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, in her official capacity as Attorney General of the United States, et al.,

Respondents.
_____/

Case No. 1:25-cv-01472

Hon. Hala Y. Jarbou
Chief U.S. District Judge

Hon. Phillip J. Green
U.S. Magistrate Judge

RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR CLASS CERTIFICATION

INTRODUCTION

Petitioner asks this Court to certify a sweeping Rule 23 class and to enter classwide relief that would effectively reclassify immigration detainees and prescribe how the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) must administer the Immigration and Nationality Act's (INA) detention scheme on an ongoing basis. But class certification is not a default mechanism for aggregating immigration detention claims. Congress has imposed express jurisdictional and remedial limits on judicial review in this area—limits that strictly constrain both where and how challenges to the implementation of 8 U.S.C. § 1225(b) may proceed and that foreclose classwide orders that would "enjoin or restrain the operation of" the detention statutes. *See* 8 U.S.C. §§ 1252(e)(1)(B), 1252(f)(1); *see also AARP v. Trump*, 145 S. Ct. 1034, 1036 (2025).

As explained below, the Court should deny class certification for multiple, independent reasons. First, Petitioner's individual claims are moot, and the absence of a live case or controversy deprives the Court of jurisdiction over the proposed class. Second, Congress has expressly barred class-based challenges to the implementation of § 1225(b), foreclosing Rule 23 treatment regardless of how Petitioner defines the proposed class. *See* 8 U.S.C. § 1252(e)(1)(B). Third, habeas relief under 28 U.S.C. § 2241 is inherently individualized and does not authorize classwide adjudication. Even if those threshold defects did not exist, Petitioner cannot satisfy Rule 23(a)'s requirements, nor can she demonstrate—consistent with § 1252(f)(1)—that classwide injunctive or declaratory relief is appropriate under Rule 23(b)(2). Finally, individual habeas proceedings provide a complete and adequate remedy, and the claims Petitioner seeks to litigate on a classwide basis substantially overlap with existing certified class litigation. For all these reasons, class certification must be denied.

LEGAL BACKGROUND ON IMMIGRATION DETENTION

The INA provides a comprehensive statutory regime governing the regulation of aliens, including the establishment of removal proceedings before an immigration judge under 8 U.S.C. § 1229a, and sets forth specific detention authorities and obligations—such as detention pending removal proceedings (8 U.S.C. § 1226), mandatory detention during expedited removal (8 U.S.C. § 1225(b)(iv)), and detention during the post-order "removal period" (8 U.S.C. § 1231(a)(2))

A. Statutory framework governing detention of applicants for admission under 8 U.S.C. § 1225.

The INA provides that all "alien[s] present in the United States who [have] not been admitted" or "who arrive[] in the United States" are "applicants for admission." 8 U.S.C. § 1225(a)(1). Applicants for admission must be inspected by immigration officers, § 1225(a)(3), and "fall into one of two categories, those covered by § 1225(b)(1) and those covered by §

1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1)'s detention and removal provisions apply to aliens who arrive in the United States and "certain other aliens" "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." 8 U.S.C. § 1225(b)(1)(A)(i), (iii). This includes aliens, as designated by the Secretary, who have been continuously physically present in the United States for up to two years before the date of their inadmissibility determination. *See* 8 U.S.C. § 1225(b)(1)(A)(iii). These aliens are generally subject to expedited removal proceedings, including, if applicable, referral for a credible fear interview. *See* 8 U.S.C. § 1225(b)(1)(A)(i). If the alien does not indicate an intent to apply for asylum, express a fear of prosecution, or is "found not to have such a fear," he is detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV). If the alien does demonstrate a credible fear, the alien "shall be detained" for further consideration of an asylum application. 8 U.S.C. § 1225(b)(1)(B)(ii).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding under 8 U.S.C. § 1229a "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (citing *Jennings*, 583 U.S. at 299). Still, the Department of Homeland Security (DHS) has the sole discretionary authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent

humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

B. Arrest and detention of aliens under 8 U.S.C. § 1226.

Section 1226 provides for arrest and detention "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). This section thus provides authority to detain aliens who do not fall under § 1225(b)(2) because they were previously admitted, but who are placed in removal proceedings under § 1229a for various reasons, including by violating their status, overstaying their visas, or being convicted of certain crimes. *See* 8 U.S.C. § 1237(a). Under § 1226(a), the Government may detain an alien during removal proceedings, release him on bond, or release him on conditional parole. Conditional parole under § 1226(a) is a custodial release mechanism that is separate and distinct from parole authorized by 8 U.S.C. § 1182(d)(5)(A), which applies only to applicants for admission. *See Matter of Castillo-Padilla*, 25 I. & N. Dec. 257, 259–63 (BIA 2010). By regulation, immigration officers can release an alien detained under §1226(a) if the alien demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8).

Under 8 U.S.C. § 1226(c), immigration officers "must detain certain criminal aliens pending their removal proceedings." *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 206 (3d Cir. 2020). Aliens are "not statutorily entitled to a bond hearing" under § 1226(c). *Avilez v. Garland*, 69 F.4th 525, 527 (9th Cir. 2023) (en banc). Congress enacted this mandate because it was "justifiably concerned that deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers." *Demore v. Kim*, 538 U.S. 510, 513 (2003). Immigration judges do not have authority to release aliens detained under § 1226(c). *See* 8 C.F.R § 1003.19(h)(2)(i)(D) ("[A]n immigration judge may not redetermine conditions of custody imposed by [DHS] with respect to . . . [a]liens in removal proceedings

subject to section 236(c)(1) of the Act....").

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a citizen of Mexico, who entered the United States in 2001. (Pet. ¶ 18, PageID.44.) ICE encountered and detained Petitioner on October 28, 2025. (Pet. ¶ 20, PageID.45.) ICE issued Petitioner a Form I-862, Notice to Appear (NTA) on the same day, charging her as an alien present in the United States who has not been admitted or paroled. (NTA, PageID.187–90.) ICE served Petitioner with a Form I-261, Additional Charges of Inadmissibility/Deportability, on November 19, 2025, charging her as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). (Pet. ¶ 21, PageID.45; I-213, PageID.191–93.)

On November 17, 2025, Petitioner filed a petition in federal court seeking a writ of habeas corpus and a class action complaint asking the Court to order Respondents to release Petitioner or provide her with a bond hearing. At the time she filed the Petition, Petitioner was currently detained at the North Lake Correctional Facility in Baldwin, Michigan. (Pet. ¶ 21, PageID.45.)

Petitioner filed a motion for class certification on November 23, 2025. (ECF Nos. 5, 6.) Her petition seeks certification of the following class:

> All current and future noncitizens detained at the North Lake Processing Center, the Calhoun County Correctional Center, or any other immigration detention facility within the Western District of Michigan who: (1) entered the United States without inspection; (2) have been placed in removal proceedings under 8 U.S.C. § 1229a; (3) are not subject to mandatory detention under 8 U.S.C. § 1226(c) or post-order detention under 8 U.S.C. § 1231; and (4) are or will be detained without an individualized bond hearing pursuant to 8 U.S.C. § 1225(b)(2)(A).

(Pet. Br. Class Cert., PageID.94.) Petitioner excludes from the class "individuals subject to expedited removal under 8 U.S.C. § 1225(b)(1), mandatory detention under § 1226(c), or post-order detention under § 1231. (*Id.*)

On November 30, 2025, Petitioner also filed a motion for partial summary judgment and a motion for a declaratory judgment. (ECF Nos. 13–18.) She filed a motion for a temporary

restraining order and preliminary injunction on December 1, 2025. (ECF Nos. 21, 22.)

The Court granted Petitioner's habeas petition on December 9, 2025. (Order, PageID.442–43.) Petitioner appeared for a bond hearing on December 17, 2025, and bond was granted. (Status Report, PageID.452–53.)

The Court issued an Order requesting supplemental briefing in support of her pending motions, specifically requesting that Petitioner provide supplemental briefing on nine issues. (Order, PageID.444–47.) Petitioner filed a supplemental brief on December 23, 2025. (Pet. Supp. Br., PageID.454–83.)

ARGUMENT

The class action "is an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only." *Wal-Mart Stores, Inc. v. Dukes,* 564 U.S. 338, 348 (2011) (quoting *Califano v. Yamasaki*, 442 U.S. 682, 700–01 (1979)). To fall within this narrow exception, Petitioner must "affirmatively demonstrate" compliance with each element of Rule 23—"that is, he must be prepared to prove that there are *in fact* sufficiently numerous parties, common questions of law or fact, etc." *Wal-Mart*, 564 U.S. at 350 (emphasis in original). This is not just a "mere pleading standard." *Id.* "[A]ctual, not presumed, conformance" with Rule 23 is "indispensable," *Gen. Tel. Co. of Southwest v. Falcon*, 457 U.S. 147, 160 (1982), and certification is proper only if the Court is satisfied "after a rigorous analysis" that Petitioner has shown that each requirement of the Rule has been met, *Wal-Mart*, 564 U.S. at 350–51.

I. Petitioner's individual claims are moot, and mootness undermines class representation.

Court issue 1[1]

As a threshold matter, Petitioner's release from custody moots her habeas claim and eliminates any live controversy as to her individual entitlement to relief. The Court has already granted Petitioner relief under 28 U.S.C. § 2241, and she has since received an individualized bond hearing at which bond was granted. (ECF Nos. 25, 26, 29.) Petitioner is no longer detained under § 1225(b)(2) and no longer suffers the alleged injury underlying her constitutional or APA claims. (See ECF No. 29.) Her individual claims are therefore moot.

Although the mootness of a named petitioner's individual claim does not automatically defeat a putative class action, mootness remains a threshold Article III concern that bears directly on whether a court may proceed at all. *See U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 403–04 (1980). Once the named petitioner has obtained complete relief and no longer faces the challenged detention, there is no longer a live, personal stake capable of supporting forward-looking relief absent a valid exception to mootness. That is particularly true in habeas cases, where the injury asserted is unlawful custody and the remedy is inherently individualized and time-sensitive.

Here, Petitioner's release materially alters the posture of the case. She no longer seeks—or can benefit from—custody-based relief, and her claims now depend entirely on prospective relief directed at the detention of others. But Article III requires a live, redressable controversy as to the party invoking federal jurisdiction. *See Rosales v. ICE*, 322 F.3d 386, 395–96 (6th Cir. 2003) (recognizing that post-release status bears on whether a named plaintiff may continue to litigate

[1] Where applicable, Respondents' reference issues the Court raised in the December 9, 2025, Order, ECF No. 27.

on behalf of a class); *Hamama v. Homan*, 946 F.3d 875, 878–79 (6th Cir. 2020) (emphasizing that habeas relief extends only to individuals currently in custody).

Nor do the recognized exceptions to mootness cure this jurisdictional defect. The "capable of repetition, yet evading review" and "inherently transitory" doctrines apply only where claims are so short-lived that they would otherwise evade judicial review and where the court retains authority to grant the relief sought. They do not apply where Congress has affirmatively withdrawn jurisdiction or remedial authority over classwide relief. *See Hamama v. Adducci*, 912 F.3d 869, 879–80 (6th Cir. 2018) (holding that 8 U.S.C. § 1252(f)(1) deprives lower courts of jurisdiction to issue classwide injunctive relief that restrains the operation of the immigration detention statutes, limiting relief to individual aliens). Where Congress has independently stripped courts of authority to award the relief sought, mootness cannot be avoided by procedural doctrines.

Petitioner's reliance on *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), is misplaced. That case involved criminal defendants challenging a county's failure to provide prompt probable-cause determinations and did not implicate immigration detention, habeas jurisdiction, or any statutory bar on classwide relief. *McLaughlin,* 500 U.S. at 51–52. Congress did not restrict the courts' remedial authority in *McLaughlin* as it has done here.

Geraghty likewise does not save the class claims. There, the Supreme Court held that a named plaintiff whose individual claim became moot could continue to seek review of a denial of class certification only because the court retained authority to grant classwide relief and the class claim itself remained live. *Geraghty,* 445 U.S. at 404. Nothing in *Geraghty* suggested that procedural doctrines may overcome statutory limits on judicial authority. *Id.* To the contrary, *Geraghty* assumed the existence of a cognizable class claim within the court's jurisdiction. *Id.* at 396–97, 404–405. Where, as here, Congress has eliminated the availability of classwide relief

altogether, there is no live class claim to which any doctrine can "relate back."

In short, because Petitioner's individual claims are moot and no exception to mootness applies in the face of Congress's withdrawal of classwide remedial authority, the absence of a live, redressable controversy is fatal to jurisdiction over the proposed class.

II. 8 U.S.C. § 1252(e)(1)(B) bars class certification.

Court issue 4.

The Court should also deny Petitioner's motion because Congress has prohibited this Court from certifying the proposed class under Rule 23 where the class claims challenge the implementation of § 1225(b). Specifically, 8 U.S.C. § 1252(e)(1)(B) provides: "no court may . . . certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection." 8 U.S.C. § 1252(e)(1)(B). The subsequent paragraph in (e)(3) permits limited judicial review only in the District Court for the District of Columbia of "determinations under section 1225(b) of this title and its implementation." 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited review to (1) whether § 1225(b) or an implementing regulation is constitutional or (2) whether a regulation or other written policy directive, guideline, or procedure implementing the section violates the law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also M.M.V. v. Garland*, 1 F.4th 1100, 1109 (D.C. Cir. 2021).

Here, Petitioner challenges an alleged "misclassification" policy, supposedly set forth in writing by both the Department of Justice and DHS, that aliens who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2). (*See, e.g.*, Pet. ¶¶ 2–4, 7, 9, PageID.2–5.) Petitioner thus seeks judicial review of a written policy or of a guideline implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii) and subject to § 1252(e)(1)(B)'s class-certification bar. Section 1252(e)(1) does not turn on how a plaintiff labels or defines a class.

It applies to "any action for which judicial review is authorized under" § 1252(e). 8 U.S.C. § 1252(e)(1). And § 1252(e)(3) authorizes judicial review in the District Court for the District of Columbia of challenges to "determinations under section 1225(b) … and its implementation," including written policies, directives, or procedures implementing § 1225(b). *Id.* § 1252(e)(3)(A)(ii). Petitioner's claims fall squarely within that category. Her theory challenges the Government's interpretation and implementation of § 1225(b) itself—specifically, the determination that certain aliens apprehended remain "applicants for admission" subject to detention under § 1225(b)(2). That is a challenge to the operation and implementation of § 1225(b), not merely to the detention of a subset of individuals processed under one subparagraph rather than another. Accordingly, § 1252(e)(1)(B)'s prohibition on class certification applies to the proposed class notwithstanding Petitioner's attempt to exclude detainees processed under § 1225(b)(1). Because Congress has withdrawn jurisdiction to certify a class for these claims, the motion must be denied without reaching Rule 23.

III. Section 2241 does not authorize Rule 23 class habeas actions.

Court issues 2, 8.

Habeas relief under 28 U.S.C. § 2241 is inherently individualized. The writ runs to the custodian and provides a remedy—release or alteration of custody—only as to the person before the court. The Supreme Court has never held that class relief may be obtained in a habeas proceeding, and has repeatedly cautioned against using declaratory judgments to litigate the legality of detention outside the habeas framework. *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (holding that declaratory relief may not be used outside habeas to advance rulings governing future custody challenges, cautioning that such actions improperly circumvent the individualized and case-specific limits of habeas jurisdiction). Importantly, despite Petitioner's

contention, the Supreme Court's decision in *AARP v. Trump*, did not hold that class actions are procedurally authorized in habeas proceedings. 605 U.S. at 101–104. Rather, the Court emphasized that lower courts must adhere strictly to the procedural and remedial limits Congress imposed and may not expand judicial power beyond those limits. *Id.* The Court did not suggest that Rule 23 supplies an independent procedural means for classwide habeas relief, or approve the transformation habeas into a class action tool. To the contrary, *AARP* underscores that where Congress has restricted the forms of relief available, courts may not evade circumvent those limits. Similarly, the court in *Wilson v. Williams*, 961 F.3d 829 (6th Cir. 2020), did not authorize the certification of a Rule 23 class of habeas petitioner seeking relief under § 2241. In *Wilson*, the Sixth Circuit did not decide—let alone endorse as a rule—that habeas claims may be certified under Rule 23. *Wilson*, 961 F.3d at 837–39. Instead, the court emphasized limits on what § 2241 can provide, expressly noting that "§ 2241 does not permit some of the relief petitions seek," and vacated the lower court's injunction. *Id.* at 833. Because habeas relief runs to the individual custodian—petitioner relationship and provides case-specific relief only, and because Congress has not authorized classwide habeas proceedings, class actions are not procedurally proper in habeas cases.

Guerrero Orellana v. Moniz, No. 25-cv-12664-PBS, --- F. Supp. 3d ---, 2025 WL 3033769 (D. Mass. Oct. 30, 2025), likewise does not support Petitioner's position. That out-of-circuit decision did not certify a class to obtain traditional habeas relief and does not authorize the classwide relief Petitioner seeks in this case. First, *Guerrero Orellana* is not a pure habeas case. The court expressly treated the case as a hybrid habeas/statutory action, certifying a class only as to a statutory claim challenging the government's authority under § 1225(b)(2), while reserving habeas, due-process, and APA claims for individualized adjudication. *Id.* at *4, 9–11, 12. Second,

Guerrero Orellana rests on First Circuit–specific precedent governing mootness, the inherently transitory doctrine, and the availability of declaratory relief notwithstanding 8 U.S.C. § 1252(f)(1). *Id.* at *10–15. This Court is not bound by that authority, and Sixth Circuit precedent construes § 1252(f)(1) and the scope of habeas relief more narrowly. *See Hamama,* 912 F.3d at 880 n.8 (explaining that classwide declaratory relief concerning detention would function as a prohibited classwide injunction under 8 U.S.C. § 1252(f)(1)); *Homan*, 946 F.3d at 878–79 (rejecting classwide relief affecting detention where habeas relief is limited to individualized custody determinations); *Groseclose v. Dutton*, 829 F.2d 581, 584 (6th Cir. 1987) (disfavoring duplicative classwide relief where individualized remedies are available and appropriate).

Petitioner's attempt to combine habeas, APA, and Rule 23 procedures cannot expand the scope of habeas jurisdiction. Rule 23 is procedural; it cannot authorize remedies Congress has withheld. Because § 2241 does not authorize classwide adjudication of detention claims, the proposed class cannot be certified.

IV. Petitioner's proposed class does not satisfy Rule 23(a)'s requirements.

If Petitioner's motion survives the threshold deficiencies, the Court should still deny the motion because Petitioner cannot demonstrate the following elements of Rule 23(a): (1) the class is so numerous that joinder is impractical ("numerosity"); (2) there are questions of law or fact common to the class ("commonality"); (3) the claims or defenses of the Petitioner are typical of claims or defenses of the class ("typicality"); and (4) the named Petitioner and counsel will fairly and adequately protect the interests of the class ("adequacy"). Fed. R. Civ. P. 23(a). Additionally, Petitioner must show that the class qualifies for certification under Rule 23(b)(1), (2), or (3). *AmChem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997).

A. The proposed class fails to satisfy Rule 23(a)(1)'s numerosity requirement.

Petitioner bears the burden of establishing that the proposed class is "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). She has not met that burden. Petitioner does not identify the number of individuals who purportedly fall within the proposed class, nor does she offer any evidence—statistical or otherwise—demonstrating that joinder would be impracticable. Instead, she relies on speculation that unidentified noncitizens who entered without inspection and were later detained in Michigan might, at some indeterminate point, be subject to detention under § 1225(b)(2)(A). That is insufficient. Numerosity cannot be established by conjecture, generalized assertions, or "mere speculation as to the number of persons who might fall within the class." *Golden v. City of Columbus*, 404 F.3d 950, 966 (6th Cir. 2005) (numerosity "cannot be speculative" (internal citations omitted).) Rather, the plaintiff must provide some factual basis from which the Court can reasonably infer that the class is sufficiently large.

The deficiency is particularly pronounced here because the proposed class is defined by a complex set of individualized statutory and factual predicates, including whether a noncitizen is properly classified as an applicant for admission under § 1225(b), whether § 1225(b)(1) or § 1225(b)(2) applies, whether DHS has exercised parole authority under § 1182(d)(5)(A), and whether detention is ongoing. Each of those determinations turns on case-specific facts that vary from individual to individual. Petitioner offers no evidence that a substantial number of detainees simultaneously satisfy all of these criteria within this District.

Nor has Petitioner shown that joinder would be impracticable even if multiple such individuals existed. Individual habeas petitions are routinely filed, adjudicated, and resolved in this District, often on an expedited basis. The availability of individualized habeas relief—which Congress has expressly preserved—undercuts any claim that joinder is impracticable or that a class

action is necessary to afford relief. Where individual proceedings are not only feasible but commonplace, Rule 23(a)(1) is not satisfied.

For these reasons, Petitioner has failed to demonstrate numerosity, and class certification must be denied on that basis alone.

B. Factual variations among putative class members' circumstances defeat commonality and typicality.

The proposed class fails Rule 23(a)(2)'s commonality requirement and Rule 23(a)(3)'s typicality requirement because determining whether any putative class member has suffered the alleged injury requires individualized, case-specific inquiries that cannot be resolved on a classwide basis. *See Wal-Mart Stores, Inc.*, 564 U.S. at 349 n.5 (noting that the commonality and typicality requirements of Rule 23(a) tend to merge); *Sprague v. Gen. Motors Corp.*, 133 F.3d 388, 399 (6th Cir. 1998) (en banc) (clarifying that typicality is lacking where then named plaintiff's claim turns on facts unique to her and not shared by the class). Rule 23(a)(2) requires more than the identification of common legal questions; it demands a showing that the class members' claims depend upon a common contention capable of generating common answers that will resolve the litigation "in one stroke." *Wal-Mart Stores, Inc.*, 564 U.S. at 350. Where the resolution of liability turns on individualized factual determinations, commonality is lacking.

Petitioner asserts that all proposed class members suffer a common statutory injury because they are allegedly detained under 8 U.S.C. § 1225(b)(2)(A) when, in her view, they should instead be detained under § 1226(a). But even assuming arguendo that Petitioner's statutory interpretation was correct, determining whether any particular individual is subject to mandatory detention under § 1225(b)(2)(A) necessarily turns on individualized facts, including the circumstances of entry, location and timing of apprehension, and whether the individual has affected an "entry" or remains an applicant for admission. Those inquiries vary from person to person and cannot be resolved

through a single, classwide determination. Because the existence of the alleged injury itself turns on these individualized determinations, the proposed class cannot generate common answers capable of resolving liability across the class, defeating commonality under Rule 23(a)(2).

The proposed class illustrates this defect. Petitioners' proposed class includes all current and future aliens detained at an immigration detention facility within the Western District of Michigan who entered the United States without inspection. This includes aliens who presented at a point of entry as well as those encountered somewhere in the interior. Not only is this interpretation unsupported by the text of § 1225(b)(2)(A), but it blurs the line between who is and is not a class member. An alien could be encountered somewhere in the interior, yet whether the alien effected an entry would still depend on the particular facts of the case. *See, e.g.*, *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (noting that an alien detained 25 yards from the [border] after an attempted unlawful entry "cannot be said to have effected an entry"). Under Petitioners' reading of §§ 1225(b)(2) and 1226(a), there is no administrable line demarcating when an individual becomes a class member. Moreover, § 1225(b)(2)(A) does not involve an individualized "application" process that could otherwise meaningfully define or limit class membership. As a result, Petitioners' proposed class includes individuals properly detained under § 1225(b)(2)(A), and it follows that not all class members suffer the same injury arising from detention under § 1225(b)(2) rather than § 1226(a). Thus, even under Petitioner's (incorrect) theory of the law, there will be material variations among class members' claims. The Court would be required to examine each proposed class member's circumstances to determine whether the alien crossed the threshold from attempting to enter the United States to being present in the United States.

Petitioner's effort to limit the phrase "seeking admission" to individuals contemporaneously attempting to enter the United States does not cure this problem. The INA

treats any noncitizen who arrives in the United States, or who is present without having been admitted, as an applicant for admission. 8 U.S.C. § 1225(a)(1). As the Supreme Court has made clear, a noncitizen remains an applicant for admission unless and until formally admitted. *Jennings*, 583 U.S. at 286–87. Neither the statute nor the implementing regulations draw any temporal line limiting the act of "seeking admission" to the moment of physical entry, and Petitioner identifies no authority imposing such a constraint. *See Thuraissigiam*, 591 U.S. at 140; Resp. to Pet., PageID.170–74.

For these same reasons, the class cannot generate common answers capable of resolving liability across the class. These same individualized issues independently defeat typicality under Rule 23(a)(3) because Petitioner's claim does not share the same essential characteristics as those of other putative class members whose detention status, statutory eligibility, and procedural posture would turn on materially different facts.

Petitioner's due process habeas claims suffer from the same commonality defects as the statute-based claims, because they hinge solely on the assumption that the proposed class members are not subject to mandatory detention under § 1225(b)(2)(A). Where Congress has not provided for any bond hearing pending removal, the analysis set forth in *Hamama*, 912 F.3d at 879, is inapplicable. Additionally, even assuming Congress had not mandated detention, each proposed class member's liberty interest and due process protections would need to be weighed on a case-by-case basis—taking into account individualized factors such as connections to the United States and the projected length of removal proceedings—precluding any classwide due process ruling. *See Jennings*, 583 U.S. at 314; *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring).

Petitioner's APA claim challenging the Board of Immigration Appeals' decision in *Matter of Yujare Hurtado* suffers from the same barriers to class treatment. Even assuming the core habeas claims could proceed under the APA (they cannot, *see* Resp., PageID.183–84), the determination of the proper detention authority would still require individualized inquiries. Moreover, not all putative class members' APA claims are ripe, because the class definition is not limited to individuals who have actually had *Yujare Hurtado* applied to a bond or custody determination.

C. The proposed class definition fails Rule 23(a) improperly includes future and uninjured detainees.

Court issue 3.

Even if the proposed class could satisfy Rule 23(a)(2) and (a)(3), it still fails Rule 23(a) because the class definition sweeps in future and uninjured individuals who lack Article III standing. A class definition that sweeps in individuals who have not suffered—and may never suffer—a concrete injury fails Rule 23(a) and cannot be certified. Petitioner's proposed class, therefore, is fatally overbroad and lacks commonality for the additional reason that it is prospective and indeterminate. The proposed class includes "future" aliens who are not currently detained and may never be detained. (Pet. Br., PageID.6.) Article III does not permit certification of a class that includes individuals who have not suffered, and may never suffer, a concrete injury. Habeas relief is available only to those currently in custody. *Hamama*, 946 F.3d at 878. But Petitioner's proposed class includes individuals who may be encountered and arrested by ICE or others in the future but who cannot show any imminent injury from immigration detention. A person may sue in federal court—whether as an individual or a class member—only if he has standing, which requires an "injury in fact that is concrete, particularized, and actual or imminent." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021); *cf. Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (requiring that injunctions be no "broader than necessary to provide complete relief to each plaintiff *with*

standing to sue" (emphasis added)). The proposed class includes not only those who have already entered the United States and will later be arrested and detained, but also anyone who later enters without inspection and is arrested and detained (other than those processed for expedited removal or otherwise subject to mandatory criminal-alien detention). Aliens who are not currently or imminently subject to immigration detention have suffered no actual or imminent injury. *See United States v. SCRAP*, 412 U.S. 669, 688-89 (1973) (plaintiff must allege "that he has been or will in fact be perceptibly harmed by the challenged agency action," "not that he can imagine circumstances in which he could be affected by agency action"). Therefore, a court may not certify a class that would sweep in such uninjured absent class members. "Article III does not give federal courts the power to order relief to any uninjured plaintiff, class action or not." *TransUnion*, 594 U.S. at 431 (internal quotation marks omitted). This constitutional impediment is only exacerbated by the fact that absent putative class members who are currently *uninjured*, but *may* be affected in the future, will, as Petitioner argues, likely outnumber known putative class members who have actually been detained under § 1225(b)(2). *Cf. In re Nexium Antitrust Litigation*, 777 F.3d 9, 21 (1st Cir. 2015) (class cannot be certified if more than a *de minimis* number of absent class members lack a cognizable injury).

D. Petitioner is not an adequate representative of the proposed class.

Court issue 8.

The defects in the proposed class definition only underscore why Petitioner cannot adequately represent the class she proposes. Rule 23 also requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). The commonality prong tends to merge with the requirement of typicality under Rule 23(a)(3), *see Wal-Mart*, 564 U.S. at 349 n.5, because the central inquiry in assessing whether a proposed class has "typicality" is "whether the class representatives' claims have the same essential

characteristics as the claims of the other members of the class." *Sprague v. Gen. Motors Corp.*, 133 F.3d 388, 399 (6th Cir. 1998) (en banc). Petitioner's interest in obtaining an injunction that this Court cannot lawfully issue to others creates a direct conflict with the class's interests. Because the class cannot possibly obtain the same injunctive relief through this litigation that Petitioner has sought and received, she cannot "possess the same interest and suffer the same injury" as the members she proposes to represent. *East Tex. Motor Freight Sys., Inc. v. Rodriguez*, 431 U.S. 395, 403 (1977) (internal quotation marks omitted). This fundamental misalignment deprives her of adequacy under Rule 23(a)(4) and makes certification improper.[2] Even worse, certifying a class would preclude class members from obtaining individual habeas relief, meaning they could never benefit from a habeas release order and highlighting the conflict between Petitioner and putative class members.

The proposed class also fails Rule 23(a)(4)'s adequacy requirement because the putative class representative seeks relief that fundamentally conflicts with the remedies available to the putative class. To certify a class, the representative must "fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). This requires a showing that the representative's interests are aligned with those of the class and that he seeks the same form of relief. *See Senter v. Gen. Motors Corp.*, 532 F.2d 511, 525 (6th Cir. 1976); *Stout v. J.D. Byrider*, 228 F.3d 709, 717 (6th Cir. 2000); *East Tex. Motor Freight Sys., Inc.*, 431 U.S. 395, 403 (1977). "The adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent." *Amchem Prods., Inc.*, 521 U.S. at 625. But here, the relief Petitioner requested and received from the Court—it granted her habeas petition, she received a bond hearing, and was released—cannot be granted to the class as a whole under 8 U.S.C. § 1252(f)(1). That

[2] Respondents do not challenge the adequacy of counsel.

disconnect is fatal.

V. The proposed class does not meet the requirements for an injunctive-relief class under Rule 23(b)(2).

Even if Petitioner could satisfy Rule 23(a), and putting aside Congress's express prohibition on class treatment, Petitioner cannot satisfy the requirements of Rule 23(b)(2). That Rule requires that "final injunctive or declaratory relief must be appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). Here, there are fundamental flaws with either type of relief. Congress has precluded lower courts from entering classwide relief that restrains the government's operation of the relevant detention statutes—which means habeas relief like that Petitioner seeks is not appropriate respecting the class as a whole. Declaratory relief is also not appropriate for the class because declaratory relief is not suitable in a habeas action, and the claims at issue are core habeas claims challenging the legality of detention. Finally, even if declaratory relief were permitted, it is not adequate for the class and would preclude class members from splitting claims and seeking release through individual habeas petitions.

A. Section 1252(f)(1) prohibits classwide relief restraining the Government's operation of § 1225(b)(2)'s detention authority.

Court issues 4, 5, and 6.

The Court lacks jurisdiction to enjoin or restrain the government's detention under § 1225(b)(2) on a classwide basis. Section 1252(f)(1) states that:

> Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, *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 subchapter II of the INA], *other than with respect to the application of such provisions to an individual alien* against whom proceedings under such part have been initiated.

8 U.S.C. § 1252(f)(1) (emphases added). As the Supreme Court explained, § 1252(f)(1)'s reference

to "the 'operation of' the relevant statutes is best understood to refer to the Government's efforts to enforce or implement them." *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550. Section 1252(f)(1) "generally prohibits lower courts from entering injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out" the covered statutory provisions. *Id.* The statutes governing pre-removal-order detention of aliens—including both § 1225(b)(2) and § 1226(a)—are covered statutory provisions. Section 1252(f)(1) thus precludes lower courts from issuing an order telling the government how to carry out these detention provisions on a classwide basis.

There is no doubt that § 1252(f)(1)'s remedial bar applies here. The Supreme Court has weighed in on the issue of classwide relief in an almost identical context. In *Aleman Gonzalez*, the Supreme Court overturned injunctions entered by two district courts that had, as a matter of statutory interpretation, required the government to provide bond hearings for aliens detained under 8 U.S.C. § 1231(a)(6). *Aleman Gonzalez*, 596 U.S. at 550. The Court held that "[t]hose orders 'enjoin or restrain the operation' of § 1231(a)(6) because they require officials to take actions that (in the Government's view) are not required by § 1231(a)(6) and to refrain from actions that (again in the Government's view) are allowed by § 1231(a)(6)." *Id.* at 551. Because "[t]hose injunctions thus interfere with the Government's efforts to operate §1231(a)(6)" in its chosen manner, they were barred by § 1252(f)(1). *Id.*; *see also Hamama*, 912 F.3d at 877 ("§ 1252(f)(1) unambiguously strips federal courts of authority to enter class-wide injunctive relief.").

Aleman Gonzalez mandates the same result here—the Court lacks authority under § 1252(f)(1) to restrain Respondents from detaining putative class members under § 1225(b)(2) or to require Respondents to provide § 1225(b)(2) detainees with a bond hearing. It does not matter whether Petitioner (or the Court) disagrees about the proper detention authority. As the Supreme

Court affirmed, § 1252(f)'s remedial bar is not limited to the enumerated provisions "as properly interpreted." *Id.* at 552-54. Put another way, even if this Court ultimately finds that Respondents' invocation of § 1225(b)(2) to detain Petitioner and potential class members is erroneous, § 1252(f)(1) bars the Court from enjoining Respondents' operation of § 1225 on a classwide basis. The classwide declaratory and vacatur relief sought here would restrain the government's operation of its immigration detention provisions and thus classwide "injunctive relief or corresponding declaratory relief" is improper, precluding a finding that the proposed class satisfies Rule 23(b)(2).

Petitioner's argument that § 1252(f)(1) does not apply because she does not seek classwide injunctive relief but instead declaratory relief or vacatur, fails. (*See* Pet., Prayer for Relief, PageID.34-35 (requesting relief declaring that all class members are or will be detained under § 1226 entitling them to a bond hearing and setting aside and vacating *Matter of Hurtado*).) Section 1252(f)(1) prohibits lower courts from granting classwide relief that "enjoin[s] or restrain[s] the operation of" the immigration detention statutes, and the Supreme Court has made clear that this limitation turns on the *effect* of the relief, not the label attached to it. Relief that requires DHS to reclassify detainees en masse, alter the statutory authority under which they are detained, or provide bond hearings or release to a class necessarily restrains the operation of the detention scheme Congress enacted. As the Sixth Circuit has held, § 1252(f)(1) forecloses precisely this type of classwide, programmatic interference with the detention statutes, limiting courts to case-specific relief for individual aliens. *Hamama*, 912 F.3d at 879–80. The Supreme Court has reinforced that lower courts may not use declaratory or injunctive relief to dictate how the detention statutes are implemented on a classwide basis, even where the claim is framed as one of statutory "correctness." *See AARP*, 605 U.S. at 107–08 (2025) (Alito, J., dissenting) (explaining that lower

courts lack authority to dictate the operation of detention statutes through classwide relief, even where plaintiffs assert statutory error);*Jennings*, 583 U.S. at 302–03. Individuals may seek individualized habeas relief if they contend the wrong statute has been applied to them, but § 1252(f)(1) squarely bars a classwide order compelling DHS to apply particular detention provisions across categories of noncitizens.

Moreover, Petitioner's interpretation still runs afoul of § 1252(f)(1) because § 1252(f)(1) is not limited to orders labeled injunctions. Instead, it prohibits lower-court orders that "enjoin or *restrain*" the government's operation of the covered provisions. 8 U.S.C. § 1252(f)(1) (emphasis added). The common denominator of those terms is that they involve coercion. *See* Black's Law Dictionary 529 (6th ed. 1990) ("Enjoin" means to "require," "command," or "positively direct" (emphasis omitted); "Restrain" means to "limit" or "put compulsion upon" (emphasis omitted)). Together, they indicate that a court may not impose coercive relief that "interfere[s] with the government's efforts to operate" the covered provisions in a particular way. *Aleman Gonzalez*, 596 U.S. at 551.

Though the Supreme Court has not specifically addressed the propriety of classwide declaratory relief or APA vacatur, the Court in *Aleman Gonzalez* specified that lower courts cannot issue classwide orders that "interfere with the Government's efforts to operate" the covered provisions. *Id.* at 551; *see also Biden v. Texas*, 597 U.S. 785, 839 (2022) (Barrett, J., dissenting) (warning that lower courts exceed their authority when they issue relief that interferes with or effectively controls how the Executive implements the INA, rather than adjudicating individual cases). Therefore, if the relief sought requires the government to take steps (or to refrain from acting) to implement a declaratory judgment regarding § 1225(b), that relief is barred by § 1252(f)(1). *See Hamama*, 912 F.3d at 880 n.8 (holding that while "declaratory relief will not

always be the functional equivalent of injunctive relief . . . in this case it is the functional equivalent").

Here, the requested declaratory and APA relief would be impermissibly coercive and violate § 1252(f)(1). Petitioner asks this Court "[de]clare that the Petitioner and all class members are or will be detained, if at all, pursuant to 8 U.S.C. § 1226, and are therefore entitled to individualized bond hearings before a neutral immigration judge," and to "[p]ostpone the effective date of *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), pending final resolution of this case under the APA, 5 U.S.C. § 705, and set aside and vacate that decision as unlawful under 5 U.S.C. § 706(2)." (Pet., Prayer for Relief ¶¶ 4, 6, PageID.35.) But in setting aside the *Hurtado* decision and "declaring" all putative class members subject to detention under § 1226(a), the Court would endeavor to compel Respondents to detain putative class members under § 1226(a) and provide them bond hearings. And this necessarily restrains the Government's operation of § 1225(b)(2) because it stymies the Government's implementation of § 1225(b)(2) to detain putative class members. Because the Court lacks authority to grant the relief Petitioner seeks, Rule 23(b)(2)'s requirement that classwide relief be "appropriate" cannot be satisfied.

Petitioner's attempt to limit *Hamama* to a concern about "judicially invented" bond-hearing standards misreads the Sixth Circuit's holding and overlooks its broader reasoning under 8 U.S.C. § 1252(f)(1). 912 F.3d at 879. The Sixth Circuit did not hold merely that the district court erred because it fashioned procedural requirements "out of thin air"; rather, it held that § 1252(f)(1) strips lower courts of jurisdiction to grant classwide relief that restrains the operation of the immigration detention statutes, regardless of how the relief is framed. *Hamama*, 912 F.3d at 879–80. The defect in *Hamama* was not limited to the content of the bond-hearing standards, but to the classwide and operational nature of the injunction, which directed how DHS must administer the

detention statutes across an entire class. The court emphasized that § 1252(f)(1) "prohibits federal courts from granting classwide injunctive relief against the operation of" the covered INA provisions and vacated the injunction on that basis. *Id.* at 879. Thus, even if Petitioner now asserts that she seeks only the "correct application" of existing detention statutes rather than the creation of new standards, *Hamama* forecloses that argument: an order compelling DHS to apply particular detention provisions to categories of aliens on a classwide basis necessarily restrains the operation of the statutes and is barred by § 1252(f)(1). The Sixth Circuit's holding is structural, not remedial-specific, and it squarely rejects the premise that courts may issue classwide detention directives so long as they purport to enforce, rather than supplement, the statutory scheme.

B. Declaratory relief is not an adequate or proper substitute for habeas; the relief Petitioner seeks will not appropriately address the alleged injuries of the class.

Petitioner's reliance on declaratory relief does not salvage her class claims. Where a claim challenges the legality of detention, habeas is the exclusive federal remedy. Declaratory relief cannot be used to establish predicates for future habeas actions or to regulate detention practices prospectively. *Calderon*, 523 U.S. at 747.

Given § 1252(f)(1)'s limitations on classwide relief, any relief the Court might properly order would fall far short of being appropriate relief to the proposed class as a whole. But challenges to the legality of detention is a core habeas claim, and declaratory relief is not appropriate in such habeas cases. *Id.* (declaratory judgment action not appropriate to address "validity of a defense the State may, or may not, raise in a habeas proceeding" in part because "the underlying claim must be adjudicated in a federal habeas proceeding"); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Petitioner's description of the relief sought highlights this point: the declaratory relief for the class would establish that "class members are or will be detained, if

at all, pursuant to 8 U.S.C. § 1226, and are therefore entitled to a bond hearing upon request." (Pet., Prayer for Relief ¶ 4, PageID.35; *see also* Pet. Br., PageID.83 (asserting that the case "seeks to restore the rule of law and the constitutional promise of liberty" of class members). In essence, what Petitioner seeks is an order from the Court declaring that the Government's detention of class members under § 1225(b)(1) is unlawful, which is a collateral legal issue at the core of each habeas petition. But Petitioners' request proves that "[t]he 'case or controversy' actually at stake is the [proposed] class members' claims in their individual habeas proceedings." *Calderon*, 523 U.S. at 747. It follows that a declaratory judgment "would not resolve the entire case or controversy as to any one of them, but would merely determine a collateral legal issue governing certain aspects of their pending legal suits." *Id.* And, such a declaratory judgment would be necessarily coercive and would run afoul of § 1252(f)(1)'s bar on classwide restraints on the operation of § 1225(b)(2). Because the Court cannot grant such relief to the class, Petitioners cannot meet the requirements of Rule 23(b)(2).

Indeed, non-injunctive relief would not resolve the class injuries and would leave the class without recourse. If a class were certified and judgment entered in this matter, the class members would be limited to the relief that can be obtained in that class action, as the doctrine of *res judicata* and the rule against claim-splitting would preclude class members from seeking individualized habeas or injunctive relief. This further demonstrates why certifying a class for purposes of granting declaratory relief is inappropriate and why Rule 23(b)(2) is not met here—indeed, certification could raise due process concerns, given that Rule 23(b)(2) class members are not afforded the opportunity to "opt out" of the litigation. *See Wal-Mart*, 564 U.S. at 362.

Generally, parties are limited to one opportunity to litigate a claim, and may not pursue serial actions arising from the same nucleus of facts. *See Waad v. Farmers Ins. Exch.*, 762 F. App'x

256, 260 (6th Cir. 2019) (explaining that the rule against claim-splitting requires a plaintiff to bring all claims arising out of a common set of facts in one lawsuit). Once a lawsuit has been initiated, the rule against claim-splitting precludes the same parties from bringing additional causes of action that rest on the same operative facts, even if the second action is filed before final judgment in the first. *See Hapgood v. City of Warren*, 127 F.3d 490, 493–94 (6th Cir. 1997) (affirming dismissal where later-filed claims arose from the same transaction and could have been raised in the earlier action). Relatedly, res judicata (claim preclusion) bars subsequent suits where there has been a final judgment on the merits, the later action arises from the same transaction or occurrence, and the parties or their privies are the same. *See Rawe v. Liberty Mut. Fire Ins. Co.,* 462 F.3d 521, 528 (6th Cir. 2006) (holding that claim preclusion applies where the claims arise from the same transaction or series of transactions). Under Sixth Circuit law, all claims that were or could have been raised in the prior action are barred. *Bragg v. Flint Bd. of Educ.,* 570 F.3d 775, 776 (6th Cir. 2009).

The same principles apply in the class-action context. Following "a judgment in a properly entertained class action," res judicata binds "class members in any subsequent litigation." *Cooper v. Fed. Rsrv. Bank of Richmond*, 467 U.S. 867, 874 (1984). For this reason, multiple courts have declined to issue relief where the plaintiffs are members of a certified 23(b)(2) class addressing the same issues. *See, e.g.*, *Ghamelian v. Baker*, No. 25-cv-02106-SAG, 2025 WL 2049981, at *3 (D. Md. July 22, 2025); *Sanchez v. Bondi*, No. 1:25-cv-02287-CNS, 2025 WL 2550646, at *3 (D. Colo. Aug. 20, 2025).

The declaratory judgment exception to the claim preclusion doctrine does not change the analysis. Initially, it cannot be squared with the requirements of Rule 23(b)(2), which requires that "final injunctive relief or corresponding declaratory relief" resolve the claims of the class as a

whole. This cannot happen if individual injunctive or habeas actions must follow this Court's classwide resolution. *See* 28 U.S.C. § 2202 (additional relief authorized only when "necessary or proper"). Additional individual relief is not "proper" when a class is certified to resolve the claims on a classwide basis.

Moreover, the declaratory judgment exception applies "[w]here a party only asks for declaratory relief." *Horn & Hardart Co. v. Nat'l Rail Passenger Corp.*, 843 F.2d 546, 549 (D.C. Cir. 1988); *see* Rest. 2d Judg. § 33(d). Here, Petitioner has also requested habeas relief and classwide vacatur (even if that also runs up against § 1252(f)(1)). And applying this exception in the class context would permit an end-run around § 1252(f)(1)'s bar to classwide injunctive relief by permitting each class member to then obtain further injunctive relief based on that declaratory judgment. *See Alli v. Decker*, 650 F.3d 1007, 1020 n.2 (3d Cir. 2011) (Fuentes, J., dissenting) ("A class-wide declaratory judgment, followed by individual injunctions from every member of the class is, in every consequence that matters, the same as a class-wide injunction.").

The class relief sought would also not be uniform and applicable to all class members as required by Rule 23(b)(2), for two reasons. First, there are material differences among class members such that no single declaratory judgment would cover all putative class members. Under Petitioner's interpretation of the INA, the Court would need to make individualized determinations of whether an alien is deemed to be "seeking admission" before it could declare that those class members are not subject to § 1225(b)(2)(A)'s mandatory detention authority or set aside the application of *Matter of Hurtado* as to them. This Court already rejected this concept in a habeas action seeking to proceed pseudonymously, stating that, "[b]ased in the Court's wealth of recent experience with the issues raised in [petitions from aliens seeking release under 8 U.S.C. § 2241], whether or not the government is properly holding an alien detainee without a bond hearing under

8 U.S.C. § 1225 requires an individualized inquiry into that detainee's circumstances of entry and presence in this country[.]" *J.A.S.H.*, 2025 WL 3235739, at *4, n.3.

Second, the Court should decline to resolve Petitioner's claims that Respondents' policy violates her rights under the Due Process Clause via a Rule 23(b)(2) class action. As the Supreme Court has cautioned, courts should consider "whether a Rule 23(b)(2) class action litigated on common facts is an appropriate way to resolve [Petitioners'] Due Process Clause claims. Due process is flexible, we have stressed repeatedly, and it calls for such procedural protections as the particular situation demands." *Jennings*, 583 U.S. at 314 (cleaned up). Because Petitioner's proposed class includes dissimilarly situated individuals, a single declaratory judgment is not appropriate to resolve every class member's due process claims.

VI. The Court should decline to certify the class because habeas relief provides an adequate remedy.

Court issue 7.

Individual habeas petitions provide an "other adequate remedy" under the APA, foreclosing APA relief under 5 U.S.C. § 704. Each putative class member may seek immediate, individualized relief through habeas, undermining any argument that classwide declaratory relief is necessary or appropriate. Where an alien contends that DHS is detaining him or her under the wrong statutory authority, § 2241 supplies a direct, well-established vehicle to test the legality of that individual's custody and to obtain complete relief, including release or a custody-related order directed to the immediate custodian. Courts—including the Sixth Circuit—have recognized that when habeas is available to remedy the alleged injury, APA review is foreclosed because the plaintiff already has an adequate judicial remedy. *See Hamama*, 912 F.3d at 874–75 (explaining that challenges to the fact or duration of immigration detention sound in habeas, not the APA); *see also El-Khader v. Monica*, 366 F.3d 562, 567 (7th Cir. 2004) (habeas is the proper—and

exclusive—vehicle for challenges to immigration detention). That principle applies with greater force to proposed classwide APA claims because each detainee may obtain full relief through an individualized habeas petition, there is no gap for the APA to fill, and § 704 precludes APA review. Allowing classwide APA relief would improperly displace the individualized habeas framework Congress preserved and would invite precisely the type of programmatic, class-based challenges to detention statutes that Congress has barred.

Petitioner's reliance on *Wilkinson v. Dotson*, 544 U.S. 74 (2005) and *Darby v. Cisneros*, 509 U.S. 137 (1993), is misplaced because neither decision undermines the rule that the availability of individual habeas relief constitutes an "other adequate remedy in a court" barring APA review. *Wilkinson* addressed the narrow question whether prisoners could proceed under § 1983 rather than habeas where they challenged parole procedures and did not seek immediate or speedier release; the Court expressly reaffirmed that habeas remains the exclusive remedy where the claim "lies at the core of habeas" by challenging the fact or duration of custody. *Wilkinson*, 544 U.S. at 81–82. Here, by contrast, Petitioner challenges the statutory authority for detention and seeks relief that would directly affect custody—precisely the type of claim habeas is designed to address and for which § 2241 provides complete relief on an individualized basis. *Darby* is likewise inapposite. There, the Court held that courts may not impose extra-statutory exhaustion requirements before APA review when the APA otherwise applies. *Darby*, 509 U.S. at 146–47. *Darby* did not involve habeas, did not address § 704's "other adequate remedy" limitation, and did not suggest that APA review is available where Congress has preserved a separate, adequate judicial remedy tailored to the injury at issue. Accordingly, neither *Wilkinson* nor *Darby* supports bypassing habeas in favor of classwide APA relief where individualized § 2241 petitions remain available and fully adequate to resolve the legality of each detainee's custody.

Finally, Petitioner's suggestion that habeas is an inadequate remedy because requiring individual habeas petitions would burden the courts, whereas classwide APA relief would promote efficiency, finds no support in the APA or court precedent. The adequacy question under 5 U.S.C. § 704 turns on whether a judicial remedy exists to redress the plaintiff's injury—not on whether that remedy is efficient, convenient, or administratively burdensome for courts or litigants. The Supreme Court has never held that a remedy becomes "inadequate" because it must be pursued through individual claims rather than a class action. Instead, Congress often chooses individualized adjudication even where it results in repetitive litigation, and courts may not rewrite that choice under the pretext of adequacy. Petitioner's reliance on *Bowen v. Massachusetts*, 487 U.S. 879, 903 n.42 (1988), is misplaced. In footnote 42, the Court merely rejected the argument that APA review was foreclosed because it might lead to multiple lawsuits; it did not hold that judicial efficiency concerns can render an otherwise adequate statutory remedy inadequate. The footnote addressed the absence of any alternative judicial forum capable of providing relief in *Bowen*—not like here where Congress has affirmatively provided a specific remedial scheme. Habeas provides a direct and effective judicial remedy for the alleged injury of unlawful detention. The possibility that multiple detainees may file individual habeas petitions does not undermine that remedy's adequacy under § 704, and *Bowen* does not suggest otherwise.

VII. Individual habeas actions, not a class action, are the correct vehicles to resolve class members' claims.

While Petitioner styles her petition as both a habeas petition and an APA complaint, her claim sounds in habeas corpus—that is, her allegation that she is being held in mandatory detention unlawfully. The Court should be especially hesitant to grant class certification here because habeas petitions are generally unfit for class actions, particularly in circumstances where the court cannot

order release for the class.[3] Rule 23(b)(3) allows certification where a class action is superior to other available methods for fairly and efficiently adjudicating the controversy, reflecting the long-recognized aim of permitting collective adjudication of common legal questions that would be inefficient to litigate individually. *See Deposit Guaranty Nat'l Bank v. Roper*, 445 U.S. 326, 339 (1980). Habeas, however, has been an individualized writ from its inception. The federal habeas statute is designed for individual petitioners; it requires that an "[a]pplication for a writ of habeas corpus [] be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf" and "shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known." 28 U.S.C. § 2242. The issuance of the writ is then "directed to the person having custody of the person detained" and may require the custodian to "produce at the hearing the body of the person detained." *Id.* § 2243. That is an individualized process and inquiry, not one amenable to classwide resolution.

Petitioner's motion demonstrates this point. Both before and after this case was filed, putative class members have brought separate habeas suits seeking similar, *individualized* habeas relief in this district. Even if the Court were to certify the class and provide declaratory relief, declaratory relief would not truly address the class members' alleged injury—unless that declaratory relief impermissibly restrained the government by requiring a bond hearing for every member of the class. And that is the kind of coercive relief § 1252(f)(1) prohibits.

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[3] Respondents acknowledge that class actions have been brought pursuant to habeas corpus. However, the Supreme Court "has never held that class relief may be sought in a habeas proceeding." *AARP*, 605 U.S. at 107–08 (Alito, J., dissenting). This case is an example of why habeas corpus is an inappropriate vehicle for class actions.

VIII. This case is duplicative of existing class litigation.

Court issue 9.

Petitioner's proposed class substantially overlaps with the class certified in *Maldonado Bautista v. Santacruz*, raising the same statutory and constitutional challenges to detention under § 1225(b)(2). *See* 5:25-cv-01873-SSS-BFM (C.D. Cal.), ECF Nos. 81–82. Both *Bautista* and the Petition's proposed class seek a ruling that DHS's current alleged policy misapplies § 1225(b)(2) to interior arrests and instead § 1226(a) governs such detainees' custody and bond rights. *Bautista* has already achieved class certification and a final declaratory judgement on that theory, rejecting *Matter of Yajure-Hurtado* and the agency's interpretation. *Bautista* extends nationwide relief to similarly situated individuals who entered without inspection, were not apprehended at arrival, and have no mandatory detention grounds—a class that substantially overlaps with the class Petitioner here seeks to represent. The certified class in *Bautista* is defined to encompass many of the same categories of detainees.

Sixth Circuit precedent, and federal courts in general, disfavor parallel class litigation asserting the same claims and overlapping class definitions, especially where the first-filed action is already certified and providing declaratory and injunctive relief to similarly situated plaintiffs. Courts avoid inconsistent judgments and judicial inefficiency by declining certification in a later filed, overlapping class action when the relief sought is duplicative of existing nationwide class litigation. *See Groseclose*, 829 F.2d at 584 (finding that that federal courts should not grant classwide relief to individuals who are already members of a previously filed class action raising the same claims, because duplicative class litigation risks inconsistent judgments and undermines orderly judicial administration.).

Given that *Bautista* has already produced a class certification order and final judgment

providing the exact relief sought by this Petitioner, additional class certification here would risk inconsistent rulings and redundant litigation over the same statutory construction and detention policy

CONCLUSION

For the above reasons, the Court should deny Petitioner's motion for class certification.

Respectfully submitted,

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Dated: January 20, 2026

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