UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVANGELINA MORALES, Individually and on behalf of all others similarly situated, *Petitioner,* *v.* **PAMELA BONDI**, ET AL., Respondents.	CASE NO. 1:25-CV-01472 Honorable Hala Y. Jarbou **PETITIONER'S SUPPLEMENTAL BRIEF**

AVANTI LAW GROUP, PLLC
Robert Anthony Alvarez (P66954)
Meghan Moore (P73392)
Victor M Jimenez Jr. (P85194)
Attorneys for Petitioner
600 28th St. SW
Wyoming, MI 49509
(616) 257-6807
ralvarez@avantilaw.com
vjimenez@avantilaw.com
mmoore@avantilaw.com

LAW OFFICE OF AMY MALDONADO LLC
Amy Maldonado (Illinois Bar No. 6256961)
Adriana I.B. Klemish (P86742)
Attorneys for Petitioner
333 Albert Ave., Suite 390
East Lansing, MI 48823-4351
Tel. (517) 803-2870
Fax (888) 299-3780
amy@amaldonadolaw.com
adriana@amaldonadolaw.com

I. INTRODUCTION

This Court has already spoken. In granting Petitioner's habeas petition, the Court held that her detention was unlawful; that the government misapplied the immigration statutes and violated her constitutional right to liberty. ECF No. 25. That holding rests on fundamental principles: statutory authority for detention must exist, and deprivations of liberty must comport with due process. Those principles do not apply to Petitioner alone. They bind the government in its treatment of every person it detains.

This supplemental brief addresses whether the relief this Court granted to Ms. Morales can be extended to others similarly situated. The answer turns on bedrock questions about the nature of habeas corpus, the limits of executive detention authority, and the role of federal courts in ensuring that liberty is not sacrificed to categorical classifications lacking statutory foundation. After all, many of the Government's arguments against reviewability would be equally applicable to a United States Citizen misclassified as an "arriving alien" as well.

The Court has identified nine specific issues for briefing. Those issues implicate whether class certification is permissible, whether jurisdictional constraints foreclose systemic relief, and whether Petitioner remains an adequate representative after receiving individual habeas relief. Each question warrants careful analysis. But the overarching concern remains constant: when the government systematically detains individuals under statutory provisions that do not authorize their confinement, and when those individuals lack meaningful opportunity to challenge their detention, the Constitution demands a remedy.

Petitioner seeks two forms of relief consistent with this Court's habeas ruling. First, classwide declaratory relief establishing that Respondents' policy of detaining class members under § 1225(b)(2)(A) violates the Immigration and Nationality Act and the Due Process Clause. Second, individualized bond hearings under § 1226(a) for class members entitled to such

hearings by statute. Both forms of relief flow directly from the reasoning this Court has already adopted.

II. RELEVANT FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Petitioner Evangelina Morales entered the United States in 2001 and has resided here continuously for more than two decades. She has four United States citizen children, two of whom are on the autism spectrum. On October 28, 2025, Immigration and Customs Enforcement arrested her without a warrant and placed her in continuous custody without an individualized bond determination. The government detained her under 8 U.S.C. § 1225(b)(2)(A), asserting authority to hold her on a mandatory basis without any assessment of flight risk or danger to the community. ECF No. 1.

Ms. Morales filed her petition for a writ of habeas corpus on November 17, 2025. ECF No. 1. On November 23, 2025, she moved to certify a class of similarly situated detainees. ECF No. 5. The proposed class includes all current and future noncitizens detained at immigration detention facilities within the Western District of Michigan who entered the United States without inspection, have been placed in removal proceedings under 8 U.S.C. § 1229a, are not subject to mandatory detention under 8 U.S.C. § 1226(c) or post-order detention under 8 U.S.C. § 1231, and are detained without individualized bond hearings pursuant to 8 U.S.C. § 1225(b)(2)(A). The proposed class expressly excludes individuals detained pursuant to 8 U.S.C. §§ 1225(b)(1), 1226(c), or 1231. ECF No. 5.

On December 9, 2025, this Court granted Ms. Morales's habeas petition, holding that her detention was governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and that her continued detention without an individualized bond hearing violated the Fifth Amendment. ECF No. 25. The Court ordered Ms. Morales's immediate release or, in the alternative, a bond hearing within

five business days. *Id.* The Court further directed the parties to submit supplemental briefing addressing nine discrete issues: (1) whether the grant of habeas relief moots Petitioner's individual claims under the Constitution and the Administrative Procedure Act; (2) whether the Court may certify a class seeking habeas relief under 28 U.S.C. § 2241; (3) whether the Court may certify a class that includes future detainees not currently in custody; (4) whether the Immigration and Nationality Act precludes class-wide relief; (5) whether the INA precludes any injunctive or declaratory relief; (6) whether "corresponding declaratory relief" under Rule 23(b)(2) constitutes injunctive relief barred by the INA; (7) whether the availability of individual habeas relief constitutes an "other adequate remedy" under the APA; (8) whether the grant of individual habeas relief renders Petitioner an inadequate class representative; and (9) whether this action would be duplicative of Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). ECF No. 27.

III. ARGUMENT

A. The Grant of Habeas Relief to Ms. Morales Does not Moot Her Claims for Classwide Relief Under the Constitution or the Administrative Procedure Act (APA) (Issue One)

Ms. Morales's individual release does not moot her claims for classwide relief under the Constitution or the Administrative Procedure Act. Immigration detention is inherently transitory, the paradigmatic context for the mootness exception. Her constitutional and APA claims challenge an ongoing government policy, not merely her individual custody, and those systemic claims survive her release.

1. The Inherently Transitory Exception Preserves Class Claims

A case becomes moot when "the issues presented are no longer live" and "the parties lack a legally cognizable interest in the outcome." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013).

The mootness doctrine recognizes an exception, however, where the complained-of government action is "capable of repetition, yet evading review." *Sosna v. Iowa*, 419 U.S. 393, 400 (1975); *see also Lawrence v. Blackwell*, 430 F.3d 368, 371 (6th Cir. 2005). This exception applies when the challenged action is too short in duration to be fully litigated before its cessation and there is a reasonable expectation that the same complaining party will be subjected to the same action again. *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 481 (1990).

The Supreme Court established in *Gerstein v. Pugh* that "pretrial detention is by nature temporary," and where "the constant existence of a class of persons suffering the deprivation is certain," the named plaintiff's release does not moot class claims. 420 U.S. 103, 110 n.11 (1975). Immigration detention presents the identical scenario. As the Sixth Circuit recently explained, the "inherently transitory" doctrine is "a strain of the capable-of-repetition doctrine as it is applied to a class-action claim." *Patton v. Fitzhugh*, No. 24-5639, slip op. at 8 (6th Cir. Mar. 13, 2025). In such cases, "a member of the class reasonably will be subjected to the same challenged action" even after the named plaintiff's claim becomes moot, and "the putative class fills the gap." *Id.*

This Court's December 9 order granted Ms. Morales habeas relief, but the government's policy remains in force. Detainees at the North Lake Processing Center, the Calhoun County Correctional Center, and the Chippewa County Correctional Facility continue to be held under 8 U.S.C. § 1225(b)(2)(A), denied bond hearings, and subjected to the same statutory misclassification this Court rejected. The claims Ms. Morales raises—that detention under § 1225(b)(2)(A) without bond hearings violates the INA and the Due Process Clause—depend on the government's continued application of an unlawful policy affecting every class member, not on her personal custody.

In *County of Riverside v. McLaughlin*, the Supreme Court reaffirmed that "some claims are so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the proposed representative's individual interest expires," and that in such cases, "the 'relation back' doctrine is properly invoked to preserve the merits of the case for judicial resolution." 500 U.S. 44, 51–52 (1991). Ms. Morales filed her motion for class certification on November 23, 2025, sixteen days before this Court granted her individual relief on December 9, 2025. Under *McLaughlin*, the relation-back doctrine preserves the class claims for resolution on the merits.

2. Ms. Morales Retains a Personal Stake Under *Geraghty*

Under *United States Parole Commission v. Geraghty*, a named plaintiff retains a "personal stake" in obtaining class certification even after her individual claim is resolved, because the proposed representative's interest in certification is "sufficient to assure that Art. III values are not undermined." 445 U.S. 388, 404 (1980). The Court held that "when the claim on the merits is 'capable of repetition, yet evading review,' the named plaintiff may litigate the class certification issue despite loss of his personal stake in the outcome." *Id.* at 398. The Court reasoned that "since the litigant faces some likelihood of becoming involved in the same controversy in the future, vigorous advocacy can be expected to continue." *Id.*

Ms. Morales faces a reasonable expectation of being subjected to the same policy again. The government has not abandoned its interpretation of § 1225(b)(2)(A). This Court's December 9 opinion granted individual habeas relief but did not set aside *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), or order systemic relief precluding future application of the challenged policy. The government retains authority to rearrest and redetain Ms. Morales under the same statutory framework. Relatedly, the Sixth Circuit recognized in *Rosales-Garcia v. Holland*,

where the government "can revoke parole at any time" and has done so repeatedly, "there is a reasonable expectation" the individual "will again be subject to indefinite INS detention," and "such detention can always evade review." 322 F.3d 386, 397 (6th Cir. 2003).

Moreover, Ms. Morales seeks declaratory relief establishing that the government's policy is unlawful, relief that would prevent the government from subjecting her or any class member to the same detention regime in the future. As *Geraghty* explained, the "proposed representative has a continuing individual interest in the resolution of the class certification question" because certification affects the scope of the remedy, the collateral estoppel consequences of the judgment, and the distribution of any relief ultimately granted. 445 U.S. at 403–04. Her personal stake in that outcome is manifest.

3. The APA Claims Challenge Systemic Policy, Not Individual Custody

Ms. Morales's APA claims challenge the procedural and substantive validity of agency action, specifically, the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado* and the Department of Homeland Security's July 2025 Interim Guidance establishing mandatory detention for interior apprehendees. ECF No. 2, PageID.66–68. These claims are not tied to her personal detention; they challenge whether the government lawfully promulgated a categorical rule without notice-and-comment rulemaking and whether that policy is arbitrary, capricious, and contrary to law. *See* 5 U.S.C. § 706.

Courts have recognized that challenges to "an alleged pattern and practice of constitutional or statutory violations" are distinct from challenges to individual removal orders and are not subject to individual mootness. *Detroit Free Press v. Ashcroft*, 195 F. Supp. 2d 948, 952 (E.D. Mich. 2002) (citing *El Rescate Legal Servs., Inc. v. Exec. Office of Immigration Review*, 959 F.2d 742, 746 (9th Cir. 1992)). Ms. Morales does not challenge the factual basis for

any deportation order; she challenges the government's systematic misapplication of detention statutes to an entire class of detainees. That pattern-and-practice challenge survives her individual release because it targets the legality of the government's policy. *Id.*

This Court already determined that exhaustion is not required for Ms. Morales's habeas claims. ECF No. 25, PageID.426–29. That determination applies equally to the APA claims: the central question is statutory interpretation requiring no factual development, the government has made clear through binding BIA precedent that administrative relief is futile, and administrative review cannot correct an error enshrined in that precedent. *Id.* Moreover, the APA provides that judicial review is available "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Here, habeas provided a remedy for Ms. Morales's individual detention, but the APA provides the proper vehicle for challenging the lawfulness of the government's systemic policy. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006–07 (2025) (Kavanaugh, J., concurring) (distinguishing individual habeas relief from APA challenges to agency policy).

4. Conclusion

The inherently transitory nature of immigration detention, combined with the government's ongoing application of an unlawful policy and Ms. Morales's continuing personal stake in class certification, preserve the justiciability of her claims under Article III. Her constitutional and APA claims challenge systemic agency action, not merely individual custody determinations. This Court should proceed to rule on the pending class certification motion and the corresponding requests for declaratory relief.

B. The Court May Certify a Class of Habeas Petitioners Under 28 U.S.C. § 2241 and Federal Rule of Civil Procedure 23 (Issue Two)

Habeas corpus under 28 U.S.C. § 2241 is a proper procedural vehicle for class certification under Federal Rule of Civil Procedure 23. The Supreme Court has repeatedly

entertained class habeas actions without questioning their procedural propriety, and the Sixth Circuit has done the same. Rule 23 contains no exception for habeas cases, and the procedural mechanics of habeas corpus are fully compatible with class treatment.

1. **The Supreme Court Has Treated Class Habeas Actions as Procedurally Permissible**

The Supreme Court's recent decision in *A.A.R.P. v. Trump* confirms the procedural availability of class relief in habeas proceedings. 605 U.S. 91 (2025). There, the Court entertained a class action instituted through habeas corpus and remanded to the Fifth Circuit with instructions to address "all the normal preliminary injunction factors, including likelihood of success on the merits, as the named plaintiffs' underlying habeas claims." *Id.* at 104. The Court treated the case as a proper class action throughout and directed further proceedings on the merits without suggesting any procedural infirmity in combining habeas relief with Rule 23.

Justice Alito, joined by Justice Thomas, dissented on the ground that "it is doubtful that class relief may be obtained in a habeas proceeding." *Id.* at 107 (Alito, J., dissenting). The majority rejected that position and did not remand for consideration of whether class certification was procedurally available. Instead, it directed the Fifth Circuit to proceed to the merits of the habeas claims on behalf of the class. The Court's disposition reflects that a majority of the Supreme Court considers class habeas relief procedurally permissible.

This approach is consistent with the Court's earlier treatment of *Jennings v. Rodriguez*, which arose from class habeas litigation challenging immigration detention. 583 U.S. 281 (2018). The underlying Ninth Circuit decision explicitly recognized that "class actions may be brought pursuant to habeas corpus." *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010). Justice Alito authored the majority opinion in *Jennings* and addressed the substantive merits without raising any objection to the procedural posture. 583 U.S. at 288–89. If class habeas relief

were categorically unavailable, the Court would have resolved that threshold issue before reaching the merits.

2. The Sixth Circuit Has Entertained Class Habeas Proceedings

The Sixth Circuit has addressed classwide habeas proceedings without treating the combination as procedurally improper. In *Wilson v. Williams*, the court reviewed "a petition under 28 U.S.C. § 2241" filed by "four inmates . . . on behalf of themselves and others housed or to be housed" at a federal correctional facility. 961 F.3d 829, 832–33 (6th Cir. 2020). The petitioners sought release based on COVID-19-related health risks. The Sixth Circuit treated the case as a class action throughout, addressing the merits of the habeas claims without suggesting any procedural irregularity.

District courts within the Circuit have likewise evaluated Rule 23 motions in habeas proceedings on their merits. In *Hurst v. Rewerts*, the court addressed whether a habeas petitioner satisfied Rule 23's adequacy-of-representation requirement before denying class certification. No. 1:20-cv-680 (W.D. Mich. Sept. 1, 2020). The court's substantive engagement with Rule 23 reflects the accepted practice of considering class certification in habeas cases where appropriate.

Outside the Sixth Circuit, courts have certified classes in habeas proceedings challenging immigration detention policies. In a case similar to the one at bar, *Guerrero Orellana v. Moniz*, the court certified a class of immigration detainees challenging detention under § 1225(b)(2)(A). No. 25-cv-12664-PBS, slip op. at 29–30 (D. Mass. Oct. 30, 2025). The court concluded that "the proposed class satisfies Rule 23(b)(2)" because the government had adopted a uniform interpretation affecting all class members and "a single . . . declaratory judgment would provide relief to each member of the class." *Id.* (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011)).

3. Rule 23 Contains No Exception for Habeas Cases

Nothing in the text of Rule 23 excludes habeas proceedings from its scope. Rule 23(a) applies to any civil action in which "one or more members of a class" seek to litigate on behalf of others. Habeas corpus proceedings are civil actions filed in federal court. 28 U.S.C. § 2241(a). Rule 23(b)(2) authorizes class certification where the opposing party has acted on grounds generally applicable to the class, making injunctive or corresponding declaratory relief appropriate.

As Wright and Miller explain, subdivision (b)(2) was added in 1966 to ensure that civil-rights suits seeking injunctive or declaratory relief could proceed as class actions, and it is commonly used in prisoner litigation challenging unconstitutional practices. 7AA Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure §§ 1776, 1776.1 (3d ed. 2005). Habeas actions challenging systemic detention policies fall squarely within that framework.

4. Class Habeas Actions Address Uniform Government Policies

When the government applies a uniform detention policy that violates the law, a declaration that the policy is unlawful and an order requiring individualized custody hearings provides relief to every class member in the same manner. This is the "indivisible" relief contemplated by Rule 23(b)(2). *Wal-Mart*, 564 U.S. at 360. Class habeas actions do not expand the substantive scope of habeas relief; they provide an efficient procedural mechanism for resolving identical legal claims arising from the same government policy.

5. Conclusion

Habeas corpus is a proper vehicle for class certification under Rule 23. The Supreme Court and the Sixth Circuit have repeatedly entertained class habeas actions without questioning their procedural propriety. Rule 23 contains no exception for habeas cases, and the mechanics of

habeas proceedings are fully compatible with class treatment. Justice Alito's dissenting view in *A.A.R.P.* does not reflect binding precedent. The Court should conclude that class certification is procedurally permissible in this action.

C. The Court May Certify a Class Including Future Detainees, and the INA Does Not Bar Class-Wide Declaratory Relief (Issues Three, Four, and Five)

The Court has requested supplemental briefing on three related jurisdictional questions: whether it may certify a class that includes future detainees not currently in custody; whether the Immigration and Nationality Act ("INA") bars class-wide relief under 8 U.S.C. §§ 1252(e)(1) and 1252(f); and whether § 1252(f) bars declaratory relief for constitutional violations. Properly understood, governing precedent answers each question in the negative. The relief Petitioner seeks remains available.

1. The Court May Certify a Class Including Future Detainees (Issue Three)

The fact that habeas relief requires custody does not preclude certification of a class that includes future detainees. The Sixth Circuit's statement that "[e]ligibility for habeas relief . . . covers only those individuals currently in custody," *Hamama v. Adducci*, 946 F.3d 875, 878 (6th Cir. 2020), addresses individual standing to seek habeas relief, not the permissibility of defining a Rule 23 class that will include individuals who will enter custody in the future. These are distinct questions. Once a class is properly certified, established class-action doctrines preserve claims on behalf of class members whose individual circumstances change over time.

The Supreme Court has long recognized that class certification is appropriate where government action is capable of repetition yet evading review, such that "no single challenger will remain subject to [the challenged action] for the period necessary to see such a lawsuit to its conclusion." *Sosna v. Iowa*, 419 U.S. 393, 399 (1975). In that circumstance, class certification preserves justiciability for individuals who enter the class after litigation has begun. *Id.* at 403.

The Court reaffirmed this principle in *Gerstein v. Pugh*, holding that pretrial detention is "by nature temporary" and that where "the constant existence of a class of persons suffering the deprivation is certain," the release of named plaintiffs does not defeat class claims. 420 U.S. 103, 110 n.11 (1975). Immigration detention presents the paradigmatic example of such inherently transitory custody.

The class proposed here fits squarely within this framework. Petitioner seeks to represent "all current and future noncitizens detained" at immigration detention facilities within this District who meet defined statutory criteria. Each individual who enters the class will be in custody at the time relief is sought. The inclusion of future detainees does not create standing defects; it reflects the reality that the challenged detention policy continues to generate new detainees while individual custody episodes end before litigation can conclude.

This understanding is consistent with *Hamama* itself. In *Hamama*, the district court certified a class that included individuals "who have been, or will be, detained for removal." *Hamama v. Adducci*, 285 F. Supp. 3d 997, 1020 (E.D. Mich. 2018). Although the Sixth Circuit later vacated the preliminary injunction and class certification on other grounds, it did not hold that inclusion of future detainees violated habeas custody requirements. *Hamama*, 946 F.3d at 878. The custody requirement governs when an individual may invoke habeas relief; it does not disable courts from certifying classes designed to address inherently transitory detention practices.

Once a class is certified, the relation-back doctrine preserves the claims of future class members. *County of Riverside v. McLaughlin*, 500 U.S. 44, 51–52 (1991). Class certification relates back to the filing of the complaint, ensuring that systemic government policies remain subject to judicial review even when individual custody ends before a final judgment. To hold

otherwise would eliminate class actions precisely where they are most necessary, i.e. cases involving uniform government practices that affect large numbers of people for brief periods of time.

2. The INA Does Not Bar Class-Wide Relief (Issues Four and Five)

The Court also asks whether 8 U.S.C. §§ 1252(e)(1) and 1252(f) foreclose class-wide relief, including declaratory relief for constitutional violations. Neither provision bars the relief sought here.

a. Section 1252(e)(1) Does Not Apply

Section 1252(e)(1) limits judicial review only with respect to expedited removal orders issued under 8 U.S.C. § 1225(b)(1). The proposed class definition expressly excludes individuals detained pursuant to § 1225(b)(1). All class members are detained under the government's interpretation of § 1225(b)(2)(A) after being placed into full removal proceedings under § 1229a. Because § 1252(e)(1) applies solely to expedited removal proceedings, it has no application to this case and poses no barrier to class-wide relief.

b. Section 1252(f)(1) Does Not Bar Declaratory Relief

Section 1252(f)(1) provides that lower courts may not "enjoin or restrain the operation" of specified INA provisions except with respect to an individual alien against whom proceedings have been initiated. The statute does not mention declaratory relief. That omission is meaningful. Congress chose language directed at injunctions, coercive orders enforced through contempt, not at judicial declarations of legal rights and obligations.

The distinction between injunctive and declaratory relief is well established. A declaratory judgment states what the law is; it does not itself compel or prohibit action. While parties may conform their conduct to a declaration, the declaration does not "enjoin or restrain"

within the ordinary meaning of those terms. The Sixth Circuit has acknowledged this distinction, expressly declining to decide whether § 1252(f)(1) bars declaratory relief. *Hamama v. Adducci*, 912 F.3d 869, 880 n.8 (6th Cir. 2018).

In any event, the relief Petitioner seeks falls within § 1252(f)(1)'s individual-alien exception. Each class member is an individual noncitizen against whom removal proceedings have been initiated under § 1229a. Class certification does not transform individual claims into a facial challenge to the statute. As the Supreme Court has explained, "the mere fact that a suit is brought as a class action does not automatically make it a facial attack on a statute." *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979). Rule 23 is a procedural device; it does not alter the substantive nature of the claims or the jurisdictional analysis.

Even if 8 U.S.C. § 1252(f)(1) were applicable, it would not bar the relief sought here because Petitioner does not ask the Court to restrain the operation of any immigration statute. She asks only that the Government apply the correct detention statute to the correct category of noncitizens. Courts have consistently recognized a critical distinction between enjoining the operation of a statute and requiring the Government to comply with the limits Congress imposed.

That distinction is well illustrated by *Gordon v. Johnson*, where the district court rejected the Government's argument that § 1252(f)(1) barred class-wide relief. The court explained that an order requiring the Government to apply the proper detention statute "will not prevent the law from operating in any way, but instead would simply force Defendants to comply with the statute." *Gordon v. Johnson*, No. 13-cv-30146-MAP, slip op. at *27 (D. Mass. May 21, 2014). Congress enacted § 1252(f)(1) to prevent courts from interfering with the Government's ability to carry out lawful removal procedures, not to shield the Government from judicial correction when it applies the wrong statute to the wrong people. *Id.*

The Ninth Circuit articulated the same principle, i.e. "§ 1252(f)(1) limits the district court's authority to enjoin the INS from carrying out legitimate removal orders," but "[w]here, however, a petitioner seeks to enjoin conduct that allegedly is not even authorized by the statute, the court is not enjoining the operation of part IV of subchapter II, and § 1252(f)(1) therefore is not implicated." *Ali v. Ashcroft*, 346 F.3d 873 (9th Cir. 2003). Other courts have followed this reasoning, concluding that § 1252(f)(1) does not bar relief where the challenge is to the Government's mandatory detention procedures as inconsistent with the INA itself. *See, e.g.*, *Gayle v. Johnson*, 2014 WL 1044074, at *19 (D.N.J. Mar. 14, 2014).

That is precisely the posture of this case. Petitioner does not ask the Court to halt detention authorized by § 1225(b)(2)(A). She asks the Court to declare that § 1225(b)(2)(A) does not apply to noncitizens apprehended in the interior and placed into removal proceedings under § 1229a, and that detention of such individuals is governed by § 1226(a). Ordering the Government to apply § 1226(a) and its existing bond procedures does not restrain the operation of the INA; it enforces the statutory scheme Congress enacted.

For that reason, *Hamama v. Adducci* is inapposite. In *Hamama*, the Sixth Circuit held that § 1252(f)(1) barred relief because the district court had "created out of thin air a requirement for bond hearings that does not exist in the statute" and imposed standards Congress never authorized. 912 F.3d 869, 879–80 (6th Cir. 2018). Here, Petitioner seeks no judicial invention. She seeks application of the statute Congress actually wrote. Where relief compels statutory compliance rather than judicially rewriting detention law, § 1252(f)(1) does not apply. This Court has already held that § 1225(b)(2)(A) does not authorize detention of individuals like Ms. Morales who were apprehended in the interior and placed into § 1229a proceedings, and that such detention is governed by § 1226(a). A declaratory judgment extending that legal conclusion

to similarly situated detainees would not impede the statute's operation; it would ensure that the statute operates only within its lawful scope.

3. Conclusion

The Court may certify a class that includes future detainees where, as here, immigration detention is inherently transitory and future class members will be in custody at the time relief is sought. Section 1252(e)(1) does not apply because it governs only expedited removal proceedings under 8 U.S.C. § 1225(b)(1), which the proposed class expressly excludes.

Section 1252(f)(1) likewise does not bar the relief Petitioner seeks. Petitioner does not ask the Court to enjoin or restrain the operation of any provision of the Immigration and Nationality Act. She asks only for a declaration that the Government has misapplied the detention statutes by subjecting individuals governed by 8 U.S.C. § 1226(a) to mandatory detention under § 1225(b)(2)(A). Relief requiring the Government to apply the correct statute does not restrain statutory operation; it enforces the statutory limits Congress enacted.

Even if § 1252(f)(1) were implicated, it would not foreclose declaratory relief in this case. The statute does not mention declaratory relief, the individual-alien exception applies to each class member placed in removal proceedings, and the relief sought addresses statutory misapplication rather than lawful statutory operation. The Court should therefore proceed to certify the class and adjudicate the merits of Petitioner's request for class-wide declaratory relief.

D. The Declaratory Relief Petitioner Seeks Does Not Constitute a Prohibited Injunction Under § 1252(f)(1) (Issue Six)

The Court asks whether the "corresponding declaratory relief" permitted by Rule 23(b)(2) would, in substance, operate as an injunction barred by 8 U.S.C. § 1252(f)(1). It would not. The declaratory relief sought here does not restrain the operation of any provision of the Immigration and Nationality Act, impose extra-statutory obligations on the government, or

substitute judicially created detention procedures for those enacted by Congress. Instead, it resolves a pure question of statutory interpretation, and leaves the government free to administer the INA exactly as written.

The Sixth Circuit's caution in *Hamama v. Adducci* that declaratory relief may, in some circumstances, have "the practical effect" of an injunction must be understood in light of the relief at issue in that case. 912 F.3d 869, 880 n.8 (6th Cir. 2018). In *Hamama*, the district court did not merely declare statutory meaning. It ordered detainees released unless bond hearings were conducted, imposed evidentiary burdens not found in the statute, and effectively rewrote the detention framework governing final-order detainees. *Id.* at 879–80. The Sixth Circuit rejected that relief because it "created out of thin air" procedures Congress had not authorized and thereby restrained the lawful operation of the statute. *Id.* The problem was not that the relief was styled as declaratory; it was that the relief functioned as a judicial replacement for the statutory scheme.

This case presents the opposite posture. Petitioner does not ask the Court to invent detention procedures, suspend a valid statutory regime, or prohibit the government from exercising authority Congress conferred. She asks only for a declaration that 8 U.S.C. § 1225(b)(2)(A) does not apply to noncitizens apprehended in the interior who are placed in removal proceedings under 8 U.S.C. § 1229a, and that their detention is therefore governed by 8 U.S.C. § 1226(a). This Court has already reached that legal conclusion in granting Ms. Morales's habeas petition. The requested declaratory relief would simply apply that interpretation uniformly to similarly situated individuals.

Declaratory relief that clarifies which statute governs does not "enjoin or restrain" statutory operation within the meaning of § 1252(f)(1). An injunction restrains the government

from enforcing what Congress enacted. A declaration of statutory meaning ensures the government enforces the statute Congress enacted, rather than extending it beyond its lawful scope. Courts have consistently recognized this distinction. Where a petitioner seeks to prevent conduct "not even authorized by the statute," the court is not restraining statutory operation at all, and § 1252(f)(1) is not implicated. *Rodriguez v. Hayes*, 591 F.3d 1105, 1120 (9th Cir. 2010). Similarly, district courts addressing § 1252(f)(1) have explained that relief requiring the government to apply the correct detention statute "will not prevent the law from operating in any way, but instead would simply force Defendants to comply with the statute." *Gordon v. Johnson*, No. 13-cv-30146, 2014 WL 1044074, at *27 (D. Mass. May 21, 2014).

Rule 23(b)(2) does not alter this analysis. The Rule authorizes class treatment where "final injunctive relief or corresponding declaratory relief" is appropriate with respect to the class as a whole. Fed. R. Civ. P. 23(b)(2). The reference to "corresponding" declaratory relief does not transform a declaration into an injunction; it reflects that both forms of relief may address uniform government conduct affecting the class. Declaratory relief remains declaratory in nature. It states the law and the parties' legal obligations but does not itself compel compliance through contempt or coercive sanctions. Any obligation to conform conduct flows from the statute as interpreted, not from a judicial command.

The relief sought here therefore differs in kind from the relief rejected in *Hamama*. Petitioner does not seek to halt detentions, mandate releases, or impose new procedural requirements. She seeks a declaration resolving a threshold legal question, i.e. whether § 1225(b)(2)(A) applies to this class at all. Once that question is answered, the government remains free to detain class members under the statute Congress designated for them and to

conduct bond hearings under the procedures Congress already provided in § 1226(a). Such relief does not restrain the INA's operation; it restores it.

Because the declaratory relief requested neither substitutes judicial policy for congressional enactment nor restrains the lawful operation of the immigration statutes, it does not constitute a prohibited injunction under § 1252(f)(1). Rule 23(b)(2) expressly contemplates declaratory relief of this nature, and nothing in the INA or Sixth Circuit precedent forecloses it. The Court may therefore grant declaratory relief on a classwide basis without running afoul of § 1252(f)(1).

E. Individual Habeas Relief Is Not an "Other Adequate Remedy" Barring APA Claims (Issue Seven)

The Court asks whether the availability of individual habeas relief for putative class members constitutes an "other adequate remedy" barring review under the Administrative Procedure Act. It does not. Under 5 U.S.C. § 704, the relevant inquiry is not whether some remedy exists, but whether the alternative remedy is adequate to redress the challenged agency action. Individual habeas relief is not adequate here because it cannot provide the prospective, policy-level relief necessary to correct a uniform agency misinterpretation of the Immigration and Nationality Act, nor can it set aside or invalidate the agency action itself.

The Supreme Court has long distinguished habeas corpus from mechanisms designed to review agency action. Habeas is a vehicle for testing the legality of an individual's custody, not for setting aside agency rules or policies of general applicability. As the Court explained in *Preiser v. Rodriguez*, habeas is concerned with "the fact or duration of confinement," and its core function is to secure release from unlawful custody. 411 U.S. 475, 484 (1973). It is not a substitute for statutory review of agency action, nor does it authorize courts to vacate agency guidance or resolve the legality of agency policy on a systemic basis.

That distinction is reflected in the Court's repeated characterization of habeas as an individual remedy. In *McNally v. Hill*, the Court emphasized that habeas "is not a proceeding to review the decision of an administrative tribunal," but rather a proceeding "to enforce the right of personal liberty." 293 U.S. 131, 138 (1934). Likewise, in *Wilkinson v. Dotson*, the Court reaffirmed that where plaintiffs seek relief that would invalidate the procedures or policies governing future custody determinations rather than immediate release, habeas is not the exclusive or appropriate vehicle. 544 U.S. 74, 82 (2005). The relief Petitioner seeks here, i.e. declaratory relief establishing the unlawfulness of DHS's detention policy and vacatur of that policy, falls squarely outside the traditional scope of habeas.

Section 704 requires an "adequate remedy," not merely an available one. *Bowen v. Massachusetts* makes clear that a remedy is inadequate where it cannot provide the relief to which the plaintiff is entitled under the APA. 487 U.S. 879, 901 (1988). A remedy that addresses only the downstream effects of an unlawful policy, while leaving the policy itself intact, is not adequate. Individual habeas petitions may secure release for particular detainees, but they cannot set aside the agency's legal interpretation, prevent its continued application to future detainees, or bind the agency prospectively. As a result, habeas relief cannot cure the APA violation alleged here.

Darby v. Cisneros reinforces this conclusion. There, the Supreme Court emphasized that the APA provides a right to judicial review of final agency action unless a statute expressly precludes review or provides an adequate alternative remedy. 509 U.S. 137, 146 (1993). Nothing in the habeas statutes provides a mechanism for reviewing, invalidating, or vacating DHS's detention guidance or the BIA precedent on which it rests. Habeas relief operates case by case;

APA relief operates at the level of agency action. The two remedies address different injuries and serve different functions.

Courts addressing challenges to uniform agency policies have recognized that the availability of individualized remedies does not bar APA review where those remedies cannot correct the agency action itself. The Supreme Court has made clear that § 704's adequacy inquiry turns on whether the alternative remedy can provide relief equivalent to that available under the APA, not merely whether it can alleviate the downstream effects of the challenged policy. *Bowen v. Massachusetts*, 487 U.S. 879, 901–03 (1988). Habeas corpus, by contrast, is directed at the lawfulness of an individual's custody and provides a remedy of release, not a mechanism for setting aside agency action of general applicability. *Preiser*, 411 U.S. at 484; *McNally*, 293 U.S. at 138. Where an agency applies a legal interpretation categorically, individual habeas relief cannot remedy the agency action itself, because even successful petitions leave the challenged policy in place and capable of producing the same legal error for future detainees. *Bowen*, 487 U.S. at 903 (explaining that a remedy is inadequate where it cannot provide the relief to which the plaintiff is entitled); *Darby v. Cisneros*, 509 U.S. 137, 146 (1993) (APA provides a right to judicial review of final agency action absent an adequate alternative remedy). Section 704 does not require litigants to pursue futile and piecemeal litigation that can address only individual outcomes while leaving an unlawful agency policy intact. *Bowen*, 487 U.S. at 903 n.42.

Practical considerations further confirm the inadequacy of habeas as a substitute remedy. Requiring hundreds of individual habeas petitions to litigate the same pure question of statutory interpretation would impose unnecessary burdens on detainees, courts, and the government alike, while creating a serious risk of inconsistent rulings. *Bowen* recognized that a remedy is inadequate where it would require "piecemeal litigation" to resolve what is, in substance, a single

legal dispute. 487 U.S. at 903 n.42. The APA exists precisely to prevent that result by allowing courts to resolve challenges to agency action in a single proceeding with prospective effect.

This Court has already resolved the core statutory question at issue, concluding that § 1225(b)(2)(A) does not authorize detention of individuals apprehended in the interior and placed in § 1229a removal proceedings. ECF No. 25, PageID.431–34. The APA provides the proper vehicle to give that legal conclusion effect beyond Petitioner's individual case by addressing the agency action that produced the unlawful detention in the first place. Habeas relief alone cannot accomplish that task.

Accordingly, the availability of individual habeas relief does not constitute an "other adequate remedy" within the meaning of 5 U.S.C. § 704. Petitioner's APA claims seek relief that habeas cannot provide: a declaration that DHS's detention policy is unlawful and prospective relief ensuring that the agency applies the correct statutory framework going forward. Those claims are properly before the Court and are not barred by § 704.

F. Ms. Morales Remains an Adequate Class Representative After Release (Issue Eight)

The Court asks whether the grant of individual habeas relief renders Petitioner an inappropriate class representative. It does not. Under settled Supreme Court and Sixth Circuit precedent, Ms. Morales remains an adequate representative because she retains a personal stake in class certification, her claims are inherently transitory, and she vigorously prosecuted this action before her individual claim became moot.

The Supreme Court in *Geraghty* held that a named plaintiff whose individual claim has been resolved may continue to pursue class certification so long as the case presents claims capable of repetition yet evading review and the plaintiff had a live, colorable claim at the outset of the litigation. 445 U.S. at 398–404. The Court emphasized that the expiration of a named

plaintiff's personal claim does not defeat adequacy where the controversy persists as to the class and the representative continues to have a personal stake in the certification determination itself. *Id.* at 403–04.

Those conditions are satisfied here. Immigration detention is inherently transitory. As the Supreme Court explained in *Pugh*, detention claims are paradigmatic examples of controversies that evade review because custody "is by nature temporary" and may end before a court can rule on certification, even though "the constant existence of a class of persons suffering the deprivation is certain." 420 U.S. at 110 n.11. *Sosna* likewise recognized that where no single individual is likely to remain subject to the challenged practice long enough to litigate it fully, class actions are the proper vehicle for review. 419 U.S. at 399–402.

Ms. Morales's release does not alter this analysis. Her habeas relief addressed only her individual detention. It did not invalidate the government's interpretation of § 1225(b)(2)(A), vacate *Matter of Yajure-Hurtado*, or prohibit DHS from reapplying the same detention framework to her or to other class members. As a result, Ms. Morales remains subject to the same statutory interpretation that led to her unlawful detention in the first place. The Sixth Circuit has held that where the government retains authority to re-detain an individual under the same challenged policy, the controversy remains live because the injury "can always evade review." *Rosales-Garcia v. Holland*, 322 F.3d 386, 397–98 (6th Cir. 2003). That principle applies with full force here.

There is likewise no question that Ms. Morales's claim was colorable when filed. This Court granted her habeas petition on the merits, holding that § 1225(b)(2)(A) did not authorize her detention and that her continued detention without a bond hearing violated the Fifth

Amendment. ECF No. 25, PageID.431–34. A claim that succeeds on the merits plainly satisfies *Geraghty*'s colorability requirement.

Nor can the government plausibly contend that Ms. Morales failed to prosecute this case diligently. She filed her habeas petition on November 17, 2025, moved for class certification on November 23, 2025, and obtained relief on December 9, 2025. Her individual claim became moot only after she had already sought class certification and fully briefed the central legal issues. This sequence mirrors the precise concern *Geraghty* identified: that defendants might moot individual claims before courts have an opportunity to rule on certification. 445 U.S. at 399–400.

Adequacy of representation under Rule 23(a)(4) also turns on whether the class's interests will be vigorously prosecuted through qualified counsel. *See Senter v. Gen. Motors Corp.*, 532 F.2d 511, 524–25 (6th Cir. 1976). Even where a named plaintiff's individual circumstances change, courts routinely find adequacy satisfied where experienced counsel continue to litigate the class claims and no conflict of interest exists. *Id.* Here, Ms. Morales is represented by counsel who have actively litigated the merits of the statutory and constitutional issues, moved promptly for class certification, and continue to prosecute the class claims following the grant of individual habeas relief. Her release does not impair counsel's ability to litigate the legality of the challenged detention policy on behalf of the class, nor does it create any divergence of interests between Ms. Morales and absent class members.

Finally, *Geraghty* makes clear that a named plaintiff's interest in class certification is itself sufficient to support adequacy. A proposed representative has a continuing stake because she will be bound by the certification decision, because certification determines the scope of any declaratory relief, and because it affects collateral consequences such as attorney's fees and the

preclusive effect of the judgment. *Id.* at 403–04. Ms. Morales's release does not diminish her ability to fairly and adequately represent the class, particularly where the challenged policy continues to govern her legal status and counsel continue to prosecute the action vigorously.

For these reasons, the grant of individual habeas relief does not render Ms. Morales an inadequate class representative. To hold otherwise would ensure that detention policies of short duration but ongoing application are categorically insulated from class-wide review, a result the Supreme Court has repeatedly rejected. Ms. Morales remains an appropriate and adequate representative under Rule 23.

G. This Case Is Not Duplicative of *Bautista* (Issue Nine)

The Court asks whether this action would be duplicative of the class action pending in *Maldonado Bautista v. Santacruz* and whether any overlap should affect class certification or the availability of class-wide relief. ECF No. 27, PageID.447. It would not. This case and Bautista proceed in different districts, involve different custodians, rest on distinct jurisdictional predicates, and provide different forms of relief. Governing principles of habeas jurisdiction and Sixth Circuit precedent confirm that Bautista does not supply a basis for denying certification or relief here.

First, habeas jurisdiction is territorially limited. A petition under 28 U.S.C. § 2241 must be brought in the district of confinement against the petitioner's immediate custodian. *Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004). The proposed class here is confined to noncitizens detained at facilities within the Western District of Michigan, and any habeas relief would run only against custodians within this district. *Bautista*, by contrast, is pending in the Central District of California and concerns detention decisions made there. A California district court cannot exercise habeas jurisdiction over Michigan custodians, and Michigan detainees cannot be

required to litigate their custody in California. This jurisdictional limitation alone forecloses treating Bautista as a substitute or displacement for this action.

Second, *Bautista* does not provide substitute relief for the claims asserted here. *Bautista* proceeds primarily as an Administrative Procedure Act action seeking declaratory relief and vacatur of agency guidance, not as a habeas action adjudicating custody in the districts of confinement. Although the *Bautista* court certified a class and entered declaratory relief, subsequent filings confirm that the scope, effect, and implementation of that relief remain contested. The court has addressed post-judgment motions concerning compliance and the operative reach of the declaration, underscoring that the judgment has not functioned as self-executing nationwide relief. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, ECF No. 92, PageID.1727–31 (C.D. Cal. Dec. 18, 2025). That procedural posture demonstrates that *Bautista* has not produced a final, comprehensive resolution capable of displacing district-specific habeas adjudication elsewhere.

Third, the class definitions and operative reach of the two cases are not coextensive. *Bautista*'s certified class is defined by detention and custody determinations made within the Central District of California and excludes certain categories of detainees. To the extent individuals detained in Michigan fall outside that definition, they receive no relief from *Bautista* at all. More fundamentally, even for detainees who may present similar statutory questions, Bautista does not and cannot provide individualized habeas relief, bond hearings, or release orders for detainees held in this district.

Fourth, *Groseclose v. Dutton* does not counsel a different result. 829 F.2d 581 (6th Cir. 1987). The relevance of *Groseclose* lies in its discussion of when parallel litigation raises genuine concerns of duplication warranting judicial management. *Groseclos*e involved

overlapping prisoner cases pending within the same district court, challenging the same conditions of confinement at the same facilities and directed at the same custodial authority. The Sixth Circuit's concern was the inefficiency and risk of inconsistent remedial supervision by multiple judges exercising concurrent jurisdiction over identical subject matter within a single forum. *Id.* at 584–85. The court addressed that concern through consolidation and case management, not dismissal or abstention. *Id.* at 585.

Those circumstances are absent here. This case and *Bautista* are pending in different districts, involve different custodians, and are constrained by distinct habeas jurisdictional rules that make consolidation impossible. *Groseclose* does not suggest that a court should decline to adjudicate a properly filed action within its jurisdiction merely because related litigation exists elsewhere. To the contrary, it confirms that concerns about duplication arise only where multiple courts exercise overlapping authority over the same custodial system; conditions not present in this case.

Finally, parallel proceedings addressing similar legal questions do not constitute improper duplication where each court exercises independent jurisdiction over distinct custodians and detainees. Consistent declaratory or statutory interpretations across districts promote legal clarity; they do not create conflict. To the extent *Bautista* and this case reach similar conclusions regarding the statutory scheme governing detention, those outcomes would be complementary, not redundant.

In sum, this action is not duplicative of *Bautista*. The cases proceed in different districts, involve different custodians, rest on different jurisdictional predicates, and provide different forms of relief. *Bautista* does not and cannot displace this Court's obligation to adjudicate habeas and class claims arising from detention within the Western District of Michigan. The Court

should therefore proceed to resolve the pending class certification motion and related requests for relief on their merits.

IV. CONCLUSION

The questions posed by the Court in its December 9, 2025 order all admit of the same answer: this case remains justiciable, procedurally proper, and within the Court's authority to resolve on a class-wide basis. Immigration detention under the challenged statutory interpretation is inherently transitory. The grant of individual habeas relief to Ms. Morales does not moot her constitutional or Administrative Procedure Act claims, nor does it render her an inadequate class representative. Controlling Supreme Court and Sixth Circuit precedent permit class treatment in habeas proceedings, including classes that encompass future detainees whose claims would otherwise evade review.

The Immigration and Nationality Act does not strip this Court of jurisdiction to grant the relief sought. Section 1252(e)(1) is inapplicable by the express terms of the proposed class. Section 1252(f)(1) does not bar declaratory relief, does not apply where the government is acting outside statutory authorization, and in any event preserves relief as applied to individual aliens placed in removal proceedings. The declaratory relief requested here does not restrain the lawful operation of the INA; it requires only that the government apply the correct statutory scheme Congress enacted.

Individual habeas petitions are not an "other adequate remedy" within the meaning of 5 U.S.C. § 704 where the injury alleged is a uniform agency policy and the relief sought is prospective, declaratory, and corrective of that policy itself. Nor does parallel litigation in another district displace this Court's obligation to adjudicate habeas and class claims arising from detention within its territorial jurisdiction.

For these reasons, the Court should proceed to certify the proposed class and adjudicate the pending requests for declaratory relief on the merits.

Dated: December 23, 2025

By: *<u>/s/ Robert Anthony Alvarez</u>*
AVANTI LAW GROUP, PLLC
Robert Anthony Alvarez (P66954)
Meghan Moore (P73392)
Victor M Jimenez Jr. (P85194)
Attorneys for Petitioner

LAW OFFICE OF AMY MALDONADO LLC
Amy Maldonado (Illinois Bar No. 6256961)
Adriana I.B. Klemish (P86742)
Attorneys for Petitioner