UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

OSCAR JUSTO ANICASIO,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-00193
	)	
WARDEN, FOLKSTON ICE PROCESSING CENTER,	)	
	)	
Respondent.	)	

MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO STAY AND ABBREVIATED RESPONSE TO PETITION AND RESPONSE TO SHOW CAUSE ORDER

I. Introduction

Petitioner Oscar Justo Anicasio ("Petitioner" or "Anicasio") filed a habeas corpus petition pursuant to 28 U.S.C. § 2241. Doc. 1. Anicasio's § 2241 petition is one of many now pending in this Court challenging a petitioner's designation as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Anicasio contends that his detention is properly grounded in 8 U.S.C. § 1226, which—unlike § 1225—generally authorizes immigration judges to release aliens on bond. Anicasio claims that Respondent's incorrect reading of the Immigration and Nationality Act ("INA") has deprived him of the opportunity for release on bond—thus resulting in his unlawful detention.

On December 2, 2025, the Court issued an Order directing Respondent to show cause within five days why the Court should not grant the same relief to Petitioner that the Court granted to petitioners in the recently adjudicated *Villa* case. *See Villa*

v. Normand, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025). Respondent contends that none of Petitioner's claims are meritorious and thus asks the Court to deny the instant habeas corpus petition.

That said, Respondent alerts the Court to two points. First, Respondent acknowledges the recent class action decision in *Maldonado Bautista v. Santacruz*, ___ F.R.D. ___, No. 5:25-CV-01873, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Respondent recognizes that Petitioner appears to be a member of the *Maldonado* class, and, accordingly, the Court should dismiss or, in the alternative, stay this action because certification of a 23(b)(2) class precludes individual suits for the same injunctive or declaratory relief. *See United States 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) (en banc) ("To allow individual suits would interfere with the orderly administration of the class action and risk inconsistent adjudications.").

Second, assuming for the sake of argument that the Court finds that dismissal or staying the case is not warranted, Respondent recognizes this Court's prior ruling in *Villa* concerning a similar challenge to the detention authority at issue here and acknowledges that, if the Court adheres to its legal reasoning in *Villa*, it will control the result in this case. While reserving all rights, including the right to appeal, Respondent submits this abbreviated response in lieu of an exhaustive opposition

brief to preserve the legal issues and to conserve the resources of the Court and the parties. Consistent with the Court's Show Cause Order, Respondent confines its briefing to the INA statutory-interpretation issue addressed in this Court's *Villa* opinion. Should the Court desire a more exhaustive response memorandum or briefing on claims (or counts) not explicitly addressed herein, Respondent respectfully requests leave to file such a brief and will do so upon the Court's request.

II. Statutory Framework

The INA contains two complementary provisions, 8 U.S.C. §§ 1225 and 1226, governing the detention of aliens prior to issuance of a removal order. Section 1225 applies to "applicants for admission," who are defined as "alien[s] present in the United States who [have] not been admitted" or "who arrive[] in the United States." 8 U.S.C. § 1225(a)(1). Applicants for admission "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) applies to arriving aliens and "certain other" aliens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). 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. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

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 "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); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025) ("[A]liens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.") (citing *Jennings*, 583 U.S. at 300); *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.'") (internal citation omitted; quoting *Jennings*, 583 U.S. at 299)). Still, the Department of Homeland Security ("DHS") possesses 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." *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

Section 1226, in turn, 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 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. § 1227(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. 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).

III. Factual Background

Anicasio is a native and citizen of Mexico. *See* Declaration of Michael Gloster (Exhibit 1), ¶ 4. Petitioner unlawfully entered the United States at an unknown place on an unknown date. *See id.* On or about June 20, 2025, Immigration and Customs Enforcement ("ICE") encountered Petitioner and took him into custody. *See id.*, ¶ 5. Petitioner was issued a Notice to Appear charging him with inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See id.* Petitioner is presently detained in ICE custody pursuant to 8 U.S.C. § 1225(b)(2)(A). *See id.*, ¶ 9.

IV. Argument[1]

A. Petitioner's Habeas Corpus Petition should be dismissed or, in the alternative, stayed due to Petitioner's membership in a Rule 23(b)(2) class.

In *Maldonado Bautista v. Santacruz*, the court granted class certification under Rule 23(b)(2) and partial summary judgment for the petitioners but did not issue a class-wide declaratory judgment. 2025 WL 3288403. The court also did not issue a class-wide injunction, which would not be permitted by law. *See id.* Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. *See id.* at *10.

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.

Based on the information available to Respondent, it appears Petitioner is a member of the *Maldonado* class. *See* Exh. 1, ¶ 10. 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

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[1] Respondent reasserts arguments here that this Court rejected in *Villa*, including specifically: (1) a jurisdictional argument based on 8 U.S.C. § 1252(g); and (2) a statutory-interpretation argument concerning the proper reading of 8 U.S.C. §§ 1225 and 1226. *See Villa v. Normand*, 5:25-cv-0089 (S.D. Ga.), Docs. 46 (R&R) at 4-23; 84 (Adoption Order) at 11-21. Respondent reasserts these arguments to preserve them for review in any subsequent proceeding.

(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 United States 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) (en banc) ("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.* The other Courts of Appeal that have confronted this question have reached the same conclusion. *McNeil v. Guthrie*, 945 F.2d 1163, 1165–66 (10th Cir. 1991) (finding that individual suits for equitable relief cannot be brought where a class action with the same claims exists); *Horns v. Whalen*, 922 F.2d 835, 835 & n.2 (4th Cir. 1991); *Bennett v. Blanchard*, 802 F.2d 456, 456 (6th Cir. 1986) (holding that the lower court was correct in dismissing

a case when the plaintiff was also a member in a parallel class action); *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982) (since class members generally "cannot relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified.").

Thus, Petitioner, 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.*, *I.V.I. v. Baker*, No. 25-CV-1572, 2025 WL 1519449, at *2-3 (D. Md. May 27, 2025) (dismissing claims by asserted class member as it would be "contrary to those same principles [of comity and judicial economy] to assert jurisdiction over virtually identical claims between essentially the same parties" in suit challenging Department of Homeland Services policy regarding removals to countries not previously designated as the country or alternative country of removal); *Wynn v. Vilsack*, No. 3:21-cv-514, 2021 WL 7501821, at *3 (M.D. Fla. Dec. 7, 2021) ("Multiple courts of appeal have approved the practice of staying a case, or dismissing it without prejudice, on the ground that the plaintiff is a member of a parallel class action." (cleaned up)).

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, 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. Respondent therefore requests that the Court dismiss this action without prejudice or, in the alternative, stay this matter

pending resolution of the *Maldonado* litigation.

B. Petitioner's Habeas Corpus Claims Are Barred by Statute, and the Court Lacks Jurisdiction to Adjudicate Them.

Should the Court find that dismissal of the Petition is not warranted based on Petitioner's membership in the *Maldonado* class, the plain language of 8 U.S.C. § 1252(g) and the Eleventh Circuit's consistent interpretation of this provision nonetheless independently foreclose Petitioner's habeas corpus claims. Congress stripped federal district courts of jurisdiction over § 2241 challenges to an alien's detention in 8 U.S.C. § 1252(g). That provision reads:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g).

Calling § 1252(g) "unambiguous," the Eleventh Circuit held that this statute "bars federal courts' subject-matter jurisdiction over any claim for which the 'decision or action' of the Attorney General (usually acting through subordinates) to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim." *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). The Court of Appeals interpreted the scope of "commenc[ing] proceedings" to include "[s]ecuring an alien while awaiting a removal determination." *Id.*

A subsequent panel made *Gupta*'s holding more plainly applicable to the facts of Petitioner's habeas corpus petition, finding that "ICE's decision to take [a

noncitizen] into custody and to detain him during his removal proceedings . . . w[as] closely connected to the decision to commence proceedings, and thus w[as] immune from our review." *Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1203 (11th Cir. 2016). The Eleventh Circuit found that § 1252(g) barred Alvarez's claim, even though he alleged his detention violated the Fourth and Fifth Amendments because government officials made knowing misrepresentations to detain him. *Id.* at 1203–04; *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 488 (1999) ("[A]n alien unlawfully in this country has no constitutional right to assert selective enforcement as a defense against his deportation."). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. United States Citizenship & Immigr. Servs.*, 964 F.3d 1250, 1257–58 (11th Cir. 2020). Efforts to challenge the refusal of immigration officials to exercise favorable discretion also fall under § 1252(g)'s jurisdictional provision. *Alvarez*, 818 F.3d at 1205.

Here, the petition challenges a specific action—securing Petitioner during removal proceedings—that the Eleventh Circuit has ruled falls within the scope of "commenc[ing] proceedings" referenced in § 1252(g). *See Gupta*, 709 F.3d at 1065. Consequently, Petitioner's habeas corpus claims are barred by statute.

C. Because Petitioner Is An "Applicant for Admission" Whose Detention Is Required by 8 U.S.C. § 1225, Petitioner's Claims Are Meritless.

Petitioner's detention is governed by 8 U.S.C. § 1225, which mandates that he remain in detention during the pendency of his removal proceedings, subject to DHS's discretionary release on parole under 8 U.S.C. § 1182(d)(5)(A). Pursuant to 8 U.S.C.

§ 1225(b)(2)(A), "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 a proceeding under section 1229a of this title."

In the present case, Petitioner is an "applicant for admission" to the United States because he entered the country illegally and he has not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A): *see also DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (alien "who tries to enter the country illegally is treated as an 'applicant for admission'"). Petitioner cannot demonstrate that he is "clearly and beyond a doubt entitled to be admitted" because, as he is present in the United States without being admitted or paroled, he is inadmissible under 8 U.S.C. § 1182(a)(6). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221-23; Doc. 20-1 at 2-3. Accordingly, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which mandates that he "shall be" detained. *See Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, at *3-5 (W.D. La. Oct. 31, 2024); *Chavez v. Noem*, No. 3:25-cv-02325, --- F. Supp. 3d ---, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025) ("Petitioners do not contest that they are aliens present in the United States who have not been admitted. By the plain language of § 1225(a)(1), then, Petitioners are 'applicants for admission' and thus subject to the mandatory detention provisions of 'applicants for admission' under § 1225(b)(2)(A)." (cleaned up)); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) ("Because petitioner [a Brazilian national who entered the

country illegally in 2005] remains an applicant for admission, his detention is authorized so long as he is 'not clearly and beyond doubt entitled to be admitted' to the United States.") (quoting 8 U.S.C. § 1225(b)(2)(A)).

Respondent's reasoning is supported by Supreme Court decisional law. As explained in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), applicants for admission fall into one of two categories: those covered by § 1225(b)(1), and those covered by § 1225(b)(2). Section 1225(b)(1) applies to aliens arriving in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2), on the other hand, is "broader" and "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here)." *Jennings*, 583 U.S. at 287 (emphasis added). Put another way, while § 1225(b)(1) applies to aliens "arriving" in the United States, § 1225(b)(2) applies to all "other" aliens who are applicants for admission—like Petitioner. An alien does not lose his "applicant for admission" status as a matter of law simply because he failed to seek inspection and admission upon his immediate arrival in the United States. Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See Jennings*, 583 U.S. at 302 ("[Section] 1225(b)(2) ... mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin."). Accordingly, Petitioner's status as an "applicant for

admission" mandates that he be detained during the pendency of his removal proceedings.

V. Conclusion

For the reasons stated above, this Court should dismiss the Petition or, in the alternative, stay this matter pending resolution of the *Maldonado* litigation.

In the event the Court allows this action to proceed and adheres to its *Villa* ruling, Respondent requests a reasonable period of seven days to arrange an individualized bond hearing pursuant to 8 U.S.C. § 1226(a).

Respectfully submitted, this 8th day of December, 2025.

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