

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Fedy, ALVARENGA-LOPEZ

Petitioner,

v.

**Nikita BAKER, Field Office Director of
Enforcement and Removal Operations,
Baltimore Field Office, Immigration and
Customs Enforcement; Markwayne
MULLIN, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT
OF HOMELAND SECURITY; Todd
BLANCHE, U.S. Attorney General;
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Vernon
LIGGINS, Deputy Field Office Director of
the ICE Baltimore Field Office,**

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

Petitioner Fredy Alvarenga-Lopez (A# [REDACTED]) is a native and citizen of Honduras. Petitioner initially entered the United States in or about 2006, when he was still a minor. Upon information and belief, he was granted voluntary departure by the Immigration Court in or about 2007 and departed the United States that same year in compliance with that order. Approximately one year later, in 2008, while still a minor, Petitioner reentered the United States without inspection and, upon information and belief, was not apprehended by U.S. Immigration and Customs Enforcement (“ICE”) at or near the time of entry. Since that time, Petitioner has resided in the United States for a substantial period, developing significant ties to the community.

On or about April 8, 2026, Petitioner was arrested by ICE, under facts and circumstances that place him squarely within ICE’s general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner is eligible to seek discretionary release on bond from an Immigration Judge (“IJ”). However, due to a new policy announced by ICE in July 2025, and a September 2025 Board of Immigration Appeals (BIA) decision that overturns decades of settled law, Respondents contend that Petitioner is detained under 8 U.S.C. § 1225(b)(2). While § 1225(b) requires mandatory detention and does not allow release on bond, it only applies to noncitizens apprehended at the border “seeking admission.”

On that same day, Respondents released the Petitioner under the Alternatives to Detention (ATD) program, managed by U.S. Immigration and Customs Enforcement (ICE), a program designed to monitor non-detained, eligible individuals in immigration proceedings using

1 technology and case management, rather than physical detention. The Petitioner was later required
2 to check in with ICE on April 22, 2026.

3
4 Despite having previously released Petitioner under the Alternatives to Detention (“ATD”)
5 program on or about April 8, 2026, Respondents abruptly re-detained Petitioner during his first
6 scheduled check-in appointment on April 22, 2026, without any material change in circumstances,
7 new evidence, or articulated justification. Upon information and belief, Respondents’ decision to
8 re-detain Petitioner was not based on any individualized determination that Petitioner posed a
9 flight risk or danger to the community, nor was it supported by any new facts arising after his
10 initial release. Instead, the re-detention appears to have been carried out pursuant to a blanket or
11 erroneous application of detention authority under 8 U.S.C. § 1225(b), despite Petitioner’s clear
12 eligibility for custody determinations under 8 U.S.C. § 1226(a).

13 Respondents’ actions in re-detaining Petitioner under these circumstances are arbitrary,
14 capricious, and contrary to law. The unexplained reversal of Petitioner’s custodial status,
15 particularly after a prior determination that release under ATD was appropriate, demonstrates a
16 failure to engage in reasoned decision-making and reflects an abuse of discretion. Such arbitrary
17 re-detention deprives Petitioner of his liberty without due process of law and unlawfully
18 circumvents the statutory framework governing civil immigration detention, including Petitioner’s
19 right to seek bond before an Immigration Judge under 8 U.S.C. § 1226(a).

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21 Petitioner therefore brings this action to enjoin Respondents from subjecting him to
22 mandatory detention under 8 U.S.C. § 1225(b)(2), and seeks an order requiring Respondents to
23 immediately release him from custody and restore him to the status quo that existed when he was
24 placed on Alternatives to Detention (“ATD”). In the alternative, Petitioner seeks an order requiring

1 Respondents to provide him with a prompt discretionary bond hearing before an Immigration
2 Judge pursuant to 8 U.S.C. § 1226(a).

3 **JURISDICTION**

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5 1. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
6 Baltimore ICE Holding Cell in Maryland.

7 2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C.
8 § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
9 Suspension Clause).

10 3. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment
11 Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

12 **VENUE**

13 4. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
14 500 (1973), venue lies in the United States District Court for the Maryland the judicial district in
15 which Petitioner currently is detained.

16 5. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
17 Respondents are employees, officers, and agencies of the United States, and because a substantial
18 part of the events or omissions giving rise to the claims occurred in the Maryland.

19 **PARTIES**

20
21 6. Mr. Alvarenga-Lopez is detained at the ICE Baltimore Holding Cell which is within
22 the District of Maryland. Petitioner has resided in the United States since 2008. After Petitioner
23 was arrested by ICE in Baltimore Maryland, on his way to work. On that same day, Respondents
24 released the Petitioner under the Alternatives to Detention (ATD) program, managed by U.S.

1 Immigration and Customs Enforcement (ICE), a program designed to monitor non-detained,
2 eligible individuals in immigration proceedings using technology and case management, rather
3 than physical detention. The Petitioner was later required to check in with ICE on April 22, 2026.

4 7. Despite having previously released Petitioner under the Alternatives to Detention
5 (“ATD”) program on or about April 8, 2026, Respondents abruptly re-detained Petitioner during
6 his first scheduled check-in appointment on April 22, 2026, without any material change in
7 circumstances, new evidence, or articulated justification. He was taken into ICE custody and
8 transported to the Baltimore ICE Processing Facility. He remains detained there.

9 8. Respondent Markwayne Mullin is the Secretary of Homeland Security and all sub-
10 cabinet agencies of DHS, including and USCIS. She is sued in her official capacity.

11 9. Respondent Todd Blanche is the Attorney General of the United States. She is
12 responsible for the Department of Justice, of which the Executive Office for Immigration Review
13 and the immigration court system it operates is a component agency. She is sued in her official
14 capacity.

15 10. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs
16 Enforcement, responsible for ICE detention and removal operations among all its functions. He is
17 sued in his official capacity.

18 11. Respondent Nikita Baker is the Field Office Director of the ICE Baltimore Filed
19 Office, and she is responsible for ICE’s operations in Maryland. Upon information and belief, she
20 is the immediate custodian of the Petitioner who is held at the Baltimore Processing Facility. She
21 is sued in her official capacity.
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12. Respondent Vernon Liggins in the Deputy Field Office Director of the ICE Baltimore Filed and is responsible for ICE's operations in Maryland. He is sued in his official capacity.

13. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

LEGAL FRAMEWORK

A. Immigration Detention Legal Framework

14. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine whether they are removable and then whether they have a legal basis to remain in the United States.

8 U.S.C. § 1229a.

15. Detention is authorized for “certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c).” *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the “default” provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), “[e]xcept as provided in subsection (c) of this section,’ the Attorney General ‘may release’ an alien detained under § 1226(a) ‘on ...bond’ or ‘conditional parole.’” *Id.*

1 16. Alternatively, mandatory detention is authorized for “certain aliens *seeking*
2 *admission* into the country under §§ 1225(b)(1) and 1225(b)(2),” [emphasis added]. *Jennings*, 583
3 U.S. at 289. Individuals inspected under § 1225(b) and determined to be “applicants for admission”
4 may be subject to mandatory detention under two separate subsections. Applicants for admission
5 include someone:

6 “present in the United States who has not been admitted or who
7 arrives in the United States (whether or not at a designated port of
8 arrival and including an alien who is brought to the United States
9 after having been interdicted in international or United States waters)
shall be deemed for the purposes of this chapter to be an applicant
for admission.” § 1225(a)(1).

10 17. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal
11 and mandatory detention if they are determined to be an “arriving alien,” and if they have not been
12 physically present in the United States continuously for a two-year period immediately prior.
13 Regulations define an “arriving alien” as:

14 “an applicant for admission coming or attempting to come into the
15 United States at a port-of-entry, or an alien seeking transit through the
16 United States at a port-of-entry, or an alien interdicted in international
17 or United States waters and brought into the United States by any
means, whether or not to a designated port-of-entry, and regardless of
the means of transport.” 8 C.F.R. § 1.2.

18 18. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of “applicant for
19 admission” specifically when “the examining immigration officer determines that an alien *seeking*
20 *admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for
21 a proceeding under section 1229a of this title,” i.e. for traditional removal proceedings [emphasis
22 added].

23 19. An “arriving alien” or an applicant for admission “seeking admission” may only be
24 released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. §

1 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant
2 for admission seeking admission. *Id.* There is no such thing as a “parole bond” – a release must
3 be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

4 20. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE
5 makes an initial custody determination to either set a bond or hold the individual at no bond. The
6 noncitizen may then seek a review of ICE’s initial custody determination before the IJ (a “custody
7 review hearing”), who has the authority to modify ICE’s custody determination and set bond in a
8 case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or
9 deny bond completely. 8 C.F.R. § 1003.19. 51

10 21. Custody review hearings are separate from hearings in the underlying removal
11 proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, he must still appear
12 in immigration court for the IJ to determine his removability and hear any claim for relief from
13 removal. At a custody review hearing, once jurisdiction over bond is established, the IJ’s inquiry
14 is limited to whether the detainee is a danger to the community or a flight risk, and bond may only
15 be granted when an IJ has determined that the detainee meets his burden of proof that he is neither.
16 *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

17 22. For decades, it has been Respondents’ practice to afford § 1226(a) discretionary
18 bond hearings and custody review hearings to those individuals who have been encountered neither
19 at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV
20 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and*
21 *recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR
22 (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (“Respondents’ proposed application of §
23 1226 is also belied by the Department of Homeland Security’s ‘longstanding practice’ of treating
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1 noncitizens taken into custody while living in the United States, including those detained and found
2 inadmissible upon inspection and then released into the United States with the government's
3 acquiescence, who have committed no crime after release, as detained under § 1226(a)." citing
4 *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)).

5 **B. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)**

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7 23. On July 8, 2025, Respondent ICE issued new interim guidance that announced a
8 breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum "Interim
9 Guidance Regarding Detention Authority for Applications for Admission."¹ This memo concerns
10 the detention of "applicants for admission" as defined by § 1225(a)(1). "Effective immediately, it
11 is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. §
12 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. §
13 1182(d)(5)]." *Id.* DHS is explicit that this new policy is a marked deviation from prior
14 interpretation and treatment of affected noncitizens. *Id.* ("For custody purposes, these aliens are
15 now treated in the same manner that "arriving aliens" have historically been treated.")

16 24. In addition to the announcement re-interpreting § 1225(b)(2), the memo further
17 clarifies that "[t]he only aliens eligible for a custody determination and release on recognizance,
18 bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are
19 aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C.
20 § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C.
21 § 1226(c)]." *Id.*

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24 ¹ Available at: <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last visited April 23, 2026).

1 25. Moreover, ICE maintains that “DHS does not take the position that prior releases
2 of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5)
3 based on this change in legal position.” *Id.* ICE fails to clarify under what legal authority, then,
4 those prior releases were effectuated. Rather, ICE signals the resulting lack of “correct” paperwork
5 is nonetheless permissible. *Id.* (“Accordingly, ERO and HIS are not required to ‘correct’ the
6 release paperwork by issuing INA § 212(d)(5) parole paperwork.”)

7 26. Nationwide implementation of the ICE § 1225(b)(2) mass detention policy ensued.

8
9 **C. Recent BIA decision *Matter of Yajure Hurtado***

10 27. On September 5, 2025, the Board of Immigration Appeals (BIA), which oversees
11 all appeals of IJ decisions including custody redeterminations, upheld ICE’s re-interpretation of
12 § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

13 28. The BIA held that the respondent was an “applicant for admission” within the
14 scope of § 1225(b), and therefore subject to mandatory detention.

15 29. The BIA characterized the issue before it as “one of statutory construction: Does
16 the INA require that *all* applicants for admission, even those like the respondent who have
17 entered without admission or inspection and have been residing in the United States for years
18 without lawful status, be subject to mandatory detention for the duration of their immigration
19 proceedings, and thus the Immigration Judge lacks authority over a bond request filed by an alien
20 in this category?” [emphasis added]. *Id.* at 220.

21 30. The BIA reasoned that individuals “who surreptitiously cross into the United States
22 remain applicants for admission until and unless they are lawfully inspected and admitted by an
23 immigration officer.” *Id.* at 228.

1 31. The BIA acknowledged the decades of precedent preceding its decision that
2 authorized release of individuals present without having been inspected and admitted or paroled
3 under § 1226(a). *Id.* at 225, FN6 (“We acknowledge that for years Immigration Judges have
4 conducted bond hearings for aliens who entered the United States without inspection. However,
5 we do not recall either DHS or its predecessor, the Immigration and Naturalization Service,
6 previously raising the current issue that is before us. In fact, the supplemental information for the
7 1997 Interim Rule titled ‘Inspection and Expedited Removal of Aliens; Detention and Removal of
8 Aliens; Conduct of Removal Proceedings; Asylum Procedures,’ 62 Fed. Reg. 10312, 10323 (Mar.
9 6, 1997), reflects that the Immigration and Naturalization Service took the position at that time
10 that ‘[d]espite being applicants for admission, aliens who are present without having been admitted
11 or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond
12 and bond redetermination.’”)

13 32. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8
14 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

15 33. The BIA decision is binding on all immigration judges nationwide.

16 34. Respondents’ new policy and interpretation of 8 U.S.C. § 1225(b)(2) stand to
17 sweep millions of noncitizens into mandatory detention, without any consideration for release on
18 bond (regardless of their ties to their community or lack of dangerousness or flight risk). *Rosado*,
19 2025 WL 2337099, at *11 (“It has been estimated that this novel interpretation would require the
20 detention of millions of immigrants currently residing in the United States.”)

21 **D. Class Action In *Maldonado Bautista***

22 35. On November 25, 2025, in a challenge to ICE’s recent policy change, the U.S.
23 District Court for the Central District of California certified “Bond Eligible Class” of:
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1
2 “All noncitizens in the United States without lawful status who (1)
3 have entered or will enter the United States without inspection; (2)
4 were not or will not be apprehended upon arrival; and (3) are not or
5 will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1),
or § 1231 at the time the Department of Homeland Security makes an
initial custody determination.”

6 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov.
7 25, 2025). The court had previously granted summary judgment in favor of the putative class in
8 *Maldonado Bautista*, holding that ICE’s July 2025 policy was unlawful. *Maldonado Bautista v.*
9 *Santacruz*, --- F.Supp.3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20 2025). at *10 (“Thus,
10 Respondents’ expansive interpretation of ‘applicants for admission’ would effectively nullify a
11 portion of the INA through the DHS’s legislative or interpretive exercise of power. Neither is
12 appropriate under the separation of powers.”).

13 36. On December 18, 2025, the court granted the motion to reconsider, in light of the
14 fact that immigration judges nationwide were refusing to follow the court’s prior summary
15 judgment decision, and granted a final judgment. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-
16 BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). “A notice of appeal was then filed by the
17 *Bautista* defendants on December 18, 2025, ECF No. 95.” *Engonga v. Noem*, No. 5:25-CV- 03479-
18 FWS-MAA, 2025 WL 3764077, at *3 (C.D. Cal. Dec. 23, 2025). “However, the Ninth Circuit has
19 held the filing of an appeal does not suspend the preclusive effect of a lower court judgment.”
20 *Osuna v. Casey*, No. 25CV3668-LL-MMP, 2026 WL 50755, at *1 (S.D. Cal. Jan. 7, 2026) citing
21 *Hawkins v. Risley*, 984 F.2d 321, 324 (9th Cir. 1993).

22 37. On January 13, 2026, Chief Immigration Judge (CIJ) Teresa L. Riley issued
23 nationwide guidance instructing all immigration judges that: “*Maldonado Bautista* is not a
24

1 nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*.” See
2 American Immigration Lawyers Association Practice Alert “EOIR Issues Nationwide Guidance
3 on *Maldonado Bautista*.”² CIJ Riley then instructed immigration judges to continuing to apply
4 *Yajure Hurtado*, on the guidance that declaratory judgments are not binding or preclusive. *Id.*

5 38. Subsequently, on February 18, 2026, the District Court Judge Sunshine Suzanne
6 Sykes of the Central District of California granted Plaintiffs’ motion to enforce and issued an order
7 vacating the Board’s decision in *Matter of Yajure Hurtado*.

8 39. The contrary statutory interpretation adopted by the United States Court of Appeals
9 for the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, was expressly considered by the court
10 in *Maldonado Bautista v. Santacruz*. In addressing that decision, the court recognized the Fifth
11 Circuit’s differing interpretation but distinguished it on critical grounds, including that the
12 petitioners in *Buenrostro-Mendez* conceded they were “applicants for admission” under 8 U.S.C.
13 § 1225(a)(1)—a concession not applicable to the Bond Eligible Class members in *Maldonado*
14 *Bautista*. The *Maldonado Bautista* court further made clear that the existence of contrary circuit
15 authority did not alter its statutory analysis, nor did it diminish the binding effect of its Final
16 Judgment as to the certified nationwide class.

17 40. Following the issuance of the February 18, 2026 order, Respondents sought
18 appellate review and filed an emergency motion requesting a stay pending appeal.

19 41. On March 6, 2026, the reviewing court issued a temporary stay of the district
20 court’s December 18, 2025 judgment and February 18, 2026 order, pending resolution of
21 Respondents’ emergency motion for a stay pending appeal.
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1 42. The temporary stay does not constitute a final determination on the merits of the
2 government's appeal and is limited in scope to preserving the status quo while appellate review is
3 ongoing.

4 43. Notwithstanding the temporary stay, the December 18, 2025 declaratory judgment
5 remains in effect within the Central District of California.

6
7 **STATEMENTS OF FACTS**

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9 44. Mr. Alvarenga-Lopez (A# ) is a native and citizen of Honduras.
10 Petitioner initially entered the United States in or about 2006, when he was still a minor. Upon
11 information and belief, he was granted voluntary departure by the Immigration Court in or about
12 2007 and departed the United States that same year in compliance with that order.

13 45. Approximately one year later, in 2008, while still a minor, Petitioner reentered the
14 United States without inspection and, upon information and belief, was not apprehended by U.S.
15 Immigration and Customs Enforcement ("ICE") at or near the time of entry. Since that time,
16 Petitioner has resided in the United States for a substantial period, developing significant ties to
17 the community.

18 46. Petitioner then made his way to the Maryland area where he has established a life
19 near his siblings and parents. He currently resides in Baltimore, MD.

20 47. On or about April 8, 2026, Petitioner was arrested by ICE in Baltimore, MD, while
21 on his way to work.

22 48. As noted above, Mr. Alvarenga-Lopez has lived in the United States for
23 approximately 28 years. However, pursuant to the NTA issued by the DHS to the Petitioner, after
24 apprehending Petitioner on April 8, 2026 while on his way to work, the DHS placed him in removal

1 proceedings pursuant to 8 U.S.C. § 1229a, despite years in the United States. DHS has charged
2 Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), and treated as an applicant for
3 admission not eligible for release on bond by an Immigration Judge.

4
5 49. However, on that same day, Respondents released the Petitioner under the
6 Alternatives to Detention (ATD) program, managed by U.S. Immigration and Customs
7 Enforcement (ICE), a program designed to monitor non-detained, eligible individuals in
8 immigration proceedings using technology and case management, rather than physical detention.
9 The Petitioner was later required to check in with ICE on April 22, 2026.

10 50. Despite having previously released Petitioner under the Alternatives to Detention
11 (“ATD”) program on or about April 8, 2026, Respondents abruptly re-detained Petitioner during
12 his first scheduled check-in appointment on April 22, 2026, without any material change in
13 circumstances, new evidence, or articulated justification.

14 51. Upon information and belief, Respondents’ decision to re-detain Petitioner was not
15 based on any individualized determination that Petitioner posed a flight risk or danger to the
16 community, nor was it supported by any new facts arising after his initial release. Instead, the re-
17 detention appears to have been carried out pursuant to a blanket or erroneous application of
18 detention authority under 8 U.S.C. § 1225(b), despite Petitioner’s clear eligibility for custody
19 determinations under 8 U.S.C. § 1226(a).

20 52. Respondents’ actions in re-detaining Petitioner under these circumstances are
21 arbitrary, capricious, and contrary to law. The unexplained reversal of Petitioner’s custodial status,
22 particularly after a prior determination that release under ATD was appropriate, demonstrates a
23 failure to engage in reasoned decision-making and reflects an abuse of discretion.
24

1 Such arbitrary re-detention deprives Petitioner of his liberty without due process of law and
2 unlawfully circumvents the statutory framework governing civil immigration detention, including
3 Petitioner's right to seek bond before an Immigration Judge under 8 U.S.C. § 1226(a).

4 53. As a person living within the United States for 5 years, Mr. Molina Santos is entitled
5 to due process of law. U.S. Const. amend. V; *see generally* *Zadvydas*, 533 U.S. 678. Mr. Molina
6 Santos is or will be placed in mandatory detention in violation of his right to due process.

7 54. 8 U.S.C. § 1225 authorizes the mandatory detention of "arriving aliens", those
8 noncitizens who cannot demonstrate they have "been physically present in the United States
9 continuously for the 2-year period immediately prior[.]" 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

10 55. Through this Petition, Mr. Molina Santos seeks an order from this Court directing
11 Respondents to provide him with an individualized bond hearing pursuant to the Immigration and
12 Nationality Act.

13 56. Petitioner is currently detained at the Baltimore ICE Holding Cell, a temporary
14 intake facility where detainees are held only briefly before being transferred to longer-term
15 detention centers. Upon information and belief, detainees held at the Baltimore Holding Cell are
16 routinely transferred out of the District of Maryland, and in the vast majority of cases are
17 transported to facilities located within the Fifth Circuit.

18 57. Accordingly, there exists a substantial and imminent likelihood that Petitioner will
19 be transferred to a detention facility in another circuit, most likely within the Fifth Circuit.

20 58. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. §
21 1225(b)(2). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. Accordingly, it would be futile for
22 Petitioner to request bond before an Immigration Judge. Exhaustion of administrative remedies
23 would therefore be futile.
24

59. Accordingly, a habeas order from this Court is necessary to ensure that any jurisdiction to which Petitioner may be transferred is bound to honor and implement this Court's judgment. Absent such relief, Petitioner faces a substantial risk that immigration authorities and immigration judges will disregard the statutory bond framework established in the Immigration and Nationality Act, thereby rendering Petitioner's rights under 8 U.S.C. § 1226(a) effectively unenforceable.

REQUIREMENTS OF 28 U.S.C. § 2243

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

FIRST CLAIM FOR RELIEF No-Bond Detention in Violation of 8 U.S.C. § 1226(a)

61. Petitioner re-alleges and incorporates by reference paragraphs 1 through 60.

62. Because Petitioner is not an applicant for admission "seeking admission" or an "arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is entitled to a bond redetermination hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a).

63. Petitioner appears to be a member of the class certified in *Maldonado Bautista* on November 25, 2025: "All noncitizens in the United States without lawful status who (1) have

1 entered or will enter the United States without inspection; (2) were not or will not be apprehended
2 upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), §
3 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody
4 determination.” *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL
5 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court subsequently issued a final judgment vacating
6 ICE’s July 2025 policy applying 8 U.S.C. § 1225(b)(2) to class members. *Maldonado Bautista v.*
7 *Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). However,
8 the relief sought here is injunctive—namely, an order requiring Respondents to provide Petitioner
9 with a bond hearing, or, in the alternative, release. See *infra* Request for Relief. The court
10 in *Maldonado Bautista* lacks jurisdiction to provide such injunctive relief to the class under 8
11 U.S.C. § 1252(f). Accordingly, this Court is not precluded from granting relief on this habeas
12 petition. See, e.g., *Shi v. Lyons*, — F. Supp. 3d —, 2025 WL 3637288, at *n.5 (S.D. Tex. Dec. 12,
13 2025); *Lopez-Neria v. Bondi*, No. 5:25-CV-1650-JKP, 2025 WL 3654329, at *5 (W.D. Tex. Dec.
14 12, 2025).

15 64. Respondents’ actions, as described herein, violate Petitioner’s statutory right to a
16 bond redetermination hearing before an immigration judge.

17
18 **SECOND CLAIM FOR RELIEF**
19 **Detention in Violation of Due Process**

20 65. Petitioner re-alleges and incorporates by reference paragraphs 1 through 60.

21 66. Immigration detention is civil, not criminal, in nature. The only permissible
22 purposes of such detention are to prevent flight risk and to protect the community from danger.

23 67. After entering the United States, Petitioner developed substantial ties to the
24 community over the course of several years. Petitioner is therefore a “person” within the meaning

1 of the Due Process Clause of the Fifth Amendment to the United States Constitution and has a
2 protected liberty interest in freedom from physical restraint.

3 68. Despite having previously released Petitioner under the Alternatives to Detention
4 (“ATD”) program on or about April 8, 2026, Respondents abruptly re-detained Petitioner during
5 his first scheduled check-in appointment on April 22, 2026, without any material change in
6 circumstances, new evidence, or articulated justification.

7 69. Upon information and belief, Respondents’ decision to re-detain Petitioner was not
8 based on any individualized determination that Petitioner posed a flight risk or danger to the
9 community, nor was it supported by any new facts arising after his initial release. Instead, the re-
10 detention appears to have been carried out pursuant to a blanket or erroneous application of
11 detention authority under 8 U.S.C. § 1225(b), despite Petitioner’s clear eligibility for custody
12 determinations under 8 U.S.C. § 1226(a).

13 70. Respondents’ actions in re-detaining Petitioner under these circumstances are
14 arbitrary, capricious, and contrary to law. The unexplained reversal of Petitioner’s custodial status,
15 particularly after a prior determination that release under ATD was appropriate, demonstrates a
16 failure to engage in reasoned decision-making and reflects an abuse of discretion.

17 Such arbitrary re-detention deprives Petitioner of his liberty without due process of law and
18 unlawfully circumvents the statutory framework governing civil immigration detention, including
19 Petitioner’s right to seek bond before an Immigration Judge under 8 U.S.C. § 1226(a).

20
21 71. Respondents’ continued detention of Petitioner without a bond hearing before a
22 neutral and detached decision-maker deprives Petitioner of liberty without due process of law.

23 72. The writ of habeas corpus exists precisely to prevent unlawful executive detention.
24 Petitioner has no adequate remedy at law. Immigration judges have, in numerous instances,

1 declined to conduct bond hearings even after the Central District's ruling, thereby necessitating
2 federal habeas review.

3 73. Because Respondents are detaining Petitioner under an erroneous and unlawful
4 application of 8 U.S.C. § 1225(b), and in a manner that is arbitrary, capricious, and contrary to the
5 statutory framework governing immigration detention, this Court should order Respondents to
6 immediately release Petitioner from custody and restore him to the status quo that existed when he
7 was previously placed on Alternatives to Detention ("ATD").

8 74. Alternatively, the Court should order Petitioner's immediate release unless
9 Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within ten days.

10 **PRAYER FOR RELIEF**

11
12 **WHEREFORE**, Petitioner prays for judgment against Respondents and respectfully
13 requests that the Court enters an order:

- 14 a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of
15 Petitioner's detention in fact and in law, forthwith;
- 16 b) Enjoin Respondents from holding Petitioner is subject to detention under 8 U.S.C.
17 § 1225(b)(2) and denying them a bond hearing on that basis;
- 18 c) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);
- 19 d) Enjoin Respondents from transferring him outside the jurisdiction of this Court
20 during the pendency of these proceedings, absent prior authorization from this Court.
- 21 e) Order Petitioner's immediate release from custody and restore him to the status quo
22 that existed when he was placed on Alternatives to Detention ("ATD");

1 f) Order, in the alternative, Petitioner's immediate release with all his personal
2 property, and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a)
3 within 10 days of a bond petition;

4 g) Retain jurisdiction over this matter to ensure Respondents' compliance with the
5 Court's orders;

6 h) Grant the writ of habeas corpus and order Respondents to release Petitioner under
7 reasonable conditions, if a bond is granted by the Immigration Judge;

8 i) Enjoin Respondent from invoking the automatic stay provision at 8 C.F.R. §
9 1003.19(i)(2) if bond is granted;

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

12 k) Grant any other and further relief that this Court deems just and proper.

13 DATED this 23rd of April, 2026.

14 Respectfully submitted,

15 
16 Manuel R. Torres, Esq.

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Bar ID: 31980

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I, or my co-counsel, have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 23, 2026

Respectfully submitted,


Manuel R. Torres, Esq.

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing to all counsel of record. To all the parties below:

Nikita Baker, Field Office Director
U.S. Immigration and Customs Enforcement, Baltimore Field Office
31 Hopkins Plaza, 7th Floor
Baltimore, MD 21201

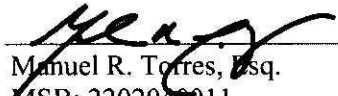
Vernon Liggins, Deputy Field Office Director
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Markwayne Mullin, Secretary
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Todd Blanche, Attorney General of the United States
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Washington, DC 20530-0001

Dated: April 23, 2026

Respectfully submitted,


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