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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

Jesus BENITEZ GARCIA,

Petitioner,

v.

Willie Thomas, *in his official capacity as  
Warden of Irwin County Detention Center*, and  
Todd LYONS, *in his official capacity as Acting  
Director of Immigration and customs  
Enforcement*, and Ladeon FRANCIS, *Field  
Office Director ICE Atlanta Field Office*, and  
Markwayne MULLIN, *Secretary of Homeland  
Security*, and Pamela BONDI, *in her official  
capacity as Attorney General, United States  
Department of Justice*

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

Alien File No.



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## INTRODUCTION

1. Petitioner, Jesus Benitez Garcia, is a thirty-one-year-old native and citizen of Mexico who entered the United States without inspection on or around August 15, 2002, when he was eight years old and has resided in the United States for twenty-three years.

2. Petitioner is in the physical custody of Respondents at the Irwin County Detention Center in Ocilla, Georgia. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

3. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on this allegation in Petitioner’s removal proceedings, DHS denied the Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

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

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

10          8.       Further, on February 18, 2026, the District Court of Central California vacated  
11 *Matter of Yajure Hurtado. Maldonado Bautista v. Santacruz*, [Dkt. No. 116], No. 5:25-cv-  
12 01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). This ruling restored jurisdiction for bond hearings  
13 for members of the certified class of noncitizens in the United States without lawful status who  
14 entered the United States without inspection and were not apprehended upon arrival.

15          9.       However, on March 6, 2026, this ruling was appealed to the Ninth Circuit Court  
16 of Appeals. An emergency motion for a stay was filed by the Department of Homeland Security  
17 which was granted, temporarily staying the declaratory judgment from *Maldonado Bautista* as  
18 well the order vacating *Matter of Yajure Hurtado*. See *Bautista v. U.S. Dep't Homeland Sec.*,  
19 [Dkt. No. 5.1], No. 26-1044 (9th Cir. Mar. 6, 2026).

20          10.       The judgment in the District Court held that Bond Denial Class members are  
21 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond  
22 under § 1225(b)(2)(A).

23          11.       Petitioner is a member of the Bond Eligible Class, as he:  
24

- 1 a. does not have lawful status in the United States and is currently detained at the  
2 Irwin County Detention Center. She was apprehended by immigration authorities  
3 in March 2026;
- 4 b. entered the United States without inspection over twenty-three years ago and was  
5 not apprehended upon arrival, *cf. id.*; and
- 6 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

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

10 *See Exhibit 1, Copy of Petitioner's I-862, Notice to Appear.*

11 13. The Court should expeditiously grant this petition.

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

### 14 JURISDICTION

15 15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
16 Irwin County Detention Center in Ocilla, Georgia.

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

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

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**VENUE**

18. 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 Georgia within the Valdosta Division, the judicial district in which Petitioner currently is detained.

19. Respondent Thomas is his immediate custodian.

20. 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 Georgia.

**REQUIREMENTS OF 28 U.S.C. § 2243**

21. 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*.

22. 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**

23. Petitioner Jesus Benitez Garcia is a citizen and national of Mexico who has been in immigration detention since March 2026. After detaining Petitioner in Morrow, Georgia, ICE

1 did not set bond and Petitioner is unable to obtain review of his custody by an immigration  
2 judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA  
3 2025). Petitioner is currently detained at the Irwin County Detention Center in Ocilla, Georgia.

4 24. Respondent Willie Thomas is the Warden of the Irwin County Detention Center.  
5 As such, Respondent Thomas is responsible for the operation of the Detention Center where  
6 Petitioner is detained. As ICE contracts with private prisons such as the Irwin County Detention  
7 Center to house immigration detainees such as the Petitioner, Respondent Thomas has immediate  
8 physical custody of the Petitioner.

9 25. Respondent Todd Lyons is the Director of the Field Office of ICE's Enforcement  
10 and Removal Operations division. As such, Respondent Lyons is being sued in his official  
11 capacity.

12 26. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration  
13 and Customs Enforcement. As such, Respondent Francis is responsible for the oversight of ICE  
14 operations at the Irwin County Detention Center. Respondent Francis is being sued in his  
15 official capacity.

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

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

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## LEGAL FRAMEWORK

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

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

31. Second, the INA provides for mandatory detention of noncitizens 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).

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

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

## FACTS

34. Petitioner is a thirty-one-year-old native and citizen of Mexico. *See Exhibit 2, Petitioner's Passport.*

35. Petitioner has resided in the United States since 2002 and lives in Georgia.

36. In March 2026, Petitioner was detained by ICE after being detained at a roadblock

37. Petitioner is the father of a United States citizen (USC) child who is six years old. *See Exhibit 3, Birth Certificate for Petitioner's USC Child.*

1 38. Petitioner's criminal history consists only of charges from when he was a  
2 juvenile. For the purposes of immigration, these charges are not convictions. *Matter of Devison*,  
3 22 I&N Dec. 1362 (BIA 2000).

4 39. Petitioner is neither a flight risk nor a danger to the community.

5 40. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider  
6 Petitioner's bond request.

7 41. As a result, Petitioner remains in detention. Without relief from this court, he  
8 faces the prospect of months, or even years, in immigration custody, separated from her family  
9 and community.

10 **CLAIMS FOR RELIEF**

11 **COUNT I**

12 **Violation of the INA**

13 42. Petitioner incorporates by reference the allegations of fact set forth in the  
14 preceding paragraphs.

15 43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
16 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As  
17 relevant here, it does not apply to those who previously entered the country and have been  
18 residing in the United States prior to being apprehended and placed in removal proceedings by  
19 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to  
20 § 1225(b)(1), § 1226(c), or § 1231.

21 44. The order granting partial summary judgment in *Maldonado Bautista* holds that  
22 Respondents v The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued  
23 detention and violates the INA.  
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**COUNT II**  
**Violation of the Bond Regulations**

45. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

46. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before immigration judges under 8 U.S.C. § 1226 and its implementing regulations.

47. Nonetheless, pursuant to Matter of Yajure Hurtado, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

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

**COUNT III**  
**Violation of Due Process**

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

50. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government

1 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the  
2 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 51. Petitioner has a fundamental interest in liberty and being free from official  
4 restraint.

5 52. The government’s detention of Petitioner without a bond redetermination hearing  
6 to determine whether he is a flight risk or danger to others violates his right to due process.

7  
8 **PRAYER FOR RELIEF**

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

- 10 a. Assume jurisdiction over this matter;
- 11 b. Order that Petitioner shall not be transferred outside the Middle District of  
12 Georgia while this habeas petition is pending;
- 13 c. Issue an Order to Show Cause ordering Respondents to show cause why this  
14 Petition should not be granted within three days;
- 15 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in  
16 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §  
17 1226(a) within seven days;
- 18 e. Declare that Petitioner’s detention is unlawful;
- 19 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
20 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
21 law; and
- 22 g. Grant any other and further relief that this Court deems just and proper.
- 23  
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1 DATED this 31st day of March, 2026.

2 By: Carlos E. Solomiany

3 Carlos E. Solomiany, Esq.

4 *Ross and Pines, LLC*

5 Attorney for the Petitioner

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I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Carlos E. Solomiany

Date: March 31, 2026