**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF PUERTO RICO**

**GERAD FELIPE FIGOLI GOMEZ**
IN REPRESENTATION OF **PERFECTO PAULA**

**Petitioners,**

**v.**

**Civil No. 3:26-cv-1091**

**REBECCA GONZÁLEZ RAMOS,** Special Agent in Charge of Homeland Security Investigations in San Juan, **GARRET J. RIPA** is Miami Field Office Director for U.S. Immigration and Customs Enforcement, overseen Puerto Rico's Immigration and Removal Operations, ICE Office in GSA Guaynabo Detention Facility; *et als*

PETITION FOR A WRIT OF *HABEAS CORPUS*

**Respondents.**

*"The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."*

The Federalist No. 47, at 324 (James Madison) (J. Cooke ed.1961) *Maldonado Bautista*, Dkt. 116.

**MOTION IN COMPLIANCE**
**RESPONSE TO MEMORANDUM IN OPPOSITION AND**
**PETITION FOR DECLARATORY RELIEF**

**TO THE HONORABLE COURT:**

Comes now the Petitioner, through the undersigned legal counsels and respectfully states, alleges and prays as follows:

## I. INTRODUCTION:

The main issue before this Court has its origin in the change of directives issued in 2025 that contradicts almost 3 decades of customs and uses of immigration law, practice, and court precedents even

after the approval of the *Illegal Immigration Reform and Immigration Responsibility Act* (IIRIRA) of 1996. The Board of Immigration Appeals (BIA) issued a decision on September 5, 2025 that labeled "aliens who entered the United States without inspection" as "applicants for admission" depriving millions of immigrants of due process granted under 8 USC section 1226. *Hurtado*, 29 I&N Dec. at 228, 225 (immigration judges has no authority to hear bond hearings or grant bond to this classification of aliens: "aliens … who are present in the United States without admission")

This controversy had produced a split decision in the 5fth Cir. in *Víctor Buenrostro Méndez v. Bondi, et als*, USCA No. 25-20496, consolidated with No. 25-40701. The Dissenting Opinion of US *Circuit Judge* Dana M. Douglas is highly persuasive.[1]

> "[T]he government distort the statutory text, abstract it from its context and history, ignore the Supreme Court's clearly stated understanding of the statutory scheme, and wave away the agency's previous failure to detain millions of noncitizens as if it were a rounding error." Id, p. 23.

The government proposes:

> "… that 'seeking admission' is like being an 'applicant for admission,' in a statute that has never been applied in this way, based on little more than an apparent conviction that Congress *must have* wanted these noncitizens detained—some of them the spouses, mothers, fathers, and grandparents of American citizens." Id.
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> **The district courts in both cases consolidated here held that § 1226(a), not § 1225(b)(2)(A), applied to Petitioners**. In Buenrostro-Mendez's case, the district court reasoned that "[a]s almost every district court to consider this issue has concluded, the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application [to noncitizens already present in the United States] for the past three decades support finding that § 1226 applies to these circumstances."

*Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (citation modified). Id., 24. (Emphasis added).

In summary, we are in court because the U.S. Department of Homeland Security and the US Department of Justice recently and abruptly began to misclassify people arrested by ICE inside the United

[1] *See also, Castañon-Nava v. U.S. Dep't of Homeland Sec.*, No. 1:18-cv-03757 (7th Cir.), pending before the 7th Circuit.

States, including Puerto Rico. DHS and USDOJ started systematically reclassifying these people from the statutory authority of 8 U.S.C. § 1226, which usually allows for the opportunity to request bond during removal proceedings, to the non-bond detention provisions of 8 U.S.C. § 1225, which does not apply to people arrested in the interior of the United States and placed in removal proceedings. The new policy is not supported by law and also creates further conflicts with other statutes.[2] (**https://www.uscis.gov/family/family-of-us-citizens/provisional-unlawful-presence-waivers#:~:text=The%20provisional%20unlawful%20presence%20waiver,for%20an%20immigrant%20visa%20(immediate)**

In addition, a Class action certification on this issue is pending before the **First Circuit** in *Guerrero Orellana v. Moniz*, Nos. 25-2152; 26-1094. The briefing schedule has been set between February and March 2026. The class action lawsuit challenges the widespread denial of bond hearings to people detained by U.S. Immigration and Customs Enforcement. This denial upends decades of settled law and established practice in immigration proceedings.[3]

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[2] Since March 4, 2013, certain immigrant visa applicants who are immediate relatives (spouses, children, and parents) of U.S. citizens can apply for ***provisional unlawful presence waivers*** before they leave the United States for their consular interview. On Aug. 29, 2016, the provisional unlawful presence waiver process **was expanded** to all individuals statutorily eligible for an immigrant visa and a waiver of inadmissibility for unlawful presence in the United States.

Aliens who are not eligible to adjust their status in the United States must travel abroad and obtain an immigrant visa. Individuals who have accrued more than 180 days of unlawful presence while in the United States **must obtain a waiver of inadmissibility** to overcome the unlawful presence bars under section 212(a)(9)(B) of the Immigration and Nationality Act before they can return. Typically, aliens cannot apply for a waiver until after they have appeared for their immigrant visa interview abroad, and a Department of State (DOS) consular officer has determined that they are inadmissible to the United States.

The provisional unlawful presence waiver process allows those individuals who are statutorily eligible for an immigrant visa (immediate relatives, family-sponsored or employment-based immigrants as well as Diversity Visa selectees); who only need a waiver of inadmissibility for unlawful presence to apply for that waiver in the United States before they depart for their immigrant visa interview.

This new process was developed to shorten the time that U.S. citizens and lawful permanent resident family members are separated from their relatives while those relatives are obtaining immigrant visas to become lawful permanent residents of the United States.

The expansion of the provisional unlawful presence waiver process does not affect the continued availability of the Form I-601 process: Individuals who do not wish to seek or do not qualify for a provisional unlawful presence waiver can still file Form I-601, Application for Waiver of Grounds of Inadmissibility, after a DOS consular officer determines that they are inadmissible to the United States. The new approach of DHS, ICE and the Department of Justice ignores these legal opportunities granted to *noncitizens already present in the United States*.

[3] The case before the 1st Circuit was brought on behalf of Jose Arnulfo Guerrero Orellana and a putative class of similarly situated individuals. Mr. Guerrero Orellana has been living in the United States for over a decade. He brings this case to

The complaint alleges that the government's new policy violates constitutional and statutory due process rights as well as the Administrative Procedure Act. Same situation is affecting nowadays immigrants in Puerto Rico, under the jurisdiction of the First Circuit.

## II. PROCEDURAL BACKGROUND:

On February 16, 2026, the Petitioners filed a Petition for Writ of Habeas Corpus (Dkt. 1)

The Petition asserts that Petitioner's detention by Immigration and Customs Enforcement ("ICE") violates his due process rights and requested his immediate release.

On February 25, 2026 the Respondents filed a Memorandum in Opposition to Petition for Writ of Habeas Corpus (Dkt. 16) and a Response to Request for a TRO (Dkt. 18), a TRO that the Court already granted. The Respondents also filed an Informative Motion to report that the Petitioner was afforded a bail hearing (Dkt. 19).

The Court issued an Order stating that: "Plaintiff shall inform **by 3/3/2026** why … 'Petition for Writ of Habeas Corpus' should not be denied as moot." (Dkt. 22)

In compliance with the Court Order, the Petitioner's Response follows:

Mr. Paula is a national of Dominican Republic who has resided in the United States for many years. He entered the United States without inspection and was not apprehended by government officials upon entry.

He is the beneficiary of an approved Petition for Alien Relative (I-130) and an approved Application for Provisional Unlawful Presence Waiver (I 601 A) both adjudicated by USCIS.

In addition, it is of the utmost importance to note that Mr. Paula complied with all the exigencies and requirements set by USCIS to legalize his status thus trusting in the US Government's representation

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vindicate his own right to a bond hearing — where an immigration judge can determine whether his detention is justified to protect the community or ensure his appearance in court — and that of thousands of other detainees in Massachusetts, Rhode Island, Maine, and New Hampshire who will be denied the opportunity to seek release on bond under the new legal ruling adopted by the executive branch.

that to legalize his status he need to file an I 601 A waiver to proceed with a Consular Process interview without the need of being separated from his family for a prolonged and unknow period of time, which is the purpose USCIS created the I 601 A in the first place pursuant to 8 CFR 212.7.

## III. STATEMENT OF FACTS:

On or about December 2000, Mr. Perfecto Paula, entered the United States at or near Añasco, Puerto Rico. On August 8, 2003, he married Ms. Diane Rodriguez Pagan, a US citizen by birth in New York, USA. (Exhibit 4 to the Petition) The couple are the parents of United States Citizen Dayvanna Paula Rodriguez born on May 14, 2009, in San Juan, Puerto Rico. (Exhibit 5 to the Petition) Based on the indisputability of the bona-fides of this marriage, USCIS approved the I-130 without interview on February 1, 2022. On May 4, 2022, USCIS recognized receipt of Mr. Paula's I-1601 A waiver and on November 13, 2024, such waiver receipt number LIN2290217659 was approved. His detention served no legitimate government interest. Respondents' decision was arbitrary and capricious, and there is no better time for this Court to consider the merits of Petitioner's request for release.

### A. Not a Case of Mandatory Detention:

Pursuant to the Immigration and Nationality Act (INA), a noncitizen should be subject to mandatory detention under three different circumstances: (a) people with certain criminal convictions (8 USC § 1226(c)); (b) people who are subjected to expedited removal (8 USC § 1225(b)(1)); and, (c) people who have been previously ordered removed from the United States (8 USC § 1231).

None of these circumstances are present in the Petitioner's case. Moreover, alternatives conditions to detention already exists and are being currently used by ICE that are least restrictive, such as ancle monitor or the digital face recognition monitor systems. Recently, in ***Maldonado Bautista et. al.***, a case from *the Central District Court of California, certified a class of immigration detainees who are eligible for bond, which include all noncitizens without lawful status who:* ***(1) have entered without inspection; (2) were not apprehended upon arrival; and, (3) are not subject to mandatory detention*****, as defined in 8 USC § 1226(c),**

**§ 1225(b)(1), and §1231**. *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, (C.D. of California, Case No. :25-cv-01873-SSS-BFM) The Petitioner, *and many other similarly situated*, are not cases of mandatory detention and are protected by the class recently certified, as well as other Petitioners in recent habeas corpus petitions before this District. See Cases No. 25-01696 (CVR); 26-01014 (MAJ); 26-1028 (GMM); 26-1036 (PAD); 26-1041 (RAM); and 26-1045 (SCC). In all these cases TRO's were issued. Therefore, this court should rule not only in the benefit of the Petitioner but also in the best interest of individuals *similarly situated*, that comply with the class definition under *Maldonado Bautista*, supra.

This Court issued a Temporary Restraining Order prohibiting Respondents to transfer Petitioner out of Puerto Rico and ordered a bond hearing before an immigration judge not later than February 25, 2025. (Dkt. 7)

In doing so, the Court stated:

> As this district **has repeatedly held in recent cases**, non-citizens who are detained under Section 1226(a) of the Immigration and Nationality Act are entitled to a bond hearing before a neutral decisionmaker. *See Cruz-Santana v. Gonzalez-Ramos et al.*, Civ. No. 26-1028 (GMM) (D.P.R. Jan. 22 2026) ("Where removal and detention of a noncitizen is discretionary, rather than mandatory, Section 1226(a) entitled a noncitizen to an initial bond hearing before a neutral decisionmaker[.]"); *Lora-Salazar v. Ripa*, Civ. No. 26-01014 (MAJ) (D.P.R. Jan. 13, 2026) (collecting cases and noting that, in other cases where "the Government argued that there is no right to a bond hearing for individuals detained [under Section 1226(a)] their arguments have been rejected again and again by various district courts"); *Cruz et al. v. Gonzalez et al.*, 26-cv-1036 (PAD) (D.P.R. Jan. 23, 2026) (granting request for a temporary restraining order and ordering the respondents to "provide petition a bond hearing before an immigration judge"); *Alvarez-Felix v. Gonzalez-Ramos*, 26-1041 (RAM) (Jan. 23, 2026); *Gonzalez-Rucci et al. v. Gonzalez-Ramos et al.*, 26-1045 (SCC) (Jan. 29, 2026).
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> …
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> (c) show cause why sanctions should not be imposed against Respondents, **in light of the numerous recent cases from this district in which Respondents have repeatedly attempted to conduct discretionary removals without affording a bail hearing under Section 1226(a)**. (Emphasis added)

Although Petitioner was already released after posting a bond of $7,500.00, this case and the continuous challenge of the Government to the orders of this District (See Dkt. 7) requires from this Court to issue a Declaratory Judgment to clarify immigration statutes application regarding mandatory detention

of noncitizens.

**IV. DECLARATORY JUDGMENT**:

Petitioner seeks declaratory relief pursuant to 28 USC sec. 2201-2202, and Rule 57 of the Federal Rules of Civil Procedure, ordering Respondents to comply with the U.S. Constitution and the immigration laws of the United States to ensure due process granting the right to a bond hearing, halt the transfer of immigrants outside the jurisdiction of Puerto Rico ensuring attorney-client communication, and to find that *immigration detainees who are eligible for bond, include all noncitizens without lawful status who: (1) have entered without inspection; (2) were not apprehended upon arrival; and, (3) are not subject to mandatory detention*, as defined by 8 USC § 1226(c), § 1225(b)(1), and §1231. See *Maldonado Bautista*, supra.

As part of the Declaratory Relief and to avoid further confusion and non-compliance with this Court's previous rulings, it is respectfully requested that this Court proceed to vacate the decision of the Board of Immigration Appeals (BIA) in the *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218 (BIA 2025). This was the course of action taken by the US District Court for the Central District of California in *Maldonado Bautista*, at Dkt. 116.

Although Respondents had released the Petitioner, they have not renounced their interpretation of the Immigration Law, nor have they altered the wrongful policy under which *similarly situated individuals continue to be arrested without their right to bail and in violation of their due process*. Recently, the US District Chief Judge, Raul Arias Marxuach, in Opinion and Order, Case No. 26-1041, Dkt. 32, p. 16, stated: "The Court finds that although **Petitioner falls within the technical definition of the Bond Eligible Class**, *this Court is not bound by the holding in Maldonado Bautista*." (Emphasis added) Due to the division that exist in this District, a declaratory relief is appropriate in the exercise of this Court's discretion.

The Petitioner is challenging an ongoing and systematic practice affecting the right to liberty and

due process of a definable group of detainees in the District of Puerto Rico. These are governmental actions capable of repetition and the Petitioner is requesting from the Court a Judgment clarifying the reach and interpretation of the Immigration statute at issue and prohibit his future detention unless the government can prove a change of circumstances as provided by law.

Although Petitioner has now been released on bond following a custody redetermination hearing before the Immigration Court, this case is not moot. The unlawful detention challenged in the Petition for Writ of Habeas Corpus is capable of repetition yet evading review. Moreover, Respondents continue to apply an erroneous interpretation of § 235 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225, treating noncitizens apprehended inside the United States as subject to mandatory detention and failing to issue custody redetermination documentation consistent with ICE's own July 8, 2025, Memo to All ICE Employees. (See Exhibit 1)

Petitioner respectfully requests that this Court exercise its authority pursuant to 28 U.S.C. § 2201, and enter a declaration clarifying the governing detention framework to prevent recurrence of the challenged conduct.

The case does not become moot merely because the government voluntarily ceases the challenged conduct. See *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs.*, 528 U.S. 167, 189 (2000). Petitioner was released only after litigation was initiated and after a bond hearing was conducted. Respondents remain free to re-detain Petitioner or others under the same legal theory. The challenged statutory interpretation remains operative.

Therefore, immigration detention pending bond determinations is inherently temporary and individuals are often released before federal habeas review can be completed. At the same time, ICE in Puerto Rico continues: Arresting individuals without issuing custody redetermination paperwork consistent with its July 8, 2025 internal memorandum; Arguing that § 235 of the INA applies to noncitizens present in the interior of the United States; Treating such individuals as subject to mandatory detention. This ongoing practice creates a reasonable expectation of repetition, yet evading review. See *Southern Pacific Terminal Co. v. ICC*, 219 U.S. 498 (1911).

The Supreme Court has made clear that declaratory relief remains appropriate even where coercive relief becomes unnecessary, so long as a live controversy persists. See *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118 (2007). Here, the controversy is concrete and ongoing:

-Whether § 235 (8 U.S.C. § 1225) applies to individuals apprehended inside the United States;

-Whether ICE and IJs may deny bond eligibility categorically under that provision;

-Whether ICE must comply with its own custody redetermination procedural directives.

Because Respondents continue to assert that all noncitizens present in the United States may be treated as applicants for admission subject to mandatory detention under § 1225, a judicial declaration would clarify legal obligations and prevent recurring unlawful detention. Where an agency persists in applying an allegedly unlawful statutory interpretation affecting numerous individuals, declaratory relief is particularly appropriate. See *Steffel v. Thompson*, 415 U.S. 452 (1974).

Accordingly, an actual controversy exists as to the legality of Respondents' detention policy, and a Declaratory Relief is proper under these circumstances.

**A. Declaratory Relief May Be Entered Even if Not Expressly Pled:**

Federal pleading rules do not rigidly confine courts to the specific label of relief requested. Under Federal Rule of Civil Procedure 54(c): "Every … final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings." Where the facts establish entitlement to declaratory relief, the Court may grant it.

The Petition squarely challenged the legality of detention under § 1225. The legal issue has been fully briefed. Declaratory relief arises from the same nucleus of operative facts and presents no prejudice to Respondents.

## V. LEGAL FRAMEWORK

"Freedom from imprisonment—from government custody, detention, or other forms physical

restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas v. Davis*, 533 U.S. at 690. Indefinite detention, in particular, raises a "serious constitutional problem" and violates the Due Process Clause *Id*. at 689–90.

Accordingly, the Due Process Clause protects Mr. Paula (and other similarly situated) liberty, and deprivation of his liberty must be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest").

Mr. Paula was illegally detained and abducted in Puerto Rico. If no action was taken by this Court, Mr. Paula would have been transferred from a Puerto Rico to other jurisdiction in the US. This would be detrimental to his constitutional rights of substantive and procedural due process, effective access to counsel, unconstitutional conditions of confinement that tantamount to inhuman and degrading treatment, among other civil and family rights.

**A. The Petitioner Qualifies for Bond Release**:

According to INA, section 237, a "deportable alien" is someone who: 1. at the time of entry is found inadmissible; 2. has committed certain criminal offenses; 3. has falsified documents; 4. has engaged in activities with security related grounds; 5. has become a public charge after being in the country for a certain amount of time, and; 6. is an unlawful voter . See 8 U.S.C § 1227. The Petitioner, as we stressed from the beginning, is not under any of these categories.

**B. Detention of noncitizens:**

It is important to understand the difference between detention under Section 1225 and 1226. Federal courts, including the Supreme Court, have long held that detention under Section 1225 applies to those at the border while Section 1226 applies to those already admitted in the United States.

In *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), the Supreme Court held that Section 1225

authorizes the Government "to detain certain [noncitizens] seeking admission into the country," while Section 1226 "authorizes the Government to detain certain [noncitizens] already in the country." 583 U.S. at 289.

To justify the detention of immigrants, the Government is referring to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218 (BIA 2025). In *Yajure Hurtado*, the Board of Immigration Appeals (BIA) determined that immigration judges lacked jurisdiction to see bond hearings because, under section 1225, all noncitizens **seeking admission** were subjected to mandatory detention. But the Government and immigration judges are failing to apply a decision from the Central District Court of California, that on December 18, 2025, issued a Final Summary Judgment certifying a class action, and determined that noncitizens present in the United States without admission **are not applicants for admission and cannot be subjected to mandatory detention**. See *Maldonado Bautista,* 5:25-cv-01873-SSS-BFM. See also *Lopez-Lugo v. Bondi*, 2025 U.S. Dist. LEXIS 256892, *Francisco T. v. Bondi*, 2025 U.S. Dist. LEXIS 227338.

According to dockets 101 and 102 of *Maldonado Bautista*, some ultra vires instructions had been issued to ignore the nationwide class certification and IJs continue to deny bond hearings to the class members, as the Petitioner. Therefore, the exhaustion of administrative remedies available under INA are futile at this moment. (Exhibits 2 and 3).

The Petitioner in the instant case is a beneficiary of the class and not a mandatory detention case. Therefore, he was entitled to his bond hearing in Puerto Rico. See *Pablo Lora Salazar v. Garret J. Ripa et als*, Civil No. 26-cv-1014 (MAJ) and other cases from this District. A person detained under *8 U.S.C. § 1226(a*), must, upon his request, receive a custody redetermination hearing ('bond hearing') with strong procedural protections.

Petitioner respectfully states that the BIA's decision in *Matter of Yajure Hurtado*, was vacated and is not binding and this court "must exercise independent judgment in determining the meaning of statutory provisions." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394, 144 S. Ct. 2244, 219 L. Ed. 2d 832

(2024). Moreover, Petitioner represents to the Court that Immigration Courts are not an impartial trier of facts inasmuch they have received specific instructions that the administrative decision in *Matter of Yajure Hurtado* is binding precent immaterial of whatever class action related to the interpretation of the agency states.

The *Yajure* decision is contrary to US district courts uniform approach to interpreting 8 U.S.C. §§ 1225 and 1226. See decision in *Doe v. Moniz, F. Supp. 3d, 2025 U.S. Dist. LEXIS 173360, 2025 WL 2576819 (D. Mass. Sept. 5, 2025), at *5 (collecting cases).*

*Multiple* district courts within the First Circuit have recently noted in rejecting the BIA's reasoning in *Matter of Yajure Hurtado*, the decision is inconsistent with other BIA decisions and with decades of the Department of Homeland Security's practice. See [Elias] *Escobar v. Hyde*, Civil Action No. 25-cv-12620-IT, 2025 U.S. Dist. LEXIS 196284, 2025 WL 2823324 (D. Mass. Oct. 3, 2025), and *Maza v. Hyde*, Civil Action No. 25-cv-12407-IT, -- F. Supp. 3d --, 2025 U.S. Dist. LEXIS 205956, 2025 WL 2951922 (D. Mass. Oct. 20, 2025); *Chogllo Chafla v. Scott*, 2025 U.S. Dist. LEXIS 184909, 2025 WL 2688541, at *7-S8 (D. Me. Sept. 22, 2025); see also *Sampiao v. Hyde*, F. Supp. 3d , 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924, at *8 n.11 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin*, Warden, F. Supp. 3d , 2025 U.S. Dist. LEXIS 176165, 2025 WL 2639390, at *10 n.9 (D.N.H. Sept. 8, 2025).

## VI. JURISDICTION:

Because Article III "generally requires a federal court to satisfy itself of its jurisdiction over the subject matter before it considers the merits of a case," *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999), we affirm that Respondents' challenge to this Court's jurisdiction under 8 U.S.C. § 1252 is of no application here. This is an issue decided against Respondents in several Districts. There is a case and controversy pending before this and other districts regarding the application and interpretation of the immigration "mandatory detention" statute.

## VII. ARGUMENT

Petitioner alleges his detention violates his constitutional rights and the Immigration and Nationality Act (INA) as well as his due process rights, his right to access to counsel under the Fifth Amendment to the United States Constitution and adequate conditions of confinement. He requested, in part, an immediate TRO prohibiting the Government, their agents, and employees from transferring Petitioner out of the District of Puerto Rico until he receives a bond hearing and until his writ of habeas corpus is fully reviewed, which was granted by the Court (Dkt. 7). This same interpretation has been adopted by other US District Judges in Puerto Rico:

> The Immigration and Nationality Act, 8 U.S.C. § 1226(a), "provides the general process for arresting and detaining [noncitizens] who are present in the United States and eligible for removal." Rodriguez Diaz v. Garland, 53 F.4th 1189, 1196 (9th Cir. 2022). Section 1226(a) confers suspected noncitizens "an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing . . . ." Id. at 1202.

Case No. 26-1036, at Dkt. 5.

To assess whether Petitioner is likely to succeed on the merits in his request for a bond hearing, the Court addressed the threshold question of which statute provides the Government with authority to detain Petitioner. And five different judges from this District have arrived to the same conclusion. **See Cases No. 26-1014 (TRO); 26-1028 (TRO); 26-1036 (TRO); 26-1041 (TRO); 26-1045 (TRO); and 26-1091 (TRO).**

The Government possesses the authority to detain certain noncitizens according to the Immigration and Naturalization Act (INA) Importantly, the INA differentiates between ***mandatory*** detention and ***discretionary*** detention. Only the latter provides a detainee with an entitlement to a bond hearing before an Immigration Judge. The statutory provisions controlling this distinction are: 8 U.S.C. §§ 1225 and 1226.

Section 1225 governs the detention of immigrants who have not been "admitted" under the INA. It provides for inspection of "[a]ll [noncitizens] . . . who are *applicants for admission* or

otherwise seeking admission or readmission to or transit through the United States." 8 U.S.C. § 1225(a)(3).

An "**applicant for admission**" has not been clearly defined, but according to the statute it could be a "[non-citizen] present in the United States who has not been admitted or who arrives in the United States . . . ." Id. § 1225(a)(1). Notably, Section 1225(b)(2) marshals a **mandatory** detention scheme by providing that, for noncitizens *who are* ***"applicant[s] for admission***, if the examining immigration officer determines that a [noncitizen] **seeking** admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229a [for full removal proceedings]." Id. § 1225(b)(2)(A). Detention under Section 1225(b)(2) is generally mandatory, and the statute does not provide for bond hearings. *See Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

On the other hand, contrary to the reasoning of the Government in their motions, **Section 1226** governs the "usual removal process" and ***affords noncitizens procedural protections not available in expedited removal proceedings***. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020).

Section 1226(a) of INA entitles a noncitizen to an initial bond hearing before a ***neutral*** decisionmaker, the *opportunity to be represented by counsel and to present evidence*, the right to appeal, and the right to seek new hearing when circumstances materially change. *See also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021) (holding that *the Government bears the burden of proving at an initial bond hearing held under Section 1226(a) that (1) a noncitizen poses a danger to the community based on* ***clear and convincing evidence****, or (2) the noncitizen poses a flight risk based on a* ***preponderance*** *of the evidence*); *Brito v. Garland*, 22 F.4th 240, 246 (1st Cir. 2021) (same).

Noncitizens involved in specific criminal activities are not covered by the general rule of discretionary detention under Section 1226(a). 8 U.S.C. § 1226(c)(1).

Respondents attempt to argue that Petitioner is "an applicant for admission" who is "seeking admission" and thus subject to the mandatory detention scheme under § 1225(b)(2)(A). Contrary to the Government's averments, ***the Petitioner at no moment had admitted to be an "applicant for Admission"*** a concept not clearly defined by the statute, nor that he was seeking admission at the moment of the detention. Respondents repeat a novel interpretation, rejected by numerous federal courts, that § 1225 governs "applicants for admission" while § 1226 governs those "who have been admitted."[3] But it has been historically recognized that ***§ 1226 applies to noncitizens inside the country, including those who entered without inspection, while § 1225 is limited to noncitizens seeking admission at a border or port of entry***.[4] This has been the statute interpretation for approximately 29 years, even after 1996 passage of the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA).

> [T]he text of the statute supports Petitioners' reading for the reasons already articulated by the district court in *Padron Covarrubia*s's case: the government's reading renders "an alien seeking admission" needless surplusage, and makes several provisions of § 1226 surplusage as well, or, at best, mostly unnecessary because of overlapping with § 1225. This is a whirlpool of statutory confusion where, on Petitioners' reading, there are only still waters. Petitioners provide a simple revision Congress could have passed had it wished to make noncitizens already present in the United States subject to § 1225(b)(2)(A): "if the examining immigration officer determines that an [applicant for] admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained[.]" Instead, Congress specifically limited the subsection's mandatory detention authority to noncitizens "seeking admission." "If Congress had wanted the provision to have th[e] effect [urged by the government], it could have said so in words far simpler than those that it wrote." *Biden v. Texas*, 597 U.S. 785, 798 (2022). On the government's reading, the phrase "alien seeking admission" does no independent work. But "[i]t is . . . a cardinal principle of statutory construction that we must give effect, if possible, to every clause and word of a statute." *Williams v. Taylor*, 529 U.S. 362, 404 (2000). The government's reading does not do so.

*Buenrostro-Mendez v. Bondi*, Dissent, supra, pp. 25-26.

Respondents' arguments to the contrary are unavailing. As the overwhelming majority of courts that have considered this issue have determined, Respondents' reading of the statute is

contrary to the plain meaning of the text, basic principles of statutory interpretation, and well-established federal precedent. *See, e.g.*, *Armando Becerra Vargas v. Bondi*, SA-25-cv-1023, 2025 WL 3300446 (W.D. Tex. Nov. 12, 2025) (Bemporand, MJ.) (collecting cases and noting that "the majority of the district courts in the Fifth Circuit—and the courts in this District—that have considered the issue" "have rejected Respondents' broad new interpretation of § 1225(b)(2)"), *report and recommendation adopted sub nom. Vargas v. Bondi*, SA-25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (Biery, J.); *Covarrubias v. Vergara*, 5:25-cv-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025) (Kazen, J.) (same).

Furthermore, Respondents' interpretation of "seeking admission" is at odds with background constitutional principles. Respondents posit that, on Petitioner's reading of the statute would now bestow him with the benefit of additional process. However, it is well established "that ***once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent***." (Emphasis added) *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). By providing additional process for noncitizens that have entered the country, the relevant statutory framework aligns with well-established constitutional principles that do the same.

> The core issue is whether the phrase "an alien seeking admission" in § 1225(b)(2)(A) limits the sweep of persons subject to mandatory detention under the statute, or whether it merely restates the category of "applicant for admission" defined by § 1225(a)(1) and reproduced in § 1225(b)(2)(A)'s first phrase. The government argues that there is no meaningful difference between an "applicant for admission" and "an alien seeking admission," because the latter category is broader than and includes the former. Because Petitioners are applicants for admission as defined by § 1225(a)(1), therefore, they are necessarily also subject to § 1225(b)(2)(A). This is not a credible reading for several reasons. Instead, consistent with the statutory definition of "admission," the provision's context, the Supreme Court's understanding of the statutory scheme, and the whole history of American immigration law, "**seeking admission" means what it sounds like: actively seeking to enter this country**. (Emphasis added)

*Buenrostro-Mendez v. Bondi*, Dissent, supra at 25.

In short, Respondents do not dispute that Petitioner entered the United States without inspection and has been present and resided in the United States for more than 2 decades. In other words, Petitioner was not "arriving" at a border nor "seeking admission" when he was arrested.[4] Accordingly, Petitioner is being detained pursuant to § 1226, which requires an individualized bond hearing as this Court correctly decided in the temporary restraining order.

### A. Petitioner's Continued Detention Without a Bond Hearing Violates Due Process.

This Court initially accepted Petitioner's claims that absent judicial intervention, he faces imminent transfer outside of the District of Puerto Rico that would cause irreparable harm by severely interfering with his right to counsel and other constitutional rights. Accordingly, the Court enjoined Respondents from transferring or relocating Petitioner outside the District of Puerto Rico. (Dkt. 7)

Contrary to the Government theory, Section 1226(a)'s discretionary regime governs the detention because Petitioner, was arrested while residing in the United States. **This interpretation aligns with the statutory distinction between arriving applicants for admission (governed by Section 1225) and noncitizens who are already present in the United States and are later arrested and detained (governed by Section 1226).** Applying Section 1225(b)(2) to this factual posture would blur that distinction and render Section 1226(a) effectively redundant[5], contrary to

[4] "Petitioners' reading gives "seeking admission" independent force—it refers to noncitizens seeking entry into the United States—and chimes with the statutory definition of "admission" as "lawful entry . . . into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A); *see Granados v. Noem*, No. SA-25-CA-01464, 2025 WL 3296314, at *6 (W.D. Tex. Nov. 26, 2025) (observing that, when similar petitioners were detained, they "w[ere] not seeking entry, much less 'lawful entry . . . after inspection and authorization'" (quoting 8 U.S.C. § 1101(a)(13)(A))). As the district court in Padron Covarrubias's case recognized, "a variation in terms suggests a variation in meaning." Scalia & Garner, *supra*, at 170. The surplusage canon and statutory definition of "admission" reinforce the common-sense understanding: Petitioners were not "seeking admission" when they were arrested inside the United States. *See Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008) ("Under **th[e] statutory definition, 'admission' is the lawful *entry* of an alien after inspection**, something quite different, obviously, from post-entry adjustment of status[.]"). *Buenrostro-Mendez v. Bondi*, Dissent, supra, pp. 26-27. Emphasis added.

[5] "[T]he government's position that "[m]ere overlap [between § 1225(b)(2)(A) and § 1226(c)(1)] is no basis for re-writing clear statutory text" drastically understates the significance of what it proposes. **Section 1226(c)(1) functions as § 1226's**

basic principles of statutory interpretation. In addition, Petitioner has no criminal record at all, which could otherwise subject him to the mandatory detention exception outlined under Section 1226(c). *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 26-27 (1st Cir. 2021); *Rodriguez-Diaz*, 53 F.4th at 1196.

Where removal and detention of a noncitizen is discretionary, and not mandatory, Section 1226(a), entitles a noncitizen to an initial bond hearing before a neutral decisionmaker as part of the due process, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change. *Rodriguez-Diaz*, 53 F.4th at 1202; *see also Doe*, 11 F.4th at 2.

**B. THE BOND HEARING and the Futility of Administrative Remedies:**

During the Bond Hearings ordered by this Court in other cases, the petitioners faced with statements like this: *"it's compliance with the Court's order and request for a bond hearing is made pursuant to the requirements of the order and is not intended, and should not be construed, as a waiver of any arguments, including its position that the respondent, who is present in the U.S. without admission is an applicant for admission as defined in INA § 235(a)(1), 8 U.S.C. § 1225(a)(1), and subject to detention under INA § 235(b)(2) 8 U.S.C. § 1225(b)(2); nor a waiver of any rights to seek appellate review or other relief from the Court's order."*

In addition, bonds have been set in the amount of $10,000, the highest counsels have seen in this jurisdiction during their immigration practice of over 20 years.

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**own mandatory detention provision, listing criminal and terrorism offenses that render noncitizens otherwise covered by § 1226, and so eligible for bond hearings under § 1226(a), subject to mandatory detention**. 8 U.S.C. § 1226(c)(1). This list was expanded just last year by the Laken Riley Act, which added offenses like theft and assault of a law enforcement officer. Pub. L. No. 119-1, 139 Stat. 3 (2025) (codified at § 1226(c)(1)(E)). **But this Act, and several of the other § 1226(c) exceptions referring to inadmissible noncitizens, would have been largely unnecessary if all inadmissible noncitizens were already subject to mandatory detention without a bond hearing under § 1225(b)(2)(A)**. *See Santos M.C. v. Olson*, No. 25-CV-4264, 2025 WL 3281787, at *3 (D. Minn. Nov. 25, 2025) ("If the government is correct, there was no reason for Congress to amend § 1226[.]")." (Emphasis added) *Buenrostro-Mendez v. Bondi*, Dissent, supra, p. 28.

Immigration judges continue to recognize *Yajure Hurtado*, 29 I&N Dec. 216, 220-28 (BIA 2025*) as a biding precedent* and that, if it was not for the District Court order, the immigration court lacked jurisdiction to adjudicate bond requests.

**C. Exhaustion of Administrative Remedies:**

Respondents refer that Petitioner must exhaust administrative remedies using his right to appeal before the BIA. But that remedy is impossible to exhaust since the Chief Justice of the BIA, Teresa Riley, who was appointed in December 2025, as recent as January 13, 2026, at 3:09 pm reminded all immigration judges that "**Yajure-Hurtado remains binding precedent on agency adjudications**." (Exhibits 2 and 3). Any allegations regarding exhaustion of administrative remedies becomes futile in these circumstances.

However, the Court is not bound by BIA interpretations that conflict with the statutory text or controlling circuit precedent which is what the Government proposed. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024). After a conscious analysis of the implications of the proposed interpretation by the Government and by the BIA, district courts have rejected the approach of *Matter of Yajure Hurtado* and upheld the right to a bond hearing under circumstances akin to those of the Petitioner.[6] In a recent Order at the District Court, similar circumstances of this case, the Court issued the habeas corpus and ordered "to release Petitioner immediately pending that bond hearing." See Case No. 26-1014 (MAJ).

[6] *See*, *e.g.*, *Sampiao v. Hyde*, 799 F. Supp. 3d 14, 29 n.11 (D. Mass. 2025) (noting the court's disagreement with the BIA's analysis in Yajure Hurtado); *Elias Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025); *Moreira Aguiar v. Moniz*, No. 25-CV-12706, 2025 WL 2987656, at *3 (D. Mass. Oct. 22, 2025); Tomas *Elias v. Hyde*, No. 25-CV-540, 2025 WL 3004437, at *3 (D.R.I. Oct. 27, 2025); *Lora-Salazar v. Ripa*, No. 26-CV-1014-MAJ (D.P.R. Jan. 13, 2026) (Docket Nos. 5, 13). In the same vein, district courts have similarly rejected the adoption of a broad interpretation of 1225(b)(2) that would, consequently, generate overlap with Section 1226(a) as to erroneously deny the noncitizen's right to a bond hearing. *See generally Jimenez v. FCI Berlin, Warden*, 799 F. Supp. 3d 59 (D.N.H. 2025); *Rodriguez v. Nessinger*, No. 25-CV-505, 2025 WL 3306576 (D.R.I. Oct. 17, 2025); *Doe v. Moniz*, 800 F. Supp. 3d 203 (D. Mass. 2025); *Loa Caballero v. Baltazar*, No. 25-CV-3120, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996 (D. Mass. Oct. 3, 2025) (granting a preliminary injunction to release a Petitioner unless provided with a bond hearing compliant with *Hernandez-Lara*).

> **Since the subsequent bond proceedings held before an Immigration Judge were dismissed for lack of jurisdiction, (ECF No. 8 at 2), that prior Order remains in effect. Accordingly, at this time Respondents may not transfer Petitioner out of the District**. …**Accordingly, the Court GRANTS 1 "Petition for Writ of Habeas Corpus."** … Respondents are further **ORDERED to release Petitioner immediately pending that bond hearing. … or if said bond hearing is dismissed for lack of jurisdiction**, **Petitioner must be immediately released from detention.**" (Emphasis added).

This case evidenced the futility of exhausting administrative remedies when immigration judges are ignoring court rulings, giving more importance to the instructions received from the Board of Immigration Appeals.

In *Maldonado Bautista, infra,* the Court stated:

> Courts may waive prudential exhaustion if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing,* 370 F.3d at 1000. Petitioners bear the burden of demonstrating at least one of these factors applies. *See Ortega-Rangel v. Sessions,* 313 F.Supp.3d 993, 1003 (9th Cir. 2018).
>
> Petitioners argue that appeals to the BIA would be **futile**, further detention constitutes irreparable injury, and agency delay in adjudicating bond appeals warrants excusing exhaustion. [App. at 17–20]. Respondents contend Petitioners failed to carry their burden, signaling back to the exhaustion issue and characterizing BIA review as adequate. [Opp. at 25–26].
>
> The Court finds Petitioners' futility argument persuasive, which positions itself as the inverse of Respondents' argument about the agency's ability to self-correct. The language of the DHS Guidance Notice, the IJs' practice of denying bond hearings based on that Notice, and the cited BIA decision in Petitioners' Application sufficiently demonstrate DHS and DOJ's commitment to the positions detailed in the Notice, which would render appellate review at the BIA inadequate or futile.
>
> Having found exhaustion of remedies is not required and for the other reasons discussed above, the Court hereby **GRANTS** Petitioners' TRO. [Dkt. 5-1].
>
> Additionally, the Court finds that Petitioners will be irreparably prejudiced if Respondents choose to relocate Petitioners outside of this judicial district pending final resolution of this litigation. Id., p. 12.

Finally, administrative judges of immigration have no authority to address the constitutional challenges to Petitioner's detention, and transfer to a different jurisdiction. See *Ozturk*: (Neither the IJ nor the BIA has "jurisdiction to decide constitutional issues." *Rabiu v. Immigr. & Naturalization Serv*., 41 F.3d 879, 882 (2d Cir. 1994); see also *Hinds v. Lynch*, 790 F.3d 259, 262 (1st Cir. 2015) (citing *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992)); *Arriaga v. Mukasey*, 521 F.3d 219, 222 (2d Cir. 2008) (same).)

Based on the merits of Petitioner's claim, it is requested that this Court deny the Respondents Memorandum and Opposition to Petition for Writ of Habeas Corpus.

**D. Irreparable Harm:**

Here, the "irremediable" injury would be multiple: detention; removal from this Court's jurisdiction pending the habeas corpus proceedings; and the imminent consequences that would have on his person and his rights.

Moreover, the Petitioner was struggling to avoid be transferred to an immigration detention facility in mainland United States and separated from his counsel – which raises grave concerns as to his constitutional right to access to counsel.

In *Maldonado Bautista*, the Court stressed:

> "In the present matter, the Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under § 1226(a). *See Rodriguez Diaz*, 53 F.4th at 1202."

**E. *JENNINGS V. RODRIGUEZ*:**

In *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), the Supreme Court held that Section 1225 authorizes the Government "to detain certain [noncitizens] seeking admission into the country," while Section 1226 "authorizes the Government to detain certain [noncitizens] already in the country." 583 U.S. at 289. Regarding the mandatory detention of the Petitioner in Jennings, the Court considered the criminal conviction, something that is not present in this case.

> In sum, U.S. immigration law authorizes the Government to detain certain *aliens seeking admission* into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).

*Jennings, Id.* (emphasis added). At page 297 (referring to "aliens seeking entry into the United States ('applicants for admission' in the language of the statute)").

## VIII. THE PETITIONER IS PART OF *MALDONADO BAUTISTA* NATIONWIDE CLASSACTION:

Respondents failed to apply a decision from the Central District Court of California, that on December 18, 2025, issued a Final Summary Judgment certifying a class action, and determined that noncitizens present in the United States without admission **are not applicants for admission and cannot be subjected to mandatory detention**. See *Maldonado Bautista,* 5:25-cv-01873-SSS-BFM. See also *Lopez-Lugo v. Bondi*, 2025 U.S. Dist. LEXIS 256892, *Francisco T. v. Bondi*, 2025 U.S. Dist. LEXIS 227338.

The Petitioner in the instant case is a beneficiary of the class and not a *mandatory detention case*. This was confirmed by the US District Chief Judge Arias Marxuach in Opinion and Order, Case No. 26-1041, Dkt. 32, p. 16. "The Court finds that **although Petitioner falls within the technical definition of the Bond Eligible Class**, this Court is not bound by the holding in *Maldonado Bautista*." Although wrongly decided, the Court recognized that Petitioner in that case, Joan Zorrilla-Lora, was part of the *Maldonado* Class Action. The Petitioner is in similarly situated circumstances.

Considering the decision in *Maldonado Bautista, that certified a nationwide class of immigration detainees who are eligible for bond, Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, (C.D. of California, Case No. :25-cv-01873-SSS-BFM)[7], the posture of IJ's at this stage is reckless and arbitrary, urging the intervention of this Court. See recent developments in *Maldonado Bautista* (Exhibit 4, Dkt. 116). Like the Petitioner,

> "Bautista is but one of hundreds, if not thousands, of noncitizens with no criminal background that have been arrested and detained by the Government for being in the country without admission. The Supreme Court has said before, generally, "it is not a crime for a removable [noncitizen] to remain present in the United States." *Arizona v. United States*, 567 U.S. 387, 407 (2012). Consider the Supreme Court's description of what would happen in Bautista's situation:
>
> > If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent. When [a noncitizen] is suspected of

[7] *Maldonado Bautista* is a nationwide class action with a final determination of the District Court, contrary to the arguments of the Government. The Petitioner and many other similarly situated in Puerto Rico complies with the definition of class members in this case.

> being removable, a federal official issues an administrative document called a "Notice to Appear." *See* 8 U.S.C. § 1229(a); 8 CFR § 239.1(a). The form does not authorize an arrest. Instead, it gives the [noncitizen] information about the proceedings, including the time and date of the removal hearing. *See* 8 U.S.C. § 1229(a)(1). If [a noncitizen] fails to appear, an *in absentia* order may direct removal. § 1229a(b)(5)(A). *Id."*

*Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.,* Case No. 5:25-cv-01873-SSS-BFM, **ORDER GRANTING PLAINTIFF PETITIONERS' MOTION TO ENFORCE JUDGMENT,** February 18, 2026; Exh. 4, p.4.

Furthermore, in *Bautista***, "**the Court declared as a matter of law that indefinite detention for Bautista *and those similarly situated is unlawful*. The number of people in Bautista's exact situation was so large that the Court found it appropriate *to certify a nationwide class to which this declaration of law would apply*. But declaratory relief was not the only form of relief ordered. **The Court also *vacated* the underlying DHS Policy that the Government relied on to continue detaining people like Bautista**." Id. at 5. (Emphasis added).

"**Respondents' noncompliance has caused a routine process of adjudicating habeas petitions and temporary restraining orders**". [Dkt. No. 107-2, "Transcript" at 10:6-22]." Id. at 6.

As a matter of fact, during this month the ACLU of Puerto Rico and the undersigned counsels obtained 4 temporary restraining orders and an Order instructing for the return of one of our clients due to the continued challenge to the Court authority by the Department of Homeland Security (DHS) and the Immigration and Custom Enforcement (ICE) in Puerto Rico. See U.S. District Court for the District of Puerto Rico, Cases No. 26-1028 (GMM); 26-1036 (PAD); 26-1041 (RAM); 26-1045 (SCC). An additional Case, No. 26-1014 (MAJ) reflects also our statement. It is alarming that immigrants with no access to a lawyer would have to endure an arbitrary violation of their civil rights and liberties at the hands of ICE agents. And this is wrong!

"**The Court has identified over 400 cases nationwide following this Court's Final Judgment in which district courts have granted habeas petitions** filed by Bond Eligible Class members.

WESTLAW, + (habeas /5 grant!) "Bautista", 405 results (Feb. 5, 2025) (filtered by Search within Results +"grant! /20 bond", "Date After 12/18/2025")." Id., pp. 6-7. (Emphasis added).

The courts have a duty to apply the law to all class members, as determined in the binding, final judgment issued *in Maldonado Bautista*. See 2025 WL 3678485, at *1. The Executive Office for Immigration Review is a Defendant in *Maldonado Bautista*, and is thus bound by the ruling there, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). It is a "basic proposition that all orders and judgments of courts must be complied with promptly," *Maness v. Meyers*, 419 U.S. 449, 458 (1975), and thus, in "suits against government officials and departments, [courts] assume that they will comply with declaratory judgments." *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in *Maldonado Bautista* have "the same effect as an injunction in fixing the parties' legal entitlements." *Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs*., 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). The pending appeal has no impact on the finality and effect of the declaratory judgment unless stayed, vacated, or reversed by an appellate court. See 18 Moore's Federal Practice – Civil § 131.30[2][c][ii] (2025); *United Tchr. Assocs. Ins. Co. v. Union Lab. Life Ins. Co*., 414 F.3d 558, 570–72 (5th Cir. 2005) (surveying cases).

In other words, the federal government—including EOIR—is bound by the *Maldonado Bautista* declaratory judgment granting Petitioner, *and all other in similar circumstances*, the right to a bond hearing under § 1226(a). This understanding of declaratory judgments—and thus this court's compliance with the declaratory judgment in *Maldonado Bautista* —is consistent with the decisions of many courts. See, e.g., *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court."), abrogated on other grounds by, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), cert. denied, 144 S. Ct. 688 (2024);

*Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as "the functional equivalent of a writ of mandamus"); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) ("The government's decision to appeal this Court's ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal."), rev'd on other grounds, 184 F.3d 900 (D.C. Cir. 1999).

In the February 18, 2026 Order (Exh. 4), the District Court stated: "Respondents have far crossed the boundaries of constitutional conduct. (footnote omitted) Somehow, even after the judicial declaration of law that the DHS was misguided in its act of legal interpretation that nullified portions of a congressionally enacted statute, Respondents still insist they can continue their campaign of illegal action. The shameless submission that is Respondents' Opposition deliberately seeks to erode any semblance of separation of powers. [*See* Dkt. No. 110, "Opposition" or "Opp."]." Id., pp. 10-11.

The Court in *Maldonado* continues: "Yet separation of powers concerns is at the heart of this case, this Court's exercise of authority, and this country's foundational principles imbued in the Constitution. Respondents appear to have little regard for such fundamental tenets; thus, a brief lesson in legal history is apt." Id., p. 13.

> "Separation of powers as well as checks and balances are essential components to this country's founding. The Constitution is evidence of that fundamental premise. The words and structure of the Constitution anticipate that the three branches of government would be in tension with one another. *See* Redish, *supra*, at 3 (describing the Framers' design of the constitutional system "to protect against the risk of a dominant faction abusing its power")". Id.
>
> …
>
> When considering one branch's aggrandizement of power, Chief Justice John Marshall confirmed that the Constitution "establish[ed] certain limits not to be transcended." *Marbury v. Madison*, 5 U.S. 137, 176 (1803).
>
> Respondents engage in unlawful practices under the guise of "immigration enforcement" and fidelity to agency regulations. Those practices were found unlawful by way of statutory interpretation by this Court.
>
> …

> The judiciary, having "neither force nor will," possesses "merely judgment." *Id.* Judgment carries power. "[A]n order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings." *United States v. United Mine Workers of Am.*, 330 U.S. 258, 293 (1947).
>
> Respondents cannot relitigate the validity of the Court's final judgment here nor continue to endorse an executive interpretation of law that is contrary to the final judgment's declaration of law. "It is for the court of first instance to determine the question of the validity of the law, and until its decision is reversed for error by orderly review, either by itself or by a higher court, its orders based on its decision are to be respected." *Howat v. State of Kansas*, 258 U.S. 181, 180–90
> (1922).

Id., p. 14. Respondents are threatening separation of power while ignoring the nationwide class certification in *Maldonado Bautista*. "[B]ased on the representations Respondents have made to the Court, it is evident that further relief is both necessary and proper. The Court **VACATES** *Yajure Hurtado* under the APA." Id, p. 16. The Court also ordered the parties to propose notice mechanisms to Bond Eligible Class.

> Indeed, other district courts have ordered classwide notice in similar cases. *See Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 3687757 at *9–11 (D. Mass. Dec. 19, 2025) (ordering notice in a certified class on the issue of immigration bond hearings for habeas petitioners); *Rodriguez Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, 2026 WL 102461 at *6–7 (W.D. Wash. Jan. 14, 2026) (same).

Id., at 17. The Court finally, at page 18, ordered classwide notice of the Final Judgment and made reference to a form included as appendix.

Balance of Interests: The Public Interest

When the Government, as here, is acting contrary to the plain text of federal law, the balance of equities weighs against it. *See New York v. Trump*, 133 F.4th 51, 71 (1st Cir. 2025); *New Jersey v. Trump*, 131 F.4th 27, 40-41 (1st Cir. 2025). Therefore, there is patently "no public interest in the perpetuation of unlawful agency action." *Rhode Island v. Trump*, 155 F.4th 35, 50 (1st Cir. 2025) (citation omitted). See TRO issued in case number 26-1028 (GMM) (Dkt. 7)

## CONCLUSION

In conclusion, Mr. Paula respectfully urges the Court to reach the same conclusion as legion federal courts by likewise holding that Petitioner's continued detention without a bond hearing violates the Immigration and Nationality Act and his right to due process. Additionally, his detention was racially motivated, based on national origin and discriminatory grounds. Petitioner respectfully requests that this Court grant his Petition for a Writ of Habeas Corpus.

## PRAYER OF RELIEF:

**WHEREFORE**, the Petitioner very respectfully request from the Court to DENY the Government Memorandum in Opposition to *Petitioners' Writ of Habeas Corpus*; and:

1. To issue the Writ of Habeas Corpus reaffirming the right to a bond hearing as part of the right to due process of Mr. Paula and other individuals similarly situated;
2. Retain jurisdiction;
3. Enter a declaratory judgment stating that individuals apprehended within the interior of the Commonwealth of Puerto Rico are not "applicants for admission" or "seeking admission" and therefore are not subject to mandatory detention under 8 U.S.C. § 1225;
4. Grant such other and further relief as the Court deems just and proper for the Petitioner and any other individuals similarly situated that comply with the class definition of ***Maldonado Bautista***, supra.
5. Issue a Declaratory Judgment vacating *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218 (BIA 2025).

**RESPECTFULLY SUBMITTED,** in San Juan, Puerto Rico on March 3, 2026.

*s/ Fermín L. Arraiza-Navas*
#215705 (US District Court Puerto Rico)

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Dated: march 3, 2026

**CERTIFICATE OF SERVICE :** I hereby certify that, on March 3rd, 2026, I electronically filed the foregoing document with the United States District Court of Puerto Rico by using the CM/ECF system, which will send notifications of such filing to all CM/ECF counsel of record.

Dated this 3rd day of March, 2026.

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