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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ignacio Borjas Rios

Petitioner,

v.

Kevin Raycraft, Director, Detroit
Enforcement and Removal Operations
Field Office at Immigration and
Customs Enforcement; Todd M.
Lyons, Acting Director, Immigration
and Customs Enforcement; Kristi
Noem, Secretary, U.S. Department of
Homeland Security; Sirce Owen,
Acting Director, Executive Office for
Immigration Review; Pam Bondi,
Attorney General of the United States.

Respondents.

No: 2:25-cv-13726

Honorable Laurie J. Michelson

Mag. Judge Anthony P. Patti

**PETITIONER'S RESPONSE TO
COURT'S ORDER TO SHOW
CAUSE**

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INTRODUCTION

On November 26, 2025, Petitioner filed an “Emergency Motion for Writ of Habeas Corpus and Immediate Release from Detention” pursuant to the class certification order and declaratory judgment in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). ECF. No. 6.

On December 5, 2025, the Honorable Court issued an order for Petitioner and Respondents to show cause by December 10, 2025, as to whether the *Bautista* nationwide class action and summary judgment rulings govern this petition. *See* ECF. No. 7, PageID.96. The same day, Respondents filed a response to the Court’s order to show cause, as well as to Petitioner’s emergency motion, and requested that the Court dismiss the habeas petition because, according to Respondents, the class certification order in *Bautista* precludes Petitioner from seeking the same injunctive or declaratory relief in an individual suit. ECF. No.9, PageID.137. In the alternative, Respondents requested that the Court deny the Petitioner’s emergency motion on the grounds that the *Bautista* Court has not yet issued any class-wide judgment. ECF. No.9, PageID.137-138. Petitioner hereby files this brief to reply to the Respondents’ allegations and respectfully asks the Court to grant his motion for immediate release.

BACKGROUND

Petitioner entered the United States around October 1995 at or near El Paso, Texas, without inspection. ECF No. 1, PageID.2.

On October 30, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE) officials in River Grove, Illinois, without an arrest warrant. ECF No. 1, PageID.2. He was subsequently transported to the North Lake Correctional Facility in Baldwin, Michigan, which falls under purview of the Detroit ICE Enforcement and Removal Operations (ERO) Field Office. ECF No. 1-1, PageID.30.

On November 21, 2025, Petitioner filed a petition with this Court, seeking a writ of habeas corpus to review his unlawful detention in violation of his constitutional and statutory rights. *See* ECF No.1. It is Petitioner's claim that Respondents' policy and statutory interpretation is in violation of the Immigration and Nationality Act (INA) and due process. 8 U.S.C. § 1226(a). *See* Pet., ECF No. 1, PageID.4-9.

On November 26, 2025, Petitioner filed an emergency motion, where he requested that the Court forthwith award the writ of habeas corpus and order his immediate release in light of the recent nationwide class declaratory judgment in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). ECF. No. 6. In his emergency motion, Petitioner stated that he is a

member of the nationwide “Bond Eligible Class” as certified by the *Bautista* Court and is deserving of relief in accordance with the Court’s order. ECF. No 6, PageID.150. The certified bond eligible class is defined as:

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

On December 1, 2025, the Honorable Court issued an order for Petitioner and Respondents to show cause whether the rulings in *Bautista* apply to Petitioner. ECF. No 7, PageID.96. The same day, Respondents filed a response to the emergency motion and the Court’s order to show cause. *See* ECF. No 7.

ARGUMENT

I. This Court Should Maintain Petitioner’s Individual Suit for Equitable Relief

Respondents acknowledge that Petitioner is a member of the nationwide bond eligible class as certified in *Bautista* and argue that he cannot pursue an independent habeas case because he is bound by the class certification order in *Bautista*, which affords him equitable relief. ECF. No.9, PageID.137. According to Respondents, the

Court should dismiss this lawsuit on account of the binding effect of the *Bautista* class action judgment. ECF. No.9, PageID.137.

The Court should reject the Respondents' argument because Petitioner seeks multiple forms of relief in this action, including habeas relief, declaratory relief, injunctive relief (preventing transfer and ordering release, or an individualized custody hearing before the Immigration Judge), attorney fees, and any other just and proper relief (*see* ECF No.1, PageID.10), and *Bautista* entitles him to declaratory relief only.

A. Petitioner's Request for Injunctive Relief Is Not Precluded by *Bautista* Class Action

The *Bautista* class action was filed on behalf of four petitioners, who could not seek an injunction for the class due to the limit on the availability of class-wide injunctive relief under 8 U.S.C. § 1252(f)(1) as pertaining to the detention statute, but moved for a declaration that all class members are detained under 8 U.S.C. § 1226(a), not under § 1225(b)(2). *Bautista*, 2025 WL 3288403, at *1. Accordingly, the *Bautista* Court only granted declaratory relief to the bond-eligible class, holding that the government is unlawfully subjecting them to mandatory detention and that class members are eligible for release on bond under the Immigration and Nationality Act (INA). *Id.* at *8-9.

Under 8 U.S.C. § 1252(f)(1), the INA prohibits lower courts from entering general injunctions that order federal officials to take or to refrain from taking actions to enforce specified provisions. In *Garland v. Aleman Gonzalez*, the Supreme Court interpreted 8 U.S.C. § 1252(f)(1) to prohibit class-wide injunctive relief regarding immigration detention and found that the District Courts exceeded their jurisdiction in awarding relief that enjoined the government from detaining class members without providing each a bond hearing. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548 (2022).

As affirmed by the Supreme Court, § 1252(f)(1) strips district courts of jurisdiction to entertain requests for class-wide injunctive relief. *Id.* The INA's general ban on granting injunctive relief by lower federal courts, however, does not extend to individual cases. *Id.* at 550. Individual class members preserve their right to seek an injunction before a district court because the lower courts retain the authority to enjoin or restrain the operation of the relevant statutory provisions “with respect to the application of such provisions to the individual alien against whom proceedings under such part have been initiated.” *Id.* at 544 (citing *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 481–482 (1999)).

A declaratory judgment is a judgment from a court that defines the rights of the parties regarding the legal question presented without providing for or ordering enforcement. Black's Law Dictionary (12th ed. 2024). A court issues an injunction,

when it “enjoins” a conduct, which is a court order prohibiting someone from doing some specified act or commanding a person to perform a certain act. *Aleman Gonzalez*, 596 U.S. at 548-549. In this action, besides declaratory relief, Petitioner is seeking injunctive relief enjoining Respondents from transferring him, as well as ordering Respondents to release him or, in the alternative, to provide him for an individualized bond (custody determination) hearing before the Immigration Judge. Petitioner is unable to obtain such relief from the *Bautista* judgements due to the INA’s ban on class-wide injunctive relief as well as the *Bautista* class certification order’s plain language, which acknowledged the statutory limit on injunctive relief and entered a class-wide declaratory relief only. *Bautista*, 2025 WL 3288403, at *8. Petitioner reserves the right to seek an injunction before this Honorable Court in light of § 1252(f)(1) of the INA, Supreme Court’s holding in *Aleman Gonzalez*, as well as the class certification order in *Bautista*. Petitioner respectfully requests that this Court find that the *Bautista* rulings govern his petition as it pertains to the declaratory relief he is seeking and independently award him the other forms of relief he has requested, including injunctive relief, attorney fees, and any other relief the Court deems just and proper.

The *Bautista* court’s judgment which declared Respondent’s interpretation and practice mandating detention for bond-hearing-eligible detainees unlawful is consistent with the Honorable Court’s conclusion in *Gonzalez v. Raycraft*, No. 25-

13502, 2025 WL 3218242, at *3 (E.D. Mich. Nov. 17, 2025) (collecting cases). This Court retains jurisdiction to rule on Petitioner’s request for other equitable relief and should reject the Respondent’s argument about dismissal.

B. Petitioner’s Request for Habeas Relief Is Not Precluded by *Bautista* Class Action

The core form of relief Petitioner is seeking in this action is a writ of habeas corpus, which is distinct from injunctive relief. By nature, habeas relief is an individualized form of relief safeguarding individual freedom against arbitrary and unlawful government action. *See Harris v. Nelson*, 394 U.S. 286, 290-91 (1969); *Boumediene v. Bush*, 553 U.S. 723, 725 (2008) (“the Framers considered the writ a vital instrument for the protection of “individual” liberty” (emphasis added)). The Supreme Court has never affirmatively concluded habeas relief can be pursued in a class action. *Jennings v. Rodriguez*, 583 U.S. 281 at 324 n. 7 (2018) (Thomas, J. concurring). When a court certifies a class, the court is supposed to define the precise claims that will be adjudicated on a class-wide basis. *See Fed. R. Civ. P. 23*. This ensures that the only the claims that are adjudicated in a class action are those that the class brings in common. *See General Telephone Co. of Northwest v. EEOC*, 446 U.S. 318, 330 (1980) (“The typicality requirement is said to limit the class claims to those fairly encompassed by the named plaintiff ’s claims”).

In *Bautista*, the relief sought by Petitioners on behalf of the class is declaratory relief against Respondents' policies regarding detention of noncitizens who entered the United States without admission under the mandatory detention framework of § 1225(b)(2). *Bautista*, 2025 WL 3288403, at *1. *Bautista* petitioners did not seek class-wide habeas relief, and it is questionable whether it would be permitted for them to do so. Given the individualized nature of the habeas claim, as well as the limited relief granted to class members by *Bautista*, this Court should find that Petitioner is entitled to bring his own individual claim seeking habeas relief in the form of release. Petitioner has a constitutional right to seeking a writ of habeas corpus under the Suspension Clause of the United States Constitution (U.S. Const. art. I, § 9, cl. 2) and respectfully requests that the Court consider his habeas claim, and not dismiss it due to his membership in the *Bautista* class.

C. Respondents' Request for Dismissal Is Unfounded

In support of their argument that Petitioner is not entitled to equitable relief in an individualized claim, Respondents identify three cases. ECF. No.9, PageID.137. These cases concern circumstances entirely different from Petitioner's and do not apply here.

To support their argument, Respondents rely on a Supreme Court decision in *U.S. v. Sanchez-Gomez*, 584 U.S. 381, 387 (2018), which does not even involve a

class action claim. In this case, four criminal defendants challenged the District Court's use of full restraints on detainees during pretrial proceedings. *Id.* at 383. The Supreme Court held that the reliance of the Court of Appeals for the Ninth Circuit on class action precedents was misplaced because although the defendants sought "class-like relief," they were not permitted to seek prospective relief in their individual cases on behalf of a class without a class certification order. *Id.* at 386-390. This case has no bearing on Petitioner's habeas claim and request for injunctive relief. Petitioner is not a criminal defendant. Furthermore, he is a class member pursuant to an actual class certification order. The one-line sentence from *Sanchez-Gomez* Respondents cited in their brief regarding the binding effect of a class judgment is not pertinent to Petitioner's case as it has no relevance to a habeas claim or immigration detention issues. *Id.* at 387. *See* ECF. No.9, PageID.137.

Respondents' reliance on *Groseclose v. Dutton*, 829 F.2d 581, 584 (6th Cir. 1987) and *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) is similarly misplaced. *Groseclose v. Dutton* concerned a death row inmate's inability to seek declaratory relief while another class action regarding the state prison system was pending. *Id.* at 582. *Gillespie v. Crawford*, on the other hand, is a criminal law case, where the Fifth Circuit held that the inmate defendant could not maintain individual suit for declaratory and injunctive relief during the pendency of a separate class action. *Id.* at 1103. Neither of these cases made a holding on immigration habeas

cases nor discussed the INA's statutory bar on class-wide injunctive relief. The issue of whether Petitioner is entitled to seek equitable relief, namely an injunction and habeas relief, is governed by § 1252(f)(1) of the INA, the Supreme Court decisions in *Aleman Gonzalez, Harris v. Nelson* (individuality of habeas claims), *General Telephone Co. of Northwest v. EEOC* (the limitation of the typicality requirement on unidentified forms of relief), as well as the actual (limited) class-wide declaratory relief sought in *Bautista*. The cases cited by Respondents have no applicability in Petitioner's case. Petitioner is not barred from seeking individual equitable relief in this action and the Court should allow his habeas petition to stand.

Although Respondents argue that *Bautista* has already given Petitioner relief, Petitioner respectfully contends that he cannot obtain the equitable relief he is seeking in this action elsewhere. Credible non-profit organizations, including American Immigration Lawyers Association (AILA) and Northwest Immigrant Rights Project (NWIRP), have received reports from immigration attorneys since the *Bautista* class certification order that Immigration Judges refuse to set bond pursuant to *Bautista*, because the *Bautista* court is not permitted to issue a class-wide injunction. Most Immigration Judges and current Executive Office for Immigration Review (EOIR) also incorrectly conclude that the declaratory judgment in *Bautista* does not extend to the whole class and that partial grant of summary judgment does not constitute a judgment. **Exh. A.**

A declaratory judgment, though may be “persuasive,” is “not ultimately coercive. *Bautista*, 2025 WL 3288403, at *7 (citing *Steffel v. Thompson*, 415 U.S. 452, 471 (1974)). Contrary to Respondents’ argument in their response to the Court’s order to show cause, Respondents have not interpreted the class summary judgment in *Bautista* to bind Immigration Judges. Because Respondents do not comply in practice with the declaratory judgment order in *Bautista*, and because the class in *Bautista* is not a habeas class, an individualized remedy in the form of a writ of habeas corpus is currently necessary to obtain effective relief for Petitioner.

Petitioner’s assertion that he cannot seek relief elsewhere is particularly true because Respondents have yet to file his charging document, known as the Notice to Appear (NTA), with the Immigration Court. **Exh. B.** While his habeas petition is pending with this Honorable Court, Petitioner attempted to file a request for bond with the Detroit Immigration Court. On December 2, 2025, Petitioner appeared before Immigration Judge Katherine Hansen to request bond; however, Judge Hansen declined to hear the Petitioner’s request, deciding that she did not have jurisdiction to hold a hearing for Petitioner as a charging document was never filed by the Department of Homeland Security (DHS). **Exh. C.** Judge Hansen asked Petitioner to withdraw his bond request and instructed him to resubmit after his NTA is filed by DHS and jurisdiction is vested with the Immigration Court. **Exh. C.**

ICE has authority to arrest and detain individuals who are identified for removal and placed into removal proceedings. 8 U.S.C. § 1226. Removal proceedings begin when DHS files a NTA with the Immigration Court after it is served on the noncitizen. 8 C.F.R. § 1003.13, 1003.14. In the present case, Petitioner is not even in removal proceedings and ICE has no authority to detain him. Because Respondents have failed to serve the Petitioner and Immigration Court with a charging document, Petitioner is precluded by Respondents from seeking bond before an Immigration Judge, even though seeking such a request is futile without obtaining habeas relief due to the Respondents' current policy. Respondents' failure to formally commence removal proceedings against Petitioner despite detaining him for over a month without affording him any avenue of relief is indicative of Respondents' disregard for Petitioner's constitutional rights as well as of the Petitioner's need for an individualized writ of habeas corpus. Bolstered by the fact that Immigration Judges across the country refuse to follow the judgment in *Bautista* and issue bond to noncitizens without a district court habeas order, an individualized remedy in the form of a writ of habeas corpus is necessary for Petitioner to obtain effective relief. Petitioner respectfully requests that this Court reject the Respondent's arguments and forthwith award him a writ of habeas corpus under 28 U.S.C. § 2241 and § 2243.

II. The *Bautista* Court Entered a Class-wide Declaratory Judgment

Next, Respondents argue that even if the Court finds that dismissal is not warranted, the *Bautista* Court's decision does not have preclusive effect on this matter because it did not enter a final judgment with respect to the class. ECF. No.9, PageID.137. Respondents claim that the *Bautista* order granting partial motion for summary judgment is not a final judgment under Rule 54(b). ECF. No.9, PageID.137-138. Petitioner respectfully argues that the California Court's order in *Bautista* has been misinterpreted by Respondents. In its class certification order, the *Bautista* Court specifically held that the same declaratory relief granted to the petitioners in *Bautista* extended to the whole bond-eligible class. *Bautista*, 2025 WL 3288403, at *8-9.

In *Bautista*, Petitioners are noncitizens who entered the United States without inspection and who are currently detained by the Department of Homeland Security (DHS). *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *1 (C.D. Cal. Nov. 20, 2025). They filed a petition for writ of habeas corpus with the U.S. District Court for the Central District of California. *Id.* *2. at On November 20, 2025, on Petitioners' motion, the California Court granted a summary judgment where it declared the current DHS policy on detention of individuals who entered the United States without admission unlawful. *Id.* at *11. In doing so, the Court held that the Department's interpretation of the mandatory detention statute was

inconsistent with the Supreme Court decision in *Jennings*, the plain language of the Immigration and Nationality Act (INA), as well as case law. *Id.* at *6-11.

Subsequently, on November 25, 2025, the California Court certified the bond eligible class proposed by the petitioners. *Bautista*, 2025 WL 3288403, at *9. In finding a nationwide bond eligible class appropriate, the Court discussed in length whether class-wide relief would be appropriate. *Id.* *8-9. The Court once again acknowledged that DHS's interpretation of the INA is incorrect and decided that because all noncitizen members of the nationwide bond class are impacted by DHS's unlawful statutory interpretation and practices, it is appropriate to afford uniform relief to all class members. *Id.* *8-9. Accordingly, the California Court held that all class members of the certified nationwide bond class are entitled to the same declaratory relief granted in the Court's summary judgment order and may be eligible for an individualized bond hearing:

The MSJ Order has already found Respondents' interpretation of the INA to be contrary to the statutory text and statutory scheme, and mutually exclusive of Petitioners' interpretation. Because the proper interpretation of the INA preserves a noncitizen's right to an individualized bond hearing after arrest, the MSJ Order illustrates the indivisible nature of the relief. [...]

Accordingly, Petitioners satisfy Rule 23(b)(2). When considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.

Bautista, 2025 WL 3288403, at *9.

In the present case, Respondents allege that the *Bautista* Court did not enter a final judgment with respect to the class. ECF. No.9, PageID.137-138. Petitioner respectfully argues that Respondents misread the decision and asks this Court to grant him relief in accordance with the class certification order and summary judgment in *Bautista* as extended to all class members. The certified bond-eligible class encompasses Petitioner and includes all individuals across the country who entered without inspection, who were not detained at the border, and who are not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. *Bautista*, 2025 WL 3288403, at *9. As clarified by the California Court, the Court’s declaratory relief is uniform and is granted to all class members. *Id.* *8-9. For these reasons, Petitioner asks this Court to find Respondents’ interpretation of the mandatory detention statute under 8 U.S.C. § 1225(b)(2)(A) unlawful, and to grant him relief in line with the declaratory judgment in *Bautista*.

In this regard, Petitioner respectfully asserts that although 8 U.S.C. § 1252(f)(1) prohibits class-wide injunctive relief with respect to the INA detention statute, it does not bar class-wide relief in the form of declaratory judgment. *Bautista*, 2025 WL 3288403, at *7-8; *Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1123–24 (9th Cir. 2025) (finding class-wide declaratory relief proper under 8 U.S.C. § 1252(f)(1) and the Supreme Court decision in *Aleman Gonzalez*). *See also Biden v. Texas*, 597 U.S. 785, 800 (2022) (referring to the dissent opinion

in *Jennings*, which concluded that a court could order declaratory relief notwithstanding section 1252(f)(1), and noting that if Congress had wished to bar other categories of decisions in addition to injunctive relief, it would have worded § 1252(f)(1) differently and expanded the list). The plain terms of § 1252(f)(1) proscribe only the lower courts' ability to issue injunctive relief. Notwithstanding § 1252(f)(1), the *Bautista* Court may issue and has issued class-wide declaratory relief, and Petitioner respectfully requests that this Court reach the same conclusion as this Court's conclusion in *Gonzalez v. Raycraft* and the declaratory judgment in *Bautista* and find Petitioner's continued detention by Respondents under 8 U.S.C. § 1225(b)(2)(A) unlawful.¹

In their response to the Court's order to show cause, Respondents further allege that Petitioner should not benefit from relief granted *Bautista* because the California Court entered a "pre-final judgment declaration" and did not enter a final judgment on all claims under Rule 54(b). ECF. No.9, PageID.138. Petitioner respectfully contends that the California Court has completely addressed and resolved the issue of whether the current DHS policy on mandatory detention is unlawful. The summary judgment relief granted is partial because the original

¹ Petitioner respectfully incorporates by reference his arguments in Section I.A of this brief and reasserts that his inclusion in the *Bautista* class does not preclude this Court from considering his eligibility for injunctive and habeas relief.

Bautista pleadings raised additional claims (e.g., Petitioners' due process claim and APA claims relating to arbitrary and capricious action and rulemaking) and Petitioners moved to seek a judgment on the issue of DHS's unlawful interpretation of the statute denying noncitizens bond. Under Federal Rule of Civil Procedure 54(b), a court may nonetheless order a final judgment even if it has not yet resolved all claims. The *Bautista* Court has reached a final and binding decision on DHS's current policies on bond and the mandatory detention statutes. That all issues raised in the *Bautista* case have not yet been resolved has no bearing on the authority of the Court's summary judgment and class certification orders. Accordingly, Petitioner respectfully seeks to be afforded the court-ordered declaratory relief under *Bautista*.

A district court order remains binding and must be obeyed unless a stay is granted even if the appeal period has not expired. 28 U.S.C. § 1292(b) expressly provides that an interlocutory appeal does not stay further proceedings unless the district judge or the Court of Appeals orders a stay. Under the statute, the mere filing of an appeal or the possibility of one does not automatically invalidate or suspend the effect of a district court's order. The *Bautista* Court's summary judgment and class certification orders remain binding and in effect unless a stay is ordered by an appellate court (that is, if these orders are appealed). Because Petitioner is a class member under *Bautista* and because the issues resolved in the *Bautista* Court's declaratory judgment are controlling on matters pertaining to Petitioner's detention,

Petitioner respectfully requests that this Court grant his emergency motion and forthwith award a writ of habeas corpus or order a post-NTA bond hearing for him under *Bautista*.

Finally, Respondents' allegation that "a court cannot grant declaratory relief prior to the entry of a final judgment" is factually and legally inaccurate. ECF. No.9, PageID.137. Declaratory relief is specifically designed to resolve rights and legal relations before the conclusion of all claims in a controversy. To support their allegation, Respondents quote an inapposite Supreme Court decision, *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975) ("prior to final judgment there is no established declaratory remedy comparable to a preliminary injunction"), which is not supportive of the Respondents' argument. The one sentence Respondents quoted belongs to a paragraph in the decision where the Supreme Court acknowledged the unique dilemma the plaintiffs in the case faced. *Id.* at 930-931. The plaintiffs in this case were bars operators seeking to enjoin enforcement of a town ordinance and had obtained a preliminary injunction before the state proceedings were started against them. *Id.* at 924-925. The Supreme Court noted that although declaratory remedy was available to the plaintiffs at that stage, declaratory relief did not offer them a remedy as strong as a preliminary injunction because while a preliminary injunction commands action, a declaratory judgment only declares rights and cannot stop the harm the plaintiffs might face. *Id.* at 930-931. This case has no applicability to

Petitioner's case and does not reach the conclusion that Respondents believe it does. Nowhere in the specific case on which Respondents incorrectly relied nor in case law generally is there a prohibition against a grant of a declaratory judgment. Respondents' allegation that the *Bautista* court could not enter declaratory relief prior to the entry of final judgment is unfounded. The partial summary judgment in *Bautista* is final on the issue of Respondents' unlawful practices and interpretation of the detention statute and is binding on Respondents. Petitioner respectfully requests that this Court reject the Respondent's unfounded claims and grant his emergency motion.

It is Petitioner's position that Respondents misread and misconstrued *Bautista* and are incorrect in arguing that the summary judgment order does not apply to him. Petitioner further claims that he is not precluded from seeking equitable relief and habeas action by *Bautista*. Respondents continue to unlawfully detain Petitioner under the mandatory detention statute and without initiating immigration court proceedings against him. Petitioner prays that the Honorable Court grant him a writ of habeas corpus and order his release.

Petitioner respectfully adds that if this Court is inclined to not apply the *Bautista* orders to his case, he still remains eligible for release and a writ of habeas corpus, as alleged in his petition, in accordance with the Supreme Court decision in *Jennings*, as well as decisions from district courts across the country and within the

Sixth Circuit, which found Respondents' current policy and interpretation of the INA unlawful.

CONCLUSION

Petitioner respectfully requests that the Court grant his emergency motion for writ of habeas corpus and immediate release.

Respectfully submitted,

/s/ Esma R. Tedik

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Dated: December 9, 2025

CERTIFICATE OF SERVICE

I, Esma R. Tedik, hereby certify that on this day, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to the parties of record.

/s/ Esma R. Tedik

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