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UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

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Jaqueline Carrillo Alonzo,

**Petitioner,**

v.

JUAN BALTASAR, Warden, GEO Group ICE  
Processing Center;

ROBERT HAGAN, Director of the Denver Field  
Office for U.S. Immigration and Customs  
Enforcement;

TODD LYONS, Acting Director of U.S.  
Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of  
Homeland Security; and

PAMELA BONDI, U.S. Attorney General,  
in their official capacities,

**Respondents.**

Case No.: 26-cv-666

**EXPEDITED  
CONSIDERATION  
UNDER 28 USC § 1657(a)  
REQUESTED**

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PETITION FOR WRIT OF HABEAS CORPUS

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## INTRODUCTION

1. This petition arises from the U.S. government's unlawful detention of Petitioner pursuant to its recent policy that contradicts the plain language of the Immigration and Nationality Act ("INA"), binding federal court precedent, and decades of agency practice. Under this policy, the government erroneously interprets the INA to mandate detention without the possibility of bond for noncitizens who are alleged to have entered the United States without inspection, even when they have resided in the United States for years and are legally entitled to bond consideration under 8 U.S.C. § 1226(a).
2. This policy has led to the unlawful detention of countless noncitizens nationwide—including Petitioner—and has prompted an avalanche of habeas corpus petitions across the country.<sup>1</sup> The overwhelming majority of decisions addressing this issue on the merits have found the plain statutory language dictates orders of relief for petitioners, either in the form of an order of immediate release or a requirement that the government provide a prompt bond hearing under § 1226(a).
3. Petitioner, Jaqueline Carrillo Alonzo, has lived in the United States since before she can remember. She was first brought to the United States as a

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<sup>1</sup> Reportedly, thousands. See Kyle Cheney, *Hundreds of Judges Reject Trump's Mandatory Detention Policy with No End in Sight*, POLITICO (Jan. 5, 2026), [www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494](https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494) (reporting that review of thousands of federal dockets reveals that by January 5, 2026, 308 judges ordered release or bond hearings in more than 1,600 cases while "just 14 judges, including 11 appointed by President Donald Trump himself, have sided with the administration's position.").

young child and has resided in the U.S. since that time—for nearly thirty years. The Department of Homeland Security (“DHS”) alleges her last entry to the U.S. was in about 2021 without inspection (or apprehension). She was apprehended by the DHS on December 5, 2025, and has remained detained by Respondents at the Aurora ICE Processing Center ever since.

4. Respondents have detained Petitioner without the possibility of bond, asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
5. Respondents’ position is unlawful. Under 8 U.S.C. § 1226(a), individuals who, like Petitioner, are residing in the United States but charged as inadmissible based on an alleged entry without inspection are entitled to a bond determination. For decades, DHS and the Executive Office for Immigration Review (“EOIR”) consistently applied § 1226(a) to such individuals and provided bond hearings in immigration court.
6. Indeed, Respondent is a class member of the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*; in that case, the federal district court issued a final judgment declaring that class members like Petitioner are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2) and thus are entitled to a custody redetermination hearing before an immigration judge. *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

7. The force and effect of this ruling is binding on the government defendants as to class members: Defendant U.S. Attorney General Pam Bondi is the top Department of Justice official with oversight authority over the Executive Office for Immigration Review (EOIR), and so the immigration courts are also bound by this decision.
8. Nonetheless, despite Petitioner's membership in the Bond Eligible Class, the Immigration Judge (IJ) declined jurisdiction to hear Petitioner's bond request, relying upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which federal courts nationwide have predominantly rejected as inconsistent with the statutory text—to assert that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). See Exh. 1, *Immigration Judge Bond Denial*.
9. Respondents' continued detention of Petitioner violates the INA, binding federal court precedent, and—most critically—Petitioner's right to due process by depriving Petitioner of liberty without any individualized determination that detention is warranted.
10. Accordingly, Petitioner seeks a writ of habeas corpus requiring Respondents to immediately release Petitioner from custody. Alternatively, Petitioner seeks an order requiring Respondents to provide a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days, and, if such hearing is not provided within such timeframe, immediate release.

11. Petitioner does not challenge any discretionary denial of bond. Petitioner challenges the unlawful legal determination that Petitioner is categorically ineligible for bond under § 1226(a).

#### **CUSTODY**

12. Petitioner is in the physical custody of Respondents, imprisoned at the Aurora ICE Processing Center, an immigration detention center in Aurora, Colorado, since December 5, 2025. Petitioner is under direct control and supervision of Respondents.

#### **JURISDICTION**

13. This Court has subject matter jurisdiction over this petition pursuant to 28 U.S.C. § 2241(c), which authorizes federal courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States.
14. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.
15. Jurisdiction is further proper under Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
16. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

## VENUE

17. Venue is proper in this judicial district under 28 U.S.C. § 2241 because Petitioner is detained at the GEO Group's ICE Processing Center in Aurora, Colorado, which is within the jurisdiction of this district and is in the immediate physical custody of Respondent Juan Baltasar, who resides in this district for purposes of this action. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005-06 (2025) (per curiam) ("For core habeas petitions, jurisdiction lies in only one district: the district of confinement" (internal quotation marks and citations omitted.)).
18. Venue is also proper under 28 U.S.C. § 1391(e)(1) because Respondents are officers, employees, or agencies of the United States acting in their official capacities; because a substantial part of the events or omissions giving rise to Petitioner's claims—including Petitioner's detention, the denial of bond eligibility, and Respondents' refusal to comply with binding declaratory judgment—occurred within this district; Petitioner resides in this District, and no real property is involved in this action.

## REQUIREMENTS OF 28 U.S.C. § 2243

19. This Court must grant the petition for a writ of habeas corpus or issue an order directing Respondents to show cause "forthwith" why the writ should not be granted, unless it appears from the application that Petitioner is not entitled to relief. 28 U.S.C. § 2243.

20. If the Court issues an order to show cause, Respondents must file a return within three days unless, for good cause, additional time not exceeding twenty days is allowed. *Id.*
21. Prompt resolution is particularly warranted here because the legal issues governing Petitioner's detention have already been resolved overwhelmingly in Petitioner's favor by hundreds of federal courts across the country and Respondents' continued detention of Petitioner is unlawful.
22. Habeas corpus is intended to provide a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). Where, as here, a petitioner is detained in clear violation of federal law and binding judicial authority, expedited relief is required.

## **PARTIES**

### **A. Petitioner**

23. Petitioner Jaqueline Carrillo Alonzo has lived in the United States for almost thirty years since she was first brought to the U.S. as a young child in approximately 1997. She has been in immigration detention for nearly two and a half months since her apprehension by immigration officials on December 5, 2025. After taking custody of Petitioner, ICE did not set bond, and she remains detained at the Aurora ICE Processing Center.

### **B. Respondents**

24. Respondent Juan Baltasar is the Warden of the Aurora Contract Detention Facility. Respondent Baltasar has immediate physical custody of Petitioner

pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain non-citizens and is sued in his official capacity. Respondent Baltasar is a legal custodian of Petitioner.

25. Respondent Robert Hagan is the Director of the Denver Field Office for U.S. Immigration and Customs Enforcement. As such, Director Hagan is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.
26. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons is responsible for Petitioner's detention and is sued in his official capacity.
27. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
28. Respondent Pamela Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). She has the authority to adjudicate removal cases and oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner and is sued in her official capacity.

**STATEMENT OF FACTS**

29. Petitioner is thirty-two years old and has resided in the U.S. since she was brought into the country (without apprehension by immigration officials) at about the age of three or four. She has significant community ties, given she has lived nearly her entire life in the United States. She speaks English, is married to a U.S. Citizen, and has two U.S. Citizen children. Thus, she is also prima facie eligible for relief from removal in the form of Cancellation of Removal for Non-Permanent Residents. 8 U.S.C. § 1229b(b)(1).
30. Petitioner was apprehended by immigration officials for the first time on December 5, 2025 and transported to the immigration detention center in Aurora, Colorado, where she remains detained.
31. After taking custody of Petitioner, ICE did not set bond. Petitioner requested review of her custody (i.e., a bond hearing) by an immigration judge (IJ) at the Aurora Immigration Court.
32. On February 12, 2026, the IJ ruled Petitioner ineligible for bond. Specifically, the IJ ordered bond denied because: “It is the U.S. Department of Justice’s position that *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), remains binding precedent on immigration judges. Accordingly, since Respondent entered the U.S. without inspection, the Court finds it has no jurisdiction to set a bond.” Exh. 1, *Immigration Judge Bond Denial*.

### LEGAL FRAMEWORK

33. Since 1952, U.S. immigration has provided that noncitizens detained during the pendency for removal proceedings may seek release on bond.<sup>2</sup> Today, the bond statute at 8 U.S.C. § 1226 provides that aliens present in the U.S. without authorization “may be arrested and detained” upon issuance of an arrest warrant. When the foreign national has not committed a circumscribed set of crimes or engaged in terrorist activity, the government “may release the alien” “on bond of at least \$1,500” or “conditional parole.” 8 U.S.C. § 1226(a)(2)(A-B), (c). Alternatively, the government “may continue to detain the alien.” 8 U.S.C. § 1226(a)(1).
34. If the government chooses to continue detention, the detainee has a right to a custody redetermination before an immigration judge. 8 C.F.R. § 236.1(d)(1). After a detainee makes such a request and prior to any final order of removal, “the immigration judge is authorized to exercise the authority in section 236 of the Act [8 U.S.C. § 1226] . . . “to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released.” *Id.* In practice, IJ bond

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<sup>2</sup> INA § 242(a) (1952) (“Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole.”). INA § 242(b) (1952), in turn, establishes proceedings “to determine the deportability of any alien.”). Conjunctively, the statutes demonstrate that any alien subject to a deportation proceeding was subject to an Attorney General determination that they be “continued in custody,” “released under bond,” or “released on conditional parole.”

determinations are a fact-intensive inquiry wherein the noncitizen seeks to “establish to the satisfaction of the Immigration Judge that he or she does not present a danger to others, a threat to the national security, or a flight risk.” *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

35. When Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”) in 1996, its provisions eliminated bond eligibility for three groups: (1) those “arriving in the United States” who have not been physically present in the U.S. for at least two years; (2) those subject to a final deportation order; and, (3) “applicants for admission” who are “seeking admission” and “not clearly and beyond a doubt entitled to be admitted.” §§ 1225(b)(1)(A)(i), (iii)(II); § 1231; § 1225(b)(2)(A). Group (1) is ordered “removed from the United States without further hearing or review.” 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II). Group (2) is subject to mandatory detention. 8 U.S.C. § 1231(a)(2)(A). So is group (3). 8 U.S.C. § 1225(b)(2)(A). Additionally, Congress more recently passed the Laken Riley Act in January 2025, amending 8 § U.S.C. 1226(c) to create an additional category of noncitizens subject to mandatory detention who are (1) inadmissible under §§ 1182(6)(A) [present without admission or parole], (6)(C) [misrepresentation], or (7)(A) [lack of proper documentation] *and* (2) have been charged with “burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” 8 U.S.C. 1226(c)(1)(E)(ii); Laken

Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). “If 8 U.S.C. § 1225 already mandates detention for noncitizens ‘already in the country’ as the Respondents argue, it would have been superfluous for Congress to pass the Laken Riley Act, amending § 1226 to add another category of noncitizens who must be detained.” *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR, Doc. 33, at 17-18 (D. Colo. Oct. 17, 2025) (internal citations omitted).

36. Consistent with the plain reading of the statute, noncitizens charged with entering without inspection were afforded bond hearings under § 1226(a) for nearly three decades following IIRIRA’s enactment (subject to the aforementioned statutory exceptions).<sup>3</sup> 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 “restates” the detention authority previously found at § 1252(a)).

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<sup>3</sup> In fact, after IIRIRA’s enactment, the Immigration and Naturalization Service promulgated regulations clarifying that noncitizens who entered the United States without inspection are generally detained under § 1226(a), not § 1225. *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled ... will be eligible for bond and bond redetermination”) (emphasis added).

37. The Supreme Court re-affirmed this distinction between §§ 1226 and 1225 as follows: “U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Jennings v. Rodriguez*, 582 U.S. 281, 289 (2018) (Alito, J.).
38. Decades of applying this discretionary bond determination framework outlined in 8 U.S.C. § 1226(a) to people who have already entered and have been residing in the United States (particularly for decades, as in Petitioner’s case) prior to apprehension and detention by immigration authorities came suddenly under assault on July 8, 2025, when ICE, “in coordination with” the Department of Justice, issued new policy guidance “revisit[ing] its legal position on detention and release authorities” and determining that “section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission . . . **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a

parole by DHS.” See Exh. 2, U.S. Immigration and Customs Enforcement, *Interim Guidance Regarding Detention Authority for Applicants for Admission* (July 8, 2025) (emphasis in original).

39. On September 8, 2025, the Department of Justice’s Board of Immigration Appeals held that the “plain language” of 8 U.S.C. § 1225(b)(2)(A) removed Immigration Judges’ “authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
40. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA’s reasoning is unpersuasive and “at odds with every District Court that has been confronted with the same question of statutory interpretation.” *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at \*7 (E.D. Mich. Sept. 9, 2025); see also *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at \*8 n.11 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Beltran Barrera v. Tindall*, No. 3:25-cv-541-RGJ, 2025 WL 2690565, at \*5 (W.D. Ky. Sept. 19, 2025) (same); *Chogllo Chafla v. Scott*, Nos. 2:25-cv-00437-SDN, 2:25-cv-00438-SDN, 2:25-cv-00439-SDN, 2025 WL 2688541, at \*7–8 (D. Me. Sept. 21, 2025) (same).

41. Thus, this reinterpretation of 8 U.S.C. § 1225(b)(2)(A) has triggered an avalanche of litigation throughout the United States. Federal court decisions on these cases nationwide have overwhelmingly rejected Respondents' abrupt reinterpretation of the statutory scheme, and—contrary to both the ICE policy and the BIA's decision in *Yajure Hurtado*—have held that § 1226(a), not § 1225(b), applies to noncitizens who are arrested while residing in the United States—as opposed to being arrested when arriving at the border. Indeed, federal courts across the country have overwhelmingly rejected ICE and the DOJ's reinterpretation of 8 U.S.C. § 1225(b), holding that noncitizens who were not apprehended upon entry and were residing in the United States at the time of arrest must be afforded bond hearings. *See Jimenez Facio v. Baltazar*, Doc. No. 13, No. 25-cv-03592-CYC, Order at 3–4 (D. Colo. Dec. 12, 2025) (“Courts have therefore held, with a regularity bordering on monotonous, that because section “1225(b)(2)(A) [INA section 235(b)] applies only to those noncitizens who are actively seeking admission to the United States, it cannot, according to its ordinary meaning, apply to persons who have already been residing in the United States for several years.”) (collecting cases that overwhelmingly reject the government's argument that 235(b) applies to noncitizen residents apprehended in the interior of the United States); *see also Chogllo Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, Order on Petitions for Writs of Habeas Corpus, Doc. 26, at \*12–13 (D. Me. Sept. 22,

2025) (same); *Ochoa Ochoa v. Noem*, No. 25-cv10865, 2025 WL 2938779, Memorandum Opinion and Order, Doc. 20, at \*10 n.8 (N.D. Ill. Oct. 16, 2025) (same). *See, e.g., Barreno v. Baltasar*, No. 25-cv-03017-GPG-TPO, 2025 WL 3190936, at \*1–4 (D. Colo. Nov. 14, 2025); *Hernandez v. Baltasar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at \*1–8 (D. Colo. Oct. 24, 2025); *Moya Pineda v. Baltasar*, No. 25-cv-02955-GPG, 2025 WL 3516291, at \*1–2 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-cv-02720-RMR, 2025 WL 2962908, at \*4–9 (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at \*2–3 (D. Colo. Sept. 16, 2025).

42. One of these many such case is *Maldonado Bautista v. Santacruz*, which certified a nationwide Bond Eligible Class under Federal Rule of Civil Procedure 23 including: 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 the Department of Homeland Security makes an initial custody determination.” *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) (emphasis added). In a final declaratory judgment issued on December 18, 2025, that court found that class members are detained pursuant to § 1226(a) and may not be denied consideration for release on

bond under § 1225(b)(2). *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

The order specifically, clearly, and unequivocally:

- (1) DECLARES that the Bond Eligible Class members are detained under 8 U.S.C. §1226(a) and are not subject to mandatory detention under § 1225(b)(2).
- (2) DECLARES that, pursuant to Defendants' regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. §1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.
- (3) VACATES the Department of Homeland Security policy described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A).
- (4) GRANTS final judgment as to Claims I, II, and III<sup>4</sup> of the Amended Class Complaint, and certifies those claims for appeal pursuant to Federal Rule of Civil Procedure 54(b). *Id.*

## APPLICATION TO PETITIONER'S CASE

- a. Pursuant to the Declaratory Judgment in *Maldonado Bautista v. Santacruz*, Petitioner is entitled to a Bond Hearing under 8 U.S.C. §1226(a).

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<sup>4</sup> Claim (Count) I alleges that DHS and EOIR/IJs are unlawfully denying bond eligibility by treating long-present noncitizens arrested inside the U.S. as subject to mandatory detention under INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), when instead they are detained under INA § 236(a) (8 U.S.C. § 1226(a)) and therefore eligible for release on bond; Claim (Count) II alleges that the same no-bond policy and practice violates the bond custody regulations—including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19—which (per Plaintiffs) preserve bond/bond redetermination eligibility for people "present without admission or parole" (including those historically described as EWI); and Claim (Count) III alleges that the agencies' new no-bond position is unlawful under the APA because it is contrary to law and arbitrary/capricious (invoking 5 U.S.C. § 706(2)(A)) insofar as it reinterprets the detention statutes to mandate detention without bond for the plaintiffs and the proposed classes. *See Class Action Complaint and Amended Petition for Writ of Habeas Corpus, Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM Doc. No. 15 (C.D. Cal. July 28, 2025).

43. Petitioner is a member of the Bond Eligible Class certified by *Maldonado Bautista v. Santacruz* because she meets all class criterion, as she is present in the United States without inspection or admission, was never previously apprehended by immigration, and was not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security detained her without release on bond. *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).
44. As a member of the Bond Eligible Class and pursuant to the final, declaratory judgment binding on defendants and all class members, Petitioner is “detained under 8 U.S.C. §1226(a) and is not subject to mandatory detention under § 1225(b)(2).” *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Final Judgment, Doc. No. 94 (C.D. Cal. Dec. 18, 2025). She is therefore also “entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.” *Id.* (citing the defendants’ regulations: 8 C.F.R. §§ 236.1, 1236.1, and 1003.19).
45. A declaratory judgment is a remedy that has the force and effect of a final judgment that states the rights and obligations of the parties in a judgment that is binding on the parties, inclusive of all class members. *See e.g.*, Declaratory Judgment Act 28 U.S.C. § 2201 *et. seq*; Rule 23(b)(2) (“A class action may be maintained if Rule 23(a) is satisfied and if... the party

opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” (emphasis added)). Although the Supreme Court has interpreted 8 U.S.C. § 1252(f)(1) to prohibit classwide injunctive relief regarding certain immigration detention statutes like those at issue here, § 1252(f)(1) does not bar other forms of relief, like classwide declaratory relief ordered in *Maldonado Bautista*. See, respectively, *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) and *Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1123–24 (9th Cir. 2025).

46. The declaratory judgment is final for purposes of res judicata unless stayed, vacated, or reversed by an appellate court. *Tripati v. Henman*, 857 F.2d 1366, 1367 (9th Cir. 1988) (“The established rule in the federal courts is that a final judgment retains all of its res judicata consequences pending decision of the appeal.” (internal citations omitted)). While the government has filed an appeal of *Maldonado Bautista* to the Ninth Circuit, it did not seek a stay of the district court’s orders pending appeal, and there is no stay in place. Further, the federal government is bound by a declaratory judgment just like any other party. See 28 U.S.C. § 2201(a) (“Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.”); *United States v. Stauffer Chem. Co.*, 464 U.S. 165 (1984) (holding mutual defensive collateral estoppel applies against the

Government; the Government may be precluded from relitigating an issue it previously litigated and lost).

47. Despite the declaratory judgment and class membership confirming Petitioner's statutory right to a bond hearing, Petitioner was denied a custody redetermination hearing after DHS did not release her on bond because the Immigration Judge declined to determine bond for Petitioner on the basis that *Matter of Yajure Hurtado* is binding on the immigration court. See Exh. 1, *Immigration Judge Bond Denial*. This, despite the court in *Maldonado* finding the interpretation in *Yajure-Hurtado* "contradicts the Court's reasoning" and "is no longer controlling; the legal conclusion underlying the decision is no longer tenable" as it "cannot be squared with the statutory text and statutory scheme." *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3713982, at \*6–7 (C.D. Cal. Dec. 18, 2025) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts "to ignore, not follow, the reading the court would have reached had it exercised its independent judgment") (internal citations omitted)).
48. Petitioner thus seeks an order from this Court enforcing the rights already decided by the court in *Maldonado Bautista*. See Federal Rule of Civil Procedure 23(b)(2) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 (providing that a final declaratory judgment can be enforced on an individual basis through a habeas petition).

**b. The refusal of Respondents to Provide Petitioner with an Initial Custody Determination and Custody Redetermination Violates 8 U.S.C. § 1226(a).**

49. Independently of the Maldonado Bautista court, which has already decided these issues as to class members like Petitioner, this Court should exercise its independent judgment to join the chorus of federal courts around the nation who agree that § 1225(b)(2) is not the applicable statute of detention over noncitizen long term residents like Petitioner, where Petitioner is clearly neither a recent arrival nor seeking admission. *See Gimenez Rivero v. Mina*, No. 6:26-cv-00066-RBD-NWH, Order, Injunction, and Order to Show Cause at 1 (M.D. Fla. Jan. 26, 2026), Doc. No. 15 (“Judges across the country—the vast majority who have considered this question—have told the Government many times in the past few months that its interpretation of the law is wrong . . . This is no partisan stance: judges appointed by every President from Ronald Reagan through Donald Trump have said so.”) (internal citations omitted).
50. Although the Fifth Circuit recently reached the opposition conclusion<sup>5</sup> to hold that unadmitted aliens apprehended anywhere in the United States are never eligible for release on bond, no matter how long they have resided inside the United States, that decision is not binding over this Court, and neither the Tenth Circuit nor the Supreme Court of the United States has addressed this issue. Further, this Court has already rejected *Buenrostro*

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<sup>5</sup> See *Buenrostro-Mendez v. Bondi*, \_\_\_ F. Supp. 3d \_\_\_, No. 25- 20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

as persuasive in light of the “the Seventh Circuit<sup>6</sup> and the overwhelming number of district court orders that have rejected the reasoning upon which the *Buenrostro-Mendez* majority relied.” See *Gurlal Singh v. Baltazar*, et al., No. 1:26-cv-00336-CNS (D. Colo. Feb. 9, 2026) (granting habeas and ordering immediate release).

51. Further, federal courts within the Tenth Circuit and across the country continue to disagree with and reject the *Buenrostro-Mendez* majority as unpersuasive and unsupported by the statutory text. See, e.g. *Wilian Alexander Vasquez Lopez v. Warden, Glades County Detention Center, et al.*, No. 2:26-cv-147-JES-NPM (M.D. Fla. (Fort Myers) Feb. 10, 2026) (granting habeas notwithstanding *Buenrostro*, noting that the majority decision is “is contrary to the overwhelming majority of district court judges to have considered the issue. This Court respectfully disagrees with the Fifth Circuit’s analysis and notes that it is not binding precedent in this Court.”); *Janeth Goyo Rodriguez v. Olson, et al.*, No. 4:26-cv-00026-TWP-KMB (S.D. Ind. Feb. 10, 2026) (“considering § 1225 as a whole, the most natural meaning is that it applies to ‘arriving’ noncitizens attempting to enter the United States rather than [those] who have lived in the interior of the

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<sup>6</sup> See *Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1061 (7th Cir. 2025) (suggesting that Section 1225(b)(2) does not apply to noncitizens who are already residing in the United States, reasoning “the mandatory detention provision upon which Defendants rely, limits its scope to an ‘applicant for admission’ who is ‘seeking admission,’ § 1225(b)(2)(A). Put another way, ‘U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” 161 F.4th at 1061 (emphasis in original, quoting *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)).

United States for years. . . As the Court has previously explained, Respondents' interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice"); *Pride Ngu Fon v. Samuel Olson, et al.* at 16-17, FN 6 (E.D. Ky., N.D. at Covington; Feb. 10, 2026) ("In the absence of an authoritative decision from the Sixth Circuit, the Court respectfully declines to adopt the Fifth Circuit's holding in *Buenrostro Mendez*...Petitioner's detention is not governed by § 1225(b)(2) but § 1226"); *Pascual Jose-de-Jose v. Noem, et al.*, Case No. CIV-25-1454-SLP at 3 (W.D. Okla. Feb. 9, 2026) (acknowledging authority to the contrary, including *Buenrostro*, but nonetheless joining "the decision reached by the vast majority of district courts in this judicial district, in district courts within the Tenth Circuit and across the country" to "rejec[t] Respondents' statutory interpretation of §§ 1226(a) and 1225(b)(2)(A)."); *Jose Alfonzo Mendoza Jerez v. Ripa, et al.*, No. 2:26-cv-157-JES-DNF (M.D. Fla. (Fort Myers) Feb. 12, 2026; *Alfredo A. & Julio S.C. v. Easterwood, et al.*, Case No. 26-CV-1016 (PJS/DLM) (D. Minn. Feb. 7, 2026) ("[T]he Court continues to believe that the better reading is that § 1225(b)(2) does not apply to [those] who entered without inspection and are already present and living in the United States."); *Sanchez Bermudez v. Noem*, No. 2:26-cv-00678 (NJC), Mem. & Order at 3-4 (E.D.N.Y. Feb. 9, 2026) (noting

*Buenrostro* comes to an opposite conclusion but concluding “that Respondents’ position that Section 1225(b)(2) requires the detention of a non-citizen apprehended in the interior of the United States notwithstanding the fact that the non-citizen has continuously resided in this country for months, if not years, is unsupported by the statutory text” and agreeing with “[t]he vast majority of courts throughout this District, Circuit, and even the country” that “have rejected Respondents’ expansive interpretation of Section 1225(b)(2).”). In the absence of any Supreme Court or Tenth Circuit precedent to the contrary, this Court should also reject *Buenrostro* as unpersuasive.

**c. The refusal of Respondents to Provide Petitioner with an Initial Custody Determination and Custody Redetermination Violates Petitioner’s Constitutional Right to Due Process.**

52. Respondents maintain that Petitioner is detained subject to 1225. They are wrong. The only detention statute which could authorize her detention is 1226—yet, she has not been afforded the process that comes with 1226 detention, including the initial custody determination that should happen immediately upon arrest, and subsequent custody redetermination if not released by ICE on bond. *See* 8 C.F.R. § 236.1(d)(1).
53. The Supreme Court has rejected the idea that removable noncitizens “forfeit” liberty; holding that “the petitioners have a fundamental liberty interest in freedom from detention pending deportation proceedings,” and that this interest cannot be arbitrarily infringed without an individualized

hearing. *Demore v. Kim*, 538 U.S. 510 (2003). As petitioner was already denied the custody redetermination hearing to which she is entitled, and her continued detention continues to violate her recognized liberty interest, the most appropriate remedy for this continuing due process violation is immediate release.

### **CLAIM FOR RELIEF**

#### **COUNT I: Violation of the INA**

##### **Respondent's Detention of Petitioner Violates 8 U.S.C. § 1226(a)**

54. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
55. Respondents' unlawful application of 8 U.S.C. § 1225(b)(2) mandating continued detention of Petitioner violates the INA.
56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to individuals like Petitioner who previously entered the country and reside in the United States prior to being apprehended and placed in removal proceedings.
57. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). Petitioner's detention up to this point has thus been illegal, as Petitioner was not provided an individualized bond determination by either ICE or EOIR.
58. That Petitioner is detained under 8 U.S.C. § 1226(a) and thus eligible for a bond hearing is dictated by the declaratory judgment in *Maldonado*

*Bautista*, which is binding on Respondents. Even setting the decision in *Maldonado Bautista* aside, plain statutory language and the overwhelming weight of authority indicates that an individual in Petitioner's circumstances is detained under section 1226 and thus eligible for a bond hearing under the discretionary bond framework governing 1226(a).

**COUNT II: Violation of Due Process**

59. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
60. "It is well established that the Fifth Amendment [Due Process Clause] entitles aliens to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint— lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S., 690.
61. Petitioner has a fundamental interest in liberty and being free from official restraint, including her imprisonment in the Aurora Detention Center.
62. Respondents' detention of Petitioner without affording her the process that comes with § 1226(a) detention, including an initial custody determination and custody redetermination hearing, violates her right to Due Process.
63. The most appropriate remedy for this due process violation is immediate release. In the alternative, Petitioner should be released if the government does not provide Petitioner, within 7 days, a bond hearing where the

government bears the burden by clear and convincing evidence of demonstrating that Petitioner should continue to be detained based on an individualized flight risk and danger to the community assessment. *Velasquez Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 at\*18–19 (D.N.M. Sept. 17, 2025) (“Respondents shall bear the burden of justifying, by clear and convincing evidence, Petitioner’s continued detention. If Petitioner has not received a lawful bond hearing by September 23, 2025, this Court ORDERS that he be immediately released.”); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, Doc. 18, at 20 (D. Colo. Oct. 22, 2025) (“**If Respondents to not do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) as required herein, Petitioner must be immediately released from detention.**”) (emphasis in original).

#### PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Enjoin Petitioner’s removal or transfer outside of this Court’s jurisdiction during the pendency of this case;
- c. Pursuant to 28 U.S.C. § 2243, forthwith award the writ or issue an order directing respondents to show cause why the writ should not be granted within three days;

- d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA, and implementing regulations;
- e. Grant a writ of habeas corpus directing Respondents to immediately release Petitioner and enjoining Respondents from re-detaining Petitioner during the pendency of her removal proceedings;
- f. Or, in the alternative, issue a writ of habeas corpus requiring Respondents release Petitioner unless they, within seven days, provide Petitioner a bond hearing where the government will bear the burden to show, by clear and convincing evidence, why Petitioner's detention should continue and enjoining the Immigration Court from denying bond on the basis that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2);
- g. 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
- h. Grant any other and further relief that this Court deems just and proper.

Dated: February 18, 2026

/s/ Aaron Hall  
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*Attorney for Petitioner*

**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I, Aaron C. Hall, submit this verification on behalf of the Petitioner because I am Petitioner's attorney. On the basis of documents reviewed and discussions with Petitioner and Petitioner's family, I hereby verify that statements made in this petition are true and correct to the best of my knowledge.

Dated: February 18, 2026

/s/ Aaron Hall  
Attorney for Petitioner