

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

EDGAR HERRERA-RECINOS,

Petitioner,

Case No.: 3:25-cv-01499-JEP-PDB

v.

SCOTTY RHODEN, in his official capacity as Warden of Baker County Detention Center; GARRETT RIPA, in his official capacity as Field Office Director of Enforcement and Removal Operations, Miami, Field Office, KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents

**RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS
CORPUS (ECF 2)**

The federal Respondents Garrett Ripa, Kristi Noem, Pamela Bondi (in their official capacities), by and through the undersigned Assistant United States Attorney, hereby respond to Petitioner Edgar Herrera-Recinos' ("Petitioner") Petition for Writ of Habeas Corpus (ECF 2) as required by the court's December 10, 2025 Order (ECF 4). Respondents hereby show cause as to why the petition should be denied.

The court lacks jurisdiction and Petitioner's detention under §1225 is lawful.

Therefore, the Court should deny the writ and dismiss this action.

Background

The petition was filed December 8, 2025 and challenges Petitioner's detention under 8 U.S.C. § 1225(b)(2), essentially contending that he is entitled to a bond hearing because the proper basis of his detention is 8 U.S.C. § 1226(a). The petition asserts four counts, and each relies fundamentally on the argument that § 1226, not §1225, applies to Petitioner's detention. As it relates to custody, Petitioner asks the court to release him or, in the alternative, provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a), enjoin Petitioner's removal or transfer outside the jurisdiction of the United States or the jurisdiction of the court pending adjudication of the petition.¹

Petitioner is a citizen of Guatemala and alleges he entered the United States in 2010 or 2011 (ECF 2 at ¶10). Petitioner was stopped by law enforcement on November 21, 2025 for Driving Under the Influence. *See* Ex. A, Flagler County Sheriff's Office Nov. 21, 2023 report. Petitioner was placed in ICE custody on November 23, 2025—15 days prior to filing his petition. As of the date of this response, Petitioner has been in custody for 46 days. He was initially detained at Baker County Detention Center (including at the time of filing his petition) but was transferred on December 10, 2025

¹ Petitioner cites no legal authority and makes no argument to support his request that the court enjoin Respondents from transferring Petitioner to a facility outside of the Middle District of Florida. Respondent does not contest personal jurisdiction in this case based on Petitioner's current location. Furthermore, enjoining ICE's operations concerning transfer of Petitioner is not proper habeas relief. The court also lacks subject matter jurisdiction to enjoin Respondents from obtaining a removal order and removing Petitioner, for the reasons set forth in section B, *infra*.

to the Otero County Processing Center in New Mexico where he is currently detained.² On November 23, 2025, Petitioner was issued a Notice to Appear charging him with violations of 8 U.S.C. §§ 1182(a)(6)(A)(i) and (a)(7)(A)(i) placing him in removal proceedings. See Ex. B, Notice to Appear. The immigration judge denied his December 1, 2025 bond redetermination based upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (2025). On December 8, 2025, the immigration judge denied Petitioner's request for custody re-determination based on Petitioner's reliance on the California district court decision in *Maldonado Bautista v. Santacruz, Jr., et al.*, No. 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025) See Ex. C, Dec. 8, 2025 IJ Order.

Legal Standard

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021); *Martin v. Beto*, 397 F.2d 741, 749 (5th Cir. 1968).

Discussion

As explained below, the court lacks jurisdiction and Petitioner's detention under §1225(b)(2) is lawful.

² Respondents do not challenge the court's personal jurisdiction over the petition on the grounds that Petitioner is no longer detained within the Middle District of Florida.

A. Habeas Return on Detention

In a habeas case, the respondent “shall make a return certifying the true cause of the detention.” *Id.* ICE detained Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2).

B. Jurisdiction

The merits argument of the petition focuses on the nuances of §1225 and §1226 but there is no need to get into those nuances because the court lacks subject-matter jurisdiction over Petitioner’s claims. There are three reasons why.

1. Jurisdiction Stripping

Federal courts have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted). In immigration habeas cases related to removal proceedings—as here—the Immigration and Nationality Act (“INA”) divests this Court’s jurisdiction to consider Petitioner’s claims challenging his detention pending a removal determination. 8 U.S.C. § 1252(g). There is no jurisdiction to review “any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This provision bars habeas review in federal courts when the claim arises from “discrete acts of commencing proceedings, adjudicating cases, and executing removal orders.” *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) (cleaned up).

These activities “represent the initiation or prosecution of various stages in the deportation process” that Congress had “good reason” to withhold from judicial review. *Id.*

When construing § 1252(g), one must limit the application “to just those three specific actions” listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, “courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). At bottom, § 1252(g) bars review if the conduct “to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim.” *Gupta*, 709 F.3d at 1065.

The law is clear:

Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings.

Id.; see also *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“Because [the alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021). “By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.” *Alvarez*, 818 F.3d at 1203. So § 1252(g) strips the court’s jurisdiction over habeas petitions challenging detention pending removal proceedings.

As the Eleventh Circuit made clear, what matters is whether the challenged

conduct arose from decisions or actions to commence removal proceedings. *Gupta*, 709 F.3d at 1065 (“Each of these claims, then, challenges the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts.”). The Eleventh expressly reaffirmed this in several other decisions (both published and unpublished):

Because [plaintiff] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.

Alvarez, 818 F.3d at 1204; *see also Johnson*, 847 F. App'x at 802. The decisions and actions to detain Petitioner (under either § 1225 or § 1226) arise from the commencement of removal proceedings. The INA strips jurisdiction over that review. *Gupta*, 709 F.3d at 1065; 8 U.S.C. § 1252(g).

What’s more, “the sole function of habeas corpus is to provide relief from unlawful imprisonment or custody, and it cannot be used for any other purpose.” *Cook v. Hanberry*, 592 F.2d 248, 249 (5th Cir. 1979). So, the only relief a habeas petitioner may receive is release. *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020). Put different, this case is only about whether ICE could detain Petitioner pending removal proceedings. *Gupta* and its progeny hold the court has no jurisdiction over such actions. The court also lacks jurisdiction on separate grounds.

2. Zipper Clause

The INA precludes review of “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” except

judicial review of a final order of removal. 8 U.S.C. § 1252(b)(9). This is known as the “zipper clause” and applies where a petitioner seeks “review of an order of removal [or] the decision to seek removal.” *Canal A*, 964 F.3d at 1257; *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020). In reading this subsection alongside 8 U.S.C. § 1252(a)(5)—which limits review—courts conclude petitioners must funnel all aspects of challenges to removal proceedings through the avenue set out in § 1252(a)(5). *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (“The REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals.”); see also *Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (There is “clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).”).

The zipper clause restrictions are broad but not unlimited. *Canal A*, 964 F.3d at 1257. Still, a claim arising from actions or proceedings brought to remove an alien clearly falls within the clause. See *Regents of Cal.*, 591 U.S. at 19.

Here, Petitioner challenges ICE’s detention determination. This was an action arising from ICE’s choice to carry out proceedings to remove him from the United States. The zipper clause is in full force; judicial review by this court is inappropriate and contrary to the INA. 8 U.S.C. § 1252(b)(9).

As explained, the Court lacks jurisdiction over this habeas action. Yet even if it disagrees, the petition should be denied because Petitioner’s detention is still lawful.

C. Merits

1. Detention and Bond Hearing - §1225 v. §1226.

Petitioner alleges ICE's decision to detain him initially under § 1225 rather than § 1226 was inappropriate, deprived his due process, and withheld a bond hearing. These claims fail as a matter of law because Petitioner was lawfully detained under § 1225.

To interpret the relevant parts of the INA, courts first turn to the “plain meaning of the statute.” *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: “An alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a); *Thuraissigiam*, 591 U.S. at 140. Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) fall under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287.

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the “alien shall be detained for a proceeding under section 1229a”—i.e., full removal proceedings—after “the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections “mandate

detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Petitioner under § 1225(b)(2). The parties do not dispute he entered the United States illegally and without any authorization. Petitioner’s detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(2)(A); see *Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Petitioner argues § 1225 does not apply to Petitioner because he has remained continuously inside the United States for 10-11 years and is not “seeking admission.” (ECF 2 at ¶21). But nothing in the statutory language supports this conclusion. Furthermore, Petitioner fails to address the aliens expressly contemplated by § 1225(a)(1)—defining applicants as a present alien “who has not been admitted or who arrives in the United States.” Where the statutory text is otherwise clear, courts cannot add words or make up exceptions. *King v. Burwell*, 576 U.S. 473, 486 (2015).

Sections 1225(a)(1) and (b)(2) are unambiguous. There are no geographic qualifiers; nor are any time limitations imposed. 8 U.S.C. § 1225(b)(2). Notably, Congress included such time limitations in other parts of the same statute. For instance, 8 U.S.C. § 1225(b)(1)(A)(iii)(II)—enacted contemporaneously with § 1225(b)(2)—applies a two-year continuous physical presence requirement. When Congress includes language in one part of a statute but omits it in another, it does so intentionally. *E.g., Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1168 (11th Cir. 2003).

Under these principles, the Court cannot read an additional “place of detention” or “period of residence” requirement into § 1225(b)(2) when it simply isn’t there. Short of legislating, the Court cannot impose limitations on § 1225(b)(2) that Congress did not include. *See Germain v. U.S. Att’y Gen.*, 9 F.4th 1319, 1325 (11th Cir. 2021).

As discussed, an alien’s place of detention or period of residence is irrelevant under the plain language. What is relevant, however, is an alien’s manner of entry. 8 U.S.C. § 1225(a)-(b). Congress members said as much when amending the INA. *See Sturgeon v. Frost*, 587 U.S. 28, 54 (2019) (“The legislative history (for those who consider it) confirms, with unusual clarity, all we have said so far.”). The statutory scheme that § 1225 and § 1226 replaced was structured so aliens who entered the United States undetected retained certain benefits—such as the availability of bond—where those who presented themselves at the border did not:

This subsection is intended to replace certain aspects of the current “entry doctrine,” under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry. Hence, the pivotal factor in determining an alien’s status will be whether or not the alien has been lawfully admitted.

H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Recognizing that such a scheme incentivized evasion over presenting oneself at a port of entry, Congress set out to restructure the law to distinguish between deportability—applicable to admitted aliens—and inadmissibility—applicable to those present without admission. *Id.* at 226. So, aliens who enter surreptitiously “will not be considered to have been admitted.” *Id.* Petitioner’s reading seeks to retroactively nullify this legislative fix and once again

restore incentives to circumvent rather than comply with the INA.

Petitioner contends his detention under § 1225 is improper and his detention should be under § 1226. But Petitioner did not meet his burden to establish detention under § 1226 should apply to him. Section 1226 is far broader than § 1225. Specifically, § 1226 applies to any “alien.” 8 U.S.C. § 1226(a). An “alien” is “any person not a citizen or national of the United States.” *Id.* § 1101(a)(3). Meanwhile, the phrase “applicant for admission” in § 1225(b)(2) has distinct meaning, and not every single alien entering without inspection falls under this provision. Rather, the facts and circumstances concerning Petitioner demonstrate he is an applicant for admission under § 1225(b)(2).

It is undisputed Petitioner has not been admitted to the United States. Put different, Petitioner must be an applicant for admission if he wanted to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (Petitioner “wishes to stay in this country. This makes [him] an ‘applicant for admission,’ consistent with the conclusion of the BIA in *Hurtado* and *Jennings*.”). The alternative would be seeking an Order to somehow remain unlawfully in the United States. *Id.* (That petitioner “illegally remained in this country for years does not mean that he is suddenly not an ‘applicant for admission’ under § 1225(b)(2).”); *Hurtado*, 29 I&N at 221 (“If he is not admitted to the United States (as he admits) but he is not “seeking admission” (as he contends), then what is his legal status?”). Under the voluntary departure order, he is no longer entitled to remain in the United States.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that is several years after arriving. In the context of immigration law, “admission” is not like sneaking into a second showing at the movie theater where entry is de facto admission. Rather, this is a legal term of art. *Matter of Lemus Losa*, 25 I. & N. Dec. 734, 743 n.6 (BIA 2012) (noting “seeks admission” used by Congress “as a term of art”). The terms “admission” or “admitted” here mean “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

Congress knows how to use a term of art. *E.g.*, *FAA v. Cooper*, 566 U.S. 284, 292 (2012) (“[I]t is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.” (cleaned up)). Petitioner may have been living in the United States illegally for years; but he was never admitted—which is what makes his presence unlawful in the first instance. 8 U.S.C. § 1182(a)(6)(A)(i) (inadmissibility for presence “without being admitted”). The INA treats aliens as seeking admission even if they entered illegally and never formally applied. 8 U.S.C. § 1225(a)(1); *Lemus Losa*, 25 I. & N. Dec. at 743 n.6 (Unlawful entrants “deemed *constructive* applicants for admission by operation of” § 1225(a)(1).). Legislative word choices—especially terms of art—must have meaning. Congress chose to define “applicants for admission” as “[a]n alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1).

The recent enactment of the Laken Riley Act bolsters this conclusion. *See* Pub. L. No. 119-1, 139 Stat. 3 (2025). There, the categories of individuals subject to mandatory detention expanded to include those who entered the United States and were charged as inadmissible under § 1182(a)(6)(A)(i) or (a)(7) and have committed—or been charged or convicted of—certain specified crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Were “applicant for admission” under § 1225 interpreted as narrow as Petitioner argues, then there would be no need to pass Laken Riley. Those aliens now covered by § 1226(c)(1)(E) would have already been subject to mandatory detention. Even if there are redundancies, those “are common in statutory drafting” and provide no “license to rewrite or eviscerate another portion of the statute contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 229 (2020) (“The Court has often recognized: Sometimes the better overall reading of the statute contains some redundancy.” (cleaned up)).

Finally, the fact that longstanding practice may have differed is not dispositive. The Constitution empowers the Judiciary to exercise judgment regarding the interpretation of laws independent from the political branches. U.S. Const. art. 3, § 2, cl. 1; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). The question for this Court is not ICE’s historical practice; instead, the inquiry is the correct statutory interpretation. As discussed, the best reading of the INA is what its words say—confirming ICE properly detained Petitioner under § 1225(b)(2) at the time of his Petition and now lawfully detains him as a condition of the voluntary removal order.

There are plenty of recent decisions adverse to Respondents’ § 1225 position

here, including decisions by courts in this district.³ Other courts have arrived agreed with ICE's position. *Vargas Lopez v. Trump* thoroughly addressed this issue and agreed with ICE's reasoning. No. 8:25CV526, 2025 WL 2780351, at *7-10 (D. Neb. Sept. 30, 2025). Other courts came to the same conclusion in support of the federal Respondents' position.⁴ The BIA specifically explained this rationale in *Hurtado*, 29 I&N Dec. 216.

2. Petitioner's period of detention is lawful.

Petitioner is in removal proceedings. The Supreme Court has held that §1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings [for removal] and not just until the moment those proceedings begin." *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018). Because § 1225(b)(2) is the proper basis for detention, there is no Fifth Amendment violation caused by detaining Petitioner or denying a bond hearing to Petitioner.

³ See e.g. *Ortiz v. Noem*, No. 3:25-cv-1386-MMH-MCR, 2025 WL 3653217 (M.D. Fla. Dec. 17, 2025), *Bravo v. Noem*, 2:25-cv-1046-SPC-DNF, 2025 WL 3496191 (M.D. Fla. Dec. 5, 2025); *Riquis v. Mordant*, 2:25-cv-1028-SPC-NPM, 2025 WL 3502525 (M.D. Fla. Dec. 5, 2025); *Erazo v. Hardin*, 2:25-cv-891-KCD-DNF, 2025 WL 3187136 (M.D. Fla. Nov. 14, 2025); *Carcamo v. Noem*, 2:25-cv-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025) (among others).

⁴ See e.g. *Oliveira v. Patterson*, 6:25-cv-01463-DCJ-DJA (ECF 17), 2025 WL 3095972, *7 (W.D. La. Nov. 4, 2025); *Pipa-Aquise v. Bondi*, 1:25-cv-01094-MSN-WBP, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025); *Robledo v. Noem*, 1:25-cv-0177-H (N.D. Tx. Oct. 24, 2025) (ECF 9); *Sandoval v. Acuna*, 6:25-cv-01467, 2025 WL 3048926, *7 (W.D. La. Oct. 31, 2025); *Kum v. Ross, et al.*, 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646 (W.D. La. Oct. 22, 2025) adopted by 2025 WL 3113644 (W.D. La. Nov. 6, 2025); *Rojas v. Olson*, Case No. 25-cv-1437-bhl (ECF 20), 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250-CAB-SBC, 2025 WL 2730228 at *4-5 (S.D. Cal. Sept. 24, 2025); and *Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, *2 (E.D. Mo. Nov. 10, 2025).

3. *Bautista* is not binding and presents no basis for granting the petition.

Petitioner claims he is a member of the Bond Eligible Class in *Maldonado Bautista v. Santacruz et al.*, Case No. 5:25-cv-01873 (C.D. Cal. 2025). However, *Maldonado* does not provide a basis for granting the petition. On December 18, 2025, the district court in California entered partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. That judgment is neither binding nor applicable here and presents no basis for granting the petition. The *Bautista* declaratory judgement is void with respect to petitioners and custodians outside the Central District of California because it was issued despite a palpable lack of jurisdiction. Also, the Court should not give preclusive effect to the declaratory judgment because it is on appeal, creating a serious risk of inconsistent judgments and unfair results if the *Bautista* judgment is reversed or vacated on appeal. Finally, issue preclusion is inapplicable here, particularly as preclusion principles apply with less force both against the government and in habeas corpus proceedings.

The *Bautista* class sought a declaratory judgment that class members such as Petitioner were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a). This is core habeas relief that must be brought as a habeas claim alone. As the Supreme Court made clear just this year, “[r]egardless of whether [] detainees formally request release from confinement,” if “their claims for relief necessarily imply the invalidity of their confinement[], their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas.” *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal

quotations omitted). The Supreme Court has imposed two fundamental limits on federal court jurisdiction over core habeas claims. First, “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also J.G.G.*, 604 U.S. at 672. Second, a habeas petitioner must name the petitioner’s *immediate* custodian—*i.e.*, the custodian who has actual custody over the petitioner and can produce the “corpus.” *Padilla*, 542 U.S. at 435. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined, and the immediate custodian is not located. And a “judgment entered without personal jurisdiction over a defendant is void as to that defendant.” *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address “validity of a defense the State may, or may not, raise in a habeas proceeding” in part because “the underlying claim must be adjudicated in a federal habeas proceeding”); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that

can later be enforced. *See Calderon*, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the “availability of a habeas remedy in another district ousted us of jurisdiction over an alien’s effort to pose a constitutional attack . . . by means of a suit for declaratory judgment”); *Monk v. Sec. of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) (“In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is ‘in custody in violation of the Constitution . . . of the United States,’ This specific determination must override the general terms of the declaratory judgment . . . statute.”).

The *Bautista* court lacked jurisdiction to issue habeas relief to all class members who are confined outside the Central District of California by immediate custodians outside that District, and a court’s judgment cannot be binding and preclusive against a party over which it lacked jurisdiction. Indeed, another federal district court has already held that the *Bautista* declaratory judgment does not have preclusive effect. Order, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12.

The court should not give preclusive effect to a declaratory judgment that is on appeal. Even if the *Bautista* declaratory judgment could have preclusive effect outside the Central District of California, that judgment has been appealed to the Ninth Circuit, *Bautista, et al. v. United States Department of Homeland Security, et al.*, No. 25-7958 (9th Cir.), and this Court should not afford preclusive effect to that judgment or

to any underlying legal issues in deciding whether to grant habeas relief in this case. Courts must exercise significant caution before giving preclusive effect to declaratory judgments that are on appeal. This is particularly true where other district courts have disagreed with the district court in *Bautista*. See n. 1, *supra*. Reflexively granting preclusive effect to such judgments could lead to subsequent judgment “from which it may be impossible to obtain relief” even if the first judgment is reversed on appeal. 9 A.L.R.2d 984. Courts should strive to avoid this “evil result[.]” *Id.* Given the constraints of 8 U.S.C. § 1252(f)(1)—it would not be proper to impose res judicata effect on a class-wide basis while the declaratory judgment is pending on appeal.

Beyond the two most serious problems with giving effect to the *Bautista* declaratory judgment in this case, three more reasons counsel strongly against doing so. First, under 28 U.S.C. § 2202, “[f]urther necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.” To the extent this Court considers whether to award “further” relief than what the *Bautista* court purported to grant to class members outside the Central District of California, such further relief is neither “necessary [n]or proper.”

Second, the circumstances of this case also counsel against applying issue preclusion against the government because the Supreme Court has “long recognized that ‘the Government is not in a position identical to that of a private litigant,’ *INS v. Hibi*, 414 U.S. 5, 8 (1973) (per curiam), both because of the geographic breadth of

government litigation and also, most importantly, because of the nature of the issues the government litigates.” *United States v. Mendoza*, 464 U.S. 154, 159 (1984). Petitioner is a member of a fundamentally flawed nationwide class. In such a circumstance, applying preclusion against the government raises the same concern raised in *Mendoza*—it allows the *Bautista* court’s decision to freeze the law for all district courts nationwide, and stymies development of the law.

Third, it is doubtful that issue preclusion is ever appropriate in the habeas context. For instance, in *Griffin v. Gomez*, the Ninth Circuit held that a prior “class action has no preclusive affect in habeas proceedings.” *Griffin v. Gomez*, 139 F.3d 905 (9th Cir. 1998). The court later explained that res judicata and collateral estoppel do not apply to habeas proceedings. *See Clifton v. Attorney General*, 997 F.2d 660, 662 n.3 (9th Cir. 1993) (recognizing that because “conventional notions of finality of litigation have no place” in habeas and the inapplicability of res judicate to habeas is “inherent in the very role and function of the writ).

In sum, *Bautista* provides no basis for granting the petition or affording any other relief.

Conclusion

The court should deny the petition and dismiss this action because it lacks jurisdiction and because Petitioner's detention under §1225 is lawful.

Dated: January 8, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Richard L. Lasseter
Richard L. Lasseter
Assistant United States Attorney
Florida Bar No. 0060365
300 North Hogan Street, Suite 700
Jacksonville, FL 32202-4270
Telephone No. (904) 301-6258
Facsimile No. (904) 301-6240
Email: richard.lasseter@usdoj.gov
Attorneys for federal Defendants