

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

HILARIO JACINTO PABLO

AGENCY No



'26 CV2240 CAB MSB

PETITIONER,

v.

MARK WAYNE MULLINS, Secretary, U.S. Department of Homeland Security, et. al.,

RESPONDENTS.

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

Stephanie M. Alcala
Stephanie Alcala Law Offices, APC.
2209 Highland Ave
National City CA 91950
(619) 773-7333
attorneyalcala@gmail.com

Attorney for Petitioner,

HILARIO JACINTO PABLO

1 STEPHANIE M. ALCALA, ESQ (SBN 290 284)
2 STEPHANIE ALCALA LAW OFFICES, APC.
3 2209 HIGHLAND AVE
4 NATIONAL CITY CA 91950
5 TEL: 619 773 7333
6 CELL: 619 980 9405
7 *ATTORNEY FOR PETITIONER*

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10 SAN DIEGO DIVISION

11 Hilario Jacinto Pablo

12 Petitioner,

13 v.

14 Markwayne Mullins, in his official capacity as
15 Secretary of Homeland Security, Christopher J.
16 LAROSE, in his official capacity as Warden of
17 Otay Mesa Detention Center, Gregory J.
18 ARCHAMBEAULT, in his official capacity as
19 San Diego Field Office Director, ICE
20 Enforcement Removal Operations; Todd
21 LYONS, in his official capacity as Acting
22 Director of ICE; and Pamela BONDI, U.S.
23 Attorney General; IMMIGRATION AND
24 CUSTOMS ENFORCEMENT;
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Case No. '26CV2240 CAB MSB

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner Hilario Jacinto Pablo brings this petition for a writ of habeas corpus to
3 seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical
5 custody of Respondents at the Otay Mesa Detention Center.

6 2. Petitioner was last and arbitrarily detained in late March 2026. He entered without
7 inspection in 2013. He was not apprehended upon entry. He is a class member as elaborated by
8 *Maldonado Bautista*. He now faces unlawful detention because the Department of Homeland
9 Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide
10 by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v.*
11 *Santacruz*. Petitioner has not requested a custody redetermination as he would be found by the
12 Immigration Judge as not eligible. The impact of the Board of Immigration Appeals (“BIA”)
13 decision in *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025) and the Central District of
14 California’s decision in *Lazaro Maldonado Bautista, et al v. Ernesto Santacruz Jr, et al.*,
15 5:cv01873 (C.D. Cal. Nov. 20, 2025) has meant that all requests for custody redetermination
16 under Petitioner’s circumstances have been dismissed for lack of jurisdiction.

17 3. On November 20, 2025, the district court granted partial summary judgment on
18 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
19 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
20 CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
21 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
22 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D.
23 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible
24

1 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
2 Motion for Partial Summary Judgment).

3 4. The declaratory judgment held that the Bond Denial Class members are detained
4 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
5 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

6 5. Nonetheless, the Executive Office for Immigration Review and its subagency the
7 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
8 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
9 opportunity to be released on bond.

10 6. Petitioner Hilario Jacinto Pablo is a member of the Bond Eligible Class, as
11 he:

12 a. does not have lawful status in the United States and is currently detained at the
13 Otay Mesa Detention Center. He was apprehended by immigration authorities in
late March 2026;

14 b. entered the United States without inspection over 10 years ago and was not
apprehended upon arrival, *cf. id.*;

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

16 7. In or about 2026 DHS has charged Petitioner as being inadmissible under 8
17 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

18 8. The Court should expeditiously grant this petition.

19 9. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
20 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
21 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
22 detention despite his clear entitlement to consideration for release on bond as a Bond Eligible
23 Class member.

24

1 substantial part of the events or omissions giving rise to the claims occurred in the Southern
2 District of California.

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

4 18. The Court should grant the petition for writ of habeas corpus “forthwith,” as the
5 legal issues have already been resolved for class members in *Maldonado Bautista*.

6 19. Habeas corpus is “perhaps the most important writ known to the constitutional
7 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
8 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
9 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
10 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
11 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

12 **PARTIES**

13 20. Petitioner Hilario Jacinto Pablo is alleged to be a citizen of Guatemala who has
14 been in immigration detention since late March 2026. After Petitioner was arrested, ICE did not
15 set bond.

16 21. On January 23, 2026, Petitioner was told by an IJ at the Otay Mesa Detention
17 Center that he was not eligible for a bond hearing before the immigration judge and instead had
18 to file a federal case first. Petitioner has resided in the United States since about 1998.

19 22. Respondent Gregory Archambault is the Director of the San Diego Field Office
20 of ICE’s Enforcement and Removal Operations division. As such, Gregory Archambault is
21 Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is
22 named in his official capacity.

23

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

/s/ Stephanie M Alcala

Attorney for Petitioner

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and ___ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

AO 242 (Rev 09/17) Petition for a Writ of Habeas Corpus Under 28 U S C § 2241

UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF CALIFORN

Hilario Jacinto Pablo

Petitioner

v.

Markwayne Mullin, IN HIS OFFICIAL CAPACITY, ET. AL. (SEE BRIEF)

Respondent

(name of warden or authorized person having custody of petitioner)

Case No.

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: HILARIO JACINTO PABLO
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: OTAY MESA DETENTION CENTER
(b) Address:
(c) Your identification number:
3. Are you currently being held on orders by:
Federal authorities State authorities Other - explain:
4. Are you currently:
A pretrial detainee (waiting for trial on criminal charges)
Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
Being held on an immigration charge
Other (explain):

Decision or Action You Are Challenging

- 5. What are you challenging in this petition:
How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: OTAY MESA IMMIGRATION COURT, 7488 CALZADA DE LA FUENTE SAN DIEGO CA 92154

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
IMMIGRATION AND CUSTOMS DETENTION

(d) Date of the decision or action: 1 / 23 / 2026

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

AO 242 (Rev 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: late MARCH 2025
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

AO 242 (Rev 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C § 2241

Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review have refused to abide by the declaratory judgment issued on behalf of the certified class in Maldonado Bautista v. Santacruz

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

On November 20 2025 the district court granted partial summary judgment on behalf of individual plaintiffs and plaintiffs and on November 25 2025 certified a nationwide class and extended declaratory judgment

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: HE IS ALLEGED TO HAVE ENTERED WITHOUT BEING ADMITTED AND INSPECTED AND

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

The Immigration Court is now claiming the class declaratory judgment in Maldonado Bautista v. Santa Cruz us not binding and therefore can be ignored.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: Petitioner is not subject to mandatory detention and therefore should be released from custody under the same conditions he had before, namely release on recognizance.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Petitioner entered the United States about 28 years ago without inspection and was released on his own recognizance by the department of homeland security on March 13 2018. There have been no changed circumstances since that date.

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Assume jurisdiction over this matter; Issue a writ of Habeas Corpus requiring that within one day Respondent release Petitioner; Alternatively, issue a writ of habeas corpus requiring Respondent's release Petitioner unless they provide a bond hearing under 8 USC 1226(a) within seven days; Award Petitioner attorney fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 USC 2412, and on any other basis justified under law; and grant any other and further relief that this Court deems just and proper.

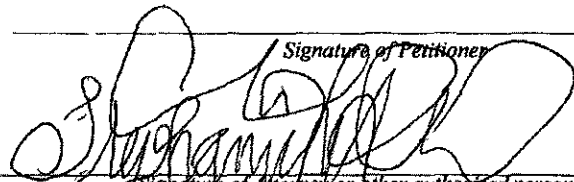
AO 242 (Rev 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 4 8 26

Signature of Petitioner


Signature of Attorney or other authorized person, if any