

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 MOTION FOR LEAVE TO FILE AN
AMENDED COMPLAINT AND ORDER TO SHOW CAUSE (AMENDED WRIT OF
HABEAS CORPUS)**

The United States Attorney General, through the undersigned counsel and pursuant to the Court's July 29, 2025 Order [D.E. 14], responds to Petitioner Maria Dolores Navarro Martin's ("Petitioner") "Motion for Leave to File an Amended Complaint and Order to Show Cause," [D.E. 12] ("Amended Petition") which is construed as an Amendment to Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [D.E. 1] ("Petition"). In support thereof, Respondent 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. D.E. 1, "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241," at 1. *See also* EARM Detention History, attached as Exhibit A. 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 B. 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* Ex. A, EARM Detention History. 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. 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 E. On March 29, 2025, the Board of Immigration Appeals dismissed Petitioner's interlocutory appeal. *See* Decision of Board of Immigration Appeals, attached as Exhibit F. 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 G.

On June 9, 2025, the immigration judge entered an oral decision denying Petitioner's applications for relief and ordering her removed from the United States. *See* June 12, 2025, Written Order of the Immigration Judge, attached as Exhibit H. Petitioner filed an appeal of the immigration judge's decision; the appeal is pending. *See* July 22, 2025, Notice-Briefing Schedule, attached as Exhibit I.

Petitioner is scheduled for a Custody Redetermination Hearing before an immigration judge at 8:00 a.m. on August 8, 2025, at the Broward Transition Center. *See* Notice of Hearing, attached as Exhibit J.

Previously, 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 K. 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 M. In the dismissed matter, 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. K; D.E. 1, Case No. 24-60355-CIV-SMITH, at 7. Here, the Petitioner seeks an order requiring the execution of a bond hearing. *See* D.E. 12, Amended Petition at 25.

Petitioner also filed a third Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 with the District Court for the District of Columbia, which was transferred to this district on May 5, 2025. *See* Order Transferring Civil Action No. 25-1228 to the Southern District of Florida, attached hereto as Exhibit M. This Court dismissed that matter as duplicative on July 9, 2025. *See* Paperless Order Dismissing and Closing Case, D.E. 8, Case No. 0:25-CV-61348 (July 9, 2025), attached as Exhibit N.

II. ARGUMENT

The United States responds to and moves to dismiss the Amended Petition due to a lack of subject matter jurisdiction on multiple grounds, many of which are similar to those argued in the United States' response to the Petition. *See, generally*, Response, D.E. 8. First, the Petitioner's Amended Petition is moot as she obtained the relief she requested from the Court—a custody redetermination hearing before an immigration judge. Dismissal is also warranted as the Petitioner continues to improperly identify the correct party in interest in this matter. The United States also moves to dismiss pursuant to the doctrines of collateral estoppel and *res judicata* as a court has previously reviewed the issues raised in the Amended Petition and Petition and dismissed the matter for lack of jurisdiction. While the Petitioner now seeks slightly different relief than that sought in her initial petition, the circumstances upon which she claims entitlement to relief are the same. These doctrines preclude the Petitioner from re-litigating these same matters.

Should the Court determine that these arguments are unavailing, 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." 28 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 claim that the Department of Homeland Security 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 as

she currently has an appeal of her order of removal pending before the Board of Immigration Appeals and has been detained only seven months.

A. The Petitioner's Prayer for Relief is Moot Due to her Pending Custody Redetermination Hearing.

The Court should dismiss the petition because it lacks subject matter jurisdiction over this matter because Petitioner has obtained the relief sought in her filings with the setting of a custody redetermination hearing on Friday, August 8, 2025. While the Petitioner identifies several issues in her brief, her Prayer for Relief is simple—she seeks an order from the Court compelling a “bond hearing” to determine “appropriate conditions” for her release. *See* D.E. 12 at 25. There is no longer a need for the Court to order such a hearing as Petitioner is scheduled for one on August 8, 2025. *See* Ex. J.

A district court must dismiss an action if the court lacks jurisdiction over the subject matter of the suit. *See* Fed. R. Civ. P. 12(b)(1), 12(h)(3). A claim is properly dismissed “when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Crown Media, LLC v. Gwinnett County, GA*, 380 F.3d 1317, 1324 (11th Cir. 2004) (internal citation and quotation omitted); *Bathazi v. U.S. Dep’t of Homeland Sec.*, 667 F. Supp. 2d 1375, 1378 (S.D. Fla. 2009) (quoting *Fla. Ass’n of Rehab. Facilities, Inc. v. Fla. Dep’t of Health and Rehab. Servs.*, 225 F.3d 1208, 1216–17 (11th Cir. 2000)) (“A case is moot ‘when it no longer presents a live controversy.’”). A Rule 12(b)(1) motion may be either facial, where the inquiry is confined to the allegations in the complaint, or factual, where the court is permitted to look beyond the complaint to extrinsic evidence. *See McElmurray v. Consol. Gov’t of Augusta-Richmond Cnty.*, 501 F.3d 1244, 1251 (11th Cir. 2007); *see also MAO-MSO Recovery II, LLC v. Boehringer Ingelheim Pharm., Inc.*, No. 1:17-CV-21996-UU, 2017 WL 4682335, at *3 (S.D. Fla. Oct. 10, 2017) (quoting the standard from *McElmurray*, 501 F.3d at 1251).

The case-or-controversy requirement of Article III, Section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998), (quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477–478 (1990) and citing *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975)). Although jurisdiction is usually determined at filing, after-arising events can affect jurisdiction because the case-or-controversy requirement of Article III, section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *Id.* As the Supreme Court explained in *Lewis*, “[t]o invoke the jurisdiction of a federal court, a litigant must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.” *Lewis*, 494 U.S. at 477 (citing *Allen v. Wright*, 468 U.S. 737, 750–751 (1984); *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 471–473 (1982)). Further, the petitioner “must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.” *Id.* When there is nothing for the Court to redress, a case is moot. *Spencer*, 523 U.S. at 17. Mootness deprives a court of the power to act when there is nothing to remedy. *Id.* at 18.

Here, Plaintiff challenged her continued detention without obtaining a “bond hearing” or custody redetermination hearing. This issue has been resolved with the setting of a hearing before the Immigration Court on August 8, 2025. Accordingly, the Amended Petition should be dismissed as moot.

B. Petitioner Failed to Name the Proper Respondent.

As in the Petition, Petitioner failed to identify the correct Government party in interest in this matter. Because Petitioner was and continues to be 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.

C. The Doctrines of Collateral Estoppel and *Res Judicata* 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)).

The court, a court of competent jurisdiction, issued a final order dismissing and closing the Petitioner’s initial petition, 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.

D. To the extent Petitioner challenges the immigration judge’s decision finding she has been convicted of an aggravated felony, or choice of law, the Petition should be dismissed for lack of subject matter jurisdiction.

The INA divests district courts of jurisdiction to address the matters presented in the Amended Petition and its predecessor 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 INA] 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 the 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 to lack of subject matter jurisdiction.

E. 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). Specifically, 8 U.S.C. § 1226(c)(1)(B) mandates detention of aliens who are deportable because of the commission of an aggravated felony. 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. *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)). That exception is not applicable in this matter as the Petitioner has been taken into custody due to her conviction for Witness Tampering, an aggravated felony pursuant to Section 237(a)(2)(A)(iii). *See* 8 U.S.C. § 1226(c)(1)(B).

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 non-citizens 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).

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 Board of Immigration Appeals if the immigration judge 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).

After the dismissal of the initial petition, the Petitioner re-styled her Petition by seeking a different form of relief—an order requiring a *Joseph* Hearing. *See*, generally, D.E. 1. Petitioner’s *Joseph* hearing challenge is maintained in the Amended Petition, where her challenge turns on her disagreement with the immigration court’s discretionary determination that her criminal convictions qualify her for mandatory detention. *See* D.E. 12 at 23. 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 her removal proceedings, a decision already rendered by an immigration judge that is not reviewable by the Court. Nevertheless, the Petitioner has been granted a bond hearing, which will take place on August 8, 2025. *See* Ex. J.

F. 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. The detention of the Petitioner while removal proceedings are pending does not constitute a violation of the Petitioner's Due Process Rights.

Courts can examine various factors to assist in determining whether an ongoing detention pending removal pursuant to § 1226(c) is reasonable. *Sopo v. United States Attorney General*, 825 F.3d 1199 (11th Cir. 2016) ("Sopo I"), *vacated by*, 890 F.3d 952 (11th Cir. 2018) ("Sopo II"). In *Sopo I*, the Eleventh Circuit a non-exhaustive list of such factors to examine to consider:

(1) the amount of time that the criminal alien has been detained without a bond hearing, (2) why the removal proceedings have become protracted, (3) whether it is possible to remove the criminal alien after the final order is issued, (4) whether the alien's immigration detention exceeds the time the alien spent in prison for the crime that rendered him removable, and (5) whether the immigration detention facility is meaningfully different from a criminal penal institution.

Abreu v. Rivera, No. 25-20821-CIV, 2025 WL 2163051, at *5 (S.D. Fla. May 12, 2025), *report and recommendation adopted sub nom.*, 2025 WL 2160163 (S.D. Fla. July 30, 2025) (discussing the *Sopo* Factors). Although the Eleventh Circuit vacated *Sopo I* because the petitioner was removed from the United States and subsequent court decisions abrogated the reasoning in *Sopo I*, "district courts in this Circuit when confronted with these challenges continue to look to *Sopo I*'s multi-factor analysis to determine whether prolonged detention under § 1226(c) does, in fact, violate an alien's right to procedural due process." *Id.* at *5 (citing *Oscar v. Ripe*, 751 F. Supp. 3d 1324, 1330-31 (S.D. Fla. 2024)).

Here, Petitioner has been detained for seven months—shorter than the time generally considered unreasonable to warrant an order requiring an individualized bond hearing. *Id.* at *7 (gathering cases). This detention time is far shorter than the years she spent in prison for her

conviction of witness tampering. Moreover, the ongoing removal proceedings have not been protracted as she has been afforded two hearings before Immigration Judges and she has chosen to appeal those decisions. Her ongoing detention is reasonable given its duration and her pending appeal before the Board of Immigration Appeals.

G. Petitioner has not exhausted her available remedies.

Before seeking relief before the District Court, Petitioner should be required to exhaust her administrative remedies by appealing the decision of the immigration judge to the Board of Immigration Appeals, the administrative appellate body having jurisdiction to review the immigration judge's decision. Specifically, Petitioner's challenge to the application of the law of the case and the determination of whether Petitioner's crime constitutes an aggravated felony are appealable to the BIA. *See* Board of Immigration Appeals Practice Manual, Section 1.4 "Jurisdiction and Authority," available at <https://www.justice.gov/eoir/reference-materials/bia/chapter-1/4> (last accessed Aug. 7, 2025). Briefs in the Petitioner's ongoing appeal are due on August 12, 2025. *See* Ex. J. Moreover, even if the Petitioner has exhausted her administrative remedies, the district courts lack jurisdiction to review a final order of removal under the Real ID Act, as § 242(b)(2) of the INA requires final removal orders to be appealed to the court of appeals.

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: August 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 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: /s/ David Werner
David E. Werner
Assistant United States Attorney

Maria Dolores Navarro Martin

A 

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