IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MAYNOR JOSE MONGES CRUZ

Petitioner,

v.

PAMELA BONDI, in her official capacity as U.S. Attorney General; KRISTI NOEM, in her official capacity as U.S Secretary of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director, U.S Immigration and Customs Enforcement; JOSEPH SIMON, in his official capacity as Field Office Director of the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office; and
PAUL PERRY, in his official capacity as Warden of the Caroline County Detention Center,

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

Case No.

INTRODUCTION

1. Petitioner, Maynor Jose Monges Cruz to ("Mr. Monges Cruz"), brings this petition for a writ of habeas corpus to compel Respondents' compliance with a binding federal court judgment. Mr. Monges Cruz is a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), and is currently held in Respondents' physical custody at the Caroline Detention Facility. His continued detention is unlawful because the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have disregarded the declaratory relief issued on behalf of the certified class, thereby denying Mr. Monges Cruz the bond eligibility to which he is legally entitled.

2. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *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) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

3. The declaratory judgment held that the Bond Denial Class 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*, 2025 WL 3289861, at *11.

4. Nonetheless, the EOIR, its subagency the Immigration Court and the DHS have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

5. In *Maldonado Bautista* the court certified the Bond Eligible Class, defined as:

> 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, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Mr. Monges Cruz is a noncitizen without lawful status detained at the Caroline Detention Facility who (1) entered the United States without inspection,

(2) was not apprehended upon arrival, and (3) is not subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Accordingly, as a member of the Bond Eligible Class, Mr. Monges Cruz is entitled to the application of the law as stated in the *Maldonado Bautista* orders granting summary judgment and class certification. *See* 2025 WL 3288403, at *9 ("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.").

6. The Court should expeditiously grant this petition.

7. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

8. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

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

JURISDICTION AND VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art I § 9, cl. 2 of the U.S. Constitution ("Suspension

Clause"); and 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. §§2201, 2202(Declaratory Judgment Act).

12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. 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.

14. Administrative exhaustion is unnecessary and would be futile. *See Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542 (E.D. Va. 1999). As explained below, the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado* precludes Mr. Monge's Cruz pursuit of a remedy in immigration court. 29 I&N Dec. 216 (BIA 2025).

15. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Caroline Detention Facility. Additionally, a substantial part of the events or omissions that give rise to this action occurred or continue to occur within this division at the Immigration and Customs Enforcement ("ICE") Washington Field Office in Chantilly, Virginia.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista.*

17. 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

18. Petitioner Maynor Jose Monges Cruz is a native and citizen of Nicaragua who entered the U.S. in or around X. He is currently detained at the Caroline Detention Facility.

19. Respondent Pamela Bondi is the Attorney General of the U.S. She oversees the immigration court system, housed within the Executive Office for Immigration Review ("EOIR"), and includes all immigration judges and the Board of Immigration Appeals ("BIA"). She is sued in her official capacity.

20. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

21. Respondent Todd Lyons is the Acting Director of ICE, the agency currently detaining Petitioner. He is the individual who issued an order to detain individuals like Petitioner, and also has legal custody over Petitioner. He is sued in his official capacity.

22. Respondent Joseph Simon is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Washington Field Office and is the federal agent charged with overseeing all ICE detention centers in Virginia, including Caroline Detention Facility. Mr. Simon is the legal custodian of Petitioner. He is sued in his official capacity.

23. Respondent Paul Perry is the Warden of the Caroline Detention Facility, a county jail that contracts with ICE to detain non-citizens. He is responsible for overseeing the

administration and management of the Caroline Detention Facility. Mr. Perry is the immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL ALLEGATIONS

24. Mr. Monges Cruz is a 34-year-old native and citizen of Nicaragua. In or around October 2018, he entered the U.S. without inspection and parole. After his arrival, Monges Cruz settled in the Charlottesville, Virginia area. Mr. Monges Cruz works in the construction industry and supports his household through steady and diligent employment.

25. Mr. Monges Cruz has a limited criminal history; however, none of his prior arrests or convictions render him subject to mandatory detention under the Immigration and Nationality Act. As reflected in Petitioner's Criminal History Chart, his record consists primarily of misdemeanor traffic-related offenses, including driving under a suspended license and a first-offense DUI, for which any custodial sentences were fully suspended, as well as matters that were dismissed or nolle prosequi. *See* Ex. A, Criminal History Chart and Certified Dispositions. Petitioner has never been convicted of an aggravated felony, nor of any offense enumerated in 8 U.S.C. § 1226(c). Accordingly, DHS lacks statutory authority to subject Petitioner to mandatory detention.

26. On January 7, 2026, Mr. Monges Cruz was detained my immigration officials outside of the Greene County General District Court after he appeared to address a traffic violation. Mr. Monges Cruz was initially held at the Riverside Regional Jail and was transferred to the Caroline Detention Facility on or about January 11, 2026 where he remains.

LEGAL BACKGROUND

27. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Generally, noncitizens are entitled to a bond hearing at the outset of their detention. 8 U.S.C. § 1226(a); *see also* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, there are several categories of noncitizens who are subject to mandatory detention under the INA.

29. First, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, 8 U.S.C. § 1226(c).

30. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).

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

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

33. Following IIRIRA's enactment, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and were instead detained under § 1226(a), making them eligible to be released on bond. See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of

Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination").

34. In the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an immigration judge, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the U.S., even if without inspection, were entitled to a custody hearing before an immigration judge or other hearing officer. *See e.g., Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (discussing Section 1226(a) as the "default rule" for detaining noncitizens "already present in the United States"); *Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) (same); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9 (D. Md. Aug. 24, 2025) ("Since at least 1996, the INA has mandated the detention of arriving aliens and certain criminal non-citizens detained in the United States."). The Board of Immigration Appeals has long held to this interpretation. For everyone else, 8 U.S.C. § 1226(a) provides DHS the discretion to detain noncitizens, subject to review during a custody hearing before an immigration judge."); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) ("Before July 8, 2025, 'DHS's long-standing interpretation has been that § 1226(a) applie[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended.'") (quoting Transcript of Oral Argument at 44:24–45:2, Biden v. Texas, 597 U.S. 785 (2022)). *See also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

35. In the past several months, Respondents have adopted an entirely new interpretation of the statute. On May 22, 2025, the BIA issued an unpublished decision holding that all noncitizens who entered the U.S. without admission or parole are considered applicants for admission and are therefore ineligible for immigration judge bond hearings under 8 U.S.C. § 1225(b)(2)(A). *Matter of Q. LI*, 29 I&N Dec. 66 (BIA 2025).

36. On July 8, 2025, ICE, in coordination with the Department of Justice ("DOJ"), announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice. This policy applies nationwide.

37. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the U.S. without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the U.S. for months, years, and even decades.

38. According to news reports, immigration officials within the Trump administration requested this new policy in response to Congress's recent appropriation of billions of dollars to expand the immigration system, given that ICE will soon have the capacity to detain more than twice as many people on any given day.[1]

39. The new policy is reportedly in furtherance of the administration's mass deportation strategy by seeking to coerce noncitizens to relinquish any relief from deportation they may be entitled to by consenting to their deportation.[2]

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[1] *See* Michelle Hackman, *New ICE Policy Blocks Detained Migrants From Seeking Bond*, Wall Street Journal (July 15, 2025), https://www.wsj.com/politics/policy/new-ice-policy-blocks-detained-migrantsfrom-seeking-bond-f557402a [https://perma.cc/K8NY-DAAZ].

[2] *See* Kyle Cheney, *Trump's new detention policy targets millions of immigrants. Judges keep saying it's illegal,* Politico (Sept. 20, 2025), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850; *see also* DHS, *New Milestone: Over 2 Million Illegal Aliens Out of the*

40. On September 5, 2025, the BIA issued a second decision seemingly reiterating its holding in *Matter of Q-LI*, that any noncitizen who is present in the U.S. without having been inspected or admitted is subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

41. As instructed by these decisions, the immigration judges sitting in the Annandale Immigration Court, where Mr. Monges Cruz's immigration case is pending, are now holding that they lack jurisdiction to determine bond for any person who has entered the U.S. without inspection. Instead, consistent with the BIA decisions and the new DHS policy, the immigration judges are concluding that such people are subject to mandatory detention under § 1225(b)(2)(A).

42. Courts in this district have soundly rejected Respondents' attempts to misclassify noncitizens as subject to mandatory detention under §1225. *See e.g.*, *Luna Quispe v. Crawford*, 2025 WL 2783799 (E.D. Va. Sep. 29, 2025) (Trenga, J.); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sep. 30, 2025) (Nachmanoff, J); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. 2025) (Brinkema, J.); *see also Singh v. Bondi*, 1:25-cv-1525, Dkt. 8 (E.D. Va. Oct. 8, 2025) (Nachmanoff, J.); *Lopez-Sanabria v. Bondi*, 1:25-cv-1511, Dkt. 9 (E.D. Va. Oct. 3, 2025) (same); *Ortiz Ventura v. Noem*, 1:25-cv-1429, Dkt. 16 (E.D. Va. Oct. 2, 2025) (same); *Maldonado Merlos v. Noem*, 1:25-cv-1645, Dkt. 11 (E.D. Va. Oct. 9, 2025) (Brinkema, J.); *Guerra Leon v. Noem*, 1:25-cv-1634, Dkt. 12 (E.D. Va. Oct. 8) (same); *Perez Bibiano v. Lyons*, 1:25-cv-1590, Dkt. 8 (E.D. Va. Oct. 2, 2025) (same); *Diaz Gonzalez v. Lyons*, 1:25-cv-1583, Dkt. 8 (E.D. Va. Oct. 1, 2025) (same); *Gomez Alonzo v. Lyons*, 1:25-cv-1587, Dkt. 16 (E.D. Va. Oct. 1, 2025) (same); *Vargas Nunez v. Lyons*, 1:25-cv-1574, Dkt. 10 (E.D. Va. Oct. 1, 2025) (same).

United States in Less Than 250 Days (Sept 23, 2025), https://www.dhs.gov/news/2025/09/23/new-milestone-over-2-million-illegal-aliens-out-united-states-less-250-days ("All of these successes will make arresting, detaining, and deporting illegal aliens more efficient and streamlined than ever before – paving the way to continue the surge in deportations.").

43. On November 25, 2025, the U.S. District Court for the Central District of California issued an order in *Maldonado Bautista*, certifying a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection. *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); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The EOIR is a Defendant in *Maldonado Bautista*, and is thus bound by the ruling there, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). It is a "basic proposition that all orders and judgments of courts must be complied with promptly," *Maness v. Meyers*, 419 U.S. 449, 458 (1975), and thus, in "suits against government officials and departments, [courts] assume that they will comply with declaratory judgments." *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in Maldonado Bautista 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). This understanding of declaratory judgments—and thus this court's obligation to comply with the declaratory judgment in *Maldonado Bautista* —is consistent with the decisions of many courts. See, e.g., *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, 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."), abrogated on other grounds by, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 688 (2024); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as

"the functional equivalent of a writ of mandamus"); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) ("The government's decision to appeal this Court's ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal."), *rev'd on other grounds*, 184 F.3d 900 (D.C. Cir. 1999).

CLAIM FOR RELIEF

Count I:
Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista*

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

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

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

47. The order granting class certificate in *Maldonado Bautista* further orders that "[w]hen 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."

48. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

49. 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 and the Court's judgment in *Maldonado Bautista*.

CLAIMS FOR RELIEF

Count II:
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Bond Redetermination Hearing

50. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

51. Mr. Monges Cruz is a noncitizen who has been "already present in the United States" for about 7 years prior to his detention by immigration officials. *Jennings*, 583 U.S. at 303.

52. Mr. Monges Cruz is not, nor has he ever been classified as an "arriving alien," has no disqualifying criminal arrests or convictions, and is therefore entitled to a bond redetermination by an immigration judge pursuant to 8 U.S.C. § 1226(a).

53. Upon information and belief, Respondents have misclassified Mr. Monges Cruz as subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A), and Respondent Bondi and her designees will not give Mr. Monges Cruz a bond redetermination pursuant to *Q. Li*, 29 I&N Dec. at 66 and *Yajure Hurtado*, 29 I&N Dec. at 216.

54. Respondent's misclassification of Mr. Monges Cruz under §1225(b)(2)(A) unlawfully mandates his continued detention and violates the INA.

Count III:
Violation of the Fifth Amendment to the U.S. Constitution
Unlawful Detention

55. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

56. The Fifth Amendment provides that "[n]o person" shall be "be deprived of life, liberty, or property, without due process of law."

57. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas,* 533 U.S. at 690.

58. Moreover, "[t]he Due Process Clause applies to all 'persons' within the U.S., including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

59. The government's mandatory detention of Mr. Monges Cruz without consideration for release on bond or access to a bond hearing violates his due process rights.

Count IV:
Violation of the Administrative Procedures Act
Unlawful Denial of Release on Bond

60. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

61. Courts must "hold unlawful and set aside agency action" that is "arbitrary capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

62. In subjecting Mr. Monges Cruz to mandatory detention under §1225(b)(2)(A), Respondents have violated the INA, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, and adopted a new policy that contradicts its regulations without providing meaningful notice or opportunity to comment, despite the substantive rights of noncitizens, such as Petitioner.

63. Moreover, Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

64. The application of 8 U.S.C. §1225(b)(2)(A) to Mr. Monges Cruz is arbitrary, capricious, and not in accordance with law, and as such violates the APA. *See* 5 U.S.C. §706(2).

PRAYER FOR RELIEF

WHEREFORE, Mr. Monges Cruz respectfully asks that this Court:

a. Assume jurisdiction over the matter;

b. Order that Mr. Monges Cruz shall not be transferred outside of the Eastern District of Virginia while this case is pending;

c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

e. Declare that if Mr. Monges Cruz is released, that Respondents are enjoined from rearresting him unless: (i) he commits a violation of federal, state or law; (ii) he fails to attend a properly noticed immigration court hearing; (iii) he is subject to detention pursuant to a final order of removal; or (iv) the order granting bond is revoked on a ground other than that Petitioner is detained under § 1225(b)(2);

f. Declare that the continued immigration detention of Mr. Monges Cruz violates 8 U.S.C. § 1226(a);

g. Declare that the continued immigration detention of Mr. Monges Cruz violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

h. Set aside Respondents' unlawful no-bond policy under the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional right;.

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

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

Date: January 12, 2026

Respectfully submitted,

/s/ Tanishka Cruz
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CERTIFICATE OF SERVICE

I, Tanishka V. Cruz, Esq., the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I will furthermore send a copy by certified U.S. mail, return receipt requested, to:

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