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8 **UNITED STATES DISTRICT COURT FOR**
9
10 **THE SOUTHERN DISTRICT OF CALIFORNIA**

11 
12

13 Petitioner,

14 v.

15 Warden, Imperial Regional Detention
16 Facility; Daniel Brightman, in his official
17 capacity as Director of the San Diego
18 Field Office, U.S. Immigration and
19 Customs Enforcement
20 Director, Todd Blanche in his official
21 capacity as Acting Attorney General

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23 Respondents.
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Case No. **'26CV3189 CAB VET**

VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS
28 U.S.C. § 2241

1 1. Henry Damus ("Mr. Damus" or "Petitioner") is a citizen of Haiti who has lived and
2 worked in the United States since December 24, 2021. He is a member of the Bond Eligible Class
3 certified in *Maldonado Bautista v. Santacruz*, -- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
4 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
5 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
6 Motion for Partial Summary Judgment).

8 2. Mr. Damus is unlawfully detained by U.S. Immigration and Customs Enforcement at
9 Imperial Regional Adult Detention Facility, within the jurisdiction of this Court. **Exhibit A.**

10 3. Mr. Damus was detained on April 29, 2026, and scheduled for an immigration master
11 calendar hearing on May 15, 2026. **Exhibit B.** He appeared without counsel from the detention
12 center, stated to the immigration court, through a Haitian Creole interpreter, that he needed time
13 to find a lawyer He understood the immigration judge to be granting him approximately one
14 month to do so to secure counsel for his next hearing.

16 4. But really, the immigration court scheduled his asylum merits hearing for June 5, 2026, a
17 mere three weeks from the master calendar hearing. **Exhibit C.**

18 5. Mr. Damus did not understand that within three weeks he would be required not merely to
19 identify an attorney but to retain counsel, prepare a full asylum case, and appear ready for a merits
20 adjudication. This scheduling violates the Due Process Clause's guarantee of a meaningful
21 opportunity to be heard with the assistance of counsel.

23 6. Mr. Damus does not have a criminal history; he has a civil traffic infraction.

24 7. He obtained work authorization and a social security number through his pending asylum
25 application, He has been a diligent full-time employee at the [REDACTED]
26 resort for nearly three years. **Exhibit D.**

1 **JURISDICTION**

2 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus); 28 U.S.C. § 1331
3 (federal question); and Article I, Section 9, Clause 2 of the United States Constitution (the
4 Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
5 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6 **VENUE**

7 9. Venue is proper in this Court because Petitioner is detained at the Imperial Regional Adult
8 Detention Facility, 1572 Gateway Rd, Calexico, CA 92231, which is located within the Southern
9 District of California. His immediate custodian is the warden of the Imperial Regional Adult
10 Detention Facility and is located within this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435
11 (2004). A substantial part of the events giving rise to Petitioner's claims including his ongoing
12 unlawful detention and denial of a bond hearing are occurring within this District.

13 **REQUIREMENTS OF 28 U.S.C. § 2243**

14 10. Under 28 U.S.C. § 2243, this Court must grant the petition for writ of habeas corpus or issue
15 an Order to Show Cause "forthwith," unless Petitioner is not entitled to relief. If an Order to Show
16 Cause is issued, the Court must require Respondents to file a return "within three days unless for
17 good cause additional time, not exceeding twenty days, is allowed." The legal questions presented
18 here are ones this Court has already resolved in Petitioner's favor in multiple prior decisions.
19 Expedited resolution is warranted.

20 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

21 11. No statute requires exhaustion of administrative remedies before filing a habeas petition
22 challenging the lawfulness of immigration detention. The exhaustion requirement of 8 U.S.C. §
23 1252(d)(1) applies only to petitions for review of final orders of removal, not to detention
24 challenges such as this one. *Jennings*, 583 U.S. at 301; *Zadvydas*, 533 U.S. at 687.

25 12. Moreover, the government's failure to schedule a bond hearing itself demonstrates the
26 inadequacy of the administrative remedy. To require Petitioner to continue waiting an indefinite
27 amount of time would compound rather than remedy the constitutional deprivation.
28

PARTIES

13. Petitioner Henry Damus () is a citizen of Haiti. He entered the United States on December 24, 2021, without being inspected or detected by immigration authorities.

14. The first Respondent is the Warden of Imperial Regional Adult Detention Facility and has immediate physical custody of Petitioner pursuant to that facility's contract with U.S. Immigration and Customs Enforcement. They are sued in his official capacity.

15. Respondent Daniel Brightman is the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement, with operational authority over Petitioner's detention and the authority to release him. He is sued in his official capacity.

16. Todd Blanche is the Acting Attorney General of the United States, with authority over EOIR and the detention of noncitizens under the INA. He is sued in his official capacity.

STATEMENT OF FACTS

17. Mr. Damus is a citizen of Haiti. On December 24, 2021, he entered the United States without inspection. He was not apprehended upon arrival, was not paroled, and was not processed through any formal admission procedure. He has resided continuously in the United States for more than four and a half years.

19. A Form I-589, Application for Asylum and Withholding of Removal, was filed on Mr. Damus's behalf (Application No.). The application was submitted by a woman in Florida whose full identity Mr. Damus does not know and who he believes was not a licensed attorney.

20. Mr. Damus has complied with all obligations arising from the pending application, including completing biometrics at the USCIS Application Support Center in West Palm Beach, Florida on March 6, 2023. **Exhibit E.**

21. Mr. Damus was detained on April 29, 2026. On May 15, 2026, at a master calendar hearing Mr. Damus informed Immigration court, through the interpreter, that he did not have an attorney and that he needed time to find one. The Immigration court granted what Mr. Damus understood to be a continuance of approximately one month for him to retain an immigration attorney.

1 22. Mr. Damus did not understand that the Immigration Judge was not merely granting him
2 time to find a lawyer but was scheduling his asylum merits hearing approximately three weeks from
3 that date. Mr. Damus understood that he had a month to locate counsel. He did not understand that
4 within approximately three weeks he would be required to have retained that attorney, assembled
5 his asylum claim, gathered supporting documentation, prepared his testimony, and appeared ready
6 for a full adjudication of his asylum application on the merits.

8 23. These are materially different tasks. Locating an attorney willing to take a detained asylum
9 case is itself a weeks-long undertaking, particularly for a detained individual with limited ability to
10 make calls or conduct research. Preparing a thorough asylum case requires gathering extensive
11 documentation, preparing a detailed declaration, obtaining country conditions evidence, and
12 developing legal arguments. Three weeks is constitutionally insufficient to accomplish any of this
13 meaningfully, let alone all of it.

15 24. The inadequacy of the notice is compounded by Mr. Damus's circumstances: he is a Haitian
16 Creole speaker with limited English proficiency, detained, with no attorney, communicating
17 through an interpreter in a formal legal proceeding he could not fully comprehend. The combination
18 of language barriers, detention, lack of counsel, and an inadequate interpreter-assisted explanation
19 of what was occurring rendered the three-week merits scheduling constitutionally deficient. This
20 record does not support a basis to believe that a bond hearing will be constitutionally sufficient. To
21 the contrary, it can be expected that the guardrails set to be afforded by the immigration court will
22 not be in place.

24 25. Mr. Damus had been lawfully employed full-time as a House Attendant at the 
25  He earned \$15.28 per hour. His family has been forced
26 to shoulder the additional burden of the costs of this litigation solely because Respondents refuse
27 to comply with the *Maldonado Bautista* declaratory judgment.
28

1 26. Mr. Damus has no criminal history. On April 30, 2026, Mr. Damus paid a \$100.00 cash
2 bond to the Palm Beach County Sheriff's Office ([REDACTED]);
3 [REDACTED] in connection with a moving traffic infraction: driving while his license was
4 suspended or revoked. **Exhibit F.** This is a civil traffic infraction, not a criminal conviction. It does
5 not constitute a crime involving moral turpitude, an aggravated felony, or any offense that would
6 subject Mr. Damus to mandatory detention under 8 U.S.C. § 1226(c). It reflects no propensity for
7 violence and no threat to public safety.
8

9 **ARGUMENT**

10 27. Petitioner is a member of the *Maldonado Bautista* Bond eligible class. On November 20,
11 2025, the United States District Court for the Central District of California granted partial summary
12 judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861
13 (C.D. Cal. Nov. 20, 2025), holding that Bond Eligible Class members are detained under 8 U.S.C.
14 § 1226(a), not § 1225(b)(2)(A), and may not be categorically denied bond consideration. On
15 November 25, 2025, the court certified a nationwide Bond Eligible Class and extended that
16 declaratory judgment to all class members. *Id.*, 2025 WL 3288403, at *9. The judgment has the
17 "force and effect of a final judgment." 28 U.S.C. § 2201(a). Respondents are bound by it.
18

19 28. The Bond Eligible Class consists of noncitizens who: (a) do not have lawful status in the
20 United States and are currently detained; (b) entered the United States without inspection over a
21 year ago and were not apprehended upon arrival; and (c) are not detained under 8 U.S.C. § 1226(c),
22 § 1225(b)(1), or § 1231.
23

24 29. Mr. Damus satisfies all three criteria:

- 25 a. He does not have lawful status in the United States and is currently detained at the Imperial
26 Regional Adult Detention Facility;
- 27 b. He entered the United States without inspection on December 24, 2021—more than four
28 and a half years ago—and was not apprehended upon arrival; and

1 c. He is not detained under 8 U.S.C. § 1226(c) (no disqualifying criminal convictions); §
2 1225(b)(1) (no expedited removal or credible fear screening was conducted); or § 1231
(no final order of removal has issued).

3 30. Mr. Damus is accordingly a member of the Bond Eligible Class and is entitled to all relief
4 afforded class members under the *Maldonado Bautista* declaratory judgment. Respondents have
5 nonetheless continued to detain him without a bond hearing in defiance of that judgment.

6 31. This case is time-sensitive because sending Mr. Damus to an Immigration Judge for a bond
7 hearing within fourteen days would (based on the documented and systemic pattern of summary
8 denials) almost certainly result in denial. Not to mention securing counsel and paying for
9 representation at a bond hearing. He would then be required to return to this Court for further relief,
10 having spent two weeks and additional attorney's fees on a foregone conclusion, losing the only
11 window he has to find counsel and prepare for his asylum merits hearing.

12 31. The time-sensitive stakes of his pending merits hearing make the standard remedy uniquely
13 inadequate here. The asylum proceedings are scheduled within weeks. The window to find counsel
14 and prepare is already vanishingly short. Every day spent in administrative bond proceedings that
15 serve no legitimate function is a day that cannot be used to secure representation for the proceeding
16 that will determine whether Mr. Damus receives protection from persecution in Haiti. The standard
17 fourteen-day administrative referral framework was not designed for a detainee facing an imminent,
18 inadequately noticed asylum merits hearing without counsel.

19 32. The government's refusal to comply with the *Maldonado Bautista* declaratory judgment has
20 not merely prolonged an unlawful detention. It has imposed a concrete and unjust financial burden
21 on a working-class family of limited means.

22 33. Families with the least ability to pay are being compelled to shoulder the mounting costs of
23 correcting the government's own deliberate failure to comply with its obligations under *Maldonado*
24 *Bautista*. The government was fully aware of Mr. Damus's class membership long before this
25 petition was filed. It took no steps to provide a bond hearing. Only after his family managed to
26 gather enough resources to retain counsel and seek relief in this Court did the government
27
28

1 acknowledge (as it will inevitably do in its opposition) that Mr. Damus is a class member eligible
2 for a bond hearing under § 1226(a).

3 34. The Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, exists precisely for situations
4 like this: where the government's unjustified position forces individuals of limited means to bear
5 the cost of compelling the government to follow the law. The government's position that it may
6 detain a class member indefinitely without a bond hearing, in defiance of a final federal court
7 judgment, without any individualized assessment of flight risk or danger is not substantially
8 justified. An award of fees is appropriate.

10 35. The Fifth Amendment guarantees that noncitizens in removal proceedings may not be
11 deprived of the opportunity to be represented by counsel of their choice and to have a reasonable
12 time to prepare. *See Rios-Berrios v. INS*, 776 F.2d 859, 862 (9th Cir. 1985) (holding that an
13 Immigration Judge abused his discretion by granting continuances "amounting to little more than
14 2 working days' time in which alien was expected to exercise [his] right to counsel of his choice,"
15 where the alien "was held in custody, spoke only Spanish, had limited education, was unfamiliar
16 with United States and its legal procedures"; the Ninth Circuit found the alien "clearly prejudiced
17 by lack of counsel in deportation hearings on issues of voluntary departure, asylum and withholding
18 of deportation"). *See also Castro-Nuno v. INS*, 577 F.2d 577 (9th Cir. 1978); 8 U.S.C. §
19 1229a(b)(4)(A) (noncitizen has right to be represented by counsel of his own choosing).

21 36. The combination of unlawful detention, which severely restricts Mr. Damus's ability to
22 research attorneys and gather evidence, and the inadequate three-week window renders any
23 purported opportunity to prepare for a merits hearing illusory. *Cf. Velasco Lopez v. Decker*, 978
24 F.3d 842, 853 (2d Cir. 2020) (conditions of detention bear on the adequacy of process). This Court
25 has authority to enjoin proceedings before the immigration court that violate due process before a
26 constitutionally deficient merits hearing occurs.
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COUNT ONE

Enforcement of *Maldonado Bautista* Declaratory Judgment—Violation of 8 U.S.C. § 1226(a)

37. Petitioner incorporates by reference all preceding paragraphs.

38. Mr. Damus is a member of the Bond Eligible Class certified in *Maldonado Bautista*. As a class member, he is entitled as a matter of law to the benefit of the declaratory judgment that his detention is governed by 8 U.S.C. § 1226(a) and that he may not be categorically denied bond consideration. Respondents are bound by that judgment and have violated it by detaining Mr. Damus without a bond hearing.

COUNT TWO

Violation of 8 U.S.C. § 1226(a) and the Fifth Amendment Due Process Clause

Denial of a Meaningful Bond Hearing

39. Petitioner incorporates by reference all preceding paragraphs.

40. Mr. Damus's detention is governed by 8 U.S.C. § 1226(a), a discretionary regime that entitles him to an individualized bond hearing before a neutral Immigration Judge at which the government must demonstrate by clear and convincing evidence that he poses a flight risk or danger to the community. He has received none. No official has made any individualized finding that he poses any such risk. His continued detention violates § 1226(a), its implementing regulations at 8 C.F.R. §§ 236.1, 1003.19(a)–(f), and the Due Process Clause of the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

COUNT THREE

Violation of the Fifth Amendment Due Process Clause

Inadequate Notice and Opportunity to Prepare; Denial of Meaningful Right to Counsel¹

41. Petitioner incorporates by reference all preceding paragraphs.

¹ To the extent the Court concludes that habeas is not the proper vehicle for affirmative relief on Petitioner's claims concerning the constitutional adequacy of future immigration proceedings, Petitioner states those matters in support of the overall due process context, to preserve them, and to make clear that Petitioner does not waive any argument or claim that may later need to be asserted in another procedural posture. Petitioner does not request an advisory ruling on those issues if the Court concludes they are not presently cognizable in habeas.

42. At the May 15, 2026 master calendar hearing, Mr. Damus appeared unrepresented, communicated through a Haitian Creole interpreter, and told the court he needed time to find a lawyer. He understood the court to be granting him approximately one month to locate counsel. He was not adequately informed that a merits hearing had been scheduled approximately three weeks later. The notice he received did not constitute meaningful notice of the nature and consequences of the scheduling order.

43. Three weeks is constitutionally insufficient to locate counsel, retain counsel, prepare an asylum claim, gather country conditions evidence, prepare testimony, and appear ready for merits adjudication, particularly for a detained Haitian national with limited English proficiency who has never had meaningful legal representation and whose ability to act is severely curtailed by detention itself. *Rios-Berrios v. INS*, 776 F.2d 859 (9th Cir. 1985).

44. This Court should enjoin the immigration court from proceeding with the currently scheduled merits hearing until Mr. Damus has been afforded a constitutionally adequate opportunity to obtain counsel and prepare.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Henry Damus respectfully requests that this Court:

1. Assume jurisdiction over this matter and set it for expedited consideration, given that a merits asylum hearing is currently scheduled within approximately three weeks and Mr. Damus remains unrepresented and detained;
2. Declare that Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), and is entitled to all relief afforded class members under that declaratory judgment;
3. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and that he may not be categorically denied bond consideration;
4. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from detention; or, in the alternative, ordering Respondents, within three (3) days, to provide Petitioner with a full and fair bond hearing before a neutral Immigration Judge pursuant to 8 U.S.C. § 1226(a), at which:

1
2 (i) the Government bears the burden of proving by clear and convincing evidence that
3 Petitioner poses a danger to the community;

4 (ii) the Government bears the burden of proving by clear and convincing evidence that
5 Petitioner poses a flight risk; and

6 (iii) any bond amount set be reasonably calculated to ensure appearance and community
7 safety, and not so excessive as to constitute de facto continued detention;
8

9 5. Issue an Order to Show Cause directing Respondents to show cause within three
10 (3) days why the writ should not be granted;

11 6. Enjoin EOIR from proceeding with the currently scheduled asylum merits hearing
12 until: (a) Petitioner has been afforded no fewer than 90 days from the date of this Order to
13 locate and retain counsel; (b) Petitioner has been provided, in Haitian Creole through a
14 qualified interpreter, a clear and complete explanation of the nature, date, and
15 consequences of any rescheduled merits hearing; and (c) if Petitioner remains
16 unrepresented, the Immigration Court has facilitated referral to a legal orientation program
17 or pro bono counsel;

18 7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
19 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
20 and

21 8. Grant such other and further relief as this Court deems just and proper.
22

23 Date: May 21, 2026.

24 **Respectfully Submitted,**

25 /s/ Vanessa Molina
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VERIFICATION

I, Vanessa Molina, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I interviewed Petitioner and Petitioner's siblings, with Petitioner's cousin serving as an interpreter, and reviewed his part of immigration records and the facts stated herein are true and correct to the best of my knowledge, information, and belief.

Date: May 21, 2026.

Respectfully Submitted,

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