UNITED STATES DISTRICT COURT FOR WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

ADRIAN HERNANDEZ HERNANDEZ, *Petitioner,* v. Rose Thompson, Warden, of Karnes County Immigration Processing Center; Miguel Vergara, Field Office Director of Enforcement and Removal Operations, San Antonio Field Office, Immigration and Customs Enforcement; Markwayne Mullin, Secretary, U.S. Department of Homeland Security; Todd Blanche, U.S. Attorney General; Executive Office for Immigration Review; Department of Homeland Security *Respondents,*	Case No. 5:26-cv-4230 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, A Number: [redacted], Adrian Hernandez Hernandez, brings this second petition for a writ of habeas corpus to seek enforcement of their rights as members 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 Karnes County Immigration Processing Center in Karnes City, Texas. He now faces 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*.

2. 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).

3. 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.

4. 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.

5. Petitioner, A Number: [redacted], Adrian Hernandez Hernandez is a member of the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained Karnes County Immigration Processing Center in Karnes City, Texas. He was apprehended by immigration authorities on April 23, 2026.

b. entered the United States without inspection over 5 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.

6. After apprehending Petitioner on April 23, 2026, the 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.

7. The Court should expeditiously grant this petition.

8. 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.

9. 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).

10. 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.

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

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Karnes County Immigration Processing Center in Karnes City, Texas. 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).

13. 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

14. 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 Northern District, the judicial district in which Petitioner currently is detained.

15. 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 Northern District.

REQUIREMENTS OF 28 U.S.C. § 2243

16. 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.*

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, A Number: [redacted], Adrian Hernandez Hernandez is a citizen of Mexico who has been in immigration detention since April 23, 2026. After Petitioner was arrested, Petitioner requested review of his custody by an IJ. Petitioner has resided in the United States since December 2021.

19. Respondent Rose Thomspon, is employed by the U.S. Government as Warden of at Karnes County Immigration Processing Center in Karnes City, Texas. where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in his official capacity.

20. Respondent Miguel Vergara is the Director of the San Antonio Field Office of ICE's Enforcement and Removal Operations division. As such, Miguel Vergara is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees U.S. Immigration and Customs Enforcement (ICE), which is responsible for Petitioner's detention. The Secretary has ultimate custodial authority over Petitioner and is sued in his official capacity.

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

23. Respondent Todd Blanche is the Attorney General of the United States. He 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. He is sued in his official capacity.

24. 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.

FACTUAL BACKGROUND

25. Petitioner, A-Number [redacted], Adrian Hernandez Hernandez, is a native and citizen of Mexico and was born on [redacted]. Following the death of his biological mother, who served as his primary caregiver and sole financial provider, Petitioner entered the United States to reunite with his father, stepmother, and siblings, who have since assumed responsibility for his care and daily needs.

26. On April 23, 2026, Petitioner was taken into immigration custody and has remained continuously detained since that date. As of the filing of this Petition, Petitioner has been detained for approximately 74 days. He is currently detained at the Karnes County Detention Center.

27. On June 25, 2026, the Immigration Judge ordered Petitioner removed from the United States. Petitioner's current counsel intends to timely appeal that decision to the Board of Immigration Appeals on or before the filing deadline of July 27, 2026.

28. Petitioner has no criminal history and poses no danger to the community. He has longstanding family ties in the United States, including his father, stepmother, and siblings, who provide him with ongoing care, supervision, and support.

29. Petitioner has a documented intellectual disability, resulting in cognitive functioning comparable to that of a young adolescent. Due to these significant cognitive limitations, Petitioner is unable to live independently, maintain employment, or care for himself without substantial assistance. He is highly susceptible to influence, requires continuous supervision, and depends on his family to meet his daily living needs and ensure his safety and well-being.

30. Petitioner is also the beneficiary of an approved Form I-130, Petition for Alien Relative, filed by his stepmother, Receipt Number [redacted]. This approved immigrant petition further reflects Petitioner's strong family ties in the United States and his eligibility to pursue available forms of immigration relief while his case remains pending.

ARGUMENT

31. Petitioner filed this habeas petition challenging his detention without a bond hearing.

32. Petitioner advances two principal arguments. First, he contends that his continued detention with a denied bond hearing violates the Due Process Clause. Second, he argues that 8 U.S.C. § 1225(b)(2) does not authorize his detention.

33. Respondents, however, assert detention authority under 8 U.S.C. § 1225(b)(1), not § 1225(b)(2). See ECF No. 5 at 2. Section 1225(b)(1) governs expedited removal and applies only to certain "arriving" aliens and to noncitizens who have not "been physically present in the United States continuously for the 2-year period immediately prior to the date" they were determined inadmissible under that provision. 8 U.S.C. § 1225(b)(1)(A)(i).

34. Section 1225(b)(1) further mandates detention only for a limited subset of such individuals. See 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Petitioner does not fall within the categories of noncitizens subject to mandatory detention under § 1225(b)(1).

35. Nonetheless, Petitioner reasonably anticipates Respondents' reliance on 8 U.S.C. § 1225(b)(2). Respondents have repeatedly invoked § 1225(b)(2) in nearly identical cases before

this Court. See, e.g., Urquiza-Orozco v. Bondi et al., No. 5:25-cv-01428-XR (W.D. Tex. Nov. 20, 2025); Vega v. Thompson et al., No. 5:25-cv-01439-XR (W.D. Tex. Nov. 21, 2025).

36. Respondents further assert in this case that "[e]ven if this Court were to order [Petitioner's] release from custody, he would be subject to re-arrest as an alien present within the United States without having been admitted." ECF No. 5 at 2. This assertion reflects Respondents' anticipated reliance on arrest and detention authority under § 1225(b)(2).

37. Accordingly, both § 1225(b)(1) and § 1225(b)(2) are at issue. The dispositive statutory question is whether either provision applies to Petitioner. If neither § 1225(b)(1) nor § 1225(b)(2) governs Petitioner's detention, Respondents may detain him only under 8 U.S.C. § 1226(a), which entitles him to a bond hearing. See, e.g., Belsai D.S. v. Bondi, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025).

CLAIMS FOR RELIEF

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

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

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

40. 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.

41. 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."

42. 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).

Violation of Constitutional Due Process Rights

43. Petitioner argues that his detention without an opportunity for a meaningful individualized custody determination is unlawful on both statutory grounds, as well as constitutional due process grounds.

44. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom 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, 533 U.S. 678, 690 (2001).

45. Petitioner has a fundamental interest in liberty and being free from official restraint. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process. The government has shown no reason, whatsoever, that there are either changed circumstances or any other reasons for the re-detention of Petitioner, nor was the Petitioner given any notice prior to his re-detention, thus violating his due process rights.

46. The respondents are likely to make the argument that the recent 5th Circuit decision in *Buenrostro-Mendez, 5th Circuit February 3, 2026*, precludes a constitutional due process claim. It does not. The decision is *Buenrostro* only dealt the statutory question and did not address a habeas claim based on due process. Government counsel, in their oral argument before the 5th Circuit, clearly defined the basis of their appeal and left little doubt as to whether or not a constitutional due process claim was being addressed. "We have one issue before the Court now: the statutory question. . . . There's not, in other words, a due process claim here." Oral Argument, *Buenrostro-Mendez v. Bondi*, No. 25-20496, at 44:56–45:11 (5th Cir. Feb. 3,

2026), *available at* https://www.ca5.uscourts.gov/OralArgRecordings/25/25-20496_2-3-2026.mp3.

47. There have been at least three decisions within the 5th Circuit since Buenrostro that have argued the same, *Marceau v. Noem, No. 3:26-cv-237, (W.D. Tex. Feb. 9, 2026). Hassen v. Noem, No. 3:26-cv-48, (W.D. Tex. Feb. 9, 2026) and Villata Calles v. Ybarra, No. 3:26-cv-315, (W.D. Tex. February 13, 2026).* As such, should this petition fail based on the statutory argument, is should be granted based on a constitutional one.

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; and

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

DATED this 6th Day of July, 2026.

Respectfully submitted,



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