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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, CALIFORNIA

HECTOR ERINEO JACINTO LOPEZ,

Petitioner,

v.

Daniel BRIGHTMAN, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Todd BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Christopher J. LAROSE, Senior Warden of Otay Mesa Detention Center,

Respondents.

Case No. '26CV4108 GPC JLB

PETITION FOR WRIT OF HABEAS CORPUS; FOR AN ORDER TO SHOW CAUSE WITHIN 3 DAYS; AND TO ENJOIN TRANSFER FROM THE JURISDICTION

INTRODUCTION

1. Petitioner HECTOR ERINEO JACINTO LOPEZ brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the legality of his continued immigration detention. Petitioner is in the physical custody of Respondents at the OTAY MESA DETENTION CENTER. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) incorrectly hold Petitioner detained under the mandatory detention provisions applicable to applicants for admission.

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. On December 18, 2025, the Central District Court of California entered final judgement in the case of *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), vacating DHS's policy described in the July 8, 2025. "Interim Guidance Regarding

Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A). The final judgement furthers orders that Bond Eligible Class members are not subject to mandatory detention under § 1225(b)(2) and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

5. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) continue to detain Petitioner under the mandatory detention provisions applicable to applicants for admission.

6. Petitioner HECTOR ERINEO JACINTO LOPEZ meets the criteria for membership in the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained at the OTAY MESA DETENTION CENTER. He was apprehended by immigration authorities on July 7, 2026;

b. entered the United States without inspection over twenty-three (23) 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. After apprehending Petitioner on July 7, 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.

8. The Court should expeditiously grant this petition.

9. Although the Ninth Circuit stayed portions of the district court's orders in Maldonado Bautista outside the certified class, the district court's statutory analysis remains persuasive. The reasoning of that decision recognizes that detention authority under the INA depends upon the statutory posture of the noncitizen, not merely the fact of an unlawful entry.

detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

10. Here, DHS's own charging allegations establish that Petitioner allegedly entered the United States in 2003 and has remained in the country for more than two decades. Whether such an individual may nevertheless be subjected to mandatory detention as an applicant for admission presents a legal question that is properly resolved through habeas review. See Maldanado Bautista v. DHS, No 26-1044 (9th Cir., Mar. 6, 2026).

11. Because Respondents are detaining Petitioner under inapplicable mandatory detention provisions, the Court should order that Respondent DHS must release Petitioner.

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

STATEMENT OF FACTS

13. Petitioner HECTOR ERINEO JACINTO LOPEZ is a citizen of GUATEMALA who has been in immigration detention since July 7, 2026. Petitioner was detained by immigration officials near Fallbrook High School, in Fallbrook, California.

14. After Petitioner was arrested in Fallbrook, California, ICE did not set bond. Petitioner has resided in the United States since 2003, after having entered without inspection, and without apprehension upon his entry.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the OTAY MESA DETENTION CENTER in OTAY MESA, CALIFORNIA.

16. 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).

17. 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

18. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center, an ICE detention center, located within San Diego County, and Christopher J. LAROSE is his immediate custodian as the Warden of the facility. 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 CALIFORNIA SOUTHERN DISTRICT, the judicial district in which Petitioner currently is detained.

19. 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 CALIFORNIA SOUTHERN DISTRICT.

20. 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).

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

21. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved by its sister court in *Maldonado Bautista.* If an OSC is

issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243.

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).1 "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. Petitioners are "in custody" for the purpose of § 2241 because they were arrested and remain detained by the Respondents.

PARTIES

24. Petitioner HECTOR ERINEO JACINTO LOPEZ is a citizen of GUATEMALA who has been in immigration detention since July 7, 2026, Petitioner entered the United States on or about January 01, 2003, and has since resided in California. After Petitioner was arrested in Fallbrook, California, ICE did not set bond. Petitioner remains detained at the OTAY MESA DETENTION CENTER in San Diego, CA.

25. Respondent Daniel BRIGHTMAN is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, Daniel Brightman is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

26. 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.

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

28. 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.

29. 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.

30. Respondent Christopher J. LAROSE is employed by CoreCivic as Warden of the OTAY MESA DETENTION CENTER, where Petitioner is detained. HE has immediate physical custody of Petitioner. HE is sued in HIS official capacity.

CLAIM FOR RELIEF
Respondents Lack Statutory Authority to Continue Detaining Petitioner Under INA § 235

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

32. This petition presents a pure question of statutory interpretation: whether Respondents possess authority under the Immigration and Nationality Act to continue detaining Petitioner as an applicant for admission where DHS's own Notice to Appear alleges that Petitioner entered the United States without inspection on or about January 1, 2003, and has remained present in the United States since that time.

33. DHS's charging document alleges that Petitioner is "an alien present in the United States who has not been admitted or paroled." The Notice to Appear does not allege that Petitioner is an arriving alien or that he is presently seeking admission into the United States.

34. 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.

35. Although the Ninth Circuit stayed portions of the district court's orders in *Maldonado Bautista* outside the certified class, the district court's statutory analysis remains persuasive. That decision recognized that the mandatory detention provisions of INA § 235 do not automatically apply to noncitizens who entered the United States without inspection years earlier and have remained continuously present in the country. See *Maldanado Bautista v. DHS*, No 26-1044 (9th Cir., Mar. 6, 2026).

36. Respondents nevertheless continue to detain Petitioner under INA § 235 despite the allegations contained in their own charging document.

37. Because Petitioner's continued detention rests upon an erroneous interpretation of the detention statutes, Respondents are acting in excess of their statutory authority. Accordingly, Petitioner's continued detention is unlawful, and he is entitled to relief under 28 U.S.C . § 2241.

The Petitioner's Detention without a Custody Hearing Violates Due Process and the Fifth Amendment

38. Petitioner reiterates and incorporates by reference paragraphs 1 through 30 as if fully set forth herein.

39. Additionally, the Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision maker. Due process protects all persons within the U.S. regardless of legal status. *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001) A vital liberty interest is at stake when an individual is subject to detention by the government. According to Zadvydas, the government may only deprive a non-citizen of physical liberty when it serves a legitimate purpose, commonly understood to include securing one's appearance at future hearings.

40. The BIA's new interpretation of 8 U.S.C. section 1225(b) set forth in *Yajure* strips Petitioner of that protection by misclassifying him as an "applicant for admission," despite his last entry having been over 23 years ago, wherein he was not stopped by DHS. An arbitrary designation as an arriving alien precludes him from the opportunity to establish that he is neither a flight risk nor a threat to the community. His continued confinement thus bears no reasonable, non-punitive relationship to any legitimate aim and is constitutionally arbitrary.

41. Applying the long-standing precedent of *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme as he is given no venue to show that he is not subject to mandatory detention under section 1226 (c). The risk is further heightened by the apparent lack of an independent adjudicator. *Marcello v. Bonds, 39 U.S. 302, 305-306 (1955)*

42. Counsel thus posits that the Defendants are in violation the statutory framework in the INA and the code of federal regulations, as well as the Fifth Amendment/ Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of these proceedings;

c. Order Respondents to file a response within 3 business days of the filing of this petition as to why Petitioner should not be given a custody hearing;

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

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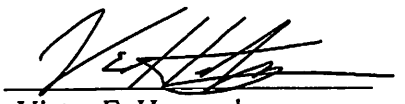
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e. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and

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

DATED this 16th of July, 2026.



Victor E. Hernandez
Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: July 16, 2026.

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