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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

JOSE SANCHEZ CATALAN,)
)
Petitioner,)
)
v.)
)
The Warden of the Folkston Detention Center;)
DAN JONES, Assistant Field Office Director of)
Atlanta Field Office, TODD LYONS, in his)
Official capacity as Acting Director of)
U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, Secretary of the U.S. Department)
of Homeland Security; and PAM BONDI,)
Attorney General of the United States,)
in their official capacities,)
)
Respondents.)
_____)

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR
DECLARATORY RELIEF**

INTRODUCTION

1. Petitioner, Jose Sanchez Catalan, brings this petition for a writ of habeas corpus to seek enforcement of their rights as members 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 Folkston Processing Center. 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).

3. 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.

4. On December 18, 2025, the U.S. District Court for the Central District of California entered a final judgment in *Maldonado Bautista*. The final judgment declared class members' detention authority and rights and vacated the federal policy that was being used to deny bond hearings nationwide. The final judgment accomplished four core things:

- i. Declared the class is detained under INA § 236(a) (8 U.S.C. § 1226(a))—not INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), meaning the class can be considered for bond eligibility under § 1226(a) and is not subject to mandatory detention under § 1225(b)(2).
- ii. Declared class members are entitled to bond consideration and—if not released by ICE—a custody redetermination (bond) hearing before an immigration judge.

- iii. Vacated DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the APA as unlawful.
- iv. Entered final judgment on key claims in the Amended Class Complaint and certified them for appeal under Rule 54(b). In other words, the government can appeal, and the litigation may continue—but this judgment is a final, appealable ruling on the central bond-eligibility issue for the class—and therefore binding unless overturned by a higher court.

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 Jose Sanchez Catalan 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 Folkston Processing Center. He was apprehended by immigration authorities on September 11, 2025;
- b. entered the United States without inspection over 10 years ago and was not apprehended upon arrival, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. After apprehending Petitioner on September 11, 2025, the 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) and (a)(7)(A)(i)(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. Alternatively, the Court should order Petitioner’s release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

13. Independently of Respondents’ unlawful defiance of the declaratory judgment in *Maldonado Bautista v. Santacruz*, **Petitioner’s continued detention is unlawful because the Immigration Judge has already granted Petitioner Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1), and the Department of Homeland Security has expressly consented to Petitioner’s release during the pendency of any appeal. Moreover, DHS has not filed an appeal on his case.**

14. On January 23, 2026, the Immigration Judge Sydnor, Kelley presiding at the Atlanta Immigration Court on Ted Turner Drive issued a decision granting Petitioner Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1). At the

conclusion of the proceedings, DHS, through the Office of the Principal Legal Advisor (“OPLA”), stated on the record that although it intended to reserve appeal, it consented to Petitioner’s release during the appeal period.

15. That consent was unequivocal. DHS counsel expressly agreed on the record that Petitioner would be released notwithstanding any contemplated appeal. Following the hearing, OPLA memorialized this position by placing notes in Petitioner’s DHS file confirming consent to Petitioner’s immediate release. Counsel for Petitioner later confirmed this agreement directly with both the Immigration Judge and DHS counsel in court on a subsequent date, and DHS reaffirmed its consent.

16. Despite the Immigration Judge’s grant of relief and DHS’s express decision to release Petitioner, ICE Enforcement and Removal Operations (“ERO”), Atlanta Field Office, has refused to effectuate Petitioner’s release. ERO has taken the position that Petitioner must remain detained for the full thirty-day period in which DHS may file an appeal, notwithstanding DHS’s own litigation position and express consent to release.

17. ERO’s refusal to release Petitioner is unlawful. ICE detention authority does not exist independently of, or in opposition to, an Immigration Judge’s order or DHS’s binding litigation decisions. Where DHS has elected to consent to release pending appeal, ERO lacks authority to override that determination and continue detention based solely on the speculative possibility of an appeal.

18. Nothing in the Immigration and Nationality Act authorizes mandatory detention during the thirty-day appeal period following a grant of cancellation of removal, particularly where DHS has neither sought nor obtained a stay of the Immigration Judge’s

decision. Absent a stay, continued detention is arbitrary, punitive, and in excess of legal authority.

19. Accordingly, even apart from Respondents' violation of the nationwide declaratory judgment in *Maldonado Bautista*, Petitioner's continued detention is independently unlawful because it directly contravenes a grant of relief from removal, DHS's express consent to release, and fundamental limits on ICE's detention authority.

20. For these reasons, the Court should order Petitioner's immediate release. At a minimum, the Court should order Respondents to effectuate the release already authorized by the Immigration Judge and agreed to by DHS, without further delay.

JURISDICTION

21. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston Processing Center.

22. 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).

23. 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

24. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Southern District of Georgia, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*, and DHS expressly stated on the record that Petitioner would be released immediately following the grant of cancellation of removal under INA § 240A(b).

27. 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

28. Mr. Sanchez Catalan is currently detained by Respondents in the Folkston Detention Center.

29. The Warden of Folkston Detention Center is not disclosed online. The person responsible for said institution, where Mr. Sanchez Catalan is currently detained

under the authority of ICE has direct control over his physical custody. They are sued in their official capacity.

30. Respondent Dan Jones is the acting Director of ICE's Atlanta Field Office, which has jurisdiction over ICE detention facilities in Georgia, including Folkston Detention Center, and thus is Mr. Sanchez Catalan's immediate custodian. He is sued in his official capacity.


31. Respondent Todd Lyons is the acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a legal custodian of Mr. Sanchez Catalan. He is sued in his official capacity.

32. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS), which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Mrs. Noem is the ultimate legal custodian of Mr. Sanchez Catalan. She is sued in his official capacity.

33. Respondent Pam Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the BIA and the Immigration Courts. Mrs. Bondi shares responsibility for the implementation and enforcement of the immigration laws with Respondent Noem. Mrs. Bondi is a legal custodian of Mr. Sanchez Catalan. She is sued in his official capacity.

PROCEDURAL HISTORY

34. Petitioner Mr. Sanchez Catalan, originally from Mexico, has been imprisoned in U.S. Immigration and Customs Enforcement ("ICE") custody since

September 11, 2025. He was placed in removal proceedings after the U.S. Department of Homeland Security (“DHS”) issued a Form I-862, Notice to Appear (“NTA”) on October 7, 2025 under Alien Number .

35. On December 3, 2025, Mr. Sanchez Catalan filed Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, with the associated filing fee and supporting documents.

36. On December 4, 2026, Mr. Sanchez Catalan’s case was set down for an Individual Hearing on January 15, 2026, at 1:00 p.m., at the Lumpkin Immigration Court, in Lumpkin, Georgia.

37. On January 8, 2026, Mr. Sanchez-Catalan filed a copy of his criminal plea as supporting evidence for his Form EOIR-42B case. On January 14, he filed additional supporting documents and a witness list.

38. On January 16, 2026, testimony for the case was heard the Individual Hearing but it was reset to January 22, 2026, at 8:30 am, for the decision as DHS had not run the biometrics. On January 22, 2026, the Individual Hearing was again reset as the fingerprints were still not run by DHS and scheduled for January 23, 2026, at the Lumpkin Immigration Court, in Lumpkin, Georgia.

39. On January 23, 2026, the Immigration Court formally granted Mr. Sanchez Catalan’s application for cancellation of removal under INA § 240A(b).

40. DHS was given until February 23, 2026, to appeal; however, it stated on the record that although it intended to reserve appeal, it consented to Petitioner’s release during the appeal period.

41. Despite the clear consent from DHS, and the substantial evidence of extreme hardship to his children and his strong family, employment, and community ties, he has remained detained at the Folkston Detention Center since September 2025.

42. On December 1, 2025, a Motion for Custody Redetermination Hearing was filed on Mr. Sanchez Catalan's behalf, and the case was set down for a hearing on December 18, 2025, at 10:00 a.m. before the Lumpkin Immigration Court. However, counsel withdrew the request on December 15, 2025, due to lack of jurisdiction, and on the same date, the motion was granted.

43. On December 18, 2025, counsel filed a subsequent Motion for Custody Redetermination Hearing, and the matter was set down for a hearing on December 23, 2025, at 9:30 a.m. before the Lumpkin Immigration Court. On December 23, 2025, the Immigration Judge denied Mr. Sanchez Catalan's bond because:

“Lack of jurisdiction: See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025),

44. Mr. Sanchez Catalan poses no danger to the community and no risk of flight. His continued detention serves no legitimate governmental interest and instead inflicts extreme and unnecessary hardship on two United States citizens while undermining fundamental due process protections. Habeas relief is therefore warranted.

45. Mr. Sanchez Catalan challenges his prolonged detention as a violation of the Immigration and Nationality Act and the Due Process Clause of the U.S. Constitution. He respectfully requests that this Court order Respondents to show cause why the writ should not be granted within three days and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243, and grant him a Writ of Habeas

Corpus, ordering Respondents to release him or provide him with an individualized bond hearing before an Immigration Judge.

STATEMENT OF FACTS

46. Mr. Jose Sanchez Catalan is forty-one (41) years old native and citizen of Mexico, who entered the United States in 2007. Mr. Sanchez Catalan has significant family ties in the United States. He has been in a committed relationship with his wife, Mrs. Neydi Jossiane Llanos-Castellano, for at least three (3) years. Together, they are the parents of two minor children, M [REDACTED] and S [REDACTED] both of whom are United States citizens.

47. Mr. Sanchez-Catalan's detention has imposed tremendous financial, emotional, and psychological strain on his children and wife. Mr. Sanchez Catalan is the sole financial provider for his family. Since his detention, Mrs. Llanos-Castellano has been left without any source of income and is struggling to meet even basic living expenses.

48. The hardship to the family is particularly acute because the couple's two-year-old son, M [REDACTED] has been diagnosed with significant developmental, speech, language, and feeding disorders. M [REDACTED] is nonverbal, cannot tolerate solid foods, and relies entirely on liquid nutrition. When overwhelmed, he vomits, refuses food, and engages in self-injurious behaviors, including hitting his head against walls and throwing himself onto the floor, resulting in frequent bruising.

49. M [REDACTED] has experienced developmental regression since his father's detention. The few words he previously spoke ceased entirely after Mr. Sanchez Catalan was taken into custody, and he now communicates only through screams and sounds. He

also suffers from severe sensory sensitivity to noise, becoming distressed in environments with multiple people or elevated sound levels.

50. Critically, M [REDACTED] permits only two individuals to physically assist or comfort him: Mr. Sanchez Catalan and his mother. As a result, Mr. Sanchez Catalan has been the only person able to meaningfully assist his wife in caring for their two-year-old son. Since Mr. Sanchez Catalan's detention, Mrs. Llanos-Castellano has been left without not only financial support, but also the daily caregiving assistance necessary to manage their children's needs.

51. The level of care M [REDACTED] requires makes it impossible for Mrs. Llanos-Castellano to work outside the home. Since M [REDACTED] birth, she has been unable to maintain employment due to his need for constant supervision and assistance twenty-four hours a day. In addition, the couple's younger son is only six months old and also requires full-time care. As a result, Mrs. Llanos-Castellano cannot engage in any form of employment, and Mr. Sanchez-Catalan was the family's sole financial provider. The family is now without any source of income.

52. Additionally, at the time of Mr. Sanchez Catalan's detention, his younger son, Stephen, was only four months old, and Mrs. Llanos-Castellano was still recovering from a cesarean section. Her recovery was complicated by a post-surgical infection, which significantly impaired her ability to care for her children alone.

53. Without Mr. Sanchez Catalan's income or physical support, the family was unable to maintain stable housing and was forced to move into a boarding house under precarious conditions, relying solely on the charity of the property owner. The Petitioner's wife and children currently reside in a single room affected by mold and inadequate

insulation, allowing cold air to enter. Both children now suffer from frequent allergies and illness as a result.

54. The cumulative strain of these circumstances has caused Mrs. Llanos-Castellano severe emotional and psychological distress. A psychological evaluation confirms that Mrs. Llanos-Castellano is experiencing clinically significant anxiety and depression as a direct result of her husband's detention. The evaluation documents that the family has suffered financial collapse, housing instability, worsening health conditions, and severe emotional harm to both children since Mr. Sanchez Catalan was detained.

55. Mr. Sanchez Catalan's essential role in his family is further corroborated by affidavits from friends, community members, and colleagues, all of whom attest to his honesty, strong work ethic, and dedication as a husband and father. He is widely recognized as the emotional and financial foundation of his household.

56. Mr. Sanchez Catalan has no history of flight, poses no threat to national security, and has no intention of evading immigration authorities if released. He has been represented by counsel throughout the entirety of his custody proceedings and is fully committed to complying with all conditions of release and attending all future immigration proceedings. He has stable housing and seeks only to return to his family to provide the care and support they urgently need. He is a dedicated husband and father with strong community ties and a stable work history. For more than a decade, Mr. Sanchez Catalan has worked as a self-employed construction professional, providing services to numerous companies and private clients in South Carolina and Georgia.

57. On January 23, 2026, Mr. Sanchez Catalan had individual merits hearings before Immigration Judge at the Lumpkin Immigration Court, during which evidence was presented and testimonies were taken.

58. On the same date, the Immigration Court issued a decision granting cancellation of removal for nonpermanent residents under INA § 240A(b)(1). At the conclusion of the proceedings, DHS, through the Office of the Principal Legal Advisor (“OPLA”), stated on the record that although it intended to reserve appeal, it consented to Petitioner’s release during the appeal period. That consent was unequivocal. DHS counsel expressly agreed on the record that Petitioner would be released notwithstanding any contemplated appeal. Following the hearing, OPLA memorialized this position by placing notes in Petitioner’s DHS file confirming consent to Petitioner’s immediate release.

59. After this, Mr. Sanchez Catalan is still detained in Folkston Detention Center, where he has been locked up for the past 5 (five) months. His continued detention is neither necessary nor justified, particularly considering the substantial and well-documented hardship his detention is causing to his United States citizen sons. DHS’s position was clear and unequivocal. Government counsel expressly represented on the record that Petitioner would be released notwithstanding any contemplated appeal. DHS thereafter memorialized this determination in Petitioner’s DHS file, reflecting its consent to immediate release. Counsel for Petitioner subsequently confirmed this agreement with both the Immigration Judge and DHS counsel directly, at which time DHS again reaffirmed its consent.

60. Despite the Immigration Judge’s grant of relief and DHS’s express determination that Petitioner should be released, ICE Enforcement and Removal

Operations (“ERO”), Atlanta Field Office, has declined to effectuate Petitioner’s release. ERO has asserted that Petitioner must remain detained for the full thirty-day period in which DHS may file an appeal, notwithstanding DHS’s litigation position and absent any stay of the Immigration Judge’s decision.

61. That position is unsupported by law and exceeds ICE’s detention authority. ICE’s statutory basis for detention does not exist independently of the Immigration Judge’s order or DHS’s binding litigation decisions, nor may ERO substitute its own judgment for that of DHS counsel acting on behalf of the agency in removal proceedings.

62. Nothing in the Immigration and Nationality Act mandates detention during the thirty-day appeal period following a grant of cancellation of removal. Where DHS has neither sought nor obtained a stay of the Immigration Judge’s decision and has affirmatively consented to release, continued detention bears no reasonable relationship to any legitimate governmental purpose. Under such circumstances, detention becomes arbitrary and unlawful.

63. As demonstrated above—and as recognized by the Immigration Judge—the record clearly establishes that Mr. Sanchez Catalan’s minor sons are suffering severe hardship as a direct result of his continued detention. Deprived of their father’s financial, emotional, and psychological support, the children have lost not only a primary caregiver but also the stability of their home. Their mother has been left to shoulder their care alone while struggling to meet their most basic needs.

64. Both children require extraordinary care. The older child is a two-year-old with significant developmental disabilities who can be cared for only by his mother and the Petitioner, while the younger child is an infant requiring constant supervision. Together,

the children require round-the-clock attention and care. Their mother is now solely responsible for meeting these demands without any source of income and must rely on the charity of others to survive while Petitioner remains detained. The hardship resulting from Mr. Sanchez-Catalan's detention is concrete, individualized, and severe, and it far exceeds the ordinary consequences associated with immigration detention or removal.

65. The substantial evidence of hardship underscores that Mr. Sanchez Catalan's continued detention is unnecessary and disproportionate, particularly where relief has already been granted by the Immigration Judge and DHS has expressly authorized his immediate release. Courts routinely recognize that continued detention is unjustified where a noncitizen has obtained relief or presents a viable path to relief and detention no longer serves a legitimate governmental purpose.

66. Moreover, Mr. Sanchez Catalan poses no danger to the community and presents no risk of flight. He has resided in the United States for more than a decade, maintains stable employment, and is a devoted husband and father to his wife and two minor children. He has deep family and community ties, and his United States citizen children depend on him for financial stability, medical care, and emotional support. These substantial ties strongly incentivize compliance with all future immigration proceedings and weigh heavily in favor of release.

67. The government's interest in detention is particularly weak in this case. Detention is intended to ensure appearance at proceedings or protect public safety—neither of which is implicated here. Continued detention instead serves only to exacerbate the severe hardship to a United States citizen and to undermine fundamental due process

protections. Where detention no longer bears a reasonable relationship to its purported purposes, it becomes punitive and constitutionally impermissible.

68. Even if DHS elects to pursue an appeal, it has expressly consented to Mr. Sanchez-Catalan's release and acknowledged that he will remain available to comply with all immigration proceedings. Notwithstanding DHS's explicit agreement, ICE Enforcement has refused to effectuate his release.

69. Under these circumstances, continued detention is arbitrary and excessive. Release under appropriate conditions would fully satisfy any legitimate governmental interest while preventing the ongoing and irreparable harm to Mr. Sanchez-Catalan's United States citizen sons.

CLAIM FOR RELIEF
Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

72. The final in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

73. 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.”

74. Respondents are parties to *Maldonado Bautista* and bound by the Court's final order, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

75. 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*.

Disregard of Immigration Judge's Grant of Relief and DHS Consent to Release

76. Independently of Respondents' violations of *Maldonado Bautista*, Petitioner's continued detention violates the INA because ICE has refused to effectuate an Immigration Judge's grant of cancellation of removal under INA § 240A(b)(1), despite DHS's express consent to release pending appeal.

77. On January 23, 2026, the Immigration Judge granted Petitioner cancellation of removal. DHS, through the Office of the Principal Legal Advisor, stated on the record that it intended to reserve appeal but consented to Petitioner's immediate release. DHS did not seek or obtain a stay of the Immigration Judge's decision.

78. Notwithstanding the operative Immigration Judge decision and DHS's binding litigation position, ICE Enforcement and Removal Operations has refused to release Petitioner, asserting that detention must continue during DHS's thirty-day appeal period.

79. ICE's continued detention is unauthorized by law. The INA contains no provision requiring detention during the appeal period following a grant of cancellation of removal, absent a stay. In the absence of a stay, the Immigration Judge's decision remains operative, and ICE lacks authority to continue detention.

80. By refusing to honor the Immigration Judge's decision and DHS's consent to release, Respondents have unlawfully restrained Petitioner's liberty in violation of the INA. Habeas relief is therefore warranted.

PRAYER FOR RELIEF

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

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

Dated: February 9, 2026

Respectfully submitted,

/s/ Ashley Beard

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