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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ROMEL DANIEL GUEVARA ANDRADE,
Petitioner,

v.

ROBERT HAGAN, Field Office Director of
Enforcement and Removal Operations,
DENVER Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; WARDEN
OF DENVER CONTRACT DETENTION
FACILITY,
Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioner ROMEL DANIEL GUEVARA ANDRADE brings this petition for a writ
3 of habeas corpus to seek enforcement of their rights as members of the Bond Eligible Class
4 certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)
5 Petitioner is in the physical custody of Respondents at the DENVER CONTRACT DETENTION
6 FACILITY.

7 2. He now faces unlawful detention because the Department of Homeland Security
8 (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the
9 declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

10 3. In addition, even if Petitioner were not entitled to relief based on *Maldonado*
11 *Bautista* class membership, 8 U.S.C. § 1226 and § 1225 demonstrate that Petitioner is detained
12 under § 1226(a).

13 **JURISDICTION**

14 4. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 DENVER CONTRACT DETENTION FACILITY.

16 5. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C.
17 § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
18 Suspension Clause).

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

1 **VENUE**

2 7. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
3 500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial
4 district in which Petitioner currently is detained.

5 8. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
6 Respondents are employees, officers, and agencies of the United States, and because a substantial
7 part of the events or omissions giving rise to the claims occurred in the District of Colorado.

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

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

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

17 **PARTIES**

18 11. Petitioner ROMEL DANIEL GUEVARA ANDRADE is a citizen of Ecuador who
19 has been in immigration detention since December 11, 2025. After Petitioner was arrested in
20 Denver, Colorado, ICE did not set bond, and Petitioner requested review of his custody by an IJ.
21 On January 20, 2026, Petitioner was denied bond by an IJ at the Aurora Colorado Immigration
22 Court because he was deemed an “applicant for admission.” Petitioner has resided in the United
23 States since September 12, 2023.

1 12. Respondent ROBERT HAGAN is the Director of the Denver Field Office of ICE's
2 Enforcement and Removal Operations division. As such, ROBERT HAGAN is Petitioner's
3 immediate custodian and is responsible for Petitioner's detention and removal. He is named in his
4 official capacity.

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

9 14. Respondent DEPARTMENT OF HOMELAND SECURITY (DHS) is the federal
10 agency responsible for implementing and enforcing the INA, including the detention and removal
11 of noncitizens.

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

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

19 17. Respondent WARDEN OF DENVER CONTRACT DETENTION FACILITY is
20 employed as Warden of the DENVER CONTRACT DETENTION FACILITY, where Petitioner
21 is detained. He/She has immediate physical custody of Petitioner. He/She is sued in He/She official
22 capacity.

23 **FACTS AND LEGAL FRAMEWORK**

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

10 19. On December 18, 2025, the district court issued an order clarifying that the
11 November 20 and November 25 orders are binding, final judgments on Defendants-Respondents.
12 *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL
13 3713982, at *5-6 (C.D. Cal. Dec. 18, 2025); *see also Maldonado Bautista v. Santacruz*, 5:25-cv-
14 01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), Dkt. No. 93 (amended order consolidating prior
15 orders on motion for partial summary judgment, class certification, and application for
16 reconsideration or clarification).

17 20. That same day, the district court entered final judgment, declaring that the Bond
18 Eligible Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied
19 consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Noem*, 5:25-cv-
20 01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

21 21. Nonetheless, the Executive Office for Immigration Review and its subagency the
22 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 22. Petitioner ROMEL DANIEL GUEVARA ANDRADE is a member of the Bond
4 Eligible Class, as he:

- 5 a. does not have lawful status in the United States and is currently detained at the
6 DENVER CONTRACT DETENTION FACILITY. He was apprehended by
7 immigration authorities on December 11, 2025;
- 8 b. entered the United States without inspection over two years ago and was not
9 apprehended upon arrival, *cf. id.*; and
- 10 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

11 23. After apprehending Petitioner on December 11, 2025, the DHS placed him in
12 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
13 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without
14 inspection.

15 24. The Court should expeditiously grant this petition.

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

20 26. Immigration judges have been instructed by agency leadership that the declaratory
21 judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that
22 instead IJs remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I.
23 & N. Dec. 216 (BIA 2025).¹

24 ¹ See Megan Crepeau, *Immigration Judge Says Detainee Bond Hearings Not Required*, Bloomberg
Law (Jan. 15, 2026), [https://www.bloomberglaw.com/bloomberglawnews/bloomberg-lawnews/
BNA%200000019bc221d228a1dff6eddfb00001](https://www.bloomberglaw.com/bloomberglawnews/bloomberg-lawnews/BNA%200000019bc221d228a1dff6eddfb00001); Am. Immigr. Laws. Ass’n, *Practice Alert:
EOIR Issues Nationwide Guidance on Maldonado Bautista* (updated Jan. 16, 2026),

1 27. Because Respondents are detaining Petitioner in violation of the declaratory
2 judgment issued in *Maldonado Bautista*, the Court should accordingly order that, within one day,
3 Respondent DHS must release Petitioner.

4 28. Alternatively, the Court should order Petitioner's release unless Respondents
5 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

6 29. Even if the Court does not order relief under *Maldonado Bautista*, the text and
7 structure of § 1226 and § 1225 demonstrate that § 1226(a) governs Petitioner's detention.

8 30. Section 1226 generally governs the detention of those "already in the United
9 States." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Subsection (a) applies the default rule
10 for such people, providing for discretionary detention "pending a decision on whether the
11 [noncitizen] is to be removed from the United States." These removal hearings are held under
12 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

13 31. Subsection (c) confirms that subsection (a) governs Petitioner's detention. As the
14 Supreme Court has explained, "subsection (c) is simply a limit on the authority conferred by
15 subsection (a)." *Nielsen v. Preap*, 586 U.S. 392, 409 (2019). It "carves out a statutory category of
16 [noncitizens] who may *not* be released under § 1226(a)" in *Jennings*. 583 U.S. at 289.

17 32. Critically, subsection (c)'s carve outs reference people charged as being
18 inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. §
19 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, people
20 like Petitioner people are afforded a bond hearing under subsection (a). This is because "the
21 statutory exceptions would be unnecessary" unless the statute "appl[ies] generally" to
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24 <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>

1 inadmissible persons. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393,
2 400 (2010); *see also id.* (“The fact that Congress has created specific exceptions to [the Rule]
3 hardly proves that the Rule does not apply generally. In fact, it proves the opposite.”).

4 33. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
5 recently entered the United States. The statute’s entire framework is premised on “inspection[s]”
6 at the border by “examining immigration officer[s]” of people who are “seeking admission” to
7 the United States. 8 U.S.C. § 1225(b), (2)(A). Indeed, the Supreme Court has explained that this
8 mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the
9 Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.”
10 *Jennings*, 583 U.S. at 287.

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

14 35. The overwhelming majority of courts—including in this Circuit—have rejected
15 the government’s arguments and agree that noncitizens like Petitioner are subject to § 1226(a)
16 and eligible for a bond hearing. *See Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d -
17 ---, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions rejecting
18 government’s position); *Jacobo Ramirez v. Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL
19 310090, at *1 (D. Nev. Feb. 5, 2026) (noting “more than 300 federal judges in over 1,600 cases
20 across the country have rejected the government's new detention policy, with over 100 new
21 lawsuits filed daily, while 14 federal judges have found in favor of the government's position”
22 (citation omitted)).

1 36. The Court should therefore order Petitioner's immediate release, or, in the
2 alternative, require Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within
3 seven days.

4 **CLAIM FOR RELIEF**

5 **Count I**

6 **Violation of the INA:**

7 **Request for Relief Pursuant to *Maldonado Bautista***

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

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

12 39. The order granting partial summary judgment in *Maldonado Bautista* holds that
13 Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
14 members.

15 40. The order granting class certification in *Maldonado Bautista* further orders that
16 "[w]hen considering this determination with the MSJ Order, the Court extends the same
17 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

18 41. Respondents are parties to *Maldonado Bautista* and bound by the Court's
19 declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C.
20 § 2201(a).

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

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Count II
Violation of the INA:
Unlawful Detention under 8 U.S.C. § 1225(b)(2)(A)

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

44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does apply to Petitioner. The text and structure of § 1226 and § 1225 reflect that Congress provided for discretionary detention under § 1226(a) to govern Petitioner’s detention.

45. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

46. Accordingly, Petitioner is entitled to immediate release, or, in the alternative, consideration for release on bond by Respondents.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order 48-hour notice ahead of any transfer of Petitioner outside this District;
- c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- e. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant any other and further relief that this Court deems just and proper.

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DATED this 23 of February, 2025.

/s/ Margareth Guedes
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