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MARIO EDGAR VALVERDE-REAL

**UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF CALIFORNIA**

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| MARIO EDGAR VALVERDE-REAL,<br><br>*Petitioner,*<br><br>v.<br><br>Gerald Moss, Warden of Central Valley Annex; Markwayne Mullin, Secretary, U.S. Department of Homeland Security;<br><br>*Respondents.* | Case No.<br><br>**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**<br><br>**Agency No.:** [redacted] |

## I. INTRODUCTION

1. This is Petitioner's second Writ of Habeas Corpus. He is currently at the Central Valley Annex in McFarland, California. He currently has a Petition for Review in the Ninth Circuit Court of Appeals and has a stay of removal. He has now been detained since March 20, 2026.

He had been in Redding, California, released on an immigration bond for 15 years. At the time, his attorney, Andrew Holley, from Chico, California, was ill with Covid and could no longer continue his case and has since passed away. He had already paid for the entire immigration defense, and he did not receive a refund for his service. His immigration court was extended to 20025. Nonetheless, the court reset his hearing to an earlier date, but he did not receive this notice because his brother's home burnt down. He did not appear and was removed in absentia. He filed

an appeal, which was dismissed by the Board of Immigration Appeals. He then filed a Petition for Review with the 9th Circuit Court of Appeals.

When he filed his first writ of habeas corpus, he was at Mesa Verde Immigration Detention Facility. He was moved to El Paso, Texas and the habeas corpus was dismissed. He has since been shuttled from detention facility to detention facility. He was moved from Mesa Verde in Bakersfield, to El Paso, Texas, and then from El Paso Texas, to Dallas, Texas, and then he was moved back to El Paso, Texas. He is now back in California at the Central Valley Annex, in McFarland, California.

On Sunday May 3, 2026, he was assaulted at Mesa Verde Detention Facility by another detainee. He was punched in the face twice and his jaw was swollen. He wanted to press charges but was told he was going to be taken to the hospital so he could press charges and be taken to the hospital. This assault must be reported and documented. His ear is still bleeding from the assault.

The Central District of California certified a class and essentially overruled *Yajure Hurtado*, which is being used by the government to detain all migrants claiming they are applicants for admission, whether they have recently arrived or have been in the United States for many years.

The case is *Maldonado Bautista v. Santacruz*, _ F.Supp. 3d _, 2025 WL3713982 (C.D. Cal. Dec. 18, 2025) which stated that people detained by Immigration and Customs Enforcement, who were not immediately apprehended, or were released on bond and re-apprehended, were not subject to mandatory detention but instead were subject to discretionary bonds under 8 U.S.C. § 1226(a).

Although the Ninth Circuit stayed and restricted application of that class to only those located in the Central District of California, *Maldonado Bautista v. U.S. Dep't of Homeland Sec.*, No. 2601044 (9th Cir. Mar. 6, 2026), several courts in California, outside of the Central District, including in this Eastern District, have previously held in multiple cases that they agree with the Court in *Maldonado Bautista* that an individual like in this Petitioner's situation is not subject to mandatory detention under Section 1225, but instead should be granted a bond hearing under Section 1226(a).

The Second Circuit in *Cunha v. Freden,* Case No. 25-3141-PR, rejected the mandatory

detention without bond practice in which this Petitioner is being held.

Petitioner entered the United States in when he was 14 years old in in 2000 as a minor accompanied by his parent. Petitioner is now 39 years old. His brother was murdered in Mexico and he fears returning to Mexico.

Petitioner lives in Redding, California at [redacted] After Petitioner was assaulted in Mesa Verde, the officials covered up his assault. They did not call the police or sheriffs in Bakersfield, in order to not make a report. This assault and the [redacted] make him eligible for a U-Visa.

Petitioner is in the physical custody of Respondent in the Central Valley Annex, in McFarland, California. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) are alleging he is subject to mandatory detention, when in reality he is not subject to mandatory detention under 8 U.S.C. §2241 to challenge his unlawful detention by Immigration and Customs Enforcement (ICE).

2. This court has jurisdiction pursuant to 28 U.S.C. § 1226(a) to challenge his unlawful detention by Immigration and Customs Enforcement (ICE).

3. 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. Ca. 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 Order Granting Petitioners' Motion for Partial Summary Judgment).

4. On December 18, 2025, the district court made an in chambers Order in part and denying in part petitioner's ex-parte application for reconsideration or clarification. In it, the court found that "under the APA. Yajure Hurtado is no longer controlling: the legal conclusion underlying the decision is no longer tenable." (See 12-18-2025 Order, page 6) In this order the court granted class wide vacatur of the unlawful DHS policy. The Court further entered a final judgment. (See Final

Judgment).

5. Declaratory judgment held that 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.

6. Nonetheless, the Executive Office for Immigration Review and is 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. The 9th Circuit Court of Appeals issued a stay of this order.

7. Nonetheless, Petitioner alleges that Maldonado Bautista was based on sound law and its rationale applied to this case and this respondent because MARIO EDGAR VALVERDE REAL:

a. does not have lawful status in the United States and is currently detained at the Central Valley Annex in McFarland, California.

b. entered the United States without inspection and was not detained on arrival.

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

d. Petitioner was apprehended after hearing in Shasta County for a traffic violation in on March 30, 2026.

8. After being detained on March 2026, DHS did not conduct a credible fear interview and is holding him in detention and has placed him in removal proceedings pursuant to 8 U.S.C. § 1229(a). DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1229(a), as someone who entered the United States, and "is an alien present in the United States who has not been admitted or paroled.

9. The court should expeditiously grant this petition. The Petitioner was already out on bond.

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

## II. JURISDICTION AND VENUE

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. Venue is proper in this court under 28 U.S.C. § 2241(d) because Petitioner is detained within the Eastern District of California at the Central Valley Annex in McFarland, California.

13. Respondent Gerald Moss is the Facility Administrator/Warden of the Central Valley Annex, in McFarland, California, and is Petitioner's immediate custodian.

14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security and is the head of the agency responsible for Petitioner's detention and removal proceedings.

15. There are no DOES named in this petition for writ of habeas corpus.

16. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved in many cases in this district based on the rationale 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." *Young v I.*N.S., 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**III. PARTIES**

18. Petitioner is a native and citizen of Mexico who entered the United States in the year 2000 as a minor accompanied by his parents.

19. He was the victim of [redacted]

20. Respondent Gerald Moss is the Facility Administrator/Warden of the Central Valley Annex in McFarland, California.

21. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security and is sued in his official capacity.

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**STATEMENT OF FACTS**

*A. Petitioner's Background and Ties to the United States*

22. Petitioner first entered the United States in the year 2000, when he was 14 years old. He has been residing in the United States since then and filed a cancellation of removal application. He was out on bond. He missed his hearing and was removed in absentia because he did not get notice as his residence had burned down. He appealed to the Board of Immigration Appeals, and that case was just dismissed, April 23, 2026. He is filed a Petition for Review with he Ninth Circuit Court of Appeals, who has granted a stay of removal.

23. He was a victim of [redacted] and he was also a victim of physical assault at the Mesa Verde Detention Facility, where he was previously detained.

24. Since entering the United States, Petitioner has resided here continuously. He is in removal proceedings.

25. Petitioner was living with his family [redacted]

**CLAIMS FOR RELIEF**

**COUNT ONE VIOLATION OF THE INA AND DUE PROCESS RIGHTS**

**(Request for Relief Pursuant to the Rationale in *Maldonado Bautista*)**

26. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

27. By rationale in Maldonado Bautista Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

28. By denying Petitioner a bond hearing under § 1226(a) and asserting he is subject to mandatory detention under § 1225(b)(2). Respondents violate Petitioner's due process rights to be released on bond.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assumes jurisdiction over this matter.

2. That the government does not remove Petitioner from this Jurisdiction.

3. That Petitioner be allowed to file a police report and have his assailant prosecuted.

4. That ICE report his assault at Mesa Verde to the Bakersfield federal and state authorities.

5. That Petitioner be allowed to post a bond to be released.

5. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner.

6. 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 five days.

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

8. Grant such other and further relief as the Court deems just and proper.

Dated: July 11, 2026

Francisco J. Aldana, Esq.
Attorney for Petitioner