UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 25-60673-CV-WILLIAMS

MARIA DOLORES NAVARRO MARTIN,

Petitioner,

v.

UNITED STATES ATTORNEY GENERAL,

Respondent.

____/

DEFENDANT'S RESPONSE TO PETITIONER'S WRIT OF HABEAS CORPUS

The United States Attorney General, through the undersigned counsel and pursuant to the Court's April 9, 2025 Order [D.E. 5], moves to dismiss Petitioner Maria Dolores Navarro Martin's ("Petitioner") Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [D.E. 1] ("Petition") and in support thereof states as follows:

I. FACTUAL BACKGROUND

Petitioner Maria Dolores Navarro Martin is presently in the custody of the Department of Homeland Security/Immigration and Customs Enforcement ("ICE") at the Broward Transitional Center. *See* D.E. 1, "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241," at 1. Petitioner is a native of Venezuela and a citizen of Spain. *See* Record of Deportable/Inadmissible Alien (I-213) at 1, redacted and attached as Exhibit A. On March 10, 2014, Petitioner adjusted her status to that of a lawful permanent resident of the United States. *See id.* at 2. On September 20, 2019, Petitioner was convicted in Orange County, Florida of Witness Tampering in violation of section 914.22(2)(D) of the Florida Statutes. *See id.* She was sentenced to a prison term of seven years. *See id.*

Petitioner was detained by ICE on December 30, 2024. *See* EARM Detention History, attached as Exhibit B. She was placed in removal proceedings via the issuance of a Notice to Appear dated January 9, 2025. *See* Notice to Appear (NTA), attached as Exhibit C. On February 12, 2025, the immigration judge sustained the charge in the NTA, finding that Petitioner's conviction constituted an aggravated felony, pursuant to Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA), as defined in section 101(a)(43)(S) of the INA, an offense relating to obstruction of justice for which the term of imprisonment is at least one year. *See* February 12, 2025, Order of the Immigration Judge, attached as Exhibit D; see also Declaration of Deportation Officer Vivian Delgado, attached as Exhibit E. The immigration judge also denied Petitioner's motion to dismiss removal proceedings on the same date. *See* Ex. D. On March 13, 2025, the immigration judge reset the case to allow Petitioner to file any applications for relief before the court, and the matter was adjourned. *See* Notice of Hearing, attached as Exhibit F. On March 29, 2025, the Board of Immigration Appeals dismissed Petitioner's interlocutory appeal. *See* Decision of Board of Immigration Appeals, attached as Exhibit G. On April 2, 2025, the immigration judge denied Petitioner's motion to reconsider. *See* April 2, 2025, Order of the Immigration Judge, attached as Exhibit H. Removal proceedings are currently pending before the Immigration Court at the Broward Transitional Center in Pompano Beach, FL (BTC). The next hearing is scheduled for April 22, 2025. *See* Ex. E, Declaration of Officer Delgado.

On February 24, 2025, the Petitioner filed a similar Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in *Maria Delores Navarro Martin v. United States Attorney General*, Case No. 24-60355-CIV-SMITH, attached hereto as Exhibit I. In the instant Petition and the Petition in that matter, the Petitioner raised four identical "Grounds for Your Challenge in This Petition," each claiming violations of the Due Process Clause. *See* D.E. 1, Case No. 24-60355-CIV-SMITH, at 6–7. In the similar matter, the Court conducted a *sua sponte* review of the Petition and dismissed the matter for lack of jurisdiction. D.E. 5, Case No. 24-60355-CIV-SMITH, attached as Exhibit J.

In the Petitioner's similar matter, the Petitioner sought relief in the form of injunctive and declaratory relief challenging the dismissal of her motion to dismiss the Notice to Appear in her immigration matter. *See* Ex. I, D.E. 1, Case No. 24-60355-CIV-SMITH, at 7. Here, the Petitioner now seeks declaratory relief for the execution of a *Joseph* Hearing. *See* D.E. 1, Petition at 7. In support thereof, the Petition submitted a memorandum in support of her Petition. *See* D.E. 1-1.

II. ARGUMENT

The United States moves to dismiss the Petition on multiple grounds. First, the Petitioner has failed to identify the correct party in interest in this matter. Second, the United States moves to dismiss pursuant to the doctrines of collateral estoppel and *res judicata* as a court has previously reviewed the issues raised in the Petition and dismissed the matter for lack of jurisdiction. While the Petitioner now seeks slightly different relief than the relief sought in her previous petition, the grounds upon which she claims entitlement to relief are identical. Accordingly, these doctrines preclude the Petitioner from re-litigating these same matters.

Should the Court determine that these doctrines do not apply to this matter, the Petitioner has failed to establish her right to habeas relief. Section 2241 authorizes a district court to grant a petition for writ of habeas corpus whenever a petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." 18 U.S.C. § 2241(c)(3). "In a § 2241 habeas corpus case, '[the] petitioner has the burden of establishing [her] right to federal habeas relief.'" *United States v. Nickson*, 553 F. App'x 866, 869 (11th Cir.

2014) (quoting *Coloma v. Holder*, 445 F.3d 1282, 1284 (11th Cir. 2006)). Petitioner's request for a *Joseph* Hearing to challenge the immigration court's discretionary determination that she must be mandatorily detained pursuant to 8 U.S.C. § 1226(c) is not subject to judicial review. Petitioner's claim that DHS lacked authority to detain her pursuant to § 1226(c) is precluded by Supreme Court precedent and should therefore be rejected.

Lastly, Petitioner's claim that her ongoing detention pending the finality of her removal order violates due process lacks merit and should similarly be rejected. the Court lacks subject matter jurisdiction to review this habeas petition.

A. Petitioner Failed to Name the Proper Respondent.

The Petitioner has failed to identify the correct Government party in interest in this matter. Because Petitioner is detained at the Broward Transitional Center, it is the Government's position that the proper Respondent in the instant case is the Warden for that facility, in his official capacity, and not the Attorney General of the United States, Pam Bondi. However, the Government is cognizant of this Court's decision in *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302 (S.D. Fla. 2020) where this Court held that it "join[ed] those courts that have held that the proper respondent in th[e] context [of where a petitioner is held in a facility pursuant to a contract, rather than by the state or federal government itself] is the director of the ICE field office responsible for overseeing the contract facility where the petitioner is detained." *Id.* at 1302. As Ms. Masingene was detained at BCDF, this Court found that the proper respondent to the Petition in that case was the Director of the Miami Field Office and dismissed other defendants. *Id.* at 1302, 1303. Respondents respect this Court's reasoning in *Masingene* but do not agree with that holding.

B. The Doctrines of Collateral Estoppel of *Res Judicata* Collaterally Estops the Petitioner from Attempting to Re-Litigate this Matter.

The doctrines of collateral estoppel and *res judicata* serve to conserve judicial resources and prevent parties from re-litigating matters already decided by courts. These doctrines apply here. "[T]he doctrine of collateral estoppel 'prevents identical parties from relitigating the same issues that have already been decided.'" *Kaplan v. Nautilus Ins. Co.*, 861 F. App'x 798, 801 (11th Cir. 2021) (quoting *Dep't of Health & Rehab Servs. v. B.J.M.*, 656 So. 2d 906, 910 (Fla. 1995). For the doctrine to apply, "the parties and issues must be identical, and the particular matter must have been fully litigated and determined in a contest which results in a final decision of a court of competent jurisdiction." *Id.* Similarly, *res judicata* is a judicially crafted doctrine created to provide finality and conserve resources. *Eastman Kodak Co. v. Atlanta Retail, Inc.* (*In re Atlanta Retail, Inc.*), 456 F.3d 1277, 1284 (11th Cir. 2006) ("*Res judicata* . . . is a judicially made doctrine with the purpose of both giving finality to parties who have already litigated a claim and promoting judicial economy . . . ." (citing *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326, 99 S.Ct. 645, 58 L.Ed.2d 552 (1979))).

> It is by now hornbook law that the doctrine of res judicata "bars the filing of claims which were raised or could have been raised in an earlier proceeding." *Ragsdale v. Rubbermaid, Inc.*, 193 F.3d 1235, 1238 (11th Cir.1999). For *res judicata* to bar a subsequent case, four elements must be present: "(1) there is a final judgment on the merits; (2) the decision was rendered by a court of competent jurisdiction; (3) the parties, or those in privity with them, are identical in both suits; and (4) the same cause of action is involved in both cases." *Id.*

Maldonado v. U.S. Atty. Gen., 664 F.3d 1369, 1375 (11th Cir. 2011). "[T]wo cases are generally considered to involve the same cause of action if the latter case 'arises out of the same nucleus of operative fact, or is based upon the same factual predicate,' as the former one." *Id.* (citing *Ragsdale v. Rubbermaid, Inc.*, 193 F.3d 1235, 1239 (11th Cir.1999)).

This Court, a court of competent jurisdiction, issued a final order dismissing and closing the Petitioner's prior matter, thus satisfying key elements pertinent to both doctrines. Additionally, the same parties—Petitioner and the Government—are in privity to both matters, which hinge on identical facts and identical grounds upon which the Petitioner claims that relief should be granted. This matter has already been reviewed by a court of competent jurisdiction, who dismissed this matter.

C. The Petitioner should be dismissed for lack of subject matter jurisdiction.

The Immigration and Nationality Act ("INA") divests district courts of jurisdiction to address the matters presented in the Petition. Indeed, 8 U.S.C. § 1252(a)(5) expressly states that "a petition for review filed with an appropriate court of appeals in accordance with [the Immigration and Nationality Act] shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter." 8 U.S.C. § 1252(a)(5). Further, "[j]udicial review of all questions of law and fact, . . . arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, . . . to review such an order or such questions of law or fact." Id. § 1252(b)(9). Unless otherwise stated in § 1252, "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." *Id.* § 1252(g)

To determine whether an action falls under the "three discrete actions" enumerated by Section 1252(g) of the INA, a court must "focus on the action being challenged." *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257–58 (11th Cir. 2020) (citation omitted). "In other words, a noncitizen's various challenges arising from the removal proceeding must be 'consolidated in a petition for review and considered by the courts of appeals.'" *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (quoting *INS v. St. Cyr*, 533 U.S. 289, 313 & n.37 (2001)). "By consolidating the issues arising from a final order of removal, eliminating review in the district courts, and supplying direct review in the courts of appeals, the Act expedites judicial review of final orders of removal." *Id.*; *see also J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 ("Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any issue—whether legal or factual—arising from any removal-related activity can be reviewed only through the [petition for review] process."); *Aguilar v. U.S. Immigr. & Customs Enf't Div. of Dep't of Homeland Sec.*, 510 F.3d 1, 9 (1st Cir. 2007) ("By its terms, [§ 1252(b)(9)] aims to consolidate "all questions of law and fact" that "arise from" either an "action" or a "proceeding" brought in connection with the removal of an alien."). Challenging the means by which Attorney General adjudicates removal orders is the very type of petition that 8 U.S.C. § 1252(g) divests from the court's jurisdiction. Therefore, this matter should be dismissed due a lack of subject matter jurisdiction.

D. Petitioner is Subject to Mandatory Detention Under § 1226(c) and is not Entitled to Release or a Bond Hearing.

Petitioner is detained pursuant to 8 U.S.C. § 1226(c). Section 1226(c) specifically states that "[t]he Attorney General shall take into custody any alien who" qualifies for mandatory detention. *See* 8 U.S.C. § 1226(c)(1) (emphasis added). The statute prohibits release of aliens whom the Attorney General has taken into custody, except that the Attorney General may make exceptions for certain witness-protection purposes, which are inapplicable in this case. *See* 8 U.S.C. § 1226(c)(2) (stating that "[t]he Attorney General may release an alien described in paragraph (1) only if the Attorney General decides" that release is "necessary" for witness protection) (emphasis added)).

The Supreme Court has definitively and consistently affirmed the constitutionality of detention pending removal, including mandatory detention under § 1226(c). *See, e.g., Demore v. Kim*, 538 U.S. 510, 523 (2003) (listing cases). Confronted with a "near-total inability to remove deportable criminal aliens" and statistics showing a recidivism rate for criminal noncitizens approaching 80 percent, *see Demore*, 538 U.S. at 518–19, Congress enacted § 1226(c). In short, § 1226(c) makes clear that "aliens detained under [§ 1226(c)] are not entitled to be released under any circumstances other than those expressly recognized by the statute." *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018).

In *Demore*, the Supreme Court affirmed the constitutionality of mandatory detention pending removal. In doing so, the Court distinguished the case in two key respects from its earlier decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), where the Court applied the canon of constitutional avoidance to read into the post-order detention statute an implicit temporal limitation. First, the Court emphasized that for the noncitizens challenging their detention in *Zadvydas*, removal was "no longer practically attainable" and therefore detention "did not serve its purported immigration purpose." *Demore*, 538 U.S. at 527. Conversely, mandatory detention pending removal proceedings "serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings." *Id.* at 528. Second, the Court emphasized that the post-order detention in *Zadvydas* was "indefinite" and "potentially permanent" while pre-order detention has an "obvious termination point"—the conclusion of removal proceedings. *Id.* at 528–29. The considerations that justified the imposition of a temporal limit on immigration detention in *Zadvydas* were absent in *Demore*, and the Court declined to impose additional, constitutional limits on the operation of § 1226(c).

Indeed, in *Demore*, the Supreme Court affirmed the mandatory detention pending removal proceedings of a lawful permanent resident for longer than six months, when he had conceded the charges against him but was seeking relief from removal. There, the alien had already "spen[t] six months" in immigration custody before the Supreme Court upheld the constitutionality of his mandatory detention. *Demore*, 538 U.S. at 531. As a result of the Court's reversal of the decision affirming his release, he was to be returned to custody until removal proceedings were completed, which would take additional time. He had not yet had his removal hearing (because he asked for a continuance), and he could still appeal to the BIA if the IJ ordered him removed. *Demore*, 538 U.S. at 530–31. Thus, *Demore* itself "implicitly foreclose[s]" the notion that the Constitution mandates a bond hearing near the six-month mark under section 1226(c). *See Reid v. Donelan*, 819 F.3d 486, 497 (1st Cir. 2016).

Ultimately, the detention of an alien is generally not reviewable by the district courts as "'[8 U.S.C. §] 1226(e) precludes an alien from 'challeng[ing] a 'discretionary judgment' by the Attorney General or a 'decision' that the Attorney General has made regarding his detention or release.'" *Jennings*, 583 U.S. at 295 (quoting *Demore*, 538 U.S. at 516). The decision to withhold bond for an alien detained pursuant to 8 U.S.C. § 1226(c) is not reviewable by the district courts due to the preclusive effect of 8 U.S.C. § 1226(e). *Lindsay v. Garland*, No. 5:23-CV-74, 2024 WL 2967271, at *2–3 (S.D. Ga. Apr. 30, 2024), *report and recommendation adopted*, No. 5:23-CV-74, 2024 WL 2959309 (S.D. Ga. June 12, 2024). Instead, the detained individual must seek review of the detention with the Department of Homeland Security and then with an immigration judge. *Id.* (discussing *Nielsen v. Preap*, 139 S. Ct. 954, 960 (2019)).

After the dismissal of the previous petition, the Petitioner re-styled this Petition by seeking a different form of relief—an order requiring a *Joseph* Hearing. Petitioner's challenge turns on her disagreement with the immigration court's discretionary determination that her criminal convictions qualify her for mandatory detention under § 1226(c). *See* D.E. 1-1 at 5–6. Courts applying *Jennings* have concluded that Congress has expressly foreclosed judicial review of such challenges to discretionary determinations by the immigration court. *See, e.g.*, *Mayorga v. Meade*, No. 24-CV-22131, 2024 WL 4298815, at *7 (S.D. Fla. Sept. 26, 2024) (denying review of § 2241 petition pursuant to 8 U.S.C. § 1226(e)). Moreover, the immigration court properly determined that the Petitioner's criminal record required her removal given her conviction of an aggravated felony for which she was convicted—one "relating to obstruction of justice"—and its seven-year duration. *See* D.E. 1-2 at 9–10. Thus, § 1226(c) mandates Petitioner's detention pending the resolution of his removal proceedings, a decision already rendered by an immigration judge that is not reviewable by the Court.

E. Petitioner's Due Process Rights Have Not Been Violated.

The grounds upon which the Petitioner seeks relief claim multiple violations of her Due Process Rights. However, Petitioner has been afforded ample process and failed to carry her burden of demonstrating that her current detention violates her due process rights. It is well settled that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523. The Supreme Court has made clear that § 1226(c) does not violate due process on its face when criminal aliens are detained for the limited period of their removal proceedings. *Id.* at 513. In *Jennings*, the Court also rejected the argument that § 1226(c)'s mandatory detention must be construed to contain a "reasonableness" limitation. 138 S. Ct. at 841. Accordingly, the detention of the Petitioner during her deportation proceedings, is less than four months as of the filing of this Response, does not constitute a violation of the Petitioner's Due Process Rights.

III. CONCLUSION

The Petitioner's claim should be dismissed as this Court has previously reviewed the Petitioner's grounds upon which relief may be granted and determined that the Court lacked subject matter jurisdiction. Furthermore, as Petitioner is challenging the immigration court's removal order through a request for *Joseph* hearing, this Court lacks subject matter jurisdiction to consider the Petition.

Dated: April 14, 2025

Respectfully submitted,

HAYDEN P. O'BYRNE
UNITED STATES ATTORNEY

/s/ David Werner
DAVID WERNER
Assistant United States Attorney
Fla. Bar. No. 113436
99 N.E. 4th Street
Miami, Florida 33132
Telephone: (786) 439-3194
Facsimile: (305) 530-7139
Email: David.Werner@usdoj.gov
Counsel for United States of America

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on the *pro se* Petitioner via U.S. Mail at the service address below.

By: *<u>/s/ David Werner</u>*
David E. Werner
Assistant United States Attorney

Maria Dolores Navarro Martin
A[redacted]
Broward Transitional Center
Inmate Mail/Parcels
3900 North Powerline Road
Pompano Beach, FL 33073