

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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| _____ |) | |
| LUZ GREISY SANCHEZ-ZAPATA, |) | |
| Petitioner, |) | |
| |) | |
| v. |) | CIVIL No. <u>4:25-cv-6140</u> |
| |) | |
| Pamela BONDI, Attorney General; |) | |
| Kristi NOEM, Secretary, |) | |
| Department of Homeland Security; |) | |
| Bret BRADFORD, Field Office |) | |
| Director, Immigration and Customs |) | |
| Enforcement; |) | |
| Randy TATE, Warden – Montgomery |) | |
| Processing Center |) | |
| Respondents. |) | |
| _____ |) | |

**PETITIONER’S REPLY TO RESPONDENT’S RESPONSE TO THE
PETITION FOR WRIT OF HABEAS CORPUS, AND OPPOSITION
TO THE MOTION TO DISMISS OR SUMMARY JUDGMENT IN
THE ALTERNATIVE**

The Petitioner hereby presents her reply to the Respondent’s Response to the Petition for Writ of Habeas Corpus and Motion to Dismiss and, in the Alternative, For Summary Judgement.

The Petitioner incorporates by reference and re-urges her arguments presented in the petition for writ of habeas corpus. The Petitioner opposes the

Motion to Dismiss or Summary Judgment in the alternative. Notwithstanding, the Petitioner would like to address certain arguments raised by the Respondents.

I. Exhaustion of Administrative Remedies

While there is a *general* rule that parties seeking relief against federal agencies must exhaust their administrative remedies, there are instances where it is not required. Exhaustion does not bar this Court's review because it is not a statutory requirement in these circumstances. *See Lopez Benitez v. Francis*, 25 Civ. 5937, 2025 WL 2371588 at *13 (S.D.N.Y. Aug. 13, 2025). When a "legal question is fit for resolution and delay means hardship," a court may choose to decide the issues itself." *Pizzaro Reyes*, 2025 WL 2609425, at *3 (quoting *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000)). The Respondents do not address this threshold issue, of statutory requirement as held by the Supreme Court in *Shalala* but rather fail to address it at all.

Additionally, there are exceptions to the exhaustion requirement. "[e]xceptions to the exhaustion requirement are appropriate where the available administrative remedies either are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action." *Fuller v. Rich*, 11

F.3d 61, 62 (5th Cir. 1994) (per curiam) (quoting *Hessbrook*, 777 F.2d at 1003); *Hinojosa*, 896 F.3d at 315 (finding that procedures provided a basis for the Plaintiffs to rectify the wrongful determination that they are not citizens, so they could not show that pursuing such remedies would be futile); *Fuller* F.3d at 62 (finding that the Plaintiff could not show his appeal would be futile as Plaintiff did not file an appeal even though it was untimely). Thus, assuming *arguendo* that exhaustion is required, such an appeal would be futile. The Respondents do not explain how such an appeal is not futile, but rather argue, in conclusory fashion, that the Petitioner is required to exhaust administrative remedies.

The Respondents cite to *Gallegos-Hernandez v. United States* but that case is distinguishable and actually presents an argument in favor of futility. *Gallegos-Hernandez v. United States*, 688 F.3d 190 (5th Cir. 2012). In *Gallegos-Hernandez*, the 5th Circuit concluded that “the district court also erred in dismissing the complaint for failure to exhaust his administrative remedies. Because Gallegos raised the constitutionality of the statutes and regulations, exhaustion before the administrative agency *would have been futile.*” *Gallegos-Hernandez v. United States*, 688 F.3d 190, 196 (5th Cir. 2012) (emphasis added). Similarly, the Petitioner has raised the constitutionality of the agency’s interpretation of the mandatory detention

statute in her writ. As such, raising such questions of constitutionality to the agency would be futile. See Petitioner’s *Petition for Writ of Habeas Corpus and Complaint for Injunctive and Declaratory Relief* at 20-22. There is no statutory requirement for exhaustion of remedies. Assuming arguendo that there is a requirement, such exhaustion would be futile pursuant to 5th Circuit precedent.

II. Petitioner is not Subject to Mandatory Detention

The Respondents point to the few scant cases that have been decided in their favor on this issue and recycle the same arguments that have already been rejected by this Court and others. It is clear that the vast majority of Courts to consider the issue emphatically disagree with the Respondents position.

According to a recent POLITICO analysis of court dockets, “[m]ore than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration’s six-month-old effort to expand its so-called “mandatory detention” policy...Those judges have ordered immigrants’ release or the opportunity for bond hearings in more than 1,600 cases.” POLITICO, *Hundreds of judges reject Trump’s mandatory detention policy with no end in sight*, Kyle Cheney, January 05, 2026.

“A POLITICO review of thousands of federal dockets reveals the starkly lopsided results for the Trump administration: While 308 judges have ruled against the administration’s mass detention policy — ordering release or bond hearings in more than 1,600 cases — just 14 judges, including 11 appointed by President Donald Trump himself, have sided with the administration’s position. Even Trump’s appointees have rejected the administration’s view; 33 have ruled against its position on mass detention.” POLITICO, *Hundreds of judges reject Trump’s mandatory detention policy with no end in sight*, Kyle Cheney, January 05, 2026.

The Respondents arguments that the Petitioner is subject to mandatory detention are unpersuasive.

III. *Baustista* does have preclusive effect, and alternatively, is owed deference under principles of comity

On December 18, 2025, in the ongoing litigation of *Bautista-Maldonado v. Noem et al.* the Federal District Court for the Central District of California issued a final judgment in favor of the Petitioners and the Bond Eligible Class. *See e.g., Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, ---F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Maldonado-Bautista v. Santacruz*, No. 5:25-cv-01873, ---F. Supp 3d ----, 2025 WL 3288403 at *9 (C.D. Cal. Nov. 25, 2025). As such, that order now

has preclusive effect on this litigation. See *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008); *Smith v. Bayer Corp.*, 564 U.S. 299, 306 (2011).

Alternatively, Under the law of the case doctrine, courts will show deference to decisions already made in [a] case they are presiding over.” *Abecassis v. Wyatt*, 7 F. Supp. 3d 668, 671 (S.D. Tex. 2014). “Federal courts” are still “expect[ed]...to apply principles of comity to each other’s ...decisions when addressing a common dispute.” *Bayer*, 564 U.S. at 317. A class has been certified, the Petitioner is part of that class, and the class-action court expressly “extend[ed] its ruling on the named petitioner’s “declaratory relief” to the class “as a whole.” *Maldonado Bautista*, 2025 WL 3288403, at *9. “The Court owes comity to the class-actions court’s ruling on the common issues.” *Arellano v. Bondi*, No. 25-5454, ECF No. 13 at 4 (S.D. Tex. Dec. 9, 2025).

IV. Conclusion

The Respondents have failed to show that they are entitled to judgment as a matter of law. Not only has the Petitioner stated a plausible claim for relief, the Petitioner has clearly shown that her detention is unlawful and requests that the Court grant her Petition for Writ of Habeas Ccorpus.

Respectfully submitted,

/s/Robert K. Hoffman

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CERTIFICATE OF SERVICE

I, Robert K. Hoffman, hereby certify that a true and correct copy of the foregoing “Petitioner’s Reply to Respondent’s Response to the Petition for Writ of Habeas Corpus, and Opposition to the Motion to Dismiss or Summary Judgment in the Alternative”, including all attachments, will be served on Respondents via US Postal Service Certified mail addressed as follows:

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On this the 7th day of January 2026.

Respectfully submitted,

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