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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Khasan Amanov, Petitioner, v. Warden Rokosky, et al., Respondents.	No. CV-26-02343-PHX-SPL (MTM) **RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Respondents by and through undersigned counsel, hereby respond to the Petition for Writ of Habeas Corpus (Doc. 1) and the Court's Order to Show Cause (Doc. 4).

I. Factual background.

Petitioner is a native and citizen of Uzbekistan. Doc. 1 at 15. On March 18, 2025, Petitioner entered without inspection and was detained by Immigration authorities. *Id.* On November 11, 2025, the Immigration Judge (IJ) granted Petitioner's asylum applications which the Department of Homeland Security (DHS) subsequently appealed. *Id.* at 1. Petitioner's appeal remains pending with the Board of Immigration Appeals (BIA) *Id.* Currently, Petitioner is being held at Eloy Detention Center. *Id.* at 1.

II. The Warden is the only proper Respondent.

Only Warden Eric Rokosky is a proper respondent. *See Doe v. Garland*, 109 F.4th 1188, 1195-96 (9th Cir. 2024) (holding that neither an ICE Field Office Director nor the Attorney General are proper respondents in a challenge to immigration detention); *see also*

Rumsfeld v. Padilla, 542 U.S. 426, 439-40 & n.13 (2004) ("In challenges to present physical confinement, we reaffirm that the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent."). A habeas petition may never have multiple respondents, because the only "proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *See Doe*, 109 F.4th at 1195 (quoting *Padilla*, 542 U.S. at 435). The Court should dismiss all Respondents other than Warden Eric Rokosky.

III. *ZADVYDAS* IS INAPPLICABLE.

Petitioner is appealing the IJ's denial of asylum which is pending with the BIA. Doc. 1 at 1. Because the appeal with the BIA is still ongoing and has not been dismissed there is no final order of removal at this time.[1] As a result, Petitioner's detention is not governed by *Zadvydas v. Davis,* 533 U.S. 678 (2001) because Petitioner does not have a final removal order and the government is not seeking removal while the appeal with the BIA is pending.[2] Respondent's are complying with Petitioner's appellate rights and not removing Petitioner during appeal, but if the removal order is upheld Petitioner will immediately be placed in the removal process.

IV. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225.

Before 1996, the federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. Congress passed the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA") specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry.

As relevant here, Congress enacted what is now 8 U.S.C. § 1225, which requires the detention of any alien "who is an applicant for admission" and defines that term to encompass any "alien present in the United States who has not been admitted" following inspection by

[1] *See*, 8 U.S.C. § 1241.1(a) Final Order of Removal.
[2] The detention, release, and removal of aliens subject to a final order of removal is governed by § 241 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1231.

immigration authorities. 8 U.S.C. § 1225(a), (b)(2)(A). The statute makes no exception for how far into the country the alien traveled or how long the alien managed to evade detection. Unless the Secretary exercises the narrow and discretionary parole authority, mandatory detention is the rule for aliens who have never been lawfully admitted. *See* 8 U.S.C. § 1225(b)(2)(A) ("Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240]." (emphasis added)); 8 C.F.R. § 235.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018) (holding that Section 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin").

Recently, the Fifth Circuit decided this issue in Respondents' favor. In *Buenrostro-Mendez v. Bondi*, --- F.4th ----, 2026 WL 323330 (5th Cir. Feb. 6, 2026), the Fifth Circuit held that unadmitted applicants for admission apprehended within the United States are seeking admission and are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). 2026 WL 323330, at *1. The Fifth Circuit reversed the district courts' orders granting the habeas petitions, which directed the respondents to provide petitioners with bond hearings. *Id.* The Seventh Circuit, deciding a motion to stay pending appeal in a matter arising in a different context, and on the basis of a "preliminary record," determined that the government was "not likely to succeed on the merits" of its argument that aliens present in the United States without admission are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061-62 (7th Cir. 2025). The Ninth Circuit will hear argument on this issue on March 4, 2026, in *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir.).

Judge Liburdi adopted Respondents' position in *Chavez v. Noem*, No. 26-cv-00323-PHX-MTL (D. Ariz. Feb. 9, 2026). In that decision, Judge Liburdi found persuasive the Fifth Circuit's reasoning in *Buenrostro-Mendez* and adopted it, finding that "a person who entered the United States illegally and is clearly and beyond a doubt not entitled to admission, is

subject to mandatory detention under § 1225(b)(2)(A)." *Id.* at 4. Judge Liburdi denied the petition and directed the petitioner to seek relief in the Central District of California if he believed he was entitled to further relief as a member of the *Bautista* class (discussed below). *Id.* at 5. Prior to the *Buenrostro-Mendez* decision, several other district courts had also agreed with Respondents' position. *See Chavez v. Noem*, --- F. Supp. 3d ----, No. 3:25-cv-02325-CAB, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed sub nom. Sixtos Chavez v. Noem,* No. 25-7077 (9th Cir. Nov. 7, 2025); *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Rojas v. Olson*, No. 25-CV-1437-BHL, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, No. 6:25-CV-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, --- F. Supp. 3d ----, No. 1:25-cv-00177, 2025 WL 3264482 (N.D. Tex. Sept. 15, 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ----, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519 WBS SCR, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025); *Valencia v. Chestnut*, --- F. Supp. 3d ----, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133 (E.D. Cal. Nov. 17, 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).

Respondents acknowledge, however, that the majority of district courts, including this one, have rejected their position. *See, e.g.*, *Echevarria v. Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Barco Mercado v. Francis*, No. 25-cv-6582 --- F. Supp. 3d ----, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions that found for the habeas petitioner).

V. *Bautista* has no preclusive effect outside the Central District of California.

On March 6, 2026, the Ninth Circuit Court of Appeals temporarily stayed the application of the Bautista judgment beyond the Central District of California. *Bautista v.*

US Department of Homeland Security, 9th Cir., No. 26-1044, 3/6/26. Earlier, On December 18, 2025, a partial final judgment was entered in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), a class action[3] that 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).[4] This is core habeas relief that must be brought 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." *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.

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[3] The "Bond Eligible Class" certified in *Bautista* is defined as "[a]ll 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." *Bautista v. Santacruz*, --- F.R.D. ----, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

[4] The government has appealed the partial final judgment entered in *Bautista*. *See Bautista, et al. v. United States Dep't of Homeland Sec., et al.*, No. 25-7958 (9th Cir.).

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.").

Additionally, as this Court has observed, the *Bautista* order was explicitly non-coercive, because if it were otherwise, the *Bautista* court would have had no authority to issue it under 8 U.S.C. § 1252(f). *See, e.g.*, *Tamarit-Ferrer v. Rivas*, No. CV-25-04886-PHX-DWL (MTM) (D. Ariz. Dec. 31, 2025), ECF No. 5 at 2 n.2 ("*Bautista* explains that because the requested relief is limited to 'classwide declaratory relief,' the requested relief 'is not ultimately coercive' and does not implicate 'Section 1252(f)'s prohibition of class actions.'") (quoting *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3288403, at *7-8 (C.D. Cal. Nov. 25, 2025)).

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 Cal.*, 495 U.S. 604, 608 (1990). Indeed, another federal district court has already held that the *Bautista* decisions "are advisory opinions because they do not redress the alleged harm and are not preclusive." *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, --- F. Supp. 3d ----, 2025 WL 3683918, at *1 (N.D. Tex. Dec. 19, 2025); *see also Rodriguez v. Jeffreys*, No. 8:25-CV-714, 2025 WL 3754411, at *8-10 (D. Neb. Dec. 29, 2025) (finding that the *Bautista* court lacked jurisdiction to apply injunction to detainees outside of the Central District of California and that *Bautista* does not have preclusive effect).

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 the Eloy Detention Center, which is not within the jurisdiction of the Central District of California. That ends the matter. But if more were needed, Petitioner's immediate custodian is Warden Eric Rokosky, who was not a party in *Bautista*; subjecting Petitioner's immediate custodian to the judgment of the Central District of California would be inconsistent with the immediate custodian rule. *See Padilla*, 542 U.S. at 439-40; *Doe*, 109 F.4th at 1196.

VI. Conclusion.

Petitioner is subject to mandatory detention, and *Bautista* has no preclusive effect outside the Central District of California. However, insofar as the Petition challenges Respondents' detention of Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A), Petitioner appears to be a member of the Bond Eligible Class. *Bautista*, 2025 WL 3288403, at *9.

To the extent the Petition seeks an order requiring Respondents to either immediately release Petitioner or hold a bond hearing, Respondents oppose the request and request that any order granting Petitioner relief direct the Respondents to provide a bond redetermination

hearing within fourteen (14) days or release Petitioner from custody under the same conditions that existed before detention.

Respectfully submitted this 29th day of April 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2026, I mailed via U.S. Mail the attached document to:

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