

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-62212-CIV-SMITH

RIGO HERRERA-ESCOBAR,

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General,
et al.,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Respondents, by and through the undersigned Assistant United States Attorney, respond to the Order to Show Cause [DE 13], and in support thereof, state that no final judgement has issued in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025); therefore, that case does not have preclusive effect here. Moreover, the *Maldonado Bautista* court lacks jurisdiction to issue class wide injunctive relief. That said, in light of the on-going class action in *Maldonado Bautista*, the Court may stay or dismiss this case in furtherance of judicial economy.

The *Maldonado Bautista* court granted class certification under Rule 23(b)(2). *Id.* Prior to class certification, the court entered partial summary judgment for the petitioners in that case but denied the request to enter final judgment because there was a pending motion for class certification. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). A court cannot grant declaratory relief prior to the entry of a final judgment, *i.e.*, a declaratory judgment. *See Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975) (“prior to final judgment there is no established declaratory remedy comparable to a preliminary

injunction”). A pre-final judgment declaration is, by its nature, not a declaratory judgment “[b]ecause a preliminary declaration—unlike a final declaration—does not specifically bind anyone, it is more akin to an advisory opinion, which the Court is precluded from issuing by history and the implicit policies embodied in Article III.” *Vazquez Perez v. Decker*, No. 18-CV-10683 (AJN), 2019 WL 4784950, at *10 (S.D.N.Y. Sept. 30, 2019).

Absent an entry of final judgment with respect to the class, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment in *Maldonado Bautista*. The partial summary judgment ruling does not operate as a final judgment because it is not an appealable order and “does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members.

To that end, the *Maldonado Bautista* court has not issued final class-wide relief. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. 2025 WL 3288403, at *10. Accordingly, the partial summary judgment and class certification issued in *Maldonado Bautista* do not have preclusive effect and do not resolve some of the issues raised in this matter.

Moreover, Respondents take the position that district courts, including the *Maldonado Bautista* court, lack jurisdiction to issue class wide relief in this case. 8 U.S.C. § 1252 proscribes that “no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of part IV of” 8 U.S.C. Chapter 12 Subchapter II. It cannot be disputed that this case is covered by § 1252(f)(1). Part IV of 8 U.S.C. Chapter 12 Subchapter II covers 8 U.S.C. §§ 1221-1232.

In *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) the Supreme Court held that § 1252(f)(1) deprives district courts of jurisdiction to issue class wide “injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out the specific statutory provisions.” *Id.* at 548, 550. Accordingly, the *Maldonado Bautista* court lacks jurisdiction to issue any relief that would be dispositive in this case.¹

That said, where a district court has certified a class action, district courts may stay or dismiss cases that are subsumed within the class certification to ensure orderly administration of the class and to avoid the risk of possible inconsistent adjudications. *Horns v. Whalen*, 922 F.2d 835 (4th Cir. 1991) (affirming district court’s decision to decline jurisdiction in a habeas mandamus action where the issue at bar was pending in a class action); *McNeil v. Guthrie*, 945 F.2d 1163, 1165-66 (10th Cir. 1991) (finding that “[i]ndividual suits for injunctive and declaratory relief from alleged unconstitutional prison conditions cannot be brought where there is an existing class action. To permit them would allow interference with the ongoing class action”); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (“To allow individual suits would interfere with the orderly administration of the class action and risk inconsistent adjudications”); *Rahman v. Blinken*, 2024 WL 4332603, at *8 (D.D.C. Sept. 27, 2024) (dismissing mandamus and APA claims where the same claims were being litigated in a class action of which the plaintiff was a member); *see generally U.S. v. Sanchez-Gomez*, 584 U.S. 381, 387 (2018) (“The certification of a suit as a class action has important consequences for the unnamed members of the class,” including being

¹ Section 1252(f)(1) includes one exception, “other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1). Pursuant to this one exception, “lower courts retain the authority to ‘enjoin or restrain the operation of’ the relevant statutory provisions ‘with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.’” *Aleman Gonzalez*, 596 U.S. at 550. Accordingly, this Court retains jurisdiction to act in this case.

“bound by the judgment”). Accordingly, this Court may stay or dismiss this case in furtherance of judicial economy.

Respectfully submitted,

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