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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

BERNABEL VARGAS MAYORGA

Petitioner,

v.

George STERLING Field Office Director of  
Enforcement and Removal Operations, Atlanta  
Field Office, Immigration and Customs  
Enforcement; Kristi NOEM, Secretary, U.S.  
Department of Homeland Security; U.S.  
DEPARTMENT OF HOMELAND  
SECURITY; Pamela BONDI, U.S. Attorney  
General; EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; Jason  
STREEVAL, Warden of Stewart Detention  
Center,

Respondents.

Case No. 4:26-cv-233

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION**

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1. Petitioner Benabel VARGAS MAYORGA brings this petition for a writ of habeas as an individual unlawfully detained and stripped of bond jurisdiction by an improvident and unlawful change in analysis as to who is “seeking admission” to the United States. *See, Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

2. Petitioner is in the physical custody of Respondents at Stewart Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to take jurisdiction over bond redetermination motions filed by individuals who initially entered without inspection or admission to the United States.

3. The DHS and EOIR also refuse to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*, also challenging the broad classification of all entrants to the United States without inspection as “applicants for admission,” such that all such individuals be detained without jurisdiction for the courts to grant bond. Respondent alleges that the classification of detention authority in this matter as pursuant to 8 U.S.C. § 1225 for all individuals present without inspection or admission, is erroneous and a violation of law.

4. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs, and on November 25, 2025 it 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.

1 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible  
2 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'  
3 Motion for Partial Summary Judgment).

4 5. The declaratory judgment held that the Bond Denial Class members are detained  
5 under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under §  
6 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.

7 6. Nonetheless, the Executive Office for Immigration Review and its subagency, the  
8 Immigration Court, and the Department of Homeland Security (DHS) have blatantly refused to  
9 abide by the declaratory relief and will, as a pattern and practice, order that Petitioner is not able  
10 to seek a bond due to lack of jurisdiction to order such relief before the Court.

11 7. Petitioner Bernabel Vargas Mayorga is a member of the Bond Eligible Class, as  
12 he:

- 13 a. does not have lawful status in the United States and is currently detained at  
14 Stewart Detention Center. He was apprehended by immigration authorities in or  
15 about February 6, 2026;  
16 b. entered the United States without inspection over 17 years ago and was not  
17 apprehended upon arrival, *cf. id.*; and  
18 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

19 8. After apprehending Petitioner on February 6, 2026, consequent to a "suspicion"  
20 by federal agents that he might be undocumented, he was placed under arrest as an individual  
21 present in the United States without authorization. This arrest was collateral to a targeted arrest  
22 for another occupant of the vehicle in which he was traveling.

23 9. The Court should expeditiously grant this petition.

24 10. Petitioner was not encountered at a port of entry, and thus, he is not "seeking  
admission" to the United States and not subject to the framework at 8 U.S.C. § 1225(b).

1 Respondents are bound by the statutory authority of the Immigration and Nationality Act. The  
2 holding in *Yajure Hurtado* is plainly erroneous, as not all individuals who entered without  
3 inspection are also “seeking admission,” if they have been present in the United States for some  
4 length of time prior to being encountered by immigration enforcement agents.

5 11. Respondents are also bound by the judgment in *Maldonado Bautista*, as it has the  
6 full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents  
7 continue to flagrantly defy the judgment in the *Maldonado Bautista* case, disregard a growing  
8 number of District Court decisions, including before this Court, and continue to subject  
9 Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond  
10 as a Bond Eligible Class member.

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

15 13. Because Respondents are detaining Petitioner in violation of the declaratory  
16 judgment issued in *Maldonado Bautista*, **and in violation of the statutory framework under**  
17 **the Immigration and Nationality Act**, the Court should accordingly order that within one day,  
18 Respondent DHS must release Petitioner.

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

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23 **JURISDICTION**  
24

1 15. Petitioner is in the physical custody of Respondents. Petitioner is detained at  
2 Stewart Detention Center.

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

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

8 **VENUE**

9 18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
10 500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the  
11 judicial district in which Petitioner currently is detained.

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

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

17 20. The Court should grant the petition for writ of habeas corpus “forthwith,” as the  
18 legal issues have already been resolved for class members in *Maldonado Bautista*. This Court  
19 has also specifically ordered Respondents to accord bond hearings to similarly situated  
20 individuals, who have entered the United States without inspection in the past, but were not  
21 encountered at entry. *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Order 15 (M.D. Ga. Oct.  
22 31, 2025), ECF No. 12.



1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.  
2 Noem has ultimate custodial authority over Petitioner and is sued in 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 removal of  
5 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 Immigration Review  
8 and the immigration court system it operates is a component agency. She is sued in her official  
9 capacity.

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

13 28. Respondent Jason Streeval is employed by CCA as Warden of Stewart Detention  
14 Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued  
15 in his official capacity.

16 **CLAIM FOR RELIEF**

17 **Violation of the INA:**

18 **Request for Relief Pursuant to *Maldonado Bautista* and Unlawful Legal Characterization of  
19 Detention**

20 **A. Petitioner is entitled to relief pursuant to the *Maldonado Bautista* Class  
21 Certification.**

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

24 30. At the outset, there is no statutory requirement of administrative exhaustion  
before immigration detention may be challenged in federal court by a writ of habeas corpus. *See*  
8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007)

1 (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals  
2 on final orders of removal.”). The Supreme Court has recognized that exhaustion is not required  
3 where a plaintiff “may suffer irreparable harm if unable to secure immediate judicial  
4 consideration of her claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case  
5 here, where Plaintiff raises constitutional and statutory claims that the agency cannot redress, and  
6 where each day that passes is one in which she is being unconstitutionally deprived of his liberty.

7 31. The Court has the authority to grant a writ of habeas corpus to a petitioner who  
8 demonstrates that he is being held in custody in violation of federal law. 28 U.S.C. § 2241(a),  
9 (c)(3); *see INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“[T]he writ of habeas corpus has served as a  
10 means of reviewing the legality of Executive detention, and it is in that context that its  
11 protections have been strongest.”); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (noting that §  
12 2241 habeas corpus proceedings are available to challenge the lawfulness of immigration-related  
13 detention).

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

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

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

22 35. Respondents are parties to *Maldonado Bautista* and bound by the Court’s  
23 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.  
24 § 2201(a).

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

4           **B. Petitioner is entitled to relief independently as an individual because Respondents**  
5 **are subjecting him to unlawful detention pursuant to 8 U.S.C. § 1225(b), when he is**  
6 **properly an individual detained pursuant to 8 U.S.C. § 1226(a).**

7           37. U.S.C. § 1225 covers “inadmissible arriving aliens” who are “applicants for  
8 admission” “present in the United States who [have] not been admitted.” *Gomes v. Hyde*, No.  
9 25-cv-11571, 2025 WL 1869299, at \*2 (D. Mass. July 7, 2025) (alteration in original; citation  
10 and footnote call number omitted). Section 1225(a)(3) requires all applicants for admission,  
11 including those “seeking admission,” to be inspected by an immigration officer, see 8 U.S.C. §  
12 1225(a)(3); and certain applicants for admission may be subject to removal proceedings under  
13 section 1225(b). 8 U.S.C. § 1225(a) – (b); see also *Dep’t of Homeland Sec. v. Thuraissigiam*,  
14 591 U.S. 103, 108–09 (2020) (citations omitted). Relevant here, § 1225(b)(2) applies where an  
15 arriving alien is “seeking admission” into the United States, and that provision mandates  
16 detention for aliens who are “applicants for admission.” 8 U.S.C. § 1225(b)(2)(A). “Because  
17 Section 1225 is mandatory, a ‘noncitizen detained under Section 1225(b)(2) may be released  
18 only if he is paroled for urgent humanitarian reasons or significant public benefit.’” *Barrera v.*  
19 *Tindall*, No. 25-cv-541, 2025 WL 2690565, at \*2 (W.D. Ky. Sept. 19, 2025) (quoting *Gomes*,  
20 2025 WL 1869299, at \*1).

21           38. On the other hand, § 1226 has historically “authorize[d] the Government to detain  
22 certain aliens *already in the country* pending the outcome of removal proceedings[.]” *Jennings v.*  
23 *Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added).

24           39. In addition, courts around the country have given no weight to *how* longtime  
noncitizen residents entered the United States when rejecting Respondent’s interpretation of  
§ 1225(b)(2). *Garcia v. Noem, et. al.*, No. 1:25-CV-1271, 2025 WL 3017200, at \*4 (W.D. Mich.  
Oct. 29, 2025); *Diaz v. Olson, et. al.*, No. 25 CV 12141, 2025 WL 3022170, at \*5 (N.D. Ill. Oct.

1 29, 2025); *Rodriguez v. Noem, et. al.*, No. 1:25-CV-1196, 2025 WL 3022212, at \*6 (W.D. Mich.  
2 Oct. 29, 2025); *Puga*, 2025 WL 2938369; *Lopez-Campos*, 2025 WL 2496379, at \*8; *see also*  
3 *Rodriguez*, 779 F. Supp. 3d at 1256–61; *Singh v. Lewis*, No. 4:25-cv-96, 2025 WL 2699219, at  
4 \*3–5 (W.D. Ky. Sept. 22, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828,  
5 at \*7–12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-1774, 2025 WL  
6 2694763, at \*2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL  
7 2682255, at \*5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS,  
8 2025 WL 2652880, at \*2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-  
9 01093, 2025 WL 2472136, at \*2–4 (W.D. La. Aug. 27, 2025); *Romero*, 2025 WL 2403827, at  
10 \*8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142, 2025 WL 2374411,  
11 at \*9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052, 2025 WL 2370988,  
12 at \*6–9 (D. Mass. Aug. 14, 2025); *Lopez Benitez*, 2025 WL 2371588, at \*3–9; *Rosado*, 2025 WL  
2337099, at \*6–11, report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13,  
2025).

13 40. Because Petitioner in this matter was not encountered *at entry*, he should not be  
14 detained pursuant to 1225(b). Rather, he should be entitled to release or, in the alternative, a  
15 bond hearing, pursuant to 1226.

16 41. Thus, Petitioner should expeditiously be ordered released or, in the alternative, at  
17 least accorded a bond hearing within seven days.

#### 18 PRAYER FOR RELIEF

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

- 20 a. Assume jurisdiction over this matter;
- 21 b. Issue a writ of habeas corpus requiring that within one day Respondents release  
22 Petitioner;
- 23
- 24

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

8  
9 DATED this 9th of February, 2026.

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