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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Jesus Alonso Luna Rodriguez,

Petitioner,

v.

Markwayne Mullin, *et al.*

Respondents.

No. 2:26-cv-01509-SPL--JZB

GOVERNMENT'S RESPONSE TO EMERGENCY MOTION

The government[1] responds to Petitioner's Emergency Motion to Reopen Judgment, Request for Administrative Stay of Removal or Departure, Motion for Temporary Restraining Order, and Motion for Expedited Consideration. Doc. 13. The Court did not order Petitioner's release. It ordered either his release or an individualized bond hearing, and the government conducted an individualized bond hearing. Petitioner fails to mention this point in his motion. Because there is no basis for relief under Rule 60(b)(6), Fed. R. Civ. P., the motion should be denied.

MEMORANDUM OF POINTS AND AUTHORITIES

Background

Petitioner is a 53-year-old native and citizen of Mexico. Doc. 1 ("Petition"), ¶ 18. He

[1] Secretary Markwayne Mullin is substituted in for former Secretary Kristi Noem, pursuant to Fed. R. Civ. P. 25(d).

alleges that he entered the United States in 1994. Petition, ¶ 19. The United States Department of Homeland Security (DHS) issued a warrant for his arrest, Form I-200, on August 18, 2025. Petition, ¶ 20. DHS arrested Petitioner and issued a notice to appear on August 17, 2025. Petition, ¶ 21. Petitioner admits that he has three criminal convictions for DUI. Doc. 1-1 at 21. On March 4, 2026, Petitioner filed this habeas action, arguing that the U.S. Department of Homeland Security was unlawfully detaining him. Doc. 1.

Responding to his habeas petition, the government argued that Petitioner was properly subject to mandatory detention under 8 U.S.C. § 1225. Doc. 8. The Court disagreed, held that Petitioner was subject to section 1226, not section 1225, and ordered the government to "provide Petitioner a bond redetermination hearing within seven days or release Petitioner from custody…" Doc. 10 at 2 (order dated March 16, 2026). The government timely complied and filed a Notice of Compliance reflecting that a bond hearing occurred on March 19, 2026. Doc. 12 (filed on March 23, 2026).

On May 26, 2026, three months *after* this Court had ruled, Petitioner self-filed a Violence Against Women Act application. He then filed the instant Emergency Motion on June 1, 2026, five days later.

Standard of Review

A motion under Rule 60(b) provides the Court with authority to "relieve a party" from "a final judgment, order, or proceeding" under a number of specified reasons. Fed. R. Civ. P. 60(b). Petitioner here cites subsection (6) as his stated reason, which refers to "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). A motion under subsection (b)(6) is appropriate only "sparingly as an equitable remedy to prevent manifest injustice." *United States v. Alpine Land & Reservoir Co.*, 984 F.2d 1047, 1049 (9th Cir. 1993). To receive relief, Petitioner "must demonstrate 'extraordinary circumstances which prevented or rendered him unable to prosecute [his case].'" *Lal v. California*, 610 F.3d 518, 524 (9th Cir. 2010) (quoting *Community Dental Services v. Tani*, 282 F.3d 1164 (9th Cir. 2002)).

Law and Argument

1. Petitioner fails to meet the standard under Rule 60(b)(6).

Petitioner appears to be arguing that the Court should intervene to prevent him from being removed. Doc. 13 at 2 ("absent immediate intervention, Petitioner may be removed before this Court can consider the extraordinary post-judgment developments described below."). These "post-judgment developments" in Petitioner's eyes include the fact that "Petitioner [has] remained continuously detained." Doc. 13 at 2. This fails to rise to the level of a post-judgment development that constitutes a manifest injustice and extraordinary circumstances. This Court did not order Petitioner's release. It ordered either his release or a bond hearing, and the government provided him with a bond hearing. No injustice has occurred, much less a manifest one. The government's timely compliance with the Court's order—which Petitioner does not even acknowledge in his emergency motion—undermines any argument of the existence of extraordinary circumstances. Petitioner's choice not to alert the Court to the existence of the government's bond option should, alone, warrant denial of his motion.

2. *The Court lacks jurisdiction.*

Turning to the direct merits of Petitioner's motion even if it was not subject to the *Lal* standard, 610 F.3d at 524, Petitioner appears to merely assert a new legal argument that he should not be detained and, in fact, should not be removed from the United States. But the Court, being a district court, lacks jurisdiction to grant such relief. Petitioner's brand new arguments that he should not be removed are governed by 8 U.S.C. § 1252(a)(5) and (b)(9), which divest sole and exclusive jurisdiction in challenging the propriety of a final removal order with the U.S. Court of Appeals in the appropriate circuit, here, the Ninth Circuit. *See J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031-32 (9th Cir. 2016).

3. *Petitioner's class action argument fails.*

Finally, Petitioner's argument that the Central District of California has issued a nationwide preliminary injunction "granting class wide preliminary relief" (Doc. 13 at 3) is meritless. *See Immigration Center for Women and Children v. Noem*, -- F.R.D. --, 25-cv-09848-AB-AS (C.D. Cal. May 20, 2026). At the outset, Petitioner's class action argument that he is entitled to relief under the 1994 Violence Against Women Act (VAWA) is not properly

before this Court in the first place. Petitioner did not file his VAWA self-petition until May 26, 2026. It was thus not a subject that the Court heard when it reviewed briefing from Petitioner and the government leading up to the Court's ruling on March 16, 2026.

Secondly, even if this Court were to set aside the lack of a procedural basis to hear Petitioner's VAWA argument in light of Rule 60(b)(6), the Court continues to lack jurisdiction over the merits of a final order of removal whether or not a noncitizen has filed a VAWA self-petition. 8 U.S.C. § 1252(a)(5) and (b)(9). If Petitioner believes he is entitled to relief, he may proceed with seeking it through an Immigration Judge, the Board of Immigration Appeals, or the Ninth Circuit. He cannot proceed, however, before this Court or any district court.

Third, Petitioner's argument that the *Immigration Center* decision requires relief is meritless because Petitioner seeks core habeas relief. As such, Petitioner must seek such relief as a habeas claim alone. As the Supreme Court made clear just last 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." *Padilla*, 542 U.S. at 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 jurisdiction over the defendant is void." *S.E.C. v. Ross*, 504 F.3d 1130, 1139 (9th Cir. 2007).

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; *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 *Immigration Center* 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 *Immigration Center* 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 Cal.*, 495 U.S. 604, 608 (1990); *see also J.R.S.B. v. Olson*, No. 3:26-cv-478-CCB-SJF, 2026 WL 1481267, *4 n.5 (N.D. Ind. May 27, 2026) (rejecting argument that *Immigration Center*'s non-final order has any preclusive effect on another district court in another district).

In sum, the *Immigration Center* court's order purporting to grant relief that at its core sounds in habeas is a legal nullity outside that district. Petitioner does not assert that he is detained within the Central District of California. That ends the matter.

CONCLUSION

The Court should deny Petitioner's Emergency Motion in its entirety.

Respectfully submitted on June 9, 2026.

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s/*Neil Singh*
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