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9
10 UNITED STATES DISTRICT COURT
11 MIDDLE DISTRICT OF FLORIDA

12 MONTIEL FERNANDEZ, JOSE DEMETRIO

13
14 Petitioner,

15 v.

16 MARKWAYNE MULLIN,
17 Secretary of United States Department of Homeland
18 Security, in her official capacity;

19 PAMELA BONDI,
20 Attorney General of the United States, Department
21 of Justice in her official capacity;

22 TODD LYONS,
23 Enforcement and Removal Operations,
24 U.S. Immigration and Customs Enforcement, Acting
Director, in his official capacity,

GARRETT J. RIPA,
Acting Field Office Director,
Enforcement and Removal Operations,
U.S. Immigration and Customs Enforcement,
Miami Field Office, in his official capacity;

WARDEN,
Alligator Alcatraz (South Florida Detention
Facility), Ochopee, Florida, in his official capacity,

Respondents,

Case No.

PETITION FOR WRIT OF HABEAS
CORPUS

INTRODUCTION

1. Petitioner **Jose Demetrio Montiel Fernandez** brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in physical custody of Respondents at the Florida Soft Side Detention Facility in Collier, Florida commonly known as “Alligator Alcatraz”. [He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

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

4. Nonetheless, the Executive Office for Immigration Review and its subagency, the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to

1 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
2 opportunity to be released on bond.

3 5. Petitioner Jose Demetrio Montiel Fernandez is a member of the Bond Eligible
4 Class, as he:

- 5 a. does not have lawful status in the United States and is currently detained at the
6 Florida Soft Side Detention Facility in Collier, Florida commonly known as
7 “Alligator Alcatraz”. He was apprehended by immigration authorities on January
8 07, 2026.
- 9 b. entered the United States without inspection over three years ago and was not
10 apprehended upon arrival, *cf. id.*; and
- 11 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

12 6. After apprehending Petitioner on January 7, 2026, the DHS placed him in removal
13 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible
14 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

15 7. The Court should grant the petition and order immediate relief.

16 8. 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
19 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
20 Class member.

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

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

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

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Florida Soft Side Detention Facility in Collier, Florida commonly known as “Alligator Alcatraz”.

13. This Court has 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).

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

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Florida because Petitioner is detained in Collier County, Florida within this District.

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

18. 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

19. Petitioner **Jose Demetrio Montiel Fernandez** is a citizen of Venezuela who has been in immigration detention since January 7, 2026. After Petitioner was arrested in St Thomas, VI, ICE did not set bond and instead treated Petitioner as subject to mandatory detention. Petitioner has resided in the United States since February 14, 2023.

20. Respondent **GARRETT J. RIPA** is the Acting Field Office Director for ICE Enforcement and Removal Operations, Miami Field Office. He is responsible for immigration detention decisions within this District and is sued in his official capacity. Respondent Ripa’s address is (ERO)Miami Field Office, 333 South Miami Avenue, Suite 1000, Miami, FL 33130.

21. Respondent **WARDEN** of the Alligator Alcatraz (South Florida Detention Facility) is Petitioner’s immediate physical custodian and is responsible for his day-to-day confinement. He is sued in his official capacity. Respondent **Markwayne Mullin** is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is

1 responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over
2 Petitioner and is sued in his official capacity.

3 22. Respondent Department of Homeland Security (DHS) is the federal agency responsible for
4 implementing and enforcing the INA, including the detention and removal of noncitizens.
5 Respondent Mullin's address is 2707 Martin Luther King Jr. Ave SE Washington, DC 20528

6 23. Respondent **Pamela Bondi** is the Attorney General of the United States. She is responsible
7 for the Department of Justice, of which the Executive Office for Immigration Review and
8 the immigration court system it operates is a component agency. She is sued in her official
9 capacity. Respondent Bondi's address is 950 Pennsylvania Avenue, NW Washington, DC
10 20530.

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

14 25. Respondent **Todd Lyons** is named in his official capacity as the Acting Director
15 of ICE. He administers and enforces the immigration laws of the United States, is legally
16 responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the
17 Petitioner. Respondent Lyon's address is ICE, Office of the Principal Legal Advisor, 500 12th St.
18 SW, Mail Stop 5900, Washington DC 20536-5900.

19 26. Respondent, **Warden** is named in his official capacity as the Warden of the Soft
20 Side Florida Detention Facility commonly known as "Alligator Alcatraz" Immigration
21 Processing center, located in Collier, FL and is the immediate custodian of the Petitioner and
22 responsible for the day-to-day custody and confinement of individuals detained at Miami
23 Processing Center. He is sued in his official capacity.

CLAIM FOR RELIEF

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

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

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

31. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

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

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

- 1 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
2 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
3 seven days;
4 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
5 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
6 law; and
7 e. Grant any other and further relief that this Court deems just and proper.

8
9 DATED: March 18, 2026.

10 Respectfully submitted,
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