UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

SANTOS DAGOBERTO LÓPEZ-CANALES, Petitioner, v. JOHN FABBRICATORE, Field Office Director of Enforcement and Removal Operations, Denver, Colorado Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, 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 DETENTION FACILITY, Respondents.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS
***IN LIMINE* MATTER OF LAW BEFORE THIS COURT:**

Petitioner, Mr. Santos Dagoberto Lopez-Canales, is **lawfully present in the Unites States.** He arrived on July 12, 1999, and was subsequently **allowed to stay** by the United States government. This is evident by the undeniable fact that he was granted a Work Permit and has a Social Security Number. He was allowed to stay in the United States and has been compliant with all laws, both state and Federal. The Government does not have any evidence that Mr. Lopez-Canales has violated any federal or state law, regulation or condition imposed by United States authorities. This argument is brought under Fifth Amendment of the United States Constitution.

Government's actions violate Due Process Clause under the Fifth Amendment of the U.S. Constitution, *Zadvydas v. Davis*, 533 U.S. 678 (2001) and its progeny.

INTRODUCTION

1. Petitioner Santos Dagoberto López-Canales, from now on referred to as Mr. Lopez-Canales or Petitioner, brings 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.) Petitioner is in the physical custody of Respondents at the Denver Colorado Contract Detention Facility.

2. He is being subject to unlawful detention because the Department of Homeland Security (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*.

3. On November 20, 2025, the United States District Court of Central California 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).

4. 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.

5. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) refuses to abide by the declaratory relief and insist in that Petitioner be denied the opportunity to be released on bond.

6. Petitioner Santos Dagoberto López-Canales 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 Colorado Contract Detention Facility. He was apprehended by immigration authorities on January 20th, 2026.

b. entered the United States without inspection over twenty (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.

7. On February 12, 2026, Petitioner was placed in removal proceedings, even though Petitioner was apprehended on January 20th. By that time twenty-three (23) days have elapsed. He has been put in proceedings pursuant to 8 U.S.C. § 1229(a) and was charged Petitioner as being inadmissible under 8 U.S.C §1182(a)(6)(A)(i) as someone who entered the United States without inspection.

8. Mr. López-Canales is eligible for several immigration reliefs, such as, but not limited to cancellation of removal as he meets the requirements under the Immigration and Nationality Act, 8 U.S.C. §1229(b)(b)(1).

9. Because he applied on May 4, 2023, for Asylum and Withholding of Removal, the United States Government has been put on notice of his presence in the United States as he voluntarily submitted himself to the immigration system. Government authorities have been able to know his address in Florida; he owns vehicles and has them insured under his name complying with all relevant laws and regulations. Mr. Lopez-Canales works legally because he was granted lawful employment authorization by the United States. He files for taxes. This means that he has

never "hidden" from the United States or any of its representatives. At all times he has been accessible to comply with his obligations with the immigration system up to the point that he awaits to be interviewed by the Asylum Officer in order to render a decision on his application pursuant to USCIS proceedings. **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). This is exactly what happened to Mr. López-Canales last week. (See Exhibit I, IJ's decision denying Mr. López-Canales request for bond.)

12. 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. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS's position that noncitizens "present in the United States without admission" are subject to mandatory detention under INA § 235(b)(2)(A) and that immigration judges lack bond jurisdiction even when ICE has placed the case in § 240 proceedings. This new precedent is unlawful and cannot justify Petitioner's ongoing confinement: it misreads the statute, conflicts with binding regulations that limit expedited-removal custody to classes designated by

Federal Register notice and raises grave constitutional concerns the avoidance canon requires courts to steer away from. *See* INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A); 8 C.F.R. § 235.3(b)(1)-(2); 62 Fed. Reg. 10,312, 10,314, 10,318 (Mar. 6, 1997); 69 Fed. Reg. 48,877, 48,880-81 (Aug. 11, 2004); 84 Fed. Reg. 35,409, 35,412 (July 23, 2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Clark v. Martinez*, 543 U.S. 371 (2005).

14. Despite detaining Petitioner, ICE has not demonstrated any significant likelihood that Petitioner will be removed in the reasonably foreseeable future. Petitioner's ongoing detention violates the pre-removal-period detention statute, 8 U.S.C. §1226, the post-removal-period detention statute, 8 U.S.C. §1231(a)(6), and the Due Process clause of the Fifth Amendment to the U.S. Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (finding that prolonged detention of someone who could not be removed would violate due process).

15. Petitioner therefore seeks a writ of habeas corpus directing his immediate release based on the fact that he was paroled into the United States in 2023 and subsequently resided in the United States for over 20 years.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Colorado Contract Detention Facility in Aurora, Colorado.

17. 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).

18. 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

19. 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 Colorado the judicial district in which Petitioner currently is detained.[1]

20. 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 AND REQUIREMENTS FOR AN ORDER TO SHOW CAUSE

21. 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, supra.*

22. 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).

23. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment

[1] Rules Governing Habeas proceedings under Section 2254, Rule 3

Act, 28 U.S.C. § 2201 should not be granted and why Respondents should not be ordered to release Petitioner from detention.

24. Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Colorado Field Office of the Immigration & Customs Enforcement ("ICE") Office of Enforcement and Removal Operations ("ERO") and this District.

PARTIES

25. Petitioner Santos Dagoberto López-Canales is a citizen of Honduras who has been in immigration detention since January 20, 2026.

26. On or around May 4, 2023, he applied for Asylum and Withholding of Removal and since then he awaits to be interviewed by the Asylum Officer in order to render a decision on his application pursuant to USCIS proceedings.

27. On January 20, 2026, Mr. López-Canales was taken into Immigration and Customs Enforcement (ICE) custody after Orange County Police detained the vehicle where he was riding to work.

28. Despite he provided his Florida Driver's license Real ID, his social security card, and his immigration documents the City of Orlando police, hence, committed no crime, the police arrested him and transferred his case to ICE authorities. At first, he was sent to Florida Soft South. This detention site, colloquially known as "Alligator Alcatraz," is located in Southern Swamp region of the State of Florida. The undersigned attorney filed for hearing for custody redetermination, which was scheduled for February 13, 2026, at 8:30 a.m. before IJ René Mateo Krome Immigration Court. **By that time petitioner had not been placed in deportation proceedings.**

29. The day before Mr. Santos' bond hearing, he transferred across the United States: Krome, Texas, New Mexico, and now Colorado. He is currently illegally detained at the Colorado Contract Detention Facility.

30. On February 17, 2026, Petitioner was denied bond by an IJ at the Colorado Immigration Court because he was deemed an "applicant for admission." Petitioner has resided in the United States since 1999. He was a teenager when he entered this Country. Now he is a married man, head of the household and the father of 9-year-old United States Citizen boy.

31. After Petitioner was arrested in Orlando, ICE did not set bond, and Petitioner requested review of his custody by an IJ which was denied on February 17 and entered on February 18.

> The Court finds that it does not have jurisdiction to hear the Respondent's bond request because, while he has established that he is a class member as defined in *Maldonado Bautista v. Santacruz,* the Court finds that *Maldonado Bautista* does not apply outside the Central District of California. Maldonado Bautista defines the class 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 at the time the Department of Homeland Security makes an initial custody determination." *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).
>
> It is the U.S. Department of Justice's position that *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025), remains binding precedent on immigration judges.
>
> Accordingly, **since Respondent entered the U.S. without inspection, the Court finds it has no jurisdiction to set a bond.**
>
> The Respondent entered the United States without inspection, was not apprehended on arrival, and was not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Therefore, he meets the requirements set forth in the class definition.

> However, based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), **Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States** without admission. *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). (Our emphasis).[2]

32. On February 18, 2026, said sister District Court in Central California found that Respondent's behavior, just like the above captioned, Respondents, "have far crossed the boundaries of constitutional conduct. Somehow, even after the judicial declaration of law that the DHS was misguided in its act of legal interpretation that nullified portions of a congressionally enacted statute, Respondents still insist they can continue their campaign of illegal action. The shameless submission that is Respondents' Opposition deliberately seeks to erode any semblance of separation of powers. [*See* Dkt. No. 110, "Opposition" or "Opp."]. Respondents can only do so in a world where the Constitution does not exist. The Constitution makes no apology in condemning Respondents. With no other option but to uphold its constitutional duty, the Court **GRANTS** Petitioners' Motion. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, (D.E. 116) (C.D. Cal. February 18, 2026).

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

34. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and

[2] This was the second time Petitioner had to request a bond/custody redetermination bond hearing. Mr. López-Canales had a bond hearing scheduled when he was in custody in Florida and it had to be cancelled and refiled in Colorado by this attorney.

Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

36. 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.

37. 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.

38. Respondent JUAN BALTASAR is employed by The Geo Group, a private, for-profit contract entity as Warden of the Colorado Contract Detention Facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

Mandatory detention violates Petitioners Constitutional and due process rights.

39. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). This fundamental principle of our free society is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. Amend. V. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or

permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law"). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

40. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders)

41. For decades, the immigration system has implemented this balance through a network of three mutually exclusive detention statutes.

42. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2).[3] See *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and ports of entry"). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioners.

[3] Separately, there is also a limited subset of individuals in and around the border who may be placed into the Expedited Removal process and are subject to mandatory detention under 8 U.S.C. § 1225(b)(1). See *Make the Road N.Y. v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

43. 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).

44. 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).

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

46. This system—in which people arrested inside the United States are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226). According to IIRIRA's legislative history, § 1226(a) was intended to "restate[] the [then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). It also reflected nearly a century of law in the United States of allowing people inside the country to seek release while the government decided whether or not to deport them. *See* 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for release on bond, including for noncitizens alleged to have entered the United States without inspection).

47. This eligibility for a bond hearing and potential release has applied to people arrested in the United States, regardless of whether they initially entered the country with

permission. Indeed, shortly after IIRIRA's enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review ("EOIR," which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: "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." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

48. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a))

49. However, around late 2022, the Immigration Court in Tacoma, Washington began misclassifying § 1226 detainees arrested inside the United States as mandatory detainees under § 1225(b)(2), solely because they initially entered the country without permission. See Rodriguez, 779 F. Supp. 3d at 1244. The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal in April 2025 and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

50. Nevertheless, three months later, on July 8, 2025, DHS, "in coordination with" the DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered

the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

51. As previously noted, the BIA and the Immigration Courts are entities within EOIR, which is part of DOJ. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I. &. N. Dec. 216 (B.I.A. 2025), the BIA issued a precedential decision that purports to require all Immigration Judges to misclassify people in this manner.

52. Since Respondents adopted their new policies, dozens of federal courts have uniformly rejected their newly invented misclassification as illegal and because it defies the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE, ruling that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024).[4]

[4] See, e.g., *Alejandro v. Olson*, No. 1:25-cv-02027-JPH-MKK (S.D. Ind. Oct. 11, 2025); *B.D.V.S. v. Forestal*, No. 1:25-cv-01968-SEB-TAB (S.D. Ind. Oct. 8, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25 C 10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025) (Jenkins, J.), *H.G.V.U. v. Smith*, No. 25 C 10931, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2020) (Coleman, J.), *Mariano Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025) (Alonso, J.), and *G.Z.T. v. Smith*, No. 25 C 12802 (N.D. Ill. Oct. 21, 2025) (Ellis, J.), *Corona Diaz v. Olson, et al.*, No. 25-cv-12141 (N.D. Illinois 2025), *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25- cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025).

53. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

54. Section 1226(a) applies by default to all persons "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]."

55. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

56. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. That statute's entire framework is premised on inspections at the border 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." *Jenning v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

Count I – The Regulation is *Ultra Vires*

57. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

58. The Immigration and Nationality Act, 8 U.S.C. § 1226(a), authorizes discretionary detention subject to an Immigration Judge's bond decision; it does not authorize Immigration and Customs Enforcement (ICE) to nullify that judicial decision by administrative fiat.

59. By turning discretionary custody into *de facto* mandatory detention for detainees not subject to 8 U.S.C. § 1226(c), § 1003.19(i)(2) exceeds the statutory power Congress delegated.

60. Detention premised solely on this *ultra vires* regulation is capricious under 5 U.S.C. § 706(2), entitling Petitioner to immediate release.

61. Respondent's presumed reliance on *Matter of Yajure Hurtado* collapses the statute's two-track system. Section 235 governs the inspection setting ports of entry and those stopped soon after crossing—with a fast-track screening and detention regime that Congress and the Supreme Court have treated as a distinct, inspection-stage context. Section 236, by contrast, governs interior arrests and vests Immigration Judges with bond authority in § 240 cases. Reading § 235(b)(2)(A) to control whenever a person was never "admitted" converts the border screen into a universal no-bond rule and all but writes § 236(a) out of existence. That interpretation is irreconcilable with the implementing rules, which limit expedited-removal processing—and its custody—to published Federal Register designations (now capped at two years of presence), and with the case law up to *Yajure Hurtado* that kept §§ 235 and 236 on separate footing. *See* 8 C.F.R.

§ 235.3(b)(1)3(2); 62 Fed. Reg. 10,312, 10,314, 10,318 (Mar. 6, 1997); 69 Fed. Reg. 48,877, 48,880381 (Aug. 11, 2004); 84 Fed. Reg. 35,409, 35,412 (July 23, 2019); *Jennings v. Rodriguez*, 583 U.S. 281, 287399 (2018); *DHS v. Thuraissigiam*, 591 U.S. 103, 119321 (2020). Even if *Yajure Hurtado* was correct (it is not), using a new precedential gloss to nullify a bond already granted while the DHS's appeal was pending is impermissibly retroactive. See *Landgraf v. USI Film Prods.*, 511 U.S. 244, 265373 (1994).

Count II - Violation of Right to Procedural Due Process

62. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

63. The Fifth Amendment forbids a deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

64. Subsection 1003.19(i)(2) strips Petitioner of that protection by allowing the prosecuting agency—after losing at the bond hearing—to veto the Immigration Judge's order with a one-page notice that requires no showing of danger, flight risk, or likelihood of success on appeal.

65. Read as Respondents will urge, *Yajure Hurtado* would categorically deny any bond hearing to noncitizens arrested in the interior who are outside the published expedited-removal designations—people whom Congress and the regulations routed into § 240 with § 236(a) custody. That construction raises serious due-process and Suspension Clause questions: it authorizes prolonged civil detention with no neutral decision-maker weighing flight risk or danger, despite settled law that civil detention must remain closely tied to its purposes. See *Zadvydas*, 533 U.S. at 690-701. Under the constitutional-avoidance canon, where a statute is susceptible of more than one construction, courts must prefer the reading that avoids grave constitutional problems. See *Clark*, 543 U.S. at 381382. The far better (and textually faithful) reading is that § 235(b) governs the inspection track and the classes designated for expedited removal, while everyone else is

detained—if at all—under § 236(a) with IJ bond review. See *Jennings*, 583 U.S. at 287-99.

66. Given the Petitioner's rights and interests, the Government's interests, and the cost and availability of alternate means of protecting the Government's objectives, the procedures employed by the Government violated the Due Process clause of the Fifth Amendment.

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

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

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

69. 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.

70. 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."

71. 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).

72. 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 seven 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; *Daley v. Ceja*, 158 F.4th 1152, 1155, 1162 (10th Cir. 2025); 28 U.S.C. § 2412(a)(1), and

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

DATED March 25, 2026.

/s/ **EVELYN AIMÉE DE JESÚS-RODRÍGUEZ**
Counsel for Petitioner
PR Supreme Court Number 13698
EOIR ID AA017519
PO Box 8206
Tampa FL. 33674-8206
(813) 970-2550 (787) 593-3055
Email evelynaimee@me.com

COUNSEL'S VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner as their attorney. I have reviewed relevant documentation of the events described in this Petition and Complaint reasonably available to me prior to, and at the time of, filing. On the basis of those documents and discussions with individuals whom Petitioner authorized to speak on his behalf, I hereby verify that the statements made in the foregoing Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated: March 25, 2026.

/s/ **EVELYN AIMÉE DE JESÚS-RODRÍGUEZ**
Counsel for Petitioner

TABLE OF EXHIBITS IN SUPPORT OF PETITION

Exhibit	Exhibit Name or Description
1	Third Bond Request filed on February 26, 2026, before the Immigration Court of Aurora Colorado. Bond Granted for $10,000 on March 4th, 2025. Appealed before the Board Immigration Appeals on March 4th, 2025.
2	Second Bond Request filed on February 10, 2026, before the Immigration Court of Aurora Colorado. Bond denied on lack of jurisdiction grounds on February 18, 2026.
3	First Bond Request filed on February 4, 2026. Had to be withdrawn since Mr. López-Canales was transferred from detention facility.
4	Removal Proceeding Record of Proceedings as of March 25, 2026
5	ICE Detainee Locator System March 25, 2026
6	Santos Dagoberto López-Canales' Driver's license, Evidence of Receipt I-589 Form Petition for Asylum and Withholding of Removal, and Employment Authorization Document by USCIS