COGBURN DAVIDSON
Jamie S. Cogburn, Esq.
Nevada Bar No. 8409
jsc@cdinjury.com
2580 St. Rose Parkway, Suite 330
Henderson, NV 89074
Telephone: (702) 747-6000
Facsimile: (725) 465-8731

Ariadne C. Berrios Febles, Esq.
DC Bar No. 1046496 / PR Bar No. 17462
Pro Hac Vice Pending
170 S. Green Valley Pkwy, Ste 300
Henderson, NV 89012
Telephone: (702) 344-4133
ariadne@aberrioslaw.com

Attorneys for Petitioner

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

HUMBERTO ALFREDO GAYTAN CASTRO,

Petitioner,

vs.

JASON KNIGHT, Field Office Director of Enforcement and Removal Operations, Las Vegas 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; WARDEN JOHN MATTOS, Warden of Nevada Southern Detention Center,

Respondents.

Case Number:

PETITION FOR WRIT OF HABEAS CORPUS

A# [redacted]

Petitioner is a class member under Maldonado Bautista

INTRODUCTION

1. Petitioner Humberto Alfredo Gaytan Castro brings this petition for a writ of habeas corpus to seek enforcement of his 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 Nevada Southern Detention Center.

2. 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*.

3. 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). See, Order Granting Plaintiffs-Petitioners' Motion for Class Certification at **Exhibit A**.

4. Subsequently, on December 18, 2025 the District Court granted motion to clarify and entered a **new Order issuing a Final judgment** under Rule 54(b), making clear that all class members are entitled to benefit from the declaratory judgment confirming that they are subject to detention under 236(a), and therefore entitled to a bond hearing. The final judgment asserted that the declaratory judgment confirms that class members, such as the Respondent in this case, are

detained under 236(a), and Immigration Judges (IJs) should adhere to the declaratory judgment, not the agency's prior interpretation in *Yajure Hurtado*. See, *copy of Final Judgment issued in December 18, 2025* at **Exhibit B**.

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). *Maldonado Bautista*, 2025 WL 3289861, at *11.

6. 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.

7. Petitioner, Humberto Alfredo Gaytan Castro 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 Southern Nevada Detention Center. He was apprehended by immigration authorities on December 17, 2025;

b. entered the United States without inspection 21 years ago since 2004 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.

8. After apprehending Petitioner on December 17, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under INA § 212(a)(6)(A)(i), as someone who entered the United States without inspection and under INA § 212(a)(7)(A)(i)(I) as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. See, *Copy of Form I-213 issued by DHS* at **Exhibit C**.

9. The Court should expeditiously grant this petition.

10. 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.

11. 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).

12. In the case before this Court, the Petitioner exhausted administrative remedies and requested a Bond before the Las Vegas Immigration Court. Bond, however, was denied by the Court for alleged lack of jurisdiction per "official position of EOIR" and "agency policy" stated as sole reason in Order.

Simultaneously, the Immigration Judge stated:

> **The Court notes that the respondent has not been granted individualized relief from the District Court. Should any reviewing Court determine that this Court has jurisdiction, or that the respondent must be provided a bond hearing, the Court makes the alternative finding that bond in the amount of $4,000 plus alternatives to detention at the discretion of the DHS is an appropriate amount to ensure respondent's appearance at future proceedings.** See, *Copy of Order of Immigration Judge* at **Exhibit D**.

13. 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.

14. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days at which DHS shall be bound

by the Immigration Judge's alternative bond determination of $4,000 with appropriate conditions of supervision.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Nevada Southern Detention Center.

16. 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).

17. 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

18. 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 District of Nevada, the judicial district in which Petitioner currently is detained.

19. 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 District of Nevada.

REQUIREMENTS OF 28 U.S.C. § 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.*

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). "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

22. Petitioner, Humberto Alfredo Gaytan Castro, is a citizen of Mexico who has been in immigration detention since December 17, 2025. After Petitioner was arrested in Las Vegas, NV, ICE did not set bond and Petitioner remains in ICE custody at the Nevada Southern Detention Center. See, Form I-213 and ICE Detainee Locator Print Out at **Exhibits C** and **E**, respectively. Petitioner has already requested review of his custody by an IJ as all immigration judges in Las Vegas, Nevada and nationwide, per agency instructions, are ruling to have no jurisdiction under *Matter of Hurtado*, supra. Immigration Judges (IJ) are ignoring the class members of *Maldonado Bautista* rendering such efforts futile as proven by the attached Order where the IJ concluded she would have issued bond in the present case, but for the alleged lack if jurisdiction per agency policy. See, IJ Order regarding Bond at **Exhibit D**. Petitioner has resided in the United States since 2004.

23. Respondent Jason Knight is the Director of the Las Vegas Field Office of ICE's Enforcement and Removal Operations division. As such, Jason Knight is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

24. 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.

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

26. 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.

27. 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.

28. Respondent, Warden, John Mattos is employed by CoreCivic as Warden of the Nevada Southern Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CAUSES OF ACTION

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

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

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

31. 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.

32. 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."

33. 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).

34. 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 TWO
Violation of the Fifth Amendment Due Process Clause

35. Petitioner repeats, realleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

36. The government may not deprive a person of life, liberty, or property without due process of law. See, U.S. Constitution Fifth Amendment "Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause." See, Zadvydas v. Davis, 533 U.S. 678, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

38. The government's detention of Petitioner without a bond redetermine-tion hearing to determine whether he is a flight risk or danger to community violates his right to due process.

39. By categorically refusing to provide Petitioner with a bond hearing based on an agency interpretation that has already been rejected in *Maldonado Bautista*, Respondents are depriving Petitioner of liberty without any individualized determination of flight risk or danger.

40. Petitioner's detention here is not authorized by a valid statutory basis and is instead the result of Respondents' refusal to follow binding declaratory relief. Thus, his detention is arbitrary and lacks statutory and constitutional justification.

41. The Fifth Amendment says that "[n]o person shall be ... deprived of life, liberty, or property without due process of law." An alien is a "person." To hold him without bail is to deprive him of bodily "liberty." And, where there is no bail proceeding, there has been no bail-related "process" at all. The Due Process Clause—itself reflecting the language of the Magna Carta—prevents arbitrary detention. *See, Rodriguez v. Marin*, 909 F.3d 252 (9th Cir. 2018)

42. Here, Petitioner requested a bond hearing before the Immigration Court. The Immigration Judge expressly stated that she would set bond at $4,000 but declined to exercise jurisdiction based solely on agency policy. As a result, Petitioner has been categorically denied any individualized determination of whether his detention is necessary to serve the government's regulatory purposes.

43. Detention without a bond hearing, where no valid statutory basis for mandatory detention exists, violates substantive and procedural due process.

44. Substantively, detention that is not reasonably related to a legitimate regulatory purpose is unconstitutional. Procedurally, due process requires at minimum a neutral decisionmaker to assess whether detention is justified by flight risk or danger.

45. By refusing to provide Petitioner a bond hearing Respondents have deprived him of both substantive and procedural due process in violation of the Fifth Amendment.

46. Accordingly, this Court should grant habeas relief and order Petitioner's immediate release or, alternatively, order Respondents to provide a constitutionally adequate bond hearing before an Immigration Judge within seven days.

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 at which DHS shall be bound by the Immigration Judge's alternative bond determination of $4,000 with appropriate conditions of supervision.

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 18th day of February, 2026.

COGBURN DAVIDSON

By: */s/Jamie S. Cogburn*
Jamie S. Cogburn, Esq.
Nevada Bar No. 8409
2580 St. Rose Parkway, Suite 330
Henderson, Nevada 89074
Attorneys for Petitioner

VERIFICATION

I, Humberto Alfredo Gaytan Castro, declare under penalty of perjury under the laws of the United States that I have read this Petition for Writ of Habeas Corpus, that a Spanish translation was provided to me, and that the facts stated herein are true and correct to the best of my knowledge and belief.

Executed on this 4 day of Feb, 2026.

Humberto Alredo Gaytan Castro
Petitioner