

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

NELSON YOVANI SANCHEZ LEMUS

Petitioner

-against-

KRISTI NOEM, IN HER OFFICIAL
CAPACITY, SECRETARY, U.S.
DEPARTMENT OF HOMELAND
SECURITY

PAMELA BONDI, IN HER OFFICIAL
CAPACITY,
U.S. ATTORNEY GENERAL

TODD LYONS, IN HIS OFFICIAL
CAPACITY, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
ENFORCEMENT

CHARLOTTE COLLINS, WARDEN IN
HER OFFICIAL CAPACITY, DON T.
HUTTO DETENTION CENTER

SYLVESTER ORTEGA, IN HIS
OFFICIAL CAPACITY ICE FIELD
OFFICE DIRECTOR DETENTION
AND REMOVAL

Respondents.

**PETITION FOR
WRIT OF HABEAS CORPUS**

Case No: 1:26-cv-260

SUPPLEMENTAL BRIEFING ON DUE PROCESS CLAIMS

Introduction

1. *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976) three-factor balancing framework, which governs procedural due process claims and provides the operative test for evaluating whether current procedures adequately protect against erroneous deprivations of liberty. Applied here to Mr. Sanchez Lemus's immigration detention and the Department of Homeland Security's new policy curtailing or standardizing individualized bond determinations, *Mathews* requires a context-specific assessment of: (1) the private interest affected; (2) the risk of an erroneous deprivation under existing procedures and the probable value of additional or substitute safeguards; and (3) the Government's interest, including any asserted administrative burdens.
2. First, the private interest at stake—freedom from prolonged civil detention and the consequential harms to physical liberty, family integrity, and ability to meaningfully pursue immigration relief—is weighty. Mr. Sanchez Lemus faces detention under the new DHS policy where he **will not** receive a tailored, evidence-based bond determination addressing flight risk or danger through consideration of individualized factors.
3. Second, the risk of erroneous deprivation is substantial where the policy diminishes or forecloses meaningful, case-by-case bond hearings, shifts or obscures burdens of proof, restricts consideration of relevant mitigating evidence, or relies on categorical presumptions untethered to an individual's circumstances. The probable value of additional safeguards—such as a prompt, truly individualized bond hearing before a neutral decisionmaker, clear allocation of the burden on the Government by the appropriate standard of proof, consideration of all relevant evidence, and

contemporaneous, reasoned decisions—is high, as these measures directly reduce wrongful detention and align outcomes with the factual record.

4. Third, while the Government’s interests in ensuring attendance at proceedings, protecting public safety, and conserving administrative resources are legitimate, Mathews does not permit efficiency to eclipse accuracy where physical liberty is at stake. Tailored safeguards that cabin detention to cases supported by reliable, individualized findings advance those interests by focusing resources on higher-risk cases and reducing unnecessary confinement.
5. Under Mathews, the constitutionality of the procedures governing Mr. Sanchez Lemus’s detention turns on this balance. Given the gravity of the private interest, the elevated risk of error introduced by the new DHS policy’s constraints on mandatory detention, and the manageable nature of additional safeguards that materially improve accuracy, due process requires procedures that meaningfully test the necessity of detention in each case.

1. The Private Interest Affected

6. The letters extensively demonstrate that Mr. Sanchez Lemus’s private interests in avoiding detention are exceptionally strong (*See* Exhibit 1- Letters of support):
 - a. He is described as a committed father and husband, with children and a wife who rely on him for support, and as someone deeply integrated into his church and community life.
 - b. Friends, colleagues, employers, and church members uniformly attest to his responsibility, trustworthiness, and contribution to his family and community.

7. The letters note the negative effect of his detention on his family, emphasizing his role as the sole or primary provider.
8. Explicit references are made to his U.S.-based employment, more than a decade of residence, and extensive community bonds.

2. Risk of Erroneous Deprivation

9. The letters emphasize:
 - His history of compliance, reliability, and absence of dangerousness or flight risk. Multiple writers note their confidence he will attend court and fulfill obligations if released.
 - Testimony regarding his work and family ties further indicates a low risk of non-compliance were bond to be available.
 - The fact that these aspects cannot be individually presented and weighed under the new policy increases the risk that the government will erroneously detain someone who poses no risk to public safety or of flight.

3. Government's Interest

10. Petitioner, contests the necessity of detaining him as a means of achieving these governmental goals, given his strong record of compliance and lack of public threat.

1. The Private Interest Affected

11. The certificates demonstrate that Mr. Sanchez Lemus is the father of two U.S. citizen children, born in Texas in 2017 and 2022, substantiating his parental and familial bonds in the U.S. *See* Exhibit 2- Birth Certificates

12. These children's dependency on him (emotional, financial, and otherwise) greatly strengthens the private interest at stake in his detention¹.

2. Risk of Erroneous Deprivation

13. The existence of dependent U.S. citizen children is evidence that, in the absence of an individualized hearing, important mitigating factors could be ignored, raising the probability of erroneous liberty deprivation.

3. Government's Interest

14. No evidence has been presented of concrete fiscal or administrative burdens that individualized hearings would impose beyond those already associated with bond hearings prior to the new memo

1. The Private Interest Affected

¹ ECF 1- pag. 2.

15. The habeas petition details Mr. Sanchez Lemus's 30 years of residence in the U.S., continual presence, and his two U.S. citizen children who rely on him for emotional and financial support.
16. He has pursued immigration relief (cancellation of removal for certain nonpermanent residents and adjustment of status) which is pending before the Board of Immigration Appeals, indicating a continued opportunity for lawful status and non-finality of removal.
17. The intrusion on his liberty is severe: "continued detention without the possibility of an individualized bond hearing".
18. The private interest is described, and supported by case law, as one of the most fundamental (freedom from physical restraint).

2. Risk of Erroneous Deprivation

19. The July 8, 2025 DHS policy memo ("the new document") is extensively addressed: It reclassifies those in Mr. Sanchez Lemus's situation as "applicants for admission," making them categorically ineligible for bond hearings regardless of specific circumstances or mitigating evidence.
20. This policy abolishes individualized custody determinations during removal proceedings for those previously eligible.
21. The petition highlights that, under prior procedures, interior arrests afforded a custody hearing with consideration of flight risk and dangerousness, allowing people like Mr. Sanchez Lemus to present evidence of ties and compliance.

22. The new scheme creates a “high risk of erroneous deprivation,” since it permits prolonged detention without opportunity to show lack of dangerousness or flight risk.

23. The petition underscores mitigating factors (compliance, family and community ties, longstanding lawful behavior) that the policy now ignores, raising risk of error.

3. Government's Interest

24. The government’s stated interest is in “ensuring immediate and consistent application” of the INA as interpreted in the July 8, 2025 policy, and in immigration control/enforcement functions.

25. Petitioner has stated that the government’s interest in ensuring appearance and preventing danger “would be squarely addressed through a bond hearing.” In other words, detention is not the least restrictive means to achieve government interests.

26. No evidence has been presented of concrete fiscal or administrative burdens that individualized hearings would impose beyond those already associated with bond hearings prior to the new memo.

Maldonado Bautista v. Santacruz Class member

Petitioner is a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873SSS-BFM (C.D. Cal.). 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). Petitioner is a noncitizen without lawful status detained by DHS 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, Petitioner is entitled to the application of the law as stated in the *Maldonado Bautista* orders.

CONCLUSION

27. Mr. Sanchez Lemus, *Maldonado Bautista v. Santacruz* class member has a substantial liberty interest in avoiding detention. He has resided in the United States for approximately 30 years, has two U.S. citizen children, supports his family emotionally and financially, maintains longstanding employment and community ties (documented through multiple support letters)², and has a pending appeal for his application for relief of cancellation of removal and adjustment of status for certain nonpermanent residents.

28. The July 8, 2025 DHS memo eliminated individualized bond hearings for people in Mr. Sanchez Lemus's category, denying any merits-based review of flight risk or danger and prohibiting consideration of family/community ties or compliance history. This blanket approach greatly increases the risk that persons who present no legitimate risk of flight or harm, such as Mr. Sanchez Lemus³, will be erroneously deprived of liberty.

29. While the government asserts a need for consistent application of the INA and for ensuring attendance at removal hearings/public safety, the habeas petition argues⁴

² Letters of Support

³ *Ibid.*

⁴ ECF 1- pag. 17

(without rebuttal in the government record) that these interests can be met by other means—procedures that were the norm previously and which permitted assessment of relevant facts per person. No evidence is provided of any increased fiscal or administrative burden that individualized hearings would cause compared to prior practice.

30. The new DHS policy dramatically increases the risk of erroneous deprivation of liberty by mandating detention—without individualized assessment—for persons like Mr. Sanchez Lemus, despite significant evidence that he is not a flight risk or danger and that his family and community ties are exceptionally strong. The policy advances government interests in immigration enforcement, but the record does not indicate that categorical detention is necessary or that continued individualized review would produce significant fiscal or administrative hardship. The balance of the Mathews factors, considering the new policy and the evidentiary record, weighs heavily in favor of requiring individualized bond hearings to safeguard against erroneous deprivation of liberty in Mr. Sanchez Lemus's case.

Respectfully Submitted,

/s/ DAVID H. SQUARE

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Western District of Texas by using the CM/ECF system.

/s/ David H. Square
David H. Square