

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Isidro Alberto RAPALO CASTELLON,
Petitioner,

v.

Warden of Florida Soft Side South;
Garrett RIPA, Field Office Director of
Enforcement and Removal Operations,
Miami Field Office, U.S. 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.

Respondents.

Case No. 2:26-cv-732

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Isidro Alberto Rapalo Castellon is a 47-year-old Honduran national who is in the physical custody of Respondents at the Florida Soft Side South. See Exhibit (Ex.) A.

2. Petitioner is unlawfully detained pursuant to mandatory detention policies recently adopted by the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR), which conclude that Petitioner is subject to mandatory detention and refuse to abide by the final judgement issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

3. Petitioner is an individual who entered without admission or inspection (EWI) and was never apprehended. His first entry was on or about June 27, 2003. He was living and working in this country when in 2008, Petitioner's daughter suffered a serious medical emergency that required urgent surgery for peritonitis and resulted in her falling into a coma. As a result, Petitioner left the United States and returned to Honduras in 2008, where he remained until his daughter recovered.

4. Petitioner re-entered the United States without inspection or parole (EWI) on or about November 2008. Since that time, he has lived in the United States for over seventeen years, and during that time, he applied for asylum.

5. Despite these facts, and without Petitioner having committed any infraction at the time, Respondent DHS detained him during a traffic stop on March 9, 2026, and has since continued to hold him in immigration custody,

1 consistent with a new DHS policy issued on July 8, 2025, instructing all
2 Immigration and Customs Enforcement (ICE) personnel to consider anyone
3 inadmissible under § 1182(a)(6)(A)(i), i.e., those who entered the United States
4 without admission or inspection, to be subject to detention under 8 U.S.C. §
5 1225(b)(2)(A) and therefore ineligible for release on bond.

6 6. Similarly, on September 5, 2025, the Board of Immigration Appeals
7 (BIA or Board) issued a precedent decision, binding on all immigration judges,
8 holding that an immigration judge has no authority to consider bond requests for
9 any person who entered the United States without admission. *See Matter of Yajure*
10 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board determined that such
11 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
12 ineligible to be released on bond.

1 7. Petitioner's detention on this basis violates the plain language of the
2 Immigration and Nationality Act (INA). Section 1225(b)(2)(A) does not apply to
3 individuals like Petitioner who previously entered and are now residing in the
4 United States. Instead, such individuals are subject to a different statute, § 1226(a),
5 that allows for release on conditional parole or bond. That statute expressly applies
6 to people who, like Petitioner, entered the United States without inspection and
7 were not apprehended during the entry or shortly after.

8 8. Respondents' new legal interpretation is plainly contrary to the
9 statutory framework and contrary to decades of agency practice applying § 1226(a)
10 to people like Petitioner.
11

1 9. Furthermore, on November 25, 2025, the U.S. District Court for the
2 Central District of California issued an order in *Maldonado Bautista v. Santacruz*,
3 certifying a nationwide class of noncitizens who are in immigration detention and
4 being denied access to a bond hearing based on the government's allegation that
5 they entered the United States without admission or inspection (colloquially
6 referred to as "entered without inspection" or "EWI"). *Maldonado Bautista v.*
7 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,
8 at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed
9 nationwide Bond Eligible Class, incorporating and extending declaratory
1 judgment from Order Granting Petitioners' Motion for Partial Summary
1 Judgment).

0 10. On December 18, 2025, the district court entered a final judgement in
1 the nationwide class action *Maldonado Bautista v. Santacruz*. The Court rejected
1 the government's prior argument that the class certification was merely
1 interlocutory. It entered final judgment on Counts I-III, certifying the class and
2 declaring the policy unlawful. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-
1 01873-SSS-BFM, 2025 WL 3678485 at *1 (C.D. Cal. Dec. 18, 2025). As a class
3 member, Respondent's rights are now adjudicated, and the Government is
1 collaterally estopped from relitigating his detention status. Therefore, as
1 Respondent belongs to the certified class, the immigration court has jurisdiction
4 over his bond hearing.
1
5

1 11. The final judgment held that the Bond Denial Class members are
2 detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for
3 release on bond under § 1225(b)(2)(A). *See Maldonado Bautista v. Santacruz*, No.
4 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 at *1 (C.D. Cal. Dec. 18, 2025).

5 12. On February 18, 2026, the district court entered an order on
6 Petitioner's Motion to Enforce Judgement. *See Maldonado Bautista v. Santacruz*,
7 No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Feb. 19, 2026). The court vacated *Yajure*
8 *Hurtado* as contrary to law under the Administrative Procedure Act (APA). *See id.*
at *19.

9 13. Petitioner, Isidro Alberto Rapalo Castellon, is a member of the Bond-
1 Eligible Class, as he:

- 0 a. Entered the United States without inspection in or about November
1 2008, over seventeen years ago;
- 1 b. Is not subject to mandatory detention under 8 U.S.C. § 1226(c), §
1 1225(b)(1), or § 1231.; and
- 2 c. Does not have lawful status in the United States and is currently
1 detained at the Florida Soft Side South. He was apprehended by
1 immigration authorities on March 09, 2026.

3 14. While Respondents were bound by the final judgment in *Maldonado*
1 *Bautista*, EOIR and its subagency, the Immigration Court and DHS, continue to
4 flagrantly defy the judgment in that case and continue to subject Petitioner to
1

1 unlawful detention despite his clear entitlement to consideration for release on
2 bond as a Bond Eligible Class member.

3 15. Immigration judges have informed class members in bond hearings
4 that they have been instructed by “leadership” that the final judgment in
5 *Maldonado Bautista* is not controlling, even with respect to class members, and
6 that instead IJs remain bound to follow the agency’s prior decision in *Yajure*
7 *Hurtado*, 29 I&N Dec. 216.

8 16. The government appealed the vacatur ruling to the Ninth Circuit on
9 February 23, 2026, and on March 6, 2026, the Ninth Circuit Court of Appeals
10 temporarily stayed the district court’s December 18, 2025 declaratory judgment
11 and February 18, 2026 order which ruled that nationwide class members are
12 entitled to a bond hearing and vacated *Matter of Yajure Hurtado*, pending a ruling
13 on the government’s emergency motion for a stay pending appeal. *Bautista, et al.*
14 *v. U.S. Dep’t of Homeland Security, et al.*, Case No. 26-1044, Dkt. 5.1 (9th Cir.
15 2026).

16 17. After apprehending Petitioner on March 09, 2026, the DHS has not
17 placed him in removal proceedings, or served Petitioner with a Notice to Appear.

18 18. DHS has taken the position that, based on *Matter of Yajure Hurtado*
19 and subsequent agency guidance, Petitioner is categorically ineligible for any
20 custody redetermination before an IJ and may be detained for the duration of his
21 removal proceedings absent discretionary parole.

1 19. The Immigration and Nationality Act and its implementing
2 regulations govern Respondents' authority to detain or release noncitizens
3 pending removal proceedings. Release under 8 U.S.C. § 1226 is permitted only
4 after an immigration officer or IJ determines that the noncitizen does not pose a
5 flight risk or a danger to the community. *See, e.g.*, 8 C.F.R. §§ 212.5(b), 236.1(c)(8),
6 1236.1(c)(8); 8 U.S.C. § 1226(c)(4); *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA
7 1981); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub*
8 *nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

9 20. As a result of Petitioner's detention, he now faces prolonged and
10 potentially indefinite civil detention without any meaningful opportunity for an
11 individualized determination of whether his continued confinement is necessary
12 or lawful. DHS has not conducted any neutral, individualized assessment of
13 Petitioner's danger to the community, risk of flight, or suitability for less restrictive
14 alternatives to detention.

15 21. The statutory analysis in *Maldonado Bautista* class definition
16 decision remains the correct interpretation of the law. Therefore, Petitioner is
17 entitled to pursue individual habeas relief challenging his detention.

18 22. Despite Petitioner having a conviction for driving under the influence
19 (DUI) from 2008, he has shown rehabilitation as evidenced by his completion of
20 court-ordered programs, substance abuse treatment, and his continued law-
21 abiding conduct in the twenty years since that incident. Furthermore, he has no
22 history of violence and no pending criminal charges. His continued detention is

1 not based on any individualized finding that confinement is necessary to serve a
2 legitimate governmental purpose.

3 23. Petitioner's continued detention without any individualized custody
4 determination violates the Due Process Clause of the Fifth Amendment, the APA,
5 the Suspension Clause of the United States Constitution, and binding agency
6 regulations. DHS's reliance on a categorical jurisdictional bar has resulted in
7 prolonged civil confinement without adequate procedural safeguards or
8 meaningful judicial review.

9 24. Petitioner seeks habeas relief ordering his immediate release from
10 ICE custody or, in the alternative, an order directing Respondents to provide him
11 with a prompt, constitutionally adequate, and individualized custody
12 determination before a neutral decisionmaker with authority to order release. For
13 the foregoing reasons, the Court should grant the *writ* and restore Petitioner's
14 liberty.

1 JURISDICTION

2 25. Petitioner is in the physical custody of Respondents. Petitioner is
3 detained at the Florida Soft Side South in Ochopee, Florida.

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

1 is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential
 2 exhaustion requirements are excused for futility.”)

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

4 31. The Court should grant the petition for writ of habeas corpus
 5 “forthwith,” as Petitioner’s unlawful detention is ongoing.

6 32. Courts have long recognized the significance of the habeas statute in
 7 protecting individuals from unlawful detention. The Great Writ has been referred
 8 to as “perhaps the most important writ known to the constitutional law of England,
 9 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).

1 **PARTIES**

0 33. Petitioner is a citizen of Honduras who has been in immigration
 1 detention since March 09, 2026. After Petitioner was arrested while driving to his
 1 place of employment along NW 17th Avenue in Miami, Florida, ICE continues to
 1 hold him pursuant to the agency’s interpretation that individuals who entered
 2 without inspection are subject to mandatory detention under §1225(b)(2)(A), and
 1 any Petitioner’s request for review of his custody with an Immigration Judge is
 futile.

3 34. Respondent the Warden of the Florida Soft Side South Detention
 1 Center has immediate physical custody of Petitioner pursuant to the facility’s
 4 contract with U.S. Immigration and Customs Enforcement to detain noncitizens
 1

1 and is a legal custodian of Petitioner. Respondent the Warden of the Florida Soft
2 Side South Detention Center is a legal custodian of Petitioner.

3 35. Respondent Garrett Ripa is sued in his official capacity as the
4 Director of the Miami Field Office of ICE's Enforcement and Removal Operations
5 division. As such, Garrett Ripa is Petitioner's immediate custodian and is
6 responsible for Petitioner's detention and removal.

7 36. Respondent Kristi Noem is sued in her official capacity as the
8 Secretary of the Department of Homeland Security. She is responsible for the
9 implementation and enforcement of the INA, and oversees ICE, which is
1 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
over Petitioner.

0 37. Respondent DHS is the federal agency responsible for implementing
1 and enforcing the INA, including the detention and removal of noncitizens.

1 38. Respondent Pamela Bondi is sued in her official capacity as the
1 Attorney General of the United States. She is responsible for the Department of
2 Justice (DOJ), of which the Executive Office for Immigration Review and the
1 immigration court system it operates is a component agency.

3 39. Respondent EOIR is the federal agency responsible for implementing
1 and enforcing the INA in removal proceedings, including for custody
redeterminations in bond hearings.

4 **LEGAL FRAMEWORK**

1 **I. Detention of Noncitizens in Removal Proceedings**

1 40. The INA prescribes three basic forms of detention for the vast
2 majority of noncitizens in removal proceedings.

3 41. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
4 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in §
5 1226(a) detention are generally entitled to a bond hearing at the outset of their
6 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
7 arrested, charged with, or convicted of certain crimes are subject to mandatory
8 detention, *see* 8 U.S.C. § 1226(c).

9 42. Second, the INA provides for mandatory detention of noncitizens
1 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
arrivals seeking admission referred to under § 1225(b)(2).

0 43. Last, the INA also provides for detention of noncitizens who have been
1 ordered removed, including individuals in withholding-only proceedings, *see* 8
1 U.S.C. § 1231(a)–(b).

1 44. This case concerns the detention provisions at § 1226(a) and
2 §1225(b)(2).

1 45. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
3 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
1 (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302–03, 110 Stat. 3009–546,
1 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
4 last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

1 46. Following the enactment of the IIRIRA, EOIR drafted new regulations
2 explaining that, in general, people who entered the country without inspection
3 were not considered detained under § 1225 and that they were instead detained
4 under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and
5 Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed.
6 Reg. 10312, 10323 (Mar. 6, 1997).

7 47. Thus, in the decades that followed, most people who entered without
8 inspection and were placed in standard removal proceedings received bond
9 hearings, unless their criminal history rendered them ineligible pursuant to 8
10 U.S.C. § 1226(c). That practice was consistent with many more decades of prior
11 practice, in which noncitizens who were not deemed “arriving” were entitled to a
12 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
13 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
14 “restates” the detention authority previously found at § 1252(a)).

15 48. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
16 policy that rejected well-established understanding of the statutory framework and
17 reversed decades of practice.

18 49. The new policy, entitled “Interim Guidance Regarding Detention
19 Authority for Applicants for Admission,”¹ claims that all persons who entered the
20 United States without inspection shall now be subject to mandatory detention
21

22 ¹ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
23 [authority-for-applications-for-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

1 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is
2 apprehended and affects those who have resided in the United States for months,
3 years, and even decades.

4 50. On September 5, 2025, the BIA adopted this same position in a
5 published decision, *Matter of Yajure Hurtado*. There, the Board held that all
6 noncitizens who entered the United States without admission or parole are subject
7 to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

8 51. Since Respondents adopted their new policies, dozens of federal
9 courts have rejected their new interpretation of the INA's detention authorities.
1 Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same
2 reading of the statute as ICE.

3 52. Even before ICE or the BIA introduced these nationwide policies, IJs
4 in the Tacoma, Washington, immigration court stopped providing bond hearings
5 for persons who entered the United States without inspection and who have since
6 resided here. There, the U.S. District Court in the Western District of Washington
7 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
8 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
9 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

1 53. Subsequently, court after court has adopted the same reading of the
2 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,
3 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,
4 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
5

1 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX
 2 DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
 3 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
 4 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
 5 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
 6 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v.*
 7 *Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,
 8 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19,
 9 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.
 1 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263
 0 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR,
 1 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
 1 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No.
 1 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27,
 1 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
 2 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-
 1 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
 3 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8,
 1 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
 4 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL
 1 2607924 (D. Mass. Sept. 9, 2025); *Puga v. Assistant Field Off. Dir.*, Krome N. Serv.
 5 Processing Ctr., No. 25-24535-Civ, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025);

1 *Silva Cueva v. Warden FDC Miami*, No. 1:25-cv-25589, Order (S.D. Fla. Mar. 12,
 2 2026); *Acosta v. Ripa*, et. al., Case No. 25-cv-62360-WPD (S.D. Fla. Dec. 26,
 3 2025); *Taffur v. Noem*, et. al. Case No. 25-cv-62308-WPD (S.D. Fla. Dec. 22,
 4 2025); *Cetino v. Hardin*, No. 2:25-cv-1037-JES-DNF, 2025 WL 3558138 (M.D.
 5 Fla. Dec. 12, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL
 6 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that
 7 § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-
 8 cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same);
 9 *Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, No. 25-3050, 2025 WL 3552514,
 10 at *8 (7th Cir. Dec. 11, 2025); *but see: Buenrostro-Mendez v. Bondi*, 166 F.4th 494
 11 (5th Cir. 2026).

0 54. Courts have uniformly rejected DHS’s and EOIR’s new interpretation
 1 because it defies the INA. As the *Rodriguez Vazquez* court and others have
 1 explained, the plain text of the statutory provisions demonstrates that § 1226(a),
 1 not § 1225(b), applies to people like Petitioner.

2 55. Section 1226(a) applies by default to all persons “pending a decision
 1 on whether the [noncitizen] is to be removed from the United States.” These
 1 removal hearings are held under § 1229a, to “decid[e] the inadmissibility or
 3 deportability of a[] [noncitizen].”

1 56. The text of § 1226 also explicitly applies to people charged as being
 4 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
 1 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
 5

1 default, such people are afforded a bond hearing under subsection (a). As the
2 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’
3 to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute
4 generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady*
5 *Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see
6 also *Gomes*, 2025 WL 1869299, at *7.

7 57. Section 1226 therefore leaves no doubt that it applies to people who
8 face charges of being inadmissible to the United States, including those who are
9 present without admission or parole.

10 58. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
11 or who recently entered the United States. The statute’s entire framework is
12 premised on inspections at the border of people who are “seeking admission” to
13 the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has
14 explained that this mandatory detention scheme applies “at the Nation’s borders
15 and ports of entry, where the Government must determine whether a[]
16 [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*,
17 583 U.S. 281, 287 (2018).

18 59. Accordingly, the mandatory detention provision of 8 U.S.C. §
19 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered
20 and were residing in the United States at the time of their most recent
21 apprehension.

22 FACTS

1 60. Petitioner initially entered the United States without being inspected
2 on or about June 27, 2003, he was living and working in this country.

3 61. Petitioner received a traffic citation on May 5, 2007, for driving
4 without a valid driver's license. The matter was resolved with a withhold of
5 adjudication following a plea of nolo contendere. *See Ex. B.* On January 20, 2008,
6 Petitioner was arrested for driving without a valid driver's license, improper
7 stopping, standing, or parking of a vehicle and driving under the influence (DUI).
8 *See Ex. C-F.*

9 62. In 2008, Petitioner's daughter suffered a serious medical emergency
10 that required urgent surgery for peritonitis and resulted in her falling into a coma.
11 As a result, Petitioner returned to Honduras in 2008 and remained there until his
12 daughter recovered.

1 63. Petitioner re-entered the United States without inspection in or about
2 November 2008.

3 64. On August 23, 2014, Petitioner was arrested for DUI. Following this
4 incident, the disposition was not guilty. *See Ex. G.*

5 65. On August 25, 2014, Petitioner was found guilty of DUI and not guilty
6 of the charges for driving without a valid driver's license and improper stopping,
7 standing, or parking of a vehicle, all arising from the January 20, 2008 arrest. *See*
8 *Exs. C-F.* Following this disposition, he complied with all court-ordered
9 requirements, including community service, educational classes, and one year of
10 probation. Thereafter, on October 11, 2015, he completed a licensed substance
11

1 abuse and chemical dependency treatment program, demonstrating his
2 rehabilitation and commitment to lawful conduct. *See* Ex. G.

3 66. Petitioner also received two traffic citations on March 23, 2014, for
4 driving without a valid driver's license and for failure to maintain a single lane. *See*
5 Ex. H.

6 67. In or about May 2024, Petitioner filed a Form I-589, Application for
7 Asylum and for Withholding of Removal, with U.S. Citizenship and Immigration
8 Services (USCIS). That application remains pending. *See* Ex. I.

9 68. On December 10, 2024, Petitioner filed a Form I-765, Application for
10 Employment Authorization, with USCIS. *See* Ex. J. USCIS granted his application
11 on December 14, 2024, issuing an employment authorization card through
12 December 12, 2029. *See id.*

13 69. Since Petitioner's 2008 entry, he has continuously resided in the
14 United States for more than seventeen years and had never been apprehended by
15 immigration authorities until March 9, 2026.

16 70. Accordingly, the mandatory detention provision of 8 U.S.C. §
17 1225(b)(2)(A) does not apply to individuals such as Petitioner, who had already
18 affected entry and were residing in the United States at the time of their
19 apprehension.

20 71. On March 9, 2026, at approximately 5:30 a.m., Petitioner was driving
21 to his place of employment along NW 17th Avenue in Miami, Florida, when he was
22 stopped by two patrol vehicles. Two officers of ICE approached Petitioner, ordered
23

1 him to exit the vehicle, and requested that he produce his identification document.
2 Petitioner complied with the officers' instructions and provided his valid driver's
3 license.

4 72. Petitioner informed the officers that he has a pending asylum
5 application; however, the officers indicated that he was under arrest.

6 73. Petitioner was subsequently transferred to the Florida Soft Side South
7 Detention Center in Florida, where he remains detained.

8 74. DHS has not issued a Notice to Appear or initiated removal
9 proceedings against Petitioner before the Immigration Court.

10 75. Petitioner is a long-time, hard-working resident of the United States
11 who has established substantial community ties, including his immediate family,
12 his son, four siblings, two of whom are U.S. citizens, and his fiancée, a lawful
13 permanent resident.

14 76. As a result of Respondents' actions, Petitioner remains detained
15 without any meaningful opportunity to request bond because the Respondents
16 claim the IJ lacks jurisdiction. Absent relief from this Court, he faces the prospect
17 of prolonged immigration detention, potentially lasting months or years, separated
18 from his family and community.

CLAIMS FOR RELIEF

COUNT 1:

Violation of the INA

1 77. Petitioner incorporates by reference the allegations of fact set forth in
2 the preceding paragraphs.

3 78. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
4 apply to all noncitizens residing in the United States who are subject to the grounds
5 of inadmissibility. As relevant here, it does not apply to those who previously
6 entered the country and have been residing in the United States prior to being
7 apprehended and placed in removal proceedings by Respondents. Such
8 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
1226(c), or § 1231.

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

0 **COUNT 2:**

1 **Violation of the INA:**

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

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

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

1 82. The order granting class certification in *Maldonado Bautista* holds
4 that Respondents violate the INA in applying the mandatory detention statute at
§ 1225(b)(2) to class members.

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

5 84. Respondents are parties to *Maldonado Bautista* and bound by the
6 Court’s declaratory judgment.

7 85. By asserting people such as Petitioner are subject to mandatory
8 detention under § 1225(b)(2) under *Yajure Hurtado*, Respondents violate
9 Petitioner’s statutory rights under the INA and the Court’s judgment and order in
10 *Maldonado Bautista*.

1 **COUNT 3:**

0 **Violation of the Bond Regulations**

1 86. Petitioner incorporates by reference the allegations of fact set forth in
2 the preceding paragraphs.

3 87. In 1997, after Congress amended the INA through IIRIRA, EOIR and
4 the then Immigration and Naturalization Service issued an interim rule to
5 interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,
6 Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
7 being applicants for admission, [noncitizens] who are present without having been
8 admitted or paroled (formerly referred to as [noncitizens] who entered without
9 inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at
10 10323 (emphasis added). The agencies thus made clear that individuals who had

1 entered without inspection were eligible for consideration for bond and bond
2 hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

3 88. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a
4 policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

5 89. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
6 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

7 **COUNT 4:**

8 **Violation of Due Process**

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

1 91. The Fifth Amendment guarantees that no person shall be deprived of
0 liberty without due process of law. Noncitizens physically present in the United
1 States—including those who entered without inspection—are “persons” within
1 the meaning of the Fifth Amendment and entitled to full procedural due process
1 protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*,
2 459 U.S. 21, 32 (1982).

1 92. The government may not deprive a person of life, liberty, or property
without due process of law. U.S. Const. amend. V. “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical
1 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas*, 533
4 U.S. at 690.

1 1. Petitioner has a fundamental interest in liberty and being free from
2 official restraint.

3 93. The constitutional infirmity here is not merely the length of
4 detention but the complete absence of any meaningful custody process. Petitioner
5 is detained pursuant to a regime in which:

6 A. No immigration judge may conduct a bond hearing;

7 B. DHS is not required to justify continued detention with
8 evidence; and

9 C. No neutral decisionmaker is empowered to order release,
10 regardless of the Petitioner's lack of danger or flight risk.

1 93. This categorical denial of any individualized custody determination
2 violates procedural due process. Fundamental fairness requires, at a minimum, a
3 meaningful opportunity to be heard before a neutral adjudicator when the
4 government restrains physical liberty for a prolonged period. *Zadvydas*, 533 U.S.
5 at 690; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

6 94. The government's detention of Petitioner without any individualized
7 assessment also violates substantive due process. Continuing to detain an asylum
8 seeker with a single DUI offense from 2008, no violent criminal history, no
9 dangerousness, and no flight risk—without requiring the government to justify
10 detention or consider less restrictive alternatives—renders the confinement
11 excessive and punitive in effect.

1 95. Because Immigration Judges are largely disclaiming jurisdiction and
2 DHS has provided no alternative constitutionally adequate custody process,
3 habeas corpus is the only effective mechanism by which Petitioner may test the
4 legality of his confinement. Continued detention under these circumstances
5 offends the core protections of the Due Process Clause.

6 96. Accordingly, Petitioner's continued detention without an
7 individualized custody determination violates the Fifth Amendment as applied to
8 him. *Habeas* relief is warranted. Petitioner respectfully requests that this Court
9 order his immediate release from ICE custody; or in the alternative, order
1 Respondents to provide a prompt, constitutionally adequate individualized
2 custody hearing before a neutral decisionmaker with authority to grant release, at
3 which the government bears the burden of justifying continued detention.

1 **PRAYER FOR RELIEF**

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

- 1 a. Assume jurisdiction over this habeas corpus action pursuant to 28
2 U.S.C. §§ 2241 and 1331;
- 1 b. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing
3 Respondents to file a return within three (3) days, absent good cause
1 for a short extension not exceeding ten (10) days;
- 4
1
5

- 1 c. Enjoin Respondents from transferring Petitioner outside the
2 jurisdiction of this Court during the pendency of this action, absent
3 further order of the Court;
- 4 d. Grant the *writ of habeas corpus* and order Petitioner's immediate
5 release from ICE custody; OR in the alternative, order Respondents
6 to provide Petitioner with a prompt, constitutionally adequate, and
7 individualized custody determination before a neutral decisionmaker
8 with actual authority to order release, at which the government bears
9 the burden of proving—by clear and convincing evidence—that
1 continued detention is necessary to serve a legitimate governmental
0 purpose and that no less restrictive conditions of supervision would
1 suffice;
- 1 e. Issue a writ of habeas corpus requiring that within one day,
1 Respondents release Petitioner;
- 1 f. Award Petitioner attorney's fees and costs under the Equal Access to
2 Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis
1 justified under law; and
- 3 g. Grant any other and further relief that this Court deems just and
1 proper.

4 DATED this 14th of March, 2026.
1
5

/s/ Calvin Azadi

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