IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

JOSE PUENTES-PUENTES,	)	
	)	
Petitioner,	)	
	)	CIV-26-192-J
v.	)	
	)	
SCARLET GRANT, et al.,	)	
	)	
Respondents.		

RESPONSE IN OPPOSITION TO
THE PETITION FOR WRIT OF HABEAS CORPUS

Respectfully submitted,

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RESPONSE IN OPPOSITION TO THE PETITION FOR WRIT OF HABEAS CORPUS

Respondents[1] Acting Field Director Robert Cerna of the Dallas Field Office of the U.S. Immigration & Customs Enforcement (ICE), Secretary Kristi Noem of the U.S. Department of Homeland Security (DHS), and U.S. Attorney General Pamela Bondi, pursuant to the Court's Order (Doc. 6), respond to the Petition for Writ of Habeas Corpus (Doc. 1), and respectfully submit that the Court should deny the Petition and enter an order of dismissal.

INTRODUCTION

Petitioner is an inadmissible alien who was apprehended within the United States and was detained under 8 U.S.C. § 1225(b)(2)(A) pending removal proceedings. He filed this petition to challenge that detention, arguing that the Court should instead construe him as detained under 8 U.S.C. 1226(a), which give the DHS discretion to hold bond hearings and release aliens during removal proceedings. But rather than arguing the legal merits of his challenge to the DHS's interpretation of § 1225(b)(2)(A), Petitioner relies on a declaratory judgment in a class action in the Central District of California.

Petitioner claims that he is a class member in the case *Bautista v. Santacruz*, No. 5:25-CV-1873 (C.D. Cal.) and entitled to be released pursuant to the partial final judgment

[1]Respondent Grant, Warden of the Cimarron Detention Center and Petitioner's immediate custodian, is not a federal official. This response is therefore not filed on her behalf.

entered in that case that provides for declaratory relief. *See Bautista v. Santacruz*, No. 5:25-CV-1873, 2025 WL 3713982 (C.D. Cal. Dec. 18, 2025) (ECF No. 92). No other basis for relief is proffered and no further analysis of the § 1225 vs. § 1226 issue is stated. Thus, Petitioner's first claim turns solely on whether this Court will enforce a *declaratory judgment* by ordering *injunctive relief* that *Bautista* did not and could not order.

The Petition should be denied for several reasons. First, the doctrine of claim splitting bars Petitioner from maintaining two suits seeking the same remedy. If Petitioner is a party and can obtain relief in *Bautista*, he should do so. But filing multiple suits is not permitted. Second, the *Bautista* judgment is advisory and expressly disclaimed the injunctive relief Petitioner seeks here. Third, because it is jurisdictionally barred, the *Bautista* judgment cannot be enforced. Fourth, the *Bautista* judgment is effectively an impermissible universal injunction and its enforcement outside the Central District of California is a legal nullity. Finally, the Court should prudentially decline to give preclusive effect to *Bautista*.

More generally, if Petitioner believes that he is entitled to relief under *Bautista*, he should seek relief from that Court. Seeking to have other courts make determinations about the scope, nature, and jurisdiction of another court's contested and appealed judgment disrupts the orderly administration of justice. Indeed, the *Bautista* court maintains jurisdiction over the still pending claims in the ongoing litigation. And the fact that *Bautista* did *not* provide relief to Petitioner should give this Court pause. On

prudential grounds alone, then, the Petition should be denied.

The only other basis for relief that Petitioner advances is a generalized substantive due process claim, seeking to expand *Zadvydas v. Davis*, 533 U.S. 678 (2001), to claim that detention without bond "regardless of the length" should be considered unconstitutional. Petition, ¶¶ 47–52. But the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018) rejected attempts to apply *Zadvydas*-like due process limits to the mandatory detention §§ 1225(b). So on this claim too, the Court should deny the petition.

BACKGROUND

The *Bautista* litigation began in July 2025, when four petitioners sought writs of habeas corpus from the Central District of California to challenge their detention under § 1225(b)(2)(A) and to seek to vacate an internal DHS interim guidance document that outlined DHS's policy regarding that statute. *Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 2670875, *1 (C.D. Cal. July 28, 2025). The challenged policy document had outlined DHS's intent to exercise the full statutory authority under § 1225(b)(2)(A). *See Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918, at *21 (N.D. Tex. Dec. 19, 2025).

In late July, the *Bautista* court granted a temporary restraining order, ordering that the petitioners must receive bond hearings. *Bautista*, 2025 WL 2670875, at *8. They did, and all were released on bond by August 8, 2025. *See Bautista*, 2025 WL 2624433, at *1–2 (C.D. Cal. Sept. 11, 2025) (ECF 58) (denying motion for preliminary injunction as moot based on petitioners' release).

During the compliance period for the TRO, the petitioners filed a class action complaint and amended petition, seeking to represent a putative class of similarly situated applicants for admission, seeking declaratory judgment as to the inapplicability of § 1225(b)(2)(A) and bringing Administrative Procedure Act (APA) claims against the interim guidance document. ECF 15, *Bautista*, 25-cv-1873 (C.D. Cal. July 28, 2025). The petitioners then moved for class certification (ECF 41) and for partial summary judgment (ECF 42).

Meanwhile, on September 5, 2025, the Bureau of Immigration Appeals (BIA) issued a precedential decision that § 1225(b)(2)(A) mandates detention for inadmissible noncitizens found in the country and holds that immigration judges lack authority to grant bond hearings in those circumstances. *In re Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) (*Hurtado*). Critically, though, the petitioners in *Bautista* did not amend their complaint to seek vacatur of *Hurtado*. Instead, they proceeded with their amended complaint. And months all the named petitioners had been released on bond, the court granted the petitioners motions. First, it granted partial summary judgment adopting the petitioners reading of § 1225(b)(2)(A). *Bautista*, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). It then granted class certification. *Bautista*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

Ultimately on December 18, 2025, the court entered final judgment. But while the *Bautista* court sought to cast doubt on *Hurtado* for the same reasons it questioned the DHS

policy, it *expressly declined* to vacate that decision. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713982, at *7 (C.D. Cal. Dec. 18, 2025) ("The Application is **DENIED** as to including vacatur of *Matter of Yajure Hurtado* in the judgment"). This peculiar and tortured procedural history, is best shown in a table:

07/23/25	*Bautista v. Santacruz*: Petition filed by four petitioners individually (ECF 1)[2]
08/11/25	*Bautista*, 2025 WL 2670875: Order granting TRO and requiring bond hearings within 7 days (ECF 14)
07/28/25	*Bautista* Petitioners file Class Action Complaint & Amend. (ECF 15)
08/08/25	*Bautista* Respondents response showing all four petitioners had been released following bond hearings under § 1226(a), per the TRO (ECF 40)
08/11/25	*Bautista* released petitioners file motion for class cert. (ECF 41) and partial motion for summary judgment (ECF 42)
09/05/25	The BIA issues its precedential decision *Hurtado*, 29 I&N Dec. 216; no petition for review is filed with the Ninth Circuit.
09/11/25	*Bautista*, 2025 WL 2624433: Order denying the preliminary injunction as moot based on the petitioners' release on bond and ordering parties to show cause why the case should not be dismissed as moot (ECF 58)
12/10/2025	*Bautista*, 2025 WL 3289861: Order granting partial motion for summary judgment, ruling voluntary cessation exception to mootness applied, but declining to enter final judgment. (ECF 81)
11/25/2025	*Bautista*, 2025 WL 3288403: Order granting class certification as to declaratory relief (ECF 82)
12/18/2025	*Bautista*, 2025 WL 3713982: Order granting in part and denying in part petitioners' ex parte application for reconsideration and clarification, declining to extend APA vacatur to *In re Yajure Hurtado*, clarifying that its partial summary judgment applied to the DHS's policy, and entering final judgment as to counts I, II, and III (ECF 92)
12/18/2025	*Bautista*, 2025 WL 3713987: Amended Order consolidating orders on partial summary judgment, class certification, and application for reconsideration and clarification (ECF 93)
12/18/2025	*Bautista*: Respondents file notice of appeal (ECF 95)

[2] While the docket is restricted, key filings have been published online. *See* NW Immigrant Rights Project, "Impact Litigation," https://nwirp.org/our-work/impact-litigation/ (listing links to the parties' filings under *Bautista v. Noem*).

This timeline shows several of the core defects in the *Bautista* judgment. First, it shows that the court had already ordered that petitioners receive bond hearings or be released when they filed their class action complaint. Second, it shows that all the named petitioners were released *before* they sought class certification or a final judgment. And it shows that the partial declaratory judgment failed to account for an existing and independent precedent that bound the immigration judges the *Bautista* court sought to bind with its declaration that the DHS's interpretation was wrong. As another court has explained,

> The vacatur order sets aside one policy, but it declined to set aside a broader, independent decision from the Board of Immigration Appeals. Thus, the orders do not change immigration judges' obligations to deny bond hearings, and they afford no preclusive relief.

Lopez, 2025 WL 3683918, at *1.

Further, the *Bautista* court did not—and could not—grant the injunctive relief Petitioner now seeks. *Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 3713987, at *22 (C.D. Cal. Dec. 18, 2025). It acknowledged that it "cannot *compel* agency action." *Id.* (emphasis in original). This was because "[i]t has been made abundantly clear that § 1252(f)(1) prohibits lower courts from granting classwide injunctive relief, and the Supreme Court's decision in *Trump v. CASA* has eliminated the existence of the universal preliminary injunction." *Id.* (citing *Trump v. CASA*, 606 U.S. 831 (2025)). And later the *Bautista* court acknowledged that "a declaratory judgment, '[t]hough it may be persuasive, . . . is not ultimately coercive.'" *Id.* at *27 (quoting *Steffel v. Thompson*, 415 U.S. 452, 471 (1974)).

Petitioner's conclusory assertion that the core legal question at issue "has been resolved by a final, binding declaratory judgment" is therefore wrong. Petition, ¶ 15. The *Bautista* court did not grant injunctive relief or vacate *Hurtado*. Accordingly, this case is *not* merely the enforcement of a prior judgment, as asserted by Petitioner. To the contrary, this case seeks relief not ordered in *Bautista*. As one Court cogently explained:

> Petitioner claims that he 'is entitled to a bond hearing as a member of this class.' But even Petitioner does not believe that argument. If he did, then his remedy lies in the Central District of California, and he would have sought relief there. His decision not to do so speaks volumes about the legal validity of that class certification order.

Pastor v. ICE, — F. Supp. 3d —, 2025 WL 3746495, at *5 (N.D. Ohio Dec. 24, 2025).

<u>ARGUMENT</u>

Petitioner could have sought a writ based on arguments regarding the propriety of Petitioner's detention under § 1125(b)(2)(A) instead of § 1226(a). But he chose the road less traveled. "[O]ur system 'is designed around the premise that parties represented by competent counsel know what is best for them, and are responsible for advancing the facts and argument entitling them to relief." *United States v. Sineneng-Smith*, 590 U.S. 371, 375–76 (2020) (cleaned up) (quoting *Castro v. United States*, 540 U.S. 375, 386 (2003) (Scalia, J., concurring in part and concurring in judgment).

And as master of his petition, Petitioner chose to rely on his asserted class membership and his generalized due process claim without advancing any further statutory claim. The Court should reject both claim and deny the petition.

I. The Petition Constitutes Impermissible Claim Splitting

First, litigants are not allowed to bring multiple suits against the same parties for the same relief. *See Stone v. Dep't of Aviation*, 453 F.3d 1271, 1278 (10th Cir. 2006). Nor are litigants allowed to piecemeal different aspects of the same case or controversy into different courts by seeking "advanced ruling" in one case to "determine a collateral legal issue governing certain aspects of [his] pending or future suits." *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998).

The claim-splitting rule serves the important purpose of requiring "a plaintiff to assert all of its causes of action arising from a common set of facts in one lawsuit." *Katz v. Gerardi*, 655 F.3d 1212, 1217 (10th Cir. 2011). The failure to do so generally requires that the second suit should be dismissed. *See id.* That's because "spreading claims around in multiple lawsuits in other courts or before other judges" . . . "waste[s] 'scarce judicial resources' and undermine[s] 'the efficient and comprehensive disposition of cases.'" *Id.* (citing *Hartsel Springs Ranch of Colo., Inc. v. Bluegreen Corp.*, 296 F.3d 982, 985 (10th Cir. 2002).

That same rule applies to class actions and habeas petitions. *Rector v. City and County of Denver*, 348 F.3d 935, 949 (10th Cir. 2003) ("[U]sual principles of both claim and issue preclusion apply in class actions"); *McNeil v. Guthrie*, 945 F.2d 1163, 1165–66 (10th Cir. 1991) (finding that individual suits for injunctive and declaratory relief cannot be brought where a class action with the same claims exists); *Bennett v. Blanchard*, 802 F.2d

456, 456 (6th Cir. 1986) (holding that the lower court was correct in dismissing a case when the plaintiff was also a member in a parallel class action); *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982) (since class members generally "cannot relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified."); *Horwitz v. Fox*, No. CIV-14-644-D, 2014 WL 3670537, at *1 (W.D. Okla. July 22, 2014) (dismissing duplicative habeas action).

Petitioner contends that he is a member of the *Bautista* class and seeks to enforce that partial judgment. Petition, ¶¶ 23–33. As such, Petitioner asserts that he effectively has two identical suits against the Respondents, based on the same facts and seeking the same relief. Moreover, Petitioner is using the second suit to obtain relief denied in the first suit—a quintessential example of prohibited claim splitting. Accordingly, the Petition should be dismissed. To the extent Petitioner believes *Bautista* compels relief, he should look to that court to provide it. *Singh v. Albarran*, No. 1:25-CV-01788-CDB (HC), 2025 WL 3751819, at *11 (E.D. Cal. Dec. 29, 2025) ("Insofar as Petitioner seeks relief from the Court regarding the government's specific compliance with the ruling in *Maldonado Bautista*, Petitioner must request such relief in the Central District of California.").

II. *Bautista* is an invalid advisory opinion issued by one district court that purports to bind through a partial declaratory judgment all other district courts nationwide.

Petitioner asserts that immigration judges continue to apply *Hurtado* and claim to

be bound by that BIA decision. Petition at ¶ 16. That is the purported basis for Petitioner's ongoing detention without bond. But as noted above, the relevant *Bautista* order expressly declined to vacate *Hurtado*. As it had to. Congress limited judicial review for BIA decisions to petitions for review filed with the appropriate court of appeals. *See* 8 U.S.C. § 1252(a)(5). The noncitizen in *Hurtado* did not seek a petition for review, and thus that decision remains binding precedent for all immigration judges. *See* 8 C.F.R. § 1003.1(g). Thus, the relief Petitioner seeks is beyond what *Bautista* provided.

Accordingly, the *Bautista* orders "are advisory opinions because they do not redress the alleged harm and are not preclusive." *Lopez*, 2025 WL 3683918, at *1. Indeed, the *Bautista* court's prior orders recognized that its "class-wide relief order would not 'interfere with the Government's efforts to detain noncitizens under § 1225(b)(2)' because 'a declaratory judgment . . . is not ultimately coercive.'" *Id.* at *7 (quoting *Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3288403, at *7 (C.D. Cal. Nov. 25, 2025)). Thus, *Bautista* "was declaratory: nothing more, nothing less" because "[t]he Nation's immigration judges—bound by the BIA—must follow *Yajure Hurtado* as binding precedent." *Id.* at *8–9. Accordingly, there is nothing for this Court to enforce.

The *Bautista* judgment is a quintessential example of the advisory-opinion trap that lurks within the declaratory-judgment context. *See Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1111 n.12 (10th Cir. 2010) (noting that courts presented with declaratory-judgment actions "face the difficult task of distinguishing

between actual controversies and attempts to obtain advisory opinions on the basis of hypothetical controversies.").

The *Bautista* court fell into the same declaratory-judgment-action trap that the Supreme Court rejected in *Calderon v. Ashmus*, 523 U.S. 740 (1998), where California death row inmates sued for a determination of whether California qualified under certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). The "controversy" there was "whether respondent is entitled to habeas relief setting aside his sentence or conviction obtained in the California courts. But no such final or conclusive determination was sought in this action." *Calderon*, 523 U.S. at 746. The prisoner instead "carved out of that claim only the question whether, when he sought habeas relief, California would" have certain defenses under AEDPA. *Id.*

So too here. The *Bautista* petitioners did not seek habeas relief for the whole purported class. Rather, they attempted "to gain a litigation advantage by obtaining an advance ruling on an affirmative defense." *Id.* at 747. The *Bautista* court recognized that it could not resolve the case or controversy of any of the class members. *Bautista*, 2025 WL 3713987, at *22, 27. It might as well have said that "[a]ny judgment in this action thus would not resolve the entire case or controversy as to any one of them, but would merely determine a collateral issue governing certain aspects of their pending or future suits." *Calderon*, 523 U.S. at 747.

Beyond these problems (which go to the core of judicial authority), grave mootness

concerns hover over the *Bautista* judgment. As noted in the timeline above, all the named petitioners in *Bautista* had been awarded all the relief they had sought *before* the court granted judgment or class certification. But the Supreme Court has ruled that courts cannot certify a class if the named class representative's claims become moot prior to certification. *See United States v. Sanchez-Gomez*, 584 U.S. 381, 386 (2018) ("Normally a class action would be moot if no named class representative with an unexpired claim remained at the time of class certification.").

Moreover, the *Bautista* court entered an order for declaratory relief. But the Petition does not seek declaratory relief. Instead, it seeks *injunctive relief* in the form of release from detention. *See* Petition, at 11 (Prayer for Relief). But the Petition does not spell out why that relief is required or justified beyond asserting membership in the *Bautista* class. In short, the Petition conflates *Bautista*'s declaratory relief with the injunctive relief it seeks, without any further explanation, and therefore fails to carry Petitioner's burden.

That omission is particularly stark given what the *Bautista* did not and could not order. *See* 8 U.S.C. § 1252(f)(1) (barring injunctive relief in class actions). Specifically, the *Bautista* court correctly conceded that *Garland v. Aleman Gonzalez*, 596 U.S. 543, 554–55 (2022), prohibited it from ordering class-wide injunctive relief to enforce its orders. *See* No. 5:25-CV-1873, Doc. 93 at 31, 47-48. Yet the Petition seeks to have this Court do what *Bautista* acknowledged it could not do by seeking injunctive relief based on nothing more

than the reference to the class action suit. No other independent basis is stated. The Court should decline the invitation to help evade *Aleman Gonzalez*.

III. *Bautista* is jurisdictionally barred by § 1252(e) and cannot be enforced.

Section 1252(e)(3)(A) provides that "[j]udicial review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia." 8 U.S.C. § 1252(e)(3)(A). The *Bautista* judgment clearly runs afoul of that provision and the Petition doubles down by seeking relief outside the District of Columbia based on nothing more than the assertion of class membership.

Further, § 1252(e)(1)(B) prohibits district courts from "certify[ing] a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection." Given § 1252(e)(3)(A)(i)–(ii) provides for judicial review of constitutional and statutory challenges to actions taken pursuant to § 1225 in the District of Columbia, the *Bautista* court was prohibited from certifying a class in the first instance. *See Lopez*, 2025 WL 3683918, at *11. Petitioner's attempt to seek class-action enforcement here merely compounds that jurisdictional error and should be denied.[3]

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[3] *Lopez*, 2025 WL 3683918, at *12 n.19 ("If such an action could be sustained at all, there is something daunting—if not destructive of the nature of a class action—in convening a congress of defendants from Boston, Massachusetts; Newark, New Jersey; Madisonville, Kentucky; Anson and Eden, Texas; and hundreds of locales from around the Nation to come and submit to the judgment of the Central District.").

IV. The Petition seeks enforcement of a universal injunction for which courts lack jurisdiction

In *CASA*, the Supreme Court held that universal injunctions "likely exceed the equitable authority that Congress has granted to the federal courts" through the Judiciary Act of 1789 and its statutory descendants. *Trump v. CASA, Inc.*, 606 U.S. 831, 837 (2025). The Court stated that federal district judges may only grant relief that is identical or analogous to the type of equitable relief afforded at the founding, particularly in the English High Court of Chancery. *Id.* at 841–42. As recently explained by another district court, the *Bautista* partial judgment is effectively a prohibited universal injunction:

> More importantly, this class seeks to resolve a question of interpretation for the entire Nation and, in this line of implication, *still* does not bind any of its class members from seeking individual relief. The difference between this action and a true universal injunction is meaningless. Once more, there would be a system by which the "plaintiff must win just one suit to secure sweeping relief," and where, "to fend off such an injunction, the Government must win everywhere." *CASA*, 606 U.S. at 855; *see Ramirez Melgar* [*v. Bondi*, No. 25-cv-555], 2025 WL 3496721, at *15 [(D. Neb. Dec. 5, 2025)]. Indeed, this system is even more concerning than the last, because the lack of injunctive relief in the class-wide order means that new cases will arise—potentially seeking the same broad relief—even as the *Maldonado Bautista* litigation progresses. The government could ultimately prevail on appeal in *Maldonado Bautista*. But until that day comes, it must fend off thousands of additional cases addressing the same issue that claim the Central District's orders are binding, and it would face the real risk that other district courts will take the same improper approach, creating an unending minefield of class-action claims.

Lopez, 2025 WL 3683918, at *13. Accordingly, this Court—like the Central District of California—lacks jurisdiction to enforce a universal injunction. *See Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411, at *9 (D. Neb. Dec. 29, 2025) ("The purported 'universal injunction' in the class action in the Central District of California in *Maldonado Bautista*

runs afoul of the fundamental subject-matter jurisdiction principle in 'core' habeas cases that the only proper district—especially for petitioners like Alberto Rodriguez who are not now confined in the Central District of California—is the district were the petitioners are confined.").

V. Enforcement of *Bautista* outside the Central District of California is a legal nullity

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 has 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 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).

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 ("Any judgment in this action thus would not resolve the entire case or controversy as to any one of them, but would merely determine a collateral legal issue governing certain aspects of their pending or future suits. The disruptive effects of an action such as this are peculiarly great when 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) (unpublished) ("There is no substantial question that the district court properly dismissed the habeas action. Although framed as a challenge under 28 U.S.C. § 2241 to the execution of appellant's sentence, the petition sought a declaratory judgment that appellant's Southern District of New York conviction and sentence were unlawful."); *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 . . . statutes.").

Here, the vast majority of *Bautista* class members are confined *outside* of the Central District of California by immediate custodians who are also *outside* the Central District of California and have not been named in the lawsuit. Therefore, the *Bautista* court lacked jurisdiction to issue habeas relief to class members who are confined outside the Central District of California by immediate custodians also outside that district, and a court's judgment cannot be binding and preclusive against a party over which it lacked jurisdiction. *Burnham v. Superior Court*, 495 U.S. 604, 608 (1990).

In sum, the *Bautista* court's declaratory judgment purporting to grant relief that at its core sounds in habeas is a legal nullity outside that District. At the time of filing, Petitioner was detained at the Cimarron Correctional Facility in Cushing, Oklahoma—well outside the Central District of California. Further, Petitioner's immediate custodian, Scarlet Grant, was not a party in the Central District of California. Subjecting the immediate custodian to the judgment of the Central District of California would be inconsistent with the immediate custodian rule. *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); *Rodriguez*,

2025 WL 3754411, at *8 (rejecting application of *Bautista* because "[petitioner] has never been detained in the Central District of California, so that jurisdiction over his Petition is not proper in that District; rather, jurisdiction remains proper in this District—and only this District.").

VI. Even if it were a valid judgment, the Court should not give preclusive effect to *Bautista*.

The Court should not give preclusive effect to *Bautista*. First, as noted above, judgment is an advisory opinion that was issued after the case had already become moot. *See* above, Section II (citing *Calderon*, 523 U.S. at 746, to explain why it was advisory and *Sanchez-Gomez*, 584 U.S. at 386, for why it was moot). As these defects go to the heart of its validity, such a dubious ruling should not bind the entire federal judiciary.

Second, 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 that are 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. *See* 9 A.L.R.2d 984, § 2 (last updated Dec. 12, 2025). Courts should strive to avoid that "evil result[]." *Id.* ("[B]oth 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* Wright & Miller, 18 Fed. Prac. & Proc. Juris. § 4404 (3d ed. Sept. 2025) ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal); Wright & Miller, 18A Fed. Prac. & Proc. Juris. § 4433 (3d ed. Sept. 2025) (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 Fed. Prac. & Proc. § 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, § 2 (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").

Third, 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.* at 160. Thus, although the Supreme Court has held the federal government "may be estopped . . . from relitigating a question" when "the parties to the two 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." *Id.* at 160.

For similar reasons, the government should not be precluded from litigating the issue of the proper detention authority here, where the Petitioner was not a named party to the prior *Bautista* litigation, but instead merely a member of a fundamentally flawed nationwide class. 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. Yet as the Fifth Circuit recently recognized, that reading of the relevant statutes is far from the only one. *See Buenrostro-Mendez v. Bondi*, -- F.4th --, 2026 WL 323330, *9 (5th Cir. Feb. 6, 2026).

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. *Rodriguez*, 2025 WL 3754411, at *10 (D. Neb. Dec. 29, 2025) ("Thus, his

attempt to bar Federal Respondents from relitigating the issues presented in *Maldonado Bautista* is nonmutual offensive issue preclusion, which is unavailable against the United States." (cleaned up)).

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, 1078-1079 (9th Cir. 2007) (citing *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979)).

And finally, 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, *2 (9th Cir. 1998) (unpublished table decision). 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, 663 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.").

VII. Petitioner's only standalone claim seeks to apply *Zadvydas v. Davis* into the pre-removal-order context where the Supreme Court has expressly declined to apply it, and this Court should follow suit.

Petitioner adds only one claim beyond his *Bautista* arguments, and that is a generalized substantive due process claim. Petition, ¶¶ 47-52. Specifically, he argues that "[t]he denial of bond consideration—regardless of the length of detention—results in arbitrary civil confinement without individualized review and violates the Fifth Amendment's Due Process Clause." Petition, ¶ 52. The only case or argument Petitioner asserts in support of his due process argument is a general quote from *Zadvydas* regarding freedom from imprisonment. Petition, ¶ 48 (quoting *Zadvydas v. Davis*, 533 U.S. 678 (2001)). Nothing more is proffered.

This is lone, conclusory assertion is not enough to warrant consideration for relief. *See United States v. Clay*, 148 F.4th 1181, 1201 (10th Cir. 2025) ("It is well-settled that arguments inadequately briefed in the opening brief are waived." (quotation omitted)). Moreover, *Zadvydas* itself stands for the proposition that detention is *presumptively permitted* for six months. *Zadvydas*, 533 U.S. at 699–701 (imposing, as a prophylactic rule for purposes of constitutional avoidance, a six-month presumption of reasonable post-removal-order detention). Petitioner's detention falls far short. *See* Petition, ¶ 6 (noting he has been detained since October 2025).

Further, in *Zadvydas*, the petitioner was facing the prospect of indefinite detention. That is also not the case here. While detention pursuant to § 1225(b) is mandatory, it is

not indefinite. On the contrary, "§§ 1225(b)(1) and (b)(2) . . . provide for detention for a specified period of time." *Jennings*, 583 U.S. at 299. Specifically, "detention must continue . . . until removal proceedings have concluded." *Id.* (internal citation omitted). But "[o]nce those proceedings end, detention under § 1225(b) must end as well." *Id.* at 297.

And unless Petitioner means something more nuanced than he argues in his Petition, his claim that immigration detention without bond of "regardless of length" is unconstitutional is foreclosed by Supreme Court precedent. *See id.* (rejecting constitutional challenge to § 1225(b)(1) & (b)(2) detention, which have no bond); *cf. Demore v. Kim*, 538 U.S. 510, 523 (2003) ("[T]his Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.")

But Respondents and this Court should not have to guess as to the basis for Petitioner's novel due process claim or wait for the reply brief to find out what he is arguing. *Clay*, 148 F4th at 1201 ("We also will not consider issues raised for the first time in a reply brief or issues raised in a cursory fashion in the opening brief and then developed in a reply" (cleaned up)). If he wants to make his claim, he must do so in more than the conclusory fashion presented in the Petition.

CONCLUSION

This habeas proceeding seeks to enforce a dubious advisory opinion from a district court hundreds of miles from this District and advances only generalized due process claims here. Because neither is a valid basis for relief, the Court should deny the Petition.

Dated: February 13, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, I electronically filed the attached document to the Clerk of Court using the ECF System, which sent a Notice of Electronic Filing to the following ECF registrant:

Melissa M. Henry, Counsel for Petitioner

/s/ Cedric C. M. Bond
Assistant United States Attorney