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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Miguel Eliseo Bernal Ramirez,
Petitioner,

v.

Kristi Noem, *et al.*,
Respondents.

No. 2:25-cv-04590-MTL (CDB)

RESPONSE TO ORDER TO SHOW CAUSE

I. INTRODUCTION

Respondents, by and through counsel, respond to the Court's Order to Show Cause (Doc. 4), and hence to the Petition for a Writ of Habeas Corpus (Doc. 1). Petitioner Miguel Eliseo Bernal Ramirez is a national of Guatemala who allegedly entered the United States without inspection. *See* Petition at ¶¶ 10, 19. The Court should dismiss the Petition or stay this action for three reasons. First, Petitioner is a member of a certified non-opt-out class in *Bautista* pursuing the same relief he requests here, so his Petition should be dismissed. Second, the Court in *Bautista* has not yet ordered any class-wide relief. Finally, Respondents preserve and maintain their legal position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

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II. STATUTORY FRAMEWORK.

A. Petitioner's claim is already being litigated in the *Bautista* class action.

Petitioner is currently held in immigration custody without bond pursuant to 8 U.S.C. § 1225(b)(2). In this action, Petitioner asks this court to declare that Section 1225(b)(2) does not apply to him and to grant him either release from custody or a bond hearing. *See* Petition at 36. However, because that claim is already being adjudicated in the nationwide *Bautista* class action, this Court should decline to consider it. *See Bautista v. Santacruz*, 5:25-cv-1873-SSS-BFM (C.D. Cal.); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997) (noting that a district court "has broad discretion to stay proceedings as an incident to its power to control its own docket). As part of district courts' discretion to administer their dockets, courts have dismissed, without prejudice, suits brought by individuals whose claims are duplicative of class claims in other litigation. *See, e.g., Griffin v. Gomez*, 139 F.3d 905 (9th Cir. 1998) (in habeas case, discussing prior stay of Fifth Amendment challenge pending completion of pending class action); *Herrera v. Birkholz*, No. 22-cv-07784-RSWL-JDE, 2022 WL 18396018, at *4-6 (C.D. Cal. Dec. 1, 2022), *report and recommendation adopted*, 2023 WL 319917 (C.D. Cal. Jan. 18, 2023) (dismissing habeas case brought by federal prisoner related to COVID-19 measures reasoning that petitioner's claims were based, in part, on a duplicative class action and were "not properly before the court.").

Multiple courts of appeals have upheld dismissals of cases where parallel class actions raise the same or substantially similar issues. *See, e.g., Crawford v. Bell*, 599 F.2d 890, 892-93 (9th Cir. 1979) (holding that a district court may dismiss "those portions of [the] complaint which duplicate the [class action's] allegations and prayer for relief"); *McNeil v. Guthrie*, 945 F.2d 1163, 1165-66 (10th Cir. 1991) (finding that individual suits for injunctive and declaratory relief cannot be brought where a class action with the same claims exists); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (once a class action has been certified, "[s]eparate individual suits may not be maintained for equitable relief"); *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982) ("If a class member cannot

relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified").

Petitioner's claim seeking to invalidate the Board of Immigration Appeals' interpretation of Section 1225(b)(2) substantially overlaps with the *Bautista* nationwide class action. Indeed, on November 25, 2025, the court in *Bautista* certified, pursuant to Fed. R. Civ. P. 23(b)(2), a class of individuals defined as follows:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Bautista v. Santacruz, 5:25-cv-1873-SSS-BFM (Doc. 82) (C.D. Cal. Nov. 25, 2025) ("Class Certification Ruling"). Petitioner is a member of the class because he entered the United States without inspection, *see* Petition, Exhibit 5, he was not apprehended on arrival, *see* Petition at ¶ 20, and he is subject to detention under 8 U.S.C. § 1125(b)(2)(A). *See id.* at ¶ 44.

Because the *Bautista* class was certified pursuant to FRCP 23(b)(2), *see Bautista*, 5:25-cv-1873-SSS-BFM (Doc. 82), at 14, membership in the class is mandatory with no opportunity to opt out. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 361-62 (2011) (stating that Rule 23 "provides no opportunity for (b)(1) or (b)(2) class members to opt out, and does not even oblige the [d]istrict [c]ourt to afford them notice of the action"); *Sanderson v. Whoop, Inc.*, No. 3:23-CV-05477-CRB, 2025 WL 744036, at *15 (N.D. Cal. Mar. 7, 2025) (noting that "23(b)(2) class members have no opportunity to opt out"). Members of FRCP 23(b)(2) classes may not bring individual suits over the same issues covered by the class action. *See Crawford v. Bell*, 599 F.3d 890 (9th Cir. 1979); *see also Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988); *McNeil v. Guthrie*, 945 F.2d 1163, 1165 (10th Cir. 1991); *Stewart v. Asuncion*, 2016 U.S. Dist. LEXIS 162036 at *5–6

(C.D. Cal. Oct. 26, 2016) (collecting cases). "Individual members of the class . . . may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action." *Gillespie*, 858 F.2d at 1165.

The *Bautista* court granted partial summary judgment to the named plaintiffs, *Bautista*, 5:25-cv-1873-SSS-BFM (Doc. 81) ("Partial MSJ Ruling"), but the court did not order any relief at that time. The case remains pending. As a member of the certified class, Petitioner is entitled to and bound by any relief that the *Bautista* court ultimately grants, including any applicable injunctive relief. Accordingly, this Court should dismiss his claims seeking release or a bond hearing because they are subsumed within the issues being litigated in *Bautista*. To do otherwise would undermine what Rule 23 was intended to ensure: consistency of treatment for similarly situated individuals. *See Howard v. Aetna Life Ins. Co.*, No. CV2201505CJCMRWX, 2024 WL 1098789, at *11 (C.D. Cal. Feb. 27, 2024). It would also open the floodgates of parallel litigation in district courts all over the country, which could ultimately threaten the certification of the underlying class by creating differences among the class members. The proper way for Petitioner to request relief for his claim is "by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action," which he is perfectly free to do. *Gillespie*, 858 F.2d at 1165.

B. The Petition should be dismissed or stayed pending an order granting class-wide relief in *Bautista*.

Alternatively, the Petition should be dismissed or stayed pending a resolution of the *Bautista* action because Petitioner is currently litigating this exact claim in another court, and the other action was first-in-time. A court may "decline jurisdiction over an action when a complaint involving the same parties and issues has already been filed in another district." *Pacesetter Sys. v. Medtronic*, 678 F.2d 93, 95 (9th Cir. 1982) (citing *Church of Scientology of Cal. v. United States Dep't of the Army*, 611 F.2d 738, 749 (9th Cir. 1979)). "Normally sound judicial administration would indicate that when two identical actions are

filed in courts of concurrent jurisdiction, the court which first acquired jurisdiction should try the lawsuit and no purpose would be served by proceeding with a second action." *Id.* Although the first-in-time rule is permissive, not mandatory, it "should not be disregarded lightly." *Id.* (quoting *Church of Scientology*, 678 F.2d at 750).

Here, principles of comity and efficiency strongly suggest that this Court should dismiss the Petition or stay this action pending further proceedings in *Bautista*. Petitioner is a member of the class certified in the *Bautista* action. The petition in *Bautista* was filed on July 23, 2025, and the parties were given substantial and ample time to brief their positions. The *Bautista* court then certified a class, granted summary judgment, and is presumably in the process of working with the parties to craft appropriate relief. By contrast, the Petition here was filed November 26, 2025, and the Court issued its Order to Show Cause eight days later, granting Respondents a mere week to brief their positions. It is unclear how the "goal of judicial efficiency," *Pacesetter Sys.*, 678 F.2d at 96, would be served through granting relief in the present action rather than in *Bautista*. Moreover, Petitioner is still a member of the *Bautista* class. If this Court chooses to exercise jurisdiction over Petitioner's claim now, it may muddle the *Bautista* action by casting doubt on the membership of the class. Finally, Petitioner cannot "identify any legal bar, or even a practical impediment," to his ability to receive full and fair relief from the *Bautista* suit. *See Minor v. Sotheby's*, 2009 U.S. Dist. LEXIS 590 at *6 (N.D. Cal. Jan 7, 2009). This Court should thus decline to exercise jurisdiction over this matter.

Because Petitioner is bound as a member of the non-opt out class of individuals governed by the *Bautista* suit, this Court should dismiss the Petition since another court is already considering Petitioner's alleged statutory right to a bond hearing. This Court should also dismiss the Petition because it would harm the goals of judicial efficiency and comity between courts if this court chooses to hear this claim.

C. The *Bautista* orders have no preclusive effect on this case.

Even if this Court determined that it may exercise jurisdiction over Petitioner's duplicative action, *Bautista* has ordered no relief, so this Court is not obligated to do

anything based thereon. Neither the Partial MSJ Ruling nor the Class Certification Ruling entered declaratory judgment as to the nationwide class or otherwise provided for class-wide relief. *See* Partial MSJ Ruling at *17 (granting motion for partial summary judgment but expressly not ordering any relief) and Class Certification Ruling at *15 (granting motion for class certification but ordering only that class be certified, Petitioners be appointed class representatives, Petitioners' counsel be appointed class counsel, ordering a joint status report and setting status conference).[1] In the Partial MSJ Ruling, the court also expressly declined to enter final judgment as to the claims at issue in the motion under Federal Rule of Civil Procedure 54(b). Partial MSJ Ruling at *17. Rather, in the Class Certification Ruling, the court set a January 9, 2026, joint status report deadline and January 16, 2026, status conference indicating that the court intends to address the question of final relief later. Class Certification Ruling at *15.

To be proper, a declaratory judgment must have preclusive effect. "Without preclusive effect, a declaratory judgment is little more than an advisory opinion." *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023); *see also Wells v. Johnson*, 150 F.4th 289, 301 (4th Cir. 2025) (stating that the only reason a proper declaratory judgment does not violate Article III's requirements is because it has preclusive effect between the parties); *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 (9th Cir. 2005). And preclusive

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[1] In other cases, this Court has contended that "declaratory relief was expressly extended [by the *Bautista* court] to the entire nationwide class, not merely the named petitioners." *See, e.g., Guillen v. Unknown Party*, No. CV-25-04501-PHX-SHD (JZB) (Doc. 5) at 3 (citing Class Certification Ruling at 14–15). The *Bautista* court did say that "[w]hen considering [the decision to certify a class under FRCP 23(b)(2)] with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *See* Class Certification Ruling at 14. However, the *Bautista* court never issued an order accordingly, either in the Class Certification Ruling, *see* Class Certification Ruling at 15, or anywhere else. The Partial MSJ Ruling granted declaratory relief only to the named Plaintiffs, so it cannot fairly be read to grant relief to the class. Indeed, the *Bautista* petitioners recently filed a motion requesting clarification of the Class Certification Ruling requesting that the court issue an order extending its relief to all class members. *Bautista*, 5:25-cv-1873-SSS-BFM (Doc. 87). Respondents do not know *why* the *Bautista* court declined to order declaratory relief for the class members, but it is clear that no such order was issued.

effect cannot be obtained without sufficient finality. *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015) (citing Restatement (Second) of Judgments § 27, p. 250 (1980), for the general rule that an issue must be determined by a "valid and final judgment" for preclusion to apply); *Luben Indus., Inc. v. United States*, 707 F.2d 1037, 1040 (9th Cir. 1983) (affirming district court decision not to apply preclusive effect to an interlocutory decision that "could not have been the subject of an appeal at the time"); Restatement (Second) of Judgments § 28, p. 273 (1980) (issue preclusion does not apply when the "party against whom preclusion is sought could not, as a matter of law, have obtained review of the judgment in the initial action"; *id.* at cmt. a ("[T]he availability of review for the correction of errors has become critical to the application of preclusion doctrine.").

Absent an entry of final judgment on the entire case, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment. The Partial MSJ Ruling does not operate as a "judgment" because it is not an appealable order and "does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." FRCP 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members.

D. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

Petitioner argues that his detention is unlawful because Respondents denied him a bond hearing, which Respondents did because of an immigration judge's finding that Respondent was categorically ineligible for release. Petitioner argues that denying him a bond hearing constitutes a violation of his due process rights. Respondents maintain that Petitioner is an "applicant for admission" who is "seeking admission" to the United States. Respondents argue that all such people must be detained for removal proceedings under 8 U.S.C. 1225(b)(2)(A) in most circumstances. *See* 8 U.S.C. § 1225(a)(3) ("All aliens . . . who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States *shall be inspected* by immigration officers.") (emphasis

added); 8 U.S.C. § 1225(a)(1) ("An alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission."); 8 U.S.C. § 1225(b)(2)(A) ("[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained").

For the foregoing reasons, Respondents respectfully request that this Court deny the Petition for a Writ of Habeas Corpus (Doc. 1).

RESPECTFULLY SUBMITTED December 15, 2025.

TIMOTHY COURCHAINE
United States Attorney
District of Arizona

s/ Brooks Chupp
BROOKS CHUPP
Assistant United States Attorney
Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/ M. Beickert
United States Attorney's Office