UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILMER GARCIA GUERRERO,

Petitioner,

v. Case No. 25-cv-1975

DALE J. SCHMIDT,

Respondent.

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

In accordance with the Court's order dated December 14, 2025 (ECF 4), the United States, appearing on behalf of respondent Dale Schmidt as an interested party and through the undersigned counsel, hereby answers the Petition for Writ of Habeas Corpus (ECF 1) ("Petition") filed by the petitioner, Wilmer Garcia Guerrero ("Petitioner").[1]

INTRODUCTION

Petitioner Wilmer Garcia Guerrero is a citizen of Venezuela and Columbia who has never been legally admitted to the United States but has lived here for about four years. The Department of Homeland Security (DHS) arrested Petitioner and, currently, he is detained at the Dodge County Jail in Juneau, Wisconsin during the administrative

[1] The United States Attorney's Office does not formally represent Petitioner's jail custodians; however, counsel for the custodians have authorized the undersigned to state that respondent joins in this answer.

removal process. (ECF 1 at ¶ 1.) He has been charged with entering the United States without inspection. (*Id. at* ¶ 56.)

Pursuant to the provisions of 8 U.S.C. § 1225(b)(2), Petitioner has not been released on conditional parole or bond since being placed into administrative removal proceedings. Petitioner now seeks habeas relief from detention, alleging that 8 U.S.C. § 1225(b)(2)—providing for mandatory detention—is inapplicable to foreign nationals who entered the United States without inspection and resided in this country for a period. (*Id.* at ¶ 9.) Instead, Petitioner alleges that 8 U.S.C. § 1226(a), which generally entitles a foreign national to a bond hearing at the outset of their detention, is applicable. (*Id.*)

The Government's position is that, because he was never lawfully admitted into the United States, Petitioner meets the Immigration and Nationality Act's (INA) definition of an "applicant for admission," 8 U.S.C. § 1225(a)(1), and therefore his detention is mandatory under 8 U.S.C. § 1225(b)(2)(A). Because Petitioner meets the unambiguous statutory definition of an "applicant for admission"—and because such treatment effectuates Congress's policy choices in amending the INA in 1996—8 U.S.C. § 1225(b)(2)(A) governs his detention. Therefore, Petitioner's detention pending resolution of his immigration proceedings is mandatory and does not violate his due process rights, and Petitioner is not entitled to be released. In addition, the district's recent decision and partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, has no preclusive effect in these proceedings.

For these reasons, as further explained below, Respondents respectfully ask that the Court deny the Petition and dismiss this action with prejudice.

BACKGROUND

I. Factual and Procedural Background

Petitioner acknowledges that he is a citizen of both Venezuela and Colombia, and that he entered the United States on April 4, 2022 (ECF 1 at ¶¶ 23, 53.) During a routine check-in with U.S. Immigration and Customs Enforcement ("ICE") personnel in Milwaukee, Wisconsin on October 16, 2025, Petitioner was arrested and placed in detention. (*Id.* ¶¶ 54, 58.) On this same date, Petitioner was served with a Notice to Appear ("NTA") for removal proceedings before the Chicago Immigration Court, alleging that he was an alien present in the United States without being admitted or paroled in violation of INA §212(a)(6)(A)(i). (*Id.* ¶ 56.) On December 11, 2025, Petitioner's request for a bond redetermination was denied, with the Immigration Judge finding that the court lacked authority to grant such a request under 8 U.S.C. § 1225(b)(2)(A) and noting the pending *Maldonado Bautista* class action lawsuit. (*Id.* ¶ 59, ECF 1-8, at p. 1.)

Currently, Petitioner has not filed any applications for relief with the Chicago Immigration Court; he is scheduled for a Master Calendar Hearing before the Immigration Judge on January 7, 2026. Petitioner filed his petition for writ of habeas corpus on December 16, 2025. (ECF 1.)

II. Legal Background

All foreign nationals seeking admission into the United States must be inspected by immigration officials. 8 U.S.C. § 1225(a)(3). Foreign nationals who are "present in the United States without being admitted or paroled" are deemed

"inadmissible" and subject to removal from the country. 8 U.S.C. § 1182(a)(6)(A)(i). Immigration officials are authorized to arrest foreign nationals who are in the country illegally and detain them during removal proceedings. *See Abel v. United States*, 362 U.S. 217, 232–37 (1960) (noting the "impressive historical evidence of acceptance of the validity of statutes providing for administrative deportation arrest from almost the beginning of the Nation"); *see also Denmore v. Kim*, 538 U.S. 510, 523 (2003) (explaining that detention during removal proceedings "is a constitutionally valid aspect of the process").

Congress has enacted a statutory framework for the civil detention of foreign nationals during the administrative removal process under the INA. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The INA establishes rules governing when certain foreign nationals may be detained or removed, with different detention provisions applying to different categories of foreign nationals. *See id.*

a. Applicants for Admission

The detention and removal of "applicants for admission" is governed by 8 U.S.C. § 1225. This section defines an "applicant for admission" as any "alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1) (emphasis added). The INA defines "admission" and "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." *Id.* at § 1101(a)(13)(A). To have been "admitted" to the United States therefore requires that the foreign national must have lawfully entered the country "after

inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). An "applicant for admission" under 8 U.S.C. § 1225 is therefore a foreign national who either is either present in the United States who has not lawfully entered the country or one who is arriving. *See Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (a foreign national "who tries to enter the country illegally is treated as an 'applicant for admission'"). As explained by 8 U.S.C. § 1225(a)(3), all applicants for admission are subject to inspection by immigration officers to determine if they are admissible.

The Supreme Court has explained that "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(1) applies to aliens who are "determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation," while section 1225(b)(2) "is broader" and "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Ibid.*

Generally speaking, applicants for admission who fall under 8 U.S.C. § 1225(b)(1) are subject to expedited removal proceedings and "shall be detained" until removed (or until the end of asylum or credible-fear proceedings). 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV). With respect to applicants for admission subject to 8 U.S.C. § 1225(b)(2)'s catchall provision, if an immigration officer determines that they are "not clearly and beyond a doubt entitled to be admitted" then they "shall be detained" during removal proceedings. 8 U.S.C. § 1225(b)(2)(A). None of the provisions of 8 U.S.C. § 1225 provide a bond process whereby applicants for admission may be released pending resolution of their removal proceedings, so detention is mandatory. *See Jennings*, 583 U.S. at 302 ("In sum,

§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.").

b. Other Removable Foreign Nationals

The INA also provides procedures for the arrest, detention, and removal of foreign nationals who do not meet the criteria of an "applicant for admission." Section 1226 is not limited to applicants for admission, but instead, broadly applies to foreign nationals who have been admitted but are now pending removal decisions. *See* 8 U.S.C. § 1226.

Section 1226 also provides procedures for the detention of these individuals. *Id.* However, immigration officials are expressly authorized to release them on bond pending the adjudication of their removal proceedings. 8 U.S.C. § 1226(a)(2)(A). DHS regulations provide for the bonded release of foreign nationals falling under this provision if they "would not pose a danger to property or persons" and are "likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). In sum, Section 1225(b) governs the detention of "applicants for admission" – which Congress has defined to include any foreign national "present in the United States who has not been admitted" – while Section 1226(a) governs the detention of foreign nationals who have been previously admitted but are subject to removal proceedings. Section 1225(b) does not provide for release on bond during the removal process, while Section 1226(a) does.

LEGAL STANDARD

A petition for a writ of habeas corpus challenges the legality or constitutionality of the Government's restraint or imprisonment of the petitioner. 28 U.S.C. § 2241.

A petitioner bears the burden to demonstrate that his detention is unlawful. *Walker v. Johnston*, 312 U.S. 275, 268 (1941).

When reviewing a habeas petition, the court may consider affidavits and documentary evidence, such as records from any underlying proceeding. *Amponsah v. Beth*, No. 18-cv-199, 2018 WL 2944546, at *2 (E.D. Wis. June 12, 2018) (citing 28 U.S.C. §§ 2246, 2247). The court is not required to hold an evidentiary hearing when the petition and answer present only issues of law. *Toe v. Schmidt*, No. 24-cv-13, 2024 WL 493289, at *2 (E.D. Wis. Jan. 18, 2024) (citing 28 U.S.C. § 2243).

ARGUMENT

The plain text of the INA states that a foreign national in the United States is an "applicant for admission" until they are admitted into the United States by an immigration officer. 8 U.S.C. § 1225(a)(1). Section 1225 is the statutory provision that governs the processes for arresting, detaining, and removing applicants for admission. And the statute says that an "applicant for admission ... shall be detained" pending removal proceedings "if 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).

Nowhere in his Petition does Petitioner allege he has ever been lawfully admitted into the United States. Indeed, Petitioner acknowledges that he lacks any legal status in the United States. And Petitioner is obviously present in the United States, as he was arrested by immigration officers in Milwaukee, Wisconsin and remains detained. Thus,

Petitioner is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

Petitioner asserts that 8 U.S.C. § 1225 applies to people arriving at U.S. borders and ports of entry. If this is correct, an undocumented immigrant who evades detection upon arrival in the United States and travels into the interior of the country is no longer an "applicant for admission" subject to mandatory detention. But the statute defines that term to include any foreign national "present in the United States who has not been admitted or who arrives in the United States," with no temporal or geographic limitations. 8 U.S.C. § 1225(a)(1) (emphasis added). While judges in this district have split on their interpretations of the applicability of Sections 1225 and 1226 to unadmitted foreign nationals present in the United States, *see infra*, only one interpretation of the INA is supported by the statutory text and the legislative history.

I. No Violation of the INA

Respondent relies on the plain text of the INA, which is further supported by the relevant legislative history. The statutory text defines foreign nationals who have not been admitted to the United States, but who are physically present inside the United States, as "applicants for admission," 8 U.S.C. § 1225(a)(1), regardless of extraneous factors such as proximity to the border, length of time present, or subjective intent to apply for admission. And it mandates that applicants for admission "shall be detained" pending removal proceedings (without the potential for release on bond) if an immigration officer determines that the applicant cannot show that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). This is exactly what

Congress intended when it passed the Illegal Immigration Reform and Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-546, 3009-579 (IIRIRA), amending the INA.

For a foreign national to be "admitted" into the United States, they must have lawfully entered the country "after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Here, it is undisputed that Petitioner has never been inspected or authorized by an immigration officer and, therefore, has not been "admitted" into the United States. As a result, Petitioner's presence in the United States as an unadmitted foreign national makes him an "applicant for admission" subject to Section 1225. Under any definition of the phrase, Petitioner is thus "an alien seeking admission" to the United States and subject to § 1225(b)(2)(A).

In this case, Petitioner has been placed in full removal proceedings, as opposed to expedited proceedings, where he will receive the benefits of the procedures (motions, hearings, testimony, evidence, and appeals) provided in 8 U.S.C. § 1229a. Thus, the applicable statutory provision is 8 U.S.C. § 1225(b)(2)(A), which states that an applicant for admission "shall be detained" during removal proceedings if an immigration officer determines that the "alien seeking admission is not clearly and beyond a doubt entitled to be admitted." Petitioner cannot demonstrate to an immigration officer that he is "clearly and beyond a doubt entitled to be admitted" because he does not deny that he is present in the United States without having been admitted or paroled and is, therefore, inadmissible per 8 U.S.C. §§ 1182(a)(6) and (a)(7)(A)(i)(I), such that his detention is mandatory. 8 U.S.C. § 1225(b)(2)(A).

Petitioner points to prior agency practice of applying § 1226(a) to foreign nationals like himself but that argument is unpersuasive. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the plain language of the statute and *not* prior practice controls. *cf. Yajure-Hurtado*, 29 I. & N. Dec. at 225–26. *Loper Bright* recognized that agencies often change precedents and "correct [their] own mistakes." 603 U.S. at 411 (overturning *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)).

Moreover, Petitioner's attempt to graft geographic and/or temporal limitations onto the definition of "applicants for admission" provided in 8 U.S.C. § 1225(a)(1) seeks to override Congress's deliberate legislative choice in passing the IIRIRA and restore the former statutory regime that Congress determined was unacceptable. *Cf. Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (explaining that Congress's addition of 8 U.S.C. § 1225(a)(1) "ensures that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an 'applicant for admission'"). Under the former statutory regime, foreign nationals who had lawfully appeared at a port of entry for inspection but were deemed inadmissible were detained and ineligible for release on bond, while those who surreptitiously entered the country without inspection were entitled to request release on bond. *See Matter of Yajure Hurtado*, 29 I.&N. Dec. 216, 2025 WL 2674169, at *6–8 (BIA Sept. 5, 2025) (discussing statutory history).

This Court recently addressed a substantively identical case in *Cirrus Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025), *appeal filed*, Nov. 25, 2025, which should be followed here. Like this case, the petitioner in *Cirrus Rojas* was "an

unregistered alien and citizen of Mexico who has lived in the United States without authorization for [a number] of years." *Id.* at *1. The petitioner in *Cirrus Rojas* was arrested pursuant to an administrative arrest warrant this past summer, placed into removal proceedings, and ordered released on bond by an immigration judge, which DHS appealed, triggering the automatic stay of 8 C.F.R. § 1003.19(i)(2). *Ibid.* The petitioner in *Cirrus Rojas* filed a habeas petition that argued that his detention pending his removal proceedings was governed by 8 U.S.C. § 1226 rather than 8 U.S.C. § 1225 and, thus, the immigration judge's bond order was proper under 8 U.S.C. § 1226(a)(2) and DHS's continued detention of him was unlawful. *Id.* at *7.

This Court conducted a thorough analysis of the text of 8 U.S.C. § 1225 and 8 U.S.C. § 1226, walking through the various provisions of the respective statutes. *Id.* at *5–10. While the Court acknowledged that "the statutory language and interplay between [Section 1225 and Section 1226] could certainly be more clear," it concluded "[b]ased on the text" that the respondents' position was correct and held that 8 U.S.C. § 1225(b)(2)(A) applies to unadmitted foreign nationals found inside the United States and mandates their detention throughout the pendency of removal proceedings. *Id.* at *8. After carefully reviewing the language of 8 U.S.C. § 1225(a)(1) and considering the INA as a whole, the Court determined that it could "not find a statutory basis to exclude [the petitioner] from the definition of 'applicant for admission' in Section 1225(a)(1)." *Ibid. See also Ugarte-Arenas v. Olson*, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.) (following *Cirrus Rojas* and ruling that petitioner was "applicant for admission" under Section 1225 where petitioner had lived in United States without authorization for a number of years).

Finally, this Court rejected the argument that the historical practice of federal immigration agencies permitting unadmitted foreign nationals living in the United States to seek release on bond under 8 U.S.C. § 1226(a)(2) should override the plain text of 8 U.S.C. § 1225. *See Cirrus Rojas*, 2025 WL 3033967, at *9. As this Court noted, "[p]rior administrations' generous interpretations of these laws, while relevant to understanding that text, do not and cannot rewrite it." *Ibid.* The Supreme Court has recently explained that while "the longstanding practice of the government—like any other interpretive aid—can inform a court's determination of what the law is... the interpretation of the meaning of statutes, as applied to justiciable controversies, [i]s exclusively a judicial function." *Loper Bright*, 603 U.S. at 386–87 (internal punctuation and citations omitted).[2]

Respondents acknowledge that a number of federal district courts have addressed this same issue recently and reached the opposite conclusion—that the detention of unadmitted foreign nationals living in the United States is governed by 8 U.S.C. § 1226 rather than 8 U.S.C. § 1225. This Court recently so held in *Ramirez Valverde v. Olson*, No. 25-cv-1502-bbc, 2025 WL 3022700 (E.D. Wis. Oct. 29, 2025) (Conway, J.), *Rivas-Alonso v. Olson*, 2025 WL 3240928 (E.D. Wis. Nov. 20, 2025)(Adelman, J.), and *Lopez De La Cruz v. Schmidt*, Case No. 25-cv-1562, at Doc. 18 (E.D. Wis. Nov. 19, 2025)(Adelman, J.)

[2] Cases from other districts supporting the Government's position include *Cheema v. Swearingen*, Case No. 25-cv-609, Doc. 17 (S.D. Ind. December 16, 2025); *Oliveira v. Patterson*, No. 25-cv-01463, (W.L.A. Nov. 4, 2025); *Sandoval v. Acuna*, No. 25-cv-01467, (W.L.A. Oct. 31, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351 at *4–9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4–5 (S.D. Cal. Sept. 24, 2025).

Respectfully, Respondents submit that this line of nonbinding decisions is unpersuasive for the reasons explained by this Court in *Cirrus Rojas* and *Ugarte Arenas*.[3]

II. No Due Process Violation

Beyond alleging that his continuing detention violates the INA, Petitioner alleges that it violates his due process rights under the Fifth Amendment to the United States Constitution. As noted above, Congress has specifically authorized immigration officers to arrest and detain foreign nationals for purposes of removing them from the country, and such procedures have consistently withstood due process challenges. *See, e.g., Jennings*, 583 U.S. at 323 ("This Court has never held that detention during removal proceedings is unconstitutional. To the contrary, this Court has repeatedly recognized the constitutionality of that practice.") (Thomas, J., concurring in part and concurring in the judgment) (citations omitted); *see also Demmore*, 538 U.S. at 523 ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings. At the same time, however, this Court has recognized detention during

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[3] On December 11, 2025, a Seventh Circuit Court of Appeals motions panel issued *Castanon-Nava v. U.S. Dep't of Homeland Security*, No. 25-3050, ---F.4th---, 2025 WL 3552514 (7th Cir. 2025). In that decision, the panel considered whether Section 1225(b)(2) "covers any noncitizen who is unlawfully already in the United States as well as those who present themselves at its border." *Id.* at *8. The panel tentatively concluded that the Government is "not likely to succeed on the merits" of its interpretation of 8 U.S.C. § 1225(b)(2)(A). *Id.* at *8-10. However, that decision is not binding precedent: "Decisions by motions panels are summary in character, made often on a scanty record, and not entitled to the weight of a decision made after plenary submission." *Johnson v. Burken*, 930 F.2d 1202, 1205 (7th Cir. 1991). Indeed, *Castanon-Nava* repeatedly emphasized the tentative nature of its conclusions. 2025 WL 3552514, at *8-10. Therefore, *Castanon-Nava* is not controlling. And for the reasons set forth in this response and the Respondent's Opposition to the Emergency Motion for Release Pending Appeal in *Rojas v. Olson*, Appeal No. 25-3217, at Doc. 13 (7th Cir. De. 19, 2025), the Seventh Circuit's tentative conclusions should not be found persuasive.

deportation proceedings as a constitutionally valid aspect of the deportation process."); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (explaining that deportation proceedings "would be vain if those accused could not be held in custody pending the inquiry into their true character").

Petitioner remains in removal proceedings, which continue to progress. Petitioner's next immigration hearing is set for January 7, 2026. (ECF. 1) Given this procedural posture, Petitioner's detention has neither been prolonged, nor indefinite, and he cannot demonstrate that there exists "no reasonable likelihood of his removal in the foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 702 (2001). As the Court summarized in *Cirrus Rojas*:

> Given the caselaw and the well-defined procedures governing (and limiting) Cirrus Rojas's detention, the Court rejects his due process challenge. Consistent with *Zadvydas* and *Denmore*, Cirrus Rojas has a recognizable liberty interest in connection with his pre-removal detention. But as *Denmore* held, and *Parra* explains, that liberty interest is limited. Cirrus Rojas is an alien who was found in the United States without authorization and is subject to removal proceedings. Consistent with federal law, he is being provided with the opportunity to oppose removal and using that opportunity to pursue an asylum claim. As explained in *Parra*, Cirrus Rojas's liberty interest is limited, and he has the key to his release in his own pocket; he can choose to accept removal to his homeland under Section 1229a.

Cirrus Rojas, 2025 WL 3033967, at *12 (citing *Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999)).

Petitioner has not submitted any evidence that he is being detained for any purpose beyond the resolution of his removal proceedings. Petitioner is receiving the

process to which he is due through his removal proceedings under 8 U.S.C. § 1229a(b)(4). The United States has "a powerful interest in maintaining the detention in order to ensure that removal actually occurs." *Parra*, 172 F.3d at 958. The Petition fails to show that the deprivation of Petitioner's liberty—as an unadmitted foreign national with no status in the United States—while he awaits the conclusion of his removal proceedings violates due process. *Demmore*, 538 U.S. at 531 (no due process violation in detaining foreign national pending removal proceedings); *Parra*, 172 F.3d at 958 ("The private interest here is not liberty in the abstract, but liberty *in the United States* by someone no longer entitled to remain in this country but eligible to live at liberty in his native land[.]"). The Court should deny any relief sought pursuant to an argument that Petitioner's right to due process has been violated.

III. No preclusive effect

Petitioner further seeks habeas corpus relief based on the court's partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. Yet the *Bautista* ruling is neither binding nor applicable to a habeas case pending in the Eastern District of Wisconsin.

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.[4] The Supreme

[4] 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

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. "Failure to name the petitioner's custodian as a respondent deprives federal courts of personal jurisdiction" needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. 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. *Padilla*, 542 U.S. at 442-43. 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).

As such, the *Bautista* court's declaratory judgment purporting to grant relief that at its core sounds in habeas is a legal nullity outside that District and therefore cannot be binding and preclusive against a party over which it lacked jurisdiction. *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990).[5] Here, like the vast majority of *Bautista* class members, Petitioner is confined *outside* of the Central District of California by

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and thus must be brought in habeas." *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal quotations omitted).

[5] 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, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025), ECF No. 12.

immediate custodians who are also *outside* the Central District of California and have not been named in the lawsuit. At the time of filing this habeas petition, Petitioner was detained at Dodge County Detention Center in Waupun, Wisconsin, which is outside this judicial district. Petitioner's immediate custodian is Mr. Dale J. Schmidt, Sheriff of Dodge County, Wisconsin, and that individual was not a party in the Central District of California; subjecting the immediate custodian to the judgment of the Central District of California would be inconsistent with the immediate custodian rule. *Padilla*, 542 U.S. at 439-40; *see also Doe v. Garland*, 109 F.4th 1188, 1196 (9th Cir. 2024) (holding immediate custodian and not supervisory ICE Field Office Director should be named in habeas petition).

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.

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. 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). "Government

litigation frequently involves legal questions of substantial public importance." *Id.* Thus, although the Supreme Court has held the federal government "may be estopped . . . from relitigating a question" when "the parties to the lawsuits *are the same*," *id.* at 163, 164 (emphasis added), it is not so precluded in cases such as this one where the party seeking to offensively use preclusion was not a party to the initial litigation, *see id.* at 162. This is because allowing "nonmutual collateral estoppel against the government . . . . would substantially thwart the development of important questions of law by freezing the first final decision rendered on a particular legal issue." *United States v. Mendoza*, 464 U.S. 154, 160 (1984).

It is also doubtful that issue preclusion is ever appropriate in the habeas context. For instance, in *Griffin v. Gomez*, the court 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.") (quoting Sanders v. United States, 373 U.S. 1, 8 (1963)); *see also Hardwick v. Doolittle*, 558 F.2d 292, 295 (5th Cir. 1977) ("The doctrines of res judicata and collateral estoppel are not applicable in habeas proceedings."); *Hierens v. Mizell*, 729 F.2d 449, 456 (7th Cir. 1984) ("a decision in another case is not res judicata as to a habeas proceeding."). The court should also decline to give the *Bautista* declaratory judgment preclusive effect given the

existence of several inconsistent judgments from district courts around the country, suggesting that reliance on the adverse judgment in *Bautista* would be unfair.

CONCLUSION

For all these reasons, Respondent respectfully requests that the Court deny Petitioner's habeas petition, grant him judgment as a matter of law, and dismiss this case with prejudice.

Dated at Milwaukee, Wisconsin this 23rd day of December 2025.

Respectfully submitted,

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