

# Anatomy of a Habeas Filing

## Case Caption

### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Note: In WDOK, parties must be numbered separately in the case caption.

[NAME],

*Petitioner,*

v.

Markwayne Mullin, in his official capacity as Secretary of United States Department of Homeland Security; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, in her official capacity as Attorney General of the United States; TODD M. LYONS, in his official capacity as Senior Official Performing the Duties of the Director of United States Immigration and Customs Enforcement; [NAME], in his official capacity as Field Office Director of Enforcement and Removal Operations, El Paso Field Office, United States Immigration and Customs Enforcement; [NAME], in his official capacity as Warden of [Facility],

*Respondents.*

Case No. [XXXXXXXX]

Anything highlighted in yellow in this document should be customized to your client's case

The case number will be assigned by CM/ECF after you open a case. Enter that number here before you upload your habeas petition to CM/ECF

## Introduction

### VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

1. Petitioner [NAME] brings this petition for a writ of habeas corpus to seek enforcement of their rights as a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents at [FACILITY].

2. [Petitioner] is unlawfully detained because the U.S. Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide

# Anatomy of a Habeas Filing

## Introduction (continued)

by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

3. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

4. In addition, even if [Petitioner] were not entitled to relief based on *Maldonado Bautista* class members, the relevant detention statutes demonstrate that [Petitioner] is detained under 8 U.S.C. § 1226(a).

## Jurisdiction and Venue

### JURISDICTION AND VENUE

5. Petitioner is in the custody of Respondents. Petitioner is detained at [FACILITY] in [TOWN], New Mexico.

6. Jurisdiction is proper under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and the Suspension Clause, U.S. Const. art. I, § 9, clause 2.

7. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687; *Soberanes v. Comfort*, 109 F. App’x 328, 332 (10th Cir. 2004).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

9. Venue is proper in this District because Petitioner is detained in this District, Petitioner’s immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. 28 U.S.C. §§ 1391(b), (e)(1); *see Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *United States v. Scott*, 803 F.2d 1095,

# Anatomy of a Habeas Filing

## Jurisdiction and Venue (continued)

1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

## Parties

### PARTIES

10. Petitioner [NAME] is alleged to be a citizen of [COUNTRY] who has been in immigration detention since [DATE]. After Petitioner was arrested in [LOCATION], ICE did not set bond. [Petitioner requested review of their custody by an Immigration Judge. On [DATE], Petitioner was denied bond by an Immigration Judge because Petitioner was deemed an “applicant for admission.”] [OR: Petitioner is unable to obtain review of their custody by an Immigration Judge, pursuant to *Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025).] Petitioner has resided in the United States since approximately [YEAR].

11. Respondent [NAME] is the Warden for [FACILITY], where Petitioner is currently detained. They are a legal custodian of Petitioner and are named in their official capacity.

12. Respondent [NAME] is the Field Office Director responsible for the El Paso Field Office of ICE’s Enforcement and Removal Operations division. They are a legal custodian of Petitioner and they are named in their official capacity. Note that Oklahoma detention facilities fall under the purview of the Dallas Field Office.

13. Respondent Todd Lyons is the Senior Official Performing the Duties of the Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

14. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). They are a legal custodian of Petitioner and are named in their official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is a legal custodian of Petitioner and is named in

# Anatomy of a Habeas Filing

her official capacity.

## STATEMENT OF FACTS AND LEGAL FRAMEWORK

16. DHS issued a policy on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

17. On September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedential decision, binding on all Immigration Judges, holding that an Immigration Judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

18. On November 20, 2025, the district court in the Central District of California 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 regarding bond eligibility. *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). The certified Bond Eligible Class is defined as: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2)

### Allegations: Statement of Facts & Legal Framework

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” *Id.*

19. On December 18, 2025, the district court issued an order clarifying that the November 20 and November 25 orders are binding, final judgments on Defendants-Respondents. *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3713982, at \*5–6 (C.D. Cal. Dec. 18, 2025); *see also Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), Dkt. No. 93 (amended order consolidating prior orders on motion for partial summary judgment, class certification, and application for reconsideration or clarification).

20. That same day, the district court entered final judgment, declaring that the Bond Eligible 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 v. Noem*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485, at \*1 (C.D. Cal. Dec. 18, 2025).

21. Nonetheless, EOIR and DHS have blatantly refused to abide by the declaratory relief and have unlawfully denied Petitioner and others the opportunity to be released on bond.

22. [Petitioner] is a member of the Bond Eligible Class, as they:

- a. Do not have lawful status in the United States;
- b. Entered the United States without inspection more than [###] years ago;
- c. Were not apprehended upon arrival; and
- d. Are not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

23. [Petitioner] entered the United States without inspection and has resided in the United States since approximately [YEAR]. [Petitioner] was living in [LOCATION] at the time

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

they were apprehended.

24. On [DATE], [Petitioner] was apprehended [describe basic facts of apprehension].

Petitioner is now detained at [FACILITY].

25. After apprehending [Petitioner], DHS placed them in removal proceedings pursuant to 8 U.S.C. § 1229a. ICE has charged [Petitioner] with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

26. [Describe equities – family in the United States including any U.S. citizens, employment, community connections, criminal history, etc.]. [Petitioner] is neither a flight risk nor a danger to the community.

27. Following [Petitioner]'s arrest and transfer to [FACILITY], ICE issued a custody determination to continue [Petitioner]'s detention without an opportunity to post bond or be released on other conditions.

28. Due to the policy and practice of EOIR regarding detained individuals like [Petitioner], and the BIA's order in *Matter of Yajure Hurtado*, it would be futile for [Petitioner] to seek a custody redetermination before the Immigration Judge. "A narrow exception to the exhaustion requirement applies if a petitioner can demonstrate that exhaustion is futile." *Garza v. Davis*, 596 F.3d 1198, 1203 (10th Cir. 2010); *see also Pu Sacvin v. De Anda-Ybarra*, No. 2:25-cv-010131-KG-JFR, 2025 WL 3187432, at \*4 (D.N.M. Nov. 14, 2025) (finding exhaustion would be futile in § 1225 / § 1226 cases). [OR: [Petitioner] subsequently requested a bond redetermination hearing before an Immigration Judge. The Immigration Judge found that they lacked jurisdiction to consider releasing Petitioner on bond].

29. As a result, [Petitioner] remains in detention. Without relief from this Court, they

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

face the prospect of months, or even years, in immigration custody, separated from their family and community.

30. The Court should expeditiously grant this petition.

31. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject [Petitioner] to unlawful detention despite their clear entitlement to consideration for release on bond as a Bond Eligible Class member.

32. Immigration Judges have been instructed by agency leadership that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead Immigration Judges remain bound to follow the agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).<sup>1</sup>

33. Because Respondents are detaining [Petitioner] in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondents must immediately release [Petitioner] on their own recognizance or subject to reasonable conditions.<sup>2</sup>

---

<sup>1</sup> See Megan Crepeau, *Immigration Judge Says Detainee Bond Hearings Not Required*, Bloomberg Law (Jan. 15, 2026), <https://www.bloomberglaw.com/bloomberglawnews/bloomberg-lawnews/BNA%200000019bc221d228a1dff6eddfb00001>; Am. Immigr. Laws. Ass’n, *Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista* (updated Jan. 16, 2026), <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>

<sup>2</sup> It is within this Court’s equitable authority to conduct a bond hearing for Petitioner and to order release subject to reasonable conditions. See, e.g., *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 455, 477 (D. Mass. 2010) (holding that “it is most appropriate that the [habeas] court conduct the bail hearing” to avoid a “circuitous and potentially lengthy process” and to “serve[] the historic purpose of the writ, namely, to relieve detention by executive authorities without judicial trial”) (cleaned up).

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

34. Alternatively, the Court should order [Petitioner]'s release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days, with the Government bearing the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community. *See L.G. v. Choate*, 744 F.Supp.3d 1172 (D. Colo. 2024); *Diaz-Ceja v. McAleenan*, No. 19-cv-00824-NYW, 2019 WL 2774211 (D. Colo. July 2, 2019); *see also Velasquez Salazar v. Dedos*, 806 F.Supp.3d 1231, 1242–46 (D.N.M. 2025) (finding that “these are not normal circumstances” because “Petitioner has been unlawfully detained” for nearly three months “without due process in violation of his constitutional rights,” such that the burden should be shifted to the Government at a subsequent § 1226(a) bond hearing); *Pu Sacvin v. De Anda-Ybarra*, No. 2:25-cv-01031-KG-JFR, 2025 WL 3187432, at \*3 (D.N.M. Nov. 14, 2025) (finding that petitioner’s unlawful detention in violation of his constitutional rights shifts the burden to the Government; holding that “a noncitizen’s strong private interest in being free from civil detention outweighs the Government’s comparatively minimal burden to justify custody”) (cleaned up); *Molina Ochoa v. Noem*, No. 1:25-cv-00881-JB-LF, 2025 WL 3125846, at \*11–13 (D.N.M. Nov. 7, 2025) (proposed findings and recommended disposition) (recommending, where petitioner had been detained for more than four months, that the Government bear the burden at a § 1226(a) bond hearing).

35. Even if the Court does not order relief under *Maldonado Bautista*, the text and structure of § 1226 and § 1225 demonstrate that § 1226(a) governs [Petitioner]'s detention.

36. Section 1226 generally governs the detention of those “already in the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Subsection (a) applies the default rule for such people, providing for discretionary detention “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

§ 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

37. Subsection (c) confirms that subsection (a) governs [Petitioner]’s detention. As the Supreme Court has explained, “subsection (c) is simply a limit on the authority conferred by subsection (a).” *Nielsen v. Preap*, 586 U.S. 392, 409 (2019). It “carves out a statutory category of [noncitizens] who may *not* be released under § 1226(a)” in *Jennings*. 583 U.S. at 289.

38. Critically, subsection (c)’s carve-outs reference individuals charged as being inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such individuals makes clear that, by default, individuals like [Petitioner] are afforded a bond hearing under subsection (a). This is because “the statutory exceptions would be unnecessary” unless the statute “appl[ies] generally” to inadmissible persons. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *see also id.* (“The fact that Congress has created specific exceptions to [the Rule] hardly proves that the Rule does not apply generally. In fact, it proves the opposite.”).

39. By contrast, § 1225(b) applies to individuals arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on “inspection[s]” at the border by “examining immigration officer[s]” of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b), (2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.

40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to individuals like [Petitioner], who have already entered and were residing in the United States at the time they were apprehended.

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

41. The regulations drafted by EOIR following the enactment of the detention provisions at § 1226(a) and § 1225(b)(2) likewise explained that, in general, individuals who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of [Noncitizens]; Detention and Removal of [Noncitizens]; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

42. The overwhelming majority of courts—including in this Circuit—have rejected the Government’s arguments and agree that noncitizens like [Petitioner] are subject to § 1226(a) and eligible for a bond hearing. *See Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ---, 2025 WL 3295903, at \*13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions rejecting government’s position); *Jacobo Ramirez v. Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at \*1 (D. Nev. Feb. 5, 2026) (noting “more than 300 federal judges in over 1,600 cases across the country have rejected the government’s new detention policy, with over 100 new lawsuits filed daily, while 14 federal judges have found in favor of the government’s position” (citation omitted)).

43. Similarly situated petitioners detained within this District likewise have been granted relief in habeas. *See, e.g., Quishpi Morocho v. Castro*, No. 2:26-cv-00135-SMD-KK, 2026 WL 575762 (D.N.M. Mar. 2, 2026) (ordering immediate release); *Intriago-Sedgwick v. Noem*, No. 1:25-cv-01065-MIS-LF, 2025 WL 3688155 (D.N.M. Dec. 19, 2025) (ordering immediate release where no allegations of flight risk or danger); *Mendieta v. De Anda-Ybarra*, No. 2:26-CV-00187 KWR-JHR, 2026 WL 446318 (D.N.M. Feb. 17, 2026) (ordering bond hearing within 5 days); *Velasquez Salazar*, 806 F.Supp.3d at 1245–46 (ordering bond hearing within seven days with burden on Government); *Pu Sacvin*, 2025 WL 3187432 at \*3 (same); *Molina Ochoa*, 2025 WL 3125846, at \*11–13 (recommending same).

# Anatomy of a Habeas Filing

## Allegations: Statement of Facts & Legal Framework (continued)

44. The Court should therefore order [Petitioner]'s immediate release, or, in the alternative, require Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

## Claims for Relief

### CLAIMS FOR RELIEF

#### Count One

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

Note: Classwide relief in Maldonado Bautista has since been limited to CD Cal. Your client will not qualify.

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

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

47. 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.

48. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

49. Respondents are parties to *Maldonado Bautista* and bound by the court's declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

50. By denying Petitioner a bond hearing under § 1226(a) and asserting that they are subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the court's judgment in *Maldonado Bautista*.

# Anatomy of a Habeas Filing

## Claims for Relief (continued)

### Count Two

#### **Violation of the INA: Unlawful Detention under 8 U.S.C. § 1225(b)(2)(A)**

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

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner. The text and structure of § 1226 and § 1225 reflect that Congress provided for discretionary detention under § 1226(a) to govern Petitioner's detention.

53. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates the INA.

54. Accordingly, Petitioner is entitled to immediate release, or, in the alternative, consideration for release on bond by Respondents.

### Count Three

#### **Violation of the Bond Regulations**

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

56. In 1997, after Congress amended the Immigration and Nationality Act through the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, EOIR and ICE's predecessor agency issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar.

# Anatomy of a Habeas Filing

## Claims for Relief (continued)

6, 1997). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.

57. Nonetheless, DHS and EOIR have a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

58. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

### Count Four

#### **Violation of Due Process**

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

60. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

61. Petitioner has a fundamental interest in liberty and being free from official restraint.

62. Respondents’ detention of Petitioner without a bond redetermination hearing to determine whether Petitioner is a flight risk or danger to the community violates Petitioner’s right to due process.

## Prayer for Relief

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- A. Assume jurisdiction over this matter;
- B. Order Respondents to show cause why the writ should not be granted within three days

# Anatomy of a Habeas Filing

## Prayer for Relief (continued)

- (unless, for good cause, additional time not exceeding twenty days is allowed), as required by 28 U.S.C. § 2243;
- C. Enjoin Respondents from transferring Petitioner outside of this judicial district pending resolution of this matter;
  - D. In the event that this Court determines that a genuine dispute of material fact exists, promptly schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *See Milton v. Miller*, 744 F.3d 660, 672–73 (10th Cir. 2014) (holding that an evidentiary hearing is required to resolve factual disputes in a habeas petition); *Beckett v. Hudspeth*, 131 F.2d 195, 197 (10th Cir. 1942) (“Where substantial questions of fact are presented in a proceeding of this kind, the court is required to hold a hearing at which an opportunity is afforded for the submission of evidence and argument.”);
  - E. Declare that Petitioner’s continued detention violates the court’s judgment in *Maldonado Bautista*;
  - F. Declare that Petitioner’s continued detention violates the Immigration and Nationality Act;
  - G. Declare that Petitioner’s continued detention violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19;
  - H. Declare that Petitioner’s continued detention violates due process under the Fifth Amendment to the U.S. Constitution;
  - I. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody on their own recognizance or, alternatively, subject to reasonable conditions;
  - J. Alternatively, issue a writ of habeas corpus ordering Petitioner’s release unless

# Anatomy of a Habeas Filing

## Prayer for Relief (continued)

Respondents provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) within seven days, with the Government bearing the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community;

K. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

A. Grant such further relief as this Court deems just and proper.

Dated: [Date]

Respectfully submitted,

[Attorney Signature Block]

*Counsel for Petitioner*

# Anatomy of a Habeas Filing

## Verification

### Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

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

/s/ [SIGNATURE]  
[NAME]

Date: [Date]

# Anatomy of a Habeas Filing

## Certificate of Service

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the [ ] day of [ ], 202[ ], I filed the foregoing using CM/ECF which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing and pursuant to 26-MC-00004-03:

[Respondents' attorney]  
Counsel for Respondents [Names]  
[email address]

I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

["n/a" or "Via first class mail, postage prepaid, addressed as follows" with the addresses]

[signature]  
[Name]  
Counsel for Petitioner