UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

RADAI INOCENCIO INOCENCIO, Petitioner, v. WARDEN, FLORIDA SOFT SIDE SOUTH, ET AL., Respondents.	Case No. 2:25-CV-1208-KCD-DNF

RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Petitioner Radai Inocencio Inocencio ("Petitioner") seeks the grant of a petition for writ of habeas corpus ("Petition") pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by Immigration and Customs Enforcement ("ICE") and seeking his immediate release from custody.[1] Petitioner also asserts that his ongoing detention violates orders issued in *Lazaro Maldonado Bautista et al., v. Ernesto Santacruz Jr et al.*, 5:25-cv-01873 (C.D. Cal. 2025). Petitioner is currently detained under 8 U.S.C. § 1225(b)(2) and is therefore ineligible for release under 8 U.S.C. § 1226(a). He seeks to circumvent the detention statute under which he is rightfully detained to secure a custody redetermination hearing that he is not entitled to. Petitioner argues that—contrary to the plain language of 8 U.S.C.

[1] In the alternate, Petitioner seeks a bond hearing within seven days.

§ 1225(b)(2)—the authority for his detention is better understood to arise under 8 U.S.C. § 1226(a), a detention statute that allows for release on bond or conditional parole. That argument fails to square with the fact that he falls neatly and precisely within the statutory definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2).

BACKGROUND

Petitioner is an alien "applicant for admission." He is a native and citizen of Mexico who purports to have unlawfully entered the United States in 2001. Petition, ¶ 19. Petitioner asserts that he has filed an application seeking asylum. Petition, ¶ 1. Petitioner was detained by immigration enforcement on December 21, 2025. Petition, ¶¶ 1, 7, 19. On December 24, 2025, Petitioner filed the instant action in the U.S. District Court seeking habeas relief as a class member of the *Maldonado Bautista* class action. *See* Petition, ¶¶ 24-28. On December 30, 2025, the Court issued an order instructing Respondents to respond to Petitioner's habeas petition no later than January 14, 2026. ECF No. 5.

In response to this Court's order, ECF No. 5, and for the reasons set forth below, Respondents respectfully request that this Court dismiss Petitioner's Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

ARGUMENT

I. Jurisdiction

Respondents acknowledge that this Court's prior rulings concerning

jurisdiction pursuant to 8 U.S.C. §§ 1252(b)(9) and 1252(g) in similar challenges to the government policy or practice at issue in this case would control the result in this case should the Court adhere to its legal reasoning in those prior decisions and find the facts sufficiently common. *See e.g.*, *Cetino v. Hardin, et al.*, No. 2:25-cv-1037-JES-DNF, 2025 WL 3558138 (M.D. Fla. Dec. 12, 2025). While Respondents respectfully disagree, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Respondents hereby rely upon and incorporate by reference the legal arguments regarding jurisdiction under Sections 1252(b)(9) and 1252(g) as presented in *Cetino*.[2] *See Cetino*, No. 2:25-cv-830-JES-DNF, ECF No. 9. Should the Court prefer to receive a more exhaustive and fulsome opposition brief on these issues, Respondents respectfully request leave to file such a brief and will do so upon the Court's request.

II. *Maldonado Bautista* Lacks Preclusive Effect

Petitioner's single argument in this Petition is that Respondents have failed to give the judgement issued in *Maldonado Bautista* preclusive effect. He effectively asks the Court to impose *res judicata* effect on a class-wide basis while the declaratory judgment issued in *Maldonado Bautista* remains pending on appeal. *See* Petition, ¶¶ 1-6, 8, 10, 25-28; *see also Maldonado Bautista*, 5:25-cv-01873 at ECF Nos. 94, 95. However, doing so would be improper, as this District has already recognized. *See e.g.*,

[2] Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of judicial economy, Respondents respectfully request the Court to suspend application of the rule. *See* Local Rule 1.01(a) and 1.01(b).

Martinez Chavez v. Ripa, et al., No. 2:25-cv-01088-KCD-DNF (ECF No. 10), FN 4.

In many circumstances, a declaratory judgment will have preclusive effect as between the parties in future litigation. *See* Restatement (Second) of Judgments § 33. But the treatises recommend caution in imposing *res judicata* based on a declaratory judgment that remains subject to appeal. *See* 9 A.L.R.2d 984 ("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"). Not applying *res judicata* will result in delay of applying the final judgment. But by applying *res judicata* during the pendency of an appeal, the "evil result[]" is that if the first judgment is ultimately reversed, it could meanwhile lead to another judgment "from which it may be impossible to obtain relief notwithstanding such reversal." *Id.*; *see also* Federal Practice & Procedure § 4044 ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal). Here, 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").

III. Petitioner's Detention is Lawful

As Petitioner's only cause of action pertains to his purported membership in the *Maldonado Bautista* class and that argument has been addressed *supra* the Court

need not go further in order to resolve this Petition. Still, Respondents aver that his detention is indeed lawful because his detention is governed by 8 U.S.C. § 1225, as he is an alien who entered without inspection or parole, was—and remains—an applicant for admission, and is treated, for constitutional purposes, as if stopped at the border. As such, he is subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(1)(B)(ii).

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals ("BIA") examined the plain language of Section 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United

States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission."). Accordingly, by its very definition, the term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted" (citing 8 U.S.C. § 1225(a)(1))). An arriving alien is defined, in pertinent part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry [("POE")] . . . ." 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . ."). An applicant for admission seeking admission at a United States POE "must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the

immigration laws . . . to enter the United States." 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related burden of an applicant for admission in removal proceedings). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

Here, Petitioner purports to have entered the United States in 2001 without having been admitted after inspection by an immigration officer. Petition, ¶ 19. He has since applied for asylum *Id.* at ¶ 1. Petitioner is, therefore, an alien present without admission and an applicant for admission. *See Pirto v. Warden of Glades County Detention Center, et al.*, No. 2:25-cv-966-KCD-DNF (Doc. 13, pp. 3-4) (finding detention pursuant to 8 U.S.C. § 1225 appropriate where petitioner was apprehended at the border and he thereafter sought admission through asylum); *see also Duenas Garcia v. Immigr. and Customs Enforcement, et al.*, No. 2:25-cv-1004-KCD-NPM (Doc. 15, pp 3-4) (same).

CONCLUSION

Petitioner's claims must be dismissed. He has not demonstrated that this Court is bound by the declaratory judgment issued in *Maldonado Bautista*. Furthermore, Respondents have shown that Petitioner's detention pursuant to Section 1225 is lawful because the INA mandates his detention. Even so, this Court lacks jurisdiction to act on Petitioner's claims and he has failed to exhaust otherwise available administrative

remedies. Petitioner fails to state a claim for relief under the Due Process Clause and fails to establish that this Court has subject matter jurisdiction. All counts should be dismissed.

DATED: January 14, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 14, 2026, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice to all counsel of record.

Dated: January 14, 2026

Signed:

/s/Amanda Saylor
Amanda Saylor
Assistant United States Attorney