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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ULLOA MONTOYA, Angel Maternidad, Petitioner, v. PAMELA BONDI, in her official capacity as Attorney General; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; RAUL MALDONADO, in his official capacity as Warden of the Brooklyn Metropolitan Detention Center; TODD LYONS, in his official capacity as Acting ICE Field Office Director; JUDITH ALMODOVAR, in her official capacity as Acting Field Office of the New York Office of U.S. Immigration and Customs Enforcement, Respondents.

Civil Action No. 25-cv-6363 (JMA)

PETITIONER'S SUPPLEMENTAL BRIEF ON THE PETITIONER'S *MALDONADO BAUTISTA* CLASS MEMBERSHIP AND IMPACT ON PENDING HABEAS PETITION AND MOTION TO CONVERT TRO TO PRELIMINARY INJUNCTION

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PRELIMINARY STATEMENT

Petitioner, Angel Maternidad Ulloa Montoya, respectfully submits this brief pursuant to the Court's December 3, 2025, Order directing the parties to address (1) whether Petitioner is a member of the class certified in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr.*, No. 25-cv-01873, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), and (2) the impact, if any, of Judge Sykes's order on this case. The Court ordered the parties to submit their responses in writing by 11:59 p.m. on December 5, 2025.

Petitioner filed a petition for a writ of habeas corpus and related emergency motions challenging his ongoing civil immigration detention and DHS's reliance on 8 U.S.C. § 1225(b)(2) to deny him access to bond proceedings, despite his arrest in the interior after a period of residence in the United States and his posture in removal proceedings under 8 U.S.C. § 1229a. This Court has already granted temporary injunctive relief and ordered the Petitioner's immediate release, concluding that the Petitioner has demonstrated a likelihood of success on the merits, is suffering and will continue to suffer irreparable harm absent injunctive relief, and that the balance of equities and public interest favors such relief.

While this case has been pending, Judge Sunshine S. Sykes issued two significant rulings in *Maldonado Bautista*. First, the court granted partial summary judgment to the named plaintiffs, ruling that 8 U.S.C. § 1226(a), not § 1225(b)(2), governs the detention of noncitizens arrested in the interior and placed in § 1229a proceedings under circumstances that are materially indistinguishable from Petitioner's. Then, on November 25, 2025, Judge Sykes issued an order approving the plaintiffs' motion for class certification and certifying a nationwide "Bond Eligible Class." *See Maldonado Bautista*, 2025 WL 3288403 at *9. In that class-certification order, the

court explicitly "extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Id.*

This submission addresses the questions raised in the Court's December 3, 2025, Order. It explains that (1) Petitioner falls within the Bond Eligible Class certified in *Maldonado Bautista*; (2) Judge Sykes's declaratory judgment, which states that § 1226(a), not § 1225(b)(2), governs detention of Bond Eligible Class members, confirms that Petitioner's detention is properly subject to § 1226(a) and to immigration judge bond jurisdiction; and (3) even without *Maldonado Bautista*, Petitioner independently prevails on the statutory, TVPRA, APA, and due process grounds already briefed to this Court.

Despite *Maldonado Bautista*'s class-wide declaratory judgment, EOIR and DHS continue to treat the Petitioner as a § 1225(b)(2) detainee and deny immigration judge bond jurisdiction in reliance on *Matter of Yajure Hurtado*. This ongoing refusal to follow a binding federal judgment is exactly why habeas relief remains necessary in this case.

ARGUMENT

I. *Maldonado Bautista*'s Class-Wide Declaratory Judgment Requires Treating Petitioner's Detention as Governed by § 1226(a), Not § 1225(b)(2)

In *Maldonado Bautista v. Santacruz*, the Central District of California resolved the core statutory question presented here: whether noncitizens already in the United States without lawful status who are not subject to mandatory detention are detained under § 1226(a) or § 1225(b)(2). On November 20, 2025, Judge Sykes granted partial summary judgment to the named plaintiffs, ruling that the Government's no-bond policy is "at odds with the plain language of the INA" and that "§ 1226(a) is the appropriate governing authority over the Petitioners' detention" *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *8-*9 (C.D. Cal. Nov.

20, 2025). Five days later, the court certified a nationwide "Bond Eligible Class" under Fed. R. Civ. Pro 23(b)(2) and explicitly "extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). In short, the court has already issued a binding declaratory judgment that, for Bond Eligible Class members, § 1226(a), not § 1225(b)(2), is the correct governing detention authority.

Neither the procedural posture nor the form of the *Maldonado Bautista* orders undermine the existence of a binding judgment. The fact that Judge Sykes granted partial summary judgment on the merits and then, in a separate order, certified a Rule 23(b)(2) class and extended "the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole," *Maldonado Bautista*, 2025 WL 3288403, at *9, does not mean there is "no judgment" or "no class-wide declaratory judgment." Under 28 U.S.C. § 2201(a), that declaration has "the force and effect of a final judgment." Fed. R. Civ. P. 54(b) and 8 U.S.C. § 1252(f)(1) govern appealability and the availability of class-wide injunctive relief, not whether the declaratory judgment exists or binds the government on the statutory question it resolves.

a. *The partial summary judgment is a binding declaratory judgment with the force of a final judgment under 28 U.S.C. § 2201(a), and this Court should give it effect in Petitioner's case.*

Under the Declaratory Judgment Act, "[i]n a case of actual controversy within its jurisdiction, … any court of the United States, upon the filing of an appropriate pleading, *may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought*." 28 U.S.C. § 2201(a) (emphasis added). The statute then states that "[a]ny such declaration *shall have the force and effect of a final judgment or decree and shall be reviewable as such*." *Id.* (emphasis added). Thus, once a court issues declaratory relief resolving

the parties' rights, that declaration is a "judgment" by statute, with the "force and effect of a final judgment," even if other claims remain pending.

In *Maldonado Bautista*, Judge Sykes did precisely that. The court resolved the parties' statutory dispute in the MSJ Order and declared that the government's interpretation of the INA is unlawful, and that the named plaintiffs are detained under § 1226(a), not § 1225(b)(2). *See Maldonado Bautista*, 2025 WL 3289861, at *8-*9 (granting partial summary judgment and holding that the policy "is at odds with the plain language of the INA" and that petitioners are properly subject to § 1226(a)). That ruling provides declaratory relief within the meaning of § 2201(a): it clarifies the parties' "rights and other legal relations" under the INA and establishes the legal rule that governs their custody.

The fact that Judge Sykes entered "partial" summary judgment does not alter the status of that declaration as a judgment. Rule 54(b) addresses when orders "that adjudicate fewer than all the claims or the rights and liabilities of fewer than all the parties" are appealable as "final judgments." Fed. R. Civ. P. 54(b). It is an *appealability* rule, not a rule that determines whether a judgment exists or is binding on the parties. An order that grants declaratory relief on liability, even if "partial" in the sense that other issues remain, is still a judgment that must be obeyed unless and until stayed or reversed on appeal. *See, e.g., Maness v. Meyers*, 419 U.S. 449, 458 (1975) ("all orders and judgments of courts must be complied with promptly"); *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023) (courts assume government officials will comply with declaratory judgments) (citing *Poe v. Gerstein*, 417 U.S. 281 (1974)). As one court has explained, declaratory judgments have "the same effect as an injunction in fixing the parties' legal entitlements," *Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011), and are "the practical equivalent of specific relief such as

injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court." *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.), abrogated on other grounds by *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023).

Taken together, § 2201(a), the *Maldonado Bautista* merits ruling, and the settled treatment of declaratory judgments confirm that Judge Sykes's partial summary judgment is a binding declaratory judgment that has the force and effect of a final judgment on the statutory question at issue. It is not merely an advisory opinion, nor does its "partial" nature under Rule 54(b) strip it of legal effect. Moreover, *Yajure Hurtado* is an internal agency precedent; *Maldonado Bautista* is an Article III judgment involving the federal government as a party, and which, by virtue of Rule 23(b)(2) and the class definition, applies to the Petitioner as a Bond Eligible Class member. As a matter of federal civil procedure, the government and its officers are required to follow that declaration unless and until it is stayed or overturned on appeal, and agency adjudicators cannot override that judgment with conflicting internal precedent.

To the extent that the preclusion doctrine applies, *Maldonado Bautista*'s statutory ruling is sufficiently "final" to bind the Government regarding class members. Even accepting the Respondents' framing, the absence of a Rule 54(b) certification does not mean the statutory ruling in *Maldonado Bautista* is irrelevant. According to ordinary principles of issue preclusion, what matters is whether there has been a conclusive determination of the issue on the merits, not whether every claim has been reduced to a single, appealable judgment. *See, e.g., Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326–28 (1979); *Montana v. United States*, 440 U.S. 147, 153–55 (1979). Here, Judge Sykes has already decided, on a full record, that the Government's "no-bond" § 1225(b)(2) policy "is at odds with the plain language of the INA" and that § 1226(a) governs the detention of Bond Eligible Class members. *Maldonado Bautista,* 2025 WL 3289861, at *8–*9.

That merits determination is reflected in a declaratory judgment that § 2201(a) gives "the force and effect of a final judgment," and the Class Certification Order then extends that declaratory judgment "to the Bond Eligible Class as a whole." 2025 WL 3288403, at *9. At a minimum, the Government cannot relitigate that statutory issue against class members in other federal cases, including this habeas petition, simply by arguing that there is "no judgment" until Rule 54(b) certification.

b. The class-certification order expressly extends that declaratory relief to the Bond Eligible Class "as a whole," which includes Petitioner

The Class Certification Order eliminates any doubt that the declaratory relief in the MSJ Order applies not only to the named plaintiffs, but to all similarly situated noncitizens, including the Petitioner. After finding that the Fed. R. Civ. P 23(a) requirements were met, Judge Sykes certified the following nationwide "Bond Eligible Class" under Rule 23(b)(2):

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or 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.

Maldonado Bautista, 2025 WL 3288403, at *9. As explained in more detail below, Petitioner meets each element of this definition: he entered without inspection as a minor, was re-detained after having been released to a sponsor and living in the interior for over a year and a half. His detention at issue is not under § 1226(c), § 1225(b)(1), or § 1231, but rather resulted from DHS's misclassification of him as subject to § 1225(b)(2) and its no-bond policy. In other words, the custody determination at issue in this habeas case is exactly the type of "initial custody determination" that *Maldonado Bautista* states must proceed under § 1226(a) for Bond Eligible Class members.

Judge Sykes held that the class satisfied Rule 23(b)(2) because DHS's policy of treating such noncitizens as § 1225(b)(2) detainees with no bond jurisdiction applies uniformly to the Bond Eligible Class, and because a single declaratory judgment that the policy violates the INA and due process would provide "relief from continued deprivation of their rights" for all class members. *Id.* at *8. The court explained that a "single declaratory judgment requiring [IJs] to provide individualized custody determinations at bond hearings" would "apply to the class as a whole." *Id.* (internal quotation marks omitted). Summarizing the effect of this ruling, the court stated:

> Accordingly, Petitioners satisfy Rule 23(b)(2). When considering this determination with the MSJ Order, *the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole*.

Id. at *9 (emphasis added). For the Petitioner, that means the statutory question underlying this habeas petition has already been settled in his favor by a binding class-wide declaratory judgment. As a Bond Eligible Class member, his current detention must be considered governed by § 1226(a), not § 1225(b)(2). The MSJ Order states that DHS's contrary policy is "at odds with the plain language of the INA" and that class members are properly subject to § 1226(a). *Maldonado Bautista*, 2025 WL 3289861, at *8-*9. The Class Certification Order then explicitly "extends the same declaratory relief" to the Petitioner and similarly situated noncitizens. 2025 WL 3288403, at *9. Under Rule 23(b)(2), that declaration runs to the benefit of all members of the class, not just the named plaintiffs, and thus directly informs this Court's analysis of the statutory basis for the Petitioner's detention and immigration judge bond jurisdiction in this case.

In short, for this habeas petition, *Maldonado Bautista* is not just a persuasive out-of-circuit decision. It is a class-wide declaratory judgment that clearly includes Petitioner and confirms that DHS and EOIR must treat his detention as arising under § 1226(a).

Moreover, EOIR's current posture underscores why this habeas petition remains necessary even in light of *Maldonado Bautista*. The Respondents continue to litigate as though § 1225(b)(2) governs the Petitioner's detention, invoking *Matter of Yajure Hurtado* and insisting that IJs lack bond jurisdiction. As a result, immigration judges have refused to exercise bond jurisdiction on the stated view that *Maldonado Bautista* is not a binding judgment and does not constitute class-wide declaratory relief. The agency is not abiding by or conforming to Judge Sykes's class-wide declaration. That ongoing refusal to implement *Maldonado Bautista* as to Bond Eligible Class members makes clear that this Court's intervention in habeas is required to enforce the governing statutory rule in the Petitioner's individual case and to prevent his re-detention under the same unlawful framework.

c. By its terms, the Bond Eligible Class encompasses present and future detentions like Petitioner's

Maldonado Bautista is not limited to the original detentions of the named plaintiffs. By design, the Bond Eligible Class covers both current and future detentions of noncitizens who meet the class criteria, including individuals like the Petitioner who are arrested in the interior and charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i).

The class definition explicitly covers individuals who "have entered or will enter" and "are not or will not be" subject to specific detention provisions at the time of the relevant custody determination. *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The operative language is explicitly forward-looking. The class is not limited to a fixed group of people who have already "have entered" or already "were not" detained under certain provisions; it also includes those who "will enter" and "will not be" subject to § 1226(c), § 1225(b)(1), or § 1231 at the time of "the" custody determination being challenged. *Id.*

Read in context, that "initial custody determination" refers to the custody decision being challenged in *Maldonado Bautista*: DHS's decision to hold noncitizens who entered without inspection and are arrested in the interior under § 1225(b)(2) with no bond jurisdiction, rather than under § 1226(a) with IJ bond review. The use of "have entered or will enter" and "are not or will not be" clearly indicates that the class aims to include both (1) current class members whose detentions are already subject to the challenged policy, and (2) future noncitizens whose detentions will be governed by the same unlawful misclassification. It is precisely this kind of ongoing, unified practice that Rule 23(b)(2) is designed to address: a generally applicable policy for which "a single injunction or declaratory judgment would provide relief to each member of the class." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011).

Applied to the Petitioner, this means the class definition is not frozen at the moment of his initial UAC apprehension in 2024. The key custody determination here is his later adult re-detention after entering without inspection, after being released to an ORR-vetted sponsor, and after residing in the United States for more than a year. DHS again exercised its custody authority and chose to treat him as a § 1225(b)(2) detainee with no bond jurisdiction. For that determination, the Petitioner "has entered" without inspection, "was not apprehended upon arrival" in connection with this detention, and "is not" detained under § 1226(c), § 1225(b)(1), or § 1231. *Maldonado Bautista*, 2025 WL 3288403, at *9. Therefore, he falls within the ongoing scope of the Bond Eligible Class.

d. 8 U.S.C. § 1252(f)(1) limits class-wide injunctions, not class-wide declaratory relief, and does not diminish the effect of Maldonado Bautista in Mr. Montoya's case.

The limitations in 8 U.S.C. § 1252(f)(1) provide no basis to disregard *Maldonado Bautista* when assessing the Petitioner's detention. § 1252(f)(1) states that, regarding certain INA provisions, "no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin

or restrain the operation of" those statutes "other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1). In *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), the Supreme Court interpreted this language to bar lower courts from issuing class-wide *injunctions* that enjoin or restrain the operation of the covered detention provisions. *Id.* at 555. The Court did not state that lower courts lack the authority to issue class-wide *declaratory judgments*.

Judge Sykes structured the relief in *Maldonado Bautista* accordingly. For the named plaintiffs, the court granted individualized mandatory relief in the form of TROs and bond hearings, while resolving the broader statutory issue through declaratory relief. See *Maldonado Bautista*, 2025 WL 3289861; *Maldonado Bautista*, 2025 WL 3288403. This approach aligns fully with § 1252(f)(1) and *Aleman Gonzalez*: the court did not issue a nationwide injunction restraining the operation of § 1225(b)(2). Instead, it clarified how the INA must be interpreted and applied to the class and then provided individual relief to the named plaintiffs.

Nothing in § 1252(f)(1) prevents this Court from giving effect to that declaratory judgment when adjudicating the Petitioner's individual habeas petition. Habeas relief in this case is inherently individualized and coercive as to one person, which is exactly the type of relief § 1252(f)(1) leaves untouched. *See* 8 U.S.C. § 1252(f)(1) (permitting injunctions "with respect to the application of such provisions to an *individual* alien"); *Aleman Gonzalez*, 596 U.S. at 555–56. The question here is how to classify the Petitioner's detention (under § 1226(a) or § 1225(b)(2)) and what process he is owed, in light of both Second Circuit law and the nationwide declaratory judgment in *Maldonado Bautista*. Section 1252(f)(1) does not address whether this Court may look to that declaratory judgment as controlling or highly persuasive on the statutory question.

II. The Petitioner Is a Member of the *Maldonado Bautista* Bond Eligible Class, and His Detention Must Be Governed Under § 1226(a) With IJ Bond Jurisdiction

The Bond Eligible Class certified in *Maldonado Bautista* consists of:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or 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.

Maldonado Bautista v. Santacruz, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The Petitioner satisfies each element.

a. The Petitioner entered without inspection and is currently without lawful status.

First, the Petitioner is a noncitizen "in the United States without lawful status" who "entered … without inspection." Id. Under the INA, "admission" and "admitted" are terms of art which refer to "*the lawful entry* of the alien into the United States *after inspection and authorization* by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). Relatedly, 8 U.S.C.§ 1225(a)(3) states that noncitizens who are "applicants for admission" or otherwise seeking admission "shall be inspected" by immigration officers. In other words, "inspection" is part of the *admission* process, but not all inspections result in admission, and an inspection and processing by DHS does not retroactively turn an unlawful entry into a "lawful entry … after inspection and authorization" under § 1101(a)(13)(A).

The Petitioner entered the United States as an unaccompanied minor without being admitted or inspected at a port of entry. He was later processed into ORR custody and eventually released to an ORR-vetted family sponsor. The Petitioner at no point received lawful entry after inspection and authorization. He is currently charged in his 8 U.S.C. § 1229 proceedings under 8 U.S.C. § 1182(a)(6)(A)(i) for presence "without being admitted or paroled," and he has never obtained any

lawful status. His situation is therefore the typical "entered without lawful admission/EWI" scenario that § 1182(a)(6)(A)(i) and the Bond Eligible Class are designed to address. Consequently, he satisfies the first and second criteria of the Bond Eligible Class: he entered without inspection and currently lacks lawful status.

To the extent the government argues that the Petitioner was "inspected" when he was first processed as a UAC and therefore did not "enter without inspection," that argument conflates any DHS processing with lawful admission. The statutory definition clearly states that what matters is whether there was lawful entry after inspection and authorization, 8 U.S.C. § 1101(a)(13)(A), and the Petitioner plainly did not receive such an admission. He therefore remains a noncitizen who entered without lawful admission and currently lacks lawful status, satisfying the first element of the Bond Eligible Class definition. *See Maldonado Bautista*, 2025 WL 3288403, at *9.

b. For the detention at issue, the Petitioner was not "apprehended upon arrival" but re-detained in the interior after release to a sponsor and residence in the United States.

Second, regarding the detention challenged in this habeas petition, the Petitioner "was not… apprehended upon arrival." *Id.* The custody determination in question does not concern his initial custody as a newly arrived UAC at or near the border in 2024. The earlier period of detention is not part of what is before this Court.

Instead, this case challenges his later adult re-detention: after ORR released the Petitioner to his vetted sponsor, and he had been living in the United States for roughly a year and a half. DHS then re-arrested him in the interior and transferred him to an adult jail, where it has continued to detain him while insisting that he is subject to mandatory, no-bond detention under § 1225(b)(2).

For this later custody determination, the Petitioner had already "entered" the United States without lawful admission and was living in the interior. He was plainly not "apprehended upon

arrival." He was apprehended well after arrival, while residing in the interior, and after ORR had already determined that he could safely live in the community with his sponsor.

Read in context, the class definition's "were not or will not be apprehended upon arrival" language addresses the custody determination being challenged in *Maldonado Bautista*, not whether someone was ever apprehended near the border earlier. The forward-looking language ("have entered or will enter," "are not or will not be subject to detention under …") confirms that the class is designed to cover both current and future custody decisions under that policy, including later interior arrests after ORR release.

If this habeas petition challenged the Petitioner's initial, near-border UAC detention at the time of entry, he would fall outside that part of the class definition. However, that is not the case. The detention in question is his current adult detention, imposed after interior re-arrest and based on DHS's "no-bond" § 1225(b)(2) policy. For this detention, the Petitioner clearly falls within the category of noncitizens who "were not … apprehended upon arrival" within the meaning of the Bond Eligible Class.

c. *The Petitioner is not detained under § 1226(c), § 1225(b)(1), or § 1231 at the time of this custody determination.*

Third, the Petitioner "is not ... subject to detention under 8 U.S.C. § 1226(c), 8 U.S.C. § 1225(b)(1), or 8 U.S.C. § 1231 at the time" of the custody determination being challenged. *Id.*

The Petitioner is not detained under § 1226(c): he does not have any qualifying criminal convictions, and the government has not invoked § 1226(c) as the basis for his custody. He is not detained under § 1225(b)(1): this is not an expedited-removal case, and the Petitioner is currently in full § 1229 removal proceedings before the immigration court. Nor is he detained under § 1231: there is no administratively final order of removal, and the Petitioner remains in pre-final-order detention while pursuing protection and SIJS-related relief.

Instead, DHS has explicitly stated that the Petitioner is detained under § 1225(b)(2) and has argued that, under Matter of Yajure Hurtado, immigration judges do not have bond jurisdiction. This is exactly the statutory misclassification and "no-bond" policy that *Maldonado Bautista* declared unlawful for Bond Eligible Class members. Since the Petitioner is not properly detained under any of the exclusionary provisions listed in the class definition, he meets the third requirement for Bond Eligible Class membership.

d. As a Bond Eligible Class member, the Petitioner's detention must be considered governed by § 1226(a), and immigration judges have bond jurisdiction.

Because the Petitioner meets all three elements of the Bond Eligible Class, he qualifies as a Bond Eligible Class member. As discussed earlier, Judge Sykes has already entered a declaratory judgment—extended "to the Bond Eligible Class as a whole"— declaring that DHS's policy of treating such individuals as § 1225(b)(2) detainees without bond jurisdiction is unlawful, and that they are properly subject to § 1226(a). *Maldonado Bautista*, 2025 WL 3289861, at *8; 2025 WL 3288403, at *9.

For the Petitioner, that declaratory judgment has concrete consequences: (1) His challenged detention must be classified under § 1226(a), not § 1225(b)(2); (2) Under § 1226(a), he is entitled to an individualized custody determination with consideration of release on bond or alternatives; and, (3) Immigration judges have jurisdiction to hold a bond hearing and adjudicate his custody, consistent with the INA, the regulations, and the TVPRA.

In other words, *Maldonado Bautista* confirms what the Petitioner has argued from the beginning: as a non-arriving respondent who was arrested in the interior after being released to a sponsor and residing in the United States, his detention falls under § 1226(a), and EOIR's refusal to exercise bond jurisdiction based on § 1225(b)(2) and *Matter of Yajure Hurtado* is incompatible with the governing class-wide declaratory judgment and the statutory framework.

III. Even Apart from *Maldonado Bautista*, the Petitioner Prevails on Independent Statutory, TVPRA, APA, and Due Process Grounds

Even if this Court were to set *Maldonado Bautista* aside, the Petitioner's detention still remains unlawful on the merits under the INA, the TVPRA, the APA, and the Fifth Amendment. The Court already acknowledged this in granting the TRO, concluding that there was a likelihood of success on the merits due to the statutory misclassification and the lack of TVPRA-compliant procedures in his case. These independently sufficient bases continue to stand.

a. Text, structure, and Jennings confirm that § 1226(a), not § 1225(b)(2), governs the Petitioner's detention.

As fully briefed in the Petitioner's opening and reply submissions, the INA establishes two distinct pre-final-order detention schemes: § 1225 for "certain aliens seeking admission" and § 1226 as the "default rule" for "aliens already present in the country" detained "pending a decision on whether the alien is to be removed." *Jennings v. Rodriguez*, 583 U.S. 281, 289, 303 (2018). Interpreting the "applicant for admission" deeming clause in § 1225 to encompass all interior arrests of noncitizens who have never been admitted would make § 1226(a)'s bond framework and IJ jurisdiction largely superfluous for precisely the population that *Jennings* and the Second Circuit identify as detained under § 1226. *See Velasco Lopez v. Decker*, 978 F.3d 842, 851–57 (2d Cir. 2020); *Hechavarria v. Sessions*, 891 F.3d 49, 57 (2d Cir. 2018). This delineation between § 1225 and § 1226 is, indeed, the majority opinion, as the Southern District of New York in *Barco Mercado v. Francis et al.,* No. 1:2025cv06582, Document 28 at pg. 10 n.22-23, 35-41 (S.D.N.Y. Nov. 26, 2025), explains. Specifically, the Government's erroneous interpretation

> has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States

> Thus, the overwhelming, lopsided majority have held that the law still means what it always has meant. *Id.* at 9-10;

SDNY Judge Lewis A. Kaplan indexes the 350 majority opinions aligned with the Petitioner's arguments on pages 35-40 and the 12 minority opinions on page 41.[1]

The Petitioner clearly falls within the scope of § 1226(a). He entered as a minor, was placed into ORR custody, released to an approved sponsor, then re-arrested within the interior after residing in the United States for over a year and a half and placed in § 1229 proceedings, and charged under § 1182(a)(6)(A)(i). Based on these facts, he is an "alien[] already present in the country pending the outcome of removal proceedings," not an "alien seeking admission" at the outset. *Jennings*, 583 U.S. at 289, 303. The government's attempt to detain him under § 1225(b)(2) conflicts with the text, structure, and history of the statute, as already outlined in Petitioner's prior briefing and adopted in the TRO.

b. After Loper Bright, Matter of Yajure Hurtado receives no Chevron deference and lacks persuasive force under Skidmore.

The Respondents' principal answer to this statutory problem is to invoke *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), *Chevron* deference is no longer available. Courts must "exercise their independent judgment" when interpreting statutes and can only give, at most, *Skidmore* weight based on "the thoroughness evident in [the agency's] consideration, the validity of its reasoning, [and] its consistency with earlier and later pronouncements." *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944).

Yajure Hurtado fails that test for the reasons already explained. It does not reconcile its sweeping "perpetual applicant" theory with *Jennings*'s explicit description of § 1226 as the default

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[1] *Barco Mercado v. Francis et al.*, No. 1:2025cv06582, Document 28 at pg. 10 n.22-23, 35-41 (S.D.N.Y. Nov. 26, 2025), https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2025cv06582/647311/28/

authority for noncitizens already in the country, it conflicts with the government's own contemporaneous implementation of IIRIRA (which preserved IJ bond jurisdiction for non-arriving inadmissible respondents), and it cannot be squared with the bond-jurisdiction regulations that remove IJ authority only for "arriving aliens." *See* 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997); 8 C.F.R. § 1003.19(h)(2)(i)(B). On this record, *Yajure Hurtado* does not have the "power to persuade" and cannot override the statutory reading that places the Petitioner's detention under § 1226(a).

c. *Independently, DHS's failure to perform a TVPRA-compliant least-restrictive-setting/ATD analysis is unlawful under the APA and violates due process.*

Separately, the Petitioner prevails on his TVPRA/APA/Due Process claims regardless of whether the Court resolves the § 1225/§ 1226 issue in his favor. Congress imposed a mandatory, youth-protective duty for previously designated UACs who turn 18 and are transferred to DHS custody: "*the Secretary shall consider placement in the least restrictive setting available*" after assessing danger to self, danger to the community, and risk of flight, and such age-outs "*shall be eligible* to participate in alternative to detention programs." 8 U.S.C. § 1232(c)(2)(B) (emphasis added). Courts have upheld that requirement as a non-discretionary obligation that DHS must follow. *See Arevalo Lopez v. Sessions*, 2018 WL 2932726, at *8–12 (S.D.N.Y. June 12, 2018); *Garcia Ramirez v. ICE*, No. 18-cv-508 (D.D.C. 2018) (permanent injunction & enforcement orders).

Here, the Petitioner's path aligns with the core TVPRA scenario as he (1) entered as a UAC, (2) was released to an ORR-approved family sponsor after the government determined he was neither a flight risk nor a danger, and (3) was later taken into DHS custody at age-out and placed in an adult jail. However, DHS re-detained him without conducting or documenting any §

1232(c)(2)(B) least-restrictive-setting/ATD analysis or explaining what had changed since ORR's prior conclusion that he could safely live with his sponsor.

This omission is (1) "Agency action unlawfully withheld" under 5 U.S.C. § 706(1), because DHS failed to perform a clear, mandatory duty, *see Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 63–65 (2004); and (2) "Arbitrary [and] capricious" under 5 U.S.C. § 706(2)(A), because DHS provided no contemporaneous, reasoned explanation showing consideration of the statutory factors or any changed circumstances, contrary to *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 42–44 (1983), and *FCC v. Fox Television Stations*, 556 U.S. 502, 513 (2009).

The same facts also trigger the Fifth Amendment. Prolonged civil detention of an 18-year-old previously designated UAC in an adult jail, with documented harms and no individualized custody determination that considers less-restrictive alternatives, creates precisely the "risk of erroneous deprivation" the Due Process Clause forbids. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see Velasco Lopez*, 978 F.3d at 855–57; *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996). In this case, the government's failure to reconcile Angel's prior ORR release with his current adult detention, or to consider the least restrictive setting and ATDs at all, violates both the TVPRA and due process, independently justifying habeas and APA relief.

In sum, even if this Court were to disregard *Maldonado Bautista*, the Petitioner's current detention remains unlawful because § 1226(a) governs his custody; *Yajure Hurtado* is not entitled to deference; and DHS's failure to comply with § 1232(c)(2)(B) and to provide a meaningful, individualized custody determination violates the APA and the Fifth Amendment.

d. EOIR's refusal to follow Maldonado Bautista underscores the need for this Court's habeas judgment in Angel's case.

At the same time, the existence of a class-wide declaratory judgment in *Maldonado Bautista* does not make this individual habeas petition superfluous. The Central District of California has

resolved the statutory question for the Bond Eligible Class, but it did not and could not provide coercive, individualized relief for the Petitioner's detention, his TVPRA rights, or the conditions and procedures for any future custody decisions in this jurisdiction. Here, habeas remains essential to (1) apply the *Maldonado Bautista* declaration to the Petitioner's specific circumstances; (2) prevent his re-detention under the same unlawful § 1225(b)(2) "no-bond" policy that EOIR continues to enforce; and (3) address the independent TVPRA, APA, and Fifth Amendment violations this Court has already identified. Without a habeas judgment from this Court, Angel remains at risk of renewed detention and the very statutory and constitutional errors that led to the TRO in the first place.

CONCLUSION

For the reasons set forth above, in Petitioner's previous submissions, and in this Court's Temporary Restraining Order, the Court should determine that the Petitioner's current detention is unlawful.

First, the Court should conclude that the Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class and that the class-wide declaratory judgment in *Maldonado Bautista v. Santacruz* governs his case. As a Bond Eligible Class member, his detention must be treated as arising under 8 U.S.C. § 1226(a), not § 1225(b)(2), and immigration judges possess bond jurisdiction over his custody.

Second, independently of *Maldonado Bautista*, the Court should determine that: (1) the text and structure of the INA, as interpreted by Jennings and Second Circuit precedent, classify the Petitioner's detention under § 1226(a); (2) *Matter of Yajure Hurtado* is not entitled to *Chevron* deference after *Loper Bright* and lacks persuasive force under *Skidmore*; and (3) DHS's failure to conduct and document a TVPRA-compliant least-restrictive-setting/ATD analysis violates 8

U.S.C. § 1232(c)(2)(B), is unlawful under the APA, and infringes on the Petitioner's Fifth Amendment Due Process rights.

WHEREFORE, Petitioner respectfully requests that the Court:

1. Convert the existing Temporary Restraining Order into a preliminary injunction and maintain its protections in place during the case's adjudication on the merits.
2. Declare that the Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class and that, as to him, the governing detention authority is 8 U.S.C. § 1226(a), not § 1225(b)(2);
3. Declare that DHS's and EOIR's reliance on § 1225(b)(2) and Matter of *Yajure Hurtado* to deny immigration-judge bond jurisdiction over Bond Eligible Class members, including Mr. Montoya, is contrary to the INA, the TVPRA, and the *Maldonado Bautista* declaratory judgment;
4. Enjoin Respondents from re-detaining Mr. Montoya under § 1225(b)(2) or pursuant to any "no-bond" policy predicated on treating him as an arriving alien or perpetual "applicant for admission;"
5. Order that, before any future civil immigration re-detention of the Petitioner, DHS must:
   a. Treat his custody as governed by § 1226(a);
   b. Provide a contemporaneous, written, TVPRA-compliant custody determination under 8 U.S.C. § 1232(c)(2)(B) that addresses danger to self, danger to the community, risk of flight, and placement in the least restrictive setting and ATDs; and
   c. Ensure he receives a prompt bond hearing before a neutral decisionmaker, where the Government bears the burden, by clear and convincing evidence, to justify any continued detention, with explicit consideration of less-restrictive alternatives and his ability to pay.

6. Set aside, as it applies to the Petitioner, DHS's classification of his detention under § 1225(b)(2) and any related "no-bond" policy as "not in accordance with law" and "arbitrary and capricious" under 5 U.S.C. § 706(2).
7. Retain jurisdiction to enforce its declaratory and injunctive relief and to ensure that any future custody decisions concerning the Petitioner comply with the INA, the TVPRA, the APA, the Fifth Amendment, and the *Maldonado Bautista* judgment; and
8. Award the Petitioner his reasonable attorneys' fees and costs incurred in this action under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority, along with such other and further relief as the Court deems just and proper.

Respectfully submitted,

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