IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

HERIBERTO SALGADO FLORES, Petitioner, vs. KRISTI NOEM, Secretary of Homeland Security, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, SAMUEL OLSON, Field Office Director, ICE, PAMELA BONDI, Attorney General, and JACOB WELSH, Warden, Chase County Detention Center, Respondents.	)	Case No. 25-cv-03244-JWL

SUPPLEMENTAL RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

This matter is before the Court on the petition of Heriberto Salgado Flores ("Petitioner") for a writ of habeas corpus under 28 U.S.C. § 2241. On November 26, 2025, Respondents filed their response to the habeas petition and the Court's Order to Show Cause. Doc. 5. There, Respondents notified the Court that the U.S. District Court for the Central District of California issued an order on November 25, 2025, certifying a class defined as follows:

> **Bond Eligible Class:** All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) 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.

Maldonado Bautista v. Santacruz Jr., No. 25-cv-01873-SSS-BFM, slip op. at 15 (C.D. Cal. Nov. 25, 2025) (attached as Exhibit 1 at Doc. 5-1). At that time, Respondents were still evaluating the effect of the class certification on this case. *See id.* Respondents now provide this update to the Court.

Although Petitioner is a member of the certified class, there is no class-wide judgment, let alone a final judgment that could have preclusive effect as to Petitioner. *See B&B Hardware, Inc. v. Hargis Indus.*, 575 U.S. 138, 148 (2015) ("[T]he general rule is that 'when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.'") (quoting Restatement (Second) of Judgments §27, p. 250 (1980) and §28, at p. 273) (alteration omitted); see *also Affiliated Ute Citizens v. Ute Indian Tribe*, 22 F.3d 254, 256 (10th Cir. 1994) ("The Tribe's concern that the interlocutory ruling, if left alone, will be preclusive is unwarranted. Collateral estoppel requires in part a final adjudication of the issue on the merits . . . .").

Instead, the *Maldonado Bautista* court expressly declined to enter final judgment as to the claims at issue in the motion for partial summary judgment under Federal Rule of Civil Procedure 54(b). *Maldonado Bautista v. Santacruz Jr.*, No. 25-cv-01873-SSS-BFM, slip. op. at 17 (C.D. Cal. Nov. 20, 2025) (attached as Exhibit 2 at Doc. 5-2). Because the partial summary judgment ruling 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," it does not operate as a "judgment." *See* Fed. R. Civ. P. 54(a), (b). As such, Petitioner should not be released based on the interlocutory declaratory relief granted in *Maldonado Bautista*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2025, the foregoing document was electronically filed by using the CM/ECF System, which will send notification of such filing to the following ECF registrants:

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