IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00184-DDD

YAINIER ARANDA GARCIA,

Petitioner,

v.

PAMELA BONDI, in her official capacity as Attorney General of the United States,
KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,
TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; and
JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility,

Respondents.

RESPONSE TO PETITION (ECF No. 1) AND ORDER TO SHOW CAUSE (ECF No. 5)

Respondents respond to the petition for writ of habeas corpus (ECF No. 1) and Order to Show Cause (ECF No. 5).[1]

The petition should be denied. It is barred as a successive petition for a writ of habeas corpus. Some of Petitioner's claims are duplicative of claims previously asserted—and rejected—in a habeas case Petitioner brought in the Middle District of Florida a few months ago. The new claims Petitioner asserts here could have been brought in that prior habeas petition, and

[1] The Court ordered that Respondents' response was due "by the later of 2/17/2026 or three weeks after service of a summons and the petition pursuant to Fed. R. Civ. P. 4." ECF No. 5. The U.S. Attorney's Office received service via certified mail on February 13, 2026; thus, this response is timely filed.

Petitioner has not established that his failure to do so was the result of anything other than inexcusable neglect.

To the extent the Court is inclined to reach the merits of the petition, Petitioner's arguments fail. Petitioner does not show why his theory that his release from detention in 2021 was a *de facto* grant of parole entitles him to the relief he seeks here. And Petitioner is not a member of the class as defined in *Bautista v. Santacruz*, so he cannot obtain relief based on the court's decision in that case.

BACKGROUND

I. Factual background

Petitioner is a native and citizen of Cuba. Ex. A ¶ 4 (Declaration of John Mansur). On July 27, 2021, he entered the United States at the United States-Mexico border at or near San Luis, Arizona by climbing over the border fence. *See id.* ¶ 5. Petitioner was apprehended by U.S. Customs and Border Protection agents shortly after entering into the United States. *Id.* Petitioner was not inspected and admitted or paroled into the United States. *Id.* Upon his detention, Petitioner was processed for removal proceedings under 8 U.S.C. § 1229a. *Id.* ¶ 6.

On August 2, 2021, Customs and Border Protection issued Petitioner a Notice to Appear, initiating removal proceedings under § 1229a and charging Petitioner with being inadmissible to the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated). *Id.* ¶ 7.

On August 3, 2021, Petitioner was transferred to the custody of U.S. Immigration and Customs Enforcement ("ICE"). *Id.* ¶ 8. On August 4, 2021, ICE released Petitioner from

custody on an Order of Release on Recognizance ("OREC") and enrolled him in the Alternatives to Detention Program. *Id.* ¶ 9.

On October 13, 2021, Petitioner filed an application for asylum and withholding of removal. *Id.* ¶ 10. Petitioner's removal proceedings remain ongoing, and his case is set for an individual hearing on May 8, 2026. *Id.* ¶¶ 20-22.

On November 13, 2025, federal officers encountered Petitioner near Key West, Florida. *Id.* ¶ 13. He was arrested and detained pending resolution of his removal proceedings, and his release on OREC was terminated. *Id.* Petitioner is detained pursuant to 8 U.S.C. § 1225(b). *Id.* ¶ 14.

On December 10, 2025, Petitioner was transferred to the Denver Central Detention Facility. *Id.* ¶ 17.

II. Petitioner's prior habeas case

On November 18, 2025, Petitioner (who was then detained in Florida) filed a petition for a writ of habeas corpus with the United States District Court for the Middle District of Florida. *See Aranda Garcia v. Attorney General*, No. 2:25-cv-01053-KCD-DNF, ECF No. 1 (M.D. Fla.) (the "Florida habeas case").[2] In that petition, Petitioner argued that his detention pursuant to 8 U.S.C. § 1225(b)(2)(A)—which provides for mandatory detention—is unlawful, and that the Court should instead find that he was detained pursuant to 8 U.S.C. § 1226(a)—which permits detainees to receive a bond hearing. *See* Ex. B at 2-5, 13-25, 27-28. He raised a statutory claim under the Immigration and Nationality Act, a claim under the implementing regulations regarding bond hearings, procedural and substantive due process claims, and a claim under the

[2] The petition from Petitioner's Florida habeas case is attached hereto as Exhibit B.

Administrative Procedure Act ("APA"). *See id.* at 27-39. For relief, he sought release or a bond hearing under § 1226(a), among other requests. *See id.* at 40.

The government responded in the Florida habeas case, and Petitioner submitted a reply. *See Aranda Garcia*, No. 2:25-cv-01053-KCD-DNF, ECF Nos. 9, 11. The court then ordered further briefing on the specific issue of whether the Florida habeas case should be dismissed as moot in light of the certified nationwide class action in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), which briefing the parties submitted. *See Aranda Garcia*, No. 2:25-cv-01053-KCD-DNF, ECF Nos. 10, 12, 13.

On December 10, 2025, the court denied the petition in the Florida habeas case. *See id.*, ECF No. 14.[3] The court found that Petitioner was lawfully detained pursuant to § 1225(b)(2)(A) because he "was apprehended at the border. That puts him squarely under § 1225. . . . The fact that Garcia spent time in the United States after being released on an order of recognizance—and was eventually apprehended in the country—does not change his classification." Ex. C at 3-4 (citations omitted). Thus, the court found, Petitioner was not entitled to a bond hearing. *See id.* at 4.

The court also rejected Petitioner's due process arguments. The court noted that "it's not entirely clear" that a due-process claim "is available for aliens held under § 1225" because "[s]ome courts have concluded that for arriving aliens due process is whatever procedure has been authorized by Congress." *Id.* at 5 (citation omitted). "[E]ven assuming Garcia enjoys due process protections here," the court held, "they would be transgressed only by 'prolonged detention' without a bond hearing." *Id.* (citation omitted). Because Petitioner "has not been in

[3] The court's order in the Florida habeas case is attached hereto as Exhibit C.

custody for a prolonged period, nor shown that his detention will be indefinite," his due-process claims failed. *Id.* Finally, the Court held that Petitioner "falls outside the class" in *Bautista* because he "was 'apprehended on arrival.'" *Id.* at 6 (citing *Bautista*, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025)).

ARGUMENT

I. Petitioner's successive habeas claims are barred.

A. Legal standard

Habeas claims that were made in a prior habeas petition are barred as successive. 28 U.S.C. § 2244(a) provides that the Court need not entertain a habeas corpus application "if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus, except as provided in section 2255." Under § 2244(a), the court may dismiss a § 2241 habeas action where the claims have been decided in a prior habeas action. *See Stanko v. Davis*, 617 F.3d 1262, 1272 (10th Cir. 2010) (holding that § 2241 petitions are subject to the bar in § 2244(a), consistent with the abuse-of-the-writ doctrine); *see also Lee v. Maye*, 667 Fed. App'x 297, 297 (10th Cir. 2016) (affirming dismissal of § 2241 claim where claim was duplicative with one previously asserted and dismissed).

The bar on successive petitions extends to claims that *could* have been raised in an earlier petition, but were not. *See Stanko*, 617 F.3d at 1269-71. To overcome the successive-petition bar, "the petitioner must establish that the omission was not the result of inexcusable neglect in order to proceed on the new claim." *Id.* at 1271. The petitioner must "establish cause for his failure to raise the claim in an earlier proceeding and resulting prejudice . . . or, in the absence of

cause, the petitioner must show that "a fundamental miscarriage of justice would result from a failure to entertain the claim." *Id.* (citing *McClesky v. Zant*, 499 U.S. 467, 493-95 (1991)). If the petitioner does not make such a showing, the new claim is also barred by the abuse-of-the-writ doctrine. *See Zaring v. Davis*, 510 F. App'x 766, 768 (10th Cir. 2013) (affirming denial of § 2241 habeas petition because the petitioner did not show that his failure to raise the claims in the prior petition was anything other than inexcusable neglect).

The government bears the burden of pleading abuse of the writ. *McCleskey*, 499 U.S. at 477. Then, the burden shifts to Petitioner to show that he has not abused the writ in seeking habeas relief. *Id.* Accordingly, "[a]bsent a showing of cause and prejudice or a fundamental miscarriage of justice, the court may not address the merits of successive habeas claims." *Mays v. Carter*, No. 22-1089, 2022 WL 6616350, at *2 (10th Cir. Oct. 11, 2022) (upholding denial of successive § 2241 petition where Applicant failed to establish that considering it "would serve the ends of justice").

B. Discussion

The petition in this case is successive and therefore barred. Petitioner makes two primary arguments here: (1) that his initial release from detention was a *de facto* grant of parole, and ICE terminated that parole without appropriate notice; and (2) that he is entitled to relief as a member of the nationwide class in *Bautista.* The first could have been raised in the Florida habeas case but was not (though he did present due process claims that were substantially similar); the second was expressly considered and rejected by the court in the Florida habeas case.

First, Petitioner could have raised the argument he now presses, about his purported release on parole and termination of that parole, in the Florida habeas case. But he did not raise

it there—at least not in the same way it is framed in this case.

Petitioner's explanation for that omission is unavailing. He asserts that this petition is not successive but "[r]ather, it challenges a distinct and newly crystallized legal injury arising from Respondents' post-decision interpretation of the detention statutes." ECF No. 1 ¶ 10. Specifically, Petitioner seems to argue that the Florida habeas case made clear that, given that ICE is detaining him pursuant to § 1225(b)(2)(A), his release in 2021 must have been a grant of parole, rather than via an OREC. *See id.* ¶¶ 2-3, 9-10.[4] The difference matters, he contends, because the purported *de facto* parole was not terminated by a written notice of termination of parole. *See id.* ¶¶ 71, 77-80, 88-96.

Petitioner contends "this legal predicate was neither apparent nor available at the time of the prior habeas petition," but that assertion is unsupported. Petitioner received a copy of the OREC when it was issued in 2021, and he plainly understood that ICE re-detained him in 2025 under § 1225(b)—as evidenced by the fact that he filed the Florida habeas case challenging that basis for detention. *See* Ex. B. at ECF No. 1-7 (attaching the OREC as an exhibit to the petition in the Florida habeas case); Ex. B at 13-28, 35-39 (petition in the Florida habeas case arguing, at length, that Petitioner is not properly detained under § 1225(b)(2)(A), but rather under § 1226(a)). Thus, to the extent there is some mismatch between Petitioner's 2021 release via

[4] Apparently to support his argument that the Florida habeas case created this new claim, Petitioner alleges, "Respondents now take the position that applicants for admission subject to § 1225(b)(2)(A) are mandatorily detained, ineligible for bond, and *may only be released pursuant to the parole authority in 8 U.S.C. § 1182(d)(5)(A)*." ECF No. 1 ¶ 2 (emphasis added). He does not include a citation to where Respondents purportedly made this argument about the only proper means of release for people detained under § 1225(b)(2)(A), and that argument does not appear in the government's briefs on the petition in the Florida habeas case. *See Aranda Garcia*, No. 2:25-cv-01053-KCD-DNF, ECF Nos. 9, 12.

OREC and his present detention under § 1225(b), Petitioner had that information at the time he filed the Florida habeas case, and he has not adequately explained why he failed to raise the argument he now makes regarding the termination of his purported *de facto* parole.[5] Nor has he established that the Court declining to consider his new argument would be a "fundamental miscarriage of justice." *Mays*, 2022 WL 6616350, at *2.

Though Petitioner did not include his new theory (the purported *de facto* parole termination) in his prior habeas petition, the core of that argument—a complaint about lack of procedural and substantive due process—is *not* new. Petitioner included a procedural due process claim in the petition in the Florida habeas case. *See* Ex. B at 28-31 (Count Two, titled "Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Detention Without a Pre-Deprivation Hearing"). That claim asserted that "the procedures attendant upon Petitioner's detention are constitutionally insufficient." *Id.* ¶ 77; *see id.* ¶¶ 75- 82 (citing *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) and arguing the *Mathews* factors justify release due to lack of a pre-deprivation bond hearing). His petition in this case asserts the same. *See* ECF No. 1 ¶ 69; *id.* ¶¶ 67-74 (making essentially the same *Mathews* argument, with references to written notice or individualized determination prior to "constructive parole" revocation substituted for the earlier petition's references to a pre-deprivation bond hearing). Petitioner also included a substantive due process claim in the petition in the Florida habeas case, which is similar to the substantive due process claim here. *Compare* Ex. B ¶¶ 83-89 *with* ECF No. 1

[5] To the extent Petitioner suggests the court in the Florida habeas case found that he was paroled and not released on an OREC, *see* ECF No. 1 ¶ 9, that is inconsistent with the Florida court's opinion, *see* Ex. C at 4 (stating that Petitioner "spent time in the United States *after being released on an order of recognizance*" (emphasis added)).

¶¶ 75-81. The court in the Florida habeas case considered and rejected Petitioner's due process arguments. *See* Ex. C at 4-5. Those claims are therefore barred as successive.

Second, Petitioner's claim concerning the class action in *Bautista* is also successive. The parties briefed the applicability of *Bautista* to Petitioner in the Florida habeas case. *See Aranda Garcia*, No. 2:25-cv-01053-KCD-DNF, ECF Nos. 12, 13. In the order denying the petition, the Florida court held that Petitioner does *not* fall within the *Bautista* class. *See* Ex. C at 6 n.2. Thus, the court found that "*Bautista* has no application here." *Id.* Petitioner cannot assert a successive habeas claim for relief under *Bautista*.

II. To the extent the Court considers the merits, Petitioner's claims fail.

A. Petitioner's argument that he was granted *de facto* parole and was entitled to written notice of termination of parole is unavailing.

Petitioner argues that his release in 2021 was not via an OREC, but rather was a grant of discretionary parole pursuant to 8 U.S.C. § 1182(d)(5)(A). *See, e.g.*, ECF No. 1 ¶¶ 2-3, 39-45. That argument is belied by the record and the court's finding in the Florida habeas case. Petitioner was released pursuant to an OREC, which document he produced in support of his petition in the Florida habeas case. *See* Ex. B at ECF No. 1-7 (documents titled "Order of Release on Recognizance" and "Order of Release on Recognizance (Addendum)," both signed by Petitioner). At a later hearing on Petitioner's application for adjustment of status, an immigration judge found that the OREC did not constitute parole for purposes of determining Petitioner's eligibility for adjustment. *See id.* ¶ 12. And the Florida court noted that Petitioner "spent time in the United States after being released on an order of recognizance." Ex. C at 4.

On this record, and given the Florida court's finding, the Court should not accept Petitioner's assertion that he was granted parole as a factual matter.

In any event, Petitioner suggests that the logical result of a purported *de facto* grant of parole is that he was entitled to notice of that parole's revocation. But the facts could also support the conclusion that ICE should not have released him *at all*, because he is properly detained under § 1225(b), which provides for mandatory detention—and that by re-detaining him in November 2025, ICE was simply rectifying the situation. *See Nielsen v. Preap*, 586 U.S. 392, 411 (2019) ("[A]s we have held time and again, an official's crucial duties are better carried out late than never." (citing *Sylvain v. Attorney General of U.S.*, 714 F.3d 150, 158 (3d Cir. 2013) (collecting cases)).

Finally, even accepting *arguendo* Petitioner's contention about *de facto* parole, the problem he identifies (lack of proper notice of parole termination) does not yield the relief he primarily seeks (release). Instead, the proper remedy for a lack of proper process in terminating parole is additional process. Courts have declined to grant release as a remedy for a procedural violation of immigration regulations. *See, e.g., Olmedo v. ICE*, No. 25-3159-JWL, 2025 WL 2821860, at *3 (D. Kan. Oct. 3, 2025) (concluding that where a 90-day post-order custody review was not performed, "the appropriate remedy is to ensure that petitioner is afforded the process denied by the violation"); *Bahadorani v. Bondi*, No. CIV-25-1091-PRW, 2025 WL 3048932, at *3 (W.D. Okla. Oct. 31, 2025) ("Even if the government failed to comply with 8 CFR § 241.13(i)(2)-(3), and such noncompliance were prejudicial, the [c]ourt would not be able to issue a writ of habeas corpus as an appropriate remedy.").

B. Petitioner's APA claim fails.

The Court lacks jurisdiction to consider Petitioner's APA claim. Petitioner's APA claim is premised on the same argument raised elsewhere in the petition—that Respondents purportedly terminated his *de facto* parole. *See* ECF No. 1 ¶¶ 82-96. And the relief he seeks is the same as for his other claims: declare his detention unlawful, grant the petition, and order his release or, in the alternative, a bond hearing. *See id.* at 25.

Congress limited judicial review under the APA to situations where "there is no other adequate remedy in a court." 5 U.S.C. § 704. But Petitioner has another means to raise his claims: in habeas. Indeed, as the Supreme Court recently held, where a party's argument challenges the validity of detention, the case *must* proceed in habeas. *See J.G.G. v. Trump*, 604 U.S. 670, 672 (2025). The availability of a habeas claim bars APA jurisdiction.

Even if there were APA jurisdiction, Petitioner's APA claim fails on the merits, for the reasons described above.

C. Petitioner is not entitled to relief under *Bautista.*

Petitioner asserts that he is entitled to relief as a member of the class in *Bautista. See* ECF No. 1 ¶¶ 1, 13-16, 52-54, 97-102. He is not.

The class in *Bautista* is defined to include:

> 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.

Bautista v. Santacruz, -- F. Supp. 3d. --, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025). As the court in the Florida habeas case found, *see* Ex. C at 6 n.2, Petitioner does

not meet the second factor because he was apprehended on arrival in the United States, *see* Ex. A ¶ 5. Thus, he is not a *Bautista* class member, and he is not entitled to relief on that basis.[6]

CONCLUSION

The Court should deny the petition and dismiss the case.

Dated: March 6, 2026

Respectfully submitted,

PETER MCNEILLY
United States Attorney

s/ Jane Bobet Rejko
Jane Bobet Rejko
Assistant United States Attorney
1801 California Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 454-0100
Jane.Bobet.Rejko@usdoj.gov
Counsel for Respondents

LENGTH LIMITATION CERTIFICATION

I hereby certify that the foregoing paper complies with the length limitation set forth in DDD Civ. P.S. III(A)(1).

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[6] Even if Petitioner were a *Bautista* class member, good reasons exist not to give that decision preclusive effect. First, the court lacked jurisdiction to order relief to the nationwide class, particularly using the mechanism of declaratory judgment. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) ("jurisdiction lies in only one district: the district of confinement"); *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998). Second, offensive collateral estoppel is disfavored when applied against the federal government. *See United States v. Mendoza*, 464 U.S. 154, 159 (1984). Third, the existence of prior inconsistent judgments on the § 1225(b)(2)(A) interpretation at issue in *Bautista* weigh against applying issue preclusion. *See Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 330-31 (1979). And finally, the pendency of an appeal of the *Bautista* decision to the Ninth Circuit supports not granting preclusive effect to that decision. *See In re Scrivner*, 535 F.3d 1258, 1266 (10th Cir. 2008).

CERTIFICATE OF SERVICE

I certify that on March 6, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/Jane Bobet Rejko
United States Attorney's Office