

On March 17, 2025, Federal Respondents filed their response, addressing “only the issues associated with the February 16, 2025, expedited removal order” and reserving “their ability to additional present defenses [sic] to Ms. Doe’s civil complaint.” Dkt. 24 at 2 n.2. Attached to the filing, Federal Respondents included the Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act (Exhibit A), a Notice to Appear (NTA), dated March 7, 2025 (Exhibit B), and a declaration from Jacques Metoyer, an Assistant Field Director with U.S. Immigration and Customs Enforcement (ICE) in New Orleans, Louisiana (Exhibit C).¹ *Id.* at 9-24.

Critically, however, Federal Respondents ignored this Court’s express concern that the portion of Form I-860 containing the alleged expedited removal order “is blank.” Dkt. 17 at 1. Federal Respondents did not attach the completed form. Nor does Metoyer’s declaration indicate that the form was completed; rather, it contains a conclusory sentence that “U.S. Customs and Border Protection (CBP) found [Ms. Doe] inadmissible under section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA) as an alien who is not in possession of a valid entry document and placed her into expedited removal proceedings.” Dkt. 24 at 24. This statement is not responsive to either Ms. Doe’s or the Court’s concerns because Federal Respondents still have not produced the order, if one even exists. Moreover, “placement in expedited removal proceedings” is not synonymous with the issuance of an expedited removal order because not every expedited removal proceeding results in an executable order. *See* 8 U.S.C. § 1225(a)(4)

¹ The declaration further stated that Ms. Doe was issued a discretionary NTA under *Padilla v. ICE*, No. 2:18-cv-928 (W.D. Wash. Jan. 17, 2024). The settlement in that case provides for issuance of an NTA if more than 60 days have elapsed and a credible fear hearing has not been conducted. *See id.* Doc. 215-2 at 3 (Oct. 18, 2023). In Ms. Doe’s case, Federal Respondents elected to forego a credible fear interview entirely, presumably in an effort to moot the instant case.

(permitting withdrawal of application for admission “at any time”); § 1225(b)(1)(A)(iii)(II) (providing that certain individuals subject to expedited removal will have the opportunity to “affirmatively show[], to the satisfaction of an immigration officer, that [the noncitizen] has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility”).

Moreover, the Court’s OSC order further cited to *Dugdale v. CBP*, 88 F. Supp. 3d 1, 7 (D.D.C. 2015). Dkt. 17 at 2. In that case, as here, Form I-860 did “not bear a supervisor’s signature or a checked box indicating remote approval.” *Dugdale*, 88 F. Supp. 3d at 7. The court recognized that the petitioner had “raised a legitimate question as to whether a CBP supervisor in fact ‘reviewed and approved’ the order before it was served, as required by CBP’s regulations, and as to when, if ever, the order became final.” *Id.* In response, the court invited further briefing on the validity of the order and the relief available to the petitioner, aptly stating:

It may well be that nothing turns on the missing signature in this case. But given how few means aliens have to challenge expedited removal orders, the Court believes it important that CBP follow the letter of the law in issuing them, even in cases where the grounds for removal appear clear. Supervisory approval is one of the few checks on erroneous or arbitrary expedited removals. It should be taken seriously.

Id. Here, however, there is no need to invite further briefing as the Court did in *Dugdale*, because the Court already put Federal Respondents on notice of the Form I-860’s deficiency, ordering them to respond to this precise question – whether Ms. Doe was, in fact, ordered removed under 8 U.S.C. § 1225(b)(1). Dkt. 17 at 2. Federal Respondents have had ample opportunity to prove the existence of an order and have failed to do so.² Accordingly, no order exists, let alone a

² The Court’s order issued within the urgent framework of 28 U.S.C. § 2243, which requires a response ordinarily within three days. Here, the Court afforded Federal Respondents two weeks, after which their response triggered the provision’s second stage when “a day shall

lawful one. As such, Ms. Doe is not subject to the limitation set forth in 8 U.S.C.

§ 1252(e)(4)(B), which permits only “a hearing in accordance with section 1229a[.]”

Because the instant habeas petition also asserted jurisdiction under 28 U.S.C. § 2241, the Suspension Clause, and 28 U.S.C. § 1331, and 28 U.S.C. §§ 2201-02, *see* Dkt. 1 at 3, the Court should exercise its jurisdiction to grant relief that it deems “just and proper,” including by immediately ordering Federal Respondents to release Ms. Doe from immigration custody in Louisiana because her detention is based on a nonexistent removal order, schedule a hearing if deemed appropriate, and/or allow the parties to submit further briefing on the merits of this matter.

Respectfully submitted,

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be set for hearing, not more than five days after the return unless for good cause additional time is allowed.” *Id.* In this context, Petitioner-Plaintiff respectfully submits that the Court should not consider any potential belated submissions by Federal Respondents attempting to cure the response’s deficiencies.