

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:26-cv-20319-CMA

NORBERTO BENITEZ HERNANDEZ,
Petitioner,

v.

ASSISTANT DIRECTOR, U.S.
Department of Homeland Security,
Immigration and Customs Enforcement,
Enforcement and Removal
Operations Miami Field Office, *et al.*,
Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Respondents¹, by and through the undersigned Assistant United States Attorney, consistent with this Court's Order requiring a response by January 23, 2026 (ECF No. 4), respectfully submit the following response in opposition to Petitioner Norberto Benitez Hernandez's ("Petitioner") Petition for Writ of Habeas Corpus (ECF No. 1) ("Petition").

INTRODUCTION

By way of the Petition, Petitioner, in relevant part, asks this Court to declare that Petitioner's detention cannot fall under Immigration and Nationality Act ("INA") § 235, 8 U.S.C. 1225 and that Petitioner must be given an individualized bond hearing within the discretionary

¹ The Petition named Respondents as the Assistant Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement, Enforcement and Removal Operations Miami Field Office, and Director U.S. DHS ICE ERO Miami Field Office. (ECF No. 1 at 10-11). The proper respondent in the instant case is Assistant Field Office Director Charles Parra in his official capacity, *see* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004). The remaining Respondents should be dismissed as parties to the instant action. *See Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). "In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Padilla*, 542 U.S. at 435-40, 439; *see also Diaz v. United States*, 580 Fed. Appx. 716, 717 (11th Cir. 2014) (stating the Eleventh Circuit "emphasized that there was not a single case in which it had deviated from the rule that a habeas petitioner challenging his present physical custody was required to name his immediate custodian as respondent and file his petition in the district of his confinement.")

scheme of 8 U.S.C. § 1226. ECF No. 1 at ¶¶ 3, 61-62. Accordingly, this case comes down to a question of statutory interpretation, specifically, what statutory provision controls Petitioner's detention.

Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner admits that he "entered the United States approximately 22 years ago *without inspection*." ECF No. 1 at ¶ 14 (emphasis added). Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

FACTUAL BACKGROUND

The petitioner, Norberto Benitez Hernandez, is a native and citizen of Mexico. *See* Exh. A, Form I-213, Record of Deportable/Inadmissible Alien, (Form I-213), dated September 10, 2025. Petitioner illegally entered the United States at an unknown time and place. *See id.*

On September 10, 2025, Florida Highway Patrol encountered Petitioner due to a traffic violation. *See id.* Customs and Border Protection (CBP) was notified and determined Petitioner had no lawful status in the United States and detained him. *See id.*; *see also* Exh. B, Form I-203, Order to Detain or Release, dated September 10, 2025. CBP offered Petitioner the option to voluntarily depart the United States, but Petitioner declined. *See* Exh. A, Form I-213. On September 11, 2025, Petitioner was transferred to the custody of Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO"). *See* Exh C, Detention History.

On September 27, 2025, DHS filed the Notice to Appear (NTA), with Executive Office for Immigration Review (EOIR), charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i) in that he is an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and INA § 212(a)(7)(A)(i)(I) in that he is an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid

unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act. *See* Exh. D, Notice to Appear, dated September 10, 2025.

On December 4, 2025, Petitioner filed a motion for a custody hearing with EOIR Krome Immigration Court. *See* Exh. E, Notice of Hearing, filed on December 8, 2025. On December 10, 2025, the Immigration Judge denied the motion, finding the court does not have jurisdiction over the bond proceedings based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Exh. F, Immigration Judge Order, dated December 10, 2025. On December 30, 2025, Petitioner filed a second motion for a bond hearing. *See* Exh. G, Notice of Hearing, filed on December 30, 2025. On January 8, 2026, the Immigration Judge issued an order stating no action. *See* Exh. H, Immigration Judge Order, dated January 8, 2026.

Petitioner's next hearing is before the Krome Immigration Court on March 2, 2026. *See* Exh. I, Notice of Hearing, filed on December 22, 2025. Petitioner is currently detained at the Krome North Service Processing Center (Krome); *see also* Exh. C, Detention History; Exh. J, Declaration at ¶ 17.

ARGUMENT

I. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), DHS is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”).

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) defines “applicant for admission” to encompass an alien who either “arrives in the United States” or who is “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1).

“Admission” under the INA means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, § 1225(b)(2) provides that “an alien who is an applicant for admission” “*shall* be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute’s use of the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien’s presence in the country or where in the country the alien is located. Therefore, the statute’s plain text mandates that DHS detain all “applicants for admission” who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was “present in the United States,” and he has “not been admitted.” 8 U.S.C. § 1225(a); Exh. A. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner “be detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission Under § 1225(b)(2) Are Seeking to Be Legally Admitted into the United States.

As explained above, Petitioner is an “applicant[] for admission” under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an “applicant for admission” *is* necessarily “seeking admission.” Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to withdraw their application for admission and depart from the United States voluntarily, is “seeking admission,” *i.e.*, seeking legal authority to remain in the United States.

1. The “seeking admission” clause does not negate or otherwise limit the statutorily defined term “applicant for admission”.

Section 1225(b)(2) requires the detention of an “applicant for admission, if the examining immigration officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an “applicant for admission” is a means of “seeking admission”—no additional

affirmative step is necessary. In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to pursue voluntary withdrawal of their application for admission.

For example, § 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise” means “in a different way or manner[.]” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (*en banc*) (“or otherwise” means “the first action is a subset of the second action”). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that an alien who is an “applicant for admission” is “seeking admission” for purposes of § 1225(b)(2)(A).² No separate affirmative act is necessary. *See Matter of Lemus*, 25 I & N. Dec. 734, 743 (BIA 2012) (“[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be ‘seeking admission’ under the immigration laws”). Accordingly, § 1225(b) unambiguously provides that an alien who is an “applicant for admission” is “seeking admission,” even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an “applicant for admission” is “seeking admission” under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that “is not a license to rewrite” § 1225 “contrary to its text.” *See Barton v. Barr*, 590 U.S. 222, 239 (2020); *Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) (“sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance” especially when “the arguably redundant words that the drafters employed ... are functional synonyms” (alterations accepted and emphasis in original)).

² As § 1225 shows, being an “applicant for admission” is only *one* “way or manner” of “seeking admission,” not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not “applicants for admission” because they are already admitted, but they still may be “seeking admission.” *See* 8 U.S.C. § 1103(A)(13)(C).

“The canon against surplusage is not an absolute rule.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). “Redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication.” *Barton*, 590 U.S. at 239. “[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* Thus, as the Supreme Court explained in *Barton*, “Sometimes the better overall reading of [a] statute contains some redundancy.” *Id.*

Moreover, “the surplusage canon ... must be applied with the statutory context in mind” and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

C. Section 1226 Does Not Support Petitioner’s Argument.

Petitioner’s reliance upon, and reference to, 8 U.S.C. § 1226 is unavailing. Petitioner’s detention is controlled by § 1225(b)(2), not § 1226.

Sections 1225 and 1226 are separate statutory provisions that provide independent bases for detention and, generally, apply to different groups of aliens. While there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundancy because the two statutes provide for different bases for release.

Section 1226(a) authorizes the Executive to “arrest[] and detain[]” any “alien” pending removal proceedings but provides that the Executive also “may release the alien” on bond or conditional parole. 8 U.S.C. § 1226(a). Section 1226(a) provides the detention authority for the significant group of aliens who are *not* “applicants for admission” subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (“the specific governs the general”).

Section 1226(c) provides for mandatory detention and is an exception to § 1226(a)'s discretionary detention regime. It requires the Executive to detain "any alien" who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Petitioner has not committed one of the specified offenses and has not engaged in terrorism-related actions. Accordingly, he is not detained under § 1226(c).

D. The Government's Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection ... were subject to mandatory custody.

Yajure Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att’y General of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)); see also *Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection”).

Congress discarded that regime through enactment of the IIRIRA. Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, the IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. The IIRIRA defined “admission” to mean “the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner’s interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that the IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner’s interpretation. *King*, 576 U.S. at 492 (rejecting “petitioners’ interpretation because it would ... create the very [thing] that Congress designed the Act to avoid”). The Government’s reading, on the other hand, is true to Congress’s intent and should be adopted.

E. The Government’s Reading Accords with *Jennings*.

The Government’s interpretation is consistent with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to “impos[e] an implicit 6-month time limit on an alien’s detention” under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so

limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with the Government’s reading, the Court recognized in its description of § 1225(b) that § “1225(b)(2) . . . serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* at 287.

II. Petitioner’s Due Process Claims Fail

Petitioner’s constitutional claims fail as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. at 299–301. The Fifth Amendment does not require bond hearings for noncitizens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003).

Petitioner’s reliance on *Zadvydas v. Davis* is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (ECF No. 1 at ¶ 45), this Court should reject that claim because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225. Moreover, Petitioner fails to allege that he is subject to “prolonged or indefinite” detention, which was at issue in *Zadvydas*. A habeas petition under 28 U.S.C. § 2241 is limited to challenges to the fact or duration of custody that violate the Constitution or laws of the United States. The petitioner bears the burden of demonstrating that detention is unlawful.

The Supreme Court has repeatedly upheld detention of noncitizens during removal proceedings without individualized bond hearings. *See Demore v. Kim*, 538 U.S. 510, 523–28 (2003). Applicants for admission possess significantly diminished constitutional protections, and detention at the threshold of entry is a core sovereign function. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). No due process right to a bond hearing exists under § 1225(b)(2). Because Congress mandated detention under § 1225(b)(2), due process does not require a bond hearing that Congress chose not to provide. *See Jennings*, 583 U.S. at 302–03. Petitioner’s reliance on district court decisions applying *Mathews v. Eldridge* is misplaced and inconsistent with Supreme Court precedent rejecting judicial re-writing of detention statutes.

III. Petitioner Failed to Exhaust His Administrative Remedies.

The Petition should be dismissed because Petitioner has failed to exhaust available administrative remedies. Although exhaustion under § 2241 may be prudential, courts routinely require exhaustion in detention cases absent exceptional circumstances. *See Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). Petitioner has not shown that administrative review is unavailable, futile, or incapable of providing relief. Indeed, the BIA is the appropriate forum to resolve the legal issues surrounding detention authority under §§ 1225 and 1226. Petitioner's attempt to bypass the BIA simply because of disagreement with its precedent does not excuse exhaustion.

IV. *Bautista* is neither binding, preclusive, nor applicable to Petitioner.

Petitioner argues that he is a member of the *Bautista* class and is therefore entitled to a bond redetermination hearing (ECF No. 1 at ¶¶ 63-64). Petitioner's reliance on *Bautista* is misplaced. The December 18, 2025, partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, is neither binding nor applicable, and presents no basis for granting the petition. First, the *Bautista* declaratory judgment lacks legal effect on petitioners and custodians, such as the parties to this case, outside the Central District of California. Second, the Court should not give preclusive effect to the declaratory judgment because it is on appeal, creating a serious risk of inconsistent judgments and unfair results if the *Bautista* judgment is reversed or vacated on appeal. Finally, issue preclusion is inapplicable here, particularly as preclusion principles apply with less force both against the government and in habeas corpus proceedings.

A. The *Bautista* declaratory judgment lacks effect outside the Central District of California and over custodians located outside that District.

The *Bautista* class sought a declaratory judgment that class members were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a). This is core habeas relief that must be brought as a habeas claim alone. As the Supreme Court made clear just this year, “[r]egardless of whether [] detainees formally request release from confinement,” if “their claims for relief necessarily imply the invalidity of their confinement[], their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas.” *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal quotations omitted).

The Supreme Court imposed two fundamental limits on federal court jurisdiction over core habeas claims. *First*, “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also J.G.G.*, 604 U.S. at 672. *Second*, a habeas petitioner must name the petitioner’s *immediate* custodian—*i.e.*, the custodian who has actual custody over the petitioner and can produce the “corpus.” *Padilla*, 542 U.S. at 435. “Failure to name the petitioner’s custodian as a respondent deprives federal courts of personal jurisdiction” needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And a “judgment entered without personal jurisdiction over a defendant is void as to that defendant.” *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address “validity of a defense the State may, or may not, raise in a habeas proceeding” in part because “the underlying claim must be adjudicated in a federal habeas proceeding”); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. *See Calderon*, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the “availability of a habeas remedy in another district ousted us of jurisdiction over an alien’s effort to pose a constitutional attack . . . by means of a suit for declaratory judgment”); *Monk v. Sec. of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) (“In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is ‘in custody in violation of the Constitution . . . of the United States,’ This specific determination must override the general terms of the declaratory judgment . . . statute.”).

As with most *Bautista* class members, Petitioner is confined *outside* of the Central District of California by an immediate custodian also *outside* the Central District of California and neither

he nor his custodian have been named in the *Bautista* lawsuit. Because the *Bautista* court lacks jurisdiction to issue habeas relief to any petitioner or class member confined outside the Central District of California or against immediate custodians outside that District, its judgment cannot be binding and preclusive against parties outside the Central District of California. *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Indeed, another federal district court has already held that the *Bautista* declaratory judgment does not have preclusive effect in its District. Order, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12.

It is undisputed that Petitioner was detained in Florida, has remained detained in Florida and his immediate custodian is located in Florida. D.E. 2; Exh. J. This ends the analysis on the matter. *Padilla*, 542 U.S. at 439-40; *see also Doe v. Garland*, 109 F.4th 1188, 1196 (9th Cir. 2024) (holding immediate custodian and not supervisory ICE Field Office Director should be named in habeas petition). Consequently, the *Bautista* decision has no preclusive effect in this district and its decision does not bind this Court.

1. The Court should not give preclusive effect to a declaratory judgment on appeal.

Even if the *Bautista* declaratory judgment could have preclusive effect outside the Central District of California, that judgment has been appealed to the Ninth Circuit, *Bautista, et al. v. United States Department of Homeland Security, et al.*, No. 25-7958 (9th Cir.), and this Court should not afford preclusive effect to that judgment or to any underlying legal issues in deciding whether to grant habeas relief in this case.

Courts must exercise significant caution before giving preclusive effect to declaratory judgments on appeal. Reflexively granting preclusive effect to such judgments could lead to subsequent judgment “from which it may be impossible to obtain relief” even if the first judgment is reversed on appeal. 9 A.L.R.2d 984. Courts should strive to avoid this “evil result[.]” *Id.* (“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”); *see also* 18A Fed. Prac. & Prod. § 4404 (“Awkward problems can result from the rule that preclusive effects attach to the first judgment” while that judgment is subject to an appeal); 18A Fed. Prac. & Proc. § 4433 (the rule that a decision is final for the purposes of preclusion while that decision is pending appeal creates “[s]ubstantial difficulties”).

This problem can be “avoided . . . by delaying further proceedings in the second action pending conclusion of the appeal in the first action.” *Collins v. D.R. Horton, Inc.*, 505 F.3d 874, 882–83 (9th Cir. 2007) (citing Wright & Miller § 4433). In the circumstances here—and particularly given the constraints of 8 U.S.C. § 1252(f)(1)—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”). Accordingly, even if the *Bautista* judgment could be applicable to Petitioner, no preclusive effect should be given until its appeal is settled.

2. Affording preclusive effect to the *Bautista* declaratory judgment contravenes other principles of preclusion

Beyond the two most serious problems with giving effect to the *Bautista* declaratory judgment in this case addressed above, three more reasons counsel strongly against so.

First, under 28 U.S.C. § 2202, “[f]urther necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.” To the extent this Court considers whether to award “further” relief than what the *Bautista* court purported to grant to class members outside the Central District of California, such further relief is neither “necessary [n]or proper.” Indeed, the Ninth Circuit—which of course has appellate jurisdiction over the Central District of California—has rejected waiving the district of confinement rule on prudential considerations given the clear congressional mandate limiting habeas jurisdiction to the district of confinement as provided by statute. *Doe*, 109 F.4th at 1199.

Second, the circumstances of this case also counsel against applying issue preclusion against the government. The Supreme Court has “long recognized that ‘the Government is not in a position identical to that of a private litigant,’ *INS v. Hibi*, 414 U.S. 5, 8 (1973) (per curiam), both because of the geographic breadth of government litigation and also, most importantly, because of the nature of the issues the government litigates.” *United States v. Mendoza*, 464 U.S. 154, 159 (1984). “Government litigation frequently involves legal questions of substantial public importance.” *Id.* Thus, although the Supreme Court has held the federal government “may be estopped . . . from relitigating a question” when “the parties to the lawsuits are the same,” *id.* at 163, 164, it is not so precluded in cases where the party seeking to offensively use preclusion was

not a party to the initial litigation, *see id.* at 162. This is because allowing “nonmutual collateral estoppel against the government . . . would substantially thwart the development of important questions of law by freezing the first final decision rendered on a particular legal issue.” *United States v. Mendoza*, 464 U.S. 154, 160 (1984).

For similar reasons, the government should not be precluded from litigating the issue of the proper detention authority here, where neither Petitioner nor his current custodian were named parties in the ongoing *Bautista* litigation. In such a circumstance, applying preclusion against the government raises the same concern raised in *Mendoza*—it allows the *Bautista* court’s decision to freeze the law for all district courts nationwide, and stymies development of the law. This is particularly so because the *Bautista* court could never grant complete habeas relief to all class members as a result of § 1252(f)(1)—instead, the *Bautista* class action was merely a vehicle for seeking to use the judgment in individual habeas matters such as this one. At minimum, the court should exercise its discretion to decline to employ offensive issue preclusion, as it does in cases where a non-party seeks to invoke preclusion against a private party. *See Syverson v. Int’l Bus. Machines Corp.*, 472 F.3d 1072, 1078 (9th Cir. 2007) (citing *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979)).

The court should also decline to give the *Bautista* declaratory judgment preclusive effect given the existence of several inconsistent judgments from district courts around the country, suggesting that reliance on the adverse judgment in *Bautista* would be unfair. *See Parklane Hosiery*, 439 U.S. at 330–31 (citing the existence of prior inconsistent judgments as indicium of unfairness of applying issue preclusion); *see, e.g., Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-168, 2025 WL 3131942, at *2–3 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025); *Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Xiaoquan Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025).

Third, it is doubtful that issue preclusion is ever appropriate in the habeas context. For instance, in *Griffin v. Gomez*, the Ninth Circuit held that a prior “class action has no preclusive affect in habeas proceedings.” *Griffin v. Gomez*, 139 F.3d 905 (9th Cir. 1998). The court later

explained that res judicata and collateral estoppel do not apply to habeas proceedings. *See Clifton v. Attorney General*, 997 F.2d 660, 662 n.3 (9th Cir. 1993) (recognizing that because “conventional notions of finality of litigation have no place” in habeas and the inapplicability of res judicate to habeas is “inherent in the very role and function of the writ.”) (quoting *Sanders v. United States*, 373 U.S. 1, 8 (1963)); *see also Hardwick v. Doolittle*, 558 F.2d 292, 295 (5th Cir. 1977) (“The doctrines of res judicate and collateral estoppel are not applicable in habeas proceedings.”); *Hierens v. Mizell*, 729 F.2d 449, 456 (7th Cir. 1984) (“a decision in another case is not res judicata as to a habeas proceeding.”).

In sum, the *Bautista* declaratory judgment has no preclusive effect on this case.

3. The Court need not await a ruling staying or vacating the *Bautista* declaratory judgment before declining to give it preclusive effect.

Assessing whether the *Bautista* declaratory judgment required granting an individual class member’s habeas petition, the U.S. District Court for the Northern District of Texas persuasively explained why the *Bautista* declaratory judgment need not be followed by other U.S. district courts, even before a court of appeal stays or vacates that order:

A dispute in this posture is unusual, but not unheard of. As Justice Story remarked, the traditional comity between courts “does not prevent an inquiry into the jurisdiction of the court in which the original judgment was given.” *Old Wayne Mut. Life Ass’n v. McDonough*, 204 U.S. 8, 16 (1907) (quoting Joseph Story, *Commentaries on the Constitution of the United States* § 1313 (1833)). It is “a subject [that] may be inquired into every other court, when the proceedings in the former are relied upon, and brought before the latter, by a party claiming the benefit of such proceedings.” *Williamson v. Berry*, 49 U.S. (8 How.) 495, 540 (1850); *Old Wayne*, 204 U.S. at 16–17 (same). Indeed, traditional habeas proceedings normally could only challenge “the power and authority of the court” or other detaining authority “to act.” *Brown v. Davenport*, 596 U.S. 118, 129 (2022) (quotation omitted). While the conclusions of another court, when enforced onto a peer court, are generally “unassailable collaterally,” an exception has always existed for “lack of jurisdiction.” *Treinies v. Sunshine Mining Co.*, 308 U.S. 66, 78 (1939); *Ex parte Watkins*, 28 U.S. (3 Pet.) 193, 202–03 (1830) (Marshall, C.J.) (same).

When the issuing court lacks jurisdiction, “its judgments and orders are nullities; they are not voidable, but simply void, and form no bar to a recovery sought . . . in opposition to them; they constitute no justification, and all persons concerned in executing such judgments . . . are considered in law as trespassers.” *Williamson*, 49 U.S. at 541 (quoting *Elliott v. Piersol*, 26 U.S. (1 Pet.) 328, 329 (1828)); *Watkins*, 28 U.S. at 203 (“An

imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity[.]”).

* * *

The Court issues this Order with some reluctance. The business of another court is generally beyond this Court’s concern. But the petitioner seeks relief based on the Central District’s orders, leaving this Court no choice but to address their binding effect. Here, a fellow district judge purports to bind all pending and future cases involving the mandatory detention issue to her reasoning in an advisory opinion, disrupting this Court’s extensive immigration docket and the dockets of fellow courts across the Nation. But the Central District’s orders are not binding because the Central District lacked authorization to issue them. The orders are unauthorized because they are advisory and because they violate the INA’s limits on judicial review. Additionally, they would require this Court to act in defiance of Supreme Court precedent. Thus, the Court rejects the petitioner’s assertion that it is bound by the Central District’s orders and must grant relief as a result.

Calderon Lopez v. Lyons, No. 25-cv-00226, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025), ECF No. 12, at 11 & 28. Thus, because the *Bautista* declaratory judgment would be void if pertaining to Petitioner due to the *Bautista* Court’s lack of jurisdiction over the Petitioner and over his immediate custodian as discussed above, this Court is not required to wait for a court of appeals to stay or vacate that judgment before this Court declines to give it preclusive effect.

Regardless, even if the Court does not treat the *Bautista* judgment as void *now*, the blatant jurisdictional flaws and other points noted above counsel strongly in favor of the Court declining to give it preclusive effect.

V. The APA Does Not Waive Immunity for These Claims

The Administrative Procedure Act (APA) does not apply where agency action is committed to discretion by law or where another statute precludes judicial review. 5 U.S.C. §§ 701(a)(1)–(2). Immigration enforcement and custody determinations are paradigmatic examples of discretionary action insulated from APA review. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (This Court has recognized on several occasions over many years that an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion. *United States v. Batchelder*, 442 U.S. 114, 123–124, 99 S.Ct. 2198, 2203–2204, 60 L.Ed.2d 755 (1979); *United States v. Nixon*, 418 U.S. 683, 693, 94 S.Ct. 3090, 3100, 41 L.Ed.2d 1039 (1974); *Vaca v. Sipes*, 386 U.S. 171, 182, 87 S.Ct. 903, 912, 17 L.Ed.2d 842 (1967); *Confiscation Cases*, 7 Wall. 454, 19 L.Ed. 196 (1869)). The Supreme Court highlighted in *Heckler*

the multiple reasons for general unsuitability for judicial review, including agency expertise, agency allocation of resources, and likelihood of success. *Id.* at 831-832.

Moreover, Petitioner fails to identify any “final agency action” subject to review. ICE’s decision to detain Petitioner is an interim enforcement action, not a reviewable final determination under the APA. The INA is the exclusive statutory scheme governing immigration detention, precluding APA review. Further, detention determinations are committed to agency discretion by law, barring review under 5 U.S.C. § 701(a)(2). Petitioner challenges no “final agency action” subject to APA review. *See Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 62 (2004).

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that on January 23, 2026, I uploaded the attached document to the Court’s PACER system.

By: /s/ John Ghannam
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