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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

LUIS HERNAN HERNANDEZ
PECH,

Petitioner,

v.

DAVID MARIN, Warden at Adelanto
ICE Processing Center; THOMAS
GILES, Director of the Los Angeles
ICE Field Office; TODD LYONS,
Acting Director of ICE; KRISTI
NOEM, Secretary of the U.S.
Department of Homeland Security; in
their official capacities.

Respondents.

Case No. 5:25-cv-03611-FMO
(SK)

**AMENDED PETITION FOR
WRIT OF HABEAS
CORPUS**

INTRODUCTION

1
2 1. This is a petition for a writ of habeas corpus under 28 U.S.C. § 2241
3 challenging the lawfulness and constitutionality of Petitioner's ongoing civil
4 immigration detention without the opportunity for a bond hearing.

5
6 2. Petitioner, LUIS HERNAN HERNANDEZ PECH, is detained at the
7 Adelanto ICE Processing Center in Adelanto, California, within the jurisdiction
8 of this Court.

9
10 3. An Immigration Judge denied petitioner's request for bond on the
11 grounds that the Immigration Court lacked jurisdiction pursuant to *Matter of*
12 *Yajure Hurtado*, 29 I&N. Dec. 216, 220 (BIA 2025).

13
14 4. As a result, Petitioner remains detained indefinitely and without any
15 individualized determination of whether his continued detention is necessary to
16 serve a legitimate governmental purpose.

17
18 5. Petitioner's detention violates the Immigration and Nationality Act,
19 the Due Process Clause of the Fifth Amendment, and controlling precedent
20 requiring meaningful limits on civil detention.

JURISDICTION

21
22
23 6. Petitioner is in the physical custody of Respondents, detained at the
24 Adelanto ICE Processing Center in Adelanto, California.

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

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

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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).

12. The Court should grant the petition for writ of habeas corpus “forthwith,” as the relevant legal issue has already been resolved in *Maldonado Bautista*.

PARTIES

13. Petitioner LUIS HERNAN HERNANDEZ PECH is a citizen of Mexico who is a long-time resident of the United States and has continuously resided in California since at least 2018. He is also the father of United States citizen children and the recipient of an approved I-130 immigrant petition.

14. DAVID MARIN, is the Warden at Adelanto ICE Processing Center where Petitioner is detained. DAVID MARTIN has immediate physical custody of Petitioner is sued in his official capacity

15. Respondent THOMAS GILES is the Director of the Field Office of ICE’s Enforcement and Removal Operations division. As such, THOMAS GILES is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

16. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is

responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

FACTS

17. Petitioner LUIS HERNAN HERNANDEZ PECH is a citizen of Mexico who is a long-time resident of the United States and has continuously resided in California since at least 2018. He is also the father of United States citizen children and the recipient of an approved I-130 immigrant petition.

18. On December 2, 2025, Petitioner was arrested by ICE and has since been held at the Adelanto ICE Processing Center while in removal proceedings.

19. ICE did not set a bond.

20. Petitioner, through counsel, filed a Motion for Bond on December 23, 2025. (A copy of the Motion is attached hereto as Exhibit 1 and hereby incorporated by reference.)

21. On January 5, 2026 the Petitioner's bond request was denied without a hearing based upon the Immigration Judge's determination that he lacked jurisdiction, citing *Matter of Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025). (A copy of the order is attached hereto as Exhibit 2 and hereby incorporated by reference.)

LEGAL FRAMEWORK

22. *Hurtado* marked a dramatic shift in the government's interpretation of the INA with regards to bonds. The longstanding practice generally

differentiated between undocumented immigrants detained within the United States and “arriving aliens.” The former came under section 236(a) of the INA, 8 U.S.C.A. § 1226(a), and therefore were eligible for a bond determination, while the latter came under the mandatory detention provisions of section 235 of the INA, 8 U.S.C.A. § 1225. *Hurtado* held that aliens who entered without inspection, regardless of how long they resided within the United States before apprehension, could be classified as “arriving aliens” and subject to mandatory detention.

23. This Court recently evaluated this legal issue in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) in which it certified a nationwide class¹ and extended a declaratory judgment that its members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)

24. This Court’s ruling in *Maldonado Bautista* is in accord with numerous other district court decisions nationwide holding that the “arriving aliens” bond statute, 8 USCS § 1225 (b)(2)(A) either does not or likely does not broadly apply to aliens already present within the United States. *See, e.g., Luna*

¹ 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.

Quispe, 2025 U.S. Dist. LEXIS 194070, 2025 WL 2783799, at *5; *Guerrero Orellana v. Moniz*, 25-cv-12664, 2025 U.S. Dist. LEXIS 196282, 2025 WL 2809996, at *6 (D. Mass. Oct. 3, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 U.S. Dist. LEXIS 195270, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *D.S. v. Bondi*, 25-cv-3682, 2025 U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025); *Rodriguez Vazquez v. Bostock*, No. 25-cv-05240, 2025 U.S. Dist. LEXIS 193611, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 U.S. Dist. LEXIS 191630, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 U.S. Dist. LEXIS 188368, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 U.S. Dist. LEXIS 187233, 2025 WL 2716910, at *9 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 U.S. Dist. LEXIS 188085, 2025 WL 2712427, at *5 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 U.S. Dist. LEXIS 185696, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 U.S. Dist. LEXIS 181837, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326, 2025 U.S. Dist. LEXIS 176165, 2025 WL 2639390, at *10 (D.N.H. Sept. 8, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379, at *8 (E.D.

Mich. Aug. 29, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-cv-01789, 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025);
Anicasio v. Kramer, 25CV3158, 2025 U.S. Dist. LEXIS 157236, 2025 WL 2374224, at *2 (D. Neb. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. Civ. 5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. CV 25-02157, 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025).

CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention Under the INA

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

26. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

27. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

28. The allegations in the above paragraphs are re-alleged and incorporated herein.

29. Petitioner is subject to mandatory detention without any opportunity
1 for an individualized bond hearing.

30. The Immigration Judge's reliance on *Matter of Yajure Hurtado*
3 forecloses any bond hearing whatsoever, resulting in categorical detention.
4

31. The Fifth Amendment requires, at a minimum, an individualized
6 hearing before a neutral decision-maker at which the government bears the
7 burden of justifying continued detention.
8

32. Petitioner's continued detention without such a hearing violates
9 substantive and procedural due process.
10

11
12 **PRAYER FOR RELIEF**

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

- 14 a. Assume jurisdiction over this matter;
15
16 b. Issue a writ of habeas corpus requiring that within one day,
17 Respondents release Petitioner;
18
19 c. Alternatively, issue a writ of habeas corpus requiring
20 Respondents to release Petitioner unless they provide a bond
21 hearing under 8 U.S.C. § 1226(a) within seven days;
22
23 d. Award Petitioner attorney's fees and costs under the Equal
24 Access to Justice Act (EAJA), as amended, 28 U.S.C. §
25 2412, and on any other basis justified under law; and
26
27
28

e. Grant any other and further relief that this Court deems just and proper.

DATED this 9th of January, 2026

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

I represent Petitioner, LUIS HERNAN HERNANDEZ PECH, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9th day of January, 2026.

/s/ Russell W. Johnson
Russell W. Johnson