UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MANUEL EDUARDO ORTIZ LARA

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; 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; DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office of Immigration Review

Respondents.

Case No. 26-cv-219

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Manuel Eduardo Ortiz Lara (hereinafter "Petitioner" or "Mr. Ortiz") brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). Petitioner is in the physical custody of Respondents at the Brooklyn Metropolitan Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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. On December 18, 2025, the district court in *Maldonado Bautista* granted a final judgment and certified the same claims for appeal pursuant to Federal Rule of Civil Procedure 54(b).

5. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (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.

6. Petitioner Manuel Eduardo Ortiz Lara is a member of the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained at the the Brooklyn Metropolitan Detention Center. He was apprehended by immigration authorities on December 29, 2025;

b. entered the United States without inspection over 11 years ago and was not apprehended upon arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

7. After apprehending Petitioner on December 29, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

8. The Court should expeditiously grant this petition.

9. 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 their clear entitlement to consideration for release on bond as a Bond Eligible Class member.

10. 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).

11. 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.

12. 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

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Brooklyn Metropolitan Detention Center in Brooklyn, NY.

14. 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).

15. 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

16. 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 Eastern, the judicial district in which Petitioner currently is detained.

17. 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 Eastern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

18. 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.*

19. 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

20. Petitioner Ortiz is a citizen of the Dominican Republic who has been in immigration detention since December 29, 2025. After Petitioner was arrested in the Bronx, New York, ICE did not set bond, and Petitioner requested review of his custody by Immigration Judge Charles R. Conroy. On January 14, 2026, Petitioner withdrew his request for custody review when IJ Conroy, off the record, read from a small piece of paper and announced to all counsels present before his courtroom that he would be denying the custody review of any noncitizen before his docket who entered without inspection pursuant to the declaratory judgment in *Maldonado Bautista* is not controlling and that the agency's prior decision in *Matter of Yajure Hurtado* is still controlling law. Petitioner has resided in the United States since November 2014.

21. Respondent Pamela Bondi is the Attorney General of the United States. She 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. She is sued in her official capacity.

22. 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.

23. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens

24. Respondent Raul Maldonado is employed by the Federal Bureau of Prisons as Warden of the Metropolitan Detention Center, where Petitioner is detained. He has immediate physical custody of the Petitioner. He is sued in his official capacity.

25. Respondent Todd Lyons is the Acting Director of the New York Field Office of ICE's Enforcement and Removal Operations division. As such, Todd Lyons is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

26. Respondent Daren K. Margolin, in his official capacity as the Director of the Executive Office for Immigration Review (EOIR). He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees EOIR, which is a federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

STATEMENT OF FACTS

27. Mr. Ortiz is a native and citizen of the Dominican Republic born on [redacted].

28. On or about August 14, 1993, Mr. Ortiz Lara married Janett Mercedes Soto Ortiz, a Lawful Permanent Resident of the United States.

29. Together they have a U.S. citizen son, Adrian Manuel Ortiz Lara, as well as two U.S. citizen grandchildren, [redacted]

30. On or about November 2014, Mr. Ortiz entered the United States without inspection and immediately relocated to the Bronx, NY, where he has lived ever since.

31. On or about March 22, 2024, Mr. Ortiz's U.S. citizen son, Adrian, filed a Petition for Alien Relative, *Form* I-130, which was approved on July 6, 2025.

32. On or about December 29, 2025, Mr. Ortiz was at a grocery store with two friends. Upon exiting the store, ICE officers grabbed Mr. Ortiz, took him to an ICE office for processing, and placed him in detention at the Brooklyn Metropolitan Detention Center, where he remains today.

33. After Petitioner was arrested, ICE did not set a bond allowing Mr. Ortiz to be released.

34. On January 7, 2016, Petitioner was scheduled for a Master Calendar Hearing in his Removal proceedings before IJ Conroy, where he was represented by counsel Eric Hisey.

35. While waiting to appear on behalf of Petitioner's removal proceedings, Immigration Judge ("IJ") Charles R. Conroy held custody determination hearings in other,

related cases, where he found jurisdiction for class members in *Maldonado Bautista* and proceeded with an individualized determination of each custody redetermination hearing.

36. On January 9, 2026, Petitioner requested a review of his custody by IJ Conroy.

37. On January 13, 2026, Chief Immigration Counsel, Teresa L. Riley issued guidance to all Immigration Judges purporting that "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore, *Yajure Hurtado* remains binding precedent on agency adjudications." *See*, Exhibit A

38. Petitioner's custody redetermination hearing was scheduled for January 14, 2026.

39. On the same day and off the record, IJ Conroy read a small piece of paper and announced to all counsels present before his courtroom that he would be denying the custody review of any noncitizen before his docket who entered without inspection because the declaratory judgment in *Maldonado Bautista* is not controlling and that the agency's prior decision in *Matter of Yajure Hurtado* remains binding precedent.

40. On the record, and through counsel Tito A. Saavedra, Petitioner requested IJ Conroy to state the reasons for asserting no jurisdiction for Petitioner's custody review on the record. IJ Conroy stated the reasons for declining jurisdiction.

41. As a result, Petitioner withdrew his request for a custody review.

42. The Petitioner remains in detention and without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

43. Any appeal to the BIA is futile. DHS's new policy was issued in coordination with DOJ. EOIR—the immigration court system—is a component agency of DOJ and the Chief Immigration Judge's order to all Immigration Judge's to deny bond to all individuals such as

Petitioner forecloses any prospect that he may be released pursuant to bond by an Immigration Judge.

CLAIMS 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 certification 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." 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).

48. 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*.

COUNT II
Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

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

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Defendants. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

51. Nonetheless, DHS and the Varrick Immigration Court have adopted a policy and practice of applying § 1225(b)(2) to Petitioner

52. The unlawful application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

53. The unlawful application of § 1225(b)(2) to *Maldonado* Class members unlawfully mandates their continued detention and violates the INA.

COUNT III
Violation of Fifth Amendment Due Process Clause

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

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

56. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

58. Respondents' mandatory detention of Petitioner and without consideration for release on bond or access to a bond hearing violates his due process rights under the Fifth Amendment.

COUNT IV
Violation of the Administrative Procedure Act 5 U.S.C. § 706(2)(A)-(D)

59. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1-57 as if fully set forth herein.

60. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law"; "; "contrary to constitutional right"; "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" and "without observance of procedure required by law" 5 U.S.C. § 706(2)(A)-(D).

61. The Board of Immigration Appeals decision in *Matter of Yajure Hurtado* is an "agency action" and/or "agency findings" and/or "agency conclusions" which are an unlawful statutory interpretation that the mandatory detention provisions at 8 U.S.C. § 1225 apply to all noncitizens who have entered the United States without inspection.

62. The legal basis for *Matter of Yajure Hurtado*'s holding that Immigration Courts lack jurisdiction is premise on the unlawful statutory interpretation; violates Petitioner's constitutional right to due process of law and Petitioner's statutory rights under 8 U.S.C. § 1226(a) to be afford a bond hearing.

63. Accordingly, the court shall set aside and hold unlawful the *Matter of Yajure Hurtado*.

64. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Defendants. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

65. Moreover, Defendants 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. *See Motor Vehicle Mfrs. Ass'n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

66. The application of § 1225(b)(2) to petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

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

c. Order that Respondents may not re-detain Petitioner absent compliance with constitutional protections, which include, at a minimum, pre-deprivation notice--describing the change of circumstances necessitating his arrest and detention -- to be provided no less than seven (7) days prior to a pre deprivation bond hearing.

The hearing shall be before a neutral arbiter pursuant to § 1226(a) and its implementing regulations. At any such hearing, the government shall bear the burden of establishing, by clear and convincing evidence, that petitioner poses a danger to the community or a risk of flight, and petitioner shall be allowed to have his counsel present. 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;

d. Hold unlawful and set aside *Matter of Yajure Hurtado* as arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law"; "contrary to constitutional right" "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" and "without observance of procedure required by law" under the APA;

e. 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

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

DATED this 14th Day of January, 2026.

/s/ Eric Hisey

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