United States District Court
Western District of Texas
El Paso Division

Jose Angel Medina Garcia, Petitioner, v. Marisa Flores, Acting Director, El Paso Field Office, U.S. Immigration & Customs Enforcement, Enforcement & Removal operations et. al. Respondents.	No. 3:25-CV-00695-LS

Federal Respondents' Response to Petition for Writ of Habeas Corpus

Federal[1] Respondents provide this response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief he seeks, including attorney's fees under the Equal Access to Justice Act ("EAJA")[2], and this Court should deny this habeas petition without the need for an evidentiary hearing.

I. Introduction

ICE has lawful authority to detain Petitioner on a mandatory basis as an applicant for admission (also known as "seeking admission") pending his "full" removal proceedings before an immigration judge under 8 U.S.C. § 1229a.

II. Relevant Facts and Procedural History

Petitioner is a native and citizen of Mexico who evaded detection by immigration authorities for over twenty-four years after unlawfully entering the country. ECF No. 1 at ¶ 21. Petitioner concedes that he was placed into removal proceedings. *Id.* ¶ 50. Petitioner is currently

[1] The Department of Justice represents only federal employees in this action.

[2] *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

scheduled for a Master Hearing on January 13, 2026.[3]

III. Argument

The only relief available to Petitioner through habeas is release from custody. 28 U.S.C. § 2241; *DHS v. Thuraissigiam*, 591 U.S. 103, 118–19 (2020).

A. Mandatory Detention and the "Catchall" Provision

There is no disagreement Petitioner is in "full" removal proceedings under 8 U.S.C. § 1229a. In "full" removal proceedings, there are two groups of aliens: (1) those charged with never having been admitted to the United States (*i.e.*, inadmissible under § 1182); and (2) those who were once admitted but no longer have permission to remain (*i.e.*, removable under § 1227). 8 U.S.C. § 1229a(e)(2). As outlined below, Congress intended for the inadmissible aliens in this context to be detained on a mandatory basis under § 1225(b), while the deportable/removable aliens are to be detained under § 1226(a), which allows them to seek bond. This interpretation is consistent with the allocation of the burden of proof during removal proceedings. If the NTA charges the alien under § 1182 as inadmissible, the burden lies on the alien to prove admissibility or prior lawful admission. 8 U.S.C. § 1229a(c)(2). On the other hand, the burden is on the government to establish deportability for aliens charged under § 1227. *Id.* § 1229a(c)(3).

Inadmissible aliens are further categorized as: (1) arriving alien; (2) present without admission and subject to either expedited or full removal proceedings; and (3) present without admission and subject only to full removal proceedings. *See* 8 U.S.C. § 1225(b). The third category listed here is referred to as the "catchall" provision. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); 8 U.S.C. § 1225(b)(2)(A). Petitioner here is described under the catchall provision.

B. Start with the Statutory Text: § 1225(a)(1) Unambiguously Defines an Applicant for Admission as an Alien Present in the United States Without Having Been Admitted.

[3] *See* Automated Case Information (last accessed January 5, 2026).

The statutory language is unambiguous: "An alien present in the United States who has not been admitted ... shall be deemed ... an applicant for admission." 8 U.S.C. § 1225(a)(1); *Thuraissigiam*, 591 U.S. at 109; *Jennings*, 583 U.S. 288; *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). Even though DHS encountered Petitioner within the interior of the United States, he is nonetheless an applicant for admission who DHS has determined through the issuance of an NTA is an alien ***seeking admission*** who is not clearly and beyond a doubt entitled to be admitted to the United States. *See* 8 U.S.C. §§ 1225(b)(2)(A); 1229a (emphasis added). In other words, the INA mandates that such aliens "shall be detained for a proceeding under section 1229a ["full" removal proceedings]...." 8 U.S.C. § 1225(b)(2)(A).

Given the plain language of § 1225(a)(1), Petitioner cannot plausibly argue that he is not an applicant for admission. Nor can Petitioner plausibly challenge a DHS's officer's determination that he is "seeking admission" simply because he is not currently at the border requesting to come into the United States. Evasion from detection did not bestow him with the benefit of additional process beyond what the statute already affords him: "full" removal proceedings.

The detention statute pertaining to Petitioner plainly refers to "**an applicant for admission**" ... who *DHS determines* is "an alien **seeking admission**" who "is not clearly and beyond a doubt **entitled to be admitted**...." 8 U.S.C. § 1225(b)(2)(A). If Petitioner, who has never been "admitted" after inspection by an immigration officer, is not "seeking admission," then the logical assumption is that he must be seeking his immediate release *via removal from the United States*. Removal, however, is clearly not what Petitioner requests in this habeas petition. He requests release from custody so that he can seek to remain in the United States; in other words, he is "seeking admission."

Under the plain language of this statute, Petitioner (1) has not been "admitted" to the United States after inspection by an immigration officer [§§ 1182(a)(6), 1101(a)(13)]; (2) is an "applicant for admission" [§ 1225(a)(1)];[4] and (3) is subject to detention during "full" removal proceedings as an alien who DHS has determined to be seeking "admission" and who is not clearly and beyond a doubt entitled to be "admitted" [§ 1225(b)(2)(A)].

C. Congress Intended to Mandate Detention of All Applicants for Admission, Not Just Those Who Presented for Inspection at a Designated Port of Entry.

Congress, in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), corrected an inequity in the prior law by substituting the term "admission" for "entry." *See Chavez*, 2025 WL 2730228, at *4 (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020); *United States v. Gambino-Ruiz*, 91 F.4th 918, 990 (9th Cir. 2024)). Under the prior version of the INA, aliens who lawfully presented themselves for inspection were not entitled to seek bond, whereas aliens who "entered" the country after successfully evading inspection were entitled to seek bond. *Id.* DHS's current interpretation of the mandatory nature of detention for aliens subjected to the "catchall" provision of § 1225 furthers that Congressional intent. *Id.* Petitioner's interpretation would repeal the statutory fix that Congress made in IIRIRA. *Id.*

1. Section 1226(a) Is Not Superfluous, Nor Does It Entitle Release or Mandate a Bond Hearing.

That does not leave § 1226(a) meaningless. Section 1226(a) applies to aliens within the interior of the United States who were once lawfully admitted but are now subject to removal from the United States under 8 U.S.C. § 1227(a). *See Jennings*, 583 U.S. at 287–88. As described, *supra*,

[4] Nothing in § 1101(a)(4) contradicts this definition. Section 1101(a)(4) simply differentiates between an alien seeking admission to the United States at entry (with DHS) versus an alien by applying for a visa (with the State Department) with which to eventually seek admission at entry into the United States.

aliens can be charged in removal proceedings as removable under § 1227(a) in certain circumstances, such as, for example, overstaying a visa or committing specific criminal offenses after having been lawfully admitted. Section 1226(a) allows DHS to arrest and detain an alien during removal proceedings and release them on bond, but it does not mandate that all aliens found within the interior of the United States be processed in this manner. 8 U.S.C. § 1226(a).

2. The Laken Riley Act Is Not Superfluous.

Nor does this interpretation render the Laken Riley Act superfluous simply because it appears redundant. Indeed, "redundancies are common in statutory drafting … redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute…" *Barton v. Barr*, 590 U.S. 222, 229 (2020). Even Justice Scalia acknowledged in *Reading Law* that "Sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance, either out of a flawed sense of style or to engage in the ill-conceived but lamentably common belt-and-suspenders approach." ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS (2012), 176–77 (emphasis added). Moreover, as the BIA explains, the statutes at issue in this case were:

> … implemented at different times and intended to address different issues. The INA is a complex set of legal provisions created at different times and modified over a series of years. Where these provisions impact one another, they cannot be read in a vacuum.

Matter of Yajure Hurtado, 29 I&N Dec. 216, *227 (BIA 2025).

D. Petitioner Does Not Overcome Jurisdictional Hurdles.

1. Initial Decision to Commence Removal Proceedings

Where an alien challenges ICE's decision to detain him and seek a removal order against him, or if an alien challenges any part of the process by which his removability will be determined, the court lacks jurisdiction to review that challenge. 8 U.S.C. § 1252(g); *see also Jennings*, 583

U.S. at 294–95. In *Jennings*, the Court did not find that the claims were barred, because unlike Petitioner here, the aliens in that case were challenging their continued and allegedly prolonged detention during removal proceedings. *Id.* Here, however, Petitioner is challenging the decision to detain him in the first place, which arises directly from the decision to commence and/or adjudicate removal proceedings against him. *See id.* This is exactly the type of challenge *Jennings* referenced as unreviewable. *Id.*

2. Review of Any Decision Regarding the Admission of an Alien, Including Questions of Law and Fact, or Interpretation and Application of Constitutional and Statutory Provisions, Must Be Raised Before an Immigration Judge in Removal Proceedings, Reviewable Only by the Circuit Court After a Final Order of Removal.

As briefly argued above, even if the alien claims he is not appropriately categorized as an applicant for admission subject to § 1225(b), such a challenge must be raised before an immigration judge in removal proceedings. 8 U.S.C. § 1225(b)(4). This is consistent with the channeling provision at 8 U.S.C. § 1252(b)(9), which mandates that judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action or proceeding brought to remove an alien from the United States must be reviewed by the court of appeals upon review of a final order of removal. *See SQDC v. Bondi*, No. 25–3348 (PAM/DLM), 2025 WL2617973 (D. Minn. Sept. 9, 2025).

E. On Its Face, and As Applied to Petitioner, § 1225(b)(2)(A) Comports with Due Process.

Section 1225 does not provide for a bond hearing. The Supreme Court upheld the facial constitutionality of § 1225(b) in *Thuraissigiam*, 591 U.S. at 140 (finding that applicants for admission are entitled only to the protections set forth by statute and that "the Due Process Clause provides nothing more"). An "expectation of receiving process is not, without more, a liberty interest protected by the Due Process Clause." *Olim v. Wakinekona*, 461 U.S. 238, 250 n.12 (1983).

That the alien in *Thuraissigiam* failed to request his own release in his prayer for relief does not make the holding any less binding here. *But see Lopez-Arevelo v. Ripa*, No. 25–CV–337–KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025). The alien in *Thuraissigiam* undisputedly brought his claim in habeas, and the Court noted that even if he had requested release, his claim would have failed. *Thuraissigiam*, 591 U.S. at 118–19. Regardless of whether the alien in *Thuraissigiam* was on "the threshold of entry" as an applicant for admission detained under § 1225(b)(1), as opposed to an applicant for admission found within the interior and detained under § 1225(b)(2), the reasoning of *Thuraissigiam* extends to all applicants for admission. Petitioner is not entitled to more process than what Congress provided him by statute, regardless of whether the applicable statute is § 1225(b) or § 1226(a). *Id.; see also Jennings*, 583 U.S. at 297–303.

Mandatory detention of an applicant for admission during "full" removal proceedings does not violate due process, because the constitutional protections are built into those proceedings, regardless of whether the alien is detained. 8 U.S.C. § 1229a. The alien is served with a charging document (an NTA) outlining the factual allegations and the charge(s) of removability against him. *Id.* § 1229a(a)(2). He has an opportunity to be heard by an immigration judge and represented by counsel of his choosing at no expense to the government. *Id.* § 1229a(b)(1), (b)(4)(A). He can seek reasonable continuances to prepare any applications for relief from removal, or he can waive that right and seek immediate removal or voluntary departure. *Id.* § 1229a(b)(4)(B), (c)(4). Should he receive any adverse decision, he has the right to seek judicial review of the complete record and that decision not only administratively, but also in the circuit court of appeals. *Id.* § 1229a(b)(4)(C), (c)(5).

While an as-applied constitutional challenge, such as a prolonged detention claim, may be brought before the district court in certain circumstances, Petitioner here raises no such claim

where he has been detained for only a brief period pending his removal proceedings. For aliens, like Petitioner, who are detained during removal proceedings as applicants for admission, what Congress provided to them by statute satisfies due process. *Thuraissigiam*, 591 U.S. at 140. The "catchall" provision at § 1225(b)(2)(A) requires two things: (1) a DHS determination that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted; and (2) detention during "full" removal proceedings. 8 U.S.C. § 1225(b)(2)(A). The NTA in this case provides both. As applied here to Petitioner, § 1225(b)(2)(A) does not violate due process. *See Thuraissigiam*, 591 U.S. at 140.

F. Ex Post Facto Clause Does Not Apply.

Even if Petitioner relied on the prior interpretation of the INA, there is no indication that the new interpretation punishes as a crime Petitioner's prior "innocent" actions. The Supreme Court's decisions in *INS v. St. Cyr*, 533 U.S. 289, 325 (2001) and *Vartelas v. Holder*, 566 U.S. 257, 66 (2012) are both distinguishable, as the alien in those cases had relied on prior versions of the law when considering criminal charges. The Fifth Circuit's decision in *Monteon-Camargo v. Barr* is distinguishable for the same reasons – a new agency interpretation retroactively affected the immigration consequences of prior criminal conduct. 918 F.3d 423 (5th Cir. 2019).

Petitioner's entry in this case was unlawful at the time he entered the United States and remains unlawful today for the same reasons. The current interpretation of the controlling detention statute is not punitive, nor does it deprive him of any defense to removal charges that were available to him under the prior interpretation. The statute itself, however, has not changed since Petitioner's entry.

The federal Constitution prohibits both Congress and the States from enacting any "ex post facto law." U.S. Const. art. I, § 9, cl. 3; U.S. Const. art. I, § 10, cl. 1. "Retroactive application of a

law violates the Ex Post Facto Clause only if it: (1) 'punish[es] as a crime an act previously committed, which was innocent when done;' (2) 'make[s] more burdensome the punishment for a crime, after its commission;' or (3) 'deprive[s] one charged with crime of any defense available according to law at the time when the act was committed.'" *Jackson v. Vannoy*, 981 F.3d 408, 417 (5th Cir. 2020) (quoting *Collins v. Youngblood*, 497 U.S. 37, 52 (1990)). "A statute can violate the Ex Post Facto Clause . . . only if the statute is punitive." *Does 1-7 v. Abbott*, 945 F.3d 307, 313 (5th Cir. 2019) (per curiam) (citation omitted).

The Supreme Court and the Fifth Circuit have long recognized that removal proceedings are nonpunitive. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984); *Gonzalez Reyes v. Holder*, 313 F. App'x 690, 695 (5th Cir. 2009). With IIRIRA in 1996, Congress intended to enact a civil, nonpunitive regulatory scheme to fix a statutory inequity between those aliens who present themselves for inspection and those who do not. IIRIRA, among other things, substituted the term "admission" for "entry," and replaced deportation and exclusion proceeding with removal proceedings. *See, e.g., Tula Rubio v. Lynch,* 787 F.3d 288, 292 n.2, n.8 (5th Cir. 2015) (collecting cases). In other words, in amending the INA, Congress acted in part to remedy the "unintended and undesirable consequence" of having created a statutory scheme that rewarded aliens who entered without inspection with greater procedural and substantive rights (including bond eligibility) while aliens who had "actually presented themselves to authorities for inspection were restrained by 'more summary exclusion proceedings'" and subjected to mandatory detention. *Martinez v. Att'y Gen.,* 693 F.3d 408, 414 (3d Cir. 2012) (*quoting Hing Sum v. Holder*, 602 F.3d1092, 1100 (9th Cir. 2010)). Therefore, application of the IIRIRA to Petitioner does not violate the Ex Post Facto Clause.

This administration's interpretation of mandatory detention of applicants for admission

advances Congressional intent to equalize the playing field between those who follow the law and those who do not. The plain language of the statute in this case is clear, regardless of whether the agency interpreted it differently in the past than it interprets it today. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385-86 (2024); *Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (no amount of policy talk can overcome a plain statutory command). DHS does not dispute that this interpretation differs from the interpretation that the agency has taken previously. The statute itself, however, has not changed.

IV. Bautista is inapplicable

Bautista is not applicable. The December 18, 2025 partial final judgment 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 palpable lack of jurisdiction. Second, the Court should not 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.

1. **Under black-letter principles of habeas jurisdiction, the Bautista declaratory judgement has no preclusive effect outside the Central District of California and over custodians who are located outside that District.**

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).

The Supreme 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).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address "validity of a defense the State may, or may not, raise in a habeas proceeding" in part because "the underlying claim must be adjudicated in a federal habeas proceeding"); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of

release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. See Calderon, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the "availability of a habeas remedy in another district ousted us of jurisdiction over an alien's effort to pose a constitutional attack . . . by means of a suit for declaratory judgment"); *Monk v. Sec. of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) ("In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is 'in custody in violation of the Constitution . . . of the United States,' . . . . This specific determination must override the general terms of the declaratory judgment . . . statute.").

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. *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). 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 (N.D. Tex. Dec. 19, 2025), ECF No. 12.

In sum, the Bautista court's declaratory judgment purporting to grant relief that at its core sounds in habeas is a legal nullity outside that District. At the time of filing this habeas petition, Petitioner was detained in Illinois and being held in Texas both of which are outside this judicial district. That ends the matter. *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).

2. The Court should not give preclusive effect to a declaratory judgment that is on appeal

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.

Courts must exercise significant caution before giving preclusive effect to declaratory judgments that are on appeal. Reflexively granting preclusive effect to such judgments could lead to subsequent judgment "from which it may be impossible to obtain relief" even if the first judgment is reversed on appeal. 9 A.L.R.2d 984. Courts should strive to avoid this "evil result[]." Id. ("both the rule under which the operation of a judgment as res judicata is, and the one under which it is not, affected by the pendency of an appeal, have very unfortunate consequences"); see also 18A Fed. Prac. & Prod. § 4404 ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal); 18A Fed. Prac. & Proc. § 4433 (the rule that a decision is final for the purposes of preclusion while that decision is pending appeal creates "[s]ubstantial difficulties").

This problem can be "avoided . . . by delaying further proceedings in the second action pending conclusion of the appeal in the first action." *Collins v. D.R. Horton, Inc.*, 505 F.3d 874, 882–83 (9th Cir. 2007) (citing Wright & Miller § 4433). 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. See 9 A.L.R.2d 984 (the

"only one safe way of avoiding conflicting judgments on the same cause . . . [is for] the final decision on the merits of the second suit should be delayed until the decision on appeal has been rendered").

3. According preclusive effect to the Bautista declaratory judgment contravenes other principles of preclusion

Beyond the two most serious problems with giving effect to the Bautista declaratory judgment in this case, three more reasons counsel strongly against doing so.

First, under 28 U.S.C. § 2202, "[f]urther necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment." To the extent this Court considers whether to award "further" relief than what the Bautista court purported to grant to class members outside the Central District of California, such further relief is neither "necessary [n]or proper." Indeed, the Ninth Circuit—which of course has appellate jurisdiction over the Central District of California—has rejected waiving the district of confinement rule on prudential considerations given the clear congressional mandate limiting habeas jurisdiction to the district of confinement as provided by statute. *Doe*, 109 F.4th at 1199.

Second, the circumstances of this case also counsel against applying issue preclusion against the government. 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, it is not so precluded in cases 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).

For similar reasons, 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 raises the same concern raised in Mendoza—it allows 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. Machines Corp.*, 472 F.3d 1072, 1078 (9th Cir. 2007) (*citing Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979)).

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. See Parklane *Hosiery*, 439 U.S. at 330–31 (citing the existence of prior inconsistent judgments as indicium of unfairness of applying issue preclusion); see, e.g., *Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-168, 2025

WL 3131942, at *2–3 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025); *Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Xiaoquan Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); Candido v. Bondi, No. 25-cv-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025).

Third, it is doubtful that issue preclusion is ever appropriate in the habeas context. For instance, in *Griffin v. Gomez*, the Ninth Circuit 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 judicate 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.").

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

V. Conclusion

The Court should deny the Petition in its entirety.

Respectfully submitted,

Justin R. Simmons
United States Attorney

/s/Adrian Acosta

Adrian Acosta
Assistant United States Attorney
Texas No. 24097275
700 E, San Antonio Ave. Ste. 200
El Paso, Texas 79901
(915) 534-6884
Adrian.Acosta@usdoj.gov

/s/ Fidel Esparza, III

Fidel Esparza, III
Assistant United States Attorney
Texas Bar No. 24073776
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7026 (phone)
(210) 384-7358 (fax)
Fidel.Esparza@usdoj.gov

Attorneys for Federal Respondents