

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JACQUELINE SANTOS GARCIA; MARCO)
TULIO ROMPICH ESPINAL)
Petitioner,)

v.)

Case No. _____

NIKITA BAKER, in her official capacity)
as Acting Field Office Director of the Immigration)
and Customs Enforcement, Enforcement and)
Removal Operations Baltimore Field Office;)
KRISTI NOEM, in her official capacity as)
Secretary of the U.S. Department of Homeland)
Security; PAMELA BONDI, in her official)
Capacity as Attorney General of the United States,)
Respondents.)

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Petitioner Jacqueline Santos Garcia (“Mrs. Santos”) has been residing in the United States since approximately January 16, 2022. Petitioner Marco Tulio Rompich Espinal (“Mr. Rompich”) has been residing in the United States since 2021.
2. On February 13, 2026, Petitioners were apprehended by Immigration and Customs Enforcement (“ICE”). Mrs. Santos was detained while attending her ICE check-in appointment in Baltimore, Maryland. Mr. Rompich was detained while driving home in Baltimore, Maryland. They are both currently detained at ICE’s Baltimore field office.

3. Jacqueline is charged with being present in the United States without admission or parole, pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *See* Exhibit 1, Notice to Appear. The basis for Mr. Rompich's detention is his presence in the United States without admission or parole. 8 U.S.C. §§ 1182(a)(6)(A)(i). They remain in unlawful detention, without the opportunity for a bond hearing, under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
4. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 articulates a new Executive Office for Immigration Review ("EOIR") policy that all persons who entered the United States without inspection, regardless of how long they have lived in the United States or how far they were apprehended from the border, are detained pursuant to 8 U.S.C. § 1225(b)(2)(A) and are thus ineligible for a discretionary bond hearing under § 1226(a).
5. This Board of Immigration Appeals ("BIA") decision further reflects an ICE memorandum, issued in July 2025, that instructs its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject custody redetermination hearings for applicants who arrived in the United States without documents.¹
6. The agencies' reading of the Immigration and Nationality Act's ("INA's") detention provisions is a violation of the statute and due process. As this Court has previously concluded in numerous cases, § 1225(b)(2)(A) does not apply to individuals like Petitioners, who have been present in the United States for years. *See Hernandez-Lugo v. Bondi*, No. GLR-25-3434, 2025 U.S. Dist. LEXIS 231129 (D. Md. Nov. 25, 2025);

¹ *See* "ICE declares millions of undocumented immigrant ineligible for bond hearings," *The Washington Post* (Jul. 15, 2025) <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>.

Velasquez v. Noem, No. GLR-25-3215, 2025 U.S. Dist. LEXIS 210601 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, No. 25-3084-TDC, 2025 U.S. Dist. LEXIS 207581 (D. Md. Oct. 21, 2025). Instead, such individuals are subject to detention under a different statute, § 1226(a), and are eligible for release on bond.

7. Accordingly, Petitioners seek an order of declaratory and injunctive relief and set aside relief under the Administrative Procedure Act (“APA”) requiring that they are released or provided a bond redetermination hearing before an immigration judge (“IJ”).

JURISDICTION & VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); and United States Constitution Article I, Section 9 (Suspension Clause).
9. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). In *Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018), the Supreme Court again upheld the federal courts’ jurisdictions to review such claims.
10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioners are detained within this district.

THE PARTIES

11. Jacqueline is a citizen of El Salvador who entered the United States in or around January 16, 2022. She is currently detained at the ICE Baltimore Field Office in Baltimore, Maryland.

12. Mr. Rompich is a citizen of Guatemala who entered the United States in or around 2021. He is currently detained at the ICE Baltimore Field Office in Baltimore, Maryland.
13. Respondent, Nikita Baker, is the Field Office Director of the ICE Enforcement and Removal Operations Baltimore Field Office and is the federal agent charged with overseeing all ICE detention centers in Maryland. Ms. Baker is a legal custodian of Petitioners. She is sued in her official capacity.
14. Kristi Noem is the Secretary of the U.S. Department of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioners. She is sued in her official capacity.
15. Pamela Bondi is the Attorney General of the United States. She oversees the immigration court system, which is housed within EOIR and includes all IJs and the Board of Immigration Appeals (“BIA”). She is sued in her official capacity.

LEGAL BACKGROUND

I. OVERVIEW OF THE INA’S DETENTION FRAMEWORK

16. Relevant to this case, the INA includes two provisions that primarily govern the detention of noncitizens.
17. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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, *see* 8 U.S.C. § 1226(c).

18. 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 under § 1225(b)(2).
19. 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(a) was most recently amended by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
20. 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 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).
21. Thus, in the decades that followed, most people who entered without inspection, unless they were subject to some other detention authority, received bond hearings.
22. This practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *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 restated the detention authority previously found at § 1252(a)).

II. Respondent has enacted a policy that violates INA’s statutory scheme

23. In July 2025, ICE released a memorandum instructing its attorneys to coordinate with EOIR to reject bond hearings for applicants who arrived in the United States without documents.
24. Thereafter, on September 5, 2025, the BIA published *Matter of Yajure Hurtado*, 29 I&N Dec. 216, which confirms that EOIR is taking the position that noncitizens who entered the United States without admission or parole are ineligible for IJ bond hearings.
25. As *Matter of Yajure Hurtado* is binding on IJs, it represents the widespread position that EOIR is applying across the United States.
26. EOIR's interpretation defies the INA.
27. The plain text of the provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.
28. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States."
29. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to 8 U.S.C. § 1182(a)(6)(A)(i) makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.
30. On the contrary, § 1225(b) applies to people arriving at U.S. ports of entry or who 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). Indeed, the title of § 1225(b) indicates that it specifically applies at the point of “inspection for applicants for admission.”

31. Moreover, Respondent’s interpretation of the INA’s detention framework contradicts Supreme Court precedent. *See Hernandez-Lugo*, 2025 U.S. Dist. LEXIS 231129, *18 (citing *Jennings*, 583 U.S. 289).

32. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioners.

III. *Maldonado Bautista* Rejected Respondent’s Detention Policy and Ordered that Nationwide Class Members Are Entitled to Bond Hearings

33. On November 20, 2025, the Central District of California issued an order granting partial summary judgment (“MSJ Order”) in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, which rejected Respondent’s policy governing Petitioners’ continued detention. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, 2025 U.S. Dist. LEXIS 233085, *29 (C.D. Cal. Nov. 20, 2025).

34. Shortly thereafter, the *Maldonado Bautista* court granted a nationwide class certification covering all noncitizens in the United States without lawful status who: (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time DHS makes an initial custody determination. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, 2025 U.S. Dist. LEXIS 231977, *26 (C.D. Cal. Nov. 25, 2025).

35. The court concluded that class members are detained under 8 U.S.C. § 1226(a) and must be afforded a bond hearing before an IJ. *Id.* at *25 (“Respondents have failed, on a

systemic basis, to provide Petitioners and putative class members with the necessary safeguards imbued by the INA in violation of their rights.”).

36. Following the *Maldonado Bautista* court’s decisions, Respondent took the position that, because the MSJ Order was not final, it was merely an advisory opinion. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, 2025 U.S. Dist. LEXIS 269220, *16 (C.D. Cal. Dec. 18, 2025).
37. Thus, on December 18, 2025, the *Maldonado Bautista* court granted the Plaintiffs’ request to issue a clarifying decision and enter a final judgment. *Id.* at * 22. In doing so, the court declared Respondents’ detention policy unlawful and, thus, vacated it under the APA. *Id.* The Court further clarified that, while the MSJ Order did not grant vacatur of *Matter of Yajure Hurtado* under the APA, the decision could not “be squared with the MSJ Order.” *Id.* at *12. Accordingly, *Matter of Yajure Hurtado* is “no longer controlling; the legal conclusion underlying the decision is no longer tenable.” *Id.*
38. As Petitioners are a *Maldonado Bautista* class members, they are entitled to a bond hearing under 8 U.S.C. § 1226(a).

JACQUELINE’S FACTS

39. Jacqueline is a 34-year-old native and citizen of El Salvador who entered the United States without inspection on or about January 16, 2022. She was released on January 23, 2022, at which time she was issued a Notice to Appear and enrolled in the Alternatives to Detention (“ATD”) program. As part of ATD, she was placed on electronic monitoring through an ankle monitor and was required to report for regular ICE check-ins. She has fully complied with all reporting requirements and conditions of supervision.
40. Mrs. Santos has no criminal history in the United States.

41. Mrs. Santos is a devoted wife and mother of two minor children, ages four and ten. She and her family reside in Woodbridge, Virginia, where they have lived continuously since their entry into the United States.
42. Mrs. Santos has been employed as a cleaning professional with RC Solutions for approximately three years. She works from 10:00 p.m. to 5:00 a.m. and, despite her demanding overnight schedule, prepares her children for school each morning. Recently, she has also begun working weekends to help support her family financially.
43. Mrs. Santos is deeply loved and supported by her family and community. Her consistent employment, dedication to her family, and full compliance with all immigration requirements demonstrate strong ties to the United States and a clear commitment to abiding by all legal obligations.
44. On January 25, 2024, Mrs. Santos filed an application for asylum together with her family. Following the denial of their claims, her case is currently pending on appeal. On November 8, 2024, she received her Employment Authorization Document.
45. On February 13, 2026, she was detained during a routine ICE check-in that she attended to assist her husband. The couple was separated, and Mrs. Santos was taken into custody on the premises. She is currently detained at the ICE Baltimore Field Office.
46. Any request for a bond hearing before the Immigration Court is futile.

MR. ROMPICH'S FACTS

47. Mr. Rompich is a native and citizen of Guatemala who had no prior contact with ICE prior to his detention.
48. Mr. Rompich has no criminal history in the United States.

49. Mr. Rompich is a husband and devoted stepfather of two minor children. He resides with his family in Maryland, where they have lived continuously at their current address for approximately two years.
50. Mr. Rompich has been employed as a taxi driver with Taxis Mundo Latino for approximately four years. He begins his workday at 4:00 a.m. and often works until 8:00 p.m. Despite his long hours, he takes daily breaks to prepare his youngest stepson for school in the morning and to pick up his stepdaughter from school in the afternoon.
51. Mr. Rompich and his family attend church together every Sunday and are active members of their faith community.
52. Mr. Rompich's family and community deeply value and depend on him. His long-term employment, stable residence, active religious participation, and close family relationships demonstrate strong ties to the United States and a clear commitment to fulfilling his responsibilities.
53. Mr. Rompich's U.S. citizen spouse recently filed a Form I-130, Petition for Alien Relative, on his behalf. The petition is currently pending review with U.S. Citizenship and Immigration Services ("USCIS").
54. On February 13, 2026, Mr. Rompich was detained unexpectedly while driving home from work. He is currently detained at the ICE Baltimore Field Office.
55. Any request for a bond hearing before the Immigration Court is futile.

CAUSES OF ACTION

COUNT ONE

*Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Bond Hearing*

56. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
57. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are subject to inadmissibility as being present in the United States without admission or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.
58. The application of § 1225(b)(2) to bar Petitioners from receiving a bond hearing before an IJ violates the INA.

COUNT TWO

***Violation of the Administrative Procedure Act
Unlawful Denial of Bond Hearing***

59. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are subject to inadmissibility as being present in the United States without admission or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.
61. The application of § 1225(b)(2) to bar Petitioners from receiving a bond hearing before an IJ is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT THREE

***Violation of Procedural Due Process
Unlawful Denial of Bond Hearing***

62. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
63. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas*, 533 U.S. at 690.
64. Petitioners have a fundamental interest in liberty and being free from official restraint. Respondent’s detention of Petitioners without a bond hearing to determine whether they are a flight risk or danger to others violates their right to due process.

COUNT FOUR

***Violation of Maldonado Bautista
Unlawful Denial of Bond Hearing***

65. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
66. Petitioners are members of the nationwide class certified in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, C.D. Cal. No. 5:25-cv-01873.
67. Respondent’s detention of Petitioners without a bond hearing violates the *Maldonado Bautista*’s court final order that class members are detained pursuant to § 1226(a) and should thus be afforded a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Order under the All Writs Act that Petitioners not be removed from this District while this petition is pending;

- (3) Issue an order requiring Respondents to show cause why this Petition should not be granted within three days;
- (4) Declare that 8 U.S.C. § 1225 does not govern Petitioners' detention by U.S. immigration authorities;
- (5) Declare that Petitioners are entitled to a bond hearing as a *Maldonado Bautista* class member;
- (6) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- (7) Order that Respondents release Petitioners with all of their personal belongings immediately or, in the alternative, provide them with a bond hearing, where DHS bears the burden of establishing that they are a flight risk and a danger to the community, within 7 days;
- (8) If the Court orders Petitioners' release on the immigration judge's bond, order that ICE is precluded from automatically staying the immigration judge's bond order by filing a form EOIR-43;
- (9) If the Court orders Petitioners' release on the immigration judge's bond, order Respondents to release Petitioners immediately upon the posting of bond, notwithstanding any reservation for appeal by DHS; and
- (10) Order further relief as this Court deems just and appropriate.

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Respectfully submitted,

/s/ Ivan Yacub

Ivan Yacub

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MD. Bar No. 27628

Attorneys for Petitioners

I affirm, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Afirmo bajo pena de perjurio que las declaraciones precedentes son verdades y correctas según mi conocimiento, información y creencia.



Amilcar Lopez Palacios

Petitioner's Husband

Esposo del Peticionario

02/13/2026

Date

Fecha

I affirm, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Afirmo bajo pena de perjurio que las declaraciones precedentes son verdades y correctas según mi conocimiento, información y creencia.



Astrid Carolina Bonilla Lopez
Marco Rompich Espinal's Wife
Esposa del Peticionario

2/13/2026

Date
Fecha