UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Concepcion Coronado Acuna Petitioner, v. Warden, et al. Respondents.	Cause No. 4:25-cv-05359

PETITIONER'S REPLY IN RESPONSE TO RESPONDENTS' RESPONSE TO MOTION FOR VOLUNTARY DISMISSAL

Petitioner Concepcion Coronado Acuña, through undersigned counsel, files this Reply in Response to Government's Response in Opposition to Petitioner's Moton to Voluntary dismissal (*Dkt. 9*) and submits this supplemental brief in direct response to the Court's December 7, 2025, Order. (*Dkt. 8*) Petitioner addresses the jurisdictional, procedural, and habeas-class questions identified by the Court and explains why voluntary dismissal without prejudice—or, alternatively, individualized habeas relief consistent with recent

authority—remains appropriate.

I. THE COURT CORRECTLY IDENTIFIED THE TENSION BETWEEN INDIVIDUAL HABEAS JURISDICTION AND PUTATIVE NATIONWIDE CLASS RELIEF

The Court expressed a preliminary view that the class-certification order entered in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.), may exceed the issuing court's habeas jurisdiction if construed as authorizing nationwide enforcement. That concern is well grounded in Supreme Court precedent holding that, for core habeas petitions, jurisdiction lies only in the district of confinement. *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

Petitioner's motion for voluntary dismissal was premised on the practical availability of alternative relief, a bond hearing, following the Bautista court's determination that § 1226(a), not § 1225(b)(2), governs similarly situated noncitizens. Further, it is an odd position for the Government to now move against a voluntary dismissal where the Petitioner is seeking relief in the form of a bond hearing when in their very motion for summary judgement, they state the Petitioner has not exhausted administrative remedies in seeking a bond. (*Dkt. 4 at 8-9*)

II. THE BAUTISTA ORDERS DO NOT PURPORT TO CREATE A NATIONWIDE HABEAS REMEDY AND DO NOT PRECLUDE INDIVIDUAL HABEAS ADJUDICATION

Respondents devote the bulk of their response to arguing that dismissal should be denied so that the Court may enter judgment in the Government's favor, largely based on criticism of the Bautista class proceedings. That argument misses the point for three independent reasons.

First, Petitioner does not seek to rely on a nationwide injunction or to bind this Court through class-wide relief. Rather, Petitioner seeks individual habeas relief based on the statutory framework and the overwhelming weight of authority holding that § 1226(a) governs detention of noncitizens present in the United States but not "seeking admission." As the Court noted, the Bautista court did not issue a class-wide injunction. Rather, it certified a Rule 23(b)(2) class and extended declaratory relief regarding the governing detention statute. Declaratory relief, standing alone, does not compel action by non-parties or custodians outside the court's jurisdiction and does not operate as a writ of habeas corpus. *See Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975) (declaratory relief "is not coercive in the same manner as an injunction," and therefore does not itself compel action or restraint)

Second, the Government's suggestion that individual habeas actions are improper whenever a class action exists is incorrect. Fifth Circuit precedent bars individual actions only where the relief sought would interfere with the orderly

administration of the class action or risk inconsistent structural remedies. *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc) Individual habeas relief enforcing the same statutory interpretation does neither.

Third, the Government's position is squarely inconsistent with recent decisions from this District and others granting individual habeas relief notwithstanding the existence of a certified class. , 4:25-cv-04332 (S.D. Tex, Oct 10, 2025) (Bennett, J); *Hernandez Lucero v Noem*, 4:25-cv03981 (S.D. Tex, Oct 23, 2025) (Ellison, J);, 4:25-cv-04299 (SD Tex, Oct 30, 2025) (Hanks, J); *Mejia Juarez v Bondi*, 4:25-cv-03937 (SD Tex, Oct 27, 2025) (Hoyt, J); *Buenrostro-Mendez v Bondi*, 2025 WL 2886346,(SD Tex) (Rosenthal, J); *Reyes-Lopez v Noem*, 4:25-cv04629 (SD Tex, Nov 21, 2025) (Lake, J); *Espinoza Andres v Noem*, 4:25-cv-05128 (SD Tex, Dec 2, 2025) (Hittner, J).

III. RULE 81(a)(4) DOES NOT BAR INDIVIDUAL HABEAS RELIEF AND DOES NOT REQUIRE DENIAL OF VOLUNTARY DISMISSAL

The Court additionally invited briefing on Rule 81(a)(4)(B) and the availability of class relief in habeas proceedings. That Rule limits application of the Federal Rules of Civil Procedure in habeas cases to circumstances consistent with historical practice and governing statutes. Fed. R. Civ. P. 81(a)(4).

Even assuming arguendo that nationwide habeas classes exceed historical practice, that conclusion does not preclude individual habeas actions or

voluntary dismissal in favor of alternative relief. Courts have long recognized that habeas jurisdiction is inherently individualized, focused on the legality of a particular petitioner's detention by a particular custodian. *Padilla*, 542 U.S. at 435.

Importantly, Rule 81(a)(4) speaks to class relief—not to whether an individual petitioner may pursue, abandon, or redirect her own habeas petition. The Rule therefore provides no basis to compel adjudication on the merits where dismissal without prejudice would cause no plain legal prejudice to the Government. *United States ex rel. Vaughn v. United Biologics*, LLC, 907 F.3d 187, 196–97 (5th Cir. 2018).

IV. RECENT HABEAS AUTHORITY CONFIRMS THAT INDIVIDUAL RELIEF REMAINS PROPER NOTWITHSTANDING CLASS PROCEEDINGS

Since entry of the Court's Order, another judge in this District granted individual habeas relief under materially identical circumstances and reflected on the recent California class action in question. In *Miranda Silva v. Noem*, No. H-25-5784 (S.D. Tex. Dec. 15, 2025), the court ordered a bond hearing under § 1226(a), expressly rejecting the Government's argument that class certification in Bautista barred individual habeas relief.

The court distinguished *Gillespie v. Crawford*, 858 F.2d 1101 (5th Cir. 1988) (en banc), explaining that individual habeas relief enforcing the same statutory interpretation does not undermine class administration or risk inconsistent

structural remedies. That reasoning applies would apply to the instant matter. The court further recognized that, although a class had been certified in Bautista, no final class judgment barred individual habeas adjudication, and principles of comity favored granting relief consistent with the growing consensus of courts nationwide.

Petitioner now seeks individualized relief. Granting such relief would not impose structural obligations on the Government, would not bind non-parties, and would not interfere with any class mechanism. It would simply enforce the correct detention statute as applied to Petitioner.

V. VOLUNTARY DISMISSAL SHOULD BE CONSTRUED FAVORABLY TO PETITIONER UNDER RULE 41(a)(2)

Rule 41(a)(2) embodies a strong presumption in favor of allowing voluntary dismissal, particularly where, as here, the moving party seeks dismissal without prejudice and no plain legal prejudice will result to the non-moving party. The Fifth Circuit has repeatedly instructed that such motions "should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit." *United States ex rel. Vaughn v. United Biologics, LLC*, 907 F.3d 187, 196–97 (5th Cir. 2018) (internal quotation marks omitted); *accord Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002).

In assessing legal prejudice, courts consider factors such as the defendant's

effort and expense in preparation for trial, excessive delay or lack of diligence by the plaintiff, and whether dismissal is sought to avoid an imminent adverse ruling. *Phillips v. Illinois Cent. Gulf R.R.*, 874 F.2d 984, 987 (5th Cir. 1989). None of those factors weighs against dismissal here.

First, this case remains at an early procedural stage. No discovery has occurred, no evidentiary hearing has been conducted, and the issues presented are purely legal. The Government's expenditure of resources in briefing statutory interpretation—issues it is simultaneously litigating nationwide and before the Fifth Circuit—does not constitute the type of prejudice contemplated by Rule 41(a)(2). *See LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976) (legal prejudice does not arise from the mere prospect of re-litigation).

Second, Petitioner has not engaged in undue delay or dilatory conduct. The motion for voluntary dismissal was filed promptly after certification of the Bautista class and amid rapidly evolving, and conflicting, district court authority on the precise statutory question presented. Seeking to reassess litigation strategy in light of intervening legal developments is not improper forum manipulation; it is a reasonable and prudent exercise of litigation judgment. *See Hartford Acc. & Indem. Co. v. Costa Lines Cargo Servs., Inc.*, 903 F.2d 352, 360 (5th Cir. 1990) (recognizing that changes in circumstances may justify dismissal).

Third, although the Court has expressed a preliminary merits view based on

Montoya Cabanas, dismissal here would not deprive the Government of a vested right or an accrued defense. The Fifth Circuit has made clear that the possibility that a plaintiff seeks dismissal in the face of an unfavorable legal landscape does not, standing alone, constitute legal prejudice. *Vaughn*, 907 F.3d at 197. This is especially true where, as here, the controlling legal question is actively pending before the court of appeals and remains unsettled.

Finally, equitable considerations strongly favor dismissal. Petitioner seeks only dismissal without prejudice, not tactical advantage. Denial of dismissal would effectively force an individual detainee to litigate to final judgment a complex and nationally contested legal issue—one already under appellate review—despite the availability of alternative procedural avenues. Rule 41(a)(2) was designed to prevent precisely that type of inequity.

For all these reasons, the balance of equities and governing Fifth Circuit precedent compel the conclusion that voluntary dismissal should be granted on fair and reasonable terms, without conversion into an adverse merits judgment.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court:

1) Grant Petitioner's motion for voluntary dismissal without prejudice; or
2) In the alternative, stay this matter pending further guidance from the Fifth Circuit; and
3) Decline to enter summary judgment in favor of the Government at this

time.

Petitioner further requests such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/Javier Rivera
Javier Rivera. Esq.
Lead Counsel for Petitioner
Texas Bar No. 24070508
Rivera & Shirhatti, PC
PO Box 848
Houston, Texas 77001
jrivera@rsimmilaw.com
(P): (832) 991-1105

CERTIFICATE OF SERVICE

I certify that on December 17, 2025, the foregoing document was filed with the Court through the Court CM/ECF system on all parties and counsel registered with the Court CM/ECF.

Dated this 17th day of December 2025.

/s/ Javier Rivera
Javier Rivera