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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Isidro VILLATORO, Petitioner, v. Michael BERNACKE, Field Office Director of Enforcement and Removal Operations, Salt Lake City Field Office, Immigration and Customs Enforcement; Krisi 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; John MATTOS, Warden of Nevada Southern Detention Center, Respondents	CASE NO.: ALIEN REGISTRATION NO: [redacted] VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 USC § 2241

COMES NOW, the Petitioner, ISIDRO VILALTORO, by and through undersigned counsel, AMBER R. FUHRIMAN, ESQ., hereby petitions this Honorable Court to issue a writ of habeas corpus pursuant to 8 U.S.C. § 2241.

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INTRODUCTION

1. Petitioner, Isidro Villatoro, brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Eligible Class certified in *Maldonado Baultista 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 in Pahrump, Nevada.
2. Petitioner 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 judgement issued on behalf of the certified class in *Maldanodo Bautista v. Santacruz.*
3. In addition, even if Petitioner were not entitled to relief based on *Maldonado Bautista* class membership, 8 U.S.C. § 1226 and § 1225 demonstrate that Petitioner is detained under § 1226(a).
4. Petitioner was arrested in Las Vegas, far from any port of entry, and placed in removal proceedings under 8 U.S.C. § 1229a. He is not subject to expedited removal under § 1225(b)(1), nor to post-order detention under § 1231(a).
5. Nevertheless, on January 13, 2026, an Immigration Judge "IJ" denied bond, finding that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), require his detention under § 1225(b)(2). *See Exhibit 1, Bond Order.* This conclusion disregards decades of statutory interpretation and agency practice recognizing that individuals arrested in the interior fall under § 1226(a) and are entitled to bond hearings.
6. The United States District Court for the District of Nevada recently rejected this very policy in *Maldonado Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY (D. Nev. Sept 17,

2025), finding DHS's invocation of § 1225(b)(2) and the EOIR-43 automatic stay unconstitutional and contrary to the INA.

7. Petitioner seeks a writ ordering his release, or in the alternative, a prompt custody redetermination hearing under § 1226(a), free from the unlawful restrictions imposed by *Yajure Hurtado* and 8 C.F.R. § 1003.19(i)(2).

JURISDICTION

8. Petitioner is in the physical custody of Respondents and detained at the Nevada Southern Detention Center in Pahrump, Nevada.

9. 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). A district court's habeas jurisdiction includes challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678,. 687 (2001); see also *Denmore v. Kim,* 538 U.S. 510, 517 (2003). The jurisdiction-stripping provisions of the INA, including 8 U.S.C. § 1226(e) and 1252, do not preclude habeas review of challenges to the statutory framework and constitutional validity of immigration detention.

10. 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

11. 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 is currently detained.

12. 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

13. The Court should grant the petition for writ of habeas corpus or order Respondent to show cause "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista.*

14. 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)(citations omitted).

PARTIES

15. Petitioner, Isidro Villatoro, is a 42-year-old male, born [redacted]. *See, Exhibit 2, Notice to Appear.* He is a native and citizen of Mexico who has continuously resided in the United States since his entry in 2005. He lives with his wife and three United States Citizen children in Las Vegas, Nevada. Petitioner has been in immigration custody since December 13, 2025. *Id.* After Petitioner was arrested in Las Vegas, Nevada, ICE did not set bond. Petitioner requested review of his custody by an IJ. On January 13, 2026, Petitioner was denied bond by an IJ at the Las Vegas, Nevada immigration court because he was deemed an "applicant for admission, despite his long standing residence in the United States. *See Exhibit 1, Bond Order*

16. Respondent Michael Bernacke is the Director of the Salt Lake City Fiend Office of Ice's Enforcement and Removal Operations division. As such, Michael Bernacke is Petitioner's immediate custodian and is responsible for the Petitioner's detention and removal. He is named in his official capacity.

17. 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 oversse ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioenr and is sued in her official capacity.

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

19. Respondent Pamela Bondi is the Attorney General for the United States. She is responsible for the Department of Justice, of which the Executive Office of Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

20. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsibelf or implementing and enforcing the INA in removal proceedings, including custody redeterminations in bond hearings.

21. Respondent John Mattos is employed as Warden of the Nevada Southern Detention Center in Pahrump, Nevada, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sue in his official capacity.

FACTS AND LEGAL FRAMEWORK

22. On November 20, 2025, the district court granted partial summary judgement 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).

23. On December 18, 2025, the district court issued an order clarifying that the November 20 and November 25 orders are binding, final judgments on Defendants-Respondents. *Maldonado Bautista v. Santacruz,* 5:25-cv-01873-SSS-BFM, --- F.Supp. 3d ---, 2025 WL 3713982, at * 5-6 (C.D. Cal. Dec. 18, 2025); *See Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), Dkt. No. 93 (amended order consolidating prior orders on motion for partial summary judgment, class certification, and application for reconsideration or clarification).

24. That same day, the district court entered final judgment, declaring that the Bond Eligible 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 v. Noem*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ---, 2025, WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

25. 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 unlawfully ordered that the Petitioner be denied the opportunity to be released on bond.

26. Petitioner, Isidro Villatoro, 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 Nevada Southern Detention Center in Pahrump, Nevada. He was apprehended by immigration authorities on December 13, 2025.

    b. Entered the United States without inspection over 20 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.

27. After apprehending Petitioner on December 13, 2005, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. *See, Exhibit 2, Notice to Appear.* DHS charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as a noncitizen who entered the United States without being admitted or paroled, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant not in possession of a valid unexpired immigrant visa or other valid entry document at the time of application for admission. *Id.*

28. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgement." 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 bonda s a Bond Eligible Class member.

29. Immigration judges have been instructed by agency 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).[1]

30. 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.

31. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

32. Even if the Court does not order relief under *Maldonado Bautista*, the text and structure of § 1226 and § 1225 demonstrate that § 1226(a) governs Petitioner's detention.

33. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See*, U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

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[1] *See* Megan Crepeau, *Immigration Judge Says Detainee Bond Hearings Not Required*, Bloomberg Law (Jan. 15, 2026), https://www.bloomberglaw.com/bloomberglawnews/bloomberg-lawnews/BNA%200000019bc221d228a1dff6eddfb00001; Am. Immigr. Laws. Ass'n, *Practice Alert: EOIR Issues Nationwide Guidance on* Maldonado Bautista (updated Jan. 16, 2026), https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista

35. Section 1226 generally governs the detention of those "already in the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Subsection (a) applies the default rule for such people, providing for discretionary detention "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

36. Subsection (c) confirms that subsection (a) governs Petitioner's detention. As the Supreme Court has explained, "subsection (c) is simply a limit on the authority conferred by subsection (a)." *Nielsen v. Preap*, 586 U.S. 392, 409 (2019). It "carves out a statutory category of [noncitizens] who may *not* be released under § 1226(a)" in *Jennings*. 583 U.S. at 289.

37. Critically, subsection (c)'s carve outs reference people charged as being inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, people like Petitioner people are afforded a bond hearing under subsection (a). This is because "the statutory exceptions would be unnecessary" unless the statute "appl[ies] generally" to inadmissible persons. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *see also id.* ("The fact that Congress has created specific exceptions to [the Rule] hardly proves that the Rule does not apply generally. In fact, it proves the opposite.").

38. 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). § 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

"inspection[s]" at the border by "examining immigration officer[s]" of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b), (2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

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

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

42. The overwhelming majority of courts—including in this Circuit—have rejected the government's arguments and agree that noncitizens like Petitioner are subject to § 1226(a) and eligible for a bond hearing. *See Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ----, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions rejecting government's position); *Jacobo Ramirez v. Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at *1 (D. Nev. Feb. 5, 2026) (noting "more than 300 federal judges in over 1,600 cases across the country have rejected the government's new detention policy, with over 100 new lawsuits filed daily, while 14 federal judges have found in favor of the government's position" (citation omitted));

43. The Court should therefore order Petitioner's immediate release, or, in the alternative, require Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

CLAIM FOR RELIEF

Count I
Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista*

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

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

46. 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.

47. 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."

48. 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).

49. 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 II
Violation of the INA:
Unlawful Detention under 8 U.S.C. § 1225(b)(2)(A)

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

51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does apply to the Petitioner, as a long-settled noncitizens apprehended in the interior of the United States. By its plain text, § 1225(b)(2) applies to individuals who are apprehended at the border or ports of entry as "applicants for admission." By contrast, § 1226(a) governs the detention of noncitizens, including those charged as inadmissible under § 1182(a)(6)(A)(i), who are placed in § 1229a removal proceedings after residing in the country.

52. Federal courts have repeatedely rejected DHS's recent attempt to apply §1225(b)(2) to persons like Petitioner. *See Rodriguez Vazquez v. Bostock*, ____ F. Supp.3d ____, 2025 (WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Maldonado Vazquez v. Feeley,* No. 2:25-cv-01542-RFB-EJY (D. Nev. Sept. 9, 2025). These courts have confirmed that § 1226(a), not § 1225(b)(2) governs detention for noncitizens apprehended after residing in the United States.

53. The Board of Immigration Appeal' recent decision in *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS's contrary position, does not bind this Court. Hurtado represents an abrupt, unexplained reversal of agency practice and is not entitled to deference.

54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

55. Accordingly, Petitioner is entitled to immediate release, or, in the alternative, consideration for release on bond by Respondents.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order 48-hour notice ahead of any transfer of Petitioner outside this District;

c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

d. 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;

e. 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

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

Respectfully submitted this 25 day of February, 2026.

By: _____
AMBER R. FUHRIMAN, ESQ.
Attorney for Respondent

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, ISIDRO VILLATORO, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 25 day of Feb, 2026.

By: _____
AMBER R. FUHRIMAN, ESQ.
Attorney for Respondent