UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

LAREDO DIVISION

YOENDRIS RODRIGUEZ-MERINO,	§	
	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO. 5:25-CV-237
	§	
	§	
MATTHEW W. BAKER, Assistant Field Office Director, ERO Houston, TX, ET AL.,	§	
	§	
Respondents.	§	

RESPONDENTS' RESPONSE
TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR TEMPORARY RESTRAINING ORDER
AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the Respondents, Matthew W. Baker, Assistant Field Office Director, Enforcement & Removal Operations (ERO) Houston, Texas; Mario Garcia, Warden, Webb County Detention Facility; Donald R. Kusser, Field Office Director, U.S. Customs & Border Protection (CBP) Laredo, Texas; Todd Lyons, Acting Director of U.S. Immigration & Customs Enforcement (ICE); Sirce Owen, Acting Director, Executive Office for Immigration Review (EOIR); Pamela Bondi, U.S. Attorney General; and Kristi Noem, Secretary of the U.S. Department of Homeland Security; in their official capacities, [1] by and through the United States Attorney for the Southern District of Texas, and hereby file their Response to Petitioner Yoendris Rodriguez-

[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the named federal respondents who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

Merino's Petition for Writ of Habeas Corpus (Petition) and Motion for Temporary Restraining Order (TRO Motion) and Motion to Dismiss Petitioner's Petition for Writ of Habeas Corpus and respectfully request that this Court deny his Petition and TRO Motion under 28 U.S.C. § 2241 or dismiss the Petition under Federal Rules of Civil Procedure 12(b)(1) and/or 12(b)(6).

BACKGROUND [2]

Petitioner Yoendris Rodriguez-Merino (Rodriguez) is a native and citizen of Cuba who entered the United States at Eagle Pass, Texas without inspection on or about August 10, 2022. On August 13, 2022, Rodriguez was served with a Form I-200, U.S. Department of Homeland Security Warrant for Arrest of Alien. Also on that date, ICE served Rodriguez with a Notice to Appear (NTA) in removal proceedings under section 240 of the Immigration and Nationality Act (INA) charging him with being subject to removal pursuant to Section 212(a)(6)(A)(i) of the INA as an alien present in the United States without admission or parole or who arrived in the United States at any time or place other than as designated by the Attorney General. He was then released on his own recognizance. Rodriguez asserts that he was taken into ICE custody in October of 2025 when he appeared for his routine ICE check-in. See Petition at pages 11 - 12. Currently, Rodriguez remains in ICE custody at the Rio Grande Processing Center in Laredo, Texas.

LEGAL STANDARDS

In a petition for a writ of habeas corpus, the petitioner is challenging the legality the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it

[2] Documents which support the facts set out in this section may be found appended to Petitioner's Motion for Temporary Restraining Order [Docket # 5] at Exhibit A – Notice to Appear, Exhibit B – I-213, Exhibit C – Warrant for Arrest of Alien, Exhibit D – Notice of Custody Determination, Exhibits E & F – Order of Release on Own Recognizance, and Exhibit K – ICE Detainee Locator [Docket # 5-1 at pages 3 - 14, 32 - 33].

comes to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as "[d]etention is necessarily a part of th[e] deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."). As the Supreme Court has stated in no unmistakable terms, "[d]etention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003).

Rule 12(b)(1), Federal Rules of Civil Procedure, permits dismissal of an action when the court lacks subject matter jurisdiction. A motion under Rule 12(b)(1) may be decided on any of three bases: (1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts. *Barrera-Montenegro v. United States*, 74 F.3d 657,659 (5th Cir. 1996); *Fletcher v. United States Dept. of Veterans Affairs*, 955 F.Supp. 731, 733-34 (S.D. Tex. 1997).[3]

A motion under Rule 12(b)(1) should be granted only if it appears certain that the plaintiff cannot prove any set of facts in support of his claim that would entitle him to relief. *Home Builders Association of Miss., Et Al. v. City of Madison, Miss., Et Al.*, 113 F.3d 1006,1009 (5th Cir. 1998); *Benton v. United States*, 960 F.2d 19,21 (5th Cir. 1992). A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to

[3] Because this motion is based on Rule 12(b)(1) of the Federal Rules of Civil Procedure, evidence of undisputed facts that bear on the Court's subject matter jurisdiction may be introduced without converting the motion into a motion for summary judgment. *Williamson*, 645 F.2d at 414.

adjudicate the case. *Home Builders Association of Miss.*, 113 F.3d at 1009; *Nowak v. Ironworkers Local 6 Pension Fund*, 81 F.3d 1182,1187 (2d Cir 1996). The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting subject matter jurisdiction. *St. Paul Reinsurance Company, LTD. v. Greenburg*, 134 F.3d 1250,1253 (5th Cir. 1998). The question of subject matter jurisdiction is an issue for the court to decide. *Williamson v. Tucker*, 645 F.2d 404,413 (5th Cir. 1981).

Rule 12(b)(6) allows dismissal if a plaintiff fails "to state a claim upon which relief may be granted." Fed. R. Civ. P. 12(b)(6). In *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007), the Supreme Court confirmed that Rule 12(b)(6) must be read in conjunction with Rule 8(a), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). *Twombly* overruled the Supreme Court's prior statement in *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957), that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." See *Twombly*, 550 U.S. at 562-63 ("*Conley's* 'no set of facts' language ... is best forgotten as an incomplete, negative gloss on an accepted pleading standard ...."). To withstand a Rule 12(b)(6) motion, a complaint must contain "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570.

In *Ashcroft v. Iqbal*, --- U.S. ----, 129 S.Ct. 1937 (2009), the Supreme Court elaborated on the pleading standards discussed in *Twombly*. The Court set out the following procedure for evaluating whether a complaint should be dismissed: (1) identify allegations that are conclusory, and disregard them for purposes of determining whether the complaint states a claim for relief;

and (2) determine whether the remaining allegations, accepted as true, plausibly suggest an entitlement to relief. *Iqbal*, 129 S.Ct. at 1949-50.

With respect to the "plausibility" prong of the dismissal analysis, *Iqbal* explained that "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). The *Iqbal* Court further noted that "[t]he plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Id.* (citing *Twombly*, 550 U.S. at 556). Finally, the Supreme Court has made clear that "'when the allegations in a complaint, however true, could not raise a claim of entitlement to relief, 'this basic deficiency should ... be exposed at the point of minimum expenditure of time and money by the parties and the court.'" *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007)(quoting *Twombly*, 550 U.S. 544).

RELIEF REQUESTED BY PETITIONER

Through his Petition, Rodriguez challenges his continuing civil immigration detention pending his removal proceedings. Rodriguez contends that as an alien apprehended after several years of continuous, although illegal, presence in the United States, he is not subject to mandatory detention under INA Section 235 (8 U.S.C. § 1225) but rather is eligible for release on bond pending his removal proceedings pursuant to INA Section 236 (8 U.S.C. § 1226). See Petition at pages 3 - 8. Rodriguez's Petition sets out five claims for relief: violation of 8 U.S.C. § 1226(a) and associated regulations, violation of Fifth Amendment right to due process by failing to provide a bond hearing, violation of Fifth Amendment right to due process by failing to provide an individualized hearing for domestic civil detention, violation of Fifth Amendment right to due

process, substantive due process, and Declaratory Judgment Act as to whether 1225 or 1226 applies to his immigration detention. Id. at pages 13 -16, paragraphs 49 – 62. In his Petition's prayer for relief, Rodriguez requests his release pursuant to the terms and conditions of his prior Order of Supervision, or in the alternative, that he be provided with a bond redetermination hearing within 14 days. Id. at pages 16 - 17. Through his TRO Motion, Rodriguez seeks a temporary restraining order compelling Respondents to put into effect the remedies requested in his Petition. See TRO Motion.

LEGAL ANALYSIS

I. Failure to Exhaust Administrative Remedies.

As a threshold matter, the Court should dismiss the habeas petition because Rodriguez has not administratively exhausted his claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies); *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (same); *United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992) (same). In his Petition, Rodriguez has not indicated that he has requested a bond hearing before an immigration judge (IJ), nor that he has been denied a bond by an IJ.

The Fifth Circuit has recognized exceptions to the exhaustion requirement and noted that they "apply only in extraordinary circumstances," including when exhaustion would be "patently futile." *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (internal quotation marks omitted). *Fuller*

itself is illustrative, where the petitioner argued that administrative appeal was futile because the time for filing an appeal has already elapsed. *See id.* The Fifth Circuit disagreed, holding that "until he actually appeals, and that appeal is acted on, we do not know what the appeals board will do with [petitioner]'s claim, and until the appeals board has been given an opportunity to act, [petitioner] has not exhausted his administrative remedies." *Id.*

Here, just because the administrative body is unlikely to find the law in Rodriguez's favor does not mean that the "extraordinary circumstances" apply where exhaustion is futile. Petitioner must seek a bond, and if denied, he must appeal to (and receive a decision from) the BIA for the matter to be administratively exhausted. It is of little moment whether Rodriguez would be able to successfully convince the BIA that *Matter of Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), was wrongly decided or that his circumstances are factually distinguishable from *Hurtado*; the point is that Rodriguez cannot eschew the process altogether. *See Abdoulaye Ba v. Director of Detroit Field Office, ICE*, No. 4:25-CV-02208, 2025 WL 2977712, at *2 (N.D. Ohio Oct. 22, 2025) (dismissing for failure to exhaust where petitioner sought "review of the application and interpretation of *Matter of Yajure Hurtado*" but had yet to appeal to the BIA). In sum, not only does the law require exhaustion, practical and intuitive considerations highlight why this result must follow here in the bond context.

II. Petitioner is Subject to Mandatory Detention Under 8 U.S.C. § 1225.

Prior to addressing the merits, Respondents acknowledge that this Court has previously rejected arguments concerning the applicability of § 1225(b)(2) in similar cases. However, the Respondents respectfully request a reconsideration of those prior rulings. *See Camreta v. Greene*, 563 U.S. 692, 701 n. 7 (2011) ("A decision of a federal district court judge is not binding precedent

in either a different judicial district, the same judicial district, or even upon the same judge in a different case."). For the reasons discussed below, including recent decisions from other courts in the Fifth Circuit and the Southern District of Texas, this Court should reconsider its interpretation of § 1225(b)(2) and find that Rodriguez is subject to mandatory detention.

Rodriguez's habeas petition should be denied because he falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Rodriguez admits that he is an alien present in the United States who entered the country unlawfully without being "admitted or paroled." As discussed below, an alien "present in the United States who has not been admitted," is by definition "an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, Rodriguez is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien *shall* be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted" (emphasis added)).

A. The Plain Language and Statutory Structure of the INA.

"As usual, we start with the statutory text." *Restaurant Law Center v. U.S. Dep't of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

> in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an "applicant for admission", then they are subject to mandatory detention. The INA defines "applicant for admission" as "an alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). Here, there is no question that Rodriguez was not previously admitted into the United States, and that he is therefore subject to mandatory detention and is not eligible for a bond.

Rodriguez may argue, and other courts have mistakenly held, that there is a separate requirement: that Petitioner also be "seeking admission." But, in the context of § 1225(b)(2), "seeking admission" and "applying for admission" are plainly synonymous. Congress has linked these two variations of the same phrase in Section 1225(a)(3), which requires all aliens "who are applicants for admission or otherwise seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word "or" here "introduce[s] an appositive—a word or phrase that is synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*, 571 U.S. 31, 45 (2013). Read properly, a person "seeking admission" is just another way of describing a person applying for admission, meaning he is an applicant for admission, which includes both those individuals arriving in the United States and those already present without admission. 8 U.S.C. § 1225(a)(1).

A comparison of Section 1225's mandatory-detention provisions against the discretionary detention provisions of Section 1226 also supports the Respondents' interpretation. A basic canon of statutory construction is that a specific provision should govern over a more general provision encompassing that same matter. *See Matter of GFS Indus., L.L.C.*, 99 F.4th 223 (5th Cir. 2024). Here, Section 1226(a) is the general provision, applicable to aliens "arrested and detained pending a decision" on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is much more specific, applying particularly to aliens who are "applicants for admission"—a specially defined subset of aliens that explicitly includes those "present in the United States who ha[ve] not been admitted." *Id.* § 1225(a). So, while the general rule might be that aliens detained pending removal may be detained, the specific rule for aliens who have not been admitted is that

this subset of aliens must be detained. [4] The Court should be loath to eviscerate the specific text of Section 1225(b)(2)(A) in favor of the more general text of Section 1226(a). *See, e.g., United States v. Menasche*, 348 U.S. 528, 538-39 (1955) ("It is our duty to give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section[.]"). Because Rodriguez falls squarely within the definition of individuals deemed to be "applicants for admission," the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

B. The BIA's Decision in *Matter of Hurtado*.

The text of the INA requires that aliens like Rodriguez already present in the United States are applicants for admission and thus subject to mandatory detention under § 1225(b)(2). To be sure, while this interpretation is straightforward, that is not to say there are no colorable counterarguments. However, Respondents would point to the BIA's decision in *Hurtado*, which thoughtfully and meticulously considered and rejected a myriad of counterarguments. *See* 29 I. & N. at 221–27 (discussing and rejecting no fewer than six distinct legal counterarguments). *Hurtado* is a unanimous, published decision from the BIA and binding on immigration courts. Here, the BIA utilized its immigration expertise and gave a lengthy, comprehensive account as to why the Respondents' position in this case is not only correct, but comfortably so. This Court should thus accord great weight to the persuasiveness of *Hurtado*.

The BIA's interpretation of § 1225(b)(2) is not undermined by the passage of the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). The BIA's *Hurtado* decision specifically

[4] To be clear, there remains a large population of aliens who remain subject to § 1226 discretionary detention (and not § 1225 mandatory detention). For example, aliens who were admitted to the United States via a tourist visa, but who overstayed that visa, are subject to § 1226 detention.

addressed the issue of whether its interpretation of § 1225(b)(2) rendered the recent Laken Riley Act superfluous. *Hurtado*, 29 I. & N. Dec. at 221. The BIA first pointed out that nothing in the Laken Riley Act purported to alter or amend § 1225(b)(2)'s mandatory detention requirement. *Id.* Moreover, the BIA noted that the fact that the Laken Riley Act required mandatory detention for a subset of illegal aliens that are also subject to mandatory detention under § 1225(b)(2) is not a basis to ignore the mandatory detention requirement of § 1225(b)(2). *Id.* at 222. In support of this holding, the BIA cited the Supreme Court's *Barton* decision. *Id.* (citing *Barton v. Barr*, 590 U.S. 222, 239 (2020) (holding that because "redundancies are common in statutory drafting--sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication,"--"[r]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text")). Thus, the BIA correctly concluded that both § 1225(b)'s and the Laken Riley Act's mandatory detention requirements should be given effect.

C. Persuasive decisions from other District Courts.

In the absence of controlling authority, the Court should follow those district courts that have applied the plain language of the INA and found aliens like Rodriguez subject to mandatory detention under § 1225(b)(2). Although the Respondents acknowledge that there are numerous district court decisions that hold to the contrary, [5] several district courts have adopted the Respondents' and the BIA's interpretation. *See Vargas Lopez v. Trump*, No. 8:25-CV-00526,

[5] This includes decisions from other courts in the Southern District of Texas. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)(on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

2025 WL 2780351 (D. Neb. Sept. 30, 2025) and *Chavez v. Noem*, No. 3:25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Most recently, a district court in the Western District of Louisiana agreed with the BIA's reading of the INA. *See Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025). In denying the habeas petition, the court held that "[b]ecause Petitioner crossed the United States-Mexico border without being inspected by an immigration officer, [Petitioner was] therefore also appropriately categorized as an inadmissible alien . . . [and thus concluded] that § 1225(b)(2)'s plain language and the 'all applicants for admission language' of *Jennings* permits [DHS] to detain Petitioner under § 1225(b)(2)." (citations omitted). *Id.* The court reasoned that "to conclude that an alien who has unlawfully entered the United States and managed to remain in the country for a sufficient period of time is entitled to a bond hearing, while those who seek lawful entry and submit themselves for inspection are not, not only conflicts with the unambiguous language of the governing statutes, but would also seemingly undermine the intent of Congress in enacting the IIRIRA." *Id.* at *6.

Finally, another court in the Southern District of Texas recently decided *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the

plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5.

III. Effect of *Maldonado Bautista v. Santacruz*.

The Court has Ordered the Parties to address the effect of the class action certification and orders in *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) on this case. 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. 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.

Petitioner is apparently 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 the Department of Homeland Security made their initial custody determination. 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.").

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.* Thus, Rodriguez, who is an individual class member cannot bring claims seeking equitable relief in this action and the habeas petition should 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*).

Assuming for the sake of argument that the Court finds that Rodriguez 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).

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 short, the *Maldonado* court did not enter a class-wide judgment. As such, there is currently no declaratory relief, let alone relief with preclusive effect on *Maldonado* class members' claims concerning the proper interpretation of 8 U.S.C. § 1225(b)(2)(A)'s mandatory detention provision.

CONCLUSION

Rodriguez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), based on the statute's plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decision in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge). Moreover, Rodriguez failed to exhaust his administrative remedies prior to filing his Petition for Writ of Habeas Corpus with this Court. Accordingly, the Court should deny or

dismiss his § 2241 petition and Motion for Temporary Restraining Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **RESPONDENTS' RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION TO DISMISS PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS** in the case of YOENDRIS RODRIGUEZ-MERINO v. MATTHEW W. BAKER, ET AL, Civil Action Number 5:25-CV-237, was sent to Sondra Turin, Esquenazi & Turin, Attorneys for Petitioner, 2201 Main Street, Suite 1010, Dallas, Texas 75201, by electronic mail through the District Clerk's electronic case filing system, on this the 5th day of December, 2025.

"S/" Hector C. Ramirez
HECTOR C. RAMIREZ
Assistant United States Attorney