UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

ADOLFO TREJO HERRERA

Petitioner,

v.

ROBERT HAGAN, Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement; **Markwayne MULLIN**, Secretary, 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. 1:26-cv-1366

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Adolfo Trejo Herrera brings this petition for a writ of habeas corpus to seek enforcement of his due process rights to be free from unlawful detention while he is subject to removal proceedings under 8 U.S.C. § 1229a; INA § 240.

2. 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) continue to hold that *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), controls the outcome and that since Petitioner is "seeking admission" then he is ineligible for bond under 8 U.S.C. 1225.

3. 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). *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)).

4. 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 1.

5. The Court should expeditiously grant this petition.

6. Even though the local Immigration Judges are well aware of the case decisions 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).

7. 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 one day, Respondent DHS must release Petitioner.

8. 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.

9. 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).

JURISDICTION

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

11. 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).

12. 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

13. 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.

14. 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

15. 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. Bautista v. Santacruz,* No. 25-cv-01873-SSS-BFM (C.D. Cal), *appeal docketed,* No. 25-7958 (9th Cir. Dec. 18, 2025)

16. 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.

17. 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

18. Petitioner Adolfo Trejo Herrera is a citizen of Mexico who has been in immigration detention since approximately February 16, 2026.

19. 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.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and 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 his official capacity.

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

22. 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.

23. 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.

24. 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*

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

26. Petitioner was issued a Notice to Appear on or about February 16, 2026, whereas DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a; INA § 240. *See* Exhibit 1.

27. Petitioner is being held under the auspicious that he is an alien seeking admission. Thus, his case falls under *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025); therefore the Immigration Judges lack jurisdiction to determine custody as he is subject to mandatory detention under 8 U.S.C. 1225.

28. Petitioner has resided in the United States since at least August 1, 2003.

29. 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) which is reflected in the Notice to Appear. *See* Exhibit 1.

30. 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 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).

31. 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 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 31st of March, 2026.

/s/ Miriam Miller

Counsel for Petitioner

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Certificate of AI

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

/s/ Miriam Miller

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