

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

EVER GONZALEZ MATEO,

PETITIONER

v.

CIVIL ACTION NO. 4:25-CV-151-GNS

KRISTI NOEM, Secretary, U.S. Department
of Homeland Security;
TODD M. LYONS, Acting Director, U.S. Immigration
and Customs Enforcement;
PAMELA BONDI, U.S. Attorney General; and
MIKE LEWIS, Jailer, Hopkins County Jail

RESPONDENTS

RESPONDENTS' SUPPLEMENTAL BRIEF

Federal Respondents,¹ Pamela Bondi, Todd Lyons, and Kristi Noem, supplement their Motion to Dismiss and Response to Order to Show Cause to provide additional authority holding that the Fourth Amendment, even if violated, does not provide Petitioner a remedy in this habeas case, and to address the recent Central District of California opinion in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.) that granted a motion for class certification related to the dispute over 8 U.S.C. § 1225 and § 1226.

I. Relief Under the Fourth Amendment is not available to Petitioner.

Petitioner and Respondents disagree about the details of Petitioner's initial encounter with law enforcement that led to the detention. Regardless of whether the

¹ This response is filed on behalf of Federal Respondents. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition also names Mike Lewis, the Hopkins County Jailer, as a respondent.

encounter was consensual or there was reasonable suspicion to stop Petitioner to question him about his immigration status, “an unlawful arrest, by itself, doesn’t warrant release.” *Buriev v. Warden*, 2025 U.S. Dist. LEXIS 190160, at *7 (S.D. Fla. Sept. 26, 2025) (citation omitted). “In any event, ‘the body or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that the unlawful arrest, search, or interrogation occurred.’” *Alonso-Portillo v. Bondi*, 2025 WL 2483393, 2025 U.S. Dist. LEXIS 167908, at *29 (S.D. Ohio Aug. 28, 2025) (quoting *I.N.S. v. Lopez-Mendoza*, 468 U.S. 1032, 1039 (1984)). Thus, even crediting Petitioner’s allegations regarding his detention as true, release from custody is not the remedy available to Petitioner. He can assert Fourth Amendment arguments in his removal proceeding. *See, e.g., Rivera v. U.S. Att’y Gen.*, 2022 U.S. App. LEXIS 2359, at *3-4 (3rd Cir. Jan. 26, 2022) (considering Fourth Amendment arguments asserted during removal proceedings and later appealed to the circuit court).

II. The Class Certification by the Central District of California has no effect on Petitioner’s habeas claim.

The court in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.), recently granted class certification for “all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” 2025 U.S. Dist. LEXIS 231977, at *26-

27 (C.D. Cal. Nov. 25, 2025). Just a few days before granting class certification, the same court granted partial summary judgment, finding that § 1226 applied to the later-defined class members, but the Court refrained from ordering particular relief, and it resisted the petitioner's request to enter final judgment under Fed. R. Civ. P. 54(b). *Bautista*, 2025 U.S. Dist. LEXIS 233085, at *28-29 (C.D. Cal. Nov. 20, 2025). The court, instead, scheduled a January 9, 2026 deadline to file a joint status report and a January 16, 2026 status conference to discuss "how the parties will proceed with this matter." 2025 U.S. Dist. LEXIS 231977, at *27.

Absent an entry of final judgment on the entire case, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment. The partial summary judgment ruling does not operate as a "judgment" because it is not an appealable order and "does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members. "Without preclusive effect, a declaratory judgment is little more than an advisory opinion." *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023); *see also Wells v. Johnson*, 150 F.4th 289, 301 (4th Cir. 2025) (stating that the only reason a proper declaratory judgment does not violate Article III's requirements is because it has preclusive effect between the parties); *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 (9th Cir. 2005). And preclusive effect cannot be obtained without sufficient finality. *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015) (citing Restatement (Second) of Judgments §

27, p. 250 (1980), for the general rule that an issue must be determined by a “valid and final judgment” for preclusion to apply); *Luben Indus., Inc. v. United States*, 707 F.2d 1037, 1040 (9th Cir. 1983) (affirming district court decision not to apply preclusive effect to an interlocutory decision that “could not have been the subject of an appeal at the time”); Restatement (Second) of Judgments § 28, p. 273 (1980) Restatement (Second) of Judgments § 27, p. 250 (1980) (issue preclusion does not apply when the “party against whom preclusion is sought could not, as a matter of law, have obtained review of the judgment in the initial action”; *id.* at cmt. a (“[T]he availability of review for the correction of errors has become critical to the application of preclusion doctrine.”)).

The Central District of California has expressly declined to enter a class-wide judgment. As such, there is currently no declaratory relief, let alone relief with preclusive effect on *Maldonado Bautista* class members’ claims concerning the proper interpretation of 8 U.S.C. § 1225(b)(2)(A)’s mandatory detention provision. *See Serrano v. McDonald*, 2025 U.S. Dist. LEXIS 232488 (D. Mass. Nov. 26, 2025) (explaining that “the Central District of California’s Order Granting Class Certification” does not dictate the outcome of the pending habeas petition). Consequently, the class certification decision does not help Petitioner in this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on December 2, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Timothy D. Thompson
Timothy D. Thompson
Assistant United States Attorney