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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Lucia Larios Guillen, Petitioner, v. Unknown Party, et al., Respondents.	Case No. CV-25-04501-PHX-SHD (JZB) **REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

Petitioner, by and through the undersigned counsel, respectfully submits this reply to Respondents' Response to Order to Show Cause (ECF 7).

I. INTRODUCTION

In their Response, Respondents have stated that this Court should dismiss or, in the alternative, stay the instant habeas petition on the grounds that: 1) Petitioner is a member of the nationwide class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025); 2) The Court in *Maldonado Bautista* has not yet ordered any class-wide relief, and; 3) Petitioner is subject to mandatory detention under 8 U.S.C. Section 1225(b)(2). This reply will demonstrate that the certification of a class action under Federal Rule of Civil Procedure 23(b)(2), which seeks and obtains only **declaratory** relief, does not

extinguish an individual's fundamental right to petition for a writ of habeas corpus and seek immediate release from unlawful detention.

The government's position improperly conflates the procedural mechanism of a class action with the substantive, individual remedy of the Writ of Habeas. The *Maldonado Bautista* decision, while a significant legal victory for the class and its members, does not and cannot provide the immediate, specific relief that habeas corpus is designed to afford: a judicial order compelling the release of a specific individual from unlawful custody. Agreeing with Respondents position would subordinate the Constitution's protection against unlawful detention to a procedural rule, leaving Petitioner and others like her in a state of legal limbo—recognized as being unlawfully detained by a declaratory judgment but with no direct mechanism for release. This Court should proceed to adjudicate the merits of the habeas petition.

II. LEGAL FRAMEWORK FOR HABEAS CORPUS AND CLASS ACTIONS

The resolution of this matter requires an understanding of the distinct purposes and functions of habeas corpus and class action litigation. The writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. Its constitutional protection, enshrined in the Suspension Clause, underscores its role as the essential remedy for challenging the legality of executive detention. *See Boumediene v. Bush*, 553 U.S. 723, 783 (2008). The writ's purpose is to provide a swift and focused judicial inquiry into the lawfulness of an individual's confinement, with the ultimate remedy being immediate release if the detention is found to be unlawful. It is, at its core, an individual remedy.

In contrast, the class action, governed by Federal Rule of Civil Procedure 23, is a procedural device designed for efficiency in resolving claims where "questions of law or fact

[are] common to the class." A class certified under Rule 23(b)(2) is appropriate where "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." The key to a (b)(2) class is the "indivisible nature of the injunctive or declaratory remedy warranted."

Habeas law has long differentiated between the "core" function of the writ and ancillary judicial remedies. The traditional, or 'core,' habeas remedy is both narrow and profound: a judicial order securing an individual's immediate release from unlawful custody. In contrast, other forms of relief, such as the class-wide declaratory judgment issued in *Maldonado Bautista*, address the legality of a government *policy* on a systemic level. While such declarations are significant, they are legally distinct from the coercive, individual-specific order of release that remains the exclusive and constitutionally protected province of the Habeas Writ.

This procedural framework is further constrained by statutory limitations such as 8 U.S.C. § 1252(f)(1), which prohibits lower federal courts from granting class-wide **injunctive** relief that would "enjoin or restrain the operation" of certain provisions of the Immigration and Nationality Act. However, courts have consistently interpreted this as a *remedial* bar, not a *jurisdictional* one, which does not preclude class certification for other forms of relief, such as a ***declaratory judgment***. This distinction is critical, as the declaratory relief granted in *Maldonado Bautista* establishes the illegality of a government policy (to detain noncitizens apprehended in the interior of the country without bond) but does not, by itself, compel the release of any specific individual.

This individual habeas petition seeks the quintessential core remedy of the Habeas Writ: immediate release from unlawful custody. Even the alternative relief sought—a judicial order

for a bond hearing—is a traditional remedy in habeas cases challenging the legality of executive detention. It is not the sort of systemic, managerial injunction barred in *Gillespie*. As the Supreme Court's decision in *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) makes clear, the statutory scheme of 8 U.S.C. § 1252(f)(1) deliberately severs broad, class-wide declaratory relief from coercive individual remedies. The *Maldonado Bautista* declaratory order establishes the legal right; this individual habeas petition is the proper and necessary vehicle to enforce it.

Federal courts have affirmed that § 1252(f)(1) does not bar habeas class actions because it lacks a clear statement repealing the court's habeas jurisdiction. *Hamama v. Adducci*, 912 F.3d 869, 879 (6th Cir. 2018), further distinguishes habeas from injunctive relief, noting that "there is nothing barring a class from seeking a traditional writ of habeas corpus (which is distinct from injunctive relief)." The Supreme Court has also stated that the Suspension Clause protects only the "Privilege of the Writ of Habeas Corpus," not requests for injunctive relief. *Jennings v. Rodriguez*, 583 U.S. 281, 309 (2018).

The ruling in *Aleman Gonzalez* explains why the *Maldonado Bautista* class action, which granted only declaratory relief, cannot provide the petitioner with a complete remedy. Because *Aleman Gonzalez* bars class-wide *injunctive* relief, the *Maldonado Bautista* court could only *declare* that the government's detention policy is unlawful; it could not *order* the release of any class member. This creates a "right without a remedy" at the class level. The individual habeas petition is the necessary next step to enforce the right declared in the class action and secure the Petitioner's release. The existence of the class action makes the need for individual habeas petitions more acute, not redundant.

III. THE NATURE OF THE *MALDONADO BAUTISTA* DECISION AND ITS BINDING EFFECT

Respondents' argument for dismissal hinges on a mischaracterization of the *Maldonado Bautista* decision and its legal effect. While the government correctly notes that the court granted only partial summary judgment and has not yet entered a final, appealable judgment under Federal Rule of Civil Procedure 54(b), this argument conflates finality for purposes of appeal with the binding nature of a declaratory order on the parties to the litigation.

The court in *Maldonado Bautista* was unequivocal in its order: it certified a nationwide class and explicitly extended "the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." This declaratory relief established that class members are detained under the discretionary framework of 8 U.S.C. § 1226(a), not the mandatory detention provision of 8 U.S.C. § 1225(b)(2) as the government would have them detained under. A declaratory judgment, by its nature, has the "force and effect of a final judgment" as to the rights it declares. *See* 28 U.S.C. § 2201(a). It is not, as Respondents suggest, a mere "advisory opinion."

Crucially, however, a declaratory judgment is not self-executing. It declares a legal right but does not, in itself, provide a coercive remedy like an injunction or a writ of habeas corpus ordering release. The government's own conduct proves this distinction. As attested in related proceedings, Respondents have instructed immigration judges across the country not to apply the *Maldonado Bautista* ruling to class members, arguing that the relief was "only declaratory." This position, while frustrating, is a tacit admission that the class action has not provided a complete or effective remedy for individuals who remain in custody. The decision establishes that Petitioner's detention is unlawful, but it does not provide the key to unlock her cell. That is the exclusive province of the writ of habeas corpus.

IV. PETITIONER'S INDIVIDUAL HABEAS ACTION IS NOT PRECLUDED BY MEMBERSHIP IN THE *MALDONADO* CLASS

The government's request to dismiss improperly equates the procedural vehicle of a class action with the substantive, individual remedy of habeas corpus. The two are fundamentally distinct in purpose, scope, and the relief they afford. Habeas corpus is a constitutionally protected, individual right to a swift judicial determination of the legality of one's physical confinement, with the ultimate remedy being release from custody. A class action, conversely, is a procedural device designed to efficiently adjudicate common legal or factual questions affecting a group. Respondents' assertion that the certification of a Rule 23(b)(2) class "precludes individual suits for the same injunctive or declaratory relief" is inapplicable here for two primary reasons. First, this habeas petition does not seek the "same" relief as the class action. The *Maldonado Bautista* class sought and obtained a declaration of rights; this Petitioner seeks release from unlawful detention, a coercive remedy the class action could not provide, particularly in light of the remedial limitations of 8 U.S.C. § 1252(f)(1).

Second, the doctrine of claim preclusion does not bar a subsequent action when the plaintiff/petitioner was unable to seek a particular remedy in the first action due to limitations on the court's authority. As courts have recognized, preclusion is meant to prevent a second bite at the apple, not to deny the first. Because the *Maldonado Bautista* court could not grant individual habeas relief to all class members, that action cannot preclude a subsequent, individual petition that specifically seeks that remedy. A declaratory judgment is intended to serve as a predicate for further relief, not a bar to it. To hold otherwise would create an untenable legal paradox: a class action that declares a detention policy unlawful would simultaneously extinguish the only effective remedy—the writ of habeas corpus—for the individuals suffering under that very policy.

V. LEGAL AND POLICY ARGUMENTS AGAINST DISMISSAL BASED ON CLASS CERTIFICATION

The government's request to dismiss presents a dangerous proposition: that a procedural device, Rule 23, can be used to effectively suspend the Writ of Habeas for an entire class of individuals. Respondents assert that Petitioner's individual lawsuit for injunctive or declaratory relief is barred because she is a member of the *Maldonado* class, a certified Rule 23(b)(2) class action seeking similar equitable relief. This argument misinterprets the law and ignores the fundamental purpose of habeas corpus. While Respondents cite cases holding that class members may be barred from pursuing separate equitable actions, those cases are inapposite. In cases like *Gillespie v. Crawford,* 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc), the existing class action provided a viable pathway for class members to obtain the relief they sought. Here, the opposite is true. The government's refusal to give effect to the *Maldonado Bautista* declaratory judgment means the class action provides no actual relief, leaving the individual habeas petition as the only effective remedy.

To accept the government's position would be to create a legal absurdity. A petitioner would be deemed a member of a class whose detention has been declared unlawful yet would be barred from seeking the only remedy—release—that can vindicate that declared right. This creates a right without a remedy, a concept abhorrent to our legal system, particularly where fundamental liberty interests are at stake. The purpose of a class action is to promote judicial efficiency and consistent outcomes, not to erect a procedural wall that prevents individuals from challenging their unlawful confinement.

Petitioner's action is a petition for a writ of habeas corpus, a distinct and fundamental remedy challenging the legality of her individual detention, not merely a suit for general injunctive or declaratory relief. The Supreme Court has consistently recognized the unique and

paramount nature of habeas corpus, which provides a specific and expedited avenue for individuals to challenge their confinement. For instance, in *Trump v. J.G.G.,* the Court underscored that challenges to removal under statutes that largely preclude judicial review must be brought in habeas, emphasizing its role in vindicating due process rights (*Trump v. J.G.G.*, 604 U.S. 670, 672 (U.S. 2025). This highlights that habeas is not merely another form of injunctive relief but a constitutionally enshrined mechanism for reviewing the lawfulness of physical restraint.

While Rule 23(b)(2) class actions are designed for situations where "final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole" (Fed. R. Civ. P. 23(b)(2)), the key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted. This means the **relief must apply uniformly to all class members**, addressing a systemic issue "in one stroke." *O.A. v. Trump*, 404 F.Supp.3d 109, 157 (D.D.C. 2019). However, Petitioner's habeas claim, seeking immediate release or an individualized bond hearing, is inherently personal and fact-specific. It focuses on the particular circumstances of her prolonged detention, her lack of criminal history, her **lawful presence in the United States**, her family ties, and her due process right to a bond hearing. Such individualized relief cannot be adequately addressed by a broad class-wide injunction that applies generally to a class, as it requires a specific determination regarding Petitioner's unique situation.

Indeed, courts have expressed significant concern that certifying a class in a habeas action could harm unnamed class members by precluding future individual claims under principles of res judicata and collateral estoppel, especially if the class action does not fully litigate all potential individual grounds for relief. Courts are reluctant to certify habeas class

actions, precisely because of the individualized nature of the claims and the potential for prejudice, underscores that individual habeas petitions are distinct and not necessarily subsumed by broader class litigation. Furthermore, the Supreme Court has clarified that challenges to an unlawful, nationwide detention policy may coexist under both APA and habeas review, indicating that these remedies are not mutually exclusive and serve different purposes. *J.G.G. v. Trump*, 772 F.Supp.3d 18, 31 (D.D.C. 2025). Petitioner's claim is centered on her fundamental liberty interest and the due process requirements for her continued detention, which is a core function of habeas corpus. The government's reliance on *Crawford v. Bell*, 599 F.3d 890 (9th Cir. 1979) and *Gillespie v. Crawford,* 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc) is therefore misplaced. In *Crawford v. Bell*, the decision itself states that that the judgment of the district dismissing Crawford's petition for a writ of habeas corpus was proper for reasons *other than* Crawford's membership in the *Evans* class. Crawford's petition was dismissed since it did not challenge the legality of his imprisonment.

Gillespie is likewise inapposite as it barred individual suits for "equitable relief" like injunctions that sought to manage prison conditions—relief that would directly conflict with the systemic orders in the *Ruiz* class action. The court was concerned with preventing "inconsistent adjudications" that would interfere with the "orderly administration" of the class decree. A petition for a writ of habeas corpus, however, seeks a unique and fundamental remedy: immediate release from unlawful custody. It is not an attempt to manage a government system but to secure individual liberty. *Gillespie* itself recognized that not all individual claims are barred, as it explicitly permitted individual suits for damages to proceed. The ruling in *Gillespie* was premised on the fact that the *Ruiz* class action provided a viable, ongoing mechanism for relief, complete with a Special Master and active court oversight. Class members could

meaningfully pursue their claims through class counsel or intervention (and that suit dealt with conditions of incarceration not whether the petitioners should be detained in the first place). In the present context, the *Maldonado Bautista* class action, while granting a significant declaratory judgment, has not proven to be an effective vehicle for securing the release of detained individuals.

Habeas corpus is an inherently individualized remedy, constitutionally protected by the Suspension Clause. The right to habeas corpus is a personal right to challenge the lawfulness of one's detention. Courts have broad discretion to fashion appropriate remedies in habeas matters "as law and justice require." This responsibility is particularly significant when reviewing "detention by executive authorities without judicial trial." The ongoing detention constitutes a continuing injury sufficient to maintain a case or controversy under Article III.

The Supreme Court has long held that habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). Outside of statutory eligibility, there are no limitations to a detainee seeking habeas corpus relief for unlawful detention.

The individualized nature of Petitioner's due process challenge to her prolonged detention, seeking a bond hearing or release, distinguishes it from the class-wide injunctive relief typically sought in a Rule 23(b)(2) action. Petitioner has resided in the U.S. for almost twenty years, she was brought to the United States as a twelve-year-old child, has no disqualifying

criminal history, was lawfully present in the United States at the time of her apprehension and absent the government's unlawful policy to classify her under § 1225(b), would not be detained. These specific facts are central to her habeas claim for immediate release or a bond hearing, demonstrating that her case requires an individualized assessment of her flight risk and danger to the community, which should have been done by ICE prior to her arrest, or alternatively, a bond hearing by a judge. The fundamental liberty interest at stake in a habeas petition often necessitates an immediate, individualized determination that cannot await the uncertain outcome or scope of a broader class action. Therefore, Petitioner's membership in the *Maldonado* class does not preclude her individual habeas action.

Moreover, dismissing this petition would create a perverse policy incentive. It would allow the government to consent to or acquiesce in class-wide declaratory judgments, knowing it can then weaponize the class certification to shield itself from individual habeas petitions that seek to enforce the very rights declared in the class action. This would render declaratory judgments in this context meaningless and undermine the judiciary's role as a crucial check on unlawful executive detention. The Court's duty to adjudicate the legality of an individual's detention under the habeas statutes is a core constitutional function that cannot be displaced by a procedural rule, especially when that rule is being invoked to perpetuate an ongoing violation of the law.

This Court would not be the first to reject the government's arguments. A growing consensus of federal courts has concluded that the proper remedy for a detention initiated under the wrong statute is immediate release, not remand for a bond hearing that cannot cure the initial constitutional violation. Just last week, the U.S. District Court for the District of Rhode Island, in *Armando De Macedo Mendes v. Hyde*, confronted this exact scenario. C.A. No. 25-cv-627-

JJM-AEM, 2025 WL 3274606 (D.R.I. Dec. 5, 2025). The court in *Macedo Mendes* explicitly found that the petitioner was a member of the *Bautista* class but proceeded to grant his individual habeas petition, ordering his immediate release pending a bond hearing because the government had offered no evidence that he posed a flight risk or a danger to the community.

This approach is consistent with numerous other recent decisions. Courts have repeatedly held that "a bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here" because the "detention was unlawful from its inception." As one court aptly stated, a "post-deprivation review is wholly inadequate to remedy that unlawful detention." The government's practice of detaining individuals without any initial, individualized assessment of dangerousness or flight risk "offends the ordered system of liberty that is the pillar of the Fifth Amendment." These precedents confirm that where detention is unlawful ab initio, the only just and constitutionally adequate remedy is to grant the writ and order the petitioner's release.

VI. THE ABSENCE OF A FINAL JUDGEMENT IN *MALDONADO* DOES NOT WARRANT A STAY OF PETITIONER'S INDIVIDUAL HABEAS

As an alternative argument for a stay, the government contends that because the *Maldonado* court has not entered a final judgment or certified a partial final judgment under Rule 54(b), there is no declaratory judgment in *Maldonado* with preclusive effect on class members' claims. The government argues that a partial summary judgment ruling does not operate as a "judgment" and may be revised, thus concluding there is no class-wide judgment or relief with preclusive effect. This argument, rather than supporting a stay, actually reinforces the necessity for Petitioner's individual habeas action to proceed without delay.

The government's assertion that *Maldonado* lacks a final judgment and thus, preclusive effect actually supports Petitioner's ability to proceed with her individual habeas action, rather than warranting a stay. If there is no final judgment, there is no basis for preclusion, and therefore no legitimate reason to delay Petitioner's pursuit of a fundamental remedy. Petitioner is arguing that the existence of the *Maldonado* class action, regardless of its current stage, does not preclude or require a stay of her individual habeas petition.

Petitioner is not seeking to enforce a pre-final judgment declaration from *Maldonado*; instead, she is seeking an independent determination of the legality of her own detention. The core of Petitioner's case is a habeas petition challenging her detention, which is a fundamental right. The availability or status of a separate class action seeking broader declaratory or injunctive relief should not impede an individual's right to challenge their own detention.

Habeas corpus is a unique and expedited remedy designed to address unlawful detention. The Supreme Court has consistently emphasized the importance of prompt judicial review for individuals challenging their confinement, recognizing that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). The liberty interest at stake for Petitioner, who has remained detained at the Eloy Detention Center even after an Immigration Judge found initiation of her removal proceedings to be unlawful, is immediate and substantial.

Courts routinely address individualized due process challenges to prolonged immigration detention, often ordering bond hearings or release, without waiting for the resolution of broader class actions. Habeas decisions across the country underscore that the

liberty interest of an individual detainee is paramount and cannot be indefinitely postponed pending the uncertain outcome of a class action.

The fact that *Maldonado* has not reached a final judgment means that any potential relief it might offer to class members is speculative and not immediately available. To stay Petitioner's habeas action, which addresses a direct challenge to her liberty, pending the uncertain resolution of *Maldonado* would undermine the fundamental purpose of habeas corpus and potentially subject Petitioner to further prolonged detention without an individualized review of her circumstances. Given Petitioner's current lawful presence in the U.S., long-term residency, strong family ties, and lack of criminal history, her claim for release is particularly compelling and requires prompt adjudication.

If the individual habeas cases cannot move forward as Respondents argue, there is a potential constitutional problem with the Suspension Clause as Rule 23 would be working as an unconstitutional suspension of the writ of habeas under these circumstances. It would create a due process problem, thus requiring the Court to interpret any ambiguities in Rule 23 to permit individual cases to move forward where the relief requested differs from the relief that is pursued in the class case.

VII. RESPONDENTS' DEFIANCE RENDERS THE CLASS ACTION INEFFECTIVE AND THIS PETITION NECESSARY

The government's contention that the summary judgment in *Maldonado Bautista* is not enforceable because it is not "final" for appeal is a legally incorrect red herring. Under federal law, a district court's judgment is binding and enforceable upon entry, unless and until it is stayed by a court order. The mere possibility of an appeal does not automatically suspend a judgment's effect. The Declaratory Judgment Act underscores this, stating that a court's declaration of rights "shall

have the force and effect of a final judgment." 28 U.S.C. § 2201(a). This means the order is a binding adjudication, not an advisory opinion that can be ignored. As parties to the *Maldonado Bautista* litigation, Respondents are unequivocally bound by its holding. If the government wished to postpone its obligation to comply, its proper recourse was to seek a stay. Having failed to obtain one, its refusal to comply constitutes defiance of a valid court order.

The declaratory judgment issued in *Maldonado Bautista* is not an advisory opinion; it is a binding federal court order with the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). As parties to the *Maldonado Bautista* litigation, Respondents are unequivocally bound by its holding. The judgment legally obligates Respondents to cease their unlawful policy of subjecting class members, including Petitioner, to mandatory detention under § 1225(b) and to instead provide them with individualized bond hearings under § 1226(a).

Here, by Respondents' own actions, the *Maldonado Bautista* class remedy is anything but functional. The government's admitted policy of non-acquiescence and its directive to immigration judges to ignore the court's order renders the class's declaratory judgment a dead letter for detained individuals like Petitioner. Respondents have created a right without a remedy at the class level, making the path urged by *Gillespie*—working through the class representative—a demonstrably futile exercise.

Respondents cannot have it both ways. They cannot render the class action remedy illusory through their own defiance and then invoke the existence of that same ineffective class action as a jurisdictional shield to block the only avenue for relief that remains: an individual petition for a writ of habeas corpus. The government's actions transform the individual writ from a parallel option into a necessary one. By continuing to detain Petitioner in violation of a binding judgment,

Respondents are acting contrary to law, and this Court has the authority and the duty to enforce Petitioner's right to release.

It is a foundational principle of American jurisprudence that government agencies are not above the law and must comply with the orders of federal courts. The Administrative Procedure Act requires agencies to act in accordance with the law, and a federal court's interpretation of that law, embodied in a final judgment, is dispositive. Respondents' refusal to implement the *Maldonado Bautista* judgment constitutes an unlawful withholding of agency action and a violation of a non-discretionary duty to comply with a binding court order. Respondents' non-compliance is not an oversight but a deliberate policy of defiance. Reports from across the country confirm that Immigration Judges have been instructed by Executive Office for Immigration Review (EOIR) "leadership" to disregard the *Maldonado Bautista* judgment and continue to apply the agency's overruled precedent from *Matter of Yajure Hurtado*. This directive is an impermissible collateral attack on a federal court judgment and an affront to the rule of law. This non-compliance is not isolated or accidental; it is a deliberate policy of non-acquiescence and is an affront to judicial authority and cannot be countenanced. By continuing to detain Petitioner in violation of a final, binding judgment, Respondents are acting contrary to law, and this Court has the authority and the duty to enforce the rights established by that judgment.

VIII. PETITIONER IS DETAINED PURSUANT TO 8 U.S.C. § 1226 AND IS NOT SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225(b)(2).

Respondents maintain that Petitioner is an "applicant for admission" who is "seeking admission" to the United States and therefore properly detained pursuant to 8 U.S.C. § 1225(b)(2). As is stated in Petitioner's initial filing, Petitioner was brought to the United States by a family member on April 25, 2006, as a twelve-year-old child. She was not inspected at entry. However,

she subsequently was granted Deferred Action for Childhood Arrivals ("DACA"). Her current deferred action expires on July 2, 2026. She remains eligible to renew DACA. To be granted deferred action, Petitioner submitted an application, Form I-821D, with a filing fee and requisite supporting evidence to the U.S. Citizenship and Immigration Services ("USCIS"). Additionally, she attended a biometrics appointment, in person, where her fingerprints and picture were taken. A background check was processed, by the U.S. Department of Homeland Security, confirming that Petitioner has no criminal history. Petitioner has been renewing DACA every two years for over ten years. Every two years Petitioner has been "inspected by immigration officers" and has been granted deferred action after inspection.

Pursuant to 8 C.F.R. 236.21(c)(4) while DACA is current Petitioner is lawfully present in the United States under the provisions of 8 C.F.R. § 1.3(a)(4)(vi). Petitioner's removal proceedings were terminated by the Immigration Judge who found that DHS improperly issued a Notice to Appear.

In addition, Petitioner is married to a U.S. citizen who filed a Form I-130, Petition for Alien Relative, on her behalf. The Petition was approved. Petitioner then filed an I-601A, Application for Provisional Unlawful Presence Waiver. The I-601A waiver was approved. The Petitioner then filed a DS-260, Immigrant Visa Electronic Application with the U.S. Department of State. This application is currently pending, and Petitioner is awaiting scheduling of her Immigrant Visa Appointment.

As is noted in the *Maldonado Bautista* decision, the U.S. Supreme Court has already differentiated 8 U.S.C. § 1225 and § 1226, distinguishing their application by the category of noncitizens to which their provisions apply. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). *Jennings* held that the Government may "detain certain [noncitizens] seeking admission into the

country" under § 1225(b) while § 1226 "authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Id.* (emphasis added). Respondents' expansive interpretation of "applicants for admission" has been found to be erroneous.

IX. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Respondents' position to dismiss or stay rests on the untenable premise that a procedural class action can extinguish the fundamental, individual right to habeas corpus. The *Maldonado Bautista* decision, while significant, provides only a declaration of rights and has proven insufficient to secure the release of unlawfully detained individuals, a fact underscored by the government's own refusal to give it effect at the administrative level. The Writ of Habeas is not merely an alternative avenue for relief; in this context, it is the only effective one. If Respondents' argument prevails, it would establish an alarming precedent where a procedural victory for a class of detainees forecloses their individual substantive right to habeas relief. This contorts a ruling intended to correct the government's unlawful detention policy into a procedural trap, rendering petitioners worse off for having successfully proven their detention is illegal.

Petitioner faces an ongoing and live controversy regarding her unlawful detention, which constitutes an irreparable harm and an unconstitutional restraint on her liberty. The Immigration Judge held that Petitioner's initial detention, on August 28, 2025, and subsequent issuance of the Notice to Appear was unlawful yet Petitioner remains detained to this day. The government's position to dismiss or stay this action, predicated on Petitioner's membership in the *Maldonado Bautista* action, fails to address the immediate and severe deprivation of Petitioner's fundamental rights.

The doctrine of preclusion does not bar this petition, as claim preclusion is inapplicable where the prior action could not provide the requested remedy. Petitioner's continued confinement constitutes an ongoing violation of her due process rights, and the only appropriate remedy is her immediate release.

Therefore, Petitioner respectfully requests that this Court grant the Petition for a Writ of Habeas Corpus, ordering Petitioner's immediate release from custody.

Respectfully Submitted,

This 12th day of December, 2025.

s/ Rebecca McCarthy
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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/ Rebecca McCarthy
Rebecca McCarthy
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