IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

GERARDO FELIPE FIGOLI GOMEZ
IN REPRESENTATION OF
PERFECTO PAULA,
Petitioner-Plaintiff,

v.

REBECCA GONZALEZ, et al
Respondents-Defendants.

Civil No. 26-1091 (MAJ)

RESPONDENTS' SUR-REPLY TO PETITIONER'S REPLY TO OPPOSITION TO URGENT PETITION FOR WRIT OF HABEAS CORPUS

Respondents by and through their attorney, submit this sur-reply to Perfecto Paula's ("Petitioner") Reply to Opposition to Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (the "Petition"). See ECF No 24. The Court should deny the Petition for a Writ of Habeas Corpus. Petitioner bond hearing was conducted on February 19, 2026, and the Immigration Court, after the required consideration of factors present in this case, in the exercise of its discretion, ordered that Respondent be released from custody under bond of $7,500.

The U.S. Immigration and Customs Enforcement ("ICE") respectfully maintains that Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). To that end, Respondents provide the following brief to preserve their arguments. In the interest of judicial economy, however, Respondents respectfully submit that this matter can be decided without the need for an evidentiary hearing or oral argument.

A. Petitioner was properly detained Pursuant to Section 1225(b)(2).

Furthermore, Petitioner's admissions in his Reply to Respondent's Memorandum in Opposition support this determination. Petitioner admits that the Government has the authority to "detain *certain* noncitizens according to the [INA]," that "Section 1225 [of the INA] governs detention of immigrants who have not been 'admitted' under the INA," that a "[noncitizen] present in the United States who has not been admitted" is an applicant for admission under the INA, and that Section 1225 provides for mandatory detention of applicants for admission who are seeking admission. ECF No. 24 at p. 14. These admissions establish, beyond a doubt, that (a) Petitioner is an "applicant for admission" as provided by § 235(a) of the INA because he has not been lawfully admitted into the United States (ECF No. 24 at p. 5); (b) he is seeking admission into the United States through the filing by his spouse of an I-130 Petition for Alien Relative, and his own filing of a I-601A Petition for Provisional Unlawful Presence Waiver (*Id* at p. 5); and he is not clearly beyond a doubt entitled to be admitted because the filing of the I-601A Form is an admission that he is currently the subject of a condition of inadmissibility due to his illegal entry into the United States. Under these circumstances, Petitioner shall remain detained during the pendency of his removal proceedings because Section 235(b)(2)(A) applies if the following criteria are met: the noncitizen must be (i) an "applicant for admission," (ii) "seeking admission," and (iii) "not clearly and beyond a doubt entitled to be admitted." Those criteria are met in Petitioner's case. **See *Alvarez-Felix v. Gonzalez-Ramos*, No. CV 26-1041 (RAM), 2026 WL 438160, at *1 (D.P.R. Feb. 17, 2026) (so holding); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).**

B. Section 1225(b)(2) applies to noncitizens who have not been admitted.

Contrary to Petitioner's contentions, Section 1225 is *not* limited to noncitizens seeking admission at a border or port of entry—Section 1225(b)(1) applies to arriving aliens at a border or port of entry while Section 1225(b)(2) applies to *other aliens* who are applicants for admission. *See* Sections V(C)(1) and (2) of Respondent's Opposition, DE #16 at 19-20. As we explained in the Opposition, Petitioner fails to acknowledge that Section 1225(b)(2) is a valid provision in the INA that applies to his circumstances or to provide a justification to eviscerate this provision of the INA as inapplicable to his circumstances. The mere fact that both Section 1225(b)(2) and 1226 apply to noncitizens without legal status found within the United States, does not create a justification for the Court to choose not to apply one of those statutes to the situation. As we explained in the Respondent's Opposition, "[r]edundancies are common in statutory drafting" and are "not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton v. Barr, 590 U.S. 222, 239 (2020)*. Petitioner fails to identify what principle of statutory construction is being breached by enforcing the plain language of Section 1225(b)(2) to his situation. DE #25 at p. 14. "It is black-letter law 'that issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.' … A party may not merely 'mention a possible argument in the most skeletal way, leaving the Court to do counsel's work, create the ossature for the argument, and put flesh on its bones.' " *Grajales v. Puerto Rico Ports Auth.*, 922 F. Supp. 2d 240, 243 (D.P.R. 2013) (citing *U.S. v. Zannino*, 895 F.2d 1, 17 (1st Cir.1990)).

As we explained in Respondent's Opposition, Section 1225(b)(2) does not make Section 1226 redundant. DE #16 at 24-27. Section 1225(b)(2) applies to noncitizens found in the United States who have not been admitted while Section 1226 applies to noncitizens

found in the United States after having been admitted, like, for example, noncitizens who have overstayed their visas. **See** ***Alvarez-Felix v. Gonzalez-Ramos*****, No. CV 26-1041 (RAM), 2026 WL 438160, at *1 (D.P.R. Feb. 17, 2026) (so holding);** ***Buenrostro-Mendez v. Bondi*****, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).** Under that statutory framework, it makes sense for Congress to treat these two groups of noncitizens differently. Mandatory detention is dictated for those who absconded and entered illegally while allowing for discretionary detention for those noncitizens who were legally admitted into the United States. There was no reason for not applying the strictures of Section 1225(b)(2) to Petitioner's removal proceedings.

C. The Court Lacks Jurisdiction to Entertain Petitioner's *Habeas Corpus*

Petitioner initiated this habeas action while detained in immigration custody; however, Petitioner has since been released. Because habeas relief is limited to challenges to custody, and Petitioner is no longer in custody, the petition no longer presents a live case or controversy.

A federal court's jurisdiction under Article III extends to only live cases or controversies. U.S. Const. art III, §2. "A case becomes moot-and therefore no longer a 'Case' or 'Controversy' for purposes of Article III-when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) Accordingly, when events occur during the pendency of litigation that make it impossible for the court to grant effective relief, the action must be dismissed for lack of jurisdiction. *See*, *Chafin v. Chafin*¸568 U.S. 165, 172 (2013).

Courts have held that a habeas petition challenging detention becomes moot upon petitioner's release from custody. *See, Spencer v. Kemna*, 523 U.S 1, 7 (1998) (a habeas

petitioner must demonstrate a continuing injury capable of being redressed by the court) Here, because petitioner has already obtained the only relief that habeas can provide-release from custody-there is no controversy for the Court to adjudicate.

Any possibility that Petitioner may again be detained depends on future contingencies. The fact that Petitioner could theoretically be re-detained in the future does not defeat mootness. The Supreme Court has held that speculative future injury is insufficient to maintain Article III jurisdiction. *See, Spencer,* 523 U.S. at 14. Petitioner is currently released, and any future detention would arise from a new circumstance and would need to be challenged, if needed, in a separate proceeding.

Because Petitioner is no longer in custody there is no active case or controversy for the Court to decide under the *Habeas* petition.

Finally, when Petitioner filed his habeas corpus, he did so against his custodian at the time. As of right now, Petitioner is not under the custody of the Respondents. As such, what remedy is he now seeking and most importantly from who? Petitioner is leading the Court to issue an order against the Respondents when they no longer exercise custody over him.

D. The Court Should Not Grant a Declaratory Relief Under the Declaratory Judgment Act.

Petitioner's lack of standing to file a habeas corpus also makes him lack standing to bring an action for declaratory judgment, much less on behalf of a class. The Court should not grant *sua sponte* a relief that Petitioner lacks standing for. Under Article III of the U.S. Constitution, federal courts may only issue a declaratory judgment when there is an actual controversy. Without actual controversy, federal courts do not have jurisdiction to hear the case. For an actual controversy to be found, the plaintiff cannot be merely seeking advice from

the court but instead must show that the controversy between parties is substantial, immediate, and real and that the parties have adverse legal interests.

Rule 57 of the Federal Rules of Civil Procedure and the Federal Declaratory Judgment Act 28 U.S.C. §2201 govern declaratory judgments in federal court. The Federal Declaratory Judgment Act states:

> In a case of actual controversy within its jurisdiction, . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

Courts have held that the test for justiciability of declaratory judgment claim is whether facts alleged, under all circumstances, show that there is substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant issuance of declaratory judgment. *Vertex Tower Assets, LLC v. Town of Wakefield, New Hampshire*, 771 F. Supp. 3d 80, 89 (D.N.H. 2025) To demonstrate standing at the commencement of this action, Petitioner bears the burden of demonstrating: (i) he suffered and actual or threatened injury in fact, which was (ii) fairly traceable to the challenged statute or conduct, and (iii) could be redressed by a favorable decision. *Id.* at 88. ("Even where a plaintiff can establish standing at the outset of the case, "a federal court is duty bound to dismiss the claim as moot if subsequent events unfold in a manner" such that the plaintiff can no longer make one or more of these necessary showings. *Id* at 100.)

In the instant case, Petitioner has not filed such appropriate pleading since he has not properly requested that the Court issue a declaratory judgment. For the Respondents to properly argue against a declaratory judgment requested by the Petitioner, he must first request one. Petitioner never included a request for declaratory judgment in his original

pleading and it's an unusual equitable relief to be granting *sua sponte*. In any case, the fact that he is currently released makes so that he does not have an actual injury to be redressed by a court order.

So, he does not have an "as applied" challenge. Petitioner is not the subject of detention. Likewise, he also does not have a facial challenge because there is no indication that the immigration judge's ruling has created an imminent injury because he has been released. In order for him to suffer an injury petitioner would have to be in detention.

Courts have held that:

> While the redressability issue is decisive, this result makes sense in light of fundamental standing principles. Specifically, without a redressable injury, Vertex lacks the kind of personal stake in the action necessary to ensure that the court's consideration of the facial challenge would be carried out within a sufficiently informative factual context. The redressability requirement tends to assure that the legal questions presented to the court will be resolved, not in the rarified atmosphere of a debating society, but in a concrete factual context conducive to a realistic appreciation of judicial action. Strict adherence to the standing requirements is necessary to ensure that [the court's decisions] will have the benefit of adversary presentation and a full development of the relevant facts. Without a redressable injury under the Four Mile Restriction, Vertex's claim cannot provide the Court with "a full development of the relevant facts" that would be necessary to resolve the facial challenge on its merits.

Vertex Tower Assets, LLC., 771 F. Supp. 3d at 91 (cleaned up).

E. Petitioner is not a member of the Maldonado Bautista Class

Petitioner suggests that he is a member of the certified class action in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). *See* DE #1 at 6 and 10. However, the decisions of a district court in another district are not binding on this court for purposes of habeas relief because decisions issued by the U.S. District Court for the Central

District of California in a habeas proceeding are not extensive to the District of Puerto Rico. As the Supreme Court has explained:

> District courts are limited to granting habeas relief "within their respective jurisdictions." 28 U.S.C. § 2241(a). We have interpreted this language to require "nothing more than that the court issuing the writ have jurisdiction over the custodian." *Braden [v. 30th Judicial Circuit Court of Ky.]*, 410 U.S. [484,] 495, 93 S.Ct. 1123 [(1973)].

Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004). Thus, the Supreme Court concluded, "[t]he plain language of the habeas statute ... confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." Id. at 443. More recently, the Supreme Court explained that "[r]egardless of whether the detainees formally request release from confinement, because their claims for relief necessarily imply the invalidity of their confinement and removal ..., 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) (cleaned up). The Supreme Court then reiterated, "[f]or 'core habeas petitions,' 'jurisdiction lies in only one district: the district of confinement.' " *Id.* (quoting *Padilla*, 542 U.S. at 443).

In support of that position the District Court for the District of Puerto Rico in *Alvarez-Felix v. Gonzalez-Ramos, et al* No. CV 26-1041 (RAM), 2026 WL 438160, at *6 (D.P.R. Feb. 17, 2026) stated that

> "…this Court is not bound by the holding in Maldonado Bautista.
>
> Pursuant to the federal habeas corpus statute, courts may only grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). Given this plain language, the Supreme Court has held "with respect to habeas petitions designed to relieve an individual from oppressive confinement, the traditional rule has always been that the Great Writ is issuable only in the district of confinement." Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (internal quotations omitted). Moreover, the Supreme Court recently clarified

> that "[r]egardless of whether the detainees formally request release from confinement, because their claims for relief necessarily imply the invalidity of their confinement and removal...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) (quotations omitted); *see also* Rumsfeld, 542 U.S. at 443 ("[F]or core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement").
>
> Accordingly, the only district with jurisdiction over Petitioner's habeas corpus claim is the district of confinement, that is, the District of Puerto Rico, and not the Central District of California. The Court thus concludes that it is neither divested of jurisdiction nor bound by Maldonado Bautista's ruling. *See* Alberto Rodriguez v. Jeffreys, No. 8:25CV714, 2025 WL 3754411, at *9 (D. Neb. Dec. 29, 2025)."

There is no question in this case that Petitioner seeks relief that necessarily implies the invalidity of his confinement during the pendency of removal proceedings, so his claims fall within the core of the writ of habeas corpus because the Petitioner is not confined.

Furthermore, on March 6, 2026, the Court of Appeals for the Ninth Circuit (*see Maldonado-Bautista, et al v. U.S. Department of Homeland Security, et al*, 26-1044 ECF No. 5) issued an Order granting a temporary stay to the December 18, 2025 declaratory judgment, pending a ruling on the government's emergency motion for a stay pending appeal, insofar as the district court's judgment extends beyond the Central District of California.) and also temporarily staying the Central District of California's February 18, 2026 order vacating Matter of Yajure Hurtado.

Pursuant to all the foregoing, Petitioner's arguments under *Maldonado Bautista* and Yahure Hurtado are inapplicable and unenforceable. Therefore, the Court should deny all Petitioner's claims.

WHERFORE, the undersigned respectfully requests that this Honorable Court deny Petitioner's request because 1) the *habeas* petition is an extraordinary tool aimed at avoiding

unlawful detention and Petitioner is not detained; 2) there is no current controversy between the parties; 3) Petitioner does not have an actual injury to be redressed by a court order, therefore a Declaratory Judgment is inapplicable and improper; 4) the Central District of California court's decision in *Maldonado Bautista* and *Yajure Hurtado* have been stayed by the Ninth Circuit. The Court should deny such relief as inappropriate and inopportune.

I HEREBY CERTIFY that on this date, I electronically filed the forgoing with the Clerk of the Court using CM/ECF System, which will send notification of such filing to all parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on March 10, 2026.

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