UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

CESAR JOVANY BENCOMO-GIRON

Petitioner,

v.

ROBERT HAGAN, Field Office Director of Enforcement and Removal Operations, Denver 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, **JUAN BALTASAR**, Warden of Denver Contract Facility, in their official capacities

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Cesar Jovany Bencomo-Giron brings this petition for a writ of habeas corpus to seek enforcement of their rights to be released from custody by Defendants as his continued detention is unlawful. *Zadvydas v. Davis,* 533 U.S. 678, 687-88 (2001); *Martinez Escobar v. Baltazar,* No. 26-cv-00296-NYW, 2026 WL 503313, at *2 (D. Colo. Feb. 24, 2026).

2. Petitioner is being held unlawful under the auspicious of 8 U.S.C. § 1225(b) rather than what the law entitles him to be held under 8 U.S.C. § 1226(a). *Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018).

3. The case law is clear, "Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention. *Id.* at 306.

4. Prior to the Ninth Circuit Court of Appeals staying the application of *Maldonado Bautista* nationwide, Petitioner was a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.); *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).

5. Petitioner is in the physical custody of Respondents at the Denver Contract Detention Facility, otherwise known as GEO Detention Facility. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR).

6. This Court has reviewed and issued orders on countless similarly filed petitions for relief under 28 U.S.C. § 2241, and in accordance with the law, Petitioner is eligible to seek relief based upon his unlawful detention on the grounds that he eligible for release 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.

7. After apprehending Petitioner on November 15, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. *See* Exhibit 1 and 2.

8. 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. *See* Exhibit 2.

9. The Petitioner is married to a United States Citizen, has children, born in the United States, which live in the surrounding area, one of which is special needs, therefore not a flight risk. *See* Exhibit 1.

10. Petitioner was previously provided work authorization under Deferred Action for Childhood Arrivals (DACA), however that has recently expired. *Id.*

11. Based upon the lack of criminal history, strong ties to the community, there is no reason to justify his detention. *Id.*

12. The Court should expeditiously grant this petition.

13. Even though the local Immigration Judges are well aware of the case decision coming out of this District casting doubt on the dubious legal reasoning in *Yajuire Hurtdao,* Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* was 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). *See* Exhibit 3.

14. Because Respondents are detaining Petitioner in violation of due process and against the overall weight of decisions being rendered in this District, the Court should accordingly order that within seven days, Respondent DHS must release Petitioner.

15. There is an alternative path, such as this Court ordering Respondent Petitioner's to be provided a bond hearing under 8 U.S.C. § 1226(a) within seven days.

16. The facts in Petitioner's case mimic the facts in case *Garcia Abanil v. Baltazar,* --- F. Supp. 3d--. 2026 WL 100587, at *4 (D. Colo. Jan. 14, 2026) and others issued in this jurisdiction.

JURISDICTION

17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the GEO Detention Center, located in Aurora, Colorado.

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 Colorado, 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 District of Colorado.

REQUIREMENTS OF 28 U.S.C. § 2243

22. 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.*

23. While *Maldonado Baustista* may not be controlling, the authority is persuasive and there are similarly situated people in Colorado where this Court has stepped in to rectify the unlawful detention by Respondents.

24. 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

25. Petitioner Ceaser Jovany Bencomo-Giron is a citizen of Mexico who has been in immigration detention since November 15, 2025. After Petitioner was arrested in Denver, Colorado, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On March 10, 2026, Petitioner was denied bond by an IJ at the Aurora Immigration Court because his case fell under *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025) and therefore was deemed an "applicant for admission." Petitioner has resided in the United States since around 2002.

26. Respondent Robert Hagan is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division. As such, Robert Hagan is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

27. Respondent Kristi Noem[1] 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.

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

29. 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.

30. 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.

31. Respondent Juan Baltasar is employed by GEO Group, as Warden of the Denver Contract Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIM FOR RELIEF
Violation of 8 U.S.C. § 1226(a)
Request for Relief Pursuant to the reasoning in *Maldonado Bautista*

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

33. Petitioner has resided in the United States for over 20 years.

[1] Respondent Kristi Noem is no longer the acting heading of the Department of Homeland Security and there has been no confirmation by the Senate who will take her place.

34. Petitioner is married to a United States Citizen, has a child, who is also a citizen that has special needs. *See* Exhibit 1.

35. Petitioner is being held under the auspicious that he is an alien seeking admission, thus *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025) controls the outcome.

36. The weight of authorities and opinions entered in this District have determined that Petitioner is at least eligible for a bond hearing as he is being detained under 8 U.S.C. 1226(a) and therefore eligible for release.

37. This District has also determined that the erroneous detention classification of those similarly situated as Petitioner is unlawful, therefore relief under habeas is the proper mechanism to cure the issue. *See Lopez de Leon v. Baltazar, et al.,* 1:26-cv-00555-SKC-SBP (Order ECF 17, Dated Feb. 20, 2026) (Judge Crews determining that 8 U.S.C. § 1226 encompasses aliens who were not apprehended upon arrival *citing Aleman Hernandez,* 2025 WL 3718159, at *6)); *Castillo-Cabral v. Baltazar et al.,* 1:26-cv-00418-RBJ (Order ECF. 14, Dated Feb. 19, 2026); *Balderas Rivas v.* Baltazar et al., 1:26-cv-00442-SKC (Order ECF 15, Dated Feb. 17, 2026); *Marrero Yera v. Baltazar,* 1:26-cv-00476-SKC-SBP (Order ECF 17, Dated Feb. 19, 2026); *Buitrago Murzi,* 1:26-cv-00359-CNS (Order ECF 14, Dated Feb. 12, 2026); *Trejo v. Baltazar,* 1:25-cv-4026-SKC-NRN (Order Dated Jan. 8, 2026).

38. 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, his due process rights, and the weight of authorities in this District.

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 similar to that issued in *Abanil v. Baltazar,* --- F. Supp. 3d ---, 2026 WL 100587, at *4 (D. Colo. Jan. 14, 2026); *Martinez-Orellana v. Hagan,* No. 26-cv-0355-WJM (Order dated Feb 13, 2026).

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

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 19th of March 2026.

/s/ William J. O'Donnell

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Certificate of AI

The undersigned counsel certifies that generative artificial intelligence was not used to draft this filing.

/s/ William J. O'Donnell

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