UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

MARIA GRACIELA ROQUE ZHUILEMA, Petitioner, v. JONATHAN TUREK, Interim Superintendent of the Chittenden Regional Correctional Facility, in his official capacity; PATRICIA HYDE, Acting Field Office Director of the Boston Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, in her official capacity as U.S. Attorney General; DAREN K. MARGOLIN, Director for Executive Office for Immigration Review, Respondents.	Civil No. 25-cv-934

ABBREVIATED RESPONSE TO ORDER TO SHOW CAUSE

The legal issues presented in the Petition for Writ of Habeas Corpus concern the authority for U.S. Immigration and Customs Enforcement's detention of Petitioner. Federal Respondents submit that Petitioner is detained under 8 U.S.C. § 1225(b)(2), which makes detention mandatory and does not include a statutory right to a bond hearing. While reserving all rights, including the right to appeal, Federal Respondents submit this abbreviated response in lieu of a formal responsive memorandum to preserve the legal issues and to conserve judicial and party resources in light of this Court's prior decision in *Lopez-Niz v. Hale, et al.*, No. 25-cv-912, ECF No. 14.

While respectfully disagreeing with the Court's prior decision, Federal Respondents acknowledge that, should the Court adhere to its reasoning in that decision, the Court would

likely reach the same outcome in this case. Thus, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Federal Respondents hereby rely upon and incorporate by reference the legal arguments they presented in *Lopez-Niz* and submit that the Court can decide this matter without further briefing. Further, Federal Respondents submit that the proper remedy, should the Court determine Petitioner's detention is governed by 8 U.S.C. § 1226(a), would be to order a bond hearing under that section; it is not to immediately release Petitioner.

Should the Court prefer to receive an exhaustive formal opposition brief in this matter, Federal Respondents respectfully request the opportunity to file such a brief and will do so upon the Court's request. *Id.*

Background

Petitioner is a citizen of Ecuador who entered the United States without inspection, admission, or parole by an immigration officer. *See* Pet. ¶ 1. In December 2025, Petitioner was arrested, detained, and placed in removal proceedings by Immigration and Customs Enforcement in Vermont after agents determined she had entered the United States unlawfully. *See* Pet. ¶¶ 21-22. Petitioner is currently detained at Chittenden Regional Correctional Facility. *See* Pet. ¶ 3.

Discussion

Petitioner seeks an order from this Court directing her release or, in the alternative, that the immigration court provide her a bond hearing. Pet. at 16. Petitioner argues that she is unlawfully detained without a bond hearing in violation of 8 U.S.C. § 1226(a), various bond regulations, the Administrative Procedure Act, and the Fifth Amendment. Pet. ¶¶ 46-52, 59-64. Additionally, Petitioner alleges that she is a member of a class certified in the Central District of California and entitled to relief under an order of that court. Pet. ¶¶ 53-58.

I. Petitioner is detained under 8 U.S.C. § 1225.

Federal Respondents contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2), because, having entered without inspection, admission, or parole, Petitioner remains an applicant for admission who is treated, for constitutional and statutory purposes, as if she were stopped at the border. As such, she is subject to mandatory detention and not entitled to a bond hearing under 8 U.S.C. § 1226. Like all applicants for admission, Petitioner continues to seek admission into the United States until she is either admitted, denied admission and removed, or voluntarily withdraws her application for admission under 8 U.S.C. § 1225(a)(4). Petitioner's detention is therefore consistent with the relevant statutes and regulations and does not violate the Fifth Amendment's due process clause because the Supreme Court has held that applicants for admission are entitled only to the protections set forth by statute and that "the Due Process Clause provides nothing more." *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020).

Federal Respondents acknowledge, however, that the core questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with those at issue in *Lopez-Niz*. Accordingly, while preserving all rights, Federal Respondents incorporate by reference the legal arguments it presented in that case. Should the Court apply the same reasoning it did in that case to this one, the legal principles espoused would likely result in the Court reaching the same conclusion here.

II. Petitioner is not entitled to relief under the Central District of California order.

The petition asserts various arguments concerning the application of an order from the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz, et al.*, No. 5:25-cv-1873, 2025 WL 3289861 (C.D. Cal. Dec. 18, 2025). *See* Pet.

¶¶ 43-45, 53-58. Petitioner is not entitled to relief under that order, and relying on it (rather than this Court making and entering its own judgment) would raise serious procedural complications.

First, the *Bautista* declaratory judgment suffers from jurisdictional defects to the extent that it purports to apply outside the Central District of California. Habeas "jurisdiction lies in only one district: the district of confinement." *Padilla v. Rumsfeld*, 542 U.S. 426, 443 (2004). And habeas petitioners must name as the respondent their immediate custodian, that is, "the warden of the facility where the prisoner is being held." *Id.* at 434-435. Accordingly, a district court lacks authority to grant relief to a habeas petitioner confined outside that judicial district by an immediate custodian not subject to personal jurisdiction in that judicial district. *See id.* at 442-443. And a "judgment is void where the court lacks personal jurisdiction over the defendant." *De Curtis v. Ferrandina*, 529 F. App'x 85, 85 (2d Cir. 2013). The *Bautista* court therefore lacked jurisdiction to issue habeas relief to class members, like Petitioner, who are confined outside the Central District of California by immediate custodians outside that district.

Second, the *Bautista* order does not, and cannot, grant complete habeas relief to all class members. Under 8 U.S.C. § 1252(f)(1), "[r]egardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of part IV of this subchapter . . . other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." At most, the *Bautista* order is a vehicle for petitioners seeking to use the judgment to obtain relief in individual habeas cases like this one. But that should not prevent this Court from reaching an

independent judgment on the merits.

Finally, the *Bautista* order was issued by a court in a different circuit, and the judgment is currently on appeal there. Giving the *Bautista* order preclusive effect here raises the possibility of inconsistent judgments if the Ninth Circuit reverses or if the Second Circuit reaches a different conclusion on this issue. *See, e.g.*, 18A Fed. Prac. & Proc. § 4404 ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal). Thus, as a prudential matter, this Court should not rely on the *Bautista* order to grant Petitioner relief here.

CONCLUSION

Federal Respondents submit that further briefing and/or oral argument would not be a prudent use of judicial or party resources, and that the Court can decide this matter without delay. If, however, the Court prefers to receive an exhaustive opposition brief in this matter, Federal Respondents request leave to provide such a brief. Federal Respondents respectfully request that the Court deny the Petition.

Dated: December 31, 2025

Respectfully submitted,

MICHAEL P. DRESCHER
First Assistant United States Attorney

By: /s/ *Matthew J. Greer*
Matthew J. Greer
Assistant United States Attorney
P.O. Box 570
Burlington, VT 05402-0570
(802) 951-6725
Matthew.Greer@usdoj.gov

Attorney for Federal Respondents