

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF GEORGIA

3 JUAN FELIPE PARRADO BAZANTE,

Petitioner,

4 v.

5 WARDEN of Folkston D. Ray ICE Processing
Center;

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

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

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

1 KRISTI NOEM, Secretary, U.S. Department
of Homeland Security (DHS); and

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

1 Respondents.

Case No.

PETITION FOR WRIT OF
HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mr. Juan Felipe Parrado Bazante, an asylum seeker from Colombia who entered the United States without inspection over four (4) years ago. Mr. Parrado Bazante was apprehended by immigration authorities when attending his annual ICE Check-in appointment on or about November 18, 2025. The Respondents have detained Mr. Parrado Bazante at the Folkston D. Ray ICE Processing Center in Folkston, Georgia.

2. Mr. Parrado Bazante is a member of a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection (colloquially referred to as "entered without inspection" or "EWI").

3. On November 25, 2025, the U.S. District Court for the Central District of California granted declaratory relief to the entire class in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.),¹ (*See, Exhibit. 1*) holding that the government is unlawfully subjecting them to mandatory (meaning no-bond) detention and that class members are eligible for release on bond under the immigration laws. Under the Court's order, class members should be able to request a bond hearing in immigration court before an immigration

¹ On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs holding that the government's policy is inconsistent with the plain language of the *Immigration and Nationality Act* ("INA"), and that petitioners are properly subject to § 1226(a); and on November 25, 2025, , the Court certified a nationwide class and expressly "extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *9, 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). 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.

1 judge (IJ) who must consider whether they are suitable for release on bond while their removal
2 proceedings are pending.

3 4. Because the Department of Homeland Security (DHS) and the Executive Office
4 for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on
5 behalf of the certified class in *Maldonado Bautista v. Santacruz*, Mr. Parrado Bazante is likely to
6 face many additional months in detention. Mr. Parrado Bazante has no other option but to bring
7 this petition for a writ of habeas corpus to enforce his rights a member of the Bond Eligible Class
8 certified in *Maldonado Bautista v. Santacruz, id.*

9 5. Mr. Parrado Bazante also seeks relief from this Court, as a detainee under INA §
10 1226(a), independent of any claim to class membership, because his continued, lengthy
11 immigration related detention is anyhow unconstitutional due to the violation of his
12 constitutional right to due process under the Fifth Amendment, the violation of the
13 *Administrative Procedure Act* (APA) unlawful denial of bond, and the violation of statutory
14 rights under the INA for unlawful denial of bond hearings

15 6. Accordingly, to vindicate Mr. Parrado Bazante's rights, as a member of the Bond
16 Eligible Class in *Maldonado Bautista*, as well as under the Constitution of the United States, and
17 his statutory rights under INA, this Court should grant the instant petition for a writ of habeas
18 corpus.

19 7. Therefore, the Court should order Mr. Parrado Bazante's release unless
20 Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

21 JURISDICTION

22 8. This action arises under the Constitution and the *Immigration and Nationality Act*,
23 8 U.S.C. § 1101 *et seq*

1 9. This Court has jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas
2 authority to the district court); 28 U.S.C. § 1331 (federal question), and Article I, section 9,
3 clause 2 of the United States Constitution (the Suspension Clause) as Mr. Parrado Bazante is
4 presently in custody at the Folkston D. Ray ICE Processing Center under or by color of the
5 authority of the United States, and such custody is in violation of the U.S. Constitution, laws, or
6 treaties of the United States.

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

9 11. Federal district courts have jurisdiction to hear habeas claims by non-citizens
10 challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001).

11 12. Federal courts also have federal question jurisdiction, through the *Administrative*
12 *Procedure Act* (APA), to “hold unlawful and set aside agency action” that is “arbitrary,
13 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. 706(2)(A).

14 VENUE

15 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
16 500 (1973), venue lies in the United States District Court for the Southern District of Georgia,
17 the judicial district in which Petitioner currently is detained.

18 14. Venue is also properly in this Court pursuant to 228 U.S.C. § 2241(c)(3) and 8
19 U.S.C. § 1391(b)(2) and 1391(e) because the Petitioner is in the physical custody of Respondents
20 and Immigration and Customs Enforcement, an agency within the Department of Homeland
21 Security Petitioner. Mr. Parrado Bazante is detained at the Folkston D. Ray ICE Processing
22 Center in Folkston, Georgia and is under the direct control of Respondents and their agents.

1 15. Furthermore, Respondents are employees, officers, and agencies of the United
2 States, and because a substantial part of the events or omissions giving rise to the claims
3 occurred and continue to occur at the Atlanta Field Office of ICE's Enforcement and Removal
4 Operations division (ERO Atlanta) within the Southern District of Georgia's District and
Waycross Division.

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

6 16. The federal habeas corpus statute provides that "[a] court, justice or judge
7 entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the
8 respondent to show cause why the writ should not be granted, unless it appears from the
application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

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

16 18. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests, and this Court
17 should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already
18 been resolved for class members in *Maldonado Bautista*.

19 19. However, if pursuant to Section 2243, this Court issues an order to show cause
20 (OSC), it must direct the respondents to file a return showing why the petition for a writ of
21 habeas corpus filed by Mr. Parrado Bazante pursuant to 28 U.S.C. § 2241 should not be granted.

1 20. As provided by Section 2243, the writ or order to show cause must be returned by
2 the respondents “within *three days* unless for good cause additional time, not exceeding twenty
3 days, is allowed.” 28 U.S.C. § 2243 (emphasis added).

4 21. Nonetheless, giving the Respondents additional time to respond is inappropriate
5 in this case because Mr. Parrado Bazante faces unjustified detention for an extended period of
6 time without being able to challenge his detention at a bond hearing in immigration court while
7 the immigration proceedings are pending. It is important to note, that should Mr. Parrado
8 Bazante continue to fight his case, respondents will not offer the opportunity for pre-removal
9 release.

10 22. Thus Mr. Parrado Bazante’s period of detention is uncertain and can also increase
11 because of the backlog in the immigration courts. Mr. Parrado Bazante ongoing, and prolonged
12 detention carries the separation from his family and those close to him. 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 abandon any claims of immigration
15 relief and accept deportation.

16 23. Absent a grant of this petition for writ of habeas corpus or an issuance of an Order
17 to show cause, the respondents will cause irreparable harm to Mr. Parrado Bazante by subjecting
18 him to an indefinite deprivation of his liberty and other fundamental rights.

19 **PARTIES**

20 24. Mr. **JUAN FELIPE PARRADO-BAZANTE** is a citizen of Colombia that has
21 resided in the United States since on or about 2021. Mr. Parrado Bazante was arrested during a
22 routine ICE Check-in and has been in immigration detention since November 2025. After his

1 detention, Mr. Parrado Bazante was transferred to the Folkston D. Ray ICE Processing Center.
2 No bond hearing has been provided to Mr. Parrado Bazante.

3 25. Respondent, **WARDEN** of Folkston D. Ray ICE Processing Center, on
4 information and belief, is an employee of The Geo Group, a private corporation which runs the
5 Folkston D. Ray ICE Processing Center in Folkston, Georgia where Petitioner is detained. He
6 has immediate physical custody of Mr. Parrado Bazante. He is sued in his official capacity.

7 26. Respondent, Mr. **GEORGE STERLING**, Field Office Director of Enforcement
8 and Removal Operations, is the Director of the, Atlanta Field Office of ICE's Enforcement and
9 Removal Operations division (ERO Atlanta). As such, Mr. Sterling, Field Office Director of
10 Enforcement and Removal Operations, is Petitioner's immediate custodian and is responsible for
11 Petitioner's detention and removal. He is named in his official capacity.

12 27. Respondent, **TODD M. LYONS**, is the Senior Official Performing the Duties of
13 Director of the U.S. Immigration Customs Enforcement, is the federal agency responsible for
14 custody decisions relating to non-citizens charged with being removable from the United States,
15 including the arrest, detention, and custody status of non-citizens. Mr. Lyons has responsibility
16 for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal
17 custodian of Mr. Parrado Bazante. He is sued in his official capacity.

18 28. Respondent, **DAREN K. MARGOLIN**, is the Director of the Executive Office
19 for Immigration Review (EOIR), is the federal agency responsible for implementing and
20 enforcing the INA in removal proceedings, including for custody redeterminations in bond
21 hearings.

22 29. Respondent, **KRISTI NOEM**, is the Secretary of the Department of Homeland
23 Security. She is responsible for the implementation and enforcement of the Immigration and
24

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

3 30. Respondent, **PAMELA BONDI**, is the Attorney General of the United States.
4 She is responsible for the Department of Justice, of which the Executive Office for Immigration
5 Review and the immigration court system it operates is a component agency. She is sued in her
6 official capacity.

7 **STATEMENT OF FACTS**

8 31. Mr. Parrado Bazante is a 22-year-old man who was born in Colombia and fled due
9 to threats from his political opposition protests.

10 32. Mr. Parrado Bazante entered the United States without inspection (EWI) in 2021.

11 33. Mr. Parrado Bazante was working with Amazon prior to his arrest, and has no
12 other criminal history.

13 34. On or about November 2025, Mr. Parrado Bazante was apprehended and his
14 routine ICE check-in by DHS officials.

15 35. Mr. Parrado Bazante is in the physical custody of Respondents at the Folkston D.
16 Ray ICE Processing Center in Folkston, Georgia.

17 36. Mr. Parrado Bazante is a member of the second group of people who members of
18 the Bond Eligible Class, as he:

- 19 a. **Does not have lawful status in the United States** and is currently detained at the
20 Folkston D. Ray ICE Processing Center.
- 21 b. Mr. Parrado Bazante **entered the United States without inspection over 2 years**
22 **ago** and presented himself to CBP officials at or near the border and close in time
23 to their entry, **was released and then re-detained** by immigration authorities
24 after residing in the United States, *cf. id.*; and
- 25 c. **is not subject nor detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.**

1 37. After taking Mr. Parrado Bazante into custody on or around November 2025,
2 DHS then transferred to the Folkston D. Ray ICE Processing Center.

3 38. Mr. Parrado Bazante has a pending asylum application before the Immigration
4 Court. However, DHS seems to be detaining Mr. Parrado Bazante as being inadmissible under 8
5 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection..

6 39. Mr. Parrado Bazante has other family members (spouse and children) living in the
7 United States.

8 40. However, DHS seems to be detaining Mr. Parrado Bazante as being inadmissible
9 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

10 41. Mr. Parrado Bazante's asylum application was denied and his appeal is currently
11 pending. It is important to note that the Executive Office for Immigration Review and its
12 subagency the Immigration Court and the Department of Homeland Security (DHS) have
13 blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be
14 denied the opportunity to be released on bond.

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

20 43. With this in mind, it is of extreme urgency that this Court issue a decision as early
21 as practicable. This will allow the undersigned attorney to effectively argue for Mr. Parrado
22 Bazante's release and ensure that the IJ afford Mr. Parrado Bazante a bond hearing as ordered in
23 the judgment in *Maldonado Bautista* and in accordance with his due process right.

44. Therefore, the Court should expeditiously grant this petition.

LEGAL FRAMEWORK

A. HABEAS CORPUS

45. “Habeas relief is available when a person is ‘in custody in violation of the Constitution or laws or treaties of the United States.’” *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *3 (E.D. Mich. Aug. 29, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

46. The right to file a petition for a writ of habeas corpus is intended to, at a minimum, provide “a means of reviewing the legality of Executive detention.” *Rasul v. Bush*, 542 U.S. 466, 474 (2004) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)).

47. In the context of immigration, there are two main sources of authority for habeas corpus petition. The first, is the civil habeas statute, 28 U.S.C. § 2241. It provides that:

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States . . . 28 U.S. Code § 2241 - Power to grant writ.

48. The second basis of jurisdiction is the Suspension Clause of the U.S. Constitution, also known as the Great Writ. *See* U.S. Const. art. I, § 9, cl. 2 (“The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”).

1 **B. DUE PROCESS CLAUSE, US CONSTITUTION**

2 49. The Fifth Amendment of the U.S. Constitution protects every person from
3 being “deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V §
4 2.

5 50. In the immigration context, the Supreme Court extended these constitutional
6 protections to all noncitizens within the United States, including those who entered unlawfully,
7 declaring that “[noncitizens] who have once passed through our gates, even illegally, may be
8 expelled only after proceedings conforming to traditional standards of fairness encompassed in
9 due process of law.” *See, Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953);
10 *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (There are literally millions of aliens within the
11 jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment,
12 protects every one of these persons from deprivation of life, liberty, or property without due
13 process of law.); *Plyler v. Doe*, 457 U.S. 202, 215 (1982) (holding that unlawfully present aliens
14 were entitled to both due process and equal protection under the Fourteenth Amendment).

15 51. The Court reasoned that noncitizens physically present in the United States,
16 regardless of their legal status, are recognized as persons guaranteed due process of law by the
17 Fifth and Fourteenth Amendments. *Plyler*, 457 U.S. at 210 (citing *Mezei*, 345 U.S. at 212; *Wong*
18 *Wing v. United States*, 163 U.S. 228, 238 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886)).
19 Thus, the Court determined, [e]ven one whose presence in this country is unlawful, involuntary,
20 or transitory is entitled to that constitutional protection. *Mathews*, 426 U.S. at 77; see also
21 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (explaining that the Due Process Clause applies to
22 all ‘persons’ within the United States, including aliens, whether their presence here is lawful,
23 unlawful, temporary, or permanent). “The Due Process Clause extends to all ‘persons’ regardless
24

1 of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or
2 permanently).” *Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Zadvydas v. Davis*, 533 U.S.
3 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S.
4 292, 306 (1993)).

5 52. Accordingly, notwithstanding Congress’s indisputably broad power to regulate
6 immigration, fundamental due process requirements notably constrained that power with respect
7 to aliens within the territorial jurisdiction of the United States. *See Kwong Hai Chew*, 344 U.S.
8 590, 596–97 (1953) (explaining that a lawful permanent resident may not be deprived of his life,
9 liberty or property without due process of law, and thus cannot be deported without notice of the
10 nature of the charge and a hearing at least before an executive or administrative tribunal).

11 53. This fundamental due process protection applies to all noncitizens, including both
12 removable and inadmissible noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 721 (2001)
13 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be
14 free from detention that is arbitrary or capricious”). It also protects noncitizens who have been
15 ordered removed from the United States and who face continuing detention, *Diouf v. Napolitano*,
16 634 F.3d 1081, 1086–87 (9th Cir. 2011), as well as those noncitizens deemed “arriving” under the
17 INA, *Jennings v. Rodriguez*, 138 S.Ct. 830, 862 (2018). (Breyer, J., dissenting) (stating that
18 “arriving” noncitizens enjoy due process protections against prolonged detention because they
19 are “are held within the territory of the United States at an immigration detention facility” (citing
20 *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Kwai Fun Wong v. United*
21 *States*, 373 F.3d 952, 973–74 (9th Cir. 2004) (concluding that the “entry fiction” does not
22 preclude substantive constitutional protection for noncitizens considered “arriving”).

1 54. As a matter of context, in the last two decades, the Supreme Court has
2 addressed several challenges to the immigration detention scheme. For instance, in *Zadvydas v.*
3 *Davis*, 533 U.S. 678, 721 (2001), the Supreme Court explained that “Freedom from
4 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
5 the heart of the liberty” that the Due Process Clause protects. *Id.* at 690. The Supreme Court then
6 held that the government must demonstrate that a noncitizen’s removal is reasonably likely to
7 occur if the noncitizen remains detained for six months after the removal period specified in 8
8 U.S.C. § 1231(a)(6). 533 U.S. at 701. In doing so, the Court recognized a presumption that
9 detention longer than six months following a noncitizen’s removal period violates that
10 noncitizen’s due process right to liberty. *Id.*

1 55. In *Demore v. Kim*, 538 U.S. 510, 523 (2003), the Supreme Court upheld the
2 mandatory detention of a noncitizen under 8 U.S.C. § 1226(c) based on the petitioner’s
3 concession of deportability and the Court’s understanding that detention under § 1226(c) is
4 typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Nevertheless, the Supreme Court’s decision
5 in *Demore* did not foreclose a noncitizen’s right to challenge prolonged detention that does not
6 provide protections that permit a noncitizen to challenge continued confinement.

1 56. To guarantee against such arbitrary detention and to guarantee the right to
2 liberty, due process requires “adequate procedural protections” that ensure the government’s
3 asserted justification for a noncitizen’s physical confinement “outweighs the individual’s
4 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690
5 (internal quotation marks omitted).

1 57. Following *Zadvydas* and *Demore*, circuit court of appeals that confronted the
2 issue found either that the INA or due process require a bond hearing or release for noncitizens

1 subject to unreasonably prolonged detention pending removal proceedings. *See, e.g., Sopo v. U.S.*
2 *Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016), *vacated as moot*, 890 F.3d 952 (11th Cir. 2018);
3 *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015);
4 *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland*
Sec., 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

5 58. Later, in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court held
6 that the Ninth Circuit erred by interpreting 8 U.S.C. §§ 1226(c) and 1225(b) to require bond
7 hearings as a matter of statutory construction. The Supreme Court concluded that §§1225(b),
8 1226(a), and 1226(c) do not give detained [noncitizens] the right to periodic bond hearings
9 during the course of their detention. Because the Ninth Circuit had not decided whether the
10 Constitution itself requires bond hearings in cases of prolonged detention, the Court remanded
11 for the Ninth Circuit to address the issue. *Id.* at 851. The Court's majority opinion did not express
12 any views on the constitutional question and left it to the lower courts to address the issue in the
13 first instance.

1 59. In his dissent, Justice Breyer expressed that "to hold a [person] without bail is
2 to deprive him of bodily "liberty..." "...where there is no bail proceeding, there has been no
3 bail-related "process" at all." citing *United States v. Salerno*, 481 U. S. 739 –751 (1987). Justice
4 Breyer also mentioned that "[f]reedom from bodily restraint has always been at the core of the
5 liberty protected by the Due Process Clause from arbitrary governmental action."
6 citing *Foucha v. Louisiana*, 504 U. S. 71, 80 (1992); *Demore v. Kim*, 538 U. S. 510, 532 (2003)
7 (Kennedy, J., concurring); *Zadvydas*, 533 U. S., at 718 (Kennedy, J., dissenting). To Justice
8 Breyer "[t]he Due Process Clause foresees eligibility for bail as part of due process" because

1 “[b]ail is basic to our system of law.” *Jennings*, at 862, (citing *Salerno, supra*, at
2 748–751; *Schilb v. Kuebel*, 404 U. S. 357, 365 (1971); *Stack v. Boyle*, 342 U. S. 1, 4 (1951)).

3 60. Since the Supreme Court’s *Jennings* decision, lower courts have expressed that
4 “...any statute that allows for arbitrary prolonged detention without any process is
5 unconstitutional or that those who founded our democracy precisely to protect against the
6 government’s arbitrary deprivation of liberty would have thought so.” *See, e.g., Rodriguez v.*
7 *Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

8 61. In immigration cases, civil detention has been found to only permissible where
9 it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson*
10 *v. Indiana*, 406 U.S. 715, 738 (1972). As concluded in *Zadvydas v. Davis*, 533 U.S. at 690, due
11 process thus requires “adequate procedural protections” to ensure that the government’s asserted
12 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
13 protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotation marks omitted).

14 62. Also, and relevant here, in the immigration context, the Supreme Court has
15 recognized only two valid purposes for civil detention: to mitigate the risks of danger to the
16 community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a
17 noncitizen based on any other justification.

18 63. Thus, where the government detains a noncitizen for a prolonged period or
19 where the noncitizen pursues a substantial defense to removal or claim to relief, due process
20 requires an individualized hearing before a neutral decisionmaker to determine whether such a
21 significant deprivation of liberty is reasonably related to its purpose. *Demore*, 538 U.S. at 532
22 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk
23 of flight and dangerousness” may be warranted “if the continued detention became unreasonable

1 or unjustified”); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial
2 commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-
3 50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”);
4 *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that
5 “the length of confinement cannot be ignored in deciding whether [a] confinement meets
6 constitutional standards”).

64. To determine if the prolonged detention of a noncitizen is reasonable, Courts
7 have applied a reasonableness test, which involves three main factors. First, courts have
8 evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the
9 challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty.*
10 *Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a “function of the length of
11 the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at
12 477-78; *accord Sopo*, 825 F.3d at 1217-18. In assessing the length of detention, delay attributable
13 to the government weighs against finding the detention reasonable. *Sopo*, 825 F.3d at 1218.
14 Third, courts consider the likelihood that detention will continue pending future proceedings.
15 *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention,
16 when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a
17 substantial amount of time, making his already lengthy detention considerably longer”); *Sopo*,
18 825 F.3d at 128; *Reid*, 819 F.3d at 500.

65. Due process also requires certain minimal bond hearing procedures. First, the
19 government must bear the burden of proof by clear and convincing evidence to justify continued
20 detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if

1 the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay
2 a bond must when determining the appropriate conditions of release.

3 66. The requirement that the government bear the burden of proof by clear and
4 convincing evidence is also supported by application of the three-factor balancing test from
5 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under the *Mathews* test, Courts consider (1)
6 "the private interest that will be affected by the official action." (2) "the risk of an erroneous
7 deprivation of such interest," and (3) "the Government's interest, including the function involved
8 and the fiscal and administrative burdens that the additional or substitute procedural requirement
9 would entail." *Mathews v. Eldridge*, 424 U.S. at 335.

10 67. Due process also requires that a neutral decisionmaker consider alternatives to
11 detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance
12 during removal proceedings. Detention is not reasonably related to this purpose if there are
13 alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S.
14 520, 538 (1979).

15 68. Courts have ruled that automatically stayed release from detention is a violation
16 of the Fifth Amendment. *See, e.g., Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn.
17 2025) (finding that it "does not require any showing of dangerousness or flight risk. Nor is it
18 subject to immediate review by an immigration judge. It operates by fiat and has the effect of
19 prolonging detention even after a judicial officer has determined that release on bond is
20 appropriate. That mechanism's operation here—in the absence of any individualized
21 justification—renders the continued detention arbitrary as applied. Cf. *Zadvydas*, 533 U.S. at
22 699–700, 121 S.Ct. 2491.

1 69. The “recent shift to use the mandatory detention framework under Section
2 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and
3 implemented by Congress, we don't get to arbitrarily choose which laws we feel like following
4 when they best suit our interests.” *Lopez-Campos*, 2025 WL 2496379, at *10.

5 70. It is important to consider that detention is often lengthy and that immigration
6 detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down
7 facilities, with limited freedom of movement and access to their families: “the circumstances of
8 their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*,
9 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*,
10 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some cases[,] the
11 conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J.,
12 dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), *DHS*
13 *OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities*
14 (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*,
15 indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case
16 of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

17 71. These conditions and obstacles only further underscore the serious due process
18 concerns that prolonged immigration detention entails for Mr. Parrado Bazante. Upon weighing
19 the *Matthews* factors this Court should find that the Government’s interest in fewer bond
20 hearings (the efficient processing on noncitizens for removal) is diminished. Additionally, since
21 Mr. Parrado Bazante’s detention will continue pending future immigration proceedings, this
22 Court should find that the Government’s interest in denying him the opportunity for a bond

1 hearing does not outweigh Mr. Parrado Bazante's liberty interest and it will also create a high
2 risk of erroneous deprivation to said right.

3 72. The government's decision that all noncitizens, like the Mr. Parrado Bazante, are
4 to be mandatorily detained is arbitrary and affords to individuals like him no process, let alone
5 due process. Therefore, it should be unconstitutional. *See Mathews v. Eldridge*, 424 U.S. 319
(1976).

6 **C. The Immigration and Nationality Act of 1952 ("INA")**

7 73. The Immigration and Nationality Act of 1952 ("INA"), codified in Chapter 12
8 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§
9 1101 *et seq.* Forming the basis of current immigration laws of the United States, the INA
1 addresses issues of admission qualifications for noncitizens, naturalization and loss of
2 nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id.* *See also*
3 Margaret C. Jasper, *The Immigration and Nationality Act of 1952*, Legal Almanac: The Law of
4 Immigration (2012).

5 74. Sections 8 U.S.C. §§ 1225, 1226 of the *Immigration and Nationality Act*
6 ("INA") govern how the executive branch evaluates inadmissible noncitizens. Logically
7 speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal.
8 Only after a noncitizen is identified as inadmissible can removal proceedings happen.² The
9 Supreme Court has already distinguished these two provisions in *Jennings v. Rodriguez*. *See* 583
1 U.S. 281, 289 (2018). The *Jennings* Court determined that the government may "detain certain

1 ² *See also, Lazaro Maldonado Bautista et al v. Ernesto Santaacruz Jr et al.* 5:25-cv-01873-SSS-BFM, --- F.
2 *Supp. 3d* ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). Amended Order Consolidating The Court's
3 Orders On Motion For Partial Summary Judgment, Class Certification, And Application For
4 Reconsideration Or Clarification.

1 aliens seeking admission into the country” under § 1225(b) while § 1226 “authorizes the
2 Government to detain certain aliens *already in the country* pending the outcome of removal
3 proceedings.” *Id.* (emphasis added).

4 75. Under § 1225, an “applicant for admission” is a noncitizen “present in the United
5 States who has not been admitted or who arrives in the United States.” 8 U.S.C. § 1225(a)(1).
6 “[A]dmission” and “admitted” are defined as “the lawful entry of the alien into the United States
7 after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

8 76. Section 1225(b)(1) of INA authorizes expedited removal for certain “applicants
9 for admission” in two categories. First, noncitizens “arriving in the United States” that are
10 determined by an immigration officer to be inadmissible due to misrepresentation or failure to
11 meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also id.* at § 1182(a)(6)(C), (a)(7).

12 77. Second, noncitizens that (a) are inadmissible because of misrepresentation or
13 failure to meet documents requirements; (b) have not “been admitted or paroled into the United
14 States”; (c) have not “affirmatively shown, to the satisfaction of an immigration officer, that
15 [they have] been physically present in the United States continuously for the 2-year period
16 immediately prior to the date of the determination of inadmissibility”; and (d) have been
17 designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

18 78. These two categories of noncitizens subject to § 1225(b)(1) are subject to
19 mandatory detention “until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.
20 Individuals that fall into § 1225(b)(1) are “normally ordered removed ‘without further hearing or
21 review’ pursuant to an expedited removal process” unless claiming asylum or a fear of
22 persecution. *Jennings*, 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing §
23 1225(b)(1)(A)(ii)).

79. Noncitizens who are “seeking admission” and not covered by the expedited removal provisions in § 1225(b)(1) are subject to Section 1225(b)(2). *See id.* at 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)–(3).

80. Section 1225(b)(2)(A) governs mandatory detention of applicants for admission. Subject to limited exceptions, Section 1225(b)(2) provides that such noncitizens “shall be detained” for full removal proceedings under § 1229a “if the examining immigration officer determines” that the noncitizen “is not clearly and beyond a doubt entitled to be admitted.” *Id.* at § 1225(b)(2)(A).³

81. On the other hand, Section 1226(a) “provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal.” This Section provides for discretionary detention. 8 U.S.C. § 1226(a). *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).

82. Under § 1226(a), a noncitizen “may be arrested and detained” “[o]n a warrant issued by the Attorney General” if their removal proceedings are pending, 8 U.S.C. § 1226(a).⁴

³ (b) Inspection of applicants for admission

(2) Inspection of other aliens

(A) In general

Subject to subparagraphs (B) and (C), 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. 8 U.S.C. § 1225(b)(2)(A).

⁴ (a) Arrest, detention, and release

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) and pending such decision, the Attorney General—

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

(2) may release the alien on—

1 Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with,
 2 arrested for, or convicted of certain criminal offenses enumerated in § 1226(c),⁵ the government
 3 has discretion to release them on “bond of at least \$1,500 with security approved by, and
 4 containing conditions prescribed by, the Attorney General; or ... conditional parole.” *Id.* at §
 1226(a)(2)(A)–(B).

5 83. Beyond how noncitizens are identified as inadmissible, the one key distinction
 6 between these two Sections is that noncitizens detained under § 1226(a) are entitled to receive
 7 bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*,
 583 U.S. 281, 306 (2018).

8 84. Not only does § 1226(a) provide several layers of review of the agency’s initial
 9 custody determination, but it also confers “an initial bond hearing before a neutral
 10 decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to
 11 appeal, and the right to seek a new hearing when circumstances materially change.” *See, e.g.,*
 12 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that § 1226(a) and its
 13 implementing regulations “provide extensive procedural protections that are unavailable under
 14 other detention provision”).

1 (A) bond of at least \$1,500 with security approved by, an containing conditions
 2 prescribed by the Attorney General... 8 U.S.C. § 1226(a).

3 ⁵ Known as the *Laken Riley Act*, subsection (c) of § 1226, provides for mandatory detention of
 4 noncitizens found inadmissible or deportable under certain provisions and who have been “charged with,”
 5 “arrested for,” “convicted of,” or admit “having committed” certain listed crimes. 8 U.S.C. § 1226(c).
 6 “[N]oncitizens arrested and detained under § 1226 have a right to request a custody redetermination (i.e.,
 7 a bond hearing) before an Immigration Judge.” *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL
 8 2496379, at *4 (citing 8 C.F.R. 1236.1(c)(8), (d)(1)). “The IJ evaluates whether there is a risk of
 9 nonappearance or danger to the community.” *Id.* (citing *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA
 10 2006)).

1 85. For decades the DHS had applied § 1226(a) and its discretionary release and
 2 review of detention “to the vast majority of noncitizens allegedly in this country without valid
 3 documentation”—a practice codified by regulation. *See, e.g., Salcedo Aceros*, 2025 WL
 4 2737503, at *3. However, last year the Government upended this long-held understanding of the
 5 law.

6 86. First, on July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”)
 7 issued an interim guidance memo stating that anyone who entered without inspection was
 8 ineligible for release on bond and could not challenge their detention at a bond hearing in
 9 immigration court, regardless of how long an individual has lived in the United States.⁶ As a
 10 result, DHS attorneys started arguing, and some IJs started finding that such individuals were not
 11 eligible for bond hearings in immigration court.

12 87. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a
 13 precedential decision binding on all IJs, holding that an IJ had no authority to consider bond
 14 requests for any person who entered the United States without inspection. *See Matter of Yajure*
 15 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject
 16 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on
 17 bond. In practice, DHS is not exercising this authority. As a result, thousands of people are
 18 facing months or years in detention without any individualized consideration for whether they
 19 should be detained.

20 88. As discussed above, mandatory detention of applicants for admission applies after
 21 an immigration officer has determined that they will not be entitled to admission if the examining

22 ⁶ *See*, AILA Doc. No. 25071607, accessible through
 23 [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
 24 [r-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission) (last accessed on Friday, January 16, 2026 at 6:27 pm.)

1 immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a
 2 doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). But the Government is now contending
 3 that anyone who entered without inspection remains an “applicant for admission” who is
 4 “seeking admission” and thus subject to mandatory detention under Section 1225(b)(2). *See e.g.*,
Rodriguez Vasquez v. Bostock, et al. 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash.
 5 Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

6 89. In regard to this new interpretation, as of late 2025, several district courts have
 7 held that the Government’s new, and more expansive interpretation of mandatory detention under
 8 the INA is either incorrect or likely incorrect on the basis that this reading of the statute would
 9 render 1226(c) inoperable or moot. Several Courts have then rejected the government’s position
 10 and have held that such individuals are subject to § 1226(a) and thus eligible for a bond hearing.
 11 *See also e.g.*, *Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499
 12 (W.D. Wash. Sept. 30, 2025); *See e.g.*, *Aguilar Merino v. Ripa*, 25-23845-CIV, 2025 WL
 13 2941609 (S.D. Fla. Oct. 15, 2025), and *J.Y.L.C., v. Bostock, et al.*, 3:25-cv-02083-AB, (D. Or.
 14 Nov. 12, 2025) (collecting cases rejecting *Matter of Yajure Hurtado*).

15 90. One of those recent cases where the Court rejected the government’s position,
 16 and relevant here, is *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
 17 *Supp. 3d* ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). On November 20, 2025, the District
 18 Court granted partial summary judgment for the four petitioners, holding that the government’s
 19 policy is inconsistent with the plain language of the *Immigration and Nationality Act* (“INA”),
 20 and that petitioners are properly subject to § 1226(a). *See e.g.*, *J.A.M. v. Streeval*, No.
 21 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No.
 22 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

1 91. Then, on November 25, 2025, the Court certified all noncitizens in the United
2 States without lawful status who (1) have entered or will enter the United States without
3 inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be
4 subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
5 of Homeland Security makes an initial custody determination as “the Bond Eligible Class.” and
6 expressly “extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible
7 Class as a whole.” *Id.* at *9 (emphasis added).

8 92. As expressed above, Mr. Parrado Bazante is a member of the second group of
9 people who are members of the *Maldonado Bautista* Bond Eligible Class.

10 **D. THE ADMINISTRATIVE PROCEDURE ACT (APA), 5 U.S.C. § 706(2)(A)**

11 93. Section 706(2)(A) of the APA commands a reviewing court to “hold unlawful
12 and set aside agency action, findings, and conclusions” that are found to be “arbitrary,
13 capricious, . . . or otherwise not in accordance with law.” § 706(2)(A) (emphasis added).

14 94. APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial
15 review of agency action under the APA may proceed by “any applicable form of legal action,
16 including actions for declaratory judgments or writs of prohibitory or mandatory injunction or
17 habeas corpus”). The APA affords a right of review to a person who is “adversely affected or
18 aggrieved by agency action.” 5 U.S.C. § 702.

19 95. Respondents’ continued detention of Mr. Parrado Bazante for a prolonged or
20 otherwise indefinite period of time without a review of his custody or a bond hearing is adversely
21 and severely affecting his liberty and freedom.

22 **E. EXHAUSTION**

1 96. Section 706(2)(A) of the APA commands a reviewing court to “hold unlawful
2 *and set aside* agency action, findings, and conclusions” that are found to be “arbitrary,
3 capricious, . . . or otherwise not in accordance with law.” § 706(2)(A) (emphasis added).

4 97. Under the doctrine of exhaustion of administrative remedies, ‘a party may not
5 seek federal judicial review of an adverse administrative determination until the party has first
6 sought all possible relief within the agency itself.’” *Howell v. INS*, 72 F.3d 288, 291 (2d Cir.
7 1995) (quoting *Guitard v. U.S. Sec’y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992)).

8 98. However, a party need not exhaust administrative remedies, however, when the
9 available remedies would “provide no genuine opportunity for adequate relief” or when
10 “administrative appeal would be futile.” *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)
11 (Sotomayor, J.) (quoting *Able v. United States*, 88 F.3d 1280, 1288 (2d Cir. 1996)). *See also*
12 *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992), *superseded by statute on other grounds as*
13 *stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where
14 exhaustion would cause “undue prejudice to subsequent assertion of a court action” or
15 “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was
16 empowered to grant effective relief,” or where it would be futile because “the administrative
17 body is shown to be biased or has otherwise predetermined the issue before it”) (internal
18 quotation marks omitted).

19 99. In the context of immigration, Congress has not explicitly mandated exhaustion.
20 Where Congress has not explicitly spoken, requiring the exhaustion of administrative remedies
21 lies within “sound judicial discretion.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In
22 exercising that discretion, the Supreme Court has stated that “federal courts must balance the
23 interest of the individual in retaining prompt access to a federal judicial forum against
24

1 countervailing institutional interests favoring exhaustion.” *Id.* at 146. Those institutional interests
2 are “protecting administrative agency authority and promoting judicial efficiency.” *Id.* at 145.

3 100. The *McCarthy* Court also identified situations in which the interest of the
4 individual weighs heavily against the institutional interests. *See id.* at 146–49. Relevant here, “an
5 administrative remedy may be inadequate where the administrative body . . . has otherwise
6 predetermined the issue before it.” *Id.* at 148 (citing *Gibson v. Berryhill*, 411 U.S. 564, 575, n.14
7 (1973)).

8 101. As mentioned above, on July 8, 2025, the U.S. Immigration and Customs
9 Enforcement (“ICE”) was instructed, via an interim guidance memo, that anyone who entered
10 without inspection (EWIs) is ineligible for release on bond. Then, on September 5, 2025, the
11 Board of Immigration Appeals (“BIA”) held that “[b]ased on the plain language of section
12 235(b)(2)(A) of the [INA], Immigration Judges lack authority to hear bond requests or to grant
13 bond to aliens who are present in the United States without admission.” *See Matter of Yajure*
14 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15 102. In accordance with the July 8, 2025 interim guidance memo and the Board of
16 Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, DHS’ attorneys have the
17 practice of arguing, and Immigration Court IJs throughout the country, including those stationed
18 at Folkston D. Ray ICE Processing Center have started finding that individuals such as Mr.
19 Parrado Bazante could not challenge their detention at a bond hearing in immigration court,
20 regardless of how long an individual has lived in the United States. As result, individuals, such
21 as Mr. Parrado Bazante are denied bond hearings in immigration court.

22 103. Since the Board of Immigration Appeals (BIA) is an administrative body located
23 in the DOJ, which, of course, is part of the executive branch of the government. Its members are

1 appointed by the Attorney General, and its decisions are binding on all immigration judges,
2 *Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Mr. Parrado
3 Bazante to hold a custody redetermination hearing. As such, this Court should find that the
4 agency's position is already set and recourse to administrative remedies is very likely futile.

5 104. Additionally, Immigration Judges have informed class members in bond hearings
6 that they have been instructed by "leadership" that the declaratory judgment in *Maldonado*
7 *Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound
8 to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
9 2025).

10 105. Since the government has already predetermined that anyone who entered without
11 inspection (EWIs) is ineligible for release on bond, established a no-bond for EWIs policy, and
12 has resorted to an across-the-board application of § 1225(b)(2), Mr. Parrado Bazante had to
13 proceed directly to filing this petition for writ of habeas corpus based on *Maldonado Bautista*
14 class membership and for the violation to his statutory and constitutional rights.

15 106. Requiring exhaustion, in this case, would not further the ends of judicial
16 efficiency and protecting administrative authority because it would simply delay the resolution of
17 Mr. Parrado Bazante's legal questions. It is important to consider that in detention cases, appeals
18 to the Board of Immigration Appeals (BIA) can take months or years. Thus, requiring habeas
19 petitioners, such as Mr. Parrado Bazante, to appeal to the BIA to prudentially exhaust is not
20 efficient, would cause irreparable harm by continuing to deprive him of his liberty. Thus, Mr.
21 Parrado Bazante's individual interest in having prompt access to this forum outweighs any
22 institutional interests at stake.

1 107. Therefore, the Court should consider the merits of the Petition. This Court
2 intervention, to enjoin the Respondents from preventing Mr. Parrado Bazante from having a
3 bond hearing pursuant to the holding in *Hurtado*, is necessary to enable him to avail himself of
his administrative remedies.

4 **CLAIM FOR RELIEF**

5 **COUNT 1: REQUEST FOR RELIEF PURSUANT**
6 **TO MALDONADO BAUTISTA**

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

9 109. As a member of the Bond Eligible Class, Mr. Parrado Bazante is entitled to
10 consideration for release on bond under 8 U.S.C. § 1226(a).

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

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

17 112. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
18 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
19 § 2201(a).

20 113. By denying Mr. Parrado Bazante a bond hearing under § 1226(a) and wrongly
21 asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Mr.
22
23
24

1 Parrado Bazante's statutory rights under the INA and the Court's judgment in *Maldonado*
2 *Bautista*.

3 **COUNT 2: UNCONSTITUTIONAL DETENTION IN**
4 **VIOLATION OF THE FIFTH AMENDMENT**

5 114. Petitioner, Mr. Parrado Bazante, repeats, re-alleges, and incorporates by reference
6 each and every allegation in the preceding paragraphs as if fully set forth herein.

7 115. "Freedom from imprisonment—from government custody, detention, or other
8 forms of physical restraint—lies at the heart of the liberty that [the] Clause protects." *Zadvydas v.*
9 *Davis*, 533 U.S. 678, 690 (2001).

10 116. Civil immigration detention is only permissible where it bears a "reasonable
11 relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S.
12 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and
13 protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

14 117. Mr. Parrado Bazante's immigration proceedings are at an appellate stage, and he
15 could raise a "good faith" challenge to removal. His removal is not imminent or reasonably
16 foreseeable.

17 118. Mr. Parrado Bazante's continued and prolonged detention does not bear a
18 reasonable relation to the purpose for which it was committed until the government satisfies its
19 burden of proof to show by clear and convincing evidence that community protection or flight
20 risk concerns apply to him. This can only happen in a bond hearing, which the Respondents are
21 not affording to Mr. Parrado Bazante. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972);
22 *Zadvydas*, 533 U.S. at 690.

1 119. Furthermore, the mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
2 apply to noncitizens, such as Mr. Parrado Bazante, residing in the United States who are subject
3 to the grounds of inadmissibility only because they previously entered the country without being
admitted.

4 120. Petitioner, Mr. Parrado Bazante, is detained under § 1226(a) and is not subject to
5 another detention provision, such as 1225(b)(1), § 1226(c), or § 1231.

6 121. However, in accordance with the BIA decision in *Matter of Yajure Hurtado*, DHS
7 attorneys have the practice of arguing and IJs throughout the country, including those stationed
8 the Folkston ICE Processing Center have started finding that individuals, such as Mr. Parrado
9 Bazante, could not challenge their detention at a bond hearing in immigration court, regardless of
how long an individual has lived in the United States. As result, individuals such as, Mr. Parrado
Bazante, are denied bond hearings in immigration court.

1 122. These cumulative actions render his detention even more constitutionally suspect,
0 as they reflect punitive conduct rather than civil processing.

1 123. Respondents lack statutory authority to detain Mr. Parrado Bazante under Section
1 1225(b)(2) because that statute does not apply to noncitizens in his circumstances. Accordingly,
1 Mr. Parrado Bazante's continued detention constitutes a deprivation of liberty without due
1 process of law. The Court should order his release.

2 **COUNT 3: VIOLATION OF INA AND ITS
IMPLEMENTING REGULATIONS; 8 U.S.C. § 1226(A)
UNLAWFUL DENIAL OF BOND HEARINGS**

1 124. Petitioner, Mr. Parrado Bazante, herein incorporates all allegations and facts set
3 forth in the paragraphs above.

1 125. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
2 noncitizens, such as Mr. Parrado Bazante, residing in the United States who are only subject to
3 the grounds of inadmissibility because they previously entered the country without being
admitted.

4 126. Mr. Parrado Bazante is detained under § 1226(a) and is not subject to the any
5 detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

6 127. The government's no-bond for EWIs policy and the incorrect, willful, and
7 capricious application of § 1225(b)(2) to Mr. Parrado Bazante violates the *Immigration and*
Nationality Act.

8 **COUNT 4: UNLAWFUL DENIAL OF BOND HEARING IN**
VIOLATION OF EIGHTH AMENDMENT RIGHT TO BAIL

9 128. Petitioner, Mr. Parrado Bazante, re-alleges and incorporates by reference the
paragraphs above.

1 129. The Eighth Amendment of the United States Constitution prohibits "cruel and
0 unusual punishments." U.S. Const. amend. VIII cl. 4.2.

1 130. Bail is "basic to our system of law." It not only "permits the unhampered
1 preparation of a defense," but also "prevent[s] the infliction of punishment prior to conviction."
1 *Jennings*, at 862, (Breyer, J., dissenting) citing *Salerno, supra*, at 748-751; *Schilb v. Kuebel*, 404
1 U. S. 357, 365 (1971); *Stack v. Boyle*, 342 U. S. 1, 4 (1951).

2 131. The government's categorical, incorrect, willful, and capricious application of §
1 1225(b)(2) to Mr. Parrado Bazante and continued detention without a bond hearing results in
1 indefinite and unconstitutional imprisonment which surmounts to a cruel and unusual
3 punishment in violation of the Eighth Amendment

1 132. For these reasons, Mr. Parrado Bazante's ongoing and prolonged detention
2 without a bond hearing violates the Eighth Amendment.

3 **COUNT 5: CONTINUED DETENTION WITHOUT BOND**
4 **HEARING IN VIOLATION OF THE ADMINISTRATIVE**
5 **PROCEDURE ACT, 5 U.S.C. § 706(2)(A)**

6 133. Petitioner, Mr. Parrado Bazante, herein incorporates all allegations and facts set
7 forth in the paragraphs above.

8 134. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
9 noncitizens, such as Mr. Parrado Bazante, residing in the United States who are only subject to
10 the grounds of inadmissibility because they originally entered the United States without
11 inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another
12 detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

13 135. Mr. Parrado Bazante is detained under § 1226(a) and is not subject to the any
14 detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

15 136. Nonetheless, IJs stationed at Folkston D. Ray ICE Processing Center have a
16 policy and practice of applying § 1225(b)(2) and denying bond hearings to detainees, such as Mr.
17 Parrado Bazante.

18 137. Respondents continue to keep Mr. Parrado Bazante detained under the wrong
19 provision of INA. Such action against Mr. Parrado Bazante is arbitrary, capricious, and not in
20 accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

21 **PRAYER FOR RELIEF**

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

- 23 a. Assume jurisdiction over this matter;

- 1 b. Issue an Order prohibiting the Respondents from transferring Petitioner from the
2 district without the court's approval;
- 3 c. Issue a declaration that Respondents are detaining Petitioner in violation of the
4 declaratory judgment issued in *Maldonado Bautista*;
- 5 d. Issue a Writ of Habeas Corpus requiring that within one day, Respondents release
6 Petitioner; on his own recognizance, under parole, or on low bond or any other
7 reasonable conditions of supervision;
- 8 e. Alternatively, issue a Writ of Habeas Corpus, hold a hearing before this Court if
9 warranted to determine if the Petitioner should be subject to mandatory detention
10 under 8 U.S.C. § 1225(b)(2); require Respondents to release Petitioner unless they
11 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- 12 a. Issue a declaration that Petitioner's ongoing prolonged detention violates the Due
13 Process Clause of the Fifth Amendment and the Eighth Amendment.
- 14 a. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
15 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
16 law; and
- 17 b. Grant any other and further relief that this Court deems just and proper.

18 Respectfully submitted,

19 /s/ Michael Urbina

20 Michael Urbina

21 michael@urbina.law

22 Counsel for Petitioner

23 Dated: March 19, 2026

24 PETITION FOR WRIT OF HABEAS CORPUS - 33

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Juan Felipez Parrado Bazante, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19th day of March, 2026.

/s/Michael Urbina

Michael Urbina

Counsel for Petitioner

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