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**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF ARIZONA**

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| Faustino Sanchez-Sanchez<br><br>*Petitioner,*<br><br>v.<br><br>Luis Rosa, Jr., et al.,<br><br>*Respondents.* | Case No.: 25-CV-04586-SHD-DMF<br><br>**PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS** |

Petitioner respectfully submits this Reply to the Government's Response (Doc. 5). The Government's theory that Faustino Sanchez-Sanchez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) fails as a matter of statutory construction and is inconsistent

with governing precedent. As explained below, Petitioner's detention is governed by 8 U.S.C. § 1226(a), which entitles him to an individualized bond hearing.

## I. THE PETITION IS NOT MOOT

At the outset, Respondents' suggestion that this case "may be moot" is incorrect and unsupported by evidence. Petitioner remains in ICE custody, and this Court retains jurisdiction under 28 U.S.C. § 2241.[1]

In a footnote to their Response filed on December 15, 2025, Respondents speculate that Petitioner may have departed the United States because counsel could not locate him in ICE's online detainee locator and because the Immigration Court granted voluntary departure on December 4, 2025. Doc. 5 at 1. That speculation is wrong. On December 11, 2025, Petitioner participated in a legal visit with immigration counsel while detained at CoreCivic Central Arizona Florence Correctional Complex in Florence, Arizona, as confirmed by counsel's legal visit confirmation email submitted as Exhibit 1. In addition, Petitioner's family had direct telephone contact with him on December 16, 2025. These facts confirm that Petitioner remains detained and has not departed the United States.

A habeas petition becomes moot only when the petitioner is no longer subject to the challenged custody and no live controversy remains. *Spencer v. Kemna*, 523 U.S. 1, 7

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1 After filing the Petition, counsel learned that Petitioner had been housed at a different ICE facility than originally identified, and promptly caused service to be effected on the appropriate warden as a courtesy. Respondents have appeared and litigated this case on the merits without objecting to service or the identity of the custodian. Any defect in naming or serving the immediate custodian is a matter of personal jurisdiction and may be waived. *Smith v. Idaho*, 392 F.3d 350, 355–56 (9th Cir. 2004); *Rumsfeld v. Padilla*, 542 U.S. 426, 451 (2004) (Kennedy, J., concurring).

(1998). Speculation about possible future release or departure does not satisfy Respondents' burden to establish mootness, because a case becomes moot only when it is impossible for the Court to grant any effectual relief. *Chafin v. Chafin*, 568 U.S. 165, 172 (2013). Because Petitioner remains in ICE custody and subject to the detention challenged here, the Petition presents a live case or controversy.

## II. RESPONDENTS CONCEDE PETITIONER IS A BAUTISTA CLASS MEMBER

The government expressly concede that Mr. Sanchez-Sanchez is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. CV-25-04033-JFW (ASx), 2025 WL 3288403, at *1 (C.D. Cal. Nov. 25, 2025). That concession resolves the first question posed by the Court's Order to Show Cause. There is no factual dispute regarding class membership; the dispute is purely legal.

## III. PETITIONER'S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a), NOT § 1225(b)(2)

Respondents' refusal to provide a bond hearing rests on the assertion that Petitioner is detained under 8 U.S.C. § 1225(b)(2). Courts in this District have squarely rejected that theory.

Section 1225(b)(2) applies only when an examining immigration officer determines, at the time an individual is seeking admission, that the person is not clearly entitled to be admitted. The statute presupposes inspection at or near the border. It does not apply to noncitizens who entered the United States years earlier, resided continuously, and were later arrested in the interior and placed in full removal proceedings under 8 U.S.C. § 1229a.

In *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL, 2025 WL 2821282, at *6–9 (D. Ariz. Oct. 3, 2025), this Court held that DHS's attempt to treat long-term interior residents as perpetual "applicants for admission" under § 1225(b)(2) "push[es] the statutory text beyond its breaking point" and fails to account for the INA's structure. The Court concluded that detention in such circumstances is governed by § 1226(a), which expressly authorizes bond hearings. The same conclusion was reached in *Rodrigues de Silva v. Figueroa*, No. CV-25-04015-PHX-JJT, Order at 2–3 (D. Ariz. Nov. 18, 2025).

Respondents' reliance on Supreme Court cases addressing different statutory schemes does not alter this conclusion. J*ennings v. Rodriguez* rejected implied bond-hearing requirements under §§ 1225(b) and 1226(c) but expressly recognized that § 1226(a) authorizes bond. 583 U.S. 281, 289–90 (2018). *Demore v. Kim*, *Nielsen v. Preap*, and *Department of Homeland Security v. Thuraissigiam* address criminal detention or expedited removal of recent border crossers and do not authorize the categorical detention of long-term interior residents without bond.

## IV. *BAUTISTA* CONFIRMS RESPONDENTS' OBLIGATION TO PROVIDE A BOND HEARING

Because § 1226(a) governs, Petitioner is statutorily entitled to an individualized bond hearing. *Maldonado Bautista* confirms, rather than creates, that entitlement.

In *Bautista*, the court held that DHS's interpretation of the INA, under which long-term interior residents are detained under § 1225(b)(2), "cannot be squared with the statutory text and statutory scheme," and extended the resulting declaratory relief to the Bond

Eligible Class as a whole. 2025 WL 3288403, at *9–10. Respondents are parties to that litigation and concede Petitioner's membership in the class.

Respondents nevertheless argue that *Bautista* imposes no obligation absent a final judgment or injunction. That argument misstates federal law. Congress has provided that a declaratory judgment "shall have the force and effect of a final judgment or decree." 28 U.S.C. § 2201(a). Federal Rule of Civil Procedure 54(b) governs appealability, not enforceability, and does not permit parties to disregard binding declaratory relief. *Haaland v. Brackeen*, 599 U.S. 255 (2023), does not suggest otherwise; it addressed standing and advisory opinions, not compliance with declaratory judgments resolving concrete disputes.

**V. CONCLUSION**

Respondents concede that Mr. Sanchez-Sanchez is a *Bautista* class member, fail to identify any lawful basis for continued detention under § 1225(b)(2), and cite no authority permitting them to ignore binding declaratory relief. The Petition should be granted.

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order that Petitioner be afforded a prompt and individualized bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a), at which the Government bears the burden of justifying continued detention; or, in the alternative,
3. Order Petitioner's release under reasonable conditions of supervision pending the completion of removal proceedings.

Respectfully submitted this 16th day of December, 2025

/s/ *Karina J. Ordonez*
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*Counsel for Petitioner*

/s/ *Noel Elco Rascon*
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**CERTIFICATE OF SERVICE**

I certify that on the 16th day of December, 2025, I electronically transmitted this document to the Clerk's office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing.

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# **EXHIBIT 1**

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