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12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
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12 Joaquin BELTRAN ORDUNO, *et al.*,

13 Petitioners,

14 v.

15 Kristi NOEM, Secretary, U.S.  
16 Department of Homeland Security, *et al.*,

17 Respondents.  
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Case No. 5:25-cv-3332-SSS-BFM

**PETITIONERS' REPLY TO  
RESPONDENTS' OPPOSITION  
TO EX PARTE APPLICATION  
FOR TEMPORARY  
RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE**

Hon. Sunshine S. Sykes  
United States District Court Judge

1           Petitioners hereby reply to Respondents’ opposition to the TRO application.  
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3           Dkt. 11. Petitioners limit their reply to Respondents’ arguments pertaining to 1)  
4           Fed.R.Civ.P. 23(b)(2) and 2) the argument that the declaratory judgment order in  
5           *Maldonado Bautista* is not a final judgment. *See Maldonado Bautista v. Santacruz*,  
6           No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal.  
7           Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,  
8           --- F. Supp. 3d ----, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Petitioners do  
9           not address the jurisdictional arguments made by Respondents which have been  
10           considered and rejected by this Court and by over two hundred other courts. *See*  
11           *Maldonado Bautista*, 2025 WL 3289861, at \*2.  
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14           Respondents argue that this petition should be “stayed or dismissed pending  
15           resolution of [*Maldonado*] *Bautista*, since the certification of a Rule 23(b)(2) class  
16           precludes individual suits (like this) for the same injunctive or declaratory relief.”  
17           Dkt. 11 at 8. Here, however, Petitioners are *not* seeking the same injunctive or  
18           declaratory relief as the Plaintiffs in *Maldonado Bautista*. As an initial matter, the  
19           *Maldonado Bautista* class did not seek class-wide injunctive relief.<sup>1</sup> The *Maldonado*  
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23           <sup>1</sup> In *Garland v. Aleman Gonzalez*, the Supreme Court interpreted 8 U.S.C. §  
24           1252(f)(1) to prohibit class-wide injunctive relief regarding certain immigration  
25           detention statutes like the ones at issue here. 596 U.S. 543 (2022). However, §  
26           1252(f)(1) does not bar other forms of relief, like class-wide declaratory relief. *See*,  
27           *e.g.*, *Biden v. Texas*, 597 U.S. 785, 800 (2022); *Al Otro Lado v. Exec. Off. For*  
28           *Immigr. Rev.*, 128 F. 4th 1102, 1123-24 (9th Cir. 2025); *Brito v. Garland*, 22 F.4th  
          240, 251-2 (1st Cir. 2021); *Texas v. United States*, 40 F.4th 205, 220 (5th Cir. 2022)  
          (per curiam).

1 *Bautista* Plaintiffs also did not seek habeas claims on behalf of the class, and thus,  
2 class members are not precluded from filing habeas petitions that assert their  
3 individual claims of unlawful detention or seek individual injunctions ordering bond  
4 hearings or release. Instead, the *Maldonado Bautista* declaratory judgment is binding  
5 in regard to its statutory analysis that has determined that Petitioners' detention falls  
6 under 8 U.S.C. § 1226(a), and therefore, Petitioners are eligible for release on bond.  
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9 The *Maldonado Bautista* declaratory judgment does not order habeas (or other  
10 injunctive) relief for class members, including Petitioners. See *Pride v. Correa*, 719  
11 F.3d 1130, 1133 (9th Cir. 2013) (when “the complainant is a member in a class action  
12 seeking the same relief” a court “may dismiss those portions of the complaint which  
13 duplicate the class action's allegations and prayer for relief” but “a district court may  
14 not ‘dismiss[ ] those allegations . . . which go beyond the allegations and relief prayed  
15 for in [the class action].” (quoting *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir.  
16 1979)).  
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20 Consequently, Respondents are simply wrong about the impact of the  
21 *Maldonado Bautista* declaratory judgment. Petitioners' habeas petition is not  
22 precluded by the *Maldonado Bautista* declaratory judgment because the nature of the  
23 relief granted there is different from what Petitioners now seek. “[I]t is black-letter  
24 law that preclusion ‘does not apply to extinguish the claim’ if ‘[t]he plaintiff was  
25 unable to . . . seek a certain remedy or form of relief in the first action because of . .  
26 . restrictions on [the court’s] authority to entertain . . . demands for multiple remedies  
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1 or forms of relief in a single action.” *Luna Gutierrez v. Noem*, No. CV 25-1766  
2 (SLS), 2025 WL 3496390, at \*14 n.15 (D.D.C. Dec. 5, 2025) (quoting Restatement  
3 (Second) of Judgments § 26(1)(c) (1982)); *see also* Wright & Miller, 18 Fed. Prac.  
4 & Proc. Juris. § 4412 (3d ed. Sept. 2025 Update) (“Claim preclusion is readily denied  
5 when the remedies sought in the second action could not have been sought in the first  
6 action. . . .”). *Maldonado Bautista* did not provide class-wide injunctive or habeas  
7 relief, so it cannot have any preclusive effect on Petitioners’ or other individual class  
8 members’ present or future cases for either injunctive or habeas relief challenging  
9 their unlawful detention.  
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13 A core purpose of Rule 23(b)(2) is to allow courts to issue an indivisible  
14 declaratory judgment that paves the way for follow-on individual proceedings  
15 seeking further (non-monetary) relief. *See* Advisory Committee Note (1966),  
16 Fed.R.Civ.P. 23 (“Declaratory relief ‘corresponds’ to injunctive relief when [it] . . .  
17 serves as a basis for later injunctive relief. The subdivision does not extend to cases  
18 in which the appropriate final relief relates exclusively or predominately to money  
19 damages.”); 2 William B. Rubenstein, *Newberg & Rubenstein on Class Actions* §  
20 4:31 (6th ed. Dec. 2025 Update) (same); *see also Powell v. McCormack*, 395 U.S.  
21 486, 499 (1969) (“A declaratory judgment can then be used as a predicate to further  
22 relief, including an injunction.”). Thus, it is not only permissive, but specifically  
23 contemplated by the Declaratory Judgment Act that a class-wide declaratory  
24 judgment may serve as the basis for a later injunction or habeas to give effect to the  
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1 declaratory judgment. *See United Specialty Ins. Co. v. Cole's Place, Inc.*, 936 F.3d  
2 386, 396 (6th Cir. 2019); *see also* 28 U.S.C. § 2202 (allowing for “[f]urther relief or  
3 proper relief based on a declaratory judgment or decree”).  
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5 Respondents also cite to *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975)  
6 for the proposition that *Maldonado Bautista*’s “class certification order is not a  
7 ‘declaratory judgment’ because a court cannot grant declaratory relief prior to the  
8 entry of a final judgment.” Dkt. 11 at 8. However, under the Federal Rules of Civil  
9 Procedure, “[c]laims can be separate for the purposes of Fed.R.Civ.P. 54(b). *In re*  
10 *Fifth Third Early Access Cash Advance Litig.*, 925 F.3d 265, 269 (6th Cir. 2019).  
11 Rule 54(b) “was adopted ‘specifically to avoid the possible injustice of delay[ing]  
12 judgment o[n] a distinctly separate claim [pending] adjudication of the entire case....  
13 The Rule thus aimed to augment, not diminish, appeal opportunity.’ *Gelboim v. Bank*  
14 *of Am. Corp.*, 574 U.S. 405, 409-10 (2015) (citations omitted).” *Jewel v. Nat’l Sec.*  
15 *Agency*, 810 F.3d 622, 628 (9th Cir. 2015). Further, final judgment is a distinct  
16 inquiry from whether *Maldonado Bautista* has now bound the parties before it,  
17 including through a certified nationwide class. *Cf. Goodheart Clothing Co. v. Laura*  
18 *Goodman Enters., Inc.*, 962 F.2d 268, 274 (2d Cir. 1992) (distinguishing issue  
19 preclusion between litigation in two courts from “the somewhat more flexible law-  
20 of-the-case doctrine”). Therefore, issue preclusion does not preclude Petitioners’  
21 habeas claims.  
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1           Furthermore, Petitioners remain detained, which is indisputably an injury  
2 sufficient to create a case or controversy distinct from the *Maldonado Bautista*  
3 declaratory judgment. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Even with the  
4 *Maldonado Bautista* orders, Petitioners cannot actually obtain a bond hearing absent  
5 an order from this Court because Respondents have taken the position that there is  
6 no binding judgment on immigration judges and instead have expressly directed  
7 those judges not to hold bond hearings for the *Maldonado Bautista* Bond Eligible  
8 Class members.  
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12           In certifying the class, *Maldonado Bautista* “extend[ed] the same declaratory  
13 relief granted to the [then putative Named Plaintiffs] to the Bond Eligible Class as a  
14 whole.” *Maldonado Bautista*, 2025 WL 3288403, at \*9. Accordingly, *Maldonado*  
15 *Bautista* held that Bond Eligible Class members are detained under 8 U.S.C. §  
16 1226(a), and thus may not be denied consideration for release on bond based on the  
17 Respondents’ view that § 1225(b)(2)(A) applies. *Maldonado Bautista*, 2025 WL  
18 3289861, at \*11. In short, the *Maldonado Bautista* declaratory judgment provides  
19 that Petitioners, as Bond Eligible Class Members, are necessarily detained under §  
20 1226(a).  
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1 For the foregoing reasons, Petitioners respectfully urge this Court to grant their  
2 request for a Temporary Restraining Order directing Respondents to release  
3 Petitioners or provide Petitioners with an individualized bond hearing before an  
4 immigration judge pursuant to 8 U.S.C. § 1226(a).  
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8 Dated: December 11, 2025

Respectfully submitted,

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**WORD COUNT CERTIFICATION**

The undersigned, counsel of record for Petitioners certifies that this Memo contains 1,189 words, which complies with the word limit of L.R. 11-6.1.

s/ Niels W. Frenzen

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