


1 Leah L. Chavarria, Esq.  
CA Bar # 297506  
2 2251 San Diego Ave., STE B-200  
San Diego, CA 92110  
3 leah@hurwitzholt.com  
Attorney for Petitioner  
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5 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
6 **SAN DIEGO**

7 Alejandro LOPEZ-LAJPOP,  
Petitioner,

Case No. '26CV2190 JO MMP

Agency No. 

8 v.

9 Attorney General of the United States,  
Department of Justice;

10 Markwayne Mullin, Secretary of  
11 Homeland Security;

12 Todd Lyons, Senior Official  
Performing the Duties of the Director  
13 of U.S. Immigration and Customs  
Enforcement;

14 Patrick Divver, Field Office Director of  
15 the San Diego Immigration and  
Customs Enforcement Office;


16 Jorge Velarde, Assistant Field Office  
17 Director of the Immigration and  
Customs Enforcement, Otay Mesa  
18 Detention Center;

19 Christopher J. LaRose; Senior Warden,  
Otay Mesa Detention Center;

20 Respondents.  
21

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

1 INTRODUCTION

- 2 1. Petitioner, Alejandro Lopez-Lajpop () (hereinafter “Petitioner” or  
3 “Mr. Lopez-Lajpop”), a 45-year-old Guatemalan 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 15, 2026. Ex. A, Declaration of  
6 Attorney Cabrera (“Cabrera Dec.”), ¶ 4.
- 7 2. Mr. Lopez-Lajpop’s last entry to the United States was in January 2010, without  
8 inspection, admission, or apprehension by U.S. immigration authorities. *Id.* ¶ 4;  
9 *see also* Ex. B, Notice to Appear (“NTA”). He has remained living in the United  
10 States since without departure. Ex. A, ¶ 4. He has a criminal record consisting of 3  
11 misdemeanor convictions from 2009, 2015, and 2021, but none of his convictions  
12 should prevent his eligibility for an immigration judge to conduct a bond hearing,  
13 according to the Immigration and Nationality Act (“INA”). *Id.* ¶ 7.
- 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 class and extended declaratory judgment to the certified class. *Maldonado*  
19 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025  
20 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary  
21

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

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

13 5. Petitioner, Mr. Lopez-Lajpop, is a member of the Bond Eligible Class, as he:

- 14 a. does not have lawful status in the United States and is currently  
15 detained at the Otay Mesa Detention Center. He was apprehended  
16 by immigration authorities on or about February 15, 2026;
- 17 b. entered the United States without inspection over 15 years ago and  
18 was not apprehended upon arrival, *cf. id.*; and
- 19 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
- 20
- 21

1 6. Contrary to law, the Executive Office for Immigration Review (“EOIR”), and its  
2 sub-agency the immigration court, and supported by the Department of Homeland  
3 Security’s legal counsel, blatantly refused to find jurisdiction over bond  
4 proceedings for persons similarly situated as Petitioner, citing to *Matter of Yajure*  
5 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), and completely disregarding the final  
6 judgment in *Lazaro Maldonado Bautista et al. v. Santacruz*, No. 5:25-cv-01873-  
7 SSS-BFM (C.D. Cal. Dec. 18, 2025). Ex. A, ¶ 12.

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

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

17 9. Therefore, Petitioner files this petition. Petitioner asks this Court to find that his  
18 continued detention is unlawful without an opportunity for a bond hearing given  
19 Petitioner is entitled to consideration for release on bond under 8 U.S.C.  
20 § 1226(a); that he may not be transferred during the pendency of this petition; and  
21

1 that this court make an order to show cause. Petitioner requests Respondents be  
2 required to provide a response within three days or alternatively timing pursuant to  
3 Chief Judge Order No. 144.

4 **JURISDICTION**

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

7 11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),  
8 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States  
9 Constitution (Suspension Clause).

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

13 13. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of  
14 jurisdiction. Petitioner is not contesting the commencement or adjudication of  
15 removal proceedings against him, nor is he raising an issue with respect to the  
16 execution of removal. Petitioner does challenge his classification under Section  
17 1225(b)(2) instead of Section 1226(a) and the Board of Immigration Appeals'  
18 ("BIA") decision that immigration judges lack authority to provide a bond hearing  
19 on that basis. The petition is independent of the removal proceedings and all  
20 questions related to the commencement of removal proceedings or any part of the  
21

1 removal process. “[C]laims that are independent of or collateral to the removal  
2 process do not fall within the scope of § 1252(b)(9).” *J.E.F.M. v. Lynch*, 837 F.3d  
3 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) “does not prohibit  
4 challenges to unlawful practices merely because they are in some fashion  
5 connected to removal orders.” *Ibarra-Perez v. United States*, 154 F.4th 989, 997  
6 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g)  
7 and 1252(b)(9).

#### 8 VENUE

9 14. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center  
10 in the County of San Diego, which is within the jurisdiction of this District.  
11 Further, a substantial part of the events or omissions giving rise to his claims  
12 occurred in this District (Petitioner was running errands Encinitas, California) and  
13 no real property is involved in this action. 28 U.S.C. § 1391(e).

#### 14 REQUIREMENTS OF 28 U.S.C. § 2243


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

20 16. Courts have long recognized the significance of the habeas statute in protecting  
21 individuals from unlawful detention. The Great Writ has been referred to as

1 “perhaps the most important writ known to the constitutional law of England,  
2 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
3 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

4 **PARTIES**

5 ***Petitioner***

6 17. Petitioner, Mr. Lopez-Lajpop, is a Guatemalan national who is in custody at the  
7 Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego,  
8 CA 92154. When at liberty, he and his family reside in  California. He  
9 is in the custody, and under the direct control, of Respondents and their agents.

10 ***Respondents***

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

18 19. Respondent Markwayne Mullin Secretary of U.S. Department of Homeland  
19 Security (“DHS”) is sued in their official capacity as the Secretary of the DHS. In

20 <sup>1</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 this capacity, Respondent Secretary is responsible for the implementation and  
2 enforcement of the Immigration and Nationality Act, and oversees U.S.  
3 Immigration and Customs Enforcement, the component agency responsible for  
4 Petitioner's detention and custody. Respondent Secretary is a legal custodian of  
5 Petitioner.

6 20. Respondent Todd Lyons is sued in his official capacity as the Senior Official  
7 Performing the Duties of the Director ICE. Respondent Lyons is the legal  
8 custodian of Petitioner.

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

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

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

18 **STATEMENT OF FACTS**

1 24. Petitioner, Mr. Lopez-Lajpop, a 45-year-old Guatemalan national, has lived in the  
2 United States since his last<sup>2</sup> entry without inspection or admission in  
3 approximately January 2010. Ex. A, ¶ 4. He has firm roots in the United States.  
4 He has had an employment authorization document since 2016 and renewed  
5 regularly until his removal proceedings were terminated in September 2025. *Id.* ¶  
6 5, 9.

7 25. Mr. Lopez-Lajpop is a loving partner to his longtime partner and to their two U.S.  
8 citizen children ages 20 and 17. Ex. A, ¶ 5.

9 26. ICE officers initially detained him in 2015, processed him for removal  
10 proceedings, and released him on his own recognizance *Id.* ¶ 6. Ultimately, his  
11 removal proceedings were administratively closed from 2016 to 2025 and then  
12 they were recalendared and terminated in September 2025 because the 2015-  
13 issued NTA was defective. *Id.* ¶ 10.

14 27. On February 15, 2026, while Mr. Lopez-Lajpop was running errands on a  
15 Sunday, ICE officers stopped him, arrested him, and eventually transferred Mr.  
16 Lopez-Lajpop to the Otay Mesa Detention Center, where he remains today. *Id.*

17 28. After apprehending Mr. Lopez-Lajpop on or about February 15, 2026, the DHS  
18 placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has  
19 charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as

20 \_\_\_\_\_  
21 <sup>2</sup> Mr. Lopez-Lajpop initially entered the United States in approximately 2000. Ex. A, ¶  
4.

1 someone who entered the United States without inspection and is present without  
2 admission. Ex. B.

3 29. Mr. Lopez-Lajpop is a Bond Eligible Class member to the class outlined in  
4 *Maldonado Bautista*. Moreover, as fully discussed therein, he is detained under 8  
5 U.S.C. § 1226(a) and eligible for bond.

6 30. Petitioner is detained pursuant to 8 U.S.C. 1226(a), which governs the detention  
7 of noncitizens “inside the United States” and “present in the country.” *Jennings v.*  
8 *Rodriguez*, 583 U.S. 281, 288–89 (2018).

9 31. Section 1225(b)(2), in contrast, authorizes the detention of applicants for  
10 admission who are “seeking admission” but “not clearly and beyond a doubt  
11 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that  
12 individuals who fall under its authority “shall be detained” during the pendency  
13 of proceedings, though they too remain eligible for release through the parole  
14 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8  
15 U.S.C. 1182(d)(5)(A) remains available even for people held under otherwise-  
16 mandatory detention pursuant to section 1225(b)). Courts in this district have  
17 repeatedly reached the same conclusion. *See, e.g., Arias Torres v. Bondi*, No. 25-  
18 cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez*  
19 *Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct.  
20 302025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal.

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

14 32. Petitioner was unquestionably detained in the interior of the country following  
15 the issuance of the NTA. Ex. B.

16 33. Therefore, Mr. Lopez-Lajpop requests this court issue a habeas order requiring a  
17 lawful bond hearing before a fair, neutral, and open-minded arbiter be held for  
18 Mr. Lopez-Lajpop so that his unlawful detention does not continue.

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

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

3 35. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for  
4 release on bond under 8 U.S.C. § 1226(a). While a stay is in place precluding  
5 enforcement of class membership presently, the legal framework supporting Mr.  
6 Lopez-Lajpop's eligibility for bond under 8 U.S.C. § 1226(a) remains.

7 36. The final order in *Maldonado Bautista* holds that Respondents violate the INA in  
8 applying the mandatory detention statute at § 1225(b)(2) to class members. A  
9 multitude of cases have concluded the same, that 8 U.S.C. § 1226(a) is the  
10 appropriate standard for bond in Petitioner's circumstance and that applying  
11 Section 1225 "(1) disregards the plain meaning of section 1225(b)(2)(A); (2)  
12 disregards the relationship between sections 1225 and 1226; (3) would render a  
13 recent amendment to section 1226(c) superfluous; and (4) is inconsistent with  
14 decades of prior statutory interpretation and practice." *Lepe v. Andrews*, 801 F.  
15 Supp. 3d 1104, 1112 (E.D. Cal. 2025) (citing cases).

16 37. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is  
17 subject to mandatory detention under § 1225(b)(2), Respondents violate  
18 Petitioner's statutory rights under the INA.

19 **PRAYER FOR RELIEF**

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

21 a. Assume jurisdiction over this matter;

- 1 b. Issue an order preventing Respondents from transferring Petitioner away from  
2 the Otay Mesa Detention Center;
- 3 c. Issue an order to show cause and require a response within three days from  
4 Respondents as to why this petition should not be granted, pursuant to 28 U.S.C. §  
5 2243;
- 6 d. Issue a writ of habeas corpus requiring Respondents to release Petitioner unless  
7 they provide a bond hearing under 8 U.S.C. § 1226(a) and that the bond hearing must  
8 be before a fair, neutral, open-minded arbiter, and if the bond hearing is not fair and  
9 neutral, Petitioner be released immediately;
- 10 e. Award Petitioner attorney's fees and costs under the Equal Access to Justice  
11 Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
12 law; and
- 13 f. Grant any other and further relief that this Court deems just and proper.

14  
15 Dated: April 7, 2026

Respectfully submitted,

16 /s/ Leah L. Chavarria  
17 Leah L. Chavarria  
18 *Counsel for Petitioner*

18 **LIST OF EXHIBITS**

19 EXHIBIT A: Declaration of Tessa Cabrera

20 EXHIBIT B: Notice to Appear

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

I represent Petitioner, Alejandro Lopez-Lajpop, and submit this verification on his behalf. I hereby verify under penalty of perjury under the laws of the United States and the State of California 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 7th day of April, 2026.

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