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UNITED STATES DISTRICT COURT
COLORADO

MONSERRAT Y. CARDOSO ANAYA,

Petitioner,

v.

JUAN BALTASAR, Warden of the Denver
Contract Detention Facility, Aurora, Colorado,
in his official capacity;
ROBERT HAGAN, Field Office Director,
Denver Field Office, U.S. Immigration and
Customs Enforcement, in his official capacity;
KRISTI NOEM, Secretary, U.S. Department of
Homeland Security, in her official capacity;
TODD LYONS, Acting Director of Immigration
and Customs Enforcement, in his official
capacity;
PAMELA BONDI, U.S. Attorney General, U.S.
Department of Justice, in her official capacity;

Respondents.

Case No. 1:26-cv-00816

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioner Monserrat Cardoso-Anaya brings this petition for a writ of habeas
3 corpus to seek enforcement of their rights as members of the Bond Denial Class certified in
4 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the
5 physical custody of Respondents at the U.S. Immigration and Customs Enforcement (“ICE”)
6 Denver Contract Detention Facility located in Aurora, Colorado. She now faces unlawful
7 detention because the Department of Homeland Security (DHS) and the Executive Office for
8 Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf
9 of the certified class in *Maldonado Bautista v. Santacruz*.

10 2. On November 20, 2025, the district court granted partial summary judgment on
11 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
12 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
13 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
14 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
15 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
16 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible
17 Class, incorporating and extending declaratory judgment from Order Granting Petitioners’
18 Motion for Partial Summary Judgment).

19 3. The declaratory judgment held that the Bond Denial Class members are detained
20 under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under §
21 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

22 4. Nonetheless, the Executive Office for Immigration Review and its subagency the
23 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
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1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
2 opportunity to be released on bond.

3 5. Petitioner Monserrat Y. Cardoso-Anaya is a member of the Bond Eligible Class,
4 as she:

5 a. does not have lawful status in the United States and is currently detained at the
6 ICE Denver Contract Detention Facility located in Aurora, Colorado. She was
7 apprehended by immigration authorities on October 16, 2025. Exhibit 1, “Notice
8 to Appear issued to Petitioner by the Department of Homeland Security on
9 October 16, 2025”;

10 b. entered the United States without inspection over 22 years ago and was not
11 apprehended upon arrival, *cf. id.*, see Exhibit 1; and

12 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. See Exhibit 1.

13
14 6. After apprehending Petitioner on October 16, 2025, the DHS placed her in
15 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
16 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
17 without inspection. See Exhibit 1.

18 7. The Court should expeditiously grant this petition.

19 8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
20 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
21 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
22 detention despite her clear entitlement to consideration for release on bond as a Bond Eligible
23 Class member.

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1 9. Immigration judges have informed class members in bond hearings that they have
2 been instructed by “leadership” that the declaratory judgment in *Maldonado Bautista* is not
3 controlling, even with respect to class members, and that instead IJs remain bound to follow the
4 Board of Immigration Appeals’ prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
5 (BIA 2025).

6 10. On February 18, 2026, The District Court of the Central District of California
7 vacated the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*. See
8 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2026 U.S.
9 Dist. LEXIS 34057 at *34, (C.D. Cal. Feb. 18, 2026).

10 11. Respondents also are detaining Petitioner in Violation of 8 U.S.C. § 1226(a), INA
11 Bond Regulations (8 C.F.R. §§ 236.1, 1236.1 & 1003.19), the Administrative Procedures Act (5
12 U.S.C. § 706(2)), and in violation of Petitioner’s Fifth Amendment Due Process Rights.

13 12. Because Respondents are detaining Petitioner in violation of the declaratory
14 judgment issued in *Maldonado Bautista*, 8 U.S.C. § 1226(a), INA Bond Regulations, the
15 Administrative Procedures Act, and Petitioner’s Fifth Amendment Due Process Rights, the Court
16 should accordingly order that within one day, Respondent DHS must release Petitioner.

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

19 **JURISDICTION**

20 14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
21 U.S. Immigration and Customs Enforcement Denver Contract Detention Facility located in
22 Aurora, Colorado.

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1 15. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), the
2 Immigration and Naturalization Act (INA) and its implementing regulations, the Administrative
3 Procedures Act (5 §§ U.S.C. 500-596, 701-706), and Article I, section 9, clause 2 of the United
4 States Constitution (the Suspension Clause).

5 16. This Court also has federal question jurisdiction pursuant to 28 U.S.C. § 1331, as
6 this is a civil action arising under the law of the United States of America.

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

9 **VENUE**

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

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

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

18 20. The Court should grant the petition for writ of habeas corpus “forthwith,” as the
19 legal issues have already been resolved for class members in *Maldonado Bautista*.

20 21. Habeas corpus is “perhaps the most important writ known to the constitutional
21 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
22 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
23 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
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1 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
2 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

3 **PARTIES**

4 22. Petitioner Monserrat Y. Cardoso Anaya is a citizen of Mexico who has been in
5 immigration detention at the ICE Denver Contract Detention Facility in Aurora, Colorado since
6 October 16, 2025. After Petitioner was arrested in Golden, Colorado, ICE did not set bond, and
7 Petitioner requested review of her custody by an IJ. On February 7, 2026, Petitioner was denied
8 bond by an Immigration Judge at the Aurora Immigration Court. The IJ stated that they had no
9 jurisdiction to set bond under *Matter of Yajure Hurtado*, finding the Petitioner subject to §
10 1225(b)2) because of her unlawful entry to the United States over 20 years ago. *See Exhibit 2*,
11 “Order of the Immigration Judge Issued on February 7, 2026 for Monserrat Y. Cardoso Anaya”.
12 Petitioner is the loving mother of a one year-old U.S. Citizen child. Petitioner has no criminal
13 convictions for offenses which are not minor traffic offenses and has no pending criminal cases.
14 Petitioner has continuously resided in the United States since entering without inspection in
15 September 2004. Petitioner has resided in the United States for over 21 years. *See Exhibit 3*,
16 “Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent
17 Residents filed by Petitioner on December 11, 2025”.

18 23. Respondent Juan Baltazar is employed by GEO Group, Inc. as Warden of the U.S.
19 Immigration and Customs Enforcement Denver Contract Detention Facility located in Aurora,
20 Colorado, where Petitioner is detained. He has immediate physical custody of Petitioner. He is
21 sued in his official capacity.

22 24. Respondent Robert Hagan is the Director of the Denver Field Office of ICE’s
23 Enforcement and Removal Operations division. As such, Robert Hagan is Petitioner’s immediate
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1 custodian and is responsible for Petitioner's detention and removal. He is named in his official
2 capacity.

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

7 26. Respondent Todd Lyons is the Acting Director of the United States Immigration
8 and Customs Enforcement Agency. He oversees ICE, has custodial authority over Petitioner, and
9 is responsible for Petitioner's detention and removal. He is sued in his official capacity.

10 27. Respondent Pamela Bondi is the Attorney General of the United States. She is
11 responsible for the Department of Justice, of which the Executive Office for Immigration Review
12 and the immigration court system it operates is a component agency. She is sued in her official
13 capacity.

14 28. Respondent Department of Homeland Security (DHS) is the federal agency
15 responsible for implementing and enforcing the INA, including the detention and removal of
16 noncitizens.

17 29. Respondent Executive Office for Immigration Review (EOIR) is the federal
18 agency responsible for implementing and enforcing the INA in removal proceedings, including
19 for custody redeterminations in bond hearings.

20 **FACTUAL BACKGROUND**

21 30. ICE's authority to jail noncitizens is proscribed by statute. Section 1226(a) of 8
22 U.S.C. establishes discretionary detention for noncitizens ICE arrests "[o]n a warrant issued by
23 the Attorney General" and then place in 8 U.S.C. § 1229a removal proceedings. 8 U.S.C. §
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1 1226(a). Those noncitizens may then request an IJ to redetermine the arresting immigration
2 officer's "initial custody determination" at any time prior to a final order of removal. *Id.*; 8
3 C.F.R. §§ 236.1(d)(1), 1003.19(a), (b). During the custody redetermination request, i.e., bond
4 hearing, the IJ determines whether the noncitizen establishes by the preponderance of the
5 evidence if they are a risk of flight or danger to the community. *See generally Matter of Guerra*,
6 24 I. & N. Dec. 37 (B.I.A. 2006).

7 31. Section 1226(c) of 8 U.S.C. establishes mandatory detention for noncitizens with
8 certain criminal legal contacts in § 1229a removal proceedings. 8 U.S.C. § 1226(c). IJs do not
9 have the authority to consider these noncitizens' request for release on bond unless ICE is
10 substantially unlikely to establish that the noncitizen falls within one of § 1226(c)'s mandatory
11 detention provisions. *See generally Matter of Joseph*, 22 I. & N. Dec. 799 (B.I.A. 1999).

12 32. The statute also provides for mandatory detention of a narrow subset of
13 noncitizens subject to an expedited removal pursuant to § 1225(b) or for other noncitizen
14 "applicants for admission" to the U.S. who are apprehended at the border or port of entry. *See* 8
15 U.S.C. § 1225(b)(2). Section 1225 focuses on noncitizens "arriv[ing]" "whether or not at a
16 designated port of arrival," and applies to people like those who were "interdicted in
17 international or United State waters" (§ 1225(a)(1)), are "stowaways" (§ 1225(a)(2)), and who
18 are otherwise "applicants for admission" into the U.S. (§ 1225(a)(3)). In contrast to § 1226, §
19 1225 discusses matters such as "screening" "claims for asylum" (§ 1225(b)(1)(A)(i)-(ii)) at the
20 border, "inspection" by an immigration officer to determine if a noncitizen "is ... clearly and
21 beyond a doubt entitled to be admitted" (§ 1225(b)(2) & (d)), and "removal" of "an arriving
22 [noncitizen]" (§ 1225(c)(1)).

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1 33. Finally, the statute provides for detention of noncitizens with final removal
2 orders. 8 U.S.C. § 1231(a), (b).

3 34. Petitioner does not have criminal legal contact rendering her subject to 8 U.S.C. §
4 1226(c). She is also not subject to § 1231 detention because she does not have a final removal
5 order. Rather, this case concerns the discretionary detention provision at 8 U.S.C. § 1226(a) and
6 Respondents' erroneous assertion that mandatory detention pursuant to § 1225(b) applies.

7 35. The Supreme Court summarizes the interplay between §§ 1226 and 1225 as
8 follows: "In sum, U.S. immigration law authorizes the Government to detain certain
9 [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also
10 authorizes the Government to detain certain [noncitizens] already in the country pending the
11 outcome of removal proceedings under §§ 1226(a) and (c)." *Jennings v. Rodriguez*, 582 U.S.
12 281, 289 (2018) (Alito, J., emphasis added).

13 36. Both the § 1226 and § 1225 detention provisions were enacted as part of the
14 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
15 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section
16 1226(a) was most recently amended in early 2025 by the Laken Riley Act (LRA), Pub. L. No.
17 119-1, 139 Stat. 3 (2025).

18 37. Following the enactment of the IIRIRA in 1996, EOIR wrote regulations
19 applicable to proceedings before IJs explaining that, in general, people who entered the country
20 without inspection (also known as "present without admission") were *not* detainable under §
21 1225 and instead could only be detained under § 1226(a). *See* Inspection and Expedited Removal
22 of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
23 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission,
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1 aliens who are present without having been admitted or paroled (formerly referred to as aliens
2 who entered without inspection) will be eligible for bond and bond redetermination’).

3 38. Thus, in the following decades, people who entered without inspection and did
4 not have certain criminal legal contacts could receive § 1226(a) bond hearings when placed in §
5 1229a proceedings. That practice was consistent with additional decades of pre-IIRIRA practice,
6 in which noncitizens who were not “arriving” or seeking entry into the United States were
7 entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
8 see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting the new § 1226(a) simply “restates”
9 the detention authority previously found at § 1252(a)).

10 39. This practice — both pre- and post-enactment of the IIRIRA— is consistent with
11 the fact that noncitizens present in the U.S. have constitutional rights. “[T]he Due Process Clause
12 applies to all ‘persons’ within the United States, including [noncitizens], whether their presence
13 is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

14 40. Despite this long-standing practice and the plain text of the statute, the Board of
15 Immigration Appeals (BIA) issued an unpublished decision on May 22, 2025 holding that
16 noncitizens who entered the United States without inspection were subject to §1225(b)(2)
17 mandatory detention as “applicants for admission.”

18 41. On July 8, 2025, ICE, “in coordination with” the DOJ announced a new policy
19 consistent with the unpublished BIA decision from May 22, 2025. The new ICE/DOJ policy,
20 titled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims
21 that all noncitizens present within the U.S. who entered without inspection — no matter how
22 long ago, no matter where, and no matter how — are deemed “applicants for admission” under 8
23 U.S.C. § 1225, and thus subject to mandatory detention under § 1225(b)(2)(A). The new policy
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1 applies regardless of when and where a person was apprehended and affects people who have
2 resided in the U.S. for years.

3 42. On September 5, 2025 the BIA published a precedential decision finding the
4 same. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

5 43. On February 18, 2026, The District Court of the Central District of California
6 vacated the BIA's decision in *Matter of Yajure Hurtado* as contrary to law under the
7 Administrative Procedures Act. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
8 SSS-BFM, --- F. Supp. 3d ----, 2026 U.S. Dist. LEXIS 34057 at *34 (C.D. Cal. Feb. 18, 2026).

9 44. The federal courts, including courts in the District of Colorado, have resoundingly
10 rejected Respondents' position in more than 30 district court decisions. *See Diallo v. Baltazar*,
11 No. 1:25-cv-3548-SKC, 2026 U.S. Dist. LEXIS 17341, *4-8 (D. Colo. Jan. 29, 2026); *see Lopez*
12 *v. Noem*, No. 25-cv-04089-NYW, 2026 U.S. Dist. LEXIS 14990, *4-11 (D. Colo. Jan. 27, 2026);
13 *see Garcia-Perez v. Guadian*, No. 25-CV-04069-PAB, 2026 U.S. Dist. LEXIS 6570, *5-6 (D.
14 Colo. Jan. 13, 2026); *see Trejo v. Baltazar*, No. 1:25-cv-4026-SKC-NRN, 2026 U.S. Dist.
15 LEXIS 3563, *3-5 (D. Colo. Jan. 8, 2026); *see Briales-Zuniga v. Baltazar*, No. 25-cv-03439-
16 NYW, 2026 U.S. Dist. LEXIS 1751, *4-9 (D. Colo. Jan. 6, 2026); *see Lopez v. Baltazar*, No. 25-
17 CV-3078-WJM-KAS, 2026 U.S. Dist. LEXIS 912, *12 (D. Colo. Jan. 5, 2026); *see Hernandez v.*
18 *Baltazar*, No. 1:25-cv-3688-SKC-SBP, 2025 U.S. Dist. LEXIS 265306, *6-19 (D. Colo. Dec. 23,
19 2025); *see Orellana v. Noem*, No. 25-cv-03976-PAB, 2025 U.S. Dist. LEXIS 264245, *12 (D.
20 Colo. December 22, 2025); *see Rico v. Baltazar*, No. 1:25-cv-03943-CNS, 2025 U.S. Dist.
21 LEXIS 259962, *3-5 (D. Colo. December 16, 2025); *see Rodriguez-Vazquez v. Bostock*, No. 779
22 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-
23 11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting individual *habeas* relief);
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1 *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D.
2 Mass. July 24, 2025) (denying reconsideration of individual *habeas* relief); *Maldonado Bautista*
3 *v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. Feb. 18, 2026) (vacating *Yajure*
4 *Hurtado*); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025)
5 (report and recommendation to grant preliminary relief, adopted *sub nom O.E. v. Bondi*, 2025
6 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL
7 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual *habeas* relief); *de Rocha Rosado v.*
8 *Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and
9 recommendation to grant *habeas* relief, adopted without objection at 2025 WL 2349133 (D.
10 Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D.
11 Mass. Aug. 14, 2025) (granting *habeas* relief); *Aquilar Maldonado v. Olson*, No. 25-cv-3142,
12 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-
13 01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, ---
14 F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*,
15 No. 1:25-cv-02428- JRR, Doc. 20 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv-
16 02190, Doc. 41 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Kostak v. Trump*, No.
17 3:25-dev-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (same); *Jose J.O.E. v. Bondi*, ---
18 F.Supp.3d---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (same); *Lopez-Campos v. Raycraft*, --
19 -F.Supp.3d --- , 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (granting individual *habeas* relief
20 and enjoining pursuit of detention on the basis of § 1225(b)(2)(A)); *Palma Perez v. Berg*, ---
21 F.Supp.3d --- , 2025 WL 2531566 (D. Neb. Sept. 3, 2025) (finding ‘little support’ in the statute
22 for detention under § 1225(b)(2) and ordering release on other grounds); *Cortes Fernandez v.*
23 *Lyons*, No. 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) (same); *Carmona-Lorenzo v.*
24

1 *Trump*, No. 4:25-cv-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025) (same); *Hernandez Nieves*
2 *v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025) (granting injunctive
3 relief, ordering release and enjoining redetention without a bond hearing); *Vasquez Garcia et al.*
4 *v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025) (granting
5 TRO in part, finding detention pursuant to § 1226(a) and ordering a bond hearing); *Doe v.*
6 *Moniz*, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (granting *habeas*
7 finding detention pursuant to § 1226(a)).

8 45. The federal courts' overwhelming rejection of Respondents' position continues
9 after *Matter of Yajure Hurtado*. See e.g., *Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304, 2025
10 WL 2591530 (C.D. Cal. Sept. 8, 2025) (enjoining continued detention without a §1226(a) bond
11 hearing within seven days); *Sampiao v. Hyde*, --- F.Supp.3d ---, 2025 WL 2607924 (D. Mass.
12 Sept. 9, 2025) (ordering release on bond); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL
13 2609425 (E.D. Mich. Sept. 9, 2025) (granting *habeas* relief); *Cuevas Guzman v. Andrews*, No.
14 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025) (granting a
15 preliminary injunction and ordering release); *Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025
16 WL 2606983 (N.D. Cal. Sept. 9, 2025) (granting TRO and finding § 1225(b)(2) inapplicable);
17 *Jimenez v. FCI Berlin, Warden et al.*, --- F.Supp.3d ---, 2025 WL 2639390 (D.N.H. Sept. 9,
18 2025) (finding detention pursuant to § 1226(a) and ordering a bail hearing); *Salcedo Aceros v.*
19 *Kaiser et al.*, No 25-cv-06924-EMC (EMC), 2025 WL 2637503 (N.D. Ca. Sept. 12, 2025)
20 (granting PI and finding § 1225(b)(2) inapplicable).

21 46. That includes the District of Colorado where Judge Sweeney explains, inter alia,
22 that the Government's argument for § 1225(b)(2) detention must fail when a noncitizen is not
23 "seeking admission" into the United States. *Garcia Cortes v. Noem et al.*, No. 1:25-cv-02677-
24

1 CNS, 2025 WL 2652880 at *3 (D. Colo. Sept. 16, 2025) (“Because Petitioner is not, nor was he
2 at the time he was arrested, seeking admission, § 1225(b)(2)(A)'s mandatory detention
3 requirement does not apply”).

4 47. As evidenced by the federal court decisions, the interpretation by DHS, DOJ,
5 EOIR, and ICE that § 1225(b) governs detention in this case defies the plain language of the
6 INA, fundamental canons of statutory construction, and the agency's long-extant implementing
7 regulations.

8 48. Indeed, the statute's plain text demonstrates § 1226(a) — not § 1225(b) — applies
9 to people like Petitioner. Section 1226(a) is the “default rule” applying to all persons “pending a
10 decision on whether the [noncitizen] is to be removed.” *Rodriguez Vazquez*, 779 F.Supp.3d at
11 1246; *Jennings*, 582 U.S. at 281.

12 49. Notably, the plain language of § 1226 applies to people charged as inadmissible
13 for entering without inspection. *E.g.*, 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to
14 inadmissible individuals makes clear that, by default, inadmissible individuals not subject to
15 subparagraph (E)(ii) are entitled to a bond hearing under subsection (a). As the *Rodriguez-*
16 *Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s
17 applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez-*
18 *Vazquez*, 779 F.Supp.3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., PA. v. Allstate Ins.*
19 *Co.*, 559 U.S. 393, 400 (2010)).

20 50. Thus, § 1226 applies to noncitizens like Petitioner who are present without
21 inspection, face related inadmissibility charges in removal proceedings and who do not have
22 certain criminal legal contacts.

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1 51. By contrast, § 1225(b) applies to people *arriving* at U.S. ports of entry or *who*
2 *recently entered* the U.S. and are encountered *at or near the border*. Section 1225's entire
3 framework is premised around inspection at the border of people who are “seeking admission” to
4 the U.S. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
5 detention scheme applies “at the Nation’s borders and ports of entry, where the Government
6 must determine whether al] [noncitizen] seeking to enter the country is admissible.” *Jennings*,
7 582 U.S. at 287.

8 52. Accordingly, contrary to Respondents’ erroneous interpretation of the statute, the
9 mandatory detention provisions of § 1225(b)(2) do not apply to people like Petitioner who
10 “arrived” in the country long ago and have resided in Colorado for years before ICE jailed them.

11 **CLAIMS FOR RELIEF**

12 **COUNT I**

13 **Violation of the INA: Request for Relief Pursuant to *Maldonado Bautista***

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

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

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

21 56. The order granting class certification in *Maldonado Bautista* further orders that
22 “[w]hen considering this determination with the MSJ Order, the Court extends the same
23 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”
24

1 57. Respondents are parties to *Maldonado Bautista* and bound by the Court's
2 declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C.
3 § 2201(a).

4 58. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is
5 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory
6 rights under the INA and the Court's judgment in *Maldonado Bautista*.

7 **COUNT II**

8 **Respondents Detain Petitioner in Violation of 8 U.S.C. § 1226(a)**

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

11 60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
12 Petitioner because she was present and residing in the U.S., has been placed in § 1229a removal
13 proceedings, and charged with inadmissibility pursuant to 8 U.S.C. § 1182. Simply, § 1225 does
14 not apply to people like Petitioner who previously entered the country and reside in the U.S.
15 prior to being detained and placed in removal proceedings. Such noncitizens may only be
16 detained pursuant to § 1226(a), unless they are subject to mandatory detention provisions
17 irrelevant here. Detention under § 1226(a) requires access to bond.

18 61. Applying § 1225 to Petitioner unlawfully mandates her continued detention
19 without a bond hearing and violates 8 U.S.C. § 1226(a).

20 **COUNT III**

21 **Respondents Detain Petitioner in Violation of INA Bond Regulations (8 C.F.R. §§**
22 **236.1, 1236.1 & 1003.19)**

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

3 63. Respondent EOIR and the then Immigration and Naturalization Service issued a
4 rule to interpret and apply the IIRIRA under the heading “Apprehension, Custody, and Detention
5 of [Noncitizens],” which explained: “Despite being applicants for admission, [noncitizens] who
6 are present without having been admitted or paroled (formerly referred to as [noncitizens] who
7 entered without inspection) *will be eligible for bond.*” 62 Fed. Reg. at 10323 (emphasis added).
8 Respondents thus long-ago made clear that people like Petitioner who had entered without
9 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
10 1226 and the implementing regulations.

11 64. Nonetheless, Respondents here deemed Petitioner subject to mandatory detention
12 under § 1225.

13 65. Applying § 1225 to Petitioner instead unlawfully mandates her continued
14 detention under § 1225(b)(2).

15 66. Respondents’ application of § 1225(b)(2) to Petitioner unlawfully requires her
16 continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

17 **COUNT IV**

18 **Respondents Detain Petitioner in Violation of the Administrative Procedures Act (5**

19 **U.S.C. § 706(2))**

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

22 68. Under the APA, a court must “hold unlawful and set aside agency action” that is
23 “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” that
24

1 is “contrary to constitutional right [or] power,” or that is “in excess of statutory jurisdiction,
2 authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

3 69. Respondents’ detention of Petitioner pursuant to § 1225 is arbitrary and
4 capricious, and in violation of the Fifth Amendment of the U.S. Constitution. Respondents do not
5 have statutory authority under § 1225 to detain Petitioner.

6 70. Respondents’ detention of Petitioner without access to bond is arbitrary,
7 capricious, an abuse of discretion, violative of the U.S. Constitution, and without statutory
8 authority, all in violation of 5 U.S.C. § 706(2).

9 **COUNT V**

10 **Respondents Detain Petitioner in Violation of Petitioner’s Fifth Amendment Due**
11 **Process Rights**

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

14 72. The Government may not deprive a person of life, liberty, or property without due
15 process of law. U.S. Const. Amend. V. “Freedom from imprisonment — from government
16 custody, detention, or other forms of physical restraint — lies at the heart of the liberty that the
17 [Fifth Amendment's due process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

18 73. Petitioner has a fundamental interest in liberty and being free from official
19 restraint, such as imprisonment in the ICE Denver Contract Facility located in Aurora, Colorado.

20 74. Respondents’ detention of Petitioner without providing her a bond
21 redetermination hearing to determine whether she is a flight risk or danger to others violates her
22 right to Due Process.

1 **PRAYER FOR RELIEF**

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

- 3 a. Assume jurisdiction over this matter;
- 4 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
- 5 Petitioner;
- 6 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
- 7 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
- 8 seven days;
- 9 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
- 10 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis under the law;
- 11 e. Enjoin respondents from transferring Petitioner outside the jurisdiction of the
- 12 District of Colorado pending resolution of this case; and
- 13 f. Grant any other and further relief that this Court deems just and proper.
- 14

15 DATED this 27th day of February, 2026.

16 s/James Y. Chiu
17 *Attorney for Petitioner*

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1 **VERIFICATION**

2 I, James Y. Chiu, declare as follows:

- 3 1. I am an attorney admitted to practice law in the State of Colorado.
4 2. Because many of the allegations in this petition require a legal knowledge not possessed
5 by Petitioner, I am making this verification on her behalf.
6 3. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents
7 thereof to be true to my knowledge, information, and belief.

7 I certify under penalty of perjury that the foregoing is true and correct and that this
8 declaration was executed on February 27, 2026.

9 s/James Y. Chiu
10 James Y. Chiu
11 Law Offices of Miguel Martinez, P.C.
12 1776 Vine Street
13 Denver, CO 80206
14 Phone: 303.964.3200
15 Email: james@mmartinezlaw.com

13 **CERTIFICATE OF SERVICE**

14 I, James Chiu, hereby certify that on February 27, 2026, I filed the foregoing with the
15 Clerk of Court using the CM/ECF system. I, James Chiu, hereby certify that I have mailed
16 a hard copy of this document and its attached exhibits to the individuals identified below
17 pursuant to Fed.R.Civ.P.4 via certified mail on February 27, 2026.

18 Kevin Traskos
19 Chief, Civil Division
20 U.S. Attorney's Office
21 District of Colorado
22 1801 California Street, Ste. 1600
23 Denver, CO 80202

24 Pam Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

1 And to:

2 Kristi Noem and Todd Lyons, DHS/ICE, c/o:
3 Office of the General Counsel
4 U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave., SE
Washington, D.C. 20528

5 And to:

6 Robert Hagan
7 Denver ICE Field Office
12445 E. Caley Ave.
8 Centennial, CO 80111

9 And to:

10 Juan Baltasar
11 GEO Group, Inc.
3130 N. Oakland Street
Aurora, CO 80010

12
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