UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:26-cv-60281-MD

MARBELL A. SANDINO RODRIGUEZ,

Petitioner,

vs.

WARDEN, BROWARD TRANSITIONAL CENTER ET. AL.,

Respondents.
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RESPONDENTS' RETURN/RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF FACT AND LAW IN SUPPORT OF SAME

Respondents[1] files this Return to Petitioner's Petition for Writ of Habeas Corpus [DE 1] (hereinafter the "Petition") and response to this Court's Order to Show Cause [DE 4]. This action should be dismissed as Petitioner is properly detained pursuant to § 8 U.S.C. § 1225(b).

I. FACTUAL BACKGROUND

Petitioner, Marbell Sandino-Rodriguez (Petitioner), is a native and citizen of Nicaragua, who entered the United States illegally at an unknown location and date. **Exhibit A**: Declaration ¶ 5. On or about May 25, 2022, Customs and Border Protection (CBP) encountered Petitioner in the Rio Grande Valley and determined that she had unlawfully entered the United States without being inspected or admitted. *Id.* ¶ 6. On or about May 25, 2022, Petitioner was briefly taken into custody and released with parole as an Alternative to Detention (ATD). *Id.* ¶ 7. On or about January 31,

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Broward Transitional Center. D.E. 1 at ¶ 10. The Proper Respondent and immediate custodian at the Broward Transitional Center is Carlos Nunez. *See Rumsfeld v. Padilla*. Accordingly, Respondents Kristi Noem and Pamela Bondi must be dismissed as improper parties.

2023, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) terminated the ATD. *Id.* ¶ 8. On or about January 22, 2026, ICE ERO encountered Petitioner after she was arrested by Palm Beach County Sheriff's Office. *Id.* ¶ 9. On or about January 23, 2026, Petitioner was transferred to ICE ERO custody. **Exhibit B**: Detention History. On January 28, 2026, U.S. Department of Homeland Security (DHS) filed the Notice to Appear (NTA), with EOIR Immigration Court, charging Petitioner with inadmissibility under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). **Exhibit C**: Notice to Appear 1.28.26. Petitioner has not requested a custody hearing before EOIR. Ex A ¶ 12. The Petitioner is currently detained at Broward Transitional Center (BTC). Ex B. Her next master calendar hearing is scheduled for March 26, 2026, before the BTC Immigration Court. **Exhibit D**: Notice of Hearing 2.10.26.

II. ARGUMENT

A. Petitioner is an Applicant for Admission[2] subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and discretionary detention under § 1226(a) is Inapplicable as Clarified by the Fifth Circuit Court of Appeal in *Buenrostro-Mendez.*

[2] The government submits the following arguments in good faith, supported by the Fifth Circuit Court of Appeals' recent decision in *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) and decisions previously rendered in other cases in this District. *See, e.g., Iraheta Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a bond hearing under 8 U.S.C. § 1226); *Perez Morales v. Noem*, et al., Case No. 26-60251-CIV-DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026) (holding that the noncitizen petitioners in removal proceedings were subject to mandatory detention under 28 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally many years ago). Nevertheless, the government acknowledges that Judges in this District have reached the opposite conclusion on the legal issues presented. *See, e.g., Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's detention"); *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41, (S.D. Fla. Oct. 10, 2025) ("§ 1226 governs Petitioner's detention"); *Alvarez Puga v. Assistant Field Office Director Krome,* et al., No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that "prudential exhaustion requirements are excused for futility" and finding that "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A)"); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, ECF No. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner's failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner's request for a bond hearing or release and that Petitioner is subject

Petitioner is properly detained as an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) (holding that aliens who evaded inspection at a port of entry were necessarily "applicants for admission" and fell within § 1225(b)); *Perez Morales v. Noem*, et al., Case No. 26-60251-CIV-DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026) (adopting *Buenrostro-Mendez* and holding that the noncitizen petitioners in removal proceedings were subject to mandatory detention under 28 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally many years ago) attached as **Exhibit E**; *Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a

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to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, ECF NO.14 (Jan. 5, 2026) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Martinez v. Field Off. Dir.*, No. 25-26026-CIV-LEIBOWITZ, ECF No. 7 (S.D. Fla. Jan. 14, 2026) ("Pending the Eleventh Circuit's resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner here is entitled to a prompt, individualized bond hearing under 8 U.S.C. § 1226(a)"); *Espinal Encarnacion v. ICE Field Office Director*, et al., No. 25-61898-CIV-DAMIAN, ECF No. 29 (Dec. 23, 2025) ("this Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner's detention, and not Section 1225(b)"); *Ocegueda Gonzalez v. Noem,* et al., No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, ECF No. 25 (Dec. 23, 2025) ("Having concluded that Petitioner's detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge."); *Acosta v. Ripa*, et al., Case No. 25-62360-CIV-DIMITROULEAS, ECF No. 19 at 7 (S.D. Fla. Dec. 26, 2025) ("§ 1226(a) and its implementing regulations govern Petitioner's detention, not § 1225(b)(2)(A)"); and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH, ECF No. 7 (S.D. Fla. Jan. 27, 2026) ("Petitioner is being unlawfully detained due to his improper classification as "an alien who is an applicant for admission" pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . . Petitioner's proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)").

bond hearing under 8 U.S.C. § 1226))[3]. The Fifth Circuit in *Buenrostro-Mendez* recognized that "[s]ince DHS began to detain unadmitted aliens under § 1225(b)(2)(A), well over a thousand aliens have filed habeas corpus petitions seeking bond hearings[] [and,] [i]n most of these cases, the district court found in favor of the petitioner." *Id.* 2026 WL 323330 at *3. Nevertheless, the court concluded that such decisions ignored the plain language of § 1225, because presence without admission renders an individual like Petitioner to be both an "applicant for admission" and "seeking admission" under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention--regardless of how much time the individual has been present in the United States. *Buenrostro-Mendez*, at *4-9. The court noted that the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)'s legislative history explained that the IIRIRA aimed to reduce the incongruity in the legislative scheme that afforded aliens who evaded inspection and were apprehended months or years later greater procedural protections than aliens who lawfully presented themselves for inspection at a point of entry. *Id.* at 1 citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Hence, Congress noted the previous incongruity in its legislative scheme that inadvertently afforded aliens who entered illegally a greater protection and aimed to rectify such incongruity through the IIRIRA. Thus, according to *Buenrostro-Mendez* not only did the plain language of the statute clearly require that aliens who entered illegally be treated as applicants for admissions, but also that, based on statutory history, this was Congress's expressed intent. *Id.*

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S.*

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[3] Although the opinion mainly relied upon the plain language and legislative intent, Judge Singhal noted separately that accepting Petitioner's reasoning would "create a perverse incentive to enter ... [the United States] unlawful[ly]" because it would give an alien who unlawfully entered a bond hearing while an alien who entered lawfully would be denied such relief. *Morales*, 2026 WL 236307 at * 7. This is precisely what the IIRIRA was intended to do away. *Id.* In other words, Petitioner's reading is not only contrary to the plain language of §1225, but also contrary to Congress' stated intent in passing the IIRIRA.

Tr., 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Buenrostro-Mendez,* at 2 ("an alien's status as an applicant for admission does not turn on where or how the alien entered the United States"); *Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission.").

By its very definition, the term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'"); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted"). An arriving alien is defined, in pertinent part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry [("POE")] . . . ." 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . ."). An applicant for admission at a United States POE "must present whatever

documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter the United States." 8 C.F.R. § 235.1(f)(1); *see also* 8 U.S.C. § 1229a(c)(2)(A) (explaining that an applicant for admission has the burden to establish that he or she is clearly and beyond doubt entitled to be admitted and is not inadmissible under 8 U.S.C. § 1182 in removal proceedings pursuant to § 1229a). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

Petitioner did not present herself at a POE but instead entered the United States without having been admitted or paroled after inspection by an immigration officer. *See* Ex A ¶ 6. Petitioner is, therefore, an alien present in the United States without admission or parole and, consequently, an applicant for admission. *See Buenrostro-Mendez*, at *2, 4-5 (explaining that "an alien's status as an applicant for admission does not turn on where or how the alien entered the United States" and that an "applicant for admission" is necessarily "seeking admission," as contemplated in 8 U.S.C. § 1225(b)(2))).

The decision issued by the BIA in *Matter of Yajure Hurtado* is similarly instructive. In *Matter of Yajure Hurtado*, the BIA rejected the alien's argument that "because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as 'seeking admission.'" 29 I&N Dec. at 221. The BIA determined that this argument "is not supported by the plain language of the INA" and creates a "legal conundrum." *Id.* If the alien "is not admitted to the United States (as he admits) but he is not 'seeking admission' (as he contends), then what is his legal status?" *Id.* (parentheticals in original). The BIA's decision is consistent not only with the

plain language of § 1225(b)(2), but also with the Supreme Court's decision in *Jennings v. Rodriguez,* 583 U.S. 281 (2018), and subsequent caselaw post *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303.

B. Petitioner is an Applicant for Admission in 8 U.S.C. § 1229a Removal Proceedings and as such her Detention Pursuant to 8 U.S.C. § 1225(b)(2)(A) is Proper.

Both arriving aliens and aliens present without admission or parole, as applicants for admission, may be removed from the United States by, *inter alia*, expedited removal procedures under § 1225(b)(1) or removal proceedings before an immigration judge under § 1229a. §§ 1225(b)(1), (b)(2)(A). *See Jennings,* 583 U.S. at 287 (describing how "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)"). For aliens subject to expedited removal, immigration officers have discretion to apply expedited removal under § 1225(b)(1) or to initiate removal proceedings before an immigration judge under § 1229a. *See also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) ("DHS may place aliens arriving in the United States in either expedited removal proceedings under [8 U.S.C. § 1225(b)(1)], or full removal proceedings under [8 U.S.C. § 1229a]" (citations omitted)).

Petitioner is currently in § 1229a removal proceedings and is subject to detention under § 1225(b)(2)(A). Hence, under § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained* for a proceeding under [8 U.S.C. § 1229a]" "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); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under 8 U.S.C. § 1225 "shall be detained" pursuant to § 1225(b)(2)). As the Supreme Court observed in

Jennings, nothing in § 1225(b)(2)(A) "says anything whatsoever about bond hearings." 583 U.S. at 297. Further, there is no textual basis for arguing that § 1225(b)(2)(A) applies only to arriving aliens as no provision therein refers to "arriving aliens," or limits that paragraph to arriving aliens. Where Congress means for a rule to apply only to "arriving aliens," it uses that specific term of art or similar phrasing. *See, e.g.*, 8 U.S.C. §§ 1182(a)(9)(A)(i), 1225(c)(1).

In *Morales*, a recent decision by another court in this district denying a habeas petition under similar facts, Judge Singhal explained that petitioner's reading of 1225(a) as it relates to removal proceedings under 1229a creates an "interpretive conundrum", because it requires the Court conclude "that Petitioner is simultaneously ***not*** an applicant for admission as it concerns his detention, but ***is*** an applicant for admission for purposes of his removal proceedings." 2026 WL 236307 at * 7 (emphasis in original). This is because petitioner is under removal proceedings under § 1229a and, as a matter of law, can only succeed in those proceedings if he proves that either he is "lawfully present" (an impossibility given her admitted illegal entry), or "if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 1182 of this title". *Id.* quoting § 1229a(c)(2)(A)-(B). In other words, Petitioner is necessarily and implicitly taking the position that he is an "applicant for admission" for the purpose of her removal proceedings, which he challenges, while arguing to this Court that he is not an "applicant for admission" for the purpose of obtaining a bond hearing. These positions and reasoning are irreconcilable. *Id.* Given this interpretive conundrum, Petitioner's proposed reading is unpersuasive.

C. Section 1226 does Not Impact the Detention Authority that Governs with respect to Applicants for Admission in removal proceedings.

Petitioner urges the Court to find that her detention is authorized only by 8 U.S.C. § 1226(a), but that is incorrect. Section 1226(a) is the applicable detention authority for aliens

who have been admitted and are subject to removal proceedings under § 1229, and it does not impact the directive in § 1225(b)(2)(A) that "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceedings under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A). Section § 1226(a) "applies to aliens already present in the United States" and "creates a default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing 8 U.S.C. § 1226(a) as a "permissive" detention authority separate from the "mandatory" detention authority under 8 U.S.C. § 1225). As the Fifth Circuit observed in Buenrostro-Mendez, § 122(a) "does work independent from § 1225(b)(2)(A) because only § 1226(a) applies to admitted aliens who overstay their visas, become deportable on many different grounds, or were admitted erroneously due to fraud or some other error." *Buenrostro-Mendez*, at *7.

Generally, such aliens may be released on bond or their own recognizance, also known as "conditional parole." 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not, however, confer the *right* to be released on bond; rather, both DHS and immigration judges have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). To interpret § 1225(b)(2)(A) as not applying to all applicants for admission would render it meaningless. As explained above, Congress expanded § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally.

There would have been no need for Congress to make such a change if § 1226(a) was meant to apply to aliens present without admission.

D. Applicants for Admission may Only be Released from Detention on an 8 U.S.C. § 1182(d)(5) Parole.

DHS has the exclusive authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that § 1182(d)(5) is the specific provision that authorizes temporary release from detention under § 1225(b). 583 U.S. at 300.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under 8 U.S.C. § 1182(d)(5) is "delegated solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the BIA nor immigration judges have authority to parole an alien into the United States under § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that "parole authority [under 8 U.S.C. § 1182(d)(5)] is now exercised exclusively by the DHS" and "reference to the Attorney General in [8 U.S.C. § 1182(d)(5)] is thus deemed to refer to the Secretary of Homeland Security"). Lastly, because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an immigration judge or the BIA. *Castillo-Padilla*, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the BIA does not have authority to review the way DHS exercises its parole authority).

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

Petitioner claims she is unlawfully detained by ICE and seeks a writ of habeas corpus to enforce her rights as a member of the Bond Eligible Class certified in the matter of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) in December 2025. *See* DE 1 ¶ 6. However, Petitioner's reliance on *Maldonado Bautista* is misplaced. The December 18, 2025 partial final judgment in *Maldonado Bautista* is neither binding nor applicable, and presents no basis for granting the petition. First, the *Maldonado Bautista* declaratory judgement lacks legal effect on petitioners and custodians, such as the parties to this case, outside the Central District of California. More specifically, Petitioner misrepresents that she is a member of the Bond Eligible Class, and even if she were, the *Maldonado Bautista* court would have lacked jurisdiction to enter such a judgment. 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, because in addition to this matter involving completely different parties, preclusion principles apply with less force both against the government and in habeas corpus proceedings.

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

In *Maldonado Bautista*, per the operative pleading, habeas relief was sought only by the named petitioners in that case, and Petitioner is not one of the named petitioners. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d. ----, 2025 WL 3713987, at * 14 (C.D. Cal. Dec. 18, 2025) ("The Amended Class Complaint and briefings from Petitioners confirm that habeas relief was sought only as to the named Petitioners."). Second, the named petitioners did not seek nationwide habeas relief, but instead, the case is limited to the Central District of California. *Id.* Third, in granting declaratory relief, the District Court noted that habeas relief could only be afforded to class members located in the Central District of California. *Id.* at * 14 (citing *Rumsfeld*

v. Padilla, 542 U.S. 426, 446 (2004), for the proposition that "habeas jurisdiction lie[s] 'in only one district: the district of confinement'", and noting that "[n]owhere in the Amended Class Complaint or Motion for Partial Summary Judgment do Petitioners seek habeas relief on a nationwide level"). Thus, Petitioner is not a member of the Bond Eligible Class contrary to her claims, she could not have been one as a matter of law because the *Maldonado Bautista* lacked jurisdiction over her claims, and the decision explicitly stated that the relief provided was only for the named California petitioners.

Fourth, 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. Given that Petitioner's custodian was not named in the *Maldonado Bautista* case and the *Maldonado Bautista* Court would have lacked jurisdiction over such custodian had she been named, any relief in the *Maldonado Bautista* case would not be preclusive here. In short, *Maldonado Bautista* case provides no basis for relief for Petitioner.

It is undeniable that Petitioner was detained in Florida, has remained detained in Florida, that her immediate custodian is located in Florida, that she is not a member of the Bond Eligible Class in *Maldonado Bautista*, that the *Maldonado Bautista* Court lacks jurisdiction over Petitioner's habeas claim and that the *Maldonado Bautista* Court explicitly limited habeas relief to named petitioners acknowledging that no nationwide class relief was granted. 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 offers no independent basis for habeas relief.

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

Even if the *Bautista* declaratory judgment could have nationwide preclusive effect, which the *Maldonado Bautista* Court explicitly stated it did not do, 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 a judgment pending appeal or to any underlying legal issues in deciding whether to grant habeas relief in this case.

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).

Additionally, 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 as matter of law, and even if it could possibly have such an effect, for the reasons stated above such effect should not be given. As explained by a sister court who declined to give *Bautista* preclusive effect outside its district:

> 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[.]").
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> * * *
>
> 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). Thus, because the *Bautista* declaratory judgment would be void if pertaining to Petitioner[4], due to the *Bautista* Court's lack of jurisdiction over the Petitioner and 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.

F. *Zadvydas v. Davis* offers Petitioner no relief.

In Count II, Petitioner erroneously and conclusively claims his detention violated his due process rights citing *Zadvydas v. Davis*, 533 U.S. 678, 690-701 (2001) (holding that while the government cannot indefinitely detain an alien before removal, detention for up to six months is "presumptively reasonable"). DE 1 ¶ 53. However, *Zadvydas*'s is completely irrelevant as it is a

[4] Notably, Petitioner is not a named petitioner in the *Bautista Maldonado* case, and as noted above the *Bautista Maldonado* Court explicitly limited any habeas relief to named petitioners detained in the Central District of California.

post removal order case addressing the circumstances under which a prolonged detention may become a violation of due process. Here, Petitioner's 8-day detention[5] is presumptively reasonable. *Id.* Because Petitioner has been detained fewer than six months, her petition should be dismissed as premature to the extent she claims a prolonged detention. *See Phadael v. Ripa*, No. 24-CV-22227-RKA, 2024 U.S. Dist. LEXIS 109481, 2024 WL 3088350, at *3 (S.D. Fla. June 21, 2024)

Thus, Petitioner's Due Process challenge fails on two fronts. First, since he was only detained for 8 days before he filed the Petition, her detention falls well within the six month presumptively reasonable period established by *Zadvydas* making this Petition premature and subject to immediate dismissal. Second, there is no indication in the record that her removal is not reasonably foreseeable. *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434-35 (S.D.N.Y. 2017) (holding that petitioner must present more than "mere assertions that removal is unforeseeable" to succeed on a due process challenge). In fact, Petitioner does not even address the unforseeability prong to establish that her detention is violative of due process. Thus, Count II is legally insufficient requiring dismissal.

G. Petitioner failed to Exhaust her Administrative Remedies

Lastly, the Court should dismiss the petition for writ of habeas corpus for failure to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the

[5] Petitioner was detained on January 24, 2026 [DE 1 ¶ 1] and filed her petition on February 1, 2026. Thus, he was detained for eight days before raising a *Zadvydas* challenge. As of the date of this Return, Petitioner has been detained for nineteen (19) days.

factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Petitioner argues that she is not required to avail herself of the administrative remedies available to her (*see* Petition at ¶ 16), and seeks an order requiring a bond hearing in the first instance from this Court. By regulation, the BIA has authority to review IJ custody determinations. *See* 8 C.F.R. §§ 1003.1(b)(7), 1003.38. As set forth in the EOIR Policy Memo 25-45 the BIA and IJs can consider constitutional challenges to the INA – such could include a Fifth Amendment challenge to the BIA's interpretation of 235(b)(2) in *Yajure Hurtado*. *See* https://www.justice.gov/eoir/eoir-policy-manual/memoranda-pm-list. Here, Petitioner's removal proceedings are pending, thus she has not availed himself of the administrative process and remedies available to her before proceeding to this Court in hopes of shopping for a more favorable forum. Accordingly, the Petition should be dismissed for failure to exhaust administrative remedies.

III. CONCLUSION

As mentioned above, the Petition should be dismissed because detention is lawful under § 8 U.S.C. § 1225(b)(2) and Petitioner has failed to exhaust her administrative remedies before seeking relief from the Court. Regardless, given that Respondents Pamela Bondi and Kristi Noem are not Petitioner's immediate custodians, they must be dropped/dismissed as parties.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 13, 2026, I electronically filed the foregoing with the Clerk of Court using CM/ECF.

Respectfully submitted,

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