IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. _____

OLIVER GRIJALVA ESQUIVEL, Petitioner,

v.

JUAN BALTASAR, Warden, Denver Contract Detention Facility, Aurora, Colorado, in his official capacity;

ROBERT HAGAN, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement, in his official capacity;

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity;

TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

PAMELA BONDI, Attorney General of the United States, in her official capacity; Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Oliver Grijalva Esquivel brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the national Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, at *11, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). See attached Exhibit A: *Maldonado Bautista v. Santacruz, et al.,* (IN CHAMBERS) AMENDED ORDER CONSOLIDATING THE COURT'S ORDERS ON MOTION FOR PARTIAL SUMMARY JUDGMENT, CLASS CERTIFICATION, AND APPLICATION FOR RECONSIDERATION OR CLARIFICATION (Dec.18, 2025 C.D. Cal).

Petitioner also seeks enforcement of his rights as a member of the local class certified by this Court in *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (D. Colo. Nov. 21, 2025). "[A] proper understanding of the relevant statutes, in light of their plain text, overall structure, and uniform case law interpreting them, compels the conclusion that § 1225's provision for mandatory detention of noncitizens 'seeking admission' does not apply to someone like [petitioner], who has been residing in the United States for more than two years." Mendoza Gutierrez v. Baltasar, No. 25-cv-2720-RMR, 2025 WL 2962908, at *5 (D. Colo. Oct. 17, 2025) (citation omitted) (collecting cases) as cited in ALEX ORLANDO ALFARO

ORELLANA, Petr., v. KRISTI NOEM, Sec., U.S. Dept. of Homeland Sec., PAMELA BONDI, U.S. Atty. Gen., TODD M. LYONS, in his official capacity as Acting Dir., U.S. Immig. and Cust. Enf't, ROBERT HAGAN, Dir. of the Denver Field Off., U.S. Immig. and Cust. Enf't, and JUAN BALTAZAR, Warden, Denver Contract Detention Facility, Respondents., No. 25-CV-03976-PAB, 2025 WL 3706417, at *2 (D. Colo. Dec. 22, 2025)

The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members.

Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

JURISDICTION

The petitioner is in the physical custody of Respondents. He is detained at the Aurora ICE Processing Center, Aurora, Colorado. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). This Court may grant

relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial district in which Petitioner currently is detained. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Colorado.

PARTIES

Petitioner **OLIVER GRIJALVA ESQUIVEL** is a citizen of Guatemala who has been in immigration detention since at least March of 2024—a total of more than twenty (20) months.

Respondent **JUAN BALTASAR** is employed by the GEO Group, a for-profit global prison corporation that manages detention facilities for ICE (Immigration and Customs Enforcement, U.S. Department of Homeland Security). The GEO Group is facing ongoing scrutiny and criticism over conditions and treatment of ICE detainees. As Warden of the Aurora ICE

Processing Center, where Petitioner is detained, Juan Baltasar has immediate physical custody of Petitioner. He is sued in his official capacity.

Respondent **ROBERT HAGAN** is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division (ERO). As such, Robert Hagan is also Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

The Respondent **KRISTI NOEM** is Secretary of the U.S. Department of Homeland Security (DHS). She is sued in her official capacity.

The Respondent **TODD LYONS** is Acting Director of U.S. Immigration and Customs Enforcement (ICE). He is sued in his official capacity.

The Respondent **PAMELA BONDI** is the Attorney General of the United States. She is sued in her official capacity.

STATEMENT OF CLASS MEMBERSHIP

1. Petitioner is in the physical custody of the Respondents at the Aurora ICE Processing Center in Aurora, Colorado. He remains in unlawful detention because DHS under supervision of Respondent Kristi Noem and the Executive Office for Immigration Review (EOIR) under the supervision of Respondent Pamela Bondi, Department of Justice (DOJ), have failed to

abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz* (C.D. Cal. Nov.25, 2025) and the certified class wide holding in *Mendoza Gutierrez v. Baltazar* (D. Colo. Nov. 21, 2025).

2. Here in the District of Colorado the United States District Court has certified a class after previously holding that the government's detention policy likely violates federal law. *Mendoza Gutierrez v. Baltazar*, 2025 WL 2962908 at *8, No. 1:25-cv-02720-RMR (D. Colo. Oct. 17, 2025).

3. On November 21, 2025, U.S. District Court Judge Regina M. Rodriguez certified the class described as approximately 500 individuals detained at the Aurora ICE Processing Center who are being denied bond hearings under the government's unlawful interpretation of 8 U.S.C. § 1225(b)(2). *See Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (D. Colo. Nov. 21 2025).

4. Petitioner is a member of this class.

5. Petitioner therefore brings this habeas petition to seek enforcement of his rights as a member of two certified classes: (1) the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 25 WL 3288403 at *9, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025); and (2) the class

of approximately 500 individuals detained at the Aurora ICE Processing Center certified in *Mendoza Gutierrez v. Baltazar, supra* at p. 14.

6. Petitioner remains in unlawful detention because DHS through Respondent Kristi Noem and the Executive Office for Immigration Review (EOIR/DOJ) through Respondent Pamela Bondi have failed to abide by the judgments and holdings issued on behalf of these certified classes.

7. On November 20, 2025, the district court in *Maldonado Bautista,* 25 WL 3288403 (C. D. Cal.) granted partial summary judgment on behalf of the individual plaintiffs. Then on November 25, 2025, the court certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

8. The nationwide declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not

be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

9. Nonetheless, Respondents have failed to abide by the nationwide declaratory relief and failed to comply with the Colorado class certification ordered by Judge Rodriguez and thereby denied Petitioner the opportunity to be released on bond.

10. Petitioner Oliver Grijalva Esquivel is a member of the Bond Eligible Class in *Maldonado Bautista* (C.D. Cal.) as he:

(A) does not have lawful status in the United States and is currently detained at the Aurora ICE Processing Center;

(B) he was most recently apprehended by immigration authorities on April 24, 2024 in San Diego, California, after having entered the United States without inspection in 2016 in Hidalgo, Texas; and

(C) he is not lawfully detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

11. After apprehending Petitioner, DHS placed him in removal proceedings and detained him pursuant to 8 U.S.C. § 1225(b).[1]

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[1] Petitioner's facts regarding class membership are similar to those in a recent case before this Court: *KEVIN YOHANDRI MARQUEZ RICO v. JUAN BALTAZAR*, in his official capacity as Warden of the Aurora ICE Processing Ctr., ET AL., No. 1:25-CV-03943-CNS, 2025 WL 3640366, at *1 (D. Colo. Dec. 16, 2025).

12. The Court should expeditiously grant this petition because it raises an identical challenge to ICE detention successfully litigated in numerous cases in this district and across the country. [2]

13. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to ignore the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear

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[2] *Id.* at *2 citing *Espinoza Ruiz v. Baltazar*, No. 1:25-cv-03642-CNS, 2025 WL 3294762 (D. Colo. Nov. 26, 2025); *Arauz v. Baltazar*, No. 1:25-cv-03260-CNS, 2025 WL 3041840 (D. Colo. Oct. 31, 2025); *Nava Hernandez v. Baltazar*, et al., No. 1:25-CV-03094-CNS, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Hernandez Vazquez v. Baltasar, et al.*, No. 1:25-cv-3049-GPG, ECF No. 22 (D. Colo. Oct. 23, 2025); *Loa Caballero v. Baltazar, et al.*, No. 1:25-cv-3120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Moya Pineda v. Baltasar, et al.,* No. 1:25-cv-2955-GPG, ECF No. 21 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltasar, et al.*, No. 1:25-cv-2720-RMR, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Carrillo Fernandez*, 2025 WL 3485800 [*sic*]; *Garcia-Arauz v. Noem*, No. 2:25-cv-02117-RFB-EJY, 2025 WL 3470902 (D. Nev. Dec. 3, 2025); *Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, --- F. Supp. 3d ----, 2025 WL 3205356 (D. Nev. Nov. 17, 2025); *Ramos v. Rokosky*, No. 25cv15892 (EP), 2025 WL 3063588 (D.N.J. Nov. 3, 2025); *Godinez-Lopez v. Ladwig*, 2025 WL 3047889 (W.D. Tenn. Oct. 31, 2025); Jimenez v. FCI Berlin, Warden, No. 25-CV-326-LM-AJ, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Lopez-Campos v. Raycraft,* No. 2:25- CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civil Action No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 795 F.Supp.3d 475 (S.D.N.Y. Aug. 13, 2025).

entitlement to consideration for release on bond as a Bond Eligible Class member.

14. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista,* the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

15. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

16. Moreover, under the local class certified in *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (Nov. 21, 2025, D. Colo.) the same facts and relief are pertinent.

17. To Wit: Petitioner entered the United States without inspection (irregularly) in July 2016 as a 14-year-old unaccompanied minor through Hidalgo, Texas. He was apprehended by Border Patrol after that irregular entry. He was then processed as an unaccompanied minor and released to his mother in Los Angeles, California approximately one month later.

18. Petitioner lived continuously in the United States from July 2016 through December 2023—a period of approximately seven and one-half (7.5) years.

19. Then in December 2023, Petitioner was arrested as a passenger in a vehicle near Campo, California and charged with being an accessory after the fact to smuggling, a misdemeanor under 18 U.S.C. § 3. He served approximately four months at the Metropolitan Correction Center San Diego.

20. In March 2024, immediately after completing his misdemeanor sentence in San Diego, California, Petitioner was taken into ICE custody.

21. This March 2024 arrest—after approximately 8 years of continuous presence in the United States—is the custody determination at issue for purposes of class membership.

22. ICE placed Petitioner in expedited removal proceedings and did not grant release. An asylum officer conducted a credible fear interview in April 2024, which resulted in a positive finding. The petitioner was then issued a Notice to Appear and placed in removal proceedings.

23. Petitioner was transferred to Aurora, Colorado, where he requested review of his custody by an immigration judge. On April 14, 2025, an immigration judge at the Aurora Immigration Court denied Petitioner's request for a custody redetermination, finding that the court lacked jurisdiction because Petitioner was subject to mandatory detention under § 1225(b). See attached Order of the Immigration Judge,

24. Petitioner has been detained continuously at the Aurora ICE Processing Center since June 2024—the same facility covered by the *Mendoza Gutierrez* class certification in this Court.

25. This Court has already determined that the government's detention policy likely violates federal law. Judge Rodriguez certified a class of approximately 500 individuals detained at the Aurora ICE Processing Center—the same facility where Petitioner is detained—who are being denied bond hearings under the government's unlawful interpretation of § 1225(b)(2). *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (Nov. 21, 2025, D. Colo.). The petitioner is a member of that class. He is also a member of the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz* (C.D. Cal.). Nationwide and locally multiple federal district courts have determined that class members are detained under § 1226(a) and entitled to bond hearings. "Courts have therefore held, with a regularity bordering on the monotonous, that because section 1225(b)(2)(A) applies only to those noncitizens who are actively 'seeking admission' to the United States, it cannot, according to its ordinary meaning, apply to persons who have already been residing in the United

States for several years."[3] Petitioner seeks enforcement of those determinations.

FIRST CLAIM FOR RELIEF: *MALDONADO BAUTISTA* (C.D. Cal.)

26. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

27. As a member of the Bond Eligible Class in *Maldonado Bautista*, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

28. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

29. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." 25 WL 3288403 at *8.

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[3] *HECTOR JIMENEZ FACIO v. JUAN BALTAZAR*, in his official capacity as Warden of the Aurora Contract Detention Facility, ET AL., No. 25-CV-03592-CYC, 2025 WL 3559128, at *2 (D. Colo. Dec. 12, 2025).

30. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). 32. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

SECOND CLAIM FOR RELIEF: *MENDOZA GUTIERREZ* (D. Colo.)

31. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

32. As a member of the class certified in *Mendoza Gutierrez*, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

33. Pursuant to the holdings in *Mendoza Gutierrez*, Respondents likely violate the INA in applying the mandatory detention statute at § 1225(b)(2) to Colorado class members including Petitioner.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Oliver Grijalva Esquivel prays that this Court grant the following relief:

First, assume jurisdiction over this matter.

Second, declare that Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz* (Nov. 25, 2025 C.D. Cal.) and the Colorado class certified in *Mendoza Gutierrez v. Baltazar* (Nov. 21, 2025 D.Colo.).

Third, issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner; alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

Fourth, retain jurisdiction to ensure compliance with this Court's order.

Fifth, award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law, with the opportunity to present their required motion and affidavit on or before 30 days of the Court's final judgment.[4]

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[4] D.C.COLO.LCivR 54.3(a) requires that a motion for attorney fees be supported by affidavit. A motion involving a contested issue of law shall be supported by a recitation of legal authority in the motion.D.C.COLO.LCivR 7.1(d). *See L.G. v. Choate*, 744 F. Supp. 3d 1172, 1187 (D. Colo. 2024). *HECTOR JIMENEZ FACIO, v. JUAN BALTAZAR, ET AL.*, No. 25-CV-03592-CYC, 2025 WL 3559128, at *3 (D. Colo. Dec. 12, 2025).

Sixth, grant any other and further relief that this Court deems just and proper.

Respectfully submitted.

s/jimsalvator
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EXHIBIT A: Grijalva v. Baltasar

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No.	5:25-cv-01873-SSS-BFM	Date	December 18, 2025
Title	*Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*		

Present: The Honorable	SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: (IN CHAMBERS) ORDER GRANTING IN PART AND DENYING IN PART PETITIONERS' EX PARTE APPLICATION FOR RECONSIDERATION OR CLARIFICATION [DKT. NO. 87]

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Ex Parte Application for Reconsideration or Clarification regarding the Court's Prior Order on their Motion for Class Certification. [Dkt. No. 87, "Application" or "App."; *see also* Dkt. No. 41, "Motion for Class Certification"; Dkt. No. 82, "Class Certification Order"]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 90, Opposition or "Opp."]. Petitioners filed their Reply on December 12, 2025. [Dkt. No. 91, "Reply"].

I. FACTUAL AND PROCEDURAL BACKGROUND

For sake of brevity, the Court incorporates the factual background from the Prior Order on the Motion for Partial Summary Judgment, the Amended Class Complaint, and the pleadings related to this Application. [*See* Dkt. No. 15,

"Amended Class Complaint" or "ACC"; Dkt. No. 81, "MSJ Order"; *see also* App.; Opp.; Reply].

On November 20, 2025, the Court granted Petitioners' Motion for Partial Summary Judgment but denied their request to enter final judgment due to the pending class certification motion. [*See* MSJ Order]. The following week, on November 25, 2025, the Court granted Petitioners' Motion for Class Certification pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. [*See generally* Class Certification Order]. The certified class was defined as:

- **Bond Eligible Class**: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

[*Id.* at 15].

Petitioners now bring this Application seeking clarification to "eliminate any doubt regarding [Defendant Respondents'] legal obligations and ensure [their] compliance." [App. at 3].

For the following reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Petitioners' Application.

II. LEGAL STANDARD

Courts in this judicial district consistently utilize Local Rule 7-18 to adjudicate motions for reconsideration in civil and criminal matters. *E.g.*, *Feltzs v. Cox Commc'n Cal., LLC*, 562 F. Supp. 3d 535, 539 (C.D. Cal. 2021); *United States v. Biden*, No. 2:23-CR-599, 2024 WL 3892452, at *2–3 (C.D. Cal. Aug. 19, 2024); *In re Pioneer Corp.*, No. 2:18-CV-4524, 2018 WL 4963126, at *2 (C.D. Cal. Aug. 27, 2018) (applying Local Rule 7-18 to a motion for reconsideration of an order authorizing discovery); *Patrick Collins, Inc. v. Does*, No. 8:12-CV-977, 2012 WL 12893290, at *5 (C.D. Cal. Dec. 14, 2012).

A. Local Rule 7-18

Local Rule 7-18 requires that a motion for reconsideration be made within fourteen days after the entry of the subject order and based only on the grounds of:

> (a) a material difference in fact or law from that presented to the Court that, in the exercise of reasonable diligence, could not have been known to the party moving for reconsideration at the time the Order was entered, or (b) the emergence of new material facts or a change of law occurring after the Order was entered, or (c) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered.

L.R. 7-18.

B. Federal Rule of Civil Procedure 60

Federal Rule of Civil Procedure 60 provides grounds for relief from a judgment or order. *See generally* Fed. R. Civ. P. 60. There are two separate categories under Rule 60 that allow for relief: (1) non-substantive corrections of clerical mistakes; and (2) substantive corrections for grounds enumerated in Rule 60(b)(1)–(6). *Id.*

1. Rule 60(a)

Under Federal Rule of Civil Procedure 60(a), a court may correct clerical mistakes or mistakes arising from an oversight or omission whenever one is found in a judgment or order. But Rule 60(a) does not permit substantive changes. *See Blanton v. Anzalone*, 813 F.2d 1574, 1577 n.2 (9th Cir. 1987). In other words, Rule 60(a) allows a court to clarify an order to correct a failure to memorialize part of its decision, to reflect necessary implications of the original order, to ensure the court's purpose is fully implemented, or to permit enforcement. *Tattersalls, Ltd. v. DeHaven*, 745 F.3d 1294, 1298 (9th Cir. 2014) ("The touchstone of Rule 60(a) . . . is fidelity to the intent behind the original judgment.") (citation modified). Rule 60(a) does not allow a court to make corrections under the guise of mere clarification that "reflect a new and subsequent intent because it perceives its original judgment to be incorrect." *Garamendi v. Henin*, 683 F.3d 1069, 1080 (9th Cir. 2012).

2. Rule 60(b)

In contrast, Rule 60(b)(5) "encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances." *Frew v. Hawkins*, 540 U.S. 431, 441 (2004) (citing *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 380 (1992)). Rule 60(b) permits parties to be relieved from "a final judgment, order, or proceeding" when "the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable." *See* Fed. R. Civ. P. 60(b)(5). Among the reasons to relieve a party from a final judgment, order, or proceeding in Rule 60(b) is a catchall provision of "any other reason that justifies relief." Rule 60(b)(6).

III. DISCUSSION

Petitioners' Application requests the following from the Court: (1) appoint additional class counsel under Federal Rule of Civil Procedure 23(g), (2) reconsider the MSJ Order or clarify the Class Certification Order as to final or binding classwide declaratory relief, (3) direct entry of final judgment pursuant to Federal Rule of Civil Procedure 54(b), and (4) expressly confirm that the MSJ Order both declared *and vacated* the challenged agency actions. [App. at 3–4].

Respondents oppose the Application, arguing that the requested issues for reconsideration and/or clarification are inappropriate where no final judgment has been entered, or where the requested relief is either premature or cannot be granted on a classwide basis. [Opp. at 3–9]. The Opposition makes no mention nor argument against including additional class counsel.

As the various grounds for reconsideration and clarification vary, the Court takes each in turn.

A. Inclusion of Appointed Class Counsel

Petitioners' request to include additional class counsel is simple and uncontested. [Reply at 3, 9]. Petitioners included in their Motion for Class Certification the following class counsel: Northwest Immigrant Rights Project, American Civil Liberties Union Foundation ("ACLU") Immigrants' Rights Project, ACLU Foundation of Southern California, and USC Gould School of Law Immigration Clinic. [Dkt. No. 41 at 36]. The Court evaluated the adequacy of each counsel in the Class Certification Order; however, the full order inadvertently

excluded the proposed class counsel from the ACLU Immigrants' Rights Project and ACLU Foundation of Southern California. [Class Certification Order at 15].

To correct this oversight, the Court clarifies pursuant to Rule 60(a) that the initial order intended to include each counsel noted by Petitioners in the Motion for Class Certification.

The Class Certification Order is hereby **AMENDED** to include My Khanh Ngo, Judy Rabinovitz, Michael K.T. Tan, and Noor Zafar of the ACLU Immigrants' Rights Project and Eva Bitran of the ACLU of Southern California as additional class counsel.

B. Clarification of MSJ Order's Application to APA Claims

Petitioners' Application includes a request to clarify whether the MSJ Order extended to its Administrative Procedure Act ("APA") claims. [App. at 11–12].

Respondents raise three objections to this request for clarification, each of which suggests the requested relief is premature and overbroad: (1) Petitioners seek relief distinct from what was requested in the Amended Class Complaint, (2) the Court has not resolved whether classwide vacatur relief is appropriate, and (3) Petitioners' Application is contrary to the Court's directive for a status conference.[1] [Opp. at 9–12].

Upon the Court's review of Respondents' briefing, there is only one argument carrying merit: that the MSJ Order does not apply to vacatur of *Yajure Hurtado*. Petitioners failed to include any request to vacate the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

The Court recognizes the BIA issued the decision in *Yajure Hurtado* weeks after Petitioners filed their Motion for Partial Summary Judgment. Petitioners could not have included a request to vacate the decision in their Amended Class Complaint or their Motion for Partial Summary Judgment. However, as Respondents indicate, Petitioners never amended their request for relief through a Second Amended Class Complaint after the BIA issued *Yajure Hurtado*. [Opp. at 9].

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[1] The Court does not discuss here Respondents' argument that Petitioners' request goes against the Court's directive for resolving pending issues, but instead incorporates its reasoning in Part III.C regarding the grounds for reconsideration. [*See* Opp. at 12]. *See infra* Part III.C.2.

Even though the Amended Class Complaint contains allegations that Respondents have violated the APA through unlawful policies, there are no allegations that those unlawful policies include the decision in *Yajure Hurtado*. To tack on a new subject of relief without proper amendment would bypass Federal Rule of Civil Procedure 15. The proper mechanism for Petitioners to seek relief against the decision in *Yajure Hurtado* is to amend the Amended Class Complaint, not through an Application for Reconsideration.

The Court, therefore, **DENIES** Petitioners' Application to Reconsider relief pertaining to *Yajure Hurtado*. Nevertheless, the Court observes that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. *See Yajure-Hurtado*, 29 I. & N. Dec. at 220–28 (subjecting noncitizens present in the United States without inspection to § 1225 and denying them bond hearings for lack of jurisdiction). In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not "applicants for admission," and therefore not subject to mandatory detention under § 1225. [MSJ Order at 12–17]. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts "to *ignore*, not follow, 'the reading the court would have reached' had it exercised its independent judgment). Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable.

The Court now addresses the other relief at issue in the Application. Because vacatur is a necessary consequence of declaring an agency action unlawful, vacatur of the DHS Policy is within the scope of the MSJ Order. Detailed reasoning and discussion of potential jurisdictional issues are discussed in the Amended Consolidated Order to be issued shortly after this Order. Accordingly, the Court **GRANTS** Petitioners' Application to clarify that the MSJ Order encompassed Count III of the Amended Class Complaint and granted classwide vacatur of the unlawful DHS policy.[2]

[2] Respondents also argue that "a court cannot grant declaratory relief prior to the entry of a final judgment." [Opp. at 6 (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975))]. Because the Court reconsiders its decision that previously denied entry of final judgment, there is no reason to consider this argument. *See infra* Part III.C.

C. Entry of Final Judgment

With the scope of the MSJ Order and Class Certification Order clarified, the Court now considers whether it should revisit its previous decision to deny entry of final judgment.[3]

Previously, the Court declined to enter final judgment pursuant to Rule 54(b) "[b]ecause Petitioners [had] filed a pending motion for class certification." [MSJ Order at 17]. At the time of denying Petitioners' request for entry of final judgment on November 20, 2025, the Court had yet to decide whether class certification was appropriate.

The Court had sequenced the motions in this manner, as the Motion for Partial Summary Judgment required the Court to consider a single question of law while the Motion for Class Certification entailed a wider scope of issues for claims in the Amended Class Complaint. *See Wright v. Schock*, 742 F.2d 541, 543–44 (9th Cir. 1984) (recognizing a district court's discretion to rule on a motion for summary judgment before class certification "[u]nder the proper circumstances—where it is more practicable to do so and where the parties will not suffer significant prejudice"). Because the MSJ Order did not enter final judgment, Respondents would face no significant, if any, prejudice.

Petitioners now request that the Court reconsider its initial decision to decline entry of final judgment. [App. at 7, 11–12]. Referencing Local Rule 7-18, Petitioners present new material facts that warrant reconsideration. [*Id.* at 11]. Namely, the Application provides numerous declarations indicating Respondents' failure to comply with the Court's orders by continuing to deny bond hearings for class members and/or Respondents' issuing guidance to disregard the Court's declaratory judgment. [*Id.* at 8–9].

Respondents' Opposition asserts that the status conference set for January 16, 2026, is more appropriate to resolve outstanding issues because "a final declaratory judgment will not simplify the complex issues presented" and "will cause substantial confusion as well as overlapping and inconsistent legal obligations." [Opp. at 2–3]. In doing so, Respondents argue that "[w]ithout

[3] The parties' respective arguments as to the binding effect of the MSJ Order and the Class Certification Order are no longer relevant given the Court's decision to enter final judgment by granting the Application. [Opp. at 4–5; Reply at 4–5]. The Court finds no need to address these arguments.

preclusive effect, a declaratory judgment is little more than an advisory opinion." [*Id.* at 4].

The Court examines as a threshold matter whether reconsideration is proper.

1. Requirements for a Motion for Reconsideration

Local Rule 7-18 requires parties to base a motion for reconsideration on one of three grounds: (1) a material difference in fact or law from that presented to the Court that not known to the moving party at the time the Order was entered; (2) new material facts or a change of law occurring after the Order was entered; or (3) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered. L.R. 7-18.

Indeed, circumstances have changed since the Court's MSJ Order, something Respondents do not contest in the Opposition. The record now reflects the Court's rulings on both Petitioners' Motion for Partial Summary Judgment and Motion for Class Certification, the consequences of which present an altered landscape to that of Respondents' conduct at the time this matter was initiated.

With this in mind, the Court also notes that the Application also presents grounds for reconsideration due to newly emerged facts that fall under two categories.

New Facts Pertaining to IJ's Lack of Compliance. The Application details that Respondents have "persisted in denying class members bond hearings in two ways." [App. at 8]. The various supporting exhibits attached to the Application confirm that immigration judges ("IJs") continue to deny bond hearings for members of the Bond Eligible Class despite the Court's determination that the DHS Policy is unlawful. [*Id.*; *see e.g.*, Dkt. No. 87-2 at 5–8, 11–12, 14–15; Dkt. No. 87-5 at 6–7; Dkt. No. 87-7 at 4–7; Dkt. No. 87-8 at 5–8; Dkt. No. 87-9 at 5–6; Dkt. No. 87-11 at 3–4; Dkt. No. 87-12 at 3–4; Dkt. No. 87-13 at 4–5; Dkt. No. 87-14 at 4–5; Dkt. No. 87-15 at 3–4; Dkt. No. 87-16 at 3–4; Dkt. No. 87-17 at 3–4]. This is the case in at least ten other states. [*Id.*].

In these determinations, IJs have cited to this Court's order, choosing to disregard the declaratory relief granted because it did not enter final judgment or due to some misunderstanding on part of the IJs as to the effect or nature of the Court's orders. [Dkt. No. 87-2 at 11 (suggesting this Court "did not issue a class-wide declaratory judgment"); Dkt. No. 87-2 at 14 (same); Dkt. No. 87-5 at 6 (same); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (same); Dkt. No. 87-9 at 3

(same); Dkt. No. 87-12 at 3 (same); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

This uniform practice by IJs might be attributed to the nature of Petitioners' motion being a "Motion Partial Summary Judgment," the Court's phrasing in its MSJ Order and/or Class Certification Order, or the Court's decision to deny the request for entry of final judgment in the MSJ Order. In any event, the Court finds that the subsequent developments affecting the Bond Eligible Class members in this matter are material, which warrant reconsideration of whether to enter final judgment.

New Facts Pertaining to Respondents' Policies. Similarly, and perhaps more troubling, is the emergence of the Respondents' direction to IJs that they should *disregard* this Court's orders. [App. at 9]. Petitioners have provided evidence that the Office of Immigration Litigation issued a memorandum instructing IJs to "hold the position that *Yajure Hurtado* remains good law." [Dkt. No. 87-3 at 2; *see also* Dkt. No. 87-2 at 11 (adhering to *Yajure Hurtado*); Dkt. No. 87-2 at 14 (reasoning that *Yajure-Hurtado* is an independent ground for denying a bond hearing); Dkt. No. 87-5 at 6 (denying bond for lack of jurisdiction pursuant to *Yajure Hurtado*); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (stating it was the "position of the [DOJ]" to continue heeding *Yajure Hurtado*); Dkt. No. 87-9 at 3 (adhering to *Yajure Hurtado*); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

Because the Court has now decided both the Motion for Partial Summary Judgment and Class Certification Motion, and considering the newly emerged facts as to noncompliance, the posture of this case presents materially different circumstances that would compel reconsideration.

Consistent with the discussion above, the Court finds the Application has provided adequate grounds for this Court's reconsideration under Local Rule 7-18. For the reasons discussed below, the Court finds it appropriate to enter final judgment as to the claims encompassed within the MSJ Order: Counts I, II, and III.[4]

[4] Claims IV and V of the Amended Class Complaint remain in this action, as they were not included within the scope of the Partial Motion for Summary Judgment.

2. Entry of Final Judgment

Rule 54(b) allows a court to direct final judgment "when an action presents more than one claim for relief or when multiple parties are involved." Fed. R. Civ. Proc. 54(b). Such entry is appropriate "as to one or more, but fewer than all, claims or parties *only if* the court expressly determines that there is no just reason for delay." *Id.* (emphasis added).

Moreover, Rule 54(b) acknowledges that "any order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(b). This is an exercise of a Court's inherent authority and power to modify its own interlocutory orders. *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 888 (9th Cir. 2001).

A request from a party for a court to exercise this authority generally comes in the form of a motion for reconsideration. *See e.g.*, *Moore v. Grundman*, No. 11-CV-1570-DMS-WMc, 2012 WL 1252711, at *1 (S.D. Cal. April 13, 2012); *Baldwin v. United States*, 823 F. Supp. 2d 1087, 1098 (D.N. Mariana Islands 2011); *Whitsit v. Walker*, No. C-09-2387-JL, 2009 WL 5125858, at *1 (N.D. Cal. Dec. 21, 2009); *Rhodes v. Robinson*, No. 1:02-CV-05018-LJO-DLB, 2008 WL 1766975, at *1 (E.D. Cal. Apr. 17, 2008); *Network Signatures, Inc. v. ABN-AMRO, Inc.*, No. 8:06-CV-00629-JVS-RNBx, 2007 WL 760187,1 at *1 (C.D. Cal. Apr. 10, 2007).

When a Court chooses to modify, the only requirement for the exercise of this power is that the court "has not been divested of jurisdiction over the order." *Baykeeper*, 254 F.3d at 888. The Court confirms that it still possesses jurisdiction over the MSJ Order and Class Certification Order, as no interlocutory appeal or certification of appeal under Rule 23(f) has been filed.

Because the Court still has jurisdiction, it must articulate sufficient cause for the modification. *See Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 13 n.14 (1983). To determine whether there is "any just reason for delay," the Court must consider "judicial administrative interests as well as the equities involved." *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980). The Ninth Circuit has found "Rule 54(b) certification is proper if it will aid expeditious decision of the case." *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794, 797 (9th Cir. 1991) (citation modified). Whether to make an express determination under

Rule 54(b) is "exclusively within the District Court's discretion." *Atterbury v. Carpenter*, 310 F.2d 126, 126 (9th Cir. 1962).

Indeed, entry of final judgment here will likely aid expeditious decision of the case. As discussed above, the Court is in a posture distinct from where it stood on November 20, 2025. On November 20, 2025, the Court declined entry of final judgment, reasoning final judgment was not appropriate due to the pending motion for class certification. [MSJ Order at 17]. The impact of class certification on the nature of the case provided adequate justification for delay in the entry of final judgment. The Court then issued its Class Certification Order on November 25, 2025. [*See* Class Certification Order].

Because of that change in procedural posture, the Court finds that the previous reasons supporting delay in entry of final judgment pursuant to Rule 54(b) no longer exist. Furthermore, because new facts indicate Respondents have counseled the noncompliance with the Court's orders as discussed in Part III.B.1. Evidence of these circumstances present exigent circumstances that may cause irreparable harm to those detained without a bond hearing, where they are otherwise entitled to one. *See* Fed. R. Civ. P. 54(b). [*See also* Reply at 9 (detailing the harm that Bond Eligible Class members face in light of Respondents' policies)].[5]

Finding no just reason for delay, the Court **GRANTS** Petitioners' Application to Reconsider as to the previous denial of final judgment. The Court hereby **ENTERS** final judgment in this action as to Counts I, II, and III of the Amended Class Complaint.

IV. CONCLUSION

Accordingly, the Court hereby **GRANTS IN PART** and **DENIES IN PART** Petitioners' Application for Reconsideration and Clarification as follows:

- the Application is **GRANTED** as to the additional class counsel;
- the Application is **DENIED** as to including vacatur of *Matter of Yajure Hurtado* in the judgment;

[5] The Court's decision here moots Respondents' arguments regarding the tentative nature of the declaratory relief and its preclusive effect. [Opp. at 2–3, 4].

- the Application is **GRANTED** as to the clarification that the MSJ Order declared the DHS Policy unlawful and granted vacatur under the APA; and

- the Application is **GRANTED** as to the prior request to enter final judgment. The Court hereby **ENTERS** final judgment as to Counts I, II, and III.

An Amended Order consolidating the MSJ Order and Class Certification Order, clarifying the issues encompassed in this Motion, and detailing the judgment will be issued separately.[6]

IT IS SO ORDERED.

[6] Consistent with Rule 60(a), the clarifications in this Order make no substantive corrections to the effect of its prior orders. The portion of this Amended Order incorporating the Court's reconsideration of its prior denial to enter final judgment and subsequent entry of final judgment is the only substantive change. Such changes are permissible and governed by Rule 60(b)(6).