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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, CALIFORNIA

ESPERANZA ANGEL PEREZ,

Petitioner,

v.

Daniel BRIGHTMAN, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Christopher J. LAROSE, Senior Warden of Otay Mesa Detention Center,

Respondents.

Case No. '26CV1009 BJC BJW

PETITION FOR WRIT OF HABEAS CORPUS; FOR AN ORDER TO SHOW CAUSE WITHIN 3 DAYS; AND TO ENJOIN TRANSFER FROM THE JURISDICTION

INTRODUCTION

1. Petitioner ESPERANZA ANGEL PEREZ 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 the Otay Mesa Detention Center. She 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 Central District Court of California entered final judgement in the case of *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), vacating DHS's policy described in the July 8, 2025. "Interim Guidance Regarding

Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A). The final judgement furthers orders that Bond Eligible Class members are not subject to mandatory detention under § 1225(b)(2) and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

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 ESPERANZA ANGEL PEREZ is a member of the Bond Eligible Class, as she:

a does not have lawful status in the United States and is currently detained at the OTAY MESA DETENTION CENTER. She was apprehended by immigration authorities on January 24, 2026;

b. entered the United States without inspection over nineteen (19) 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 January 24, 2026, the DHS placed her 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 his 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.

STATEMENT OF FACTS

13. Petitioner ESPERANZA ANGEL PEREZ is a citizen of MEXICO who has been in immigration detention since January 24, 2026. After Petitioner was arrested in National City, California, ICE did not set bond. Petitioner has resided in the United States since 2005, after having entered without inspection, and without apprehension upon her entry.

JURISDICTION

14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the OTAY MESA DETENTION CENTER in OTAY MESA, CALIFORNIA.

15. 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).

16. 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

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center, an ICE detention center, located within San Diego County, and Christopher J. LAROSE is his immediate custodian as the Warden of the facility. 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 CALIFORNIA SOUTHERN DISTRICT, the judicial district in which Petitioner currently is detained.

18. 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 CALIFORNIA SOUTHERN DISTRICT.

19. 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).

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

20. 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.* If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243

21. 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).1 "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. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

22. Petitioners are "in custody" for the purpose of § 2241 because they were arrested and remain detained by the Respondents.

PARTIES

23. Petitioner ESPERANZA ANGEL PEREZ is a citizen of MEXICO who has been in immigration detention since January 24, 2026. Petitioner entered the United States on or about November 1, 2005, and has since resided in San Diego, CA. After Petitioner was arrested in National City, California, ICE did not set bond. Petitioner remains detained at the OTAY MESA DETENTION CENTER in San Diego, CA.

24. Respondent Daniel BRIGHTMAN is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, Daniel Brightman is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

25. 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.

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

27. 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.

28. 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.

29. Respondent Christopher J. LAROSE is employed by CoreCivic as Warden of the OTAY MESA DETENTION CENTER, where Petitioner is detained. HE has immediate physical custody of Petitioner. HE is sued in HIS official capacity.

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

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

31. The legal framework to be part of a Bond Eligible Class Member requires:

a. The petitioner have no lawful status and be detained by DHS:

b. Entered the U.S. without inspection and was not apprehended upon arrival;

c. Is not detained under 8.U.S.C. sections 1226 (c), 1225(b), or 1231

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

33. 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.

34. 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."

35. 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).

36. By denying Petitioner a bond hearing under § 1226(a) and asserting that she 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*.

The Petitioner's Detention without a Custody Hearing Violates Due Process and the Fifth Amendment

37. Petitioner reiterates and incorporates by reference paragraphs 1 through 35 as if fully set forth herein.

38. Additionally, the Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision maker. Due process protects all persons within the U.S. regardless of legal status. *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001) A vital liberty interest is at stake when an individual is subject to detention by the government. According to Zadvydas, the government may only deprive a non-citizen of physical liberty when it serves a legitimate purpose, commonly understood to include securing one's appearance at future hearings.

39. The BIA's new interpretation of 8 U.S.C. section 1225(b) set forth in *Yajure* strips Petitioner of that protection by misclassifying him as an "applicant for admission," despite her last entry having been over 20 years ago, wherein she was not stopped by DHS. An arbitrary designation as an arriving alien precludes her from the opportunity to establish thats he is neither a flight risk nor a threat to the community. Her continued confinement thus bears no reasonable, non-punitive relationship to any legitimate aim and is constitutionally arbitrary.

40. Applying the long-standing precedent of *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme as she is given no venue to show that she is not subject to mandatory detention under section 1226 (c). The risk is further heightened by the apparent lack of an independent adjudicator. *Marcello v. Bonds, 39 U.S. 302, 305-306 (1955).*

41. On December 18, 2025, the Central District Court of California entered final judgement in the case of *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), vacating DHS's policy described in the July 8, 2025. "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A). The final judgement furthers orders that Bond Eligible Class members are not subject to mandatory detention under § 1225(b)(2) and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

42. Counsel thus posits that the Defendants are in violation of the *Maldonado Bautista* precedent, the statutory framework in the INA and the code of federal regulations, as well as the Fifth Amendment/ Due Process Clause

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of these proceedings;

c. Order Respondents to file a response within 3 business days of the filing of this petition as to why Petitioner should not be given a custody hearing;

d. 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;

f. 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

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

DATED this 17th of February, 2026.

Victor E. Hernandez
Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: February 17, 2026

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