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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **EDVIN ANIBAL LOPEZ-PINEDA,**




12 *Petitioner,*

13 vs.

14 **MARKWAYNE MULLIN**, Secretary, U.S.
15 Department of Homeland Security;
16 **TODD LYONS**, Acting Director, U.S.
17 Immigration and Customs Enforcement;
18 **PATRICK DIVVER**, San Diego Field Office
19 Director, ICE;
20 **WARDEN, OTAY MESA DETENTION**
21 **CENTER; and**
22 **TODD BLANCHE**, Attorney General of the
23 United States

24 *Respondents.*

Case No. '26CV2160 RSH DDL

Agency No. 

**PETITION FOR WRIT OF HABEAS
CORPUS and MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Expedited Hearing Requested

25 **PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF POINTS AND**
26 **AUTHORITIES IN SUPPORT THEREOF PURSUANT TO 28 U.S.C. § 2241**
27
28

1 **PART I: PETITION FOR WRIT OF HABEAS CORPUS**

2
3 Petitioner, Edvin Anibal Lopez-Pineda, by and through counsel, petitions this Court for a
4 Writ of Habeas Corpus and alleges as follows:
5

6 **I. INTRODUCTION**


- 7 1. Petitioner Edvin Anibal Lopez-Pineda ("Petitioner") seeks a Writ of Habeas Corpus
8 to challenge his unlawful mandatory detention at the Otay Mesa Detention Center.
9 2. Despite residing in the interior of the United States for approximately ten years, the
10 Department of Homeland Security (DHS) has classified him as an "Arriving Alien"
11 subject to mandatory detention under INA § 212(a)(7)(A)(i).
12 3. On April 3, 2026, an Immigration Judge denied Petitioner a custody redetermination
13 hearing, asserting he is subject to mandatory detention without bond (See Exhibit J).
14 This classification violates the Immigration and Nationality Act (INA) and the Due
15 Process Clause of the Fifth Amendment.
16

17 **II. JURISDICTION AND VENUE**

- 18 4. This Court has subject matter jurisdiction to hear this petition under 28 U.S.C. § 2241
19 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause
20 2 of the United States Constitution (the Suspension Clause).
21 5. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(e) and
22 § 2241(a) because Petitioner is currently detained within the geographic boundaries
23 of this district at the Otay Mesa Detention Center in San Diego, California.
24 6. The Court must grant the petition for writ of habeas corpus or issue an order to
25 show cause (OSC) to the Respondents "forthwith," unless the petitioner is not
26 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
27 Respondents to file a return "within three days unless for good cause additional time,
28 not exceeding twenty days, is allowed." Id.

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III. PARTIES

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7. **Petitioner**, Edvin Anibal Lopez-Pineda () is a native and citizen of Honduras. He is currently in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center.
8. **Respondent Markwayne Mullin** is the Secretary of the U.S. Department of Homeland Security (DHS) and has ultimate authority over ICE and the enforcement of immigration laws. He is sued in his official capacity.
9. **Respondent Todd Lyons** is the Acting Director of ICE and shares responsibility for Petitioner's continued detention. He is sued in his official capacity.
10. **Respondent Patrick Divver** is the ICE Field Office Director for the San Diego Field Office, which maintains direct operational control over Petitioner's detention. He is sued in his official capacity.
11. **Respondent Warden of the Otay Mesa Detention Center** is the immediate physical custodian of Petitioner. He is sued in his official capacity.
12. **Respondent Todd Blanche** is the Attorney General of the United States, and as such, has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Petitioner has exhausted all available and effective administrative remedies.
14. On March 18, 2026, Petitioner filed an Omnibus Motion for Joseph Hearing and Bond Redetermination.
15. On April 3, 2026, the Immigration Judge denied the request for a change in custody status.
16. An appeal to the Board of Immigration Appeals (BIA) would be futile because the Immigration Judge explicitly relied on binding BIA precedent (*Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to deny the bond hearing. The BIA cannot

1 overturn its own binding precedent in this individual appeal, nor does it have
2 jurisdiction to rule on the constitutionality of the statutes it administers.
3

4 **V. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

5 17. Petitioner entered the United States near Roma, Texas, on or about March 13, 2016
6 (See Exhibit I).


7 18. At the time of his entry, Petitioner was an unaccompanied minor.

8 19. Petitioner underwent a Credible Fear Interview (CFI) and was found to have a
9 credible fear of persecution, thereby establishing his eligibility for asylum
10 proceedings.

11 20. Petitioner filed a timely application for Asylum and Withholding of Removal (Form
12 I-589) within one year of his arrival (See Exhibit F).

13 21. On October 12, 2022, an Immigration Judge issued an order terminating Petitioner's
14 removal proceedings without prejudice (See Exhibit A).

15 22. Petitioner has resided continuously in the interior of the United States for nearly a
16 decade, establishing deep community ties.

17 23. Petitioner is the father of a United States citizen son,  born in
18 San Diego County in 2023 (See Exhibit B).

19 24. Petitioner has a dedicated and financially stable sponsor in his cousin, Cynthia
20 Garcia, a long-term resident of Escondido, California, who has committed to
21 providing housing and ensuring his attendance at future court hearings (See Exhibit
22 C, D, E).

23 25. In 2026, DHS re-detained Petitioner and issued a new Notice to Appear (NTA) dated
24 March 2, 2026 (See Exhibit K).

25 26. On April 3, 2026, Immigration Judge Mark Sameit denied Petitioner's request for a
26 custody redetermination (See Exhibit J).

27
28

1 27. The Immigration Judge concluded that Petitioner "entered the country without
2 inspection and thus is an applicant for admission under INA section 235(a)(1) and
3 subject to mandatory detention under INA section 235(b)(1)(B)(iii)(IV)".

4 28. The Immigration Judge further justified the denial by noting that the orders in
5 *Maldonado Bautista v. DHS*—a nationwide class action concerning this class of
6 noncitizens—were stayed by the 9th Circuit on March 6, 2026.

7
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9 VI. CAUSES OF ACTION

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11 **COUNT I Violation of the Immigration and Nationality Act**

12 *(Statutory Misclassification)*

13 29. Petitioner incorporates by reference the allegations in the preceding paragraphs.

14 30. Respondents have classified Petitioner as an "arriving alien" or "applicant for
15 admission" subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV).

16 31. Because Petitioner has resided in the interior of the United States for a decade, he is
17 not subject to mandatory detention under INA § 235(b), which applies only to those
18 at the threshold of initial entry.

19 32. Petitioner is legally subject to detention under INA § 236(a), which requires an
20 individualized custody redetermination (bond) hearing.

21 33. Respondents' continued detention of Petitioner without a bond hearing is
22 unauthorized by statute and contrary to law. Markwayne

23

24 **COUNT II**

25 **Violation of the Fifth Amendment to the U.S. Constitution**

26 *(Substantive and Procedural Due Process)*

27 34. Petitioner incorporates by reference the allegations in the preceding paragraphs.

28

1 35. The Fifth Amendment to the United States Constitution guarantees that no person
2 shall be deprived of liberty without due process of law.

3 36. Mandatory detention of a long-term resident with deep familial ties to the United
4 States, without any individualized determination of flight risk or danger to the
5 community, constitutes arbitrary and oppressive imprisonment.

6 37. The Immigration Judge's refusal to grant a bond hearing deprives Petitioner of his
7 fundamental right to liberty without providing the procedural safeguards demanded
8 by the Constitution.

9 38. Due Process requires that Petitioner be afforded a bond hearing where the
10 Government bears the burden of proving, by clear and convincing evidence, that his
11 continued detention is justified.

12

13 **VII. PRAYER FOR RELIEF**

14 WHEREFORE, Petitioner respectfully requests that this Court:

15 39. **Assume Jurisdiction** over this matter;

16 40. **Issue a Writ of Habeas Corpus** directing Respondents to immediately release
17 Petitioner, or, in the alternative, order Respondents to provide Petitioner with an
18 individualized bond hearing before an Immigration Judge within ten (10) days;

19 41. **Order** that at said bond hearing, the Government must bear the burden to prove by
20 clear and convincing evidence that Petitioner presents a flight risk or a danger to the
21 community;

22 42. **Declare** that Petitioner is not subject to mandatory detention under INA § 235(b);

23 43. **Award** reasonable attorney's fees and costs under the Equal Access to Justice Act
24 (EAJA), 28 U.S.C. § 2412, and any other applicable statute; and

25 44. **Grant** any other and further relief as this Court deems just and proper.
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1 **PART III: MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **I. PRELIMINARY STATEMENT**

4 Petitioner Edvin Anibal Lopez-Pineda is not a stranger at the gates. He has resided in the
5 interior of the United States for a decade, establishing deep community and familial roots,
6 including fathering a United States citizen child. Despite his entrenched presence, the
7 Department of Homeland Security ("DHS") has weaponized a flawed Board of Immigration
8 Appeals ("BIA") decision to classify him as an "applicant for admission" subject to
9 mandatory, no-bond detention under INA § 235(b)(1)(B)(iii)(IV).

10
11 On April 3, 2026, an Immigration Judge ("IJ") denied Petitioner's request for a bond
12 redetermination, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and
13 noting that a nationwide class-action injunction challenging this practice was recently stayed
14 by the Ninth Circuit in *Maldonado Bautista v. DHS*, No. 26-1044 (9th Cir. Mar. 6, 2026).
15 However, a stay of a class-wide injunction does not suspend the United States Constitution.
16 Denying an individualized bond hearing to a ten-year resident based on a legal fiction of
17 "arrival" violates the Fifth Amendment's Due Process Clause. This Court must issue a Writ
18 of Habeas Corpus to correct this statutory misapplication and order an immediate bond
19 hearing.

20 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

21
22 Petitioner entered the United States on March 13, 2016, near Roma, Texas, as an
23 unaccompanied minor. For the past ten years, Petitioner has lived continuously in the United
24 States, maintaining employment and raising his U.S. citizen son. Petitioner previously filed
25 a timely application for Asylum and Withholding of Removal (Form I-589) in 2016, which
26 remained pending until his prior proceedings were terminated without prejudice on October
27 12, 2022.

1 In 2026, DHS re-arrested Petitioner and issued a new Notice to Appear (NTA). He is
2 currently detained at the Otay Mesa Detention Center. Petitioner filed an Omnibus Motion
3 for a *Joseph* Hearing and Bond Redetermination. On April 3, 2026, IJ Mark Sameit denied
4 the request for a change in custody status. The IJ reasoned that Petitioner entered without
5 inspection, is an "applicant for admission," and is subject to mandatory detention under INA
6 § 235(b)(1)(B)(iii)(IV) per *Matter of Yajure Hurtado*. The IJ further justified the denial by
7 citing the March 6, 2026, Ninth Circuit stay in *Maldonado Bautista v. DHS*.

8 9 **III. LEGAL STANDARD AND JURISDICTION**

10 This Court has subject matter jurisdiction to hear this petition under 28 U.S.C. § 2241.
11 While 8 U.S.C. § 1226(e) restricts judicial review of the *discretionary* judgments of
12 immigration judges regarding bond, it does not strip federal courts of jurisdiction to review
13 constitutional claims or questions of law—such as whether a noncitizen is legally subject to
14 a mandatory detention statute in the first place. *See Singh v. Holder*, 638 F.3d 1196, 1200
15 (9th Cir. 2011).

16 17 **IV. ARGUMENT**

18 **A. This Court Retains Habeas Jurisdiction to Review Statutory Misclassification** 19 **Under *Garcia v. Noem* (2025)**

20
21 The government's reliance on mandatory detention under INA § 235(b) rests on a severe
22 statutory misclassification. As the Southern District of California recently affirmed in
23 *Garcia v. Noem*, No. 25-CV-2180-DMS-MMP (S.D. Cal. 2025), district courts possess the
24 authority to review DHS's misapplication of detention frameworks. DHS cannot unilaterally
25 bypass the bond hearing requirements of INA § 236(a) simply by labeling a ten-year
26 resident as an "arriving alien" or "applicant for admission." Because Petitioner challenges
27 his statutory classification—a pure question of law—this Court has full habeas jurisdiction
28 to correct the agency's error.

1 **B. Applying INA § 235(b) Mandatory Detention to a Ten-Year Resident Violates the**
2 **Doctrine of Constitutional Avoidance (*Zadvydas*)** The BIA's 2025 decision in *Matter of*
3 *Yajure Hurtado* attempts to stretch INA § 235(b)—a statute designed for individuals
4 apprehended at the threshold of entry—to cover noncitizens who have lived in the U.S.
5 interior for years.

6
7 The Supreme Court has long held that when a statute raises serious constitutional doubts,
8 courts must construe the statute to avoid those problems. *Zadvydas v. Davis*, 533 U.S. 678,
9 689 (2001). The Supreme Court has also drawn a stark constitutional line between
10 individuals seeking initial admission and those who have entered and developed ties to the
11 country. *See Clark v. Martinez*, 543 U.S. 371 (2005). Applying mandatory, no-bond
12 detention to a decade-long resident with a U.S. citizen child is undeniably "arbitrary and
13 oppressive." To avoid a catastrophic Fifth Amendment Due Process violation, this Court
14 must construe Petitioner's detention as falling under the discretionary framework of INA §
15 236(a), which guarantees a bond hearing.

16 **C. The Ninth Circuit's Stay of Class-Wide Relief in *Maldonado Bautista* Does Not**
17 **Preclude Individual Habeas Relief** In denying bond, the IJ explicitly relied on the Ninth
18 Circuit's March 6, 2026 stay of the district court's orders in *Maldonado Bautista v. DHS*,
19 No. 26-1044. The IJ's reliance is legally flawed.

20
21 A stay of a **class-wide injunction** pending appeal merely halts the universal mandate
22 against the agency; it does not constitute a binding ruling on the constitutional merits, nor
23 does it strip district courts of their duty to adjudicate individual habeas petitions. The
24 District Court in *Maldonado Bautista* (C.D. Cal.) correctly recognized that the BIA's
25 holding in *Yajure Hurtado* violates the Due Process rights of established interior residents.
26 The procedural stay of that nationwide injunction does not prevent this Court from adopting
27 the same sound constitutional analysis to grant relief to Mr. Lopez-Pineda individually.
28

1 Individual habeas corpus relief remains the bedrock remedy against unlawful executive
2 detention, entirely independent of class-action procedural postures.

3
4 **D. Due Process Demands a Bond Hearing Where the Government Bears the Burden of**
5 **Proof by Clear and Convincing Evidence**

6 Because Petitioner's detention is constitutionally governed by INA § 236(a), he is entitled to
7 a bond hearing. Furthermore, the Ninth Circuit has definitively established that the
8 procedural protections at such a hearing must satisfy the Due Process Clause.

9
10 In cases of prolonged detention, the **Government** must bear the burden of proving, by **clear**
11 **and convincing evidence**, that the noncitizen is a flight risk or a danger to the community.
12 *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Aleman Gonzalez v. Barr*,
13 955 F.3d 762 (9th Cir. 2020).

- 14
15 1. **Clear and Convincing Standard:** Petitioner has resided peacefully in the United
16 States since 2016. He is a father and a breadwinner. The Government cannot rely on
17 his lack of lawful status alone to justify continued imprisonment; they must produce
18 clear and convincing evidence of specific danger or flight risk.
19 2. **Structural Error by the IJ:** By applying *Yajure Hurtado* to deny a hearing entirely,
20 the IJ effectively created a permanent, irrebuttable presumption of detention against
21 Petitioner. This constitutes a structural due process error that this Court must remedy
22 by ordering a compliant hearing.

23 **V. CONCLUSION AND PRAYER FOR RELIEF**

24 For the foregoing reasons, Petitioner respectfully requests that this Court:
25

- 26 1. **Issue a Writ of Habeas Corpus** directing Respondents to provide Petitioner with an
27 individualized bond hearing before an Immigration Judge within 10 days;
28

- 1 2. **Order** that at said hearing, the Government must bear the burden of proving by clear
- 2 and convincing evidence that Petitioner is a flight risk or a danger to the community;
- 3 3. **Declare** that INA § 235(b) cannot constitutionally be applied to mandate the
- 4 detention of a ten-year resident of the United States;
- 5 4. **Grant** any other relief the Court deems just and proper.

6
7
8 Dated: April 6, 2026

9
10 Respectfully submitted,

11 /s/Hernando De Cima
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14 Escondido, Ca 92027
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16 858-525-5578
17 *Attorney for Petitioner*

1 **VI. VERIFICATION**

2

3 I, Hernando De Cima, declare under penalty of perjury under the laws of the United States
4 of America that the foregoing Petition for Writ of Habeas Corpus is true and correct to the
5 best of my knowledge, information, and belief, based on the records and documents
6 provided in Petitioner's immigration proceedings.

7

8

9 Executed on this 6th day of April 2026, in Escondido, California.

10

11

Respectfully submitted,

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13

/s/Hernando De Cima
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