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UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Octavio Gutierres Reyna ([redacted])

Petitioner,

v.

Juan Baltasar, Warden,
Denver Contract Detention Facility (Aurora),

Robert Hagan, Director of Denver Field Office,
U.S. Immigration and Customs Enforcement,

Acting Secretary,
U.S. Department of Homeland Security,

Pamela Bondi, U.S. Attorney General, and

Todd M. Lyons, Acting Director
U.S. Immigration and Customs Enforcement

in their official capacities,

Respondents.

Case No._____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Octavio Gutierres Reyna (hereinafter "Petitioner") is a noncitizen alien present in the United States since 2021. In February 2026, Petitioner was detained by U.S. Immigration and Customs Enforcement ("ICE") officers and has been in administrative detention at the Denver Contract Detention Facility operated by the GEO Group, located at 3130 Oakland Street, Aurora, Colorado 80010, ever since. The Department of Homeland Security ("DHS") has claimed Petitioner is subject to mandatory detention and is being detained pursuant to 8 U.S.C. § 1225(b)(2)(A). Petitioner asserts that he is being improperly subjected to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), because Petitioner has resided in the United States for several years before ICE detained him and therefore is not an "applicant for admission". As a result, to vindicate Petitioner's constitutional and statutory rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Petitioner's detention is unconstitutional, as it is in violation of his due process rights guaranteed by the Fifth Amendment of the U.S. Constitution, and is in violation of immigration statutes governing mandatory detention. Absent an order from this Court, Petitioner will remain subject to unconstitutional and unlawful mandatory detention.

3. Additionally, Petitioner is filing this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). His current detention is unlawful because 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*.

4. 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).

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. The following month, on December 18, the district court entered a final judgement declaring class members' detention authority and rights and vacating the federal policy used to deny bond hearings on a nationwide basis. *Id,* at ECF 94. Finally, on February 18, 2026, the district court granted the petitioner's Motion to Enforce Judgement and vacated the Board of Immigration Appeals decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—the decision which Respondents have relied on as the basis for their new and largely unsubstantiated statutory interpretation of 8 U.S.C. § 1225(b)(2)(A). *Id,* at ECF 116. However, the final judgement and vacatur are currently stayed by the Ninth Circuit Court of Appeals. *Lazaro Maldonado Bautista; et al. v. USDHS; et al.*, No. 26-1044 (9th Cir.). The class certification remains in place.

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 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 Denver Contract Detention Facility. He was apprehended by immigration authorities in February 2026;

b. entered the United States without inspection five 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.

8. After apprehending Petitioner, 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.

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). That

decision has since been vacated by the U.S. District Court for the Central District of California, although the order is currently stayed by Ninth Circuit Court of Appeals.

12. In addition to the above requests based on his unlawful and unconstitutional detention, 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.

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

14. Accordingly, Petitioner asks this Court to expeditiously grant this petition, find that his constitutional rights have been violated by his current ICE detention, that 8 U.S.C. § 1226(a) governs Petitioner's detention rather than 8 U.S.C. § 1225(b)(2)(A), issue an order to show cause directing Respondents to provide additional evidence proving Petitioner's detention is justified, order his release from custody immediately without imposing any additional conditions of release beyond those he was subject to prior to his recent detention or alternatively order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days, and enjoin Respondents from re-detaining Petitioner unless a pre-deprivation bond hearing is held where Respondents bear the burden of proof to demonstrate by clear and convincing evidence that Petitioner is a flight risk or danger to the community such that his physical custody is legally justified.

JURISDICTION

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Because Petitioner is currently in custody in this District, 28 U.S.C. § 2241 jurisdiction lies in this Court.

17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

18. Venue is proper because Petitioner is detained at Denver Contract Detention Facility in Aurora, Colorado, which is within the jurisdiction of this District. In addition, venue is proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events giving rise to the claims occurred in this District, and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

19. This venue is also consistent with the Supreme Court's recent directive that a habeas petition challenging removal under the Alien Enemies Act be filed in the petitioner's district of confinement. See *Trump v. J.G.G.*, 604 U.S. ___ (2025) (*per curiam*). Petitioner's custodial location in this District makes the District of Colorado the proper and only venue for this habeas action.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief.

28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

22. The Supreme Court reaffirmed that habeas jurisdiction remains available to test the legality of executive detention in immigration cases. In *Trump v. J.G.G.*, the Supreme Court held that challenges to removal under the Alien Enemies Act must be brought in habeas and that due process requires notice and an opportunity to seek habeas relief. Likewise, in *Riley v. Bondi*, 604 U.S. (2025), the Court explained that Board of Immigration Appeals (BIA) decisions in withholding-only proceedings are not final orders of removal and that the thirty-day deadline in 8 U.S.C. § 1252(b)(1) is a non-jurisdictional claims-processing rule.

PARTIES

23. Petitioner is a noncitizen alien currently administratively detained pursuant to 8 U.S.C. § 1225(b)(2)(A) and is confined at the Denver Contract Detention Facility in Aurora, Colorado, operated by The GEO Group, Inc. Petitioner is in the immediate physical custody of the Warden and in the legal custody and control of ICE, acting via the Denver Field Office.

24. Respondent Juan Baltasar is sued in his official capacity as the Warden of Denver Contract Detention Facility. He has immediate physical custody of Petitioner pursuant to the

facility's contract with ICE to detain noncitizens. Respondent Juan Baltasar is a legal custodian of Petitioner.

25. Respondent Robert Hagan is sued in his official capacity as the Director of the Denver Field Office of U.S. Immigration and Customs Enforcement. Respondent Hagan is a legal custodian of Petitioner and has authority to release Petitioner.

26. DHS Secretary Kristi Noem was recently fired, leaving DHS under the control of an acting director. The Acting Director is sued in their official capacity. In this capacity, the Acting Director is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention. The Acting Director is a legal custodian of Petitioner.

27. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

28. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In that capacity, Respondent Lyons is a legal custodian of Petitioner and has authority to release Petitioner, and he exercises supervisory authority over custody determinations and detention operations in Denver and nationwide.

LEGAL FRAMEWORK

29. The Suspension Clause ensures that "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may

require it." U.S. Const. art. I, § 9, cl. 2. Federal courts are authorized to grant habeas relief to any person held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

30. The Supreme Court has repeatedly affirmed that noncitizens are entitled to due process and may invoke habeas to challenge unlawful detention or removal. In *Trump v. J.G.G.*, the Court vacated removal orders entered under the Alien Enemies Act because detainees had not been afforded notice or an opportunity to seek habeas relief. The Court emphasized that the Alien Enemies Act provides for detention but does not itself confer exclusive jurisdiction; thus, habeas remains the proper vehicle to test the legality of such detention. In *Riley v. Bondi*, the Court held that BIA orders in withholding-only proceedings are not final removal orders and clarified that the thirty-day filing deadline in 8 U.S.C. § 1252(b)(1) is a non-jurisdictional claims-processing rule. These decisions confirm that habeas jurisdiction lies in the district of confinement when other statutes do not provide an exclusive remedy.

A. Due Process in Immigration Detention.

31. The Fifth Amendment guarantees that no person shall be "deprived of life, liberty, or property, without due process of law." *U.S. Const. amend. V.* This protection applies to all "persons" within the United States, including noncitizens. See *Trump v. J.G.G.*, 604 U.S. at 10 (due process requires notice and a meaningful opportunity to be heard before removal under the Alien Enemies Act). Additionally, due process forbids detention that is arbitrary or prolonged beyond a constitutionally permissible duration. The Supreme Court has instructed that immigration detention must bear a reasonable relation to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible

non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690—92: *see also Demore v. Kim*, 538 U.S. 510 at 519-20, 527-28, 31 (2003).

32. In addition, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

33. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't,* 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli,* 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

B. The Immigration and Nationality Act's Mandatory Detention Statutes and Implementing Regulations.

34. The INA and its implementing regulations prescribe procedures governing detention, removal, and applications for relief. For example, 8 U.S.C. § 1226 governs pre-final-order detention and authorizes release on bond or parole. 8 U.S.C. § 1231(a) governs post-final-order detention and limits detention to a period reasonably necessary to effect removal. The implementing regulations, set forth in Title 8 of the Code of Federal Regulations, require DHS and the immigration courts to provide notice, hearings, and an opportunity to present evidence. Violations of these statutes or regulations, such as failing to conduct a timely

custody review or refusing to consider release on bond, may render detention unlawful and warrant habeas relief.

35. The question of the legality of Petitioner's detention revolves around 8 U.S.C. §§ 1225(b)(2) and 1226(a)—two statutes of the INA which govern the detention of noncitizens prior to a final order of removal. "Section 1225 mandates detention pending removal proceedings, providing that, '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.'" *Portillo Martinez v. Baltazar*, No. 26-cv-00106-PAB, 2026 WL 194163, at *2 (D. Colo. Jan. 26, 2026) (quoting 8 U.S.C. § 1225(b)(2)(A)). If none of the statutory exceptions apply, § 1225 "mandates detention without the opportunity for a bond hearing." *Id.* (citing *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *3 (D. Colo. Oct. 24, 2025)).

36. On the other hand, Section 1226 does not mandate detention. It states that a noncitizen may be arrested pending a decision on whether to remove the individual, and once arrested, the Attorney General may continue to detain or release the individual. *Id.* (citing 8 U.S.C. § 1226(a)). Section 1226 "sets forth 'the default rule' for detaining noncitizens 'already present in the United States.'" *Quispe-Ardiles v. Noem*, No. 1:25-cv-01382-MSN-WEF, 2025 WL 2783800, at *3 (E.D. Va. Sept. 30, 2025) (quoting *Jennings*, 583 U.S. at 303). "Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." *Jennings*, 583 U.S. at 306.

37. The crux of the issue is under which section Petitioner's detention should be considered. Petitioner urges the Court to find that his detention decision is governed by § 1226(a), the default rule for detaining noncitizens that are already present in the United States;

Jennings, 583 U.S. at 303. In this case and hundreds like it across the U.S., Respondents are utilizing an expanded interpretation of § 1225(b)(2)(A) to argue that the mandatory detention provision applies to any noncitizen who was not admitted to the U.S. and is thus unlawfully present.

38. This issue is one that has been extensively litigated by this Court and federal district courts across the United States. As noted by U.S. District Judge Nina Y. Wang, "federal district courts have overwhelmingly rejected Respondents' 'broad interpretation of section 1225(b)(2).'" *Loa Caballero*, 2025 WL 2977650, at *5 (collecting cases). Petitioner requests that the Court follow the overwhelming weight of authority from across the country in disagreeing with the government's overbroad interpretation of § 1225(b)(2)(A).

39. This conclusion is supported by the U.S. Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). The *Jennings* Court held that "[i]n sum, U.S. immigration law authorizes the Government to detain certain aliens *seeking admission* into the country under §§ 1225(b)(1) and (b)(2)" and that "[i]t also authorizes the Government to detain certain aliens *already in the country pending the outcome of removal proceedings* under [] § 1226(a)." *Portillo Martinez*, 2026 WL 194163, at *3 (quoting *Jennings*, 583 U.S. at 289) (emphasis in *Portillo Martinez* not in *Jennings*).

40. Respondents may attempt to argue that the *Jennings* Court found that § 1225(b)(2) acts as a "*catchall* provision that applies to *all* 'applicants for admission' not covered by § 1225(b)(1)." *Jennings*, 583 U.S. at 287 (emphasis added). "While it is true that Section 1225(b)(2) is broader than § 1225(b)(1), that does not mean that § 1225(b)(2) applies to all other noncitizens in the United States who have not been admitted." *Portillo Martinez*, 2026 WL

194163, at *3 (quoting *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *6 (D. Colo. Oct. 24, 2025)). Instead, *Jennings* should more properly be interpreted to "make [] clear that § 1225(b)(2)'s catchall provision—and in fact, all provisions of § 1225—apply to noncitizens seeking admission into the country, as opposed to those who are already in the country." *Id.* (quoting *Hernandez*, 2025 WL 2996643, at *6).

41. In *Loa Caballero*, District Judge Wang provided a persuasive and in-depth analysis of the two relevant statues. She notes that for § 1225(b)(2)(A)'s mandatory detention provision to apply, the noncitizen must be 1) "an applicant for admission," 2) "seeking admission," and 3) "not clearly and beyond a doubt entitled to be admitted." *Loa Caballero*, 2025 WL 2977650, at *6 (quoting *Martinez v. Hyde*, No. 25-cv-11613-BEM, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025), appeal docketed, No. 25-1902 (1st Cir. Sep. 29, 2025)). And "[t]he plain meaning of the phrase 'seeking admission' requires that the applicant must be presently and actively seeking lawful entry into the United States."9 *Id.* If all "applicants for admission" were considered to be "seeking admission" to the United States, then "there would be no need to include the phrase 'seeking admission' in the statute." *Id.* at *7 (citing *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 488 (S.D. N.Y. Aug. 13, 2025)).

42. In *Mendoza Gutierrez*, this Court has rejected Respondents' position under substantially similar factual circumstances for the purpose of determining whether Petitioner is subject to mandatory detention under § 1225(b)(2). *Mendoza Gutierrez v. Baltasar*, et al., No. 1:25-cv-02720-RMR, 2025 WL 2962908 (D. Colo. Oct. 17, 2025). In both *Mendoza Gutierrez* and this case, Petitioner has resided in the United States for several years before ICE detained him and Petitioner is now being held in civil immigration detention without the opportunity for a

bond hearing under the government's assertion that he is an "applicant for admission" subject to mandatory detention. Under such circumstances, this Court in *Mendoza Gutierrez* held that § 1225(b)(2) only applies to noncitizens "seeking admission" and inspected while trying to enter the country, and not to noncitizens who have lived in the United States continuously for over two years. *Id* at *5-9. Given these factual similarities, Petitioner urges the Court to maintain its prior determination that § 1225(b)(2) does not apply to Petitioner.

43. The recent legislative history of §§ 1225 and 1226 supports this same interpretation; specifically, Congress's recent 2025 amendment to § 1226, known as the Laken Riley Act, which applied mandatory detention for noncitizens in the United States that are charged with certain offenses. If these individuals were already subject to mandatory detention under 8 U.S.C. § 1225, then this amendment would be wholly unnecessary. *See Portillo Martinez*, 2026 WL 194163, at *4-5 (citing *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *10 (N.D. Cal. Sept. 12, 2025) ("If Congress amended Section 1226 to create mandatory detention for certain inadmissible noncitizens, it follows that those noncitizens were not already subject to mandatory detention.").

44. Accordingly, the legislative history and statutory interpretations of 8 U.S.C. §§ 1225(b)(2) and 1226(a) support the conclusion that Petitioner, if his current detention is lawful at all, should be detained under 1226(a), and so his current detention under 1225(b)(2) is thus unlawful.

EXHAUSTION OF REMEDIES

45. Petitioner is seeking a writ of habeas corpus because, as a noncitizen who entered the U.S. without inspection, this is his only remaining option. Were Petitioner to request a bond

hearing before the Aurora Immigration Court, where his current removal proceedings are calendared, that court, under instruction from EOIR to ignore *Maldonado Bautista*, would undoubtedly deny bond on jurisdictional grounds, improperly finding that Petitioner is detained under 1225(b)(2). This has been the case in countless other bond hearings for noncitizens in Petitioner's exact circumstances, where the Aurora court is repeatedly finding that *Maldonado Bautista* does not apply outside the Central District of California. Accordingly, requesting a bond hearing without a writ of habeas corpus would be futile for Petitioner, leaving the instant petition as Petitioner's only remaining remedy to test the legality of his continued detention.

46. The constitutional challenge presented under 28 U.S.C. § 2241 concerns the length and lawfulness of custody and cannot be resolved through any additional agency proceeding. In the alternative, if any discretionary DHS request were deemed available, exhaustion should be excused because further pursuit would be futile in light of the Aurora court's repeated jurisdictional findings regarding *Maldonado Bautista*, and continued detention would cause irreparable harm.

STATEMENT OF FACTS

47. Petitioner is a 36-year-old citizen of Mexico who last entered the U.S. without inspection in 2021. He was not detected upon entry and went on to live in [redacted] Colorado, where he has spent the last four years working as a general manager between two restaurants in the city.

48. In February 2026, Petitioner was arrested by ICE officers on his way to work. The officers informed him that he was being detained due to his pending criminal case for Driving Under the Influence ("DUI"). Petitioner was charged with a DUI in 2024, which did not result in

any injuries, and has been on probation ever since. He was one week shy of completing his probationary period when he was detained by ICE and he has been in detention since then.

49. After his detention, DHS initiated removal proceedings against Petitioner at the Aurora Immigration Court. He has only had one hearing before the Aurora court since then and is currently in the early stages of preparing an application for relief from removal. Petitioner is *prima facie* eligible for relief via a Form EOIR-42B, *Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.* Specifically, Petitioner is eligible to apply for 42B relief under the Violence Against Women Act ("VAWA"). In 2024, Petitioner was a victim of a domestic violence incident in which he was physically attacked by his romantic partner at the time. Police were called in response to the incident and Petitioner's ex-partner was arrested. This incident rendered Petitioner eligible for VAWA cancellation of removal, and he and counsel are now working to prepare this application to be filed with the Aurora court. He is seeking release from immigration detention so that he may assist counsel and prepare this application outside of detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1225(b)(2) and Implementing Regulations

50. The allegations in the above paragraphs are re-alleged and incorporated herein.

51. Respondents have violated the Immigration and Nationality Act and its implementing regulations. Specifically, Respondents have failed to comply with 8 U.S.C. § 1225(b)(2) and 8 C.F.R. §§ 1003.19 and 1236.1, each of which mandate the parameters of mandatory detention. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply

to all noncitizens residing in the U.S. who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the U.S. prior to being apprehended and placed into removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. Petitioner was residing in the U.S. for five years before his detention by ICE and therefore should not be detained under § 1225(b)(2). Federal district courts affirmed this interpretation of the statues in *Maldonado Bautista*. That same interpretation has been supported by this Court and hundreds of other federal district court decisions across the United States for the substantive reasons enumerated *supra* in the Legal Framework section of this petition.

52. Respondents are applying a clearly erroneous standard that Petitioner is subject to mandatory detention, in violation of 8 C.F.R. § 1236.1 and 1003.19. Accordingly, the application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA and implementing regulations. By ignoring these statutory and regulatory mandates, Respondents have unlawfully deprived Petitioner of the protections Congress and the Executive have provided.

COUNT TWO

Violation of Fifth Amendment Right to Due Process (Substantive Due Process—Detention)

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

54. Respondents' detention of Petitioner violates the Due Process Clause of the Fifth

Amendment, which regulates that the government may not deprive a person of life, liberty, or property without due process of law. The Supreme Court has affirmed that, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, U.S. at 690.

55. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

56. Petitioner is not a flight risk or danger to the community, and Respondents' have not presented any claims or evidence to the contrary. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

57. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons"—namely, to get him to abandon his application for relief, rather than remain indefinitely in the inhumane conditions of the immigration detention system, so that he no longer has the means to prevent his deportation. *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

COUNT THREE

Violation of Fifth Amendment to the United States Constitution
(Procedural Due Process—Detention)

58. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

59. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972); see also *Ortega*, 415 F. Supp. 3d at 969-70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

60. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); see also *Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

61. Petitioner's detention without a pre-deprivation hearing violated due process. Respondents detained Petitioner with no notice, and no opportunity to contest their detention before a neutral adjudicator before being taken into custody.

62. Petitioner has a profound personal interest in his liberty. Because he received no procedural protections, the risk of erroneous deprivation is high. Respondents have no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's records suggested that he would abscond or endanger the community before a bond hearing could be carried out.

COUNT FOUR

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

63. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

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

65. 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.

66. 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."

67. 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).

68. 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 respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days, as required by 28 U.S.C. § 2243;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. §§ 1225(b)(2), 1226(a), and/or 8 C.F.R. § 1236.1 and 1003.19.

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from ICE detention immediately without imposing any additional conditions of release beyond those he was subject to prior to his recent detention;

(5) 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 without imposing any additional conditions of release beyond those he was subject to prior to his recent detention;

(6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Andrew Walker
Andrew Walker

Counsel for Petitioner
Dated: March 20, 2026

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

I represent Petitioner, Octavio Gutierres Reyna, and submit this verification on his behalf. I hereby declare under penalty of perjury 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: March 20, 2026

/s/Andrew Walker
Andrew Walker
Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that on March 20, 2026, I filed the foregoing PETITION FOR WRIT OF HABEAS CORPUS using the CM/ECF system which will electronically send notification of such filing to opposing counsel.

/s/Andrew Walker
Andrew Walker
Counsel for Petitioner