice or a meaningful opportunity to be heard, and the detention bears no reasonable relation to its purported purpose. As the Supreme Court explained in *Trump v. J.G.G.*, due process requires that noncitizens facing removal receive notice and an opportunity to seek habeas relief. Respondents have failed to provide such protections. For these reasons, Petitioner’s detention violates the Due Process Clause.

COUNT TWO

Violation of 8 U.S.C. § 1225(b)(2) and Implementing Regulations

44. The allegations in the above paragraphs are re-alleged and incorporated herein.

45. Respondents have violated the Immigration and Nationality Act and its implementing regulations. Specifically, Respondents have failed to comply with 8 U.S.C. § 1225(b)(2) and 8 C.F.R. §§ 1003.19 and 1236.1, each of which mandate the parameters of

mandatory detention. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the U.S. who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the U.S. prior to being apprehended and placed into removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. Petitioner was residing in the U.S. for six years before his detention by ICE, and therefore should not be detained under § 1225(b)(2).

46. Respondents may attempt to claim, as they have in many other cases before this Court, that Petitioner should be detained under § 1225(b)(2)(a) based on the U.S. Supreme Court's interpretation of that statutory provision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). However, this Court, and numerous other federal district courts, have already litigated this issue extensively and have routinely rejected Respondents' arguments *vis-à-vis* detention under § 1225(b)(2)(a) versus § 1226(a). *Espinoza Ruiz v. Baltazar*, No. 1:25-cv-03642-CNS, 2025 WL 3294762 (D. Colo. Nov. 26, 2025); *Arauz v. Baltazar*, No. 1:25-cv-03260-CNS, 2025 WL 3041840 (D. Colo. Oct. 31, 2025); *Nava Hernandez v. Baltazar*, et al., No. 1:25-CV-03094-CNS, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Hernandez Vazquez v. Baltazar*, et al., No. 1:25-cv-3049-GPG, ECF No. 22 (D. Colo. Oct. 23, 2025); *Loa Caballero v. Baltazar*, et al., No. 1:25-cv-3120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Moya Pineda v. Baltazar*, et al., No. 1:25-cv-2955-GPG, ECF No. 21 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltazar*, et al., No. 1:25-cv-2720-RMR, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Carrillo Fernandez*, 2025 WL 3485800; *Garcia-Arauz v. Noem*, No. 2:25-cv-02117-RFB-EJY, --- F.

Supp. 3d ----, 2025 WL 3470902 (D. Nev. Dec. 3, 2025); *Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, --- F. Supp. 3d ----, 2025 WL 3205356 (D. Nev. Nov. 17, 2025); *Ramos v. Rokosky*, No. 25cv15892 (EP), 2025 WL 3063588 (D.N.J. Nov. 3, 2025); *Godinez-Lopez v. Ladwig*, 2025 WL 3047889 (W.D. Tenn. Oct. 31, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civil Action No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), --- F.Supp.3d ----, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025).

47. Petitioner urges this Court not to deviate from its prior determination that § 1225(b)(2)(A) and its mandatory detention requirement do not apply to noncitizens, like Petitioner, who have been present in the United States for over two years. See, e.g., *Nava Hernandez*, 2025 WL 2996643, at *4 (“the plain text and structure of § 1225 and § 1226 support a determination that § 1225(b)(2)(A)’s provision for mandatory detention does not apply to someone like [Petitioner], who has been residing in the United States for more than two years”) (quotations and citations omitted).

48. Respondents are applying a clearly erroneous standard that Petitioner is subject to mandatory detention, in violation of 8 C.F.R. § 1236.1 and 1003.19. Accordingly, the application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA and implementing regulations. By ignoring these statutory and regulatory mandates, Respondents have unlawfully deprived Petitioner of the protections Congress and the Executive have provided.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days, as required by 28 U.S.C. § 2243.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1225(b)(2), and/or 8 C.F.R. § 1236.1 and 1003.19.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from ICE detention immediately.
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/Lawrence Walker
Lawrence Walker

Counsel for Petitioner
Dated: February 6, 2026

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

I represent Petitioner, Jorge Alberto Lemus Rivera, and submit this verification on his behalf. I hereby declare under penalty of perjury 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 February 6, 2026.

/s/Lawnece Walker
Lawrence Walker
Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that on February 6, 2026, I filed the foregoing PETITION FOR WRIT OF HABEAS CORPUS with the Clerk of Court in person at the Alfred A. Arraj United States Courthouse located at 901 19th Street, Denver, CO 80294.

I further certify that after filing on February 6, 2026 I will send papers by certified mail, consistent with Fed. R. Civ. P. 4(i)(1)–(2), to the following:

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