

Petitioner hired undersigned counsel's firm on or about January 7, 2026 to represent Petitioner in his immigration court proceedings and to file a request for bond redetermination with the immigration court in light of the District Court for the Central District of California's December 18, 2025 final decision in *Maldonado Bautista v. Santacruz*, Case No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), certifying a nationwide class, of which Petitioner was a member. The final judgment holds that class members are subject to

discretionary detention under 8 U.S.C. § 1226(a) and are therefore eligible to request a bond. At that time, Petitioner informed undersigned counsel that his prior attorney from a different law firm had filed a habeas petition for him with this Court, and which had been pending since September 2025 without a final decision.

On January 7, 2026, a bond redetermination request was filed before the El Paso Immigration Court arguing that Petitioner was eligible for a bond under *Maldonado-Baustista*. On January 21, 2026, following instructions by EOIR leadership to not follow the final judgment in *Maldonado Bautista v. Santacruz*, the immigration judge denied Petitioner's bond redetermination request due to a lack of jurisdiction. In light of this development, Petitioner hired undersigned counsel's firm on January 22, 2026, to file a habeas petition. In the petition, undersigned counsel provided information about the recent bond denial and failure of the immigration judge to follow the *Maldonado Bautista v. Santacruz* final judgment. Dkt. 1, ¶¶ 26, 30, 60-66. Undersigned counsel lists two causes of action: (1) Petitioner's detention violates the Due Process Clause of the Fifth Amendment; and (2) Petitioner's detention violates his statutory rights under the Immigration and Nationality Act. Dkt. 1, ¶¶ 67-74, 75-84.

Undersigned counsel and her firm were not a party to the previous habeas petition and therefore do not have access to the prior petition or its contents. Undersigned counsel filed the instant petition based on a meritorious claim supported by many courts across the country, seeking a resolution for her client who has been detained since June 2025. Undersigned counsel has filed several other habeas petitions for similarly situated petitioners before this Court and before other district courts. Undersigned counsel acknowledges that due to the large number of habeas petitions filed, she committed an oversight in not referencing the previously dismissed habeas petition by prior counsel in her own filing.

Undersigned counsel has been practicing in the immigration field for six years but did not begin filing habeas petitions until mid-October 2025. Undersigned counsel has not been sanctioned or been the subject of disciplinary proceedings at any other time in her career. Undersigned counsel apologizes for the lack of oversight. Such oversight was not an intent to deceive or vex the court.

ARGUMENT

The determination of whether to impose sanctions in federal court cases is governed by F.R.C.P. Rule 11, or 28 U.S.C. § 1927, or both. *See Chambers v. NASCO Inc.*, 501 U.S. 32, 50 (1991); *Travelers Ins. Co. v. St. Jude Hosp. of Kenner, La., Inc.*, 38 F.3d 1414 (5th Cir. 1994).

“[T]he standard for the imposition of sanctions using the court's inherent powers is extremely high. The court must find that the very temple of justice has been defiled by the sanctioned party's conduct.” *Goldin v. Bartholow*, 166 F.3d 710, 722-23 (5th Cir. 1999) (internal quotation marks and citation omitted); *see also Matta v. May*, 118 F.3d 410 (5th Cir. 1997) (finding there was not a sufficient basis for a finding of bad faith).

A. F.R.C.P. Rule 11

FRCP Rule 11 provides that:

(b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

Rule 11 sanctions are to be applied only where, at the time of filing, the position advocated is unwarranted. *Matta*, 118 F.3d at 415 (citing *F.D.I.C. v. Calhoun*, 34 F.3d 1291, 1300 (5th Cir. 1994)).

Here, undersigned counsel has filed a number of habeas petitions with this court and with other district courts across the country for similarly situated petitioners who entered the United States without inspection and were later apprehended by ICE within the interior of the United States several years later. Most district courts, including this one, have granted relief in favor of petitioners. *See Barco Mercado v. Francis*, 2025 WL 3295903, at *13 (S.D.N.Y.) (collecting 362 district court opinions nationwide and noting that challengers prevailed in at least 350 of them, in decisions by over 160 judges across about fifty courts). This is not to presume that the petition here will succeed, merely that the position advocated is not unwarranted or frivolous, and 5th circuit precedent does not allow for the imposition of Rule 11 sanctions merely for the eventual failure of the claim.

B. 28 U.S.C. § 1927

Because 28 U.S.C. § 1927 sanctions are penal in nature, *Monk v. Roadway Express, Inc.*, 599 F.2d 1378, 1383 (5th Cir.1979), *aff'd in relevant part sub nom. Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980), and in order not to dampen the legitimate zeal of an attorney in representing her client, § 1927 is strictly construed. *Browning v. Kramer*, 931 F.2d 340, 344 (5th Cir. 1991). Therefore, before imposing such sanctions, a court must ensure that, pursuant to the

plain terms of § 1927, the offending attorney's multiplication of the proceedings was both “unreasonable” and “vexatious”, *Federal Deposit Ins. Corp. v. Conner*, 20 F.3d 1376, 1384 (5th Cir.1994); evidence of recklessness, bad faith, or improper motive must be present. *Hogue v. Royse City, Tex.*, 939 F.2d 1249, 1256 (5th Cir.1991).

Here, prior counsel’s habeas petition had been pending since September 2025 without resolution and a final decision had not yet been issued when the prior attorney filed a notice to voluntarily dismiss the action. The voluntary dismissal was filed without prejudice. Petitioner hired current counsel to seek habeas relief following the immigration court’s denial of his bond request due to a lack of jurisdiction, in violation of the final judgment issued in *Maldonado Bautista v. Santacruz*, and following prior counsel’s dismissal without prejudice. Undersigned counsel did not act in bad faith or have an improper motive in merely trying to seek resolution for her client through the filing of a habeas petition, who has been detained since June 2025. Any similarities between the instant petition and the one filed by prior counsel were not intentional. Undersigned counsel was not a party to the prior case and was therefore unable to access the prior petition to review its contents. Undersigned counsel apologizes for not having first attempted to obtain a copy of that petition from prior counsel to review its contents prior to filing the instant petition, but her actions were not done in bad faith, she is merely trying to seek resolution for her client. Her intentions are not to waste this court’s time or resources. Without having seen the prior petition, undersigned counsel would note that the information in the instant petition regarding petitioner’s most recent bond request and cause of action based on a violation of the *Maldonado Bautista v. Santacruz* final judgment would not have been included in prior counsel’s petition since those happened very recently.

For these reasons, undersigned counsel submits this information in light of the Order to Show Cause.

Respectfully Submitted,

/s/ Khiabett Osuna

One of his attorneys

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