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

12 Gerardo REYES BENITEZ,

13 Petitioner,

14 v.

15 Christopher J. LAROSE, in his official
16 capacity as Warden of Otay Mesa
17 Detention Center; Daniel A.
18 BRIGHTMAN, in his official capacity as
19 San Diego Field Office Director, ICE
20 Enforcement and Removal Operations;
21 Todd LYONS, in his official capacity as
22 Acting Director of ICE; Markwayne
23 MULLIN, in his official capacity as
24 Secretary of Homeland Security; Todd
25 BLANCHE, in his official capacity as
26 Acting U.S. Attorney General,

27 Respondents.

Case No.: '26CV2389 JLS MMP

Agency File No.: 

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241;
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**REQUEST TO EXPEDITE
PROCEEDINGS**

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1 Gerardo REYES BENITEZ hereby files this Petition for Writ of Habeas
2 Corpus under 28 U.S.C. § 2241 to compel his immediate release from unlawful
3 detention, and states as follows:
4

5 **I. INTRODUCTION**
6

- 7 1. Gerardo REYES BENITEZ (hereinafter “Petitioner”) brings this petition for
8 a writ of habeas corpus to seek enforcement of his rights as a member of the
9 Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No.
10 5:25-CV-01873-SSS-BFM (C.D. Cal.)
11
- 12 2. Petitioner is in the physical custody of Respondents at the Otay Mesa,
13 California, detention facility. He now faces unlawful detention because the
14 Department of Homeland Security (DHS) and the Executive Office for
15 Immigration Review (EOIR) have refused to abide by the declaratory
16 judgment issued on behalf of the certified class in *Maldonado Bautista v.*
17 *Santacruz*.
18
- 19 3. On November 20, 2025, the district court granted partial summary judgment
20 on behalf of individual plaintiffs, and on November 25, 2025, certified a
21 nationwide class and extended declaratory judgment to the certified class.
22 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
23 Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order
24
25
26

1 granting partial summary judgment to named Plaintiffs-Petitioners);
2 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
3 Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order
4 certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class,
5 incorporating and extending declaratory judgment from Order Granting
6 Petitioners' Motion for Partial Summary Judgment).

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

13 5. Nonetheless, the Executive Office for Immigration Review and its
14 subagency, the Immigration Court, and the Department of Homeland
15 Security (DHS) have blatantly refused to abide by the declaratory relief and
16 have unlawfully ordered that Petitioner be denied the opportunity to be
17 released on bond.
18


19 6. Petitioner Mr. REYES BENITEZ is a member of the Bond Eligible Class,
20 as he:
21


22 a. does not have lawful status in the United States and is currently
23 detained at the Otay Mesa, California detention facility. He was
24 apprehended by immigration authorities on or about March 20, 2026;
25

1 10. Because Respondents are detaining Petitioner in violation of the
2 declaratory judgment issued in *Maldonado Bautista*, the Court should
3 accordingly order that within one day, Respondent DHS must release him.

4 11. Alternatively, the Court should order Petitioner's release unless
5 Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven
6 days.
7

8 12. Petitioner is a thirty-seven year old Mexican national who is currently
9 detained at the Otay Mesa Detention Center in San Diego, California.
10

11 13. Petitioner entered the United States on or about December 1, 2008. Before
12 he was detained, Mr. REYES BENITEZ resided at 

13  He intends to reside at the same address after release.
14

15 14. On July 12, 2022, Petitioner filed several applications for immigration
16 benefits, including Forms I-360, Petition for Amerasian, Widow(er), or
17 Special Immigrant. On November 21, 2022, he also filed Form I-485,
18 Application to Register Permanent Residence or Adjust Status, with United
19 States Citizenship and Immigration Services ("USCIS").
20

21
22 15. On or around March 20, 2026, Petitioner was detained by Deportation
23 Officer J. Samaniego in Escondido, CA, while on his way to work. He was
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26

1 then taken into ICE custody and transferred to the Otay Mesa Detention
2 Center, where he remains detained.

3 16. Petitioner's detention violates the Fifth Amendment of the United States
4 Constitution. To vindicate his rights, this Court should grant the instant
5 petition for a writ of habeas corpus.
6

7 17. Petitioner further requests declaratory and injunctive relief to compel his
8 immediate release from ICE custody, in which he has been detained since
9 March 20, 2026, without first being provided a hearing to determine whether
10 his detention was justified.
11

12 18. Petitioner requests that this Court order his immediate release from
13 detention and enjoin Respondents from re-detaining him unless there are
14 changes in circumstances that would justify his detention.
15
16

17 **II. CUSTODY**

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19 19. Petitioner is currently in Respondents' legal and physical custody at the Otay
20 Mesa Detention Center in San Diego, California. He is under Respondents'
21 and their agents' direct control.
22

23 **III. JURISDICTION AND VENUE**

24
25 20. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
26

1 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution
2 (Suspension Clause), as Petitioner is presently in custody under the
3 authority of the United States and challenging his detention as in violation
4 of the Constitution, laws, or treaties of the United States.

5
6 21. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear
7 habeas claims by individuals challenging the lawfulness of their detention
8 by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

9
10 22. The aid of this Court is further invoked under 28 U.S.C. §§ 2201 and 2202,
11 authorizing a declaratory judgment and any further necessary and proper
12 relief.

13
14 23. Venue is proper with this Court because a substantial part of the events
15 giving rise to this claim occurred in this district and Petitioner is currently
16 detained at the Otay Mesa Detention Center in San Diego, California.
17 Venue is also proper pursuant to 28 U.S.C. § 1391(e) because the
18 Respondents are all officers and agencies of the United States; Petitioner
19 resides in this judicial district; and there is no real property involved in this
20 action.
21

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IV. REQUIREMENTS OF 28 U.S.C. §2243

1
2 24. Unless Petitioner is wholly ineligible for relief, the Court must either grant
3 the instant petition for writ of habeas corpus or order Respondents to show
4 cause as to why it should not be granted. 28 U.S.C. § 2243. If so ordered,
5 Respondents must file a response within three days.
6

7 25. Habeas corpus is “perhaps the most important writ known to the
8 constitutional law ... affording as it does a swift and imperative remedy in
9 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
10 (1963).
11

12 26. Due to the nature and urgency of this proceeding, Petitioner asks this Court
13 to expedite these proceedings as necessary and practicable for justice.
14

15
16 **V. PARTIES**

17
18 27. Petitioner Gerardo REYES BENITEZ thirty-seven years old Mexican
19 national who resides in Escondito, California. He is currently detained by
20 Respondents at the Otay Mesa Detention Center in San Diego, California,
21 pending removal proceedings.
22

23 28. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention
24 Center. Respondent LaRose is responsible for the operation of the Detention
25

1 Center where Petitioner is detained. As such, Respondent LaRose has
2 immediate physical custody of Petitioner. He is being sued in his official
3 capacity.

4 29. Respondent Daniel A. Brightman is the San Diego Field Office Director
5 (“FOD”) for ICE Enforcement and Removal Operations. Respondent
6 Brightman is responsible for the oversight of ICE operations at the Otay
7 Mesa Detention Center. Respondent Brightman is being sued in his official
8 capacity.
9
10

11 30. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is
12 responsible for the administration of ICE and the implementation and
13 enforcement of the immigration laws, including immigrant detention. As
14 such, Respondent Lyons is a legal custodian of Petitioner and is being sued
15 in his official capacity.
16
17

18 31. Respondent Markwayne Mullin is the Secretary of the Department of
19 Homeland Security (“DHS”). As Secretary of DHS, Secretary Mullin is
20 responsible for the general administration and enforcement of the
21 immigration laws of the United States. Respondent Secretary Mullin is a
22 legal custodian of Petitioner and is being sued in his official capacity.
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1 32. Respondent Todd Blanche is the Acting Attorney General of the United
2 States and the most senior official in the U.S. Department of Justice.
3 Respondent Acting Attorney General Blanche is the legal custodian of
4 Petitioner and is named in his official capacity.
5

6 VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES 7

8 33. Exhaustion of administrative remedies is a prudential, not jurisdictional,
9 requirement in habeas claims. See 28 § U.S.C. 2241; *Laing v. Ashcroft*, 370
10 F.3d 994, 998 (9th Cir. 2004). Exhaustion should not be required in this case
11 because administrative remedies are futile, and Mr. REYES BENITEZ's
12 continued detention will result in irreparable harm.
13

14 34. Exhaustion of administrative remedies in this case would be futile.
15 Petitioner contends he was detained in violation of his due process rights,
16 which is a claim that the agency cannot consider. As a result, exhaustion of
17 his remedies would be futile. See *American-Arab Anti-Discrimination*
18 *Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995).
19


20 35. Mr. REYES BENITEZ is experiencing irreparable harm while detained. He
21 is depressed and is struggling to maintain his emotional and physical health.
22 He is also suffering from the emotional toll of separation from his partner
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1 and his U.S. citizen children. The Court should consider this harm as Mr.
2 REYES BENITEZ's detention continues.
3

4 **VII. STATEMENT OF FACTS**

5 **A. Seventeen Years as a Hard Worker and the Only Stable Person and**
6 **Economic Provider for His U.S. Citizen Children**

7 36. Mr. REYES BENITEZ is a thirty-seven year old Mexican national who is
8 currently detained at the Otay Mesa Detention Center in San Diego,
9 California.
10

11 37. Petitioner entered the United States on or about December 1, 2008. Before
12 he was detained, Mr. REYES BENITEZ resided at 
13

14  He intends to reside at the same address after release.
15

16 38. Petitioner is employed full-time as a landscaper and tree trimmer. He lives
17 with his long-time partner, and he shares custody of his three minor U.S.
18 citizen children (DOB 2009, 2011, and 2012) with his wife (currently in
19 divorce proceedings). The children are completely dependent on Mr.
20 REYES BENITEZ for economic support and guidance as their mother has
21 been struggling with drug addictions and homelessness, and has not worked
22 in years. To Petitioner's knowledge, his ex-wife has had at least four other
23 children with various other men after they separated.
24
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1 39. Due to the addictions of Mr. REYES BENITEZ's wife, their three children
2 were born prematurely and experienced developmental delays and
3 behavioral issues from the very beginning. The volatile, unpredictable
4 behavior of the mother did not help the situation. Although Mr. REYES
5 BENITEZ always tried his best to be patient while dealing with a myriad of
6 family problems, he was not perfect and once slapped one of the children,
7 which resulted in an investigation and a felony conviction under CA PC
8 243(D). Mr. REYES BENITEZ immediately regretted his behavior, and has
9 since treated his children with nothing but love and support, as evidenced by
10 the fact that he has been awarded shared custody.
11
12

13
14 40. Currently Mr. REYES BENITEZ is in the legal process of attempting to
15 gain complete custody of the children in order to remove them from the
16 dangerous, drug and violence-laden environment where their mother lives.
17
18

19 B. Circumstances of ICE Arrest and Detention

20 41. Mr. REYES BENITEZ acknowledges that he has a recent mark on his
21 criminal record: in 2024, he was arrested and convicted for a misdemeanor
22 DUI under CA PC 23152(b). For this offense, he did not serve jail time, but
23 was placed on probation.
24
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27

1 42.Mr. REYES BENITEZ was dutifully complying with all probation
2 requirements when he was arrested by ICE agents on or around March 20,
3 2026, when coming out of his home. He was detained and transferred to the
4 Otay Mesa Detention center, without an opportunity for an individualized
5 hearing to determine whether his detention was justified.
6

7 43.The reason for Mr. REYES BENITEZ’s sudden detention remains unclear,
8 especially since he was complying with all probation requirements and, as of
9 today, his Applications with USCIS remain pending.
10

11 44.Petitioner’s next master calendar hearing is scheduled on April 29, 2026,
12 before Immigration Judge Sameit, Mark, at 7488 Calzada de la Fuente, San
13 Diego, California.
14

15
16 C. Pending Affirmative Relief Applications
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18 45.On July 12, 2022, Mr. REYES BENITEZ filed Form I-360 Violence Against
19 Women Act Petition for Amerasian, Widow(er), or Special Immigrant, based
20 on the abuse and extreme cruelty he has experienced at the hands of his U.S.
21 citizen wife. On November 21, 2022, he also filed Form I-485, Application
22 to Register Permanent Residence or Adjust Status, with United States
23 Citizenship and Immigration Services (“USCIS”).
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46. Petitioner received the I-360 receipt notice on November 8, 2022. A *prima facie* determination was issued on January 11, 2023. Both the I-360 and I-485 applications are pending and awaiting final adjudication.

D. Suffering Irreparable Harm While Detained

47. Mr. REYES BENITEZ is suffering greatly in detention. He is depressed and is struggling to maintain his psychological and physical health. He is also suffering from the emotional toll of separation from his partner and children, and especially his inability to protect the children from the destructive environment their mother lives in.

48. For 17 years in the U.S., Petitioner has been leading the life of a hard-working, simple person with only one goal—to try to protect and provide for his children. Although Mr. REYES BENITEZ is not perfect, he is the only hope his children have to live in an environment free from drugs, alcohol, and violence.

49. Since the children's mother does not enforce school attendance, the children have not been attending school and their speech/developmental therapy. Every day that Mr. REYES BENITEZ remains incarcerated, the children fall further behind in their development. The drug, alcohol, and violence-ridden

1 environment of their mother is especially dangerous, given that the children
2 are now very impressionable young teenagers (aged 16, 14, and 13.)

3 50. Furthermore, Mr. REYES BENITEZ has extensive family and community
4 ties in the United States, as well as pending applications for immigration
5 benefits. Thus, there is no reason to believe that he would pose a danger to
6 the community or be a flight risk if released from DHS custody.
7

8
9 **VIII. CLAIMS FOR RELIEF**

10
11 **COUNT ONE**

12 **Violation of the INA;**

13 **Request for Relief Pursuant to *Maldonado Bautista***

14 51. Petitioner repeats, re-alleges, and incorporates by reference each and every
15 allegation in the preceding paragraphs as if fully set forth herein.
16

17 52. As a member of the Bond Eligible Class, Petitioner is entitled to
18 consideration for release on bond under 8 U.S.C. § 1226(a).
19

20 53. The order granting partial summary judgment in *Maldonado Bautista* holds
21 that Respondents violate the INA in applying the mandatory detention
22 statute at § 1225(b)(2) to class members.
23

24 54. The order granting class certification in *Maldonado Bautista* further orders
25 that “[w]hen considering this determination with the MSJ Order, the Court
26

1 extends the same declaratory relief granted to Petitioners to the Bond
2 Eligible Class as a whole.”

3 55. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
4 declaratory judgment, which has the full “force and effect of a final
5 judgment.” 28 U.S.C. § 2201(a).
6

7 56. By denying Mr. REYES BENITEZ a bond hearing under § 1226(a) and
8 asserting that he is subject to mandatory detention under § 1225(b)(2),
9 Respondents violate Petitioner’s statutory rights under the INA and the
10 Court’s judgment in *Maldonado Bautista*.
11

12 **COUNT TWO**

13 **Violation of the Fifth Amendment Due Process Clause:**

14 **Procedural Due Process**

15 57. Petitioner realleges and incorporates the allegations set forth above as if
16 fully set out herein.
17

18 58. The Fifth Amendment Due Process Clause forbids deprivation of liberty
19 without notice and a meaningful opportunity to be heard. The Due Process
20 Clause protects “all ‘persons’ within the United States, including
21 [non-citizens], whether their presence here is lawful, unlawful, temporary, or
22 permanent.” *Zadvydas*, 533 U.S. at 693.
23
24

1 59. Respondents took Mr. REYES BENITEZ into custody in an arbitrary
2 manner, not based on any rational or individualized determination, and
3 without notice or an opportunity to be heard prior to his detention.

4 60. Under *Matthews v. Eldridge*, 42 U.S. 319, 335 (1976), courts evaluate
5 procedural Due Process claims by balancing (1) the private interest affected;
6 (2) the risk of erroneous deprivation of such an interest; and (3) the
7 government's interest.
8

9
10 61. Applying this test, Mr. REYES BENITEZ's private liberty interest in being
11 free from detention is weighty, considering his long-term residence, family
12 ties, and pending applications for immigration relief. *See Zadvydas*, 533
13 U.S. at 690.
14

15 62. Furthermore, the risk of erroneous deprivation of Petitioner's liberty interest
16 is great given that he did not receive any type of pre-deprivation hearing. As
17 a result, neither he nor the government had an opportunity to determine
18 whether there was a valid basis for his detention.
19

20 63. Because Mr. REYES BENITEZ was not afforded a pre-detention hearing to
21 determine whether he posed a danger to the community or flight risk, his
22 detention violates procedural Due Process.
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COUNT THREE

Violation of the Fifth Amendment Due Process Clause:

Substantive Due Process

64. Petitioner realleges and incorporates the allegations set forth above as if fully set out herein.

65. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *Zadvydas*, 533 U.S. at 690.

66. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. *Id.* This liberty interest is at stake when an individual is subject to detention by the federal government. *See id.*

67. Immigration detention must serve a legitimate purpose—such as ensuring appearance or protecting the community—and must be reasonably related to, and not excessive in relation to, that purpose. *See id.*

68. Thus, immigration detention that does not serve legitimate government purposes of preventing flight or mitigating danger violates substantive Due Process. *See id.*

69. Immigration detention facilitated by blanket government policies without regard to whether an individual is a flight risk or a danger to the community violates the Due Process Clause. *See id.*; *see also United States v. Trimble*,

1 487 F.3d 752, 757 (9th Cir. 2007) (stating that due process requires that
2 government action be rational and non-arbitrary).

3 70. Mr. REYES BENITEZ does not present a danger to the community or a
4 flight risk. He has strong family ties in this country, a long employment
5 history, and pending applications for immigration benefits. His detention
6 does not serve any legitimate government purpose.
7

8 71. Petitioner's detention violates substantive Due Process because it is not
9 rationally related to any legitimate government purpose.
10

11 **IX. PRAYER FOR RELIEF**

12 Petitioner prays that this Court grant the following relief:
13

- 14 1. Assume jurisdiction over this matter;
- 15 2. Issue an Order to Show Cause ordering Respondents to show cause
16 why this Petition should not be granted within three days;
17
- 18 3. Declare that Petitioner's detention without an individualized
19 determination violates the Due Process Clause of the Fifth
20 Amendment;
21
- 22 4. Grant Petitioner a writ of habeas corpus directing the Respondents to
23 immediately release him from custody;
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5. In the alternative, order a constitutionally adequate bond hearing in which Respondents bear the burden of justifying Petitioner's continued detention by clear and convincing evidence;
 6. Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
 7. Award attorneys' fees and costs to Petitioner under the Equal Access to Justice Act, and on any other basis justified by law; and
 8. Grant any other and further relief which this Court deems just and proper.

14 I affirm, under penalty of perjury, that the foregoing is true and correct.

15
16 Dated: April 15, 2026

Signature: /s/ Sandra Gotlaufa Orozco

By: Sandra Gotlaufa-Orozco
Attorney for Petitioner

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

1
2 I, Sandra Gotlaufa-Orozco, attorney for Petitioner, declare that I am acting
3 on behalf of Mr. REYES BENITEZ, the person for whose relief the foregoing
4 Petition for Writ of Habeas Corpus is intended. I have discussed with Petitioner
5 the events described in the Petition. Based on those discussions, I verify that
6 the events described in the Petition. Based on those discussions, I verify that
7 factual statements contained in the attached Petition for Writ of Habeas Corpus are
8 true and correct to the best of my knowledge, information, and belief.
9

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11 Executed on April 15, 2026, in Vista, California.
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13
14 Respectfully submitted,

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16 Signature: /s/ Sandra Gotlaufa-Orozco
17 By: Sandra Gotlaufa-Orozco
18 *Attorney for Petitioner*
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