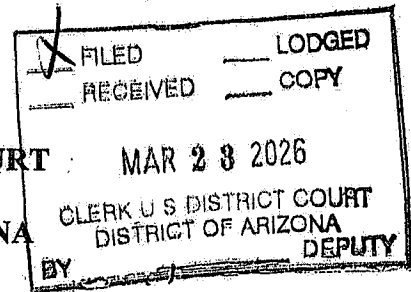


**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF ARIZONA**

U.S. Courthouse, suite 130
401 West Washington Street, SPC10
Phoenix, Arizona 85003-2119



LORENA DEL CARMEN ASCENCIO-LOPEZ

A# 

Petitioner,

V.

CV26-01978-PHX-MTL--ASB

Pam Bondi,
US ATTORNEY GENERAL;
Kristi Noem,
SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;
John E. Cantu,
FIELD OFFICE DIRECTOR FOR THE
PHOENIX FIELD OFFICE;
Warden Eloy detention center
Respondents,

**PETITION FOR A WRIT OF
HABEAS CORPUS UNDER
28 U.S.C. 2241**

INTRODUCTION

1. Petitioner **LORENA DEL CARMEN ASCENCIO-LOPEZ** brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at the **Eloy Detention Center** she 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 abide by the declaratory relief and have

unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

5. Petitioner LORENA DEL CARMEN ASCENCIO-LOPEZ is a member of the Bond Eligible Class, as she:

a. does not have lawful status in the United States and is currently detained at the Eloy Detention Center. She was apprehended by immigration authorities on **March 01, 2025**;

b. entered the United States without inspection over 5 years ago and was not apprehended upon arrival, cf. id.; and

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

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

7. The Court should expeditiously grant this petition.

8. 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). Nevertheless, Respondents continue to flagrantly defy the judgment in that case

and continue to subject Petitioner to unlawful detention despite her clear entitlement to consideration for release on bond as a Bond Eligible Class member.

9. 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).

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 five days.

JURISDICTION

12. This action arises under the constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. 701 et seq.

13. This court has jurisdiction under 28 U.S.C. 2241: art. I 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, law, or treaties of the United State.

14. This court may grant relief pursuant to 28 U.S.C. 2241, 5 U.S.C. 702, 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 Ct., 410 u.s. 484, 495-96, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973); Roman V. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus, because the petition indicates that Petitioner is currently incarcerated at Eloy Detention Center, the proper venue for this action is the United States District Court for the District of Arizona, the judicial district in which Petitioner resides.

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 District of Arizona.

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 is a native and citizen of El Salvador. Petitioner was taken into ICE custody on March 1, 2025.

20. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, Mrs. Bondi has ultimate custodial authority over Petitioner.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation

and enforcement of the Immigration & Nationality Act (INA). As such, Mrs. Noem is the legal custodian of Petitioner.

22. Respondent John E. Cantu is one of the ICE Field Director of the Phoenix Field Office of ICE and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. See Vasquez v. Reno 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

23. Respondent Warden of Eloy detention Center, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

24. Petitioner, LORENA DEL CARMEN ASCENCIO-LOPEZ is a native and citizen of El Salvador. Petitioner has been in ICE custody since March 1, 2025. After Petitioner was arrested in ICE did not set bond, and Petitioner requested review of his custody by an IJ.

25. On September 24, 2026, petitioner was denied bond by an IJ at the Eloy Immigration court because she were deemed an "applicant for admission."

26. Petitioner has resided in the United States since 2021. Petitioner entered the United States without inspection over 5 years ago and was not apprehended upon arrival.

27. Petitioner has no criminal record.

CLAIM FOR RELIEF
Violation of the INA:
Request for Relief Pursuant to Maldonado Bautista

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

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

30. 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.

31. 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.”

32. 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).

33. By denying Petitioner a bond hearing under § 1226(a) and asserting that she 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.

34. Notably, in another habeas case alleging nearly facts, filed in this District Court, *Rodriguez v. Noem*, No. CV-26-00481-PHX-KML (JFM) (AZ. Jan. 29, 2026).

The Honorable judge reached the following decision:

Petitioner appears to be a member of the Bond Eligible Class." (Doc. 7 at 6.) Pursuant to that judgment, petitioner is entitled to be released from custody or provided a bond redetermination hearing within seven days. But in the alternative, the court's review petition confirms he is entitled to relief regardless of Bautista and the court grants relief based on its independent view that his detention is governed by § 1226 and not § 1225.

35. On February 18, 2026, a U.S. District Court vacated the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado* (29 I&N Dec. 216), which had previously allowed the government to deny bond hearings to immigrants deemed "applicants for admission". This ruling restores the right to bond hearings for many individuals who entered without inspection, effectively halting nationwide mandatory detention for this class.

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;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within five days;

d. 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

e. Grant any other and further relief that this Court deems just and proper.

Lorena del Carmen Ascencio
**LORENA DEL CARMEN ASCENCIO-
LOPEZ**

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**Eloy Detention Center
1705 East Hanna Road
Eloy, AZ 85131**

DATED: March 18, 2026