

No. 25-20496

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

Victor Buenrostro-Mendez

Petitioner – Appellee,

v.

Pamela Bondi, U.S. Attorney General; Kristi Noem, Secretary, U.S. Department of Homeland Security; Todd M. Lyons, Acting Director, United States Immigration and Customs Enforcement; Matthew W. Baker, Acting ICE Houston Field Office Director, United States Immigration and Customs Enforcement; John Linscott, ICE Director, Houston Contract Detention Facility, United States Immigration and Customs Enforcement; Martin Frink, Warden, Houston Contract Detention Facility, CoreCivic,

Respondents-Appellants,

consolidated with

No. 25-40701

Jose Padron Covarrubias

Petitioner-Appellee,

v.

Miguel Vergara, ICE Field Office Director, San Antonio ICE Detention and Removal; Kristi Noem, Secretary, U.S. Department of Homeland Security; Orlando Perez, Warden, Laredo Processing Center, Corrections Corporation of America; Susan Aikman, In her official capacity, as Assistant Chief Counsel Office of Chief Counsel, U.S. Immigration and Customs Enforcement,

Respondents-Appellants.

**REPLY IN SUPPORT OF MOTION OF RESPONDENTS-
APPELLANTS' TO RECONSIDER DENIAL OF MOTION
TO AND EXPEDITE APPEALS**

ARGUMENT

Petitioners concede the importance of this issue in this case and that hundreds of cases are currently pending in federal district courts raising the exact question of statutory interpretation at issue in this appeal, including dozens of cases pending or decided by district courts in this circuit. Nonetheless, Petitioners insist that these consolidated appeals must proceed on a normal pace even though they admittedly present an “*exceptionally* important” issue. Dkt. 43 at 1 (emphasis added). This Court should reject that contradictory position and grant the motion to reconsider.

1. Petitioners argue that Respondents have “offer[ed] no new arguments or evidence to support reconsideration.” Dkt. 43 at 3. That is incorrect. Respondents submitted six declarations from the U.S. Attorneys within the Fifth Circuit, explaining the deleterious effects caused by the wave of habeas petitions raising the precise issue underlying these consolidated appeals. *See* Dkt. 42-2-42-7. Petitioners object that those U.S. Attorney declarations do not provide any “relevant new evidence” because they do not provide the exact number of new habeas petitions addressing the statutory issue in these consolidated appeals. Dkt. 43 at 5. But Petitioners cannot seriously contest the substantial number of new habeas petitions focused on that statutory question; indeed, they tout the hundreds of district court

decisions that have been decided adversely to the Government, *id.* at 3-4 & n.2—not to mention the hundreds more that have been filed and remain pending. And while Petitioners try to downplay the 48 new habeas petitions addressing the statutory issues being filed in the Northern District of Texas since July, that figure represents over 50% of the total habeas petitions filed in that district during that period. Dkt. 42-6 ¶3. Petitioners characterize this as a “problem entirely of [the Government’s] own making,” Dkt. 43 at 4, but the Government cannot simply ignore a statutory command.

The Court should reject Petitioners’ request to disregard the declarations from U.S. Attorneys across this Circuit explaining the deleterious impact of this ongoing wave of habeas petitions on their operations and resources and the resulting need for expeditious resolution of these consolidated appeals.

2. Petitioners insist that “the law is scarcely unclear” on the statutory issue because many courts have ruled against the Government. But district courts in this Circuit are coming to different conclusions on this issue, with several courts now ruling in favor of the Government. *See Topal v. Bondi*, No. 1:25-CV-01612 SEC P, [2025 WL 3486894](#), at *2 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Sandoval v. Acuna*, No. 6:25-CV-01467, [2025 WL 3048926](#), at *7 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Maceda Jimenez v.*

Thompson, No. 4:25-CV-05026, 2025 WL 3265493, at *2 (S.D. Tex. Nov. 24, 2025) (Eskridge, J.); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331, at *7 (S.D. Tex. Nov. 13, 2025) (Eskridge, J.); *Garibay-Robledo v. Noem*, 1:25-cv-00177-H (N.D. Tex. Oct. 24, 2025) (Hendrix, J.); *but see Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, at *5 (W.D. Tex. Dec. 2, 2025) (Rodriguez, J.); *Espinoza Andres v. Noem*, No. CV H-25-5128, 2025 WL 3458893, at *5 (S.D. Tex. Dec. 2, 2025) (Hittner, J.); *Galdamez Martinez v. Noem*, No. SA-25-CV-01373-JKP, 2025 WL 3471575, at *5 (W.D. Tex. Nov. 26, 2025) (Pulliam, J.).

This division among the district court underscores the need for clarity from this Circuit on an expedited basis. Indeed, while the motion to expedite the appeal in this case was pending, Judge Eskridge in the Southern District of Texas highlighted the different results from different judges within the district, along with pointing to more pending cases before other judges and noted the motion before this court for expedited consideration. *Maceda Jimenez v. Thompson*, 2025 WL 3265493, at *2 (citing *Buenrostro-Mendez v. Bondi*, 25-20496, Dkt. 10). This “exceptionally important” issue requires more than a “routine” schedule. *Cf.* Dkt. 43 at 1, 4.

Contrary to Petitioners’ argument, Respondents’ proposed schedule is not antithetical to “robust briefing.” Dkt. 43 at 1. The proposed briefing

schedule provides for Petitioners to file their answering brief is the same: 30 days. Dkt. 42-1 at 3. Any changes in the briefing schedule only affect the time in which Respondents have to file their briefs.

3. Finally, Petitioners suggest that Respondents are already bound by a nationwide declaratory judgment in *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). That is false. There is no “binding declaratory judgment” in *Maldonado Baustista*, as the Government has explained in that litigation. *See* Exhibit A. The district court expressly *withheld* entry of final judgment and *did not* enter final declaratory relief as to the nationwide class. *See id.* at 2-3. Nothing in *Bautista* effects these consolidated appeals.

CONCLUSION

The Court should reconsider its order and grant Respondents-Appellants’ motion to expedite briefing and oral argument in these appeals.

Dated: December 10, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2025 I electronically filed the foregoing with the Clerk of the Court through the Court's ECF system and that it will be served electronically upon registered participants identified on the Notice of Electronic Filing.

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because:

The brief contains 808 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface and typestyle requirements of Fed. R. App. P. 32(g)(1) because:

The brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Georgia fourteen-point.

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