UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

SERGIO ANDRES GOMEZ-GAMBOA, Petitioner, v. **KEVIN RAYCRAFT**, Field Office Director of Enforcement and Removal Operations, Detroit 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**; and **ANGELA DUNBAR**, Warden of North Lake Correctional Facility, Respondents.	Case No. Hon.

PETITIONER'S PETITION FOR WRIT OF *HABEAS CORPUS*

INTRODUCTION

1. Petitioner, Sergio Andres Gomez-Gamboa ("Petitioner"), brings this petition for writ of *habeas corpus* to seek immediate release, or in the alternative, a bond redetermination of Petitioner from unlawful detention in violation of his constitutional and statutory rights. Petitioner is a citizen of Columbia who has been in immigration detention since October 25, 2025. Petitioner was arrested while performing repairs on his sister's vehicle at her residence. Petitioner was not informed of the reason for his detention and was taken into custody without incident. Petitioner has no criminal charges, no prior arrests, and no record of any criminal history. Petitioner has no history of failing to appear at any court hearings or appointments with the Service of DHS. After his arrest, Immigration and Customs Enforcement ("ICE") did not set bond, and Petitioner requested review of his custody by an IJ.

2. Petitioner has established his life and family in this country. He is married and has three children, who was born in the United States. He is the primary source of emotional and financial support for his family, and his children are currently enrolled in school. His continued detention and potential removal would cause significant economic and emotional hardship to his spouse and children.

3. The Board of Immigration Appeals ("BIA") has recently abandoned its longstanding view of which noncitizens may be released on bond and now takes the position that only individuals who have been formally admitted into the United States—typically after significant legal processes with counsel—are eligible for release from custody during removal proceedings. All others are deemed subject to mandatory detention under 8 U.S.C. § 1225, rather than 8 U.S.C. § 1226, and will remain detained absent the very limited possibility of parole which is subject to ICE's discretion. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (B.I.A. 2025) (affirming that Immigration Judges lack bond authority because noncitizens present without

admission are "applicants for admission" under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their proceedings). This represents a departure from the prior practice of releasing on bond most noncitizens in removal proceedings who were found not to be flight risks or dangers to the community.

4. Under this new interpretation, any noncitizen who entered without inspection and encounters ICE within the interior of the United States will be treated as "arriving aliens" at the border and therefore subject to mandatory detention, irrespective of their length of residence or other equities (including a clean criminal record or U.S. citizen family members). The BIA's position is that these individuals are not entitled to an Immigration Judge bond hearing to determine release from custody while removal proceedings are pending.

5. Despite Petitioner's strong community connections, lack of danger to the community, and pending methods of adjusting his status awaiting adjudication with USCIS, he remains detained and away from his support network.

6. 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).

7. 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.

8. Nonetheless, the EOIR 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. As a result, Petitioner's continued detention is an unlawful violation of due process and an incorrect interpretation of immigration law.

9. Petitioner 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 North Lake Correctional Facility in Baldwin, Michigan. He was apprehended by immigration authorities on October 25, 2025;

b. Entered the United States without inspection almost three 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.

10. After apprehending Petitioner on October 25, 2025, the DHS placed him 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 and 8 U.S.C. § 1182(a)(7) as someone not in possession of proper documents at time of admission.

11. The Court should expeditiously grant this petition.

12. Petitioner seeks enforcement of his rights as a member of the Bond Eligible 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 North Lake Correctional Facility. Petitioner now faces unlawful detention because the 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*.

13. However, 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.

14. 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 (B.I.A. 2025).

15. 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.

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

JURISDICTION

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake Correctional Facility in Baldwin, Michigan.

18. 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).

19. 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

20. 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 Western District of Michigan, the judicial district in which Petitioner currently is detained.

21. 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 Western District of Michigan.

PARTIES

22. Petitioner is a citizen of Columbia who has been in immigration detention since October 25, 2025. Petitioner was arrested while performing maintenance work on his sister's vehicle. After his arrest, ICE did not set bond, and Petitioner requested review of his custody by an IJ. *See* **Exhibit A**.

23. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft 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 DHS. 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 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 EOIR and the immigration court system it operates is a component agency. She is sued in her official capacity.

27. Respondent EOIR is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

28. Respondent Angela Dunbar is employed by Geo Group as Warden of the North Lake Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

29. 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.*

30. *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).

31. Due to the nature of this proceeding, Petitioner asks this Court to expedite requisite proceedings in this case as necessary and practicable in the interests of justice.

IMMIGRATION AND NATIONALITY ACT

32. Title 8 of the United States Code, Section 1221 et seq., governs the federal government's power to detain noncitizens during removal proceedings.

33. The INA provides four separate detention authorities for noncitizens. This case turns on the detention provisions in §§ 1226(a) and 1225(b). § 1226(a) authorizes detention of

noncitizens in standard, non-expedited removal proceedings, but permits release on bond or recognizance for those not subject to mandatory detention; § 1225(b) generally requires detention of certain applicants for admission, including noncitizens who arrive at a U.S. port of entry or who have not been admitted or paroled and are apprehended shortly after crossing the border.

34. Both §§ 1226(a) and 1225(b) were enacted in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), 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 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

35. After the IIRIRA's enactment, the EOIR promulgated regulations clarifying that, in general, individuals who entered without inspection were not considered detained under § 1225(b); rather, once the Attorney General issued an arrest warrant, they were 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

36. For nearly three decades, as a matter of practice, ICE and the EOIR—both within the DHS—generally afforded bond hearings to most noncitizens apprehended within the interior after having resided in the United States for over two years. Where an individual was found not to be a danger or flight risk and therefore granted a custody status change, release followed either on recognizance or upon payment of the Immigration Judge's bond in full. 8 U.S.C. § 1226(a)(2)(A).

37. Recently, however, the BIA has shifted course, advancing a policy that treats all noncitizens who were never formally admitted and who are encountered in the interior at any time

after entry as "arriving" and thus ineligible for bond, irrespective of case-specific facts. Immigration Judges have accordingly begun to disregard factors historically central to custody determinations—such as: "1) family ties in the United States, 2) employment history, 3) community roots and ties in the United States, 4) length of time in the United States, 5) availability of relief from deportation, 6) length of time for completion of deportation proceedings, 7) criminal record within or without the United States, 8) prior history of immigration violations, and 9) manner of entry into the United States, and 10) record of appearance at court proceedings." *O'Rourke v. Warden*, 539 F. Supp. 1131, 1136 (S.D.N.Y. 1982).

38. Due to this new BIA interpretation and practice, many noncitizens—including established community members—remain detained by ICE without a bond hearing on the merits. Put plainly, Petitioner and similarly situated noncitizens are being held in ongoing ICE detention without any mechanism to contest continued detention, in clear violation of the Fifth Amendment's Due Process Clause.

39. "The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)); see also *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) ("the Court need not reach the outer limits of the scope of the phrase 'seeking admission' in § 1225(b)—it is sufficient here to conclude that it does not reach someone who has been residing in this country for more than two years, and that as someone 'already in the country,' *Jennings*, 583 U.S. at 289, [Petitioner] may be subject to detention only as a matter of discretion under § 1226(a)") (emphasis added).

40. The government's reading of the INA contradicts the plain text of 8 U.S.C. § 1226. The contention that Petitioner is detained under § 1225 lacks merit. For decades, § 1225 has applied to noncitizens "seeking admission into the country"—i.e., recent arrivals. *Jennings*, 583 U.S. at 289. By contrast, § 1226 governs noncitizens "already in the country." *Id.* at 289. Petitioner has resided in the United States for four years.

41. This newly advanced interpretation departs from decades of consistent practice. It conflicts with the text of the INA and its regulations and has been repeatedly rejected by the courts. See, *e.g.*, *Martinez*, 2025 WL 2084238; *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025). See also Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (stating that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

42. The conflict with the INA's plain language appears primarily in this way: the government overlooks a critical phrase in § 1225: "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added). Thus, mandatory detention attaches when "the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 2084238, at *2.

43. The phrase "seeking admission" "necessarily implies some sort of present tense action." See *Matter of M- D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) ("The use of the present

progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . .").

44. In short, § 1225's plain text covers individuals presently seeking admission at the border or another port of entry. It does not govern noncitizens "already present in the United States"—those cases fall under § 1226. See *Jennings*, 583 U.S. at 303. Section 1225 plainly does not apply to Petitioner, who has lived in the United States for four years and has pending I-360 and I-589 petitions.

45. By default, § 1226(a) governs all individuals "pending a decision on whether the [noncitizen] is to be removed from the United States." For noncitizens detained under § 1226(a), removal proceedings occur under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

46. In contrast, § 1225(b) addresses those arriving at ports of entry or who have recently crossed into the United States.

47. Because Petitioner is not at a port of entry and did not recently cross into the United States, the mandatory detention requirement in § 1225(b)(2) does not apply to Petitioner.

CLAIM FOR RELIEF
Violation of the INA

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

49. Petitioner should be viewed as being held under § 236 of the INA; section 236 is codified at 8 U.S.C. § 1226. Despite this, the DHS argues that he is detained subject to 8 U.S.C. § 1225(b)(2), removing Petitioner's request for bond from the Immigration Judge.

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility.

Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

52. 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.

53. 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."

54. Respondents are parties to *Maldonado Bautista* and are bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

55. 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*.

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 three days;

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.

Respectfully submitted,

VARNUM LLP
Attorneys for Petitioner

Date: March 3, 2026

By: */s/ Francesca L. Parnham*
Perrin Rynders (P38221)
Francesca L. Parnham (P87300)
Address, Telephone, and Email:
P.O. Box 352
Grand Rapids, MI 49501-0352
(616) 336-6000
prynders@varnumlaw.com
flparnham@varnumlaw.com

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Writ of *Habeas Corpus* are true and correct.

Executed this 3rd of March, 2026.

By: */s/ Francesca L. Parnham*
Francesca L. Parnham (P87300)
flparnham@varnumlaw.com