United States District Court
Western District of Texas
San Antonio Division

Jose Edixon Velasquez Escalona, Petitioner, v. Sylvester Ortega, *et al.*, Respondents.	Case No. 5:26-CV-00271-JKP

Federal Respondents' Response to Petition for Writ of Habeas Corpus

Federal[1] Respondents provide the following timely response to Petitioner's habeas petition [ECF No. 1]. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief she seeks, and this Court should deny this habeas petition without the need for an evidentiary hearing. Petitioner entered the United States unlawfully and was placed in expedited removal under 8 U.S.C. § 1225(b)(1) and issued him a Notice to Appear (NTA) after Petitioner established a credible fear of persecution. Under clear statutory authority, Petitioner 'shall be detained for further consideration of [her] application for asylum.' 8 U.S.C. §§ 1225(b)(1)(A)(ii); 1225(b)(1)(B)(ii). **This is not a case based on the current legal analysis surrounding *Matter of Yajure Hurtado,* 29 I&N Dec. 220 (BIA 2025).**

Petitioner incorrectly argues ICE is detaining petitioner in violation of the plain language of the Immigration and Nationality Act, as well as *Maldonado Bautista*. *See* ECF No. 1 at ¶3. This is not accurate, and Petitioner does not even acknowledge the Board of Immigration Appeals opinion in *Matter of M-S-*, 27 I&N Dec. 509 (2019), mandating Petitioner's detention.

Judge Rodriguez, of the Western District of Texas, in December 2025, issued an

[1] The Department of Justice represents only federal employees in this action.

opinion denying a petition for writ of habeas corpus for a factually similar alien to this case. *Canales-Melgar v. Noem*, SA-25-CV-01571-XR *7 (W.D. Tex. Dec. 23, 2025) (determining detention without a bond hearing is authorized and required by statute).

Pursuant to this Court's order filed on January 21, 2026, Respondent's note the following material difference between this case and the others cited. Petitioner in this case is subject to mandatory detention because he was placed in expedited removal proceedings and found to have a credible fear. 8 U.SC. § 1225(b)(1)(B)(ii).

I. Relevant Facts and Procedural History

Petitioner is a citizen of Venezuela who was apprehended upon his unlawful entry into the United States and was placed in expedited removal proceedings under INA § 235, 8 U.S.C. § 1225(b)(1). Exh. A (I-213); Exh. B (NTA). Petitioner was issued a Notice to Appear after the immigration judge determined that Petitioner demonstrated a reasonable possibility of persecution of persecution or torture. U.S.C. §§ 1225(b)(1)(A)(ii); 1225(b)(1)(B)(ii). In February of 2024, ICE released Petitioner on alternatives to detention (ATD). Exh. A (I-213) at 3. Petitioner has not complied with terms of release. *Id.* On November 18, 2025, Petitioner was then involved in a traffic stop and was then placed in ICE custody. *Id.* at 2.

II. Argument

As a threshold issue, the only relief available to Petitioner through habeas is release from custody. 28 U.S.C. § 2241; *DHS v. Thuraissigiam*, 591 U.S. 103, 118–19 (2020).

A. Petitioner Is Detained under § 1225(b)(1), Not § 1225(b)(2).

Petitioner's 2024 NTA shows he was first placed in expedited removal, under INA § 235(b)(1), 8 U.S.C. § 1225, and then in "full" removal proceedings, under INA § 240, 8 U.S.C. § 1229. Exh. B (NTA). As an application for admission, intercepted at or near the port of entry

shortly after unlawfully entering, who indicates a fear of persecution, and whom an asylum officer determines has a credible fear of persecution or torture, Petitioner "shall be detained for further consideration of the application for asylum," properly described under § 1225(b)(1)(A)(ii), and not under the "catchall" provision. *Compare* 8 U.S.C. §§ 1225(b)(1)(A)(ii); 1225(b)(1)(B)(ii) *with* § 1225(b)(2)(A).

B. Start with the Statutory Text: § 1225(a) Unambiguously Defines an Applicant for Admission as an Alien Present in the United States Without Having Been Admitted.

The statutory language is unambiguous: "An alien present in the United States who has not been admitted … shall be deemed … an applicant for admission." 8 U.S.C. § 1225(a)(1); *Thuraissigiam*, 591 U.S. at 109; *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351 at *4–9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4–5 (S.D. Cal. Sept. 24, 2025). Given the plain language of § 1225(a)(1), Petitioner cannot plausibly argue that hhe is not an applicant for admission, as when he unlawfully entered the United States, he was placed in expedited removal. Exh. A (I-213); 8 U.S.C. § 1225(b)(1). That he was subsequently released from custody, does not change the fact that she was an applicant for admission at the time she was initially apprehended.

C. Congress Intended to Mandate Detention of Applicants for Admission who were Placed in Full Removal Proceedings after Receiving a Positive Credible Fear Determination.

Section 235 expressly provides for the detention of aliens originally placed in expedited removal. *See M-S-*, 27 I&N Dec. at 3. Such aliens "shall be detained pending a final determination of credible fear." *Id*; INA § 235(b)(1)(B)(iii)(IV). The Text of the Act mandates Petitioner's detention. Section 235(b)(1)(B)(ii) provides that, "if an alien in expedited proceedings establishes a credible fear, he "shall be detained for further consideration of the application for asylum." *Id.* "The word 'shall' generally imposes a nondiscretionary duty." *Id.*; *see also SAS Inst., Inc. v. Iancu*,

138 S. Ct. 1348, 1354 (2018).

The Statute's plain language authorizes detention and the petition should be denied. *See also Canales-Melgar*, SA-25-CV-01571-XR *6 (W.D. Tex. Dec. 23, 2025) (citing *Rincon v. Hyde*, No. CV-25-12633-BEM, 2025 WL 3122784, at *3 (D. Mass. Nov. 7, 2025)).

D. Petitioner Does Not Overcome Jurisdictional Hurdles.

Where an alien, like this Petitioner, challenges the decision to detain him in the first place or to seek a removal order against him, or if an alien challenges any part of the process by which his removability will be determined, the court lacks jurisdiction to review that challenge. 8 U.S.C. § 1252(g); *see also Jennings*, 583 U.S. at 294–95. In *Jennings*, the Court did not find that the claims were barred, because unlike Petitioner here, the aliens in that case were challenging their continued and allegedly prolonged detention during removal proceedings. *Id.* Here, Petitioner is challenging the decision to detain him in the first place, which arises directly from the decision to commence and/or adjudicate removal proceedings against her after encountering her upon unlawful entry at the border. *See id.*

Even if the alien claims he is not appropriately categorized as an applicant for admission subject to § 1225(b), such a challenge must be raised before an immigration judge in removal proceedings. 8 U.S.C. § 1225(b)(4). In other words, if an alien contests that he is an applicant for admission subject to removal under § 1225(b), any claim challenging his continued detention under § 1225(b) is inextricably intertwined with the removal proceedings themselves, meaning that judicial review is available only through the court of appeals following a final administrative order of removal. *See* 8 U.S.C. § 1225(b)(4).[2] This is consistent with the channeling provision at

[2] While bond proceedings under § 1226(a) are separate and apart from removal proceedings under § 1229a, challenges to decisions under § 1225(b), including the mandatory detention provision found within that statute, are to be raised in the same § 1229a proceedings. *See* 8 U.S.C.

8 U.S.C. § 1252(b)(9), which mandates that judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action or proceeding brought to remove an alien from the United States must be reviewed by the court of appeals upon review of a final order of removal. *See SQDC v. Bondi*, No. 25–3348 (PAM/DLM), 2025 WL2617973 (D. Minn. Sept. 9, 2025).

E. On Its Face, and As Applied to Petitioner, § 1225(b) Comports with Due Process.

Section 1225 does not provide for a bond hearing, regardless of whether the applicant for admission is placed into full removal proceedings. The Supreme Court upheld the facial constitutionality of § 1225(b) in *Thuraissigiam*, 591 U.S. at 140 (finding that applicants for admission are entitled only to the protections set forth by statute and that "the Due Process Clause provides nothing more"). An "expectation of receiving process is not, without more, a liberty interest protected by the Due Process Clause." *Olim v. Wakinekona*, 461 U.S. 238, 250 n.12 (1983). That the alien in *Thuraissigiam* failed to request his own release in his prayer for relief does not make the holding any less binding here. *But see Lopez-Arevelo v. Ripa*, No. 25–CV–337–KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025). The alien in *Thuraissigiam* undisputedly brought his claim in habeas, and the Court noted that even if he had requested release, his claim would have failed. *Thuraissigiam*, 591 U.S. at 118–19. In any event, Petitioner is not entitled to more process than what Congress provided her by statute, regardless of the applicable statute. *Id.; see also Jennings*, 583 U.S. at 297–303.

Thuraissigiam also applies here because of the "entry fiction," that is because Petitioner was apprehended shortly after his unlawful entry, he is treated for due process purposes as if he is

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§ 1225(b)(4).

stopped at the border. *Thuraissigiam*, 591 U.S. 103, 140 (2020) (*citing Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), *Leng May Ma v. Barber*, 357 U.S. 185 (1958), *Kaplan v. Tod*, 267 U.S. 228 (1925)).

Mandatory detention of an applicant for admission during "full" removal proceedings does not violate due process, because the constitutional protections are built into those proceedings, regardless of whether the alien is detained. 8 U.S.C. § 1229a. The alien is served with a charging document (NTA) outlining the factual allegations and the charge(s) of removability against her. *Id.* § 1229a(a)(2). He has an opportunity to be heard by an immigration judge and represented by counsel of her choosing at no expense to the government. *Id.* § 1229a(b)(1), (b)(4)(A). He can seek reasonable continuances to prepare any applications for relief from removal, or he can waive that right and seek immediate removal or voluntary departure. *Id.* § 1229a(b)(4)(B), (c)(4). Should he receive any adverse decision, he has the right to seek judicial review of the complete record and that decision not only administratively, but also in the circuit court of appeals. *Id.* § 1229a(b)(4)(C), (c)(5).

While an as-applied constitutional challenge, such as a prolonged detention claim, may be brought before the district court in certain circumstances, Petitioner cannot raise such a claim where he has been detained for only a brief period pending her removal proceedings. For aliens, like Petitioner, who are detained during removal proceedings as applicants for admission, what Congress provided to them by statute satisfies due process. *Thuraissigiam*, 591 U.S. at 140. As applied here to Petitioner, § 1225(b)(1)(B)(ii) does not violate due process. *See Thuraissigiam*, 591 U.S. at 140.

F. Maldonado Bautista Does Not Apply

The Court should deny the habeas petition in this case for the reasons noted above. The

December 18, 2025, partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, is neither binding nor applicable here and presents no basis for granting the petition. First, the *Bautista* declaratory judgement is void with respect to petitioners and custodians outside the Central District of California because it was issued despite a palpable lack of jurisdiction. Second, the Court should not give preclusive effect to the declaratory judgment because it is on appeal, creating a serious risk of inconsistent judgments and unfair results if the *Bautista* judgment is reversed or vacated on appeal. Finally, issue preclusion is inapplicable here, particularly as preclusion principles apply with less force both against the government and in habeas corpus proceedings.

1 Under black-letter principles of habeas jurisdiction, the *Bautista* declaratory judgement has no preclusive effect outside the Central District of California and over custodians who are located outside that District.

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

The Supreme Court 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 wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined, and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And a "judgment entered without personal jurisdiction over a defendant is void as to that defendant." *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

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

terms of the declaratory judgment . . . statute.").

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 all class members who are confined outside the Central District of California by immediate custodians 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 of Cali.*, 495 U.S. 604, 608 (1990). Indeed, another federal district court has already held that the *Bautista* declaratory judgment does not have preclusive effect. Order, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12.

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 this habeas petition, Petitioner was detained at Dilley Immigration Processing Center in Dilley, Texas, which is outside that judicial district. That ends the matter. But if more were needed, Petitioner's immediate custodian is the Warden and/or Field Director of the Dilley Immigration Processing Center and that individual 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).

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

Even if the *Bautista* declaratory judgment could have preclusive effect outside the Central

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

Courts must exercise significant caution before giving preclusive effect to declaratory judgments 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. 9 A.L.R.2d 984. Courts should strive to avoid this "evil result[]." *Id.* ("both the rule under which the operation of a judgment as res judicata is, and the one under which it is not, affected by the pendency of an appeal, have very unfortunate consequences"); *see also* 18A Fed. Prac. & Proc. § 4404 ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal); 18A Fed. Prac. & Proc. § 4433 (the rule that a decision is final for the purposes of preclusion while that decision is pending appeal creates "[s]ubstantial difficulties").

This problem can be "avoided . . . by delaying further proceedings in the second action pending conclusion of the appeal in the first action." *Collins v. D.R. Horton, Inc.*, 505 F.3d 874, 882–83 (9th Cir. 2007) (citing Wright & Miller § 4433). In the circumstances here—and particularly given the constraints of 8 U.S.C. § 1252(f)(1)—it would not be proper to impose res judicata effect on a class-wide basis while the declaratory judgment is pending on appeal. *See* 9 A.L.R.2d 984 (the "only one safe way of avoiding conflicting judgments on the same cause . . . [is for] the final decision on the merits of the second suit should be delayed until the decision on appeal has been rendered").

3 Accordingly preclusive effect to the *Bautista* declaratory judgment contravenes other principles of preclusion

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

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

Second, the circumstances of this case also counsel against applying issue preclusion against the government. The Supreme Court has "long recognized that 'the Government is not in a position identical to that of a private litigant,' *INS v. Hibi*, 414 U.S. 5, 8 (1973) (per curiam), both because of the geographic breadth of government litigation and also, most importantly, because of the nature of the issues the government litigates." *United States v. Mendoza*, 464 U.S. 154, 159 (1984). "Government litigation frequently involves legal questions of substantial public importance." *Id.* Thus, although the Supreme Court has held the federal government "may be estopped . . . from relitigating a question" when "the parties to the lawsuits are the same," *id.* at 163, 164, it is not so precluded in cases where the party seeking to offensively use preclusion was not a party to the initial litigation, *see id.* at 162. This is because allowing "nonmutual collateral estoppel against the government . . . . would substantially thwart the development of important questions of law by freezing the first final decision rendered on a particular legal issue." *United*

States v. Mendoza, 464 U.S. 154, 160 (1984).

For similar reasons, the government should not be precluded from litigating the issue of the proper detention authority here, where 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. This is particularly so because the *Bautista* court could never grant complete habeas relief to all class members as a result of § 1252(f)(1)—instead, the *Bautista* class action was merely a vehicle for seeking to use the judgment in individual habeas matters such as this one. At minimum, the court should exercise its discretion to decline to employ offensive issue preclusion, as it does in cases where a non-party seeks to invoke preclusion against a private party. *See Syverson v. Int'l Bus. Machines Corp.*, 472 F.3d 1072, 1078 (9th Cir. 2007) (citing *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 331 (1979)).

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

Xiaoquan Chen v. Almodovar, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025).

Third, it is doubtful that issue preclusion is ever appropriate in the habeas context. For instance, in *Griffin v. Gomez*, the Ninth Circuit held that a prior "class action has no preclusive affect in habeas proceedings." *Griffin v. Gomez*, 139 F.3d 905 (9th Cir. 1998). The court later explained that res judicata and collateral estoppel do not apply to habeas proceedings. *See Clifton v. Attorney General*, 997 F.2d 660, 662 n.3 (9th Cir. 1993) (recognizing that because "conventional notions of finality of litigation have no place" in habeas and the inapplicability of res judicate to habeas is "inherent in the very role and function of the writ.") (quoting Sanders v. United States, 373 U.S. 1, 8 (1963)); *see also Hardwick v. Doolittle*, 558 F.2d 292, 295 (5th Cir. 1977) ("The doctrines of res judicate and collateral estoppel are not applicable in habeas proceedings."); *Hierens v. Mizell*, 729 F.2d 449, 456 (7th Cir. 1984) ("a decision in another case is not res judicata as to a habeas proceeding.").

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

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

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

> A dispute in this posture is unusual, but not unheard of. As Justice Story remarked, the traditional comity between courts "does not prevent an inquiry into the jurisdiction of the court in which the original judgment was given." *Old Wayne Mut. Life Ass'n v. McDonough*, 204 U.S. 8, 16 (1907) (quoting Joseph Story, Commentaries on the Constitution of the United States § 1313 (1833)). It is "a subject [that] may be inquired into every other court, when the proceedings in the former are relied upon, and brought before the latter, by a party claiming the benefit

> of such proceedings." *Williamson v. Berry*, 49 U.S. (8 How.) 495, 540 (1850); *Old Wayne*, 204 U.S. at 16–17 (same). Indeed, traditional habeas proceedings normally could only challenge "the power and authority of the court" or other detaining authority "to act." *Brown v. Davenport*, 596 U.S. 118, 129 (2022) (quotation omitted). While the conclusions of another court, when enforced onto a peer court, are generally "unassailable collaterally," an exception has always existed for "lack of jurisdiction." *Treinies v. Sunshine Mining Co.*, 308 U.S. 66, 78 (1939); *Ex parte Watkins*, 28 U.S. (3 Pet.) 193, 202–03 (1830) (Marshall, C.J.) (same).
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> 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.

Order, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12, at 11 & 28. Thus, because the *Bautista* declaratory judgment is void for the reasons discussed above, this Court is not required to wait for a court of appeals to stay or vacate that judgment before this Court declines to give it preclusive effect.

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

IV. Conclusion

Petitioner is lawfully detained under statue because he is an applicant for admission who was issued a Notice to Appear after receiving a positive credible fear determination from an asylum officer. Detention is not indefinite, because removal proceedings will end, either with a grant of relief or with an order of removal. The Court should deny the Petition.

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: */s/ Fidel Esparza III*
Fidel Esparza III
Assistant United States Attorney
Texas Bar No. 24073776
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7100 (phone)
(210) 384-7118 (fax)
Fidel.Esparza@usdoj.gov

Attorney for Federal Respondents