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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

JOSE EDUARDO AYALA JAIMES,

Petitioner,

v.

WARDEN, Warden of Folkston ICE Processing
Center;

GEORGE STERLING, Field Office Director
of Enforcement and Removal Operations,
Atlanta Field Office (ERO Atlanta);

TODD M. LYONS, Senior Official Performing
the Duties of Director, Immigration and
Customs Enforcement;

DAREN K. MARGOLIN, Director, Executive
Office For Immigration Review (EOIR);

MARKWAYNE MULLIN, Secretary, U.S.
Department of Homeland Security (DHS); and

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

Respondents.

Case No. CV 526-321

**PETITION FOR A WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Jose Eduardo Ayala Jaimes, a citizen of Mexico, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of his detention by Immigration and Customs Enforcement (“ICE”), a component of the U.S. Department of Homeland Security (“DHS”). He is detained at the Folkston ICE Processing Center in Georgia, where he has been since early March 2026.

2. He now faces unlawful detention because the DHS and the Executive Office for Immigration Review (“EOIR”) of the Department of Justice (“DOJ”) have erroneously concluded Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2) based on a recently released ICE memo directing a new interpretation of the law. *See Exh. 1, ICE Memo “Interim Guidance Regarding Detention Authority for Applicants for Admission” dated July 8, 2025 (hereinafter “ICE Memo”).*

3. Petitioner last entered the U.S. on or about 2000, and is charged as removable under § 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”), which states: “[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on this allegation in Petitioner’s removal proceeding, DHS will deny Petitioner release from immigration custody, consistent with the new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i) –i.e., those who entered the U.S. without inspection–to be an “applicant for admission” under 8 § 1225(b)(2)(A) and therefore subject to mandatory detention. This memo admittedly stated that it “has revisited its legal position on detention and release authorities.” *See Exh. 1, ICE Memo.* It

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2 further stated that the DHS policy was issued “in coordination with the Department of Justice
3 (DOJ).”

4 5. Under 8 U.S.C. §1225(b)(2)(A), an applicant for admission seeking admission
5 shall be detained for a removal proceeding. It is now the position of the EOIR, which houses
6 both the Board of Immigration Appeals (“BIA”) and immigration judges, that 8 U.S.C. §
7 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents,
8 regardless of how long they have lived in the United States and regardless of how far they were
9 apprehended from the border.

10 6. However, § 1225(b)(2)(A) does not apply to individuals like Petitioner, who were
11 already present in the United States. Instead, such individuals are subject to detention under a
12 different statute, § 1226(a), and eligible for release on bond.

13 7. Nevertheless, the July 2025 ICE Memo instructs its attorneys to coordinate with
14 the Department of Justice to reject bond redetermination hearings for applicants who previously
15 arrived in the United States without documents.

16 8. The BIA adopted the same position as the July 8, 2025 ICE policy by issuing a
17 decision holding that an immigration judge has no authority to consider bond requests for any
18 person who entered the U.S. without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216,
19 228-29 (BIA 2025).

20 9. On November 25, 2025, the U.S. District Court for Central District of California
21 rejected this position, issuing an order certifying a nationwide class consisting of noncitizens
22 who have entered the United States without inspection and who were not apprehended upon
23 arrival and who are not otherwise subject to detention under INA §§ 236(c), 235(b)(1), or 241.
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2 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.)
3 (Order Granting Plaintiff-Petitioners' Motion for Class Certification)¹.

4 10. On March 6, 2026, the Ninth Circuit Court of Appeals temporarily stayed a
5 district court order that had vacated the Matter of Yajure-Hurtado, pending a ruling on the
6 government's emergency motion. This pause halts the resumption of bond hearings for many
7 detainees in *Maldonado-Bautista v. DHS* nationwide, though the original vacatur remains in
8 effect within the Central District of California. See *Maldonado Bautista v. U.S. Dep't of*
9 *Homeland Sec.*, No. 26-1044, ECF No. 5 (9th Cir. Mar. 6, 2026) (order granting administrative
10 stay).

11. Petitioners similarly situated have sought a bond redetermination hearings before
12 an immigration judge ("IJ"), but the IJ denied bond for lack of jurisdiction. The IJ concluded that
13 Petitioner is not eligible for release on bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec.
14 216 (BIA 2025), and as such the Court did not have jurisdiction to hold a bond hearing. *See id.*
15 The IJ also concluded in the hearing that the rulings in *Maldonado Bautista* were stayed, and that
16 thus, *Yajure-Hurtado* was controlling.

17 12. Any appeal to the BIA is futile. Due to DHS's new policy being issued "in
18 coordination with DOJ," which oversees the immigration courts, such appeal will be futile and
19 take months of further detention. Petitioner could have filed an appeal to preserve his rights, but
20 it would not remedy the current harm of unlawful detention.

21 13. Petitioner's detention on the above basis violates the plain language of the
22 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like

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24 ¹On November 20, 2025, the Court issued an order granting declaratory relief concluding that the detention of class members is governed
by INA § 236(a) and that class members are not subject to mandatory detention pursuant to INA § 235(b)(2). *Maldonado Bautista v.*
Santacruz, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary
Judgement). *Maldonado Bautista* rejected the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

14. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

15. Notably, the vast majority of federal courts to consider this issue, including this Court as well as the Middle District of Georgia, have agreed. *See, e.g., Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure-Hurtado*); *see also J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

16. As such, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within three (3) days.

JURISDICTION AND VENUE

17. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

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

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2 19. This Court may grant relief under the habeas corpus statutes, to 28 U.S.C. §
3 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
4 U.S.C. § 1651.

5 20. “A civil action in which a defendant is an officer or employee of the United States
6 or any agency thereof acting in his official capacity or under color of legal authority, or an
7 agency of the United States, may, . . . be brought in any judicial district in which a defendant in
8 the action resides . . .” *See* 28 U.S.C. § 1391(e).

9 21. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for
10 determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down
11 into two subquestions— (1) who is the proper respondent to the petition, and (2) does the Court
12 have jurisdiction over that respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).

13 22. Under *Padilla*, the “immediate custodian” of the detained petitioner is the proper
14 respondent in such habeas actions, which is typically the warden of the facility in which the
15 petitioner is being housed. *See id.* at 443 (“The plain language of the habeas statute thus confirms
16 the general rule that for core habeas petitions challenging present physical confinement,
17 jurisdiction lies in only one district: the district of confinement.”)

18 23. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the
19 proper Respondent, is the Warden of the ICE Processing Center in Folkston, Georgia. *See id.*
20 Because this Court has jurisdiction over actions arising in Folkston, Georgia, the venue is proper
21 in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

24. Petitioner has exhausted his administrative remedies to the extent required by law. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, “that does not mean that courts may disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense.” *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). “To properly exhaust administrative remedies, a petitioner must comply with an agency’s deadlines and procedural rules.” *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act’s (PLRA) exhaustion requirement)). It is the Respondent’s burden to prove that the Petitioner has “failed to exhaust all available administrative remedies.” *Id.* at 1307.

25. However, in detention cases such as the Petitioner’s, appeals to the Board of Immigration Appeals (“BIA”) take several months or years. Thus, here, requiring the Petitioner to appeal a bond denial to the BIA to prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive him of his liberty, and would be futile so long as *Matter of Yajure-Hurtado* remains in effect. See *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992) *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause “undue prejudice to subsequent assertion of a court action” or “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was empowered to grant effective relief,” or where it would be futile because “the administrative body is shown to be biased or has otherwise predetermined the issue before it”) (internal quotation marks omitted).

26. Additionally, the BIA cannot adjudicate constitutional issues, as it lacks the authority to rule that Respondents' actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

REQUIREMENTS OF 28 U.S.C. § 2243

27. The Court must grant the petition for writ of habeas corpus or issue an order to show ("OSC") cause to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

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

PARTIES

29. Petitioner is a citizen of Mexico who has resided in the United States since approximately 2000. Petitioner is a noncitizen who is currently detained at the Folkston ICE Processing Center. He is in the custody, and under the direct control, of Respondents and their agents.

30. Respondent, Mr. GEORGE STERLING, Field Office Director of Enforcement and Removal Operations, is the Director of the Atlanta Field Office of ICE's Enforcement and

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2 Removal Operations division (ERO Atlanta). As such, Mr. Ervin, Field Office Director of
3 Enforcement and Removal Operations, is Petitioner's immediate custodian and is responsible for
4 Petitioner's detention and removal. He is named in his official capacity.

5 31. Respondent, TODD M. LYONS, is the Senior Official Performing the Duties of
6 Director of the U.S. Immigration Customs Enforcement, is the federal agency responsible for
7 custody decisions relating to non-citizens charged with being removable from the United States,
8 including the arrest, detention, and custody status of non-citizens. Mr. Lyons has responsibility
9 for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal
10 custodian of Petitioner. He is sued in his official capacity.

11 32. Respondent, DAREN K. MARGOLIN, is the Director of the Executive Office for
12 Immigration Review (EOIR), is the federal agency responsible for implementing and enforcing
13 the INA in removal proceedings, including for custody redeterminations in bond hearings.

14 33. Respondent, MARKWAYNE MULLIN, is the Secretary of the Department of
15 Homeland Security. He is responsible for the implementation and enforcement of the
16 Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
17 detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official
18 capacity.

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

23 35. Respondent Warden of the Folkston ICE Processing Center is sued in their official
24 capacity. Respondent Warden is the immediate custodian of the Petitioner.

FACTUAL BACKGROUND

36. Petitioner is a 35-year-old national of Mexico. He entered the United States without inspection in 2000 and has lived here ever since. He lived in Nichols, South Carolina prior to his detention.

37. He is the main provider for his United States Citizen (USC) son, and his family. He has no disqualifying criminal convictions. Respondent has been a contributing member of his community and has been gainfully employed since 2017.

38. On or around March 2026, Petitioner was detained by DHS after being arrested by local law enforcement in relation to Driving without a License. Petitioner is eligible for Cancellation of Removal because he has been here over 10 years and 1 qualifying USC child.

39. The IJ in similar cases has concluded that Petitioners is not eligible for release on bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), and as such the Court did not have jurisdiction to hold a bond hearing. *See id.* The IJs are concluding in the hearing that the rulings in *Maldonado Bautista* are stayed, and that thus, *Yajure-Hurtado* was controlling.

40. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

41. This Petition follows.

LEGAL FRAMEWORK

42. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." Federal courts retain jurisdiction under § 2241 to review purely legal statutory and

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2 constitutional claims regarding the government's detention authority, but jurisdiction does not
3 extend to “discretionary judgment,” “action,” or “decision” by the Attorney General with respect
4 to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter*
alia, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003)).

5 43. Petitioner asserts that (1) his Fifth Amendment right to due process of law was
6 violated when the Respondents deprived him of liberty; (2) the Respondents’ actions violated the
7 INA when they detained Petitioner under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. §
8 1226(a); (3) Respondent’s actions were contrary to the APA by unlawfully detaining Petitioner;
9 and (4) the Respondents’ actions in denying Petitioner a bond hearing violated the nationwide
injunction in *Maldonado Bautista*.

10 I. Due Process

1 44. The Due Process Clause of the Fifth Amendment provides Petitioner with
2 important protections regarding his detention. As the Supreme Court has explained, “[f]reedom
3 from imprisonment—from government custody, detention, or other forms of physical restraint—
4 lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S.
5 678, 690 (2001).

6 45. Noncitizens are entitled to due process of the law under the Fifth Amendment.
7 *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To
8 determine whether civil detention violates a noncitizen’s Fifth Amendment due process rights,
9 courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

10 46. To guarantee against arbitrary detention and to guarantee the right to liberty, due
11 process requires “adequate procedural protections” that ensure the government’s asserted
12 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally

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2 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation
3 marks omitted).

4 47. In the immigration context, the Supreme Court has recognized only two valid
5 purposes for civil detention: to mitigate the risks of danger to the community and to prevent
6 flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen
based on any other justification.

7 48. To justify immigration detention, the government must bear the burden of proof
8 by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v.*
Holder, 638 F.3d 1196, 1203 (9th Cir. 2011).

9 49. Due process also requires that a neutral decisionmaker consider available
10 alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen’s
11 appearance during removal proceedings. Detention is not reasonably related to this purpose if
12 there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*,
13 441 U.S. 520, 538 (1979). ICE’s alternatives to detention program—the Intensive Supervision
14 Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at
15 removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*,
16 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all
17 EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to
18 detention must be considered in determining whether further incarceration is warranted.

19 50. Immigration detainees face severe hardships while incarcerated. Immigration
20 detainees are held in lock-down facilities, with limited freedom of movement and access to their
21 families: “the circumstances of their detention are similar, so far as we can tell, to those in many
22 prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez v.*

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2 *U.S. Att’y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999);
3 *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). “And in some cases[,] the
4 conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J.,
5 dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS
6 OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities
7 (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g.,
8 indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case
9 of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

10 51. These conditions and obstacles only further underscore the serious due process
11 concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need
12 for a decision before a neutral decisionmaker regarding further detention. Additionally, the
13 harshness of detention could not only affect his physical health or expose him to psychological
14 trauma, but it could also be used to pressure him to accept abandonment of any claims of
15 immigration relief and accept deportation.

16 52. The requirement that the government bear the burden of proof by clear and
17 convincing evidence is also supported by application of the three-factor balancing test from
18 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

19 53. Under *Mathews*, courts weigh the following three factors: 1) “the private interest
20 that will be affected by the official action;” 2) “the risk of an erroneous deprivation of such
21 interest through the procedures used, and the probable value, if any, of additional or substitute
22 procedural safeguards;” and 3) “the Government’s interest, including the function involved and
23 the fiscal and administrative burdens that the additional or substitute procedural requirement
24 would entail.” 424 U.S. at 335.

1
2 **a. Private Interest**

3 54. As to the first *Mathews* factor, “[t]he interest in being free from physical
4 detention” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507,
5 529, 531 (2004). Incarceration deprives noncitizens of a “profound” liberty interest—one
6 that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92;
7 *see also Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes
8 a significant deprivation of liberty that requires due process protection.” (citation
9 omitted)).

10 55. Petitioner has been detained at Folkston ICE Processing Center in
11 conditions that are indistinguishable from criminal incarceration. This detention prevents
12 him from seeing his family, going to work to support himself and his family, and deprives
13 him of any privacy and freedom of movement.

14 **b. Risk of Erroneous Deprivation**

15 56. As to the second *Mathews* factor, the risk of error is great where the
16 government is represented by trained attorneys and detained noncitizens are often
17 unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S.
18 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination
19 proceedings because “numerous factors combine to magnify the risk of erroneous
20 factfinding” including that “parents subject to termination proceedings are often poor,
21 uneducated, or members of minority groups” and “[t]he State’s attorney usually will be
22 expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like
23 conditions that severely hamper their ability to obtain legal assistance, gather evidence,
24 and prepare for a bond hearing.

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2 57. The courts must “assess whether the challenged procedure creates a risk of
3 erroneous deprivation of individuals’ private rights and the degree to which alternative
4 procedures could ameliorate these risks.” *Gunaydin v. Trump*, No. 25-CV-01151
5 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures
6 cause an erroneous deprivation of Petitioner’s liberty interest in remaining free from
7 detention.

8 58. As discussed above, the statutory text, statutory framework, Congressional
9 intent, the longstanding practice of the agency, and the decisions of many federal courts
10 across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived
11 noncitizens seeking entry at a border or port of entry, not noncitizens who entered
12 without inspection and were detained inside the country.

13 59. Here, Petitioner was not arriving at a border or port of entry when he was
14 detained, nor was he ever seeking admission to the country. Instead, he entered without
15 inspection and went on to live in the United States for over 26 years before being
16 detained. As such, Petitioner is not subject to mandatory detention under Section
17 1225(b)(2).

18 60. Therefore, it is clear that the government’s current procedure, subjecting
19 Petitioner to mandatory detention under Section 1225(b)(2), creates a substantial risk of
20 erroneous deprivation of Petitioner’s interest in being free from arbitrary confinement.

21 61. Additionally, there are reasonable alternatives available for Respondent to
22 pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of
23 inadmissibility, including noncitizens like Petitioner who entered without inspection and
24 were later detained while residing inside the country. As such, proper application of the

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2 INA's detention scheme allows for the possibility of detaining Petitioner under Section
3 1226(a) but first requires a bond hearing to make an individualized determination of his
4 risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of
5 erroneous deprivation of Petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL
6 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ
7 fails to assess his risk of flight or dangerousness.").

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10 *c. Government Interest*

11 62. As to the third *Mathews* factor, the government's interest in maintaining
12 the current procedure is minimal here. The new interpretation of Section 1225(b)(2) –
13 that people like Petitioner who have resided in the United States for years are now subject
14 to mandatory detention – flies in the face of the statutory text, statutory framework,
15 Congressional intent, almost three decades of prior practice, and the decisions of federal
16 courts across the nation. Any government interest in public safety or ensuring that
17 Petitioner attends future immigration proceedings would be satisfied through proper
18 application of Section 1226(a), which requires a bond redetermination hearing where an
19 immigration judge will consider Petitioner's individualized facts and circumstances to
20 determine whether he is a danger to the community or a flight risk.

21
22 **II. INA**

23 63. The INA envisions three basic forms of detention for noncitizens in removal
24 proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings.
25 *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at
26 the outset of their detention, while noncitizens who have committed certain crimes are subject to
27 mandatory detention. *See id.* § 1226(c).

64. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

65. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), as Respondents assert, but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, The alien shall be detained for a proceeding under section 1229a of this title [i.e., removal proceedings].

66. The Petitioner maintains that he is detained under 8 U.S.C. § 1226(a), which provides that:

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General -

(1) may continue to detain the arrested alien; and

(2) may release the alien on -

(A) bond of at least \$1,500 with security approved by, and containing conditions described by, the Attorney General; or

(B) conditional parole; but

(3) may not provide the alien with work authorization ... unless the alien is lawfully admitted for permanent residence or otherwise would ... be provided such authorization.

67. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's "first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v.*

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2 *Shell Oil Co.*, 519 U.S. 337, 340 (1997). “The plainness or ambiguity of statutory language is
3 determined by reference to the language itself, the specific context in which that language is
4 used, and the broader context of the statute as a whole.” *Id.* (citing, *inter alia*, *Estate of Cowart v.*
Nicklos Drilling Co., 505 U.S. 469, 477 (1992)).

5 68. Notably, the issue presented in this action is nearly identical to those this Court
6 has recently decided, finding that those petitioners’ detention was governed by 8 U.S.C. §
7 1226(a). *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025)
8 (granting habeas relief and ordering a bond hearing for similar petitioners who never received
bond hearing because of *Matter of Yajure-Hurtado*).

9 **III. APA**

1 69. Under the APA, a court shall “hold unlawful and set aside agency action” that is
an abuse of discretion. 5 U.S.C. § 706(2)(A).

0 70. An action is an abuse of discretion if the agency “entirely failed to consider an
1 important aspect of the problem, offered an explanation for its decision that runs counter to the
1 evidence before the agency, or is so implausible that it could not be ascribed to a difference in
1 view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551
1 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.*
Ins. Co., 463 U.S. 29, 43 (1983)).

2 **IV. Maldonado Bautista Injunction**

1 71. Under *Maldonado Bautista v. Santacruz*, the district court’s injunction extends to
3 noncitizens who entered the United States without inspection but were not apprehended upon
1 arrival—a class that the court defined to include individuals like the Petitioner who were not
apprehended at the border and who were later detained in the interior after residing in the US for

1
2 some time. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025
3 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification); *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting
5 Petitioners' Motion for Partial Summary Judgement); *Maldonado Bautista v. Santacruz*,
6 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.) (Final Judgement).

7 72. In granting partial summary judgment and defining the class, the district court
8 adopted a class definition that turns on the circumstance of apprehension at arrival, not the
9 original physical entry alone. The certified Bond Eligible Class includes "[a]ll noncitizens in the
10 United States without lawful status who (1) have entered ... without inspection; (2) were not or
11 will not be apprehended upon arrival; and (3) are not ... subject to detention under 8 U.S.C. §§
12 1226(c), 1225(b)(1), or 1231 at the time ... DHS makes an initial custody determination."

13 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.)
14 (Order Granting Petitioners' Motion for Partial Summary Judgement). This class definition
15 encompasses two groups: (i) those who entered without inspection and were later detained after
16 residing in the United States for some time, and (ii) those who were apprehended upon arrival,
17 released on recognizance, and then later re-detained after living in the United States.

18 73. Petitioner is thus a member of the Bond Eligible Class under *Bautista*, as he:

- 19 a. is a noncitizen without lawful status in the US and is currently detained
- 20 at the Folkston ICE Processing Center;
- 21 b. was not apprehended upon entry in 2000 but years later around March
- 22 2026; and
- 23 c. is not subject to mandatory detention.

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2 74. Thus, by virtue of the final declaratory judgment issued in that case, Petitioner is
3 entitled to a bond hearing under 8 U.S.C. § 1226(a).

4 **CLAIMS FOR RELIEF**

5 **COUNT I**

6 **Violation of Due Process**

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

9 76. The government may not deprive a person of “life, liberty, or property without
10 due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government
11 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
12 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process protects “all
13 ‘persons’ within the United States, including [non-citizens], whether their presence here is
14 lawful, unlawful, temporary, or permanent.” *Id.* at 693.

15 77. Due process requires that government action be rational and non-arbitrary. *See*
16 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

17 78. Petitioner has a fundamental interest in liberty and being free from official
18 restraint.

19 79. Here, Petitioner is entitled to due process protections under the Fifth Amendment
20 of the U.S. Constitution. Respondents’ refusal to provide Petitioner with an individualized bond
21 hearing—and the IJ’s reliance on *Matter of Yajure-Hurtado* to conclude that no jurisdiction
22 exists—violated Petitioner’s rights under the Due Process Clause.

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2 80. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly
3 favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket
4 detention policy under *Yajure-Hurtado* creates an extreme risk of erroneous deprivation by
5 denying him any opportunity to demonstrate eligibility for release; and the Government's interest
6 in ensuring appearance can be served by far less restrictive means.

7 81. Petitioner entered the country without inspection, had no contact with any DHS
8 officials, and lived in the United States for over 26 years before being initially detained. Such an
9 individual may only be subject to discretionary detention under 8 U.S.C. § 1226, which provides
10 for release on bond. Respondents now erroneously detain Petitioner under the mandatory
11 provision in § 1225(b)(2).

12 82. Respondents' detention of Petitioner without a bond redetermination hearing to
13 determine whether he is a flight risk or danger to others violates his right to due process.

14
15 **COUNT II**
16 **Violation of the INA**

17 83. Petitioner incorporates by reference the allegations of fact set forth in the
18 preceding paragraphs.

19 84. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
20 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
21 relevant here, it does not apply to those who previously entered the country and have been
22 residing in the United States prior to being detained and placed in removal proceedings by
23 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
24 § 1225(b)(1), § 1226(c), or § 1231. But Respondents' actions here violate § 1226(a) too because,

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2 to date, Respondents have refused to consider Petitioner for bond without ever demonstrating
3 that he is a flight risk or danger to others.

4 85. Respondents did not process the Petitioner as an arriving alien, did not initiate an
5 expedited removal, and did not issue or reinstate a removal order. The IJ's reliance on *Matter of*
6 *Yajure-Hurtado* was thus contrary to the statutory framework, which mandates bond jurisdiction
7 in § 236(a) cases.

8 86. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class
9 or classes of aliens who should be detained under the provision, but governs more generally the
10 "apprehension and detention of aliens." As opposed to the inspection regime for aliens entering
11 the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as
12 "authoriz[ing] the government to detain certain aliens already in the country pending the
13 outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis added).

14 87. Here, the Petitioner is clearly not an "applicant for admission." His Notice to
15 Appear likely charges him as an "alien present in the United States without being admitted or
16 paroled, or who arrived in the United States at any time or place other than as designated by the
17 Attorney General," and thus, he should be treated by law as someone who had already entered
18 the U.S. Accordingly, his detention is governed exclusively by INA § 236(a).

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

21 89. Petitioner was entitled to a bond hearing "at the outset of detention" as established
22 by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1),
23 1236.1(d)(1)).
24

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2 90. This Court came to the same conclusion in *Villa v. Normand* regarding the
3 applicability of INA § 236 and § 235 to detained immigrants who had been living in the interior
4 of the country for a time before being arrested and detained without a bond hearing. *See Villa v.*
5 *Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief
6 and ordering a bond hearing for similar petitioners who never received bond hearing because of
7 *Yajure-Hurtado*).

8 91. Petitioner is therefore entitled to immediate release or a prompt bond hearing.

9
10
11 **COUNT III**
12 **Violation of the APA**

13 92. Petitioner restates and realleges all paragraphs as if fully set forth here.

14 93. To survive an APA challenge, the agency must articulate “a satisfactory
15 explanation” for its action, “including a rational connection between the facts found and the
16 choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

17 94. Here, by detaining the Petitioner without any consideration of his individualized
18 facts and circumstances, Respondents have violated the APA.

19 95. Respondents have made no finding that Petitioner is a danger to the community.

20 96. Respondents have made no finding that Petitioner is a flight risk.

21 97. The IJs’ refusals to conduct a bond hearing based on *Matter of Yajure Hurtado*
22 constitutes final agency action that is contrary to statutory text, unsupported by facts, and
23 irrational. Applying *Yajure-Hurtado* to Petitioner’s facts is arbitrary, capricious, and legally
24 erroneous. The resulting deprivation of bond eligibility is therefore unlawful under the APA.

25 98. Thus, the Petitioner is entitled to a prompt bond hearing or immediate release.

COUNT IV
Violation of a Federal Judgement

99. Petitioner restates and realleges all paragraphs as if fully set forth here.

100. Petitioner is a Valid Class Member under *Maldonado Bautista*.

101. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

102. Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his entitlement to consideration for release on bond as a Bond Eligible Class member.

103. As discussed above, this Court should look to the Petitioner’s most recent arrest to determine whether he was apprehended “upon arrival.” *See Maldonado Bautista*, 2025 WL 3289861, at *9-11. The *Maldonado Bautista* court’s reasoning and language indicate that the relevant inquiry for determining class membership should be a person’s most recent arrest. *See id.* at *9-11.

104. Petitioner was apprehended 26 years after his initial entry in South Carolina. Thus, he is a Bond Eligible Class Member.

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

106. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondents must provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within three days.

107. Alternatively, the Court should order Petitioner’s immediate release.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within three (3) days;
- c. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;
- d. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, the INA, and the APA;
- e. Declare that Petitioner is entitled to a bond hearing under *Maldonado Bautista*;
- f. 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
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 13th of March, 2026

Respectfully submitted,

/s/ Karla Verma
Karla Verma, Esq.
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Counsel for Petitioner

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PETITIONER'S EXHIBITS

**EXHIBIT 1 - ICE Memo "Interim Guidance Regarding Detention Authority
for Applicants for Admission," dated July 8, 2025**

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 13th of March, 2026.

Respectfully submitted,

/s/ Karla Verma

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Counsel for Petitioner