UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ORLANDO GABRIEL MIRANDA SEVILLA, *Petitioner,* v. Bobby Thompson, Warden of South Texas Detention Facility; Miguel Vergara, Field Office Director of Enforcement and Removal Operations, San Antonio Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. Pamela Bondi, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; DEPARTMENT OF HOMELAND SECURITY *Respondents*	Case No. 5:26-cv-514 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Orlando Gabriel Miranda-Sevilla 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. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at South Texas Detention Facility in Pearsall, Texas. 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. 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.

5. Petitioner Denymar Rojas-Moya 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 Dilley Immigration Processing Center. He was apprehended by immigration authorities on November 17, 2025.

b. entered the United States without inspection over 9 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.

6. After apprehending Petitioner on November 17, 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.

7. The Court should expeditiously grant this petition.

8. 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.

9. 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).

10. 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.

11. 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

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Dilley Immigration Processing Center in Dilley, Texas. 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).

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.

VENUE

14. 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 Western District, the judicial district in which Petitioner currently is detained.

15. 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 Western District.

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 Orlando Gabriel Miranda-Sevilla is a citizen of Nicaragua and has been in immigration detention since November 15, 2025. After Petitioner was arrested in San Antonio, ICE did not set bond, and Petitioner requested review of his custody by an IJ. Petitioner has resided in the United States since October 25, 2022.

19. Bobby Thompson is employed by the U.S. Government as Warden of the South Texas Detention Facility in Pearsall, Texas, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

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

21. 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.

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

23. 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.

24. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTUAL BACKGROUND

25. Petitioner, Orlando Gabriel Miranda Sevilla, is a native and citizen of Nicaragua, born on [redacted], 1992, making him 33 years old. He has no criminal record and no prior immigration violations. Petitioner is currently detained by Respondents at the South Texas Detention Facility in Pearsall, Texas, where he remains in the custody of the Department of Homeland Security.

26. Petitioner entered the United States on or about October 25, 2022, and has remained in the country continuously since that date.

27. Petitioner has a pending application for asylum with U.S. Citizenship and Immigration Services ("USCIS"), which remains under review. Based on this application, he was lawfully issued an Employment Authorization Document, a Social Security card, and a Texas driver's license, demonstrating his compliance with immigration law and intent to pursue lawful relief.

28. Petitioner is the father of a seven-year-old daughter who resides in the United States and is herself under immigration proceedings. Although he is no longer in a relationship with the child's mother, they maintain open communication, and Petitioner exercised frequent weekend visitation with his daughter prior to his detention. His daughter has a strong emotional bond with him and depends on his care and support, all of which have been disrupted by his prolonged detention

29. Prior to his detention, Petitioner was steadily employed. He worked in construction during weekdays and was a popular DJ on weekends, performing at well-known venues in San Antonio, including Hyde, Burnhouse, and Vibras. He contributed significantly to his family's financial stability and maintained strong ties to his community.

30. Petitioner was detained on November 15, 2025, while on his way to work, and as of January 20, 2026, he has been detained for approximately sixty-six (66) days without a bond hearing. During his detention, ICE confiscated his passport, driver's license, and work permit, severely limiting his ability to manage personal matters and pursue his asylum case.

31. While in detention, Petitioner has suffered from serious medical conditions, including stomach ulcers, significant weight loss, and a stomach virus caused by the facility's limited and unsuitable food. These medical issues have required treatment by detention center medical staff.

32. Petitioner's detention has caused substantial hardship to himself and his minor daughter, despite his lack of criminal history, long-standing compliance with immigration requirements, pending asylum application, and strong family and community ties.

33. Releasing Petitioner on bond would allow him to address his medical needs, care for his daughter, continue lawful employment, and pursue his asylum application, while ensuring his appearance at all future immigration proceedings.

.ARGUMENT

34. Petitioner filed this habeas petition challenging his detention without a bond hearing.

35. Petitioner advances two principal arguments. First, he contends that his continued detention without a bond hearing violates the Due Process Clause. Second, he argues that 8 U.S.C. § 1225(b)(2) does not authorize his detention.

36. Respondents, however, assert detention authority under 8 U.S.C. § 1225(b)(1), not § 1225(b)(2). See ECF No. 5 at 2. Section 1225(b)(1) governs expedited removal and applies only to certain "arriving" aliens and to noncitizens who have not "been physically present in the

United States continuously for the 2-year period immediately prior to the date" they were determined inadmissible under that provision. 8 U.S.C. § 1225(b)(1)(A)(i).

37. Section 1225(b)(1) further mandates detention only for a limited subset of such individuals. See 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Petitioner does not fall within the categories of noncitizens subject to mandatory detention under § 1225(b)(1).

38. Nonetheless, Petitioner reasonably anticipates Respondents' reliance on 8 U.S.C. § 1225(b)(2). Respondents have repeatedly invoked § 1225(b)(2) in nearly identical cases before this Court. See, e.g., Urquiza-Orozco v. Bondi et al., No. 5:25-cv-01428-XR (W.D. Tex. Nov. 20, 2025); Vega v. Thompson et al., No. 5:25-cv-01439-XR (W.D. Tex. Nov. 21, 2025).

39. Respondents further assert in this case that "[e]ven if this Court were to order Orlando's release from custody, he would be subject to re-arrest as an alien present within the United States without having been admitted." ECF No. 5 at 2. This assertion reflects Respondents' anticipated reliance on arrest and detention authority under § 1225(b)(2).

40. Accordingly, both § 1225(b)(1) and § 1225(b)(2) are at issue. The dispositive statutory question is whether either provision applies to Petitioner. If neither § 1225(b)(1) nor § 1225(b)(2) governs Petitioner's detention, Respondents may detain him only under 8 U.S.C. § 1226(a), which entitles him to a bond hearing. See, e.g., Belsai D.S. v. Bondi, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025).

CLAIMS FOR RELIEF

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

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

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

43. 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.

44. 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."

45. 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).

Violation of Due Process Rights

46. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

47. Petitioner has a fundamental interest in liberty and being free from official restraint.

48. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

49. The government has shown no reason, whatsoever, that there are either changed circumstances or any other reasons for the re-detention of Petitioner, nor was the Petitioner given any notice prior to his re-detention, thus violating his due process rights.

50. 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.

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. 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. 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

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

DATED this 28th of January, 2026.

Respectfully submitted,

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