IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JAIME NOEL LEMUS BERGANZA,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-400-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
Respondent.	:	

MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY

On November 21, 2025, Petitioner filed a petition for a writ of habeas corpus ("Petition") claiming that he is not subject to mandatory pre-final order of removal detention pursuant to 8 U.S.C. § 1225(b)(2)(A). ECF No. 1. On December 1, 2025, the Court issued an Order to Show Cause directing Respondent to show cause within seven days why the Petition should not be granted in light of the Court's rulings in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). ECF No. 3.[2]

[1] In addition to the Warden of Stewart Detention Center, Petitioner names other officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents. "[T]he default rule [28 U.S.C. § 2241 petitions] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

[2] Respondent acknowledges the Court's direction to address *J.A.M.* and *P.R.S.* and, in the event the Court disagrees with the arguments below, Respondent reasserts all arguments asserted in those cases and reserves all rights to stand on those arguments. Respondent acknowledges, however, that the Court has previously rejected the government's arguments in *J.A.M.* and *P.R.S.*, and Respondent concedes that those holdings would control the result in this case should the Court adhere to its prior legal reasoning.

Respondent files this Motion to Dismiss in light of the class action certification and orders issued in *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025), which appear to make Petitioner a member of a certified non-opt out class under Rule 23(b)(2). In support of his Motion to Dismiss, Respondent shows the Court as follows:

1. The *Maldonado* court granted class certification under Rule 23(b)(2) and partial summary judgment for the petitioners in that case but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction, which would not be permitted by law. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. 2025 WL 3288403.

2. The *Maldonado* court defined the certified class as follows:

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

Maldonado, 2025 WL 3288403 at *9.

3. Petitioner is a member of the *Maldonado* class. Petitioner entered the United States without inspection; he was not apprehended upon arrival; he is not subject to detention under § 1226(c) (criminal aliens), § 1225(b)(1) (arriving alien), or § 1231 (post final order of removal) at the time DHS made their initial custody determination.

4. Because Petitioner is a member of the *Maldonado* class, the Court should dismiss or, in the alternative, stay this action. Certification of a 23(b)(2) class precludes individual suits for the same injunctive or declaratory relief. *See U.S. v. Sanchez-Gomez*, 584 U.S. 381, 387 (2018) (noting that "[t]he certification of a suit as a class action has important consequences for the

unnamed members of the class, including being "bound by the judgment") (cleaned up); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) ("To allow individual suits would interfere with the orderly administration of the class action and risk inconsistent adjudications."); *see also H.N. v. Warden, Stewart Detention Center*, No. 7:21-cv-59-HL-MSH, 2021 WL 4203232 (M.D. Ga. Sept. 15, 2021) (recommending dismissal of habeas action, in part, because petitioner was member of a certified non-opt out Rule 23(b)(2) subclass and could not raise an individual claim seeking the same relief as the class).

5. In *Gillespie*, the Fifth Circuit held that an individual class member is barred from pursuing his own individual lawsuit that seeks equitable relief within the subject matter of the class action. *Gillespie*, 858 F.2d at 1103. In so holding, the Fifth Circuit explained that "[i]ndividual members of the class . . . may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action." *Id.*

6. Thus, Petitioner, who is an individual class member, cannot bring claims seeking equitable relief in this action and the habeas petition must be dismissed. *See, e.g., Oliver v. Scott*, No. CIV. 3:98-CV-2246-H, 2000 WL 140745, at *3 (N.D. Tex. Feb. 4, 2000) (dismissing claims based on *Gillespie*).

7. Assuming for the sake of argument that the Court finds that Petitioner is a member of the *Maldonado* class, but that dismissal is not warranted, the *Maldonado* court's decision does not have preclusive effect in this matter. As noted above, the *Maldonado* court did not enter a final judgment with respect to the class. Although the court stated it was extending "the same declaratory relief" to the class, a court cannot grant declaratory relief prior to the entry of a final judgment, *i.e.*, a declaratory judgment. *See 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"). A pre-final judgment declaration is, by its nature, not a declaratory judgment "[b]ecause a preliminary declaration—unlike a final declaration—does not specifically bind anyone, it is more akin to an advisory opinion, which the Court is precluded from issuing by history and the implicit policies embodied in Article III." *Vazquez Perez v. Decker*, No. 18-CV-10683 (AJN), 2019 WL 4784950, at *10 (S.D.N.Y. Sept. 30, 2019).

8. Absent an entry of final judgment with respect to the class, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment in *Maldonado*. 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.

In light of the foregoing, Respondent respectfully moves the Court to dismiss Petitioner's Petition to allow the District Court for the Central District of California to adjudicate the certified class action pending before it. Alternatively, Respondent requests that the Court stay the Petition pending the resolution of *Maldonado*.

Respectfully submitted this 8th day of December, 2025.

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