

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MOZHAN MOHAMMADIMOTAHERI



Petitioner,

v.

GARRETT RIPA, Field Office Director of
Enforcement and Removal Operations, Miami
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY;
Pamela BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; JUAN GONZALEZ, Warden of
Broward Transitional Center,

Respondents.

Case No. 25-62506-CIV-DIMITROULEAS

**PETITIONER'S REPLY TO FEDERAL RESPONDENTS'
OPPOSITION TO THE AMENDED PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Mozhan Mohammadimotaheri respectfully submits this reply to the Respondents' Opposition to the Amended Petition for Writ of Habeas Corpus.

INTRODUCTION

The government claims that Petitioner, along with all noncitizens who entered the United States without admission or parole, is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). "This argument reflects a novel interpretation of the immigration detention statutes," *Romero v. Hyde*, No. 25-11631, ___ F.Supp.3d ___, 2025 U.S. Dist. LEXIS 160622, at *18 (D. Mass. Aug. 19, 2025), which would require the mandatory detention "of millions of immigrants residing in the United States." *Martinez v. Hyde*, No. 25-11613, ___ F.Supp.3d ___, 2025 U.S. Dist. LEXIS 141724, at *12 (D. Mass. July 24, 2025). The government's new interpretation of the statute

is incorrect. Section 1225(b)(2)(A) applies to noncitizens “seeking admission” into the United States, not to those who have already entered the country. Additionally, the government’s position would render several provisions of § 1226(c) superfluous, including the Laken Riley Act enacted earlier this year.

Petitioner claims in her habeas petition that she is entitled to a bond hearing under the statute and under federal regulations in place since 1997. While the government argues that Petitioner is subject to mandatory detention under the statute, it does not dispute that Petitioner is entitled to a bond hearing under federal regulations.

Petitioner’s detention without the opportunity for an individualized bond hearing violates the Due Process Clause. “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, 690 (2001). Under the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the balance of interests strongly favors Petitioner’s right to a bond hearing.

This habeas petition presents the same legal issues decided in the petitioners’ favor in cases throughout the United States, including several in the Southern District of Florida, *see, e.g., Merino v. Ripa*, No. 25-23845, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Alvarez Puga v. Assistant Field Office Director*, No. 25-24535-CIV-Altonaga (S.D. Fla. Oct 15, 2025); *Duvalon Boffill v. Field Office Director*, No. 25-cv-25179-JB (S.D. Fla. Nov 20, 2025); *Ardon-Quiroz v. Assistant Field Office Director*, No. 25-cv-25290-JB (S.D. Fla. Dec 1 2025); *Perez v. Parra*, No. 25-cv-24820 (S.D. Fla. 2025).

Petitioner respectfully requests that this Court grant her habeas petition for the same reasons the Court has granted these petitions in numerous cases throughout the country and as illustrated above in this District.

ARGUMENT

I. This Court Has Jurisdiction to Adjudicate the Petition for Habeas Corpus

This Court has jurisdiction to adjudicate this petition for habeas corpus. Contrary to the government's arguments, 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not strip the Court of jurisdiction. *See Duarte Escobar*, 2025 U.S. Dist. LEXIS 212098, at *14-18. First, § 1252(b)(9) provides that “[j]udicial review of all questions of law and fact ... arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.” *Id.* Petitioner does not seek review of a final order of removal; no order of removal has been entered against her. She seeks a bond hearing, which is “separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding.” 8 C.F.R. § 1003.19(d). Thus, § 1252(b)(9) does not strip the Court of jurisdiction over the habeas petition. Moreover, a plurality of the Supreme Court found that § 1252(b)(9) “does not present a jurisdictional bar” when petitioners “are not asking for a review of an order of removal; ... challenging the decision to detain them in the first place or to seek removal; [or] ... challenging any part of the process by which their removability will be determined.” *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018).

Second, § 1252(g) “appl[ies] only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders.”” *Reno v. Am.-Arab Discrimination Comm.*, 525 U.S. 471, 482 (1999) (quoting § 1252(g)). Petitioner does not challenge any decision to commence proceedings, adjudicate her case, or to execute a removal order. Thus, § 1252(g) does not strip this Court of jurisdiction. For these reasons, this Court has jurisdiction to review Petitioner’s habeas claim.

II. Petitioner is Entitled to a Bond Hearing Pursuant to 8 U.S.C. § 1226(a).

Petitioner is entitled to a bond hearing under § 1226(a). The government's statutory argument that Petitioner is subject to mandatory detention under the Immigration and Nationality Act (INA) is incorrect. First, § 1225(b)(2)(A) applies to noncitizens "seeking admission" into the United States, not to those who have already entered the country. Second, the government's interpretation would render several provisions of § 1226(c) superfluous, including the Laken Riley Act. Third, the government's interpretation conflicts with Supreme Court precedent.

A. Section 1225(b)(2)(A) Applies to Noncitizens Seeking Admission into the United States, Not to Those Who Have Already Entered the Country

Petitioner is entitled to a bond hearing because she is detained pursuant to § 1226(a). Section 1226(a) provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." *Id.* Pending such a decision, the Attorney General may continue to detain the noncitizen, may release the noncitizen on a bond of at least \$1,500.00, or may release the noncitizen on conditional parole. *Id.* "In contrast with § 1225(b), § 1226(a) sets forth 'the default rule' for detaining and removing aliens 'already present in the United States.'" *Hasan*, 2025 U.S. Dist. LEXIS 184734, at *14 (quoting *Jennings*, 583 U.S. at 303).

The government is mistaken in its claim that Petitioner is subject to mandatory detention under § 1225(b)(2)(A). Section 1225(b)(2)(A) states that if an "immigration officer determines" that an "applicant for admission" who is "seeking admission" is "not clearly and beyond a doubt entitled to be admitted," then the noncitizen is subject to mandatory detention while their removal proceedings are pending. *Id.* Thus, § 1225(b)(2)(A) applies where an "examining immigration officer" determines that an individual is: (1) an "applicant for admission," (2) "seeking admission," and (3) "not clearly and beyond a doubt entitled to be admitted." *Id.* See also *Lepe v. Andrews*, ___

F. Supp. 3d ___, 2025 U.S. Dist. LEXIS 187233, at *10 (E.D. Cal. Sept. 23, 2025); *Lopez-Benitez v. Francis*, ___ F. Supp. 3d ___, 2025 U.S. Dist. LEXIS 157214, at *15 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, ___ F.Supp.3d ___, 2025 U.S. Dist. LEXIS 141724, at * 6-7 (D. Mass. July 24, 2025).

The government claims that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) because she entered the United States without being inspected or paroled by an immigration officer. Opp. at 6. According to the government, Petitioner is an “applicant for admission” under § 1225(a) because she is present in the United States without admission. *Id.* Section 1225(a) defines an applicant for admission as a noncitizen “present in the United States who has not been admitted.” *Id.* “But the statute also provides that ‘[t]he term ‘application for admission’ has reference to the application for admission *into* the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.’” *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, at *11 (quoting 8 U.S.C. § 1101(a)(4)) (emphasis added). This definition of “application for admission,” when read with “the present tense formulation of § 1225(b)(2)(A)” requiring that an immigration officer determine that the noncitizen “seeking admission is not clearly and beyond a doubt entitled to be admitted,” means that § 1225(b)(2)(A) covers “only those seeking admission into the country, and not those that have already entered the country (albeit unlawfully).” *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, at *12.

The statute defines “admission” and “admitted” as “the lawful *entry* of the alien *into* the United States after inspection and authorization by an immigration officer.” § 1101(a)(13) (emphasis added). “[E]ntry’ has long been understood to mean ‘a crossing into the territorial limits of the United States.’” *Lepe*, 2025 U.S. Dist. LEXIS 187233, at *11 (quoting *Hing Sum v. Holder*, 602 F.3d 1092, 1100-01 (9th Cir. 2010)). Therefore, “the phrase ‘seeking admission’ means that

one must be actively ‘seeking’ ‘lawful entry.’” *Id.* “The term ‘seeking admission’ in the statute is written in the present tense and indicates the use of a present-tense action.” *Chafla v. Scott*, No. 25-437, 2025 U.S. Dist. LEXIS 184909, at *17 (D. Maine Sept. 21, 2025). The government’s construction of § 1225(b)(2)(A) “to apply to noncitizens already in the country” reads “the word ‘entry’ out of the definition of ‘admitted’ and ‘admission.’” *Chafla*, 2025 U.S. Dist. LEXIS 184909, at *19 (citing §1101(a)(13)(A)).

The government claims that Petitioner is “actively seeking admission” into the U.S. by “simply being in the United States without having been admitted.” *Opp.* at 6,7. The government’s argument is not only contrary to the statutory text but also conflicts with Board of Immigration Appeals (BIA) precedent. In *Matter of Y-N-P-*, 26 I&N Dec. 10 (BIA 2010), the BIA held that a noncitizen who was an applicant for admission was not “applying for admission,” and thus was not eligible for a waiver of inadmissibility under § 1182(h). *Id.* at 12-13. Likewise, Petitioner is not “actively seeking admission” into the U.S. “simply” because she is in the United States without being admitted.

The text of the INA also refutes the government’s contention that a noncitizen “cannot be, under immigration law, physically present in the United States without being admitted to the United States.” *Id.* A noncitizen who is present without admission is eligible for cancellation of removal for nonpermanent residents, if, among other things, the noncitizen has been “physically present in the United States for a continuous period of not less than 10 years.” § 1229b(b)(1)(A). The government also disregards the allegation in Petitioner’s Notice to Appear, in which the Department of Homeland Security alleges that Petitioner is “present in the United States without being admitted or paroled” under § 1182(a)(6)(A)(i). *Dkt.* 8-1 at 1.

The Supreme Court rejected the government’s contention that a noncitizen “necessarily must be actively seeking admission before he can, as a legal matter, be physically present and reside in the United States,” Opp. at 13, in *Sanchez v. Mayorkas*, 593 U.S. 409 (2021). The question in *Sanchez* was whether a noncitizen who entered the United States without inspection was “admitted” when he later received Temporary Protected Status (TPS), and, therefore, eligible to apply for adjustment of status under 8 U.S.C. § 1255(a). *Id.*, 593 U.S. at 413-14. The Court held that the noncitizen was not “admitted” when he was granted TPS. *Id.* at 414. While a TPS recipient is in lawful status, “[l]awful status and admission ... are distinct concepts in immigration law.” *Id.* at 415. The Court pointed out that a noncitizen “can be in lawful status but not admitted,” such as “someone who entered the country unlawfully, but then received asylum.” *Id.* Thus, an individual can seek lawful status in the United States without “seeking admission.”

B. The Government’s Interpretation Would Render Superfluous Several Provisions of 8 U.S.C. § 1226(c), Including the Laken Riley Act

“[O]ne of the most basic interpretive canons” is that a “statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.” *Corley v. United States*, 556 U.S. 303, 314 (2009) (internal citations and quotation marks omitted). The government’s interpretation of § 1225(b)(2)(A) would render several provisions of § 1226(c) superfluous.

Section 1226(c) sets forth several categories of noncitizens who are subject to mandatory detention while in removal proceedings for having engaged in criminal or terrorist activity. In particular, § 1226(c)(1)(A) applies to noncitizens who are inadmissible under § 1182(a)(2) for having been convicted of certain criminal offenses, and § 1226(c)(1)(D) applies to noncitizens who are inadmissible under § 1182(a)(3)(B) for having engaged in specific terrorist activities. Section 1226(c)(1)(E), enacted earlier this year in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3,

applies to noncitizens who entered the country without admission or parole and were later charged with, arrested for, convicted of, or admitted committing burglary, theft, larceny, or other enumerated offenses. *Id.* “When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.” *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). If § 1225(b)(2) mandated detention of any noncitizen who has not been admitted, “then adding § 1226(c)(1)(E) to the statutory scheme was pointless.” *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23 (E.D. Mich. Aug. 29, 2025).

As many courts have found, if the government were “correct that § 1225(b)’s mandatory detention provisions apply to all persons who have not been admitted into the United States, that would render superfluous those provisions of § 1226 that apply to certain categories of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E).” *Hasan*, 2025 U.S. Dist. LEXIS 184734, at *22. *See also Quispe-Ardiles*, 2025 U.S. Dist. LEXIS 194069, at *16 (“If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless”); *Duarte Escobar*, 2025 U.S. Dist. LEXIS 212098, at *22 (“Accepting Respondents’ interpretation of ‘seeking admission’ and § 1225(b)(2) would render several provisions of the INA superfluous”). The government’s interpretation of the statute “is presumptively wrong, particularly given that §§ 1225 and 1226 were enacted as part of the same statutory scheme.” *Hasan*, 2025 U.S. Dist. LEXIS 184734, at *23.

C. The Government’s Argument Conflicts with Supreme Court Precedent

The government argues that granting bond hearings under § 1226(a) for noncitizens who entered the United States without inspection and who remain in the country would mean that they are “afforded more due process protection (*i.e.*, a bond hearing) than those who follow the law and seek *lawful entry* at the border or a port-of-entry.” *Opp.* at 11. This argument disregards the

constitutional distinction between noncitizens seeking admission at a port of entry and those who are present in the United States without admission. The Supreme Court explained in *Zadvydas*:

The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law. ... It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. ... But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all “persons” within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.

Id., 533 U.S. at 694 (internal citations omitted).

The government’s argument also disregards the Supreme Court’s interpretation of the relationship between §§ 1225(b) and 1226(a) in *Jennings*. “[T]he Supreme Court explained that § 1225(b) governs noncitizens ‘seeking admission into the country,’ whereas § 1226(a) governs noncitizens ‘already in the country’ who are subject to removal proceedings.” *Quispe-Ardiles*, 2025 U.S. Dist. LEXIS 194069, at *16 (quoting *Jennings*, 583 U.S. at 289). The Supreme Court in *Jennings* interpreted § 1226 to mean that noncitizens “already present in the United States are entitled to a bond hearing so long as they are detained subject to § 1226(a) and do not fall into one of the mandatory detention categories outlined in § 1226(c).” *Duarte Escobar*, 2025 U.S. Dist. LEXIS 212098, at *25.

For these reasons, government’s argument conflicts with *Zadvydas* and *Jennings*.

III. The Government Has Forfeited Any Challenge to Petitioner’s Claim That Her Detention Without a Bond Hearing Violates Federal Regulations

Petitioner claims in her habeas petition that she is entitled to a bond hearing under the statute and under federal regulations. While the government argues that Petitioner is subject to mandatory detention under the statute, it does not dispute Petitioner’s claim that her detention

without a bond hearing violates federal regulations. Thus, the government has forfeited any opposition to Petitioner's assertion that she is entitled to a bond hearing under federal regulations.

In 1997, after Congress amended the INA through the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), the Department of Justice issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of Aliens," the agency explained that noncitizens "who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323.

Immigration judges have the authority to grant bond to noncitizens in removal proceedings under 8 C.F.R. § 1236.1(d)(1). The only exceptions to this authority are for noncitizens subject to final orders of removal or noncitizens referenced in 8 C.F.R. § 1003.19. *Id.* There are five categories of noncitizens for whom immigration judges may not grant bond under 8 C.F.R. § 1003.19(h)(2): (1) noncitizens in exclusion proceedings; (2) "[a]rriving aliens in removal proceedings;" (3) noncitizens described in 8 U.S.C. § 1227(a)(4); (4) noncitizens subject to mandatory detention under § 1226(c); and (5) noncitizens in deportation proceedings under former 8 U.S.C. § 1252(a)(2). 8 C.F.R. § 1003.19(h)(2)(i)(A)-(E). Noncitizens who are present without admission are eligible for bond unless they fall under one of these categories. Since Petitioner does not have a final order of removal and does not fall under any of the categories listed in 8 C.F.R. § 1003.19(h), he is entitled to a bond hearing.

IV. The Government's Detention of Petitioner Violates Petitioner's Due Process Rights

The government's due process argument rests on its faulty statutory argument that Petitioner is subject to mandatory detention under § 1225(b)(2)(A). As this Court recognized in *Duarte Escobar*, "All of Respondents' arguments regarding [Petitioner's] statutory due process

rights focus on the rights provided by § 1225. ... For that reason alone, Respondents' due process arguments fail." *Id.*, 2025 U.S. Dist. LEXIS 212098, at *33. Additionally, the government's "reliance on *Nishimura Ekiu v. United States* is misplaced given that the portion of that court's reasoning on which Respondents rely applies to 'foreigners who have never been naturalized, nor acquired any domicile or residence within the [U.S.].' ... Petitioner does not fall under that description." *Singh v. Lyons*, No. 25-cv-01606, 2025 U.S. Dist. LEXIS 203804, at *6 n.4 (E.D. Va. Oct. 14, 2025) (quoting *Nishimura Ekiu*, 142 U.S. 651, 660 (1892)). When a noncitizen is detained pursuant to § 1226, "as here, the Fifth Amendment plainly governs that alien's due process rights." *Duarte Escobar*, 2025 U.S. Dist. LEXIS 212098, at *34.

"To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the familiar three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)." *Hasan*, 2025 U.S. Dist. LEXIS 184734, at *29. Under *Mathews*, courts must weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

The balance of interests under the *Mathews* framework strongly favors Petitioner's right to a bond hearing. First, Petitioner's interest in freedom from detention is profound. "The interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The government's argument that Petitioner's release into the U.S. would be an assistance to an ongoing violation of U.S. law, Opp. at 11, "fail[s] to recognize that releasing

Petitioner on bond ... does not preclude the government from moving forward with its removal proceedings against Petitioner.” *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, at *19.

Second, the risk of erroneous deprivation of Petitioner’s interest in being free from arbitrary detention is exceptionally high. Petitioner has resided in the United States for at least 3 years, has received notices from USCIS that her application for asylum is pending; that she is authorized to remain in the United States while USCIS adjudicates her application and has been granted employment authorization documents on at least 2 occasions, most recently through August 2030. *See* attached Exhibits. Detaining her without a bond hearing “fails to account for any individualized facts” in her case. *See Hasan*, 2025 U.S. Dist. LEXIS 184734, *31. In *Matter of Yajure Hurtado*, the BIA erroneously held that all noncitizens who entered the United States without inspection or admission are subject to mandatory detention under § 1225(b)(2)(A).

Regarding the third factor, Respondents again erroneously state that Petitioner is subject to mandatory detention under § 1225(b). While Congress “considers immigration enforcement” to be “a vital public interest,” *Miranda v. Garland*, 34 F.4th 338, 363 (4th Cir. 2022), the government’s interests would “be adequately protected by the individualized determination of an immigration judge as to whether [Petitioner] should be released on bond under section 1226(a).” *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, at *21. Respondents’ argument that there is a “public interest in prompt execution of removal orders,” *Opp.* at 26, fails to recognize that providing Petitioner with a bond hearing in no way impedes the government “from moving forward with its removal procedures against Petitioner.” *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, at *19.

Because all three *Mathews* factors favor Petitioner, detaining Petitioner without a bond hearing violates her due process rights. Thus, she is entitled to bond hearing.

V. 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.

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

The government's motion 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.

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

The government's motion 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 he 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 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.

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 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 a long time, has no disqualifying criminal history 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.

VIII. THE FUTILITY OF EXHAUSTION AND THE NEED FOR IMMEDIATE RELIEF

Respondents' suggestion that Petitioner must first exhaust administrative remedies by seeking a bond hearing is meritless. The doctrine of exhaustion is a prudential one, not a jurisdictional mandate in habeas. It is waived where its application would be unjust or ineffective. Courts recognize several exceptions to the exhaustion requirement, including when: (1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) the petitioner has raised a substantial constitutional question. All four exceptions apply here.

First, any attempt at administrative exhaustion would be futile. The government's own actions confirm this. As has been established in related proceedings, Respondents have instructed immigration judges not to apply the *Maldonado Bautista* decision, reasoning that its relief is merely declaratory. Requiring Petitioner to request a bond hearing before an adjudicator who has been directed to deny it is the very definition of a futile act. Indeed, undersigned counsel's colleagues across the country report the vast majority of immigration judges continue to deny bond relief under *Matter of Yajure Hurtado* absent an individual writ of habeas order involving a particular noncitizen. Second, Petitioner suffers irreparable harm each day that she remains unlawfully detained. Her continued confinement is a direct violation of her due process rights, an injury that cannot be remedied by a future hearing or release. Third, this petition raises a substantial constitutional question regarding the Fifth Amendment's Due Process Clause, which administrative bodies are not empowered to resolve.

Finally, a post-deprivation bond hearing is not an adequate remedy for a detention that was unlawful from its inception. As another court in this district recently held, "a bond determination by a DHS officer or an immigration judge would not remedy the core

constitutional violation at issue here. [Petitioner's] detention was unlawful from its inception because ICE detained her under the wrong statute and without any notice or opportunity to be heard." *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). The constitutional injury has already occurred, and a belated administrative hearing cannot undo it; only immediate release can provide a meaningful remedy.

IX. 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 not asserting that the *Maldonado* class action has a preclusive effect that benefits her in this case; rather, she 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.

The government's citation to *Doran v. Salem Inn, Inc.* 422 U.S. 922, 931 (1975) and *Vazquez Perez v. Decker*, No. 18-CV-10683, 2019 WL 4784950, at 3 (S.D.N.Y. Sept. 30, 2019) for the proposition that pre-final judgment declarations are advisory opinions is inapposite. The

court in *Vazquez Perez* denied the specific preliminary relief sought because it was either advisory in nature or directly conflicted with a statute. However, the decision implicitly and, as interpreted by other courts, explicitly preserved the court's authority to grant final, class-wide declaratory judgments in immigration cases, finding that § 1252(f)(1) does not bar such relief. Respondents' reliance on *Doran* and *Vazquez Perez* is misplaced because both cases are cited out of context to argue that the declaratory order in *Maldonado Bautista* is non-binding on them. The quote from *Doran*—that a declaratory remedy is not “comparable to a preliminary injunction” before a final judgment—was used by the Supreme Court to justify *granting* a preliminary injunction because a declaration alone offered insufficient protection against imminent prosecution; it was not a ruling that diminishes the legal force of a declaratory judgment itself. Similarly, the *Vazquez Perez* court's rejection of a “preliminary declaration” was a refusal to issue a novel and undefined form of interim relief that it deemed *advisory*, not a holding on the binding nature of a formally issued, class-wide declaratory order like the one in *Maldonado Bautista*. Indeed, other courts have cited *Vazquez Perez* for the opposite conclusion: that class-wide declaratory relief is permissible despite statutory restrictions on injunctions.

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 been detained at the Stewart Detention Center and faces an imminent removal hearing, 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 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.

CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Respondents' motion 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 government's motion to dismiss or stay this action, predicated on Petitioner's alleged membership in the *Maldonado Bautista* action, fails to address the immediate and severe deprivation of Petitioner's fundamental rights.

The government attempts to wield the *Maldonado Bautista* class action as both a sword and a shield, but its argument is fatally double-edged. In a remarkable display of legal gamesmanship, Respondents insist this case must be dismissed due to the class action yet go on to argue (dedicating the latter half of their motion to these unpersuasive arguments) that the class's victory has no "preclusive effect" whatsoever because it is not a "final judgment." If, as the government insists, there is currently "no declaratory relief, let alone relief with preclusive effect on *Maldonado* class members' claims," then it is logically impossible for that same non-

final, non-preclusive ruling to bar this individual habeas action. In other words, by the government's own logic, the class action cannot be both a procedural barrier powerful enough to extinguish a constitutional writ and a non-final order with no binding authority. Respondents' own words and senseless arguments defeat and dismantle their own motion to dismiss.

Doctrines of preclusion and exhaustion do not bar this petition, as claim preclusion is inapplicable where the prior action could not provide the requested remedy, and administrative exhaustion is futile when the agency has already been directed to deny relief. 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 deny Respondents' Motion to Dismiss and grant the Petition for a Writ of Habeas Corpus, ordering Petitioner's immediate release from custody.

DATED this 12th day of December 2025.

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