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4  
5 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
6 **SAN DIEGO**


7 Miguel Camacho Perez,  
Petitioner,  
8 v.  
9 Attorney General of the United States,  
Department of Justice;  
10 Markwayne Mullin, Secretary of  
Homeland Security;  
11 Todd Lyons, Senior Official  
Performing the Duties of the Director  
12 of U.S. Immigration and Customs  
Enforcement;  
13  
14 Patrick Divver, Field Office Director of  
the San Diego Immigration and  
15 Customs Enforcement Office;  
16  
17 Jorge Velarde, Assistant Field Office  
Director of the Immigration and  
18 Customs Enforcement, Otay Mesa  
Detention Center;  
19 Christopher J. LaRose; Senior Warden,  
Otay Mesa Detention Center;  
20 Respondents.

Case No. '26CV2098 AGS VET

Agency No. 

**PETITION FOR WRIT OF  
HABEAS CORPUS BY A  
PERSON IN FEDERAL  
CUSTODY UNDER  
28 U.S.C. § 2241 AND ORDER TO  
SHOW CAUSE**

**INTRODUCTION**

- 1
- 2 1. Petitioner, Miguel Camacho Perez () (hereinafter “Petitioner” or
- 3 “Mr. Camacho Perez”), a 48-year-old Mexican national, has been detained at the
- 4 Otay Mesa Detention Center, in violation of his due process rights, since his
- 5 placement in removal proceedings on February 21, 2026. Ex. A, Declaration of
- 6 Attorney Cabrera (“Cabrera Dec.”), ¶ 5.
- 7 2. Mr. Camacho Perez’s last entry to the United States was in May 2001 at or near
- 8 Calexico, California, without inspection, admission, or apprehension by U.S.
- 9 immigration authorities<sup>1</sup>. *Id.* ¶ 6; *see also* Ex. B, Notice to Appear (“NTA”). He
- 10 has remained living in the United States since without departure. Ex. A, ¶ 6. He
- 11 has no recent criminal record<sup>2</sup> or any aggravating circumstance that should
- 12 prevent his eligibility for an immigration judge to conduct a bond hearing,
- 13 according to the Immigration and Nationality Act (“INA”). *Id.* ¶ 9.
- 14 3. On November 20, 2025, a district court granted partial summary judgment on
- 15 behalf of individuals similar to Petitioner who entered the United States without
- 16 inspection and admission and are eligible for a bond hearing under longstanding
- 17 reading of 8 U.S.C. § 1226(a) and on November 25, 2025, certified a nationwide

18 <sup>1</sup> Mr. Camacho Perez did attempt to enter the United States several times immediately

19 preceding this final entry. He was stopped by U.S. immigration authorities and

permitted voluntary return to Mexico. *Id.*

20 <sup>2</sup> Mr. Camacho Perez does have convictions for driving under the influence of alcohol

21 from 2014 and 2017. *Id.* ¶ 9. He has complied with every order from the criminal

courts.

1 class and extended declaratory judgment to the certified class. *Maldonado*  
2 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025  
3 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary  
4 judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No.  
5 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D.  
6 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide  
7 Bond Eligible Class, incorporating and extending declaratory judgment from  
8 Order Granting Petitioners' Motion for Partial Summary Judgment) (hereinafter  
9 generally "*Maldonado Bautista*"). The declaratory judgment held that the Bond  
10 Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be  
11 denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado*  
12 *Bautista*, 2025 WL 3289861, at \*11.

13 4. On December 18, 2025, the district court issued a final order in the matter. *Lazaro*  
14 *Maldonado Bautista et al. v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.  
15 Dec. 18, 2025).

16 5. Petitioner, Mr. Camacho Perez, is a member of the Bond Eligible Class, as he:  
17 a. does not have lawful status in the United States and is currently  
18 detained at the Otay Mesa Detention Center. He was apprehended  
19 by immigration authorities on or about February 21, 2026;

1 b. entered the United States without inspection over 24 years ago and

2 was not apprehended upon arrival, *cf. id.*; and

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

4 6. Contrary to law, the Executive Office for Immigration Review (“EOIR”), and its  
5 sub-agency the immigration court, and supported by the Department of Homeland  
6 Security’s legal counsel, blatantly refused to find jurisdiction over bond  
7 proceedings for persons similarly situated as Petitioner, citing to *Matter of Yajure*  
8 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), and completely disregarding the final  
9 judgment in *Lazaro Maldonado Bautista et al. v. Santacruz*, No. 5:25-cv-01873-  
10 SSS-BFM (C.D. Cal. Dec. 18, 2025).

11 7. On February 18, 2026, the Honorable Sunshine S. Sykes granted the petitioners’  
12 motion to enforce the judgment given the EOIR’s blatant disregard to the final  
13 order issued on December 18, 2025. *Lazaro Maldonado Bautista v.*  
14 *Ernesto Santacruz Jr*, 5:25-cv-01873, (C.D. Cal. Feb. 18, 2026).

15 8. On March 6, 2026, the U.S. Court of Appeals for the Ninth Circuit (“Ninth  
16 Circuit”) granted a stay on the final decision in *Maldonado Bautista*, temporarily  
17 halting the enforcement of *Maldonado Bautista* outside of the Central District of  
18 California until further briefing and oral arguments on the motion are finalized.  
19 *Maldonado Bautista v. DHS*, No. 26-1044 (9th Cir. Mar. 6, 2026).

20 9. Therefore, Petitioner files this petition. Petitioner asks this Court to find that his

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1 continued detention is unlawful without an opportunity for a bond hearing given  
2 Petitioner is entitled to consideration for release on bond under 8 U.S.C.  
3 § 1226(a); that he may not be transferred during the pendency of this petition; and  
4 that this court make an order to show cause. Petitioner prefers not to file a  
5 temporary restraining order given the clear legal precedent in this case  
6 substantiating Petitioner's claims, and would instead request Respondents be  
7 required to provide a response within three days or alternatively timing pursuant to  
8 Chief Judge Order No. 144.

9 **JURISDICTION**

10 10. This action arises under the Constitution of the United States and the Immigration  
11 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

12 11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),  
13 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States  
14 Constitution (Suspension Clause).

15 12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et.*  
16 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs  
17 Act, 28 U.S.C. § 1651.

18 13. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of  
19 jurisdiction. Petitioner is not contesting the commencement or adjudication of  
20 removal proceedings against him, nor is he raising an issue with respect to the  
21

1 execution of removal. Petitioner does challenge his classification under Section  
2 1225(b)(2) instead of Section 1226(a) and the Board of Immigration Appeals’  
3 (“BIA”) decision that Immigration Judges lack authority to provide a bond under  
4 Section 1225(b)(2). While the detention of Petitioner is pursuant to 8 U.S.C. §  
5 1225(b)(2), the petition is independent of the removal proceedings and all  
6 questions related to the commencement of removal proceedings or any part of the  
7 removal process. “[C]laims that are independent of or collateral to the removal  
8 process do not fall within the scope of § 1252(b)(9).” *J.E.F.M. v. Lynch*, 837 F.3d  
9 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) “does not prohibit  
10 challenges to unlawful practices merely because they are in some fashion  
11 connected to removal orders.” *Ibarra-Perez v. United States*, 154 F.4th 989, 997  
12 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g)  
13 and 1252(b)(9).

14 **VENUE**

15 14. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center  
16 in the County of San Diego, which is within the jurisdiction of this District.  
17 Further, a substantial part of the events or omissions giving rise to his claims  
18 occurred in this District (Petitioner was arrested on his way to work in Carlsbad,  
19 California) and no real property is involved in this action. 28 U.S.C. § 1391(e).

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

1 15. The Court must grant the petition for writ of habeas corpus or issue an order to  
2 show cause (OSC) to the respondents “forthwith,” unless the petitioner is not  
3 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court  
4 must require respondents to file a return “within *three days* unless for good cause  
5 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

6 16. Courts have long recognized the significance of the habeas statute in protecting  
7 individuals from unlawful detention. The Great Writ has been referred to as  
8 “perhaps the most important writ known to the constitutional law of England,  
9 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
10 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

11 **PARTIES**

12 ***Petitioner***

13 17. Petitioner, Mr. Camacho Perez, is a Mexican national who is in custody at the  
14 Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego,  
15 CA 92154. When at liberty, he and his husband reside in Desert Hot Springs,  
16 California. He is in the custody, and under the direct control, of Respondents and  
17 their agents.

18 ***Respondents***

1 18. Respondent U.S. Attorney General<sup>3</sup> is sued in their official capacity as the  
2 Attorney General of the United States and the senior official of the U.S.  
3 Department of Justice (“DOJ”). In that capacity, they have the authority to  
4 adjudicate removal cases and to oversee the Executive Office for Immigration  
5 Review (“EOIR”), which administers the immigration courts and the Board of  
6 Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of  
7 Petitioner.

8 19. Respondent Markwayne Mullin Secretary of U.S. Department of Homeland  
9 Security (“DHS”) is sued in their official capacity as the Secretary of the DHS. In  
10 this capacity, Respondent Secretary is responsible for the implementation and  
11 enforcement of the Immigration and Nationality Act, and oversees U.S.  
12 Immigration and Customs Enforcement, the component agency responsible for  
13 Petitioner’s detention and custody. Respondent Secretary is a legal custodian of  
14 Petitioner.

15 20. Respondent Todd Lyons is sued in his official capacity as the Senior Official  
16 Performing the Duties of the Director ICE. Respondent Lyons is the legal  
17 custodian of Petitioner.

18  
19

20 <sup>3</sup> According to the federal rules, a U.S. government official may be named by official  
21 title instead of the official’s name. Fed. R. Civ. P. 17(d). Current U.S. Attorney  
General Pamela Bondi’s termination was announced on April 2, 2026.

1 21. Respondent Patrick Divver is sued in his official capacity as the Field Office  
2 Director of the San Diego ICE Office. Respondent Divver is a legal custodian of  
3 Petitioner and has authority to release him.

4 22. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office  
5 Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a  
6 legal custodian of Petitioner and has direct authority to release him.

7 23. Respondent Christopher J. LaRose is sued in his official capacity as the Senior  
8 Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical  
9 custodian of Petitioner and has direct authority to release him.

10 **STATEMENT OF FACTS**

11 24. Petitioner, Mr. Camacho Perez, a 48-year-old Mexican national, who has lived in  
12 the United States since his last entry without inspection or admission in  
13 approximately May 2001. Ex. A, ¶ 5.

14 25. Mr. Camacho Perez is a loving husband to U.S. citizen Robert Kevin Gettmann  
15 (“Mr. Gettmann”), his longtime partner of 22 years. Ex. A, ¶ 7. Mr. Gettmann  
16 filed an immediate relative petition for his husband and it was approved on  
17 December 13, 2022. *Id.* at ¶10; *see also* Ex. C, Approval Notice.

18 26. Mr. Camacho Perez is actively working to regularize his status. Following the  
19 approval of his husband’s immediate relative petition, Mr. Camacho Perez paid  
20 necessary immigrant visa processing fees and filed a provisional waiver for his  
21

1 unlawful presence. Ex. D, Form I-601A Receipt Notice. The waiver, if approved,  
2 will prevent extreme hardship to his husband so that Mr. Camacho Perez may  
3 attend an interview at a U.S. consulate in Ciudad Juarez and return a lawful  
4 permanent resident.

5 27. Mr. Camacho Perez's immigration proceedings were initiated when he was  
6 arrested on February 21, 2026. He was taking a friend to court in Indio,  
7 California. Ex. A, ¶ 11. While walking, someone came up from behind and  
8 grabbed him. *Id.* He initially resisted until he was made aware it was a Border  
9 Patrol officer. *Id.* He provided his identification and was taken into custody. *Id.*

10 28. ICE eventually transferred Mr. Camacho Perez to the Otay Mesa Detention  
11 Center, where he remains today. *Id.*

12 29. After apprehending Mr. Camacho Perez on or about February 21, 2026, the DHS  
13 placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has  
14 charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as  
15 someone who entered the United States without inspection and is present without  
16 admission. Ex. B.

17 30. Mr. Camacho Perez is a Bond Eligible Class member to the class outlined in  
18 *Maldonado Bautista*. Moreover, as fully discussed therein, he is detained under 8  
19 U.S.C. § 1226(a) and eligible for bond.

1 31. Petitioner is detained pursuant to 8 U.S.C. 1226(a), which provides, in pertinent  
2 part that,

3 [o]n a warrant issued by the Attorney General, a [noncitizen]  
4 may be arrested and detained pending a decision on whether the  
5 [noncitizen] is to be removed from the United States. Except as  
6 provided in subsection (c) and pending such decision, the  
7 Attorney General-- (1) may continue to detain the arrested  
[noncitizen]; and (2) may release the [noncitizen] on (A) bond  
of at least \$1,500 with security approved by, and containing  
conditions prescribed by, the Attorney General; or (B)  
conditional parole.

8 1. Section 1226(a) governs the detention of noncitizens “inside the United States”  
9 and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 288–89  
10 (2018).

11 2. Section 1225(b)(2), in contrast, authorizes the detention of applicants for  
12 admission who are “seeking admission” but “not clearly and beyond a doubt  
13 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that  
14 individuals who fall under its authority “shall be detained” during the pendency  
15 of proceedings, though they too remain eligible for release through the parole  
16 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8  
17 U.S.C. 1182(d)(5)(A) remains available even for people held under otherwise-  
18 mandatory detention pursuant to section 1225(b)). Courts in this district have  
19 repeatedly reached the same conclusion. *See, e.g., Arias Torres v. Bondi*, No. 25-  
20 cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez*

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1 *Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct.  
2 302025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal.  
3 Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-*  
4 *Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct.  
5 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL  
6 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-  
7 TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-  
8 3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*,  
9 No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*,  
10 No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 225); *Prieto-*  
11 *Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal.  
12 Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL  
13 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-  
14 DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-  
15 BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025)

16 3. Petitioner was unquestionably detained in the interior of the country following  
17 the issuance of the NTA. Ex. B.

18 4. Therefore, Mr. Camacho Perez requests this court issue a habeas order requiring a  
19 lawful bond hearing before a fair, neutral, and open-minded arbiter be held for Mr.  
20 Camacho Perez so that his unlawful detention does not continue.

21

**CLAIM FOR RELIEF**  
**Violation of the INA**

- 1
- 2
- 3 5. Petitioner repeats, re-alleges, and incorporates by reference each and every
- 4 allegation in the preceding paragraphs as if fully set forth herein.
- 5
- 6 6. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for
- 7 release on bond under 8 U.S.C. § 1226(a). While a stay is in place precluding
- 8 enforcement of class membership presently, the legal framework supporting Mr.
- 9 Camacho Perez’s eligibility for bond under 8 U.S.C. § 1226(a) remain.
- 10
- 11 7. The final order in *Maldonado Bautista* holds that Respondents violate the INA in
- 12 applying the mandatory detention statute at § 1225(b)(2) to class members. A
- 13 multitude of cases have concluded the same, that 8 U.S.C. § 1226(a) is the
- 14 appropriate standard for bond in Petitioner’s circumstance and that applying
- 15 Section 1225 “(1) disregards the plain meaning of section 1225(b)(2)(A); (2)
- 16 disregards the relationship between sections 1225 and 1226; (3) would render a
- 17 recent amendment to section 1226(c) superfluous; and (4) is inconsistent with
- 18 decades of prior statutory interpretation and practice.” *Lepe v. Andrews*, 801 F.
- 19 Supp. 3d 1104, 1112 (E.D. Cal. 2025) (citing cases).
- 20
- 21 8. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
- subject to mandatory detention under § 1225(b)(2), Respondents violate
- Petitioner’s statutory rights under the INA.

**PRAYER FOR RELIEF**

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

2 a. Assume jurisdiction over this matter;

3 b. Issue an order preventing Respondents from transferring Petitioner away from  
4 the Otay Mesa Detention Center;

5 c. Issue an order to show cause and require a response within three days from  
6 Respondents as to why this petition should not be granted, pursuant to 28 U.S.C. §  
7 2243;

8 d. Issue a writ of habeas corpus requiring Respondents to release Petitioner unless  
9 they provide a bond hearing under 8 U.S.C. § 1226(a) and that the bond hearing must  
10 be before a fair, neutral, open-minded arbiter, and if the bond hearing is not fair and  
11 neutral, Petitioner be released immediately;

12 e. Award Petitioner attorney's fees and costs under the Equal Access to Justice  
13 Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
14 law; and

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

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17 Dated: April 2, 2026

Respectfully submitted,

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/s/ Leah L. Chavarria  
Leah L. Chavarria  
Counsel for Petitioner

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1 **LIST OF EXHIBITS**

2 EXHIBIT A: Declaration of Tessa Cabrera

3 EXHIBIT B: Notice to Appear

4 EXHIBIT C: Form I-130 Approval Notice

5 EXHIBIT D: Form I-601A Receipt Notice

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

7 I represent Petitioner, Miguel Camacho Perez, and submit this verification on  
8 his behalf. I hereby verify under penalty of perjury under the laws of the United States  
9 and the State of California that the factual statements made in the foregoing Petition  
10 for Writ of Habeas Corpus are true and correct to the best of my knowledge.

11 Dated this 2nd day of April, 2026.

12 /s/ Leah L. Chavarria  
13 Leah L. Chavarria  
14 *Counsel for Petitioner*  
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