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12 Counsel for Petitioner

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 Wilian Miguel-Roblero,
16 Petitioner,

17 v.

18 Warden, Imperial Regional Detention
19 Facility; Daniel Brightman, in his official
20 capacity as Director of the San Diego Field
21 Office; Todd M. Lyons, Acting Director of
22 U.S. Immigration and Customs
23 Enforcement; Daren K. Margolin, Director
24 of the Executive Office for Immigration
25 Review; Markwayne Mullin, Secretary,
26 U.S. Department of Homeland Security;
27 and Todd Blanche, Acting Attorney
28 General of the U.S. in their official
capacities

Respondents.

No. '26CV3657 TWR AHG

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS 28 U.S.C. § 2241**

INTRODUCTION

1. Wilian Miguel-Roblero is a twenty-six year old native and citizen of Guatemala who entered the United States without inspection in 2019. He was detained in May 2026 in Florida and transferred to ICE Custody. After spending some time housed at the Broward Transitional Center in Pompano Beach, Florida, Mr. Miguel-Roblero filed a Motion for Custody Redetermination and Release on Bond with the immigration court. That motion was scheduled for a hearing on June 16, 2026. *See Hearing Notice as Exhibit A.*
2. In Florida, detained non-citizens, like Mr. Miguel-Roblero, are entitled to bond hearings. *Alvarez v. Warden, Fed. Det. Ctr. Mia.*, 175 F.4th 1258 (11th Cir. 2026) The Eleventh Circuit Court of Appeals rejected the Government's reasoning that non-citizens, such as Mr. Miguel-Roblero, who entered without inspection and are encountered within the United States are applicants for admission. However, just days before his scheduled bond hearing, ICE made the decision to transfer the Petitioner to the Imperial Regional Detention Facility in California. Although the hearing could have proceeded on the merits even with the Petitioner's transfer, that option was not presented to the Petitioner or counsel. Instead, the immigration judge made the decision to find "no action required" on the motion and cancelled the hearing. *See EOIR Print Out as Exhibit B.* No formal notification was sent of this decision.
3. After apprehending Petitioner, the DHS had declined to set bond. They have now transferred the Petitioner to California and have detained him as someone who entered the United States without inspection and therefore subject to mandatory detention. ICE

1 is holding the Petitioner without bond because it alleges he is subject to mandatory
2 detention pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

- 3 4. The Decision by the Respondents to transfer the Petitioner to a jurisdiction where he
4 was no longer entitled to request that bond hearing after his bond hearing was scheduled
5 and then subsequently decide no action needed to be taken on the motion while
6 simultaneously cancelling the hearing is violation of the Petitioner's substantive and
7 procedural due process rights.
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- 9 5. The Petitioner also brings this petition for a writ of habeas corpus, in the alternative, to
10 seek enforcement of his rights as a member of the Bond Denial Clas certified in
11 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) He faces
12 continued unlawful detention because the Department of Homeland Security (DHS) and
13 the Executive Office for Immigration Review (EOIR) have refused to abide by the final
14 judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.
15
- 16 6. On November 20, 2025, the district court granted partial summary judgment on behalf
17 of individual plaintiffs and on November 25, 2025, certified a nationwide class and
18 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*,
19 No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D.
20 Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-
21 Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
22 Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying
23 Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and
24 extending declaratory judgment from Order Granting Petitioners' Motion for Partial
25 Summary Judgment).
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- 1 7. The declaratory judgment held that the Bond Denial Class members are detained under
2 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under
3 § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.
- 4 8. Nonetheless, the Executive Office for Immigration Review and its subagency the
5 Immigration Court and the Department of Homeland Security (DHS) refused to abide
6 by the declaratory relief and have unlawfully ordered that Petitioner be denied the
7 opportunity to be released on bond.
- 8 9. On December 18, 2025, the Court entered a final judgement on behalf of the certified
9 class and declared DHS' position in regards to mandatory detention unlawful for the
10 class members.
- 11 10. Petitioner, Wilian Miguel-Roblero, is a member of the Bond Eligible Class, as he:
12 a. does not have lawful status in the United States and is currently detained at the
13 Imperial Regional Detention Facility. He was apprehended by immigration
14 authorities in May 2026;
15 b. entered the United States without inspection and was not apprehended upon
16 arrival, *cf. id.*; and
17 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
- 18 11. Respondents are bound by the judgment in *Maldonado Bautista*. Nevertheless,
19 Respondents continue to flagrantly defy the judgment in that case and continue to
20 subject Petitioner to unlawful detention despite his clear entitlement to consideration for
21 release on bond as a Bond Eligible Class member.
- 22 12. Immigration judges have informed class members in bond hearings that they have been
23 instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not
24 controlling, even with respect to class members, and that instead IJs remain bound to
25 follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
26 (BIA 2025).

1 13. Because Respondents are detaining Petitioner in violation of law and the Court should
2 accordingly order that, within one day, Respondent DHS must release Petitioner.

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

5 6 JURISDICTION

7 15. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
8 U.S.C. § 1331 (federal question), and Article 1, §9, cl 2 of the United States Constitution
9 (Suspension Clause).

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

13 14 VENUE

15 17. Venue is proper because the Petitioner is detained at the Imperial Regional Detention
16 Facility, 1572 Gateway Road, Calexico, CA 92231 which is within this District.

17 18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because the
18 Respondents are employees, officers, and agents of the United States and the detention
19 which gave rise to this claim is ongoing in the district.

20 21 REQUIREMENTS OF 28 U.S.C. § 2243

22 19. The Court must grant the petition for writ of habeas corpus or issue an order to show
23 cause to the respondents "forthwith," unless the petitioner is not entitled to relief. 28
24 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents
25 to file a return "within *three days* unless for good cause additional time, not exceeding
26 twenty days, is allowed." *Id.* (emphasis added).
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20. 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).

PARTIES

21. Petitioner Wilian Miguel-Roblero is a citizen of Guatemala who has been in immigration detention since May, 2026. After Petitioner was arrested, ICE has declined to set bond and is of the position that the Petitioner is subject to mandatory detention.

22. Respondent Warden, Imperial Regional Detention Facility is employed as the Warden of the Imperial Regional Detention Facility where the Petitioner is detained. He has immediate physical custody of the Petitioner. He is sued in his official capacity.

23. Respondent Los Angeles Field Office Director is the Director of the Los Angeles Field Office of ICE's Enforcement and Removal Operations division. As such, the Los Angeles Field Office Director is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

24. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in her official capacity.

25. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's

1 detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his
2 official capacity.

3
4 **CLAIMS FOR RELIEF**

5 **FIRST CLAIM FOR RELIEF**
6 **Violation of the INA:**

7 26. The Immigration and Nationality Act (INA) prescribes three basic forms of detention
8 for the vast majority of noncitizens in removal proceedings.

9 27. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
10 proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are
11 generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§
12 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or
13 convicted of certain crimes are subject to mandatory detention until their removal
14 proceedings are concluded, see 8 U.S.C. § 1226(c).

15
16 28. Second, the INA provides for mandatory detention of noncitizens subject to expedited
17 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals “seeking admission”
18 referred to under § 1225(b)(2).

19 29. Last, the INA also provides for detention of noncitizens who have received a final order
20 of removal from the United States, including individuals in withholding-only
21 proceedings, see 8 U.S.C. § 1231(a)–(b).

22 30. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2).

23
24 31. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
25 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub.
26 L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–
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1 585. Section 1226 was most recently amended in 2025 by the Laken Riley Act, Pub. L.
2 No.119-1, 139 Stat. 3 (2025).

3 32. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that,
4 in general, people who entered the country without inspection were not considered
5 detained under § 1225 and that they were instead detained under § 1226(a). See
6 Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens;
7 Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323
8 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without
9 having been admitted or paroled(formerly referred to as aliens who entered without
10 inspection) will be eligible for bond and bond redetermination”).
11

12 33. Thus, in the decades that followed, most people who entered without inspection and
13 were thereafter arrested and placed in standard removal proceedings were considered
14 for release on bond and also received bond hearings before an IJ, unless their criminal
15 history rendered them ineligible. That practice was consistent with many more decades
16 of prior practice, in which noncitizens who had entered the United States, even if
17 without inspection, were entitled to a custody hearing before an IJ or other hearing
18 officer. In contrast, those who were stopped at the border were only entitled to release
19 on parole. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229
20 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found
21 at § 1252(a)).
22
23

24 34. On July 8, 2025, ICE, “in coordination with the Department of Justice (DOJ),”
25 announced a corresponding policy that rejected the well-established understanding of
26 the statutory and regulatory framework and reversed decades of practice. The new
27 policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for
28

1 Admission,” claims that all persons who entered the United States without inspection
2 shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). Id. The
3 policy applies regardless of when a person is apprehended, and affects those who have
4 resided in the United States for months, years, and even decades.

5
6 35. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting that all persons
7 who entered without inspection are subject to mandatory detention under 8 U.S.C. §
8 1225(b)(2)(A).

9
10 36. On September 5, 2025, the Board of Immigration Appeals (BIA), issued a decision in
11 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) holding that all noncitizens
12 who entered the United States without admission or parole are considered applicants for
13 admission, and are therefore ineligible for bond hearings under 8 U.S.C. §
14 1225(b)(2)(A).

15 37. DHS’s and DOJ’s interpretation defies INA. The plain text of the statutory provisions
16 demonstrates that § 1226(a), not § 1225(b), applies to people like Plaintiffs. Section
17 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen]
18 is to be removed from the United States.” These removal hearings are held under §
19 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

20
21 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very
22 recently entered the United States. The statute’s entire framework is premised on
23 inspections at the border of people who are “seeking admission” to the United States. 8
24 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238, at *8 (“[O]ur
25 immigration laws have long made a distinction between those [noncitizens] who have
26 come to our shores seeking admission . . . and those who are within the United States
27 after an entry, irrespective of its legality.” (quoting *Leng May Ma v. Barber*, 357 U.S.

1 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory
2 detention scheme applies “at the Nation’s borders and ports of entry, where the
3 Government must determine whether a [noncitizen] seeking to enter the country is
4 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

5
6 39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
7 people like Mr. Miguel-Roblero, who have already entered and were residing in the
8 United States at the time they were apprehended.

9 40. As a member of the Bond Eligible Class certified in *Maldonado Baustista*, Petitioner is
10 entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

11
12 41. The order granting final judgment in *Maldonado Bautista* holds that Respondents violate
13 the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

14 42. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen
15 considering this determination with the MSJ Order, the Court extends the same
16 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

17 43. Respondents are parties to *Maldonado Bautista* and bound by the Court’s final
18 judgment.

19 44. In *Maldonado Bautista*, the Court has already certified a nationwide class of individuals
20 exactly like Mr. Miguel-Roblero. That Court held that those individuals are entitled to
21 consideration for release on bond under 8 U.S.C. § 1226(a). The Court further held that
22 the Respondents are violating the INA in applying the mandatory detention statutes to
23 people like Mr. Miguel-Roblero.

24 45. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to
25 mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory
26 rights under the INA and the Court’s judgment in *Maldonado Bautista*.
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SECOND CLAIM FOR RELIEF
Violation of 8 U.S.C. § 1226(a) and the Fifth Amendment Due Process Clause
Denial of a Meaningful Bond Hearing

46. Petitioner incorporates by reference all preceding paragraphs.

47. Petitioner's detention is governed by 8 U.S.C. § 1226(a). Section 1226(a) is not a mandatory detention statute—it is a discretionary regime subject to individualized assessment and bond eligibility before a neutral Immigration Judge. *Jennings*, 583 U.S. at 302–03.

48. Section 1226(a) and its implementing regulations afford Petitioner an individualized bond hearing before an Immigration Judge. No such hearing has been provided.

49. The Due Process Clause of the Fifth Amendment applies to all persons within the United States, including noncitizens, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Freedom from physical restraint lies at the heart of the liberty the Fifth Amendment protects. *Id.* at 690.

50. Applying the three-factor balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), all three factors weigh decisively in Petitioner's favor. Courts in this district has applied this precise framework to similar facts and reached the same conclusion. *See Pablo Garcia v. Chestnut*, No. 1:26-cv-00968-DJC-EFB, 2026 LX 98166 (E.D. Cal. Feb. 9, 2026) (collecting cases); *Reyes v. Warden of the Golden State Annex Det. Facility*, No. 1:26-cv-0441-DC-JDP, 2026 LX 34822 (E.D. Cal. Feb. 13, 2026).

51. First, Petitioner's private liberty interest is substantial. He has a clear liberty interest in remaining free from custody. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

52. Second, the risk of erroneous deprivation is high. He has not been provided no individualized basis for continued confinement. No immigration judge has made any

1 finding that Petitioner poses a flight risk or danger to the community. The absence
2 of any meaningful process magnifies the risk that Petitioner is being detained in error.

3 53. Third, the government's interest in detaining Petitioner without a hearing is minimal. As
4 this Court has repeatedly recognized, "the effort and costs required to provide
5 Petitioner with procedural safeguards are minimal." *Kamgar*, 2026 U.S. Dist. LEXIS
6 38146, at *2. Petitioner has no criminal history aside from a citation for driving without
7 a license, no history of failing to appear, and no record of any kind suggesting he poses
8 a danger or flight risk. The balance of interests weighs in favor of Petitioner.
9

10 54. Additionally, in the Petitioner's case, he was scheduled for a bond hearing in a jurisdiction
11 that would allow his release from custody on bond. However, the Respondents chose to
12 transfer him outside of that jurisdiction and unilaterally cancel the bond hearing.
13

14 55. For these reasons, Petitioner's continued detention without a bond hearing under §
15 1226(a) is unlawful and should be remedied by this Court. This Court should grant the
16 writ and order the Petitioner's release.
17

18 PRAYER FOR RELIEF

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

- 20 a. Assume jurisdiction over this matter;
- 21 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
22 Petitioner;
- 23 c. Alternatively, issue an Order to Show Cause ordering Respondents to show cause
24 why this Petition should not be granted within three days;
- 25 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
26 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
27 and
- 28 e. Grant any other and further relief that this Court deems just and proper.

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2 Date: June 22, 2026.

3 **Respectfully Submitted,**

4 /s/ Vanessa Molina
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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 the Petitioner's attorney. 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.

Date: April 21, 2026

/s/ Fairuze Sofia

Fairuze Sofia