

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GUSTAVO MARTINEZ MENDEZ,
(A# )

Petitioner,

v.

U.S. ATTORNEY GENERAL PAMELA
BONDI, *et al.*,

Respondents.

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CIVIL NO. 4:25-cv-6062

**RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION TO DISMISS AND, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT**

The Government¹ hereby responds to Gustavo Martinez Mendez’s habeas petition and respectfully requests this Court deny his petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil Procedure 56.

First, Mr. Martinez Mendez failed to exhaust administrative remedies. This is enough, by itself, to deny his § 2241 petition. Second, Mr. Martinez Mendez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), based on the statute’s plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decisions in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) and *Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025). The class action ruling in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, is

¹ The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

neither binding nor applicable here, and Petitioner’s due process, Administrative Procedure Act, and Suspension Clause claims also fail.

Accordingly, this Court should deny Mr. Martinez Mendez’s petition and grant summary judgment for the Government.

I. BACKGROUND

Petitioner, Mr. Martinez Mendez, is a native and citizen of Mexico. Dkt. 1 at ¶¶ 1, 17. He entered the country in 1990 without inspection. Dkt. 1 at ¶ 1. He was arrested on November 15, 2025 following his arrest by U.S. Immigration and Customs Enforcement (“ICE”) and is currently at Joe Corley Processing Center in Conroe, Texas. Dkt. 1 at ¶¶ 1, 11.

ICE served Petitioner on December 20, 2025 with a Notice to Appear (“NTA”) charging him with removability pursuant to Immigration and Nationality Act (“INA”) section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Exh. 1. In the NTA, the examining immigration official denied Petitioner admission into the United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. *Id.* He has neither requested nor received a bond hearing.

II. ARGUMENT

For the reasons discussed below, including recent decisions from other courts in the Fifth Circuit and the Southern District of Texas, this Court should find that Petitioner is subject to mandatory detention.

A. PETITIONER FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES PRIOR TO FILING THE PETITION.

As a threshold matter, the Court should dismiss the habeas petition because Petitioner has not administratively exhausted his claims. In accord with the general rule that parties seeking relief against

federal agencies must exhaust administrative remedies prior to seeking judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies).

In this case, Petitioner has not had a hearing before an immigration judge and has thus failed to exhaust administrative remedies. *See Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (requiring an appeal in order to satisfy exhaustion requirement); *Abdoulaye Ba v. Director of Detroit Field Office, ICE*, No. 4:25-CV-02208, 2025 WL 2977712, at *2 (N.D. Ohio Oct. 22, 2025) (dismissing for failure to exhaust where petitioner sought “review of the application and interpretation of *Matter of Yajure Hurtado*” but had yet to appeal to the BIA).

B. PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225.

Petitioner’s habeas petition should be denied because he falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Petitioner is an alien present in the United States who entered the country unlawfully “without being admitted or paroled.” Exh. 1. As discussed below, an alien “present in the United States who has not been admitted,” is by definition “an applicant for admission.” 8 U.S.C. § 1225(a)(1). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted” (emphasis added)).

1. The Plain Language and Statutory Structure of the INA

“As usual, we start with the statutory text.” *Restaurant Law Center v. U.S. Dep’t of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

in 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 [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an “applicant for admission,” then they are subject to mandatory detention. The INA defines “applicant for admission” as “an alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). Here, Mr. Martinez Morales was not previously admitted into the United States, and is therefore subject to mandatory detention and is not eligible for a bond. *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025).

2. Persuasive Decisions from Other District Courts

Although the Government acknowledges that many district courts have ruled against the Government on the § 1225(b)(2) issue,² the Court should consider the recent decisions of several district courts that have adopted the Government’s and the BIA’s interpretation.

Most recently, another court in the Southern District of Texas decided *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025), in the Government’s favor. In denying the habeas petition and granting the Government’s motion for summary judgment, the *Cabanas* Court held “[t]he text of § 1225(b)(2)(A) supports the Government’s position.” The *Cabanas* Court reasoned that “[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn’t dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies.” *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government’s favor. The court also explained why it was not persuaded by the many other district court decisions deciding

² Other courts in the Southern District of Texas have issued decisions that reject the Government’s position. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. Oct. 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. Oct. 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. Oct. 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Tex. Oct. 8, 2025).

to the contrary. *Id.* at * 5; *see also Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025).³

The Government urges this Court to follow the reasoning of *Cabanas* and the Government's other proffered authorities.

C. THE *BAUTISTA* RULING HAS NO PRECLUSIVE EFFECT.

The class action ruling in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, is neither binding nor applicable here and presents no basis for granting the petition. First, the *Bautista* declaratory judgement is void with respect to petitioners and custodians outside the Central District of California because it was issued despite a lack of jurisdiction. Second, the Court should not

³ Although many courts originally rejected the Government's interpretation of § 1225(b)(2), there is a growing body of case law agreeing with the Government's position. *See Alonzo v. Noem*, -- F. Supp. 3d --, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (Joseph, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025) (Calabrese, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025) (Calabrese, J.), reconsideration denied, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra Jr., J.); *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (Bencivengo, J.); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025) (Blumenfeld Jr., J.); *Garcia v. Immigr. & Customs Enst't Dep't of Homeland Sec.*, No. 2:25-CV-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025) (Dudek, J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025) (Hendrix, J.); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), (Whitehurst, M.J.), report and recommendation adopted, 2025 WL 3113644 (W.D. La. Nov. 6, 2025) (Joseph, J.); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025) (Buescher, J.); *Mursalin v. Dedos, Warden*, No. 1:25-cv-00681, 2025 WL 3140824 (D.N.M. Nov. 10, 2025) (Strickland, M.J.); *Olalde v. Noem*, No. 1:25-cv-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (Divine, J.); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025) (Gorton, J.); *Ramos v. Lyons*, No. 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) (Wilson, J.); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (Ludwig, J.); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Suarez v. Noem*, No. 1:25-CV-00202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025) (Divine, J.); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.); *Valencia v. Chestnut*, -- F. Supp. 3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Vargas Lopez v. Trump*, -- F. Supp. 3d --, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (Buescher, J.).

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.

First, 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). Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998). Here, the vast majority of *Bautista* class members are confined *outside* of the Central District of California by immediate custodians who are also *outside* the Central District of California and have not been named in the lawsuit. Therefore, 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. *See Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Indeed, another federal district court in the Fifth Circuit has already held that the *Bautista* declaratory judgment does not have preclusive effect. *See Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918, at *14 (N.D. Tex. Dec. 19, 2025).

Second, 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 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. *See, e.g.*, 9 A.L.R.2d 984. In the circumstances here—and particularly 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. *Id.* (the “only one safe way of avoiding conflicting judgments” is to delay a decision “until the decision on appeal has been rendered”).

Beyond the two most serious problems with giving effect to the *Bautista* declaratory judgment in this case, additional reasons counsel strongly against doing so. The government should not be precluded from litigating the issue of the proper detention authority here, where the Petitioner was not a named party to the prior *Bautista* litigation, but instead merely a member of a fundamentally flawed nationwide class. In such a circumstance, applying preclusion against the government would allow the *Bautista* court’s decision to freeze the law for all district courts nationwide, and stymies development of the law. This is particularly so because the *Bautista* court could never grant complete habeas relief to all class members as a result of § 1252(f)(1)—instead, the *Bautista* class action was merely a vehicle for seeking to use the judgment in individual habeas matters such as this one. At minimum, the court should exercise its discretion to decline to employ offensive issue preclusion, as it does in cases where a non-party seeks to invoke preclusion against a private party. *See Syverson v. Int’l Bus. Machs. Corp.*, 472 F.3d 1072, 1078 (9th Cir. 2007) (citing *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979)). Indeed, it is doubtful that issue preclusion is ever appropriate in the habeas context. *See Hardwick v. Doolittle*, 558 F.2d 292, 295 (5th Cir. 1977) (“The doctrines of res judicate and collateral estoppel are not applicable in habeas proceedings.”).

In sum, the *Bautista* declaratory judgment has no preclusive effect on this case.

D. PETITIONER’S REMAINING CLAIMS ALSO FAIL

The Court should deny Plaintiff’s remaining claims concerning an alleged Due Process violation (Counts I, III) and the Administrative Procedure Act (APA) (Count IV).⁴ First, Petitioner fails to identify a Due Process violation. Procedural due process protects an individual’s right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, Petitioner’s Due Process claims are based on a denial of a bond hearing. Dkt. 1 at ¶¶ 76-77, 83. But the lack of a bond hearing does not establish a Due Process violation. *See Jimenez v. Thompson*, 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025). Moreover, because Petitioner is in full removal proceeding, he will be afforded numerous procedural protections in immigration court. Thus, there is no showing that his due process rights have been violated. Finally, the threshold question in assessing substantive due process is whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience. *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in Petitioner’s case acted in a manner that could be characterized as egregious or that would shock the conscience. Thus, the substantive due process claim set forth in the petition fails and should be denied.

Second, Petitioner cannot bring an APA claim in this habeas action. Petitioner’s APA claim is merely a repeat of the statutory arguments set forth in Count II. *See* Dkt. 1 at ¶¶ 78-81). The APA only provides a basis for relief when “there is no other adequate remedy” available. 5 U.S.C. § 704. Here, habeas itself provides an adequate remedy to address his statutory arguments regarding the availability of a bond. Thus, his APA claim fails. *See Trump v. J.G.G.*, 604 U.S. at 674 (2025)

⁴ Additionally, Petitioner’s claims (Count V) under the United States Constitution’s Suspension Clause (Article I, Section 9) are premature because this alien is not yet subject to a final order of removal.

(Kavanaugh, J., concurring) (noting that the availability of habeas relief constitutes an “adequate remedy” barring suit under the APA).

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court deny Petitioner’s request for habeas relief and grant the instant motion.

Dated: January 15, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on January 15, 2026, the foregoing was filed and served on all attorneys of record via the District's ECF system.

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