UNITED STATES DISCTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JOSE CARMEN ALCOCER a/k/a DIEGO CARMEN LOPEZ-CHAVEZ, Petitioner	)	
vs.	)	**PETITION FOR WRIT OF HABEAS CORPUS**
Warden, KROME SERVICE PROCESSING CENTER;	)	
Miami Field Office Director, Enforcement and Removal Operations, IMMIGRATION AND CUSTOMS ENFORCEMENT;	)	
Pamela Bondi, ATTORNEY GENERAL;	)	
AND	)	
Kristi Noem, SECREATRY OF THE DEPARTMENT OF HOMELAND SECURITY Respondents.	)	

INTRODUCTION

1. The Petitioner, Jose Carmen Alcocer, is a fifty year old native and citizen of Mexico who entered the United States without inspection in 2006. *See Passport as Exhibit A.* Mr. Alcocer was detained by ICE on or about November 13, 2025. He remains in their custody, but under the name Diego Carmen Lopez-Chavez, at the Krome Service Processing Center. *See ICE Locator Printout as Exhibit B.*

2. He seeks enforcement of his rights as a member of the Bond Denial Clas certified in *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) The Petitioner, detained after a traffic stop, is in the physical custody of the Respondents at the

Krome Service 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 final 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) refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.
6. On December 18, 2025, the Court entered a final judgement on behalf of the certified class and declared DHS' position in regards to mandatory detention unlawful for the class members.

7. Petitioner Jose Carmen Alcocer 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 Florida Soft Side South Facility. He was apprehended by immigration authorities on or about November 13, 2025;

    b. entered the United States without inspection in 2006 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.

8. Since apprehending Petitioner on November 13, 2025, DHS is detaining him for 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.

9. Respondents are bound by the judgment in *Maldonado Bautista*. 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 final 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.

JURISDICTION

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, §9, cl 2 of the United States Constitution (Suspension Clause).

14. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.,* and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Venue is proper because the Petitioner is detained at the Krome Service Processing Center located at 18201 SW 12th St, Miami, FL 33194 which is within this District.

16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees, officers, and agents of the United States and the detention which gave rise to this claim is ongoing in the district.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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).

18. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved many times in this jurisdiction. Additionally, the legal issues have also been addressed in the Central District of California which certified a nationwide class related to the exact issue at hand. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM.

19. 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

20. Petitioner Jose Carmen Alcocer is a citizen of Mexico who has been in immigration detention since on or about November 13, 2025. He is detained in ICE custody under the name Diego Carmen Lopez-Chavez. After Petitioner was arrested ICE did not set bond and held him in detention pursuant to its argument that he is not eligible for bond because he entered without an inspection. Petitioner has resided in the United States since 2006.
21. Respondent Warden, Krome Service Processing Center is employed as the Warden of the Krome Service Processing Center where the Petition is detained. He has immediate physical custody of the Petitioner. He is sued in his official capacity.
22. Respondent Miami Field Office Director is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations division. As such, the Miami Field Office Director is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.
23. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

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

CLAIMS FOR RELIEF

I. Violation of the INA:

25. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
26. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.
27. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, see 8 U.S.C. § 1226(c).
28. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).
29. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).
30. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2).

31. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

32. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled(formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

33. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

34. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). Id. The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

35. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

36. On September 5, 2025, the Board of Immigration Appeals (BIA), issued a decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission, and are therefore ineligible for bond hearings under 8 U.S.C. § 1225(b)(2)(A).

37. DHS's and DOJ's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Plaintiffs. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. §

1225(b)(2)(A); see also Diaz Martinez, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'"(quoting Leng May Ma v. Barber, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[][noncitizen] seeking to enter the country is admissible." Jennings v. Rodriguez, 583 U.S. 281, 287 (2018).

39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Mr. Alcocer, who have already entered and were residing in the United States at the time they were apprehended.

40. In *Maldonado Bautista,* the Court has already certified a nationwide class of individuals exactly like Mr. Alcocer. That Court held that those individuals are entitled to consideration for release on bond under 8 U.S.C. § 1226(a). The Court further held that the Respondents are violating the INA in applying the mandatory detention statutes to people like Mr. Alcocer.

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.*

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 an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. 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;

e. 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

f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 12th day of February 2026.

THE SOFIA LAW FIRM, PA
3313 W Commercial Blvd #190
Fort Lauderdale, FL 33309
Phone: (954) 765-6591
Fax: (954) 284-5644
fairuze@fairuzesofia.com

BY: /s/ Fairuze Sofia
Fairuze Sofia, Esq.
Attorney for Petitioner
FLORIDA BAR NO: 57354

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I am aware of the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: February 12, 2026

/s/ Fairuze Sofia

Fairuze Sofia