IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

MILTON DUBLI ESAU CALDERON, Petitioner,

v.

JUAN BALTAZAR, Warden, GEO Aurora Contract Detention Facility, in his official capacity;

ROBERT HAGAN, Director, Denver Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, in his official capacity;

TODD M. LYONS, Acting Director, U.S. Immigration and Custom Enforcement, in his official capacity;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity;

PAMELA JO BONDI, Attorney General of the United States, in her official capacity,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

> 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).

Milton Dubli Esau Calderon Mejia, the Petitioner, is a migrant from Guatemala. He brings this petition for a writ of habeas corpus challenging his unlawful detention under 8 U.S.C. § 1225(b)(2)(A) and (B) as applied to him by the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner entered the United States without inspection and has resided here continuously since entry. He was apprehended in the interior of the United States—not at the border—and he is being held without a bond hearing or any individualized determination of flight risk or danger.

The answer to his detention claim is provided by the plain text of the statute, confirmed by overwhelming judicial consensus, and is now clearly established law in this District. For example, the United States District Court for the District of Colorado held in *Grijalva Esquivel v. Baltazar*, No.

1:25-cv-04187-SKC (D. Colo. Jan. 29, 2026), that § 1225(b)(2) does not apply to an individual 'already resid[ing] in the United States'—that sections 1225 and 1226 'cover noncitizens presenting at arrival (under § 1225) and then everybody else (under § 1226).' Petitioner is 'everybody else.' See Exhibit 3. Milton's detention is unlawful, and the writ should be granted.

Milton also asserts his rights as a member of two certified classes: (1) the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), as clarified by final judgment (Dec. 18, 2025); and (2) the local class certified in *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (D. Colo. Nov. 21, 2025).

Those class certifications confirm that this Court and the Central District of California have already made the relevant legal determination. They are corroborating authority, not the sole basis for relief—the merits of Petitioner's individual claim independently compel the same result.

The Court should grant the petition.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(c)(3), 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause). This Court may grant relief under 28 U.S.C. § 2241 (habeas),

28 U.S.C. § 2201 (Declaratory Judgment Act), and 28 U.S.C. § 1651 (All Writs Act). Noncitizens may challenge the lawfulness of their detention through habeas. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

2. This petition challenges custody, not removal—a classic habeas claim collateral to any removal order and not barred by 8 U.S.C. § 1252(b)(9), § 1252(g), or § 1252(a)(5). *See Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 2 (D. Colo. Jan. 29, 2026). See Exhibit 3.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) and *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is detained at GEO Aurora Contract Detention Facility, 3130 N. Oakland St., Aurora, CO 80010, in this District.

PARTIES

4. **Milton Dubli Esau Calderon Mejia** is a citizen of Guatemala who is in custody at the GEO Aurora Contract Detention Facility in Aurora, Colorado, within the meaning of the habeas statute. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

5. Respondent **Juan Baltazar** is Warden of the GEO Aurora Contract Detention Facility and Petitioner's immediate physical custodian. He is sued in his official capacity.

6. Respondent **Robert Hagan** is Director of the Denver Field Office of ICE's Enforcement and Removal Operations division and is also Petitioner's immediate custodian responsible for his detention and removal. He is sued in his official capacity.

7. Respondent **Todd M. Lyons** is Acting Director of ICE. He is sued in his official capacity.

8. Respondent **Kristi Noem** is Secretary of Homeland Security, Petitioner's ultimate legal custodian responsible for implementation of the immigration laws as codified under the Immigration and Nationality Act (INA). She is sued in her official capacity.

9. Respondent **Pamela Jo Bondi** is Attorney General of the United States, with authority over the Department of Justice and the Executive Office for Immigration Review. She is sued in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED

10. There is no statutory exhaustion requirement under 28 U.S.C. § 2241. Any exhaustion obligation is purely prudential, and courts have broad discretion to waive it. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). Exhaustion is excused where 'administrative remedies are inadequate or not efficacious,'

'pursuit of administrative remedies would be a futile gesture,' 'irreparable injury will result,' or 'the administrative proceedings would be void.' *Id.* All four conditions are independently satisfied here.

11. **Exhaustion Is Futile.** *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is binding precedent stripping all Immigration Judges of jurisdiction to conduct bond hearings for noncitizens who entered without inspection (EWI). There is no procedural mechanism by which Petitioner could obtain a bond hearing before any Immigration Judge (IJ) in any court in the country. See *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Lopez-Campos v. Raycraft*, 797 F.Supp.3d 771, 781 (E.D. Mich. 2025).

12. **Administrative Remedies Are Inadequate and Void:** The agency lacks jurisdiction to grant the relief Petitioner seeks. No administrative body can order ICE to reclassify Petitioner under § 1226(a). Where the administrative body has not been "empowered to grant effective relief" and where the administrative body is shown to be biased or has otherwise predetermined the issue before it then exhaustion is not required. *Brown v. Haaland*, 604 F. Supp. 3d 1059, 1088 (D. Nev. 2022) (cleaned up).

13. **Irreparable Injury:** Each day Petitioner remains detained without legal authority constitutes irreparable harm. Liberty, once lost, cannot be restored.

14. **No Administrative Jurisdiction Over Constitutional Claims:**

Administrative bodies cannot adjudicate constitutional claims or overrule the BIA's own binding precedent. "There is nothing efficient about sending constitutional claims to a body that cannot decide them, only to wait for an opportunity to appeal." *Am. Fedn. of Govt. Employees, AFL-CIO v. Trump*, 782 F. Supp. 3d 793, 817 (N.D. Cal. 2025), reconsideration granted in part, 782 F. Supp. 3d 872 (N.D. Cal. 2025), and appeal dismissed, No. 25-3030, 2025 WL 2268258 (9th Cir. May 30, 2025), and on reconsideration in part, 791 F. Supp. 3d 1065 (N.D. Cal. 2025).

STATEMENT OF THE FACTS

A. Petitioner's Entry and Residence in the United States

15. Petitioner is 20 years old, a native and citizen of Guatemala.

16. At an unknown date Petitioner entered the United States without inspection. He was not apprehended upon arrival, but he has lived in the interior of the United States at least nine years. See Exhibits 2 & 4 (his oldest U.S. citizen child was born in the United States in 2017).

17. Petitioner was not apprehended upon arrival and has resided continuously inside the United States since at least 2017. *Id.*

18. Petitioner 's wife has been granted Deferred Action for Childhood Arrivals. See Exhibit 4, last page.

19. Petitioner is the father of three school-age children. All three are in his household in Colorado and attending school. Two of his children are U.S. citizens. Milton presents no flight risk nor danger to the community. See Exhibit 4 (school ID's and birth certificates of Milton's children).

B. ICE Detention and Application of Matter of Yajure Hurtado

20. ICE took Petitioner into custody at Aurora, Colorado—in the interior of the United States, not at a port of entry or the border. He was not 'arriving' in the United States at that time. He had been living here for at least 9 years. The date ICE arrested him is not known. Records show he was denied bond on 01/29/2026 and served a charging document on 02/13/2026. See Exhibit 2.

21. In any event, ICE placed Petitioner in removal proceedings before the Denver Immigration Court in Aurora, Colorado. It appears that on 01/29/2026 the Immigration Court classified his detention under 8 U.S.C. § 1225(b)(2), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). See Exhibit 2, p. 4. No bond order was prepared by the Immigration Judge.

22. Petitioner has not sought another bond hearing before an Immigration Judge because doing so would be categorically futile. *Yajure Hurtado* is binding

on all IJs and strips them of jurisdiction to conduct bond hearings for EWI aliens. Any such request would be denied for lack of jurisdiction as a matter of binding BIA precedent and custom at the Aurora Immigration Court.

23. Petitioner is trapped in a procedural vacuum: placed in § 1229a removal proceedings—which presuppose § 1226(a) detention—yet denied the bond hearing those proceedings contemplate.

24. The government has never made any showing, under any standard, that Petitioner should be confined.

CLASS MEMBERSHIP — CORROBORATING AUTHORITY FOR RELIEF

25. Petitioner's individual merits independently entitle him to relief, as set forth in the Argument below. The following class certifications confirm that this Court and the Central District of California have already resolved the dispositive legal question in Petitioner's favor. They provide corroborating authority and an additional independent basis for relief.

A. Maldonado Bautista — Nationwide Bond Eligible Class (C.D. Cal.)

26. On November 20, 2025, the Central District of California granted partial summary judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, holding that class members

detained as EWI aliens are subject to § 1226(a) and entitled to bond consideration. *Id.* at *11.

27. On November 25, 2025, the court certified a nationwide 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.' On December 18, 2025, the court entered final judgment on Counts I, II, and III and clarified that classwide vacatur of the DHS Policy was entered under the APA.

28. Respondents are parties to *Maldonado Bautista* and bound by its final declaratory judgment, which has the 'force and effect of a final judgment.' 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to deny bond hearings to class members.

29. Petitioner is a member of the Bond Eligible Class because: (A) he has no lawful status and is currently detained at Aurora ICE Processing Center; (B) he entered without inspection at least 9 years ago and was not apprehended upon arrival; and (C) he is not subject to detention under § 1226(c), § 1225(b)(1), or § 1231.

B. Mendoza Gutierrez — District of Colorado Local Class

30. This District has held that § 1225's mandatory detention provision "does not apply to someone like [petitioner], who has been residing in the United States for more than two years." *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR, 2025 WL 2962908, at *5 (D. Colo. Oct. 17, 2025). Note: The operative question under *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 10 (D. Colo. Jan. 29, 2026), is whether Petitioner is "seeking admission" — actively attempting to enter the country. He is not. He has been living here for nearly nine years and cannot "go into a place where [he] already [is]." Id. (quoting *J.G.O. v. Francis*, 2025 WL 3040142, at *3 (S.D.N.Y. Oct. 28, 2025)).

31. On November 21, 2025, U.S. District Judge Regina M. Rodriguez certified a local class of approximately 500 individuals detained at the Aurora ICE Processing Center who are being denied bond hearings under § 1225(b)(2). *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (D. Colo. Nov. 21, 2025). See Exhibit 5. The class is defined to include: all people arrested or detained in Colorado pending removal where (a) the government has not alleged the person was admitted; (b) the person was not paroled at entry; (c) the most recent arrest did not occur at the border while arriving; and (d) detention is based on § 1225(b)(2)(A).

32. Petitioner is detained at the Aurora ICE Processing Center, is a member of the *Mendoza Gutierrez* class, and is entitled to enforcement of those holdings.

33. Note: In *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC (D. Colo. Jan. 29, 2026), Judge Crews assumed without deciding that a petitioner 'would need to seek relief in either or both class action lawsuits to assert his rights as a class member,' but found it unnecessary to resolve the issue because the individual merits were dispositive. Petitioner's class membership is asserted as corroborating authority and an independent basis for relief, not as a substitute for his individual claims.

ARGUMENT

I. SECTION 1226(a) GOVERNS PETITIONER'S DETENTION—NOT § 1225(b)

A. The Plain Text: "Seeking Admission" Requires Active Present Conduct at the Border

34. The District of Colorado has spoken definitively. In *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 8–16 (D. Colo. Jan. 29, 2026), Judge S. Kato Crews analyzed the plain text of §§ 1225 and 1226 and held—consistent with over 350 prior district court decisions—that §

1225(b)(2)(A) does not apply to a person who 'already resides in the United States.' The court held that §§ 1225 and 1226 'cover noncitizens presenting at arrival (under § 1225) and then everybody else (under § 1226).' *Id.* at 16 (quoting *J.G.O. v. Francis*, 2025 WL 3040142, at *4 (S.D.N.Y. Oct. 28, 2025)). Petitioner is 'everybody else.'

35. Section 1225(b)(2)(A) requires mandatory detention only where 'the examining immigration officer determines that [a noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted.' (Emphasis added.) Being an 'applicant for admission' does not automatically mean 'seeking admission.' As *Grijalva* explained, quoting *J.G.O. v. Francis*: 'Applicant for admission . . . doesn't require an application of any sort. All that's needed is presence without admission. By contrast, "seeking admission" might mean something more than that—some active desire or process toward admission.' *J.G.O.*, 2025 WL 3040142, at *3.

36. 'Seeking' is written in the present-progressive tense, 'which is used to refer to an action or a state that is continuing to happen.' *Id.* Putting this together, 'seeking admission' requires a noncitizen to be 'continu[ing] to want to go into the country.' *Id.* Petitioner cannot be 'seeking admission' to the United States because 'you can't go into a place where you already are.' *Id.*; *Grijalva*,

slip op. at 10. Here Milton Dubli has been within the interior of the United States for at least 9 years.

37. The implementing regulation confirms this. Section 235.3(c) of 8 C.F.R. limits § 1225(b)(2) to 'Arriving [noncitizens],' and 'arriving aliens' are defined as 'applicants for admission coming or attempting to come into the United States at a port of entry.' 8 C.F.R. § 1.2. Petitioner is plainly not 'coming or attempting to come into the United States.' *Grijalva*, slip op. at 18–19; *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *7 (D. Colo. Oct. 22, 2025).

B. Surplusage Canon and Disjunctive "Or"

38. Reading 'seeking admission' to mean the same thing as 'applicant for admission'—as the government contends—violates the rule against surplusage. If the terms were coterminous, Congress would have had no reason to add 'seeking admission' at all. *Grijalva*, slip op. at 11 (citing *J.G.O.*, 2025 WL 3040142, at *3; *Duncan v. Walker*, 533 U.S. 167, 174 (2001)).

39. The government's typical reliance on § 1225(a)(3)—which lists noncitizens 'who are applicants for admission or otherwise seeking admission'—is unavailing. This conflates two distinct terms using the word 'or,' which 'is customarily used in the disjunctive, that is, the words it connects are to be given

separate meanings.' *Grijalva*, slip op. at 11 (quoting *Loughrin v. United States*, 573 U.S. 351, 357 (2014)). The government's reading 'commits several interpretive errors,' including reading 'or' to mean 'including.' *Id.*

C. Jennings v. Rodriguez Confirms § 1226(a) Governs

40. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court itself said that § 1225(b)(2) applies to noncitizens 'seeking admission into the country' while § 1226 applies to noncitizens 'already in the country pending the outcome of removal proceedings.' *Id.* at 289 (emphasis added). *Grijalva*, slip op. at 12–13. Petitioner is 'already in the country' and has been for nearly two years. The Supreme Court's own language confirms § 1226(a) governs.

41. The government's attempt to use *Jennings* to support mandatory detention is 'largely undercut by the fact that the Supreme Court's discussion . . . considered an entirely different question of law'—whether individuals *indisputably subject* to mandatory detention were entitled to periodic bond hearings. *Grijalva*, slip op. at 12. *Jennings* 'said nothing about whether persons like [Petitioner] were subject to those provisions in the first place.' *Id.* (quoting *Hyppolite v. Noem*, 2025 WL 2829511, at *10 (E.D.N.Y. Oct. 6, 2025)).

D. The Laken Riley Act Confirms § 1225 Does Not Already Cover EWI Aliens

42. In January 2025, Congress passed the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), which amended § 1226(c)(1)(E) to add mandatory detention for noncitizens 'present in the United States without being admitted or paroled' who commit additional offenses. If the government's theory were correct—that § 1225(b)(2) already covered all such individuals through mandatory detention—the Laken Riley Act would have had no legal effect. *Grijalva*, slip op. at 17. 'When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.' *Stone v. INS*, 514 U.S. 386, 397 (1995). The Laken Riley Act is powerful evidence that Congress did not understand § 1225(b)(2) to cover EWI interior residents.

E. Yajure Hurtado Has No Deference — Loper Bright

43. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts must 'exercise their independent judgment in deciding whether an agency has acted within its statutory authority' and may not defer to the BIA's interpretation under *Chevron*. *Id.* at 412–13. The BIA's reading in *Yajure Hurtado* 'is a deviation from the agency's long-standing interpretation of §§ 1225 and 1226; is not guidance issued contemporaneously with the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts.' *Grijalva*, slip op. at 15. Under *Loper Bright*, the BIA's interpretation 'is no longer

controlling; the legal conclusion underlying the decision is no longer tenable.' *Id.*

II. APA AND REGULATORY VIOLATIONS

44. The government's July 2025 'Interim Guidance' directing IJs to apply § 1225(b)(2) to EWI interior residents reversed thirty years of established agency practice—that such individuals 'will be eligible for bond,' 62 Fed. Reg. 10312, 10323 (1997)—without engaging in notice-and-comment rulemaking, in violation of 5 U.S.C. §§ 553, 706(2)(A), (D).

45. The agency is bound by its own regulations under the Accardi doctrine. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The 1997 regulations promulgated at 8 C.F.R. § 235.3(c) demonstrate that § 1225(b)(2) was always understood to apply only to 'arriving' aliens, not interior residents.

46. Under *Loper Bright*, the BIA's deviation from its own three-decade-old interpretation receives no deference; the Court owes it no weight. *Grijalva*, slip op. at 14–15; *Loa Caballero*, 2025 WL 2977650, at *7.

III. SEPARATION OF POWERS — MAJOR QUESTIONS DOCTRINE

47. The effective elimination of bond hearings for millions of long-term interior residents constitutes a decision of 'vast economic and political

significance' requiring clear congressional authorization under *West Virginia v. EPA*, 597 U.S. 697, 735 (2022). Congress has repeatedly demonstrated it knows how to mandate detention when it intends to do so—see § 1226(c), § 1225(b)(1), and the Laken Riley Act. The absence of such clear language in § 1225(b)(2) is dispositive.

IV. SUSPENSION CLAUSE

48. Because *Yajure Hurtado* strips IJs of bond jurisdiction and provides no administrative mechanism to challenge the § 1225(b)(2) classification itself, Petitioner has no forum in which to challenge the legal basis of his detention. The Suspension Clause, U.S. Const. Art. I, § 9, cl. 2, guarantees access to this Court's jurisdiction. *Boumediene v. Bush*, 553 U.S. 723, 739–40 (2008).

V. FIFTH AMENDMENT DUE PROCESS

49. Categorical detention without any individualized determination of flight risk or danger constitutes an arbitrary deprivation of liberty in violation of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. at 690. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the three-factor test—private interest, risk of erroneous deprivation, governmental interest—weighs decisively in Petitioner's favor: his liberty interest is paramount; the risk of erroneous deprivation under a categorically incorrect classification is 100%; and the

government's interest is fully protected by the individualized bond hearing § 1226(a) already provides. *Grijalva*, slip op. at 14 (citing *Rodriguez v. Bostock*, 2025 WL 2782499, at *17 (W.D. Wash. Sept. 30, 2025)).

VI. NATIONAL CONSENSUS

50. Since the government adopted its new detention policy in July 2025, well over 350 federal district court decisions have rejected the government's interpretation. Courts appointed by presidents of both parties have reached the same conclusion, with 'a regularity bordering on the monotonous.' *Jimenez Facio v. Baltazar*, No. 25-CV-03592-CYC, 2025 WL 3559128, at *2 (D. Colo. Dec. 12, 2025).

51. This District has rejected the government's position in over a dozen cases. *See, e.g.*, *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC (D. Colo. Jan. 29, 2026); *Jimenez Facio v. Baltazar*, No. 25-CV-03592-CYC (D. Colo. Dec. 12, 2025); *Espinoza Ruiz v. Baltazar*, No. 1:25-cv-03642-CNS (D. Colo. Nov. 26, 2025); *Arauz v. Baltazar*, No. 1:25-cv-03260-CNS (D. Colo. Oct. 31, 2025); *Hernandez v. Baltazar*, No. 1:25-cv-03094-CNS (D. Colo. Oct. 24, 2025); *Loa Caballero v. Baltazar*, No. 1:25-cv-3120-NYW (D. Colo. Oct. 22, 2025); *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-2720-RMR (D. Colo. Oct. 17, 2025).

52. A Fifth Circuit panel ruled 2-1 on February 6, 2026 (Case No. 25-20496) upholding the government's interpretation. That decision is not binding here. The Tenth Circuit has not ruled. This Court exercises independent judgment under *Loper Bright* and should join the overwhelming national consensus. The dissent by Judge Dana Douglas persuasively demonstrates why the majority's reading disregards the plain statutory text and contradicts *Zadvydas.*

Moreover, on February 18, 2026, the Central District of California issued an enforcement order in *Maldonado Bautista v. Santacruz* vacating *Matter of Yajure Hurtado* itself under the APA, finding it "functionally equivalent" to the previously vacated DHS Interim Guidance and representing "the identical, incorrect interpretation of law in merely another form." Slip op. at 17–18 (C.D. Cal. Feb. 18, 2026). The legal foundation for Petitioner's detention classification has thus been judicially determined to be contrary to law by two separate federal district courts.

VII. NO ADEQUATE ALTERNATIVE REMEDY

53. This Court is the only forum that can grant relief. There is no administrative avenue to challenge the § 1225(b)(2) classification itself. § 1252 provides review only of final orders of removal. *Calcano-Martinez v. INS*, 533

U.S. 348, 350 (2001). Requiring Petitioner to wait years for a final order would render his right to a bond hearing permanently meaningless.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;

B. Find that Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful and that § 1226(a) governs his custody;

C. Grant a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a) within **SEVEN (7) DAYS** of this Court's order, at which the government bears the burden of justifying continued detention by clear and convincing evidence, with consideration of the least restrictive alternative including ICE's Intensive Supervision Appearance Program (ISAP);

D. In the alternative, order Petitioner's immediate release on recognizance or reasonable conditions of supervision;

E. Declare that Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz* (C.D. Cal. Nov. 25, 2025, final judgment Dec. 18, 2025) and the local class certified in *Mendoza Gutierrez v. Baltazar* (D. Colo. Nov. 21, 2025);

F. Order Respondents to file a status report within **TEN (10) DAYS** certifying compliance, including the date of any bond hearing, whether bond was granted or denied, and the reasons for any denial;

G. Order, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), that Respondents SHALL NOT REMOVE Petitioner from the District of Colorado or the United States unless or until this Court or the Tenth Circuit vacates this Order;

H. Retain jurisdiction to ensure compliance with this Court's orders;

I. Award Petitioner his reasonable costs and attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, with motion and affidavit filed within 30 days of final judgment, supported by affidavit per D.C.COLO.LCivR 54.3(a); and

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

Dated: February 20, 2026

Respectfully submitted,

s/jimsalvator
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