Stacy Tolchin (CA SBN #217431)
Law Offices of Stacy Tolchin
234 E. Colorado Blvd., Ste 230
Pasadena, CA 91101
Telephone: (213) 622-7450
Facsimile: (213) 622-7233
Email: Stacy@Tolchinimmigration.com

Counsel for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Andres Rodas-Dieguez;

Petitioner,

v.

Kristi Noem, Secretary, Department Of Homeland Security; Todd Lyons, in his official Capacity as Acting Director of U.S. Immigration and Customs Enforcement; Pam Bondi, Attorney General of the United States; Gregory J. Archambeault, Field Office Director, San Diego, ICE Field Office; and Jeremy Casey, Warden of Imperial Regional Detention Facility,

Respondents.

Civil Case No.: '26CV976 RBM MMP

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner is a noncitizen who is detained at the immigration detention facility in Imperial, California. He is in pending removal proceedings and is charged with having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

2. Petitioner is being held without the right to a bond hearing before an immigration judge, in violation of the statute at 8 U.S.C. § 1226(a), based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which holds that individuals charged with having entered the United States without inspection are ineligible for bond redetermination hearings before an immigration judge, relying on the statute at 8 U.S.C. § 1225(b)(2)(A). However, detention of Petitioner without permitting a bond redetermination before an immigration judge is in violation of the general bond provision at 8 U.S.C. § 1226(a).

3. Petitioner alternatively brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). He is not required to seek this relief in the class action because he is seeking different relief (injunctive relief ordering release or bond hearing within 7 days) from that sought in the class action (declaratory statement that no-bond policy is unlawful). *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013).

4. On December 18, 2025, the Federal District Court of the Central District of California granted partial summary judgment on behalf of individual plaintiffs and certified a nationwide class and extended declaratory judgment to the certified class in a final judgment. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), Dkt #93. The government's appeal is pending before the Ninth Circuit Court of Appeals. No. 5:25-CV-01873-SSS-BFM, Dkt #96.

5. 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).

6. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court have blatantly refused to abide by the declaratory relief, even after the amended orders and final judgment.

7. Immigration judges within this judicial district are continuing to follow *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), despite the ruling in *Maldonado Bautista.*

8. Petitioner is a member of the certified class in *Maldonado Bautista*, as he has physically entered the United States and is charged as having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

9. Petitioner is detained in violation of the Court's orders in *Maldonado Bautista*.

10. It is the position of Respondents in this district that *Maldonado Bautista* class members are eligible for bond hearings before the immigration judge. Despite this position, Petitioner must still obtain an order from this Court requiring an immigration judge bond hearing before he can be released from custody.

11. As Respondents are continuing to ignore the legal requirements of *Maldonado Bautista*, the Court should order that Respondents immediately release Petitioner from custody. Alternatively, the Court should provide a bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause).

13. Venue properly lies within the Southern District of California under 28 U.S.C. § 1391, because this is a civil action in which Respondents are agencies of the United States, Petitioner is detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the District.

PARTIES

14. Petitioner Andres Rodas-Dieguez is in pending removal proceedings and is currently detained at the immigration detention center in Imperial, California.

15. 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 and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioners. She is sued in her official capacity.

16. Respondent Todd Lyons is the Acting Director of ICE and has authority over the operations of ICE. In that capacity and through his agents, Respondent Lyons has broad authority over the operation and enforcement of the immigration laws. Respondent Lyons is sued in his official capacity.

17. Respondent Pam Bondi is the Attorney General of the United States. She is responsible for the Department of Justice and is sued in her official capacity.

18. Respondent Gregory J. Archambeault is the Field Office Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, he is the custodian of all persons held at the ICE facilities in the San Diego Field Office. He is Petitioner's immediate custodian and is responsible for their detention. He is sued in his official capacity.

19. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner and is sued in his official capacity.

LEGAL BACKGROUND

20. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

22. 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).

23. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

24. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

25. 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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

26. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). 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).

27. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond

hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); 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)).

28. On September 5, 2025, the Board of Immigration Appeals issued a precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), finding that noncitizens who entered the United States without inspection were ineligible for bond redetermination hearings because they were seeking admission, and fell within 8 U.S.C. § 1225(b)(2)(A).

29. This legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has been overwhelmingly rejected by the district courts. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *9 (W.D. Wash. Sept. 30, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *3 (C.D. Cal. Sept. 8, 2025); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *9 (E.D. Cal. Sept. 9, 2025); *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP (SD. Cal. Sept. 3, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS) C.D. Cal. Aug. 26, 2025); *Arrazola Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM (C.D. Cal. Aug. 15, 2025); *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *2 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D. Minn. Aug. 27, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) *Rodriguez v. Bostock*, 2025 WL 1193850 (W.D. Wa. Apr. 24, 2025).

30. The Board's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

31. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

32. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

33. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

34. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who is alleged to have entered the United States without admission or parole.

***MALDONADO BAUTISTA v. NOEM* CLASS ACTION**

35. On December 18, 2025, the District Court for the Central District of California issued an order on a pending nationwide class action in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). In that order, the Court rejected the argument that noncitizens who entered the United States without inspection are ineligible for bond based on 8 U.S.C. § 1225(b)(2), and found that they were eligible for bond hearings before immigration judges under 8 U.S.C. § 1226 (a). The Court expressly found that those who

entered the United States without inspection were not applicants for admission under 8 U.S.C. § 1225(b)(2). The court stated:

> In response, Respondents argue Petitioners are "applicants for admission" because § 1225(b)(2) is a "catchall provision" that applies to all applicants for admission not covered by § 1225(b)(1). [Opp. at 21, (citing *Jennings*, 583 U.S. at 287)]. According to Respondents, "applicants for admission" "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." [Opp. at 21 (citing *Jennings*, 583 U.S. at 297)]. Such an argument relies on the assumption that "applicants for admission" encompasses *all* noncitizens coming into and already in the United States. If this assumption is true, then Respondents are correct. But this cannot be correct.
>
> Respondents' argument is at odds with the plain language of the INA. Neither party contends with the definition section of the INA, which readily resolves this dispute over statutory interpretation.

Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *9 (C.D. Cal. Dec. 18, 2025). This is a rejection of the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025) ("The Immigration Judge properly held that he lacked authority to hear the respondent's request for a bond as the respondent is an applicant for admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A)…"). As such, the legal ruling that a noncitizen who entered without inspection is subject to 8 U.S.C. § 1225(b)(2) was rejected in *Maldonado Bautista*.

36. That legal ruling applies nationwide to all noncitizens who entered without inspection and meet the class definition which was certified in *Maldonado Bautista v. Santacruz*, 5:25-CV-01873-SSS-BFM (C.D. Cal.), Dkt # 94. The class is 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. *Bautista v. Santacruz*, 2025 WL 3713987, at *32. Further, the December 18, 2025 Order confirms that the declaratory judgment applies to the nationwide class, and the ruling that noncitizens who entered without inspection are eligible for bond hearings before the immigration judge under 8 U.S.C. § 1226(a) applies nationwide. *Id.*

37. This is confirmed by a December 19, 2025 position of the United States Attorneys' office in the Southern District of California, which agrees that class members are entitled to bond hearings under Section 1226(a).

38. Nevertheless, the immigration courts have refused to follow *Maldonado Bautista*. On January 16, 2026, the Executive Office for Immigration Review instructed immigration judges nationwide to continue following *Yajure-Hurtado* in spite of the December 18, 2025 orders. The Imperial immigration court, to which Petitioner is subject, has continued to deny bonds to class members on the basis of lack of jurisdiction under *Yajure-Hurtado* after the Court's December 18, 2025 orders.

39. Petitioner may seek injunctive relief separately from the *Maldonado Bautista* class action because the relief he seeks is different. *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013) (when "the complainant is a member in a class action seeking the same relief" a court "may dismiss those portions of the complaint which duplicate the class action's allegations and prayer for relief" but "a district court may not 'dismiss[ ] those allegations … which go beyond the allegations and relief prayed for in [the class action].") (quoting *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir. 1979)).

40. Petitioner seeks this Court's intervention to order compliance with *Maldonado Bautista*, or alternatively to order that a bond hearing is independently required under § 1226(a).

FACTS

41. Petitioner Andres Rodas-Dieguez has been assigned Alien Number [redacted] Petitioner is a father of a U.S. citizen child has resided in the United States since 1986. For almost 40 years.

42. He was arrested by immigration authorities and placed in removal proceedings on January 28, 2026. He is detained at the Imperial detention center and has been issued a Notice to Appear which alleges that he entered the United States without inspection or admission. 8 U.S.C. § 1182(a)(6)(A)(i).

43. Petitioner is in pending removal proceedings and has his first hearing scheduled for February 27, 2026.

44. However, according to the policy of the Executive Office for Immigration review, which houses immigration judges, he is not eligible for a bond redetermination hearing before an immigration judge in light of the Board of Immigration Appeals' precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as he is charged with having entered the United States without inspection or admission.

45. It is futile for Petitioner to exhaust his administrative remedies because the immigration courts are refusing to hold bond hearings in reliance on *Matter of Yajure Hurtado.*

CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

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

47. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such

noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

48. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT II

Violation of the Administrative Procedure Act

Unlawful Denial of 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 noncitizens residing in the United States who are subject to grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

51. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of Procedural Due Process

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

53. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

55. 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.

COUNT IV

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

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

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

58. The order granting partial summary judgment in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

59. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering class certification with the Court's reasoning as to the proper interpretation of the INA, the Court extends the same declaratory relief and vacatur granted to Petitioners to the Bond Eligible Class as a whole."

60. 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).

61. By denying Petitioner a bond hearing under § 1226(a) because Petitioner entered without inspection and are therefore 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 respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Declare that detention of Petitioner without a bond hearing violates the INA, APA, and Due Process;

c. Issue a writ of habeas corpus requiring that Defendants release him immediately;

d. Alternatively, issue a writ of habeas corpus requiring that Defendants provide the bond hearing to which he is entitled within 7 days;

e. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

f. Order further relief as this Court deems just and appropriate.

Dated: February 16, 2026

Respectfully Submitted,

S/Stacy Tolchin

Law Offices of Stacy Tolchin
234 E Colorado Blvd, Ste 230
Pasadena, CA 91101
Telephone: (213) 622-7450
Facsimile: (213) 622-7233
Stacy@Tolchinimmigration.com

Counsel for Petitioner