

1 UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF OKLAHOMA

3 1. DE LEON DE LEON, ADOLFO  
4 AUDELIO,

5 Petitioner,

6 v.

- 7 1. KRISTI NOEM, Secretary, U.S.  
8 Department of Homeland Security  
9 2. U.S. DEPARTMENT OF  
10 HOMELAND SECURITY;  
11 3. PAMELA BONDI, U.S. Attorney  
12 General;  
13 4. JOSHUA JOHNSON, Enforcement  
14 and Removal Operations,  
15 Immigration and Customs  
16 Enforcement, Dallas Field Office  
17 Director;  
18 5. EXECUTIVE OFFICE FOR  
19 IMMIGRATION REVIEW;  
20 6. FRED FIGUEROA, Warden of  
21 Diamondback Correctional Facility;  
22 Respondents.  
23  
24

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

EMERGENCY PETITION OF WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. 2241 AND INJUNCTIVE RELIEF

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## INTRODUCTION

1. Petitioner Adolfo Audelio De Leon De Leon, brings 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.) Petitioner is in the physical custody of Respondents at the Diamondback Correctional Facility at 1000 E Diamondback Rd, Watonga, OK 73772. He now faces unlawful detention because the Department of Homeland Security (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*.
2. 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).

- 1 3. The declaratory judgment held that the Bond Denial Class members are detained  
2 under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on  
3 bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.
- 4 4. Nonetheless, the Executive Office for Immigration Review and its subagency, the  
5 Immigration Court and the Department of Homeland Security (DHS) have blatantly  
6 refused to abide by the declaratory relief and have unlawfully ordered that Petitioner  
7 be denied the opportunity to be released on bond.
- 8 5. Petitioner is a member of the Bond Eligible Class, as he:
  - 9 a. does not have lawful status in the United States and is currently detained at  
10 the Diamondback Correctional Facility. He was apprehended by  
11 immigration authorities on January 04, 2026.
  - 12 b. entered the United States without inspection in November of 1998, and was  
13 not apprehended upon arrival, *cf. id.*; and
  - 14 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
- 15 6. After apprehending Petitioner on January 04, 2026, the DHS placed him in removal  
16 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being  
17 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United  
18 States without inspection.
- 19 7. The Court should expeditiously grant this petition.
- 20 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full  
21 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless,  
22 Respondents continue to flagrantly defy the judgment in that case and continue to  
23 subject Petitioner to unlawful detention despite his clear entitlement to consideration  
24 for release on bond as a Bond Eligible Class member.

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

6 10. On December 18, 2025, the District Court entered Final Judgement in the nationwide  
7 class action. This Final Judgement is critical to the instant Petition for three reasons:

- 8
- 9 a. Finality & Preclusion: The Court rejected the Government's argument that  
10 the class certification was merely interlocutory. It entered Final Judgment  
11 on Counts I-III, certifying the class and declaring the policy unlawful. As a  
12 class member, Petitioner’s rights are now adjudicated, and the Government  
13 is collaterally estopped from relitigating their detention status.
- 14 b. Futility of Exhaustion: The Court entered Final Judgment specifically  
15 because it found "troubling" evidence that the Department of Justice issued  
16 a memorandum instructing Immigration Judges to disregard the federal  
17 court’s prior orders and "hold the position that Yajure-Hurtado remains  
18 good law." This judicial finding confirms that administrative exhaustion is  
19 futile, as the agency has prejudged the issue in bad faith.
- 20 c. Yajure-Hurtado is "No Longer Tenable": The Court explicitly held that "the  
21 core holding of Yajure-Hurtado cannot be squared with the [Court's]  
22 Order... Yajure-Hurtado is no longer controlling; the legal conclusion  
23 underlying the decision is no longer tenable."  
24

1 11. Even before the ruling in *Maldonado Bautista*, DHS had denied those similarly  
2 situated to Petitioner release from immigration custody, consistent with a new DHS  
3 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement  
4 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,  
5 those who entered the United States without admission or inspection—to be subject to  
6 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on  
7 bond.

8  
9 12. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board)  
10 issued a precedent decision, binding on all immigration judges, holding that an  
11 immigration judge has no authority to consider bond requests for any person who  
12 entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. &  
13 N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to  
14 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on  
15 bond.

16 13. Petitioner’s detention on this basis violates the plain language of the Immigration and  
17 Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner  
18 who previously entered and are now residing in the United States. Respondents  
19 erroneously seek to classify Petitioner, and similarly situated noncitizens, as an  
20 “applicant for admission” under §1225(b) who is “seeking admission.” Instead, such  
21 individuals are subject to a different statute, § 1226(a), that allows for release on  
22 conditional parole or bond. That statute expressly applies to people who, like  
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1 Petitioner, are charged as inadmissible for having entered the United States without  
2 inspection.

3 14. Because Respondents are detaining Petitioner in violation of the declaratory judgment  
4 issued in *Maldonado Bautista* and because Respondents' new legal interpretation is  
5 plainly contrary to the statutory framework and contrary to decades of agency practice  
6 applying § 1226(a) to people like Petitioner, the Court should accordingly order that  
7 within one day, Respondent DHS must release Petitioner.

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

### 11 JURISDICTION

12 16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
13 Diamondback Correctional Facility in Watonga, Oklahoma.

14 17. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §  
15 1331 (federal question), and Article I, section 9, clause 2 of the United States  
16 Constitution (the Suspension Clause).

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

### 19 VENUE

20 19. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
21 500 (1973), venue lies in the United States District Court for the Western District of  
22 Oklahoma, the judicial district in which Petitioner currently is detained.  
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1 20. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
2 Respondents are employees, officers, and agencies of the United States, and because a  
3 substantial part of the events or omissions giving rise to the claims occurred in the  
4 Western District of Oklahoma.

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 21. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal  
7 issues have already been resolved for class members in *Maldonado Bautista*.

8 22. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .  
9 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
10 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The  
11 application for the writ usurps the attention and displaces the calendar of the judge or  
12 justice who entertains it and receives prompt action from him within the four corners  
13 of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation  
14 omitted).  
15

16 **PARTIES**

17 23. Petitioner Adolfo Audelio De Leon De Leon is a citizen of Guatemala who has been  
18 in immigration detention since January 04, 2026. After Petitioner was arrested in  
19 Oklahoma City, Oklahoma.

20 24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security.  
21 She is responsible for the implementation and enforcement of the Immigration and  
22 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s  
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1 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in  
2 her official capacity.

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

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

10 27. Respondent Joshua Johnson is the Director of the Dallas Field Office of ICE's  
11 Enforcement and Removal Operations division. As such, Joshua Johnson is  
12 Petitioner's immediate custodian and is responsible for Petitioner's detention and  
13 removal. He is named in his official capacity.

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

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

20 30. Respondent Fred Figueroa as Warden of the Diamondback Correctional Facility in  
21 Watonga, Oklahoma, where Petitioner is detained. Fred Figueroa has immediate  
22 physical custody of Petitioner. He is sued in his official capacity.  
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**LEGAL FRAMEWORK**

1  
2 31. The INA prescribes three basic forms of detention for the vast majority of noncitizens  
3 in removal proceedings.

4 32. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal  
5 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are  
6 generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§  
7 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or  
8 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. §  
9 1226(c).  
10

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

14 34. Last, the INA also provides for detention of noncitizens who have been ordered  
15 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C.  
16 § 1231(a)–(b).

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

18 36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
19 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub.  
20 L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583,  
21 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken  
22 Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).  
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1 37. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining  
2 that, in general, people who entered the country without inspection were not  
3 considered detained under § 1225 and that they were instead detained under §  
4 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of  
5 Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312,  
6 10323 (Mar. 6, 1997).

7  
8 38. Thus, in the decades that followed, most people who entered without inspection and  
9 were placed in standard removal proceedings received bond hearings, unless their  
10 criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That  
11 practice was consistent with many more decades of prior practice, in which  
12 noncitizens who were not deemed “arriving” were entitled to a custody hearing before  
13 an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No.  
14 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention  
15 authority previously found at § 1252(a)).

16 39. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that  
17 rejected well-established understanding of the statutory framework and reversed  
18 decades of practice.

19 40. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
20 Applicants for Admission,”<sup>1</sup> claims that all persons who entered the United States  
21 without inspection shall now be subject to mandatory detention provision under §  
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24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and  
2 affects those who have resided in the United States for months, years, and even  
3 decades.

4 41. On September 5, 2025, the BIA adopted this same position in a published decision,  
5 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the  
6 United States without admission or parole are subject to detention under §  
7 1225(b)(2)(A) and are ineligible for IJ bond hearings.

8 42. Since Respondents adopted their new policies, dozens of federal courts have rejected  
9 their new interpretation of the INA's detention authorities. Courts have likewise  
10 rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as  
11 ICE.  
12

13 43. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma,  
14 Washington, immigration court stopped providing bond hearings for persons who  
15 entered the United States without inspection and who have since resided here. There,  
16 the U.S. District Court in the Western District of Washington found that such a  
17 reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to  
18 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*  
19 *Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).  
20

21 44. Subsequently, court after court has adopted the same reading of the INA's detention  
22 authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,  
23 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez*  
24 *v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass.

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

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

8 46. Section 1226(a) applies by default to all persons “pending a decision on whether the  
9 [noncitizen] is to be removed from the United States.” These removal hearings are  
10 held under § 1229a, to “decid[e] the inadmissibility or deportability of a[]  
11 [noncitizen].”

12 47. The text of § 1226 also explicitly applies to people charged as being inadmissible,  
13 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).  
14 Subparagraph (E)’s reference to such people makes clear that, by default, such people  
15 are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court  
16 explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability,  
17 it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez*  
18 *Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v.*  
19 *Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at  
20 \*7.  
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1 48. Section 1226 therefore leaves no doubt that it applies to people who face charges of  
2 being inadmissible to the United States, including those who are present without  
3 admission or parole.

4 49. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently  
5 entered the United States. The statute’s entire framework is premised on inspections  
6 at the border of people who are “seeking admission” to the United States. 8 U.S.C.  
7 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory  
8 detention scheme applies “at the Nation’s borders and ports of entry, where the  
9 Government must determine whether a[] [noncitizen] seeking to enter the country is  
10 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

14  
15 **CLAIMS FOR RELIEF**

16 **COUNT 1**

17 **Violation of the INA:**

18 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

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

4 55. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory  
5 judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.  
6 § 2201(a).

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

10 **COUNT II**  
**Violation of the INA**

11 57. Petitioner incorporates by reference the allegations of fact set forth in the preceding  
12 paragraphs.

13 58. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
14 noncitizens residing in the United States who are subject to the grounds of  
15 inadmissibility. As relevant here, it does not apply to those who previously entered  
16 the country and have been residing in the United States prior to being apprehended  
17 and placed in removal proceedings by Respondents. Such noncitizens are detained  
18 under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

19 59. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued  
20 detention and violates the INA.

21 **COUNT III**  
**Violation of Due Process**

22 60. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation  
23 in the preceding paragraphs as if fully set forth herein.  
24

1 61. The government may not deprive a person of life, liberty, or property without due  
2 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from  
3 government custody, detention, or other forms of physical restraint—lies at the heart  
4 of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

5 62. Petitioner has a fundamental interest in liberty and being free from official restraint.

6 63. The government’s detention of Petitioner without a bond redetermination hearing to  
7 determine whether he is a flight risk or danger to others violates his right to due  
8 process.  
9

#### 10 PRAYER FOR RELIEF

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

- 12 a. Assume jurisdiction over this matter;
- 13 b. Order that Petitioner shall not be transferred outside the Western District while  
14 this habeas petition is pending;
- 15 c. Declare Petitioner’s detention is unlawful;
- 16 d. Issue a writ of habeas corpus requiring that within one day, Respondents release  
17 Petitioner;
- 18 e. Alternatively, issue a writ of habeas corpus requiring Respondents to release  
19 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within  
20 seven days;
- 21 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
22 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
23 law; and
- 24 g. Grant any other and further relief that this Court deems just and proper.

1 DATED this 06 of February, 2026.

2 s/ Sam Wargin  
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