UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Edwin Josue PADILLA MOLINA,

Petitioner,

v.

Francis DELEON, *et al.*,

Respondents.

Case No. 2:25-cv-06526

PETITIONER'S SUPPLEMENTAL BRIEF

ON *MALDONADO BAUTISTA*

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INTRODUCTION

The Court has ordered additional briefing on the impact of *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) on Petitioner's case. By means of this supplemental brief, Petitioner urges this Court to find that he is a class member and to defer to the district court's statutory analysis in that case—but further submits that the declaratory judgement there does not moot his claims nor necessitate that he administratively exhaust his remedies before the immigration court. Despite the *Maldonado Bautista* decision, exhaustion remains futile. Since the decision there was issued, Respondents have instructed immigration judges not to apply the decision to class members, since the nationwide relief was only declaratory. As a result, immigration judges are continuing to deny bond to individuals like Petitioner around the country and in the New York area. *See* Declaration of Karla Ostolaza (Ostolaza Decl.) at ¶ 8-10, 12-13. Their filing in this case confirms that stance. (ECF No. 10).

Moreover, even were the *Maldonado Bautista* being implemented in practice, which it is not, *Maldonado Bautista* does not dispose of Petitioner's due-process claims nor settle the question of appropriate remedy.

For those reasons, Petitioner urges the Court to order his immediate release.

MALDONADO BAUTISTA

Maldonado Bautista v. Santacruz is a class-action case brought pursuant to the bond statute and regulations and the Administrative Procedure Act, not the federal habeas statute.[1] On November 20, 2025, the district court granted partial summary judgment on behalf of individual

[1] The case originally had individual petitioners who brought habeas claims in their own right—but the class allegations in the case were not pled under the habeas statute. *See* Amended Petition, *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) (ECF No. 15).

plaintiffs in the case and, on November 25, 2025, certified a nationwide class and extended declaratory relief to the certified class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*, 2025 WL 3288403, at *9 (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, and adding "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole").

The bond class certified is defined as:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 2025 WL 3288403, at *1. The second prong of this definition is subject to some dispute: class counsel believes that the relevant apprehension is the most *recent* apprehension (which for Petitioner Mr. Padilla Molina would mean his apprehension in November 2025), but Respondents have argued that the definition excludes entrants without inspection *initially* apprehended shortly after crossing the border. *See infra* at 3.

The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. Respondents are bound by the judgment in *Maldonado Bautista* as to class members nationwide, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).[2]

[2] While he does not think it is necessary to resolve the issue in this case, Petitioner believes that the *Maldonado Bautista* decision is final as to both its certification of a nationwide class and issuance of a declaratory judgement. *See Ramos v. Town of Vernon*, 208 F.3d 203 (2d Cir. 2000)

But since that declaratory judgment, Respondents have instructed Immigration Judges *not* to comply with the ruling and not to find entrants without inspection are eligible for bond. *See* at ¶ 8-10, 12-13. Respondents' submission in this case, *see* ECF No. 10, suggests that this stems from an interpretation of the decision as non-final and improper.

ARGUMENT

Petitioner submits that he is a member of the *Maldonado Bautista* bond class. But he also does not think the questions of his class membership nor even the binding nature of *Maldonado Bautista* is necessary to the resolution of this case. To the extent the Court disagrees that he is a class member, or concurs with Respondents' erroneous contention that the *Maldonado Bautista*

(recognizing declaratory judgment as a ruling on the merits that rendered moot appeal of preliminary injunction denial, even though the declaratory judgment was not certified under Rule 54(b)). Simply because the court did not opt to birfucate the final judgement pursuant to its discretion under Rule 54(b), its resolution of the claims it did reach remains binding on the parties absent a stay or other revision. *Maldonado Bautista*, 2025 WL 3288403, at *9 ("the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole"). Respondents cite to the cases requiring a final judgement to trigger issue preclusion in "a subsequent action between the parties, whether on the same or a different claim." *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015); *see also Luben Indus., Inc. v. United States*, 707 F.2d 1037, 1039 (9th Cir. 1983) (same). But that is a distinct inquiry from whether the *Maldonado Bautista* court has now bound the parties before it, including through a certified nationwide class. *Cf. Goodheart Clothing Co. v. Laura Goodman Enters., Inc.*, 962 F.2d 268, 274 (2d Cir. 1992) (distinguishing issue preclusion between litigation in two courts from "the somewhat more flexible law-of-the-case doctrine").

Nor can the question of finality for the purposes of issue preclusion, were that at all relevant here, be resolved as simply as Respondents suggest. *Ferring B.V. v. Serenity Pharms., LLC,* 391 F. Supp. 3d 265, 285 (S.D.N.Y. 2019) (""Finality" within the meaning of collateral estoppel is a more flexible concept than it is in other contexts, including under 28 U.S.C. § 1291 and Fed. R. Civ. P. 54."); *Lummus Co. v. Commonwealth Oil Ref. Co.*, 297 F.2d 80, 89 (2d Cir. 1961) (discussing factors used in determining "[w]hether a judgment, not 'final' in the sense of 28 U.S.C. § 1291, ought nevertheless be considered 'final' in the sense of precluding further litigation of the same issue"). In short, the district court's decision as to Rule 54 does not govern whether *Maldonado Bautista* is binding on the parties before it now nor even in subsequent litigation. *Cf.* Resp. at 1 (ECF No. 10).

decision does not in fact order nationwide declaratory relief,[3] he nonetheless urges the Court to follow the reasoning in *Maldonado Bautista*—and hundreds of other courts nationwide—as to the authority for his detention. He further notes that the decision in *Maldonado Bautista* does not render the instant petition moot, nor does it determine the question of what the appropriate remedy is. Mr. Padilla Molina seeks immediate release because of the statutory and due-process violations he has alleged and which Respondents have not meaningfully disputed.

A. Petitioner Is a *Maldonado Bautista* Class Member.

Petitioner submits that he is a class member because he does not have lawful status in the United States and is currently detained; he was apprehended most recently in Central Islip, New York, after living here for over a decade and not upon arrival; and he is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.[4] The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista*, 2025 WL 3288403, at *9. That is, as a member of the Bond Eligible Class, Petitioner is necessarily detained under 8 U.S.C. § 1226(a).

As noted above, the class definition requires that members "were not or will not be apprehended upon arrival" but is not clear as to which apprehension is at issue for detained noncitizens like Mr. Padilla Molina who have been apprehended more than once. Although none of the petitioners in *Maldonado Bautista* were initially apprehended at or near the border, Petitioner believes the most natural reading to be the one he proposes: because the class-action

[3] *See id.* at n. 2.

[4] Respondents have not alleged that he has any criminal history, so as to trigger 8 U.S.C. § 1226(c) detention, and he is in regular removal proceedings, rather than expedited removal proceedings, without a final order of removal, such that neither § 1225(b)(1) nor § 1231 applies. *See* Pardo Decl. (ECF No. 8-1) at ¶ 13.

concerns the statutory authority for an individual's *current* detention, the relevant apprehension is the one that precipitated the current detention. For Mr. Padilla Molina, that apprehension took place on November 23, 2025 in Central Islip, Pardo Decl. at ¶ 11, and not upon his arrival.

Assuming that the Court agrees he is a class member, Mr. Padilla Molina is now entitled to the benefit of the district court's conclusion in *Maldonado Bautista* that his custody is governed by § 1226(a), not 1225(b)(2). But even should the Court conclude he is not a class member, the same conclusion is dictated by the reasoning in the case as well as in countless others including from this Court.[5] Under that reasoning, Mr. Padilla Molina's detention is governed by § 1226(a).

B. *Maldonado Bautista* Does Not Moot the Instant Petition.

Even should the Court agree that Petitioner is a class member of *Maldonado Bautista*, the class-wide declaratory judgement in that case does not moot his claims. He remains detained, which is indisputedly an injury sufficient to create a case or controversy. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Even with *Maldonado Bautista* in place, Mr. Padilla Molina cannot actually obtain a bond hearing absent an order from this court because Respondents have not interpreted the case to bind immigration judges and instead have expressly directed those judges *not* to hold administrative bond hearings. Ostolaza Decl. at ¶ 8-10, 12-13.

C. The Court Should Order Petitioner's Immediate Release Without First Requiring a Bond Hearing.

Because Mr. Padilla Molina's detention was unlawful ab initio, a bond hearing pursuant to 8 U.S.C. § 1226(a) is also not the appropriate or just remedy and no prudential exhaustion requirement should be imposed, irrespective of the remedy ordered in *Maldonado Bautista*. As

[5] *See* App. A, *Barco Mercado v. Francis*, No. 25-CV-6582 (S.D.N.Y. Nov. 26, 2025) (listing decisions so concluding).

another court in this district explained last week, "a bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here. [Petitioner's] detention was unlawful from its inception because ICE detained her under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)." *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). Where "ICE's detention of Petitioner did not comport with the implementing regulations and § 1226(a) [] a bond hearing for a post-deprivation review is wholly inadequate to remedy that unlawful detention." *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *3 (E.D.N.Y. Sept. 29, 2025). "Such a hearing is no substitute for the requirement that ICE engage in a 'deliberative process prior to, or contemporaneous with,' the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, No. 25 CIV. 8250 (AT), 2025 WL 2961626, at *7 (S.D.N.Y. Oct. 19, 2025) (citing *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *15 (S.D.N.Y. June 12, 2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). "The suggestion that government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Id.*

As Petitioner noted in his petition and motion for a temporary restraining order, many courts including this one have ultimately decided that when Section 1225(b)(2) is applied unlawfully, as it indisputedly was here, release is the most appropriate remedy—without first ordering a bond hearing. *See Montoya v. Bondi, et al.*, No. 25-CV-06363 (JMA), 2025 WL 3280762, at *1 (E.D.N.Y. Nov. 25, 2025); *Montoya, et al.*, 2025 WL 3280762, at *1; *Hyppolite*

v. Noem, No. 25-cv-4304, 2025 WL 2829511 at *16 (E.D.N.Y. Oct. 6, 2025); *J.U.*, 2025 WL 2772765, at *10; *Artiga v.Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *9 (E.D.N.Y. Oct. 5, 2025) ("Petitioner's allegations of his detention by ICE raise a substantial constitutional question that cannot be properly adjudicated administratively").

This was true even prior to Respondents' aboutface from 30 years of precedent and sudden invocation of Section 1225(b)(2) detention to justify the detention of individuals who entered the U.S. without inspection, as courts had already ordered numerous petitioners released following unlawful redetention—even though Respondents' agreed in those cases that petitioners' detention was under § 1226(a). *See Valdez v. Joyce*, No. 25 Civ. 4627, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025); *Chipantiza-Sisalema v.Francis*, No. 25-CV-5528, 2025WL 1927931, at *4 (S.D.N.Y. July 13, 2025).

The Court should do the same here and not require administrative exhaustion or a bond hearing.

D. Administrative Exhaustion Is Not Required.

Exhaustion is not required and, as a prudential matter, it is not appropriate, even after *Maldonado Bautista*. "Exhaustion of administrative remedies may not be required when: (1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Howell v. I.N.S.*, 72 F.3d 288, 291 (2d Cir. 1995) (citations omitted). Here, all four of these exceptions continue to apply.

First, despite *Maldonado Bautista*, exhaustion is futile. *See Howell*, 72 F.3d at 291. The *Maldonado Bautista* decision does not enjoin Respondents to provide bond hearings and

immigration judges have been instructed not to hold bond hearings pursuant to that decision, since its relief is only declaratory. *See* Ostolaza Decl. at ¶ 8-10, 12-13.

Next, as many courts have concluded, detention in violation of the right to due process raises a substantial constitutional question and inflicts irreperable harm, two exceptions to the exhaustion requirement. *See, e.g., J.U.*, 2025 WL 2772765, at *4 ("waiver of the exhaustion requirement is warranted because Petitioner is likely to experience irreparable harm if he is unable to seek habeas relief in this Court"); *Artiga*, 2025 WL 2829434, at *4. Should the Court impose an administrative exhaustion requirement, Respondents would prevail in claiming "that § 1226(a) grants practically limitless, unreviewable power to detain individuals for weeks or months, even if the detention is patently unconstitutional." *Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1145250, at *14–15 (D. Vt. Apr. 18, 2025), *amended on other grounds sub nom. Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025).

Finally, a bond hearing would not remedy the violations Petitioner challenges. "In this situation a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out." *Rodriguez-Acurio*, 2025 WL 3314420, at *31.

CONCLUSION

For the foregoing reasons, the Court should grant Mr. Padilla Molina's petition or motion and order his immediate release.

Dated: December 3, 2025

s/ Paige Austin
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CERTIFICATE OF SERVICE

I, Paige Austin, certify that on December 3, 2025, I electronically filed the attached the foregoing Petitioner's Reply in Support of Petition for Writ of Habeas Corpus and accompanying Exhibit with the Clerk of the Court for the United States District Court for the Eastern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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