UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CONCEPCION CORONADO ACUNA,	§	
	§	
Petitioner,	§	
	§	Civil Action No. 4:25-CV-05359
v.	§	
	§	
KRISTI NOEM, *et al.*,	§	
	§	
Respondents.	§	

THE FEDERAL RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR VOLUNTARY DISMISSAL OF HABEAS PETITION PURSUANT TO FED. R. CIV. P. 41(a)(2)

On December 3, 2025, Petitioner Concepcion Coronado Acuna moved to dismiss this habeas action pursuant to Federal Rule of Civil Procedure 41(a)(2). As Petitioner recognizes, she cannot unilaterally dismiss under Rule 41(a)(1)(A) as the Federal Respondents have already filed a motion for summary judgment. This action may now be dismissed "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). For the following reasons, the Court should decline to dismiss this lawsuit and enter judgment in favor of the Government on a legal issue that the Court has already considered at length and ruled on.

1. The Propriety of the Class Certification in *Bautista*

As an initial matter, the Federal Respondents share the Court's skepticism as to the legality of the *Bautista* court's class certification order.[1] First of all, class certification was

[1] The Federal Respondent also strongly disagree with the *Bautista* court's underlying merits ruling on the relevant detention authority. While dwelling on the *Bautista* court's analysis on the statutory question itself is (continue)

improper because, specific to *Bautista*, the procedural history of the case leading up to class certification resulted in violation—in multiple ways—of the "one-way intervention" rule in putative class actions.

As to jurisdiction, the Federal Respondents also agree with the Court's "preliminary view that the referenced class-certification order far exceeds the jurisdiction of the district court issuing that order[.]" ECF No. 8 at 5. It is well-taken that a habeas corpus proceeding, "though technically civil," *In re Crittenden*, 143 F.3d 919, 920 (5th Cir. 1998), "is neither a wholly criminal nor a wholly civil action, but rather a hybrid action that is unique, a category unto itself[.]" *Barco v. Witte*, 65 F.4th 782, 785 (5th Cir. 2023) (quotation omitted). As such, attempting to apply the Federal Rules of Civil Procedure to core habeas petitions can feel like trying to fit a square peg into a round hole. For multiple reasons, the *Bautista* court lacked jurisdiction to certify a nationwide class.

a. <u>As the Supreme Court has held, and the statute is clear, jurisdiction is only proper in the district of confinement.</u>

The habeas statute itself is clear that "[d]istrict courts are limited to granting habeas relief 'within their respective jurisdictions.'" *Rumsfeld v. Padilla*, 542 U.S. 426, 442, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004) (quoting 28 U.S.C. § 2241(a)); *see Trump v. J. G. G.*, 604 U.S. 670, 672, 145 S.Ct. 1003, 221 L.Ed.2d 529 (2025) ("For core habeas petitions, jurisdiction lies in

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neither here nor there for present purposes, the Federal Respondents would note the *Bautista* court's novel reasoning. The *Bautista* court reasoned that an alien present in the United States who had not been admitted was not an "applicant for admission" at all, despite that to undersigned counsel's knowledge, most if not every court that had ruled against the Government endorsed the argument that despite being "applicants for admission," such aliens were not "seeking admission." Thus, the *Bautista* court's underlying merits assessment is based on a reading of the statute that even other courts that had ruled against the Government did not adopt. *See* 8 U.S.C. § 1225(a)(1) (unmistakably defining aliens present in the United States who have not been admitted as applicants for admission).

only one district: the district of confinement.") (cleaned up). In the same vein, there is a related requirement that a habeas petitioner name his or her immediate custodian—i.e., the custodian who has actual custody over the petitioner and can produce the "corpus." *Padilla*, 542 U.S. at 435. The Supreme Court has held that the language of the federal habeas statute requires, at the very least, "that the court issuing the writ have jurisdiction over the custodian." *Braden v. 30th Jud. Cir. Ct. of Kentucky*, 410 U.S. 484, 495, 93 S.Ct. 1123, 35 L.Ed.2d 443 (1973). The Supreme Court has specifically discussed this limiting clause of 28 U.S.C. § 2241(a), remarking that it was designed to prevent the "inconvenient [and] potentially embarrassing" possibility that "every judge anywhere" [could] issue the Great Writ on behalf of applicants far distantly removed from the courts whereon they sat." *Carbo v. United States*, 364 U.S. 611, 617, 81 S.Ct. 338, 5 L.Ed.2d 329 (1961). Thus, "the traditional rule has always been that the Great Writ is 'issuable only in the district of confinement.'" *Rumsfeld*, 542 U.S. at 442 (quoting *Carbo*, 364 U.S. at 618). Indeed, in the other class actions addressing this issue, those district courts limited the class to those held within their districts. *See Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR, 2025 WL 3251143, at *7 (D. Colo., Nov. 21, 2025) (conditionally certifying class limited to the District of Colorado); *Guerrero Orellano v. Moniz*, --- F.Supp.3d ---, 2025 WL 3033769, at *14 (D. Mass. Oct. 30, 2025) (certifying class only within the District of Massachusetts); *Rodriguez Vasquez v. Bostock*, 349 F.R.D. 333, 365 (W.D. Wash., May 2, 2025 (certifying class of detainees within *one single detention facility* in Washington); *see also A.A.R.P. v. Trump*, 605 U.S. 91, 145 S.Ct. 1364, 221 L.Ed.2d 765 (2025) (a putative class where all members were detained in the Northern District of Texas).

It is particularly worthwhile to stress that this limitation is not a judge-made doctrine, nor merely a prudential rule of good practice, but rather expressly set forth in the very section of the U.S. Code governing habeas relief.

b. Rule 81(a)(4) contemplates, defers to, and is harmonious with the statute.

The federal habeas statute is clear: district courts may only grant a writ of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). This instruction should suffice to settle the matter, notwithstanding any federal rule which in any event could not permit or contemplate the contrary. *See, e.g., United States v. Gustin-Bacon Div., Certainteed Prods. Corp.*, 426 F.2d 539, 542 (10th Cir. 1970) (There is no contest as to the plenary power of Congress to statutorily supersede any or all of the [Federal] Rules [of Civil Procedure].").

All the same, Rule 81(a)(4) does nothing to change the conclusion that class relief is not available across judicial districts. The Rule is in harmony with—and specifically acknowledges the controlling role of—any applicable statutes, providing that the Federal Rules "apply to proceedings for habeas corpus and for quo warranto to the extent that the practice in those proceedings: (A) is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; *and* (B) has previously conformed to the practice in civil actions." Fed. R. Civ. P. 81(a)(4)(A)-(B) emphasis added). This Rule is affording due consideration of the "unique" nature of habeas, "a category unto itself[.]" *Barco*, 65 F.4th at 785.

On the particular matter of "the practice" of a nationwide class action, Rule 81(a) informs that such a class action would be applicable in habeas if the practice both (1) "is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing

Section 2255 Cases," and (2) past nationwide habeas actions had "previously conformed to the practice [of class actions] in civil actions." Fed. R. Civ. P. 81(a)(4). Here, the application satisfies neither requirement. As to the first, a federal statute *does* specify: it specifies that judges may only grant habeas petitions "within their respective jurisdictions," and the Supreme Court has repeatedly interpreted this statute to cabin habeas relief to detainees within courts' own jurisdictions. *See supra* Part 1.a. Because the limiting clause in 28 U.S.C. § 2241(a) specifies that habeas relief is "issuable only in the district of confinement," *Carbo*, 364 U.S. at 618, the practice of nationwide class actions is expressly prohibited by statute, as Supreme Court precedent has invariably reaffirmed.[2]

That the federal habeas statute limits habeas jurisdiction to the jurisdiction of confinement is dispositive as to the Rule 81(a)(4) analysis. But even if this were not so, a nationwide class action would also fail the second element of the analysis: that it conforms with past practice. Fed. R. Civ. P. 81(a)(4)(B). As noted by this Court, Justice Alito raised grave concerns with the general concept of class habeas class actions, observing "it is doubtful that class relief may be obtained in a habeas proceeding," and that the Supreme Court "ha[s] never so held." *A. A. R. P. v. Trump*, 605 U.S. 91, 107, 145 S.Ct. 1364, 221 L.Ed.2d 765 (2025) (Alito, J., dissenting). In so doing, he cited scholarship documenting the dearth of historical support for the practice. *Id.* at 107–08. But even if Justice Alito were *arguendo* incorrect about the permissibility of class actions generally, it does not mean that the type of habeas class

[2] Because 28 U.S.C. § 2241(a) does not purport to bar class actions, but rather a court's jurisdiction beyond the district of confinement, it is not necessarily the case that the limiting clause in the federal habeas statute itself forbids a class action comprised exclusively of class members all within the same judicial district. *See supra* Part 1.a (collecting cases where a class was certified within a judicial district). But intra-district relief is, of course, not what the *Bautista* court certified.

action at issue in this case—a nationwide one—has historic support. Until and unless the class movant can satisfactorily demonstrate longstanding acceptance of nationwide habeas class actions, such actions are improper. All the same, courts need not sift through, for purposes of Rule 81(a)(4)(B), whether the history of American jurisprudence contemplates nationwide habeas class actions, as such actions fail under Rule 81(a)(4)(A) in light of the limiting provision of 8 U.S.C. § 2241(a). Rule 81, then, accounts for the limiting provision of the federal statute and thus its application leads to the same result as a direct application of the statute itself.

2. The Scope and Effect of *Bautista*

While the discussion as to the propriety of a nationwide habeas class action does bear on this case to some extent, most important to this case is that Petitioner's characterization of the habeas class action from the Central District of California is simply incorrect. Petitioner asserts that in *Bautista v. Noem*, 5:25-CV-01873 (C.D. Cal.), the district court issued "a nationwide injunction" which "restrain[ed] EOIR from denying bonds to individuals similarly situated as the Petitioner." ECF No. 7 at 2. But the district court in *Bautista* did not even arguably do so.

Bautista addressed the same question here that has divided courts across the country as to whether the INA instructs that illegal aliens in the United States who had never been lawfully admitted are subject to mandatory or discretionary detention. The district judge first granted partial summary judgment for the named petitioners in that case and then subsequently granted class certification under Rule 23(b)(2). Relevant to Petitioner's mischaracterization here, the court in *Bautistia* did not issue a class-wide injunction.

In *Bautista*, the petitioners' amended petition indeed removed the injunctive component of their requested relief with respect to the putative class, and the district judge explicitly noted that the request sought for the class members was for declaratory relief. *See Bautista*, ECF No. 81 at 3; ECF No. 82 at 14. This choice was undoubtedly deliberate, as a class-wide injunctive relief would in any event be forbidden by law. *See* 8 U.S.C. § 1252(f)(1) (providing 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 this subchapter . . . other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.").

Nor has there been a declaratory judgment. While the district court in *Bautista* granted class certification and partial summary judgment for the plaintiffs in that case, it did not issue a class-wide declaratory *judgment*. While the *Bautista* court contained language extending "the same declaratory relief" to the class, 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, 95 S.Ct. 2561, 45 L.Ed.2d 648 (1975) ("[P]rior to final judgment there is no established declaratory remedy comparable to a preliminary injunction."); *Vazquez Perez v. Decker*, No. 18-CV-10683 (AJN), 2019 WL 4784950, at *10 (S.D.N.Y. Sept. 30, 2019) ("Because 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." (citing *Flast v. Cohen*, 392 U.S. 83, 96, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968)).

The *Bautista* court, whether intentionally or not, did not actually enter any judgment in its opinion granting partial summary judgment. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. Until and unless the *Bautista* district court issues a final judgment, its opinion and partial grant of summary judgment does not constitute a judgment and has no preclusive effect. *See* Fed. R. Civ. P. 54(b); *Haaland v. Brackeen*, 599 U.S. 255, 293, 143 S.Ct. 1609, 216 L.Ed.2d 254 (2023) ("Without preclusive effect, a declaratory judgment is little more than an advisory opinion."). Thus, those orders do not have preclusive effect with respect to other cases, and there is currently no declaratory relief with respect to other cases filed by purported *Bautista* class members raising claims concerning the proper interpretation of the mandatory detention provisions.[3]

Not only so, but even had the *Bautista* court entered a final judgment with preclusive effect, such preclusive effect would not extend here as it is well-taken that declaratory relief does not bind non-parties. *See, e.g., Taylor v. Sturgell*, 553 U.S. 880, 892–93, 128 S.Ct. 2161, 171 L.Ed.2d 155 (2008) ("A person who was not a party to a suit generally has not had a 'full and fair opportunity to litigate' the claims and issues settled in that suit. The application of claim and issue preclusion to nonparties thus runs up against the 'deep-rooted historic tradition that everyone should have his own day in court.'" (quotation omitted)). And as earlier stated, "the proper respondent" in a habeas "is the warden of the facility where the prisoner is being held,"

[3] Consider just one case, from the very same district. *See Cruz v. Noem*, 8:25-CV-02566 (C.D. Cal. 2025). The district court in *Bautista* granted partial summary judgment on November 20, 2025, and certified the class on November 25, 2025. One week later, on December 2, 2025, the district judge in *Cruz* considered the legal arguments on the mandatory detention provisions and denied relief, ruling in favor of the Government. Implicit in that ruling was the understanding that there is no class-wide judgment—injunctive or declaratory—in place at the time, and the court in *Cruz* was at every liberty to reach its own decision.

i.e., the detainee's custodian, who for preclusion purposes did not have his day in court (nor could he have, as he is beyond the jurisdiction of the *Bautista* court) and thus is not bound by the *Bautista* decision.

3. The Court Should Grant the Pending Motion for Summary Judgment

Regardless of Petitioner's belief as to whether a nationwide injunction is currently in effect, she currently remains at every liberty to pursue what she believes the nationwide injunction affords her: "a bond hearing directly with the Defendants pursuant to her Bautista Class Membership." ECF No. 7 at 2. She does not need to dismiss this lawsuit before seeking that bond hearing in immigration court.

The reason Petitioner now attempts to abandon her habeas action prior to obtaining the relief she seeks is obvious: Petitioner wants to bring this case before a different judge. As all parties are aware, this Court adopted the Government's reading of the mandatory detention provisions. *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025). Petitioner now seeks, but should not be allowed, to avoid the consequences of this ruling. Petitioner attempts to convince the Court to relinquish this case on the erroneous premise that there is a preliminary injunction in place. And when the bond request she will pursue post-dismissal is (almost certainly) denied given there is no such injunction in place, Petitioner would then be able to re-file her federal habeas petition and likely draw a different judge. The Court should reject this maneuver.

In lieu of dismissal without prejudice, the Court should grant the Federal Respondents' pending motion for summary judgment, deny the habeas petition, and close this case with a

final judgment. This case turns on a purely legal dispute—one that the Court has already resolved.

Granting summary judgment should be the proper disposition of this case. All the same, the Federal Respondents would add that in the event the Court disagreed, it would still have an arsenal of options far more proper than a simple dismissal without prejudice. These options include: (1) dismissing the case *with* prejudice, as Rule 41(a)(2) contemplates; (2) staying the case pending full resolution of *Bautista*. These options would, at the very least, sidestep the main anathema to be avoided: rewarding Petitioner's attempt to get this case before a different judge. That being said, there is currently no final judgment from *Bautista*—declaratory or injunctive. The most jurisprudentially sound option would be for the Court to expeditiously enter judgment as a matter of law and deny the habeas petition.

II. CONCLUSION

For the foregoing reasons, the Federal Respondents respectfully request that the Court deny Petitioner's motion to voluntarily dismiss and enter judgment as a matter of law finding that Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).

Dated: December 12, 2025

Respectfully submitted,

NICHOLAS J. GANJEI
UNITED STATES ATTORNEY

By: */s/ Shawn D. Ren*
Shawn D. Ren, Attorney-in-Charge
Assistant United States Attorney
Southern District No. 3892202
Texas Bar No. 24132873

1000 Louisiana, Suite 2300
Houston, Texas 77002
Tel: (713) 567-9569
Fax: (713) 718-3300
E-mail: shawn.ren@usdoj.gov

CERTIFICATE OF WORD COUNT

I certify that the foregoing brief has 2,606 words, in accordance with this Court's procedures.

/s/ Shawn D. Ren
Shawn D. Ren
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that on December 12, 2025, the foregoing was filed and served on counsel for Petitioner via the Court's CM/ECF service.

/s/ Shawn D. Ren
Shawn D. Ren
Assistant United States Attorney