IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IRINA PETROVA,
A# [redacted]

v.

PRAIRIELAND DETENTION CENTER,
Respondent.

No. 3:25-CV-1638-B-BW

Referred to U.S. Magistrate Judge[1]

FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before the Court are the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. 2241 and the Motion to Expedite Review of Petition for Writ of Habeas Corpus, received on June 26, 2025. (Dkt. Nos. 3-4.) Based on the relevant filings and applicable law, the Court should **DISMISS** the habeas petition without prejudice for lack of jurisdiction. The Court **DENIES** the motion to expedite as moot.

I. BACKGROUND

Irina Petrova, a native and citizen of Russia currently detained at the Prairieland Detention Center in Alvarado, Texas, filed a habeas corpus petition under 28 U.S.C. § 2241 challenging her prolonged and continued detention by United States Immigration and Customs Enforcement ("ICE"). (Dkt. No. 3.)

According to Petrova, ICE took her into custody upon her entry into the

[1] By Special Order No. 3-251, this habeas case has been automatically referred for full case management.

United States with her husband and sons on May 17, 2024. (*See id.* at 1.)[2] She was separated from her children and was later separated from her husband and labeled a security risk. (*See id.* at 1-2.) In an order summarizing an oral decision from a January 17, 2025 hearing, an Immigration Judge ("IJ") found Petrova removable under the Immigration and Nationality Act ("INA"), denied her applications for asylum and withholding of removal, and ordered her removed to Russia. (*See id.* at 2, 21-24.) Petrova appealed the IJ's decision to the Board of Immigration Appeals ("BIA"), which dismissed her appeal on May 2, 2025.[3] (*See id.* at 2, 28-31.) On May 27, 2025, a different IJ found that Petrova's husband was inadmissible under the INA but granted his application for asylum. (*See id.* at 2, 32-35.) Petrova states that she filed a motion to reopen her removal proceedings—presumably based on her husband receiving asylum—with the BIA, which motion was still pending at the time she filed this action. (*See id.* at 2.)

In her § 2241 petition, Petrova now asks the Court to reopen her removal proceedings in light of her husband receiving asylum, order a stay of her deportation, order her immediate release from ICE custody to parole or other supervision, and reunite her with her family. (*See id.* at 3.)

[2] Citations to the record refer to the CM/ECF system page number at the top of each page rather than the page numbers at the bottom of each filing.

[3] It does not appear that Petrova pursued a petition for review of the BIA's dismissal of her appeal in an appropriate court of appeals.

II. JURISDICTION

"Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (internal citations omitted). They "must presume that a suit lies outside this limited jurisdiction, and the burden of establishing federal jurisdiction rests on the party seeking the federal forum." *Howery v. Allstate Ins. Co.*, 243 F.3d 912, 916 (5th Cir. 2001). They have "a continuing obligation to examine the basis for their jurisdiction." *MCG, Inc. v. Great W. Energy Corp.*, 896 F.2d 170, 173 (5th Cir. 1990).

A. Prolonged Detention

In her first ground for relief, Petrova contends that her detention has been prolonged without justification. (*See* Dkt. No. 3 at 2.) Citing *Zadvydas v. Davis*, 533 U.S. 678 (2001), she alleges that her "detention now exceeds 13 months without clear legal basis . . . where removal is not imminent." (*Id.*)

Section 1231(a)(1)(A) of Title 8 of the United States Code provides that the government has a 90-day "removal period" to remove an alien ordered removed from the United States. 8 U.S.C. § 1231(a)(1)(A). During the "removal period," the alien must be detained. *See* 8 U.S.C. § 1231(a)(2). After the expiration of the removal period, the government may continue to detain an inadmissible or criminal alien or release her subject to conditions of release. *See* 8 U.S.C. § 1231(a)(6). To facilitate "uniform administration in the federal courts," the Supreme Court recognized a six-month "presumptively reasonable period of detention." *Zadvydas*, 533 U.S. at 701. This period begins from the date the order of removal became administratively final.[4] *Agyei-Kodie v. Holder*, 418 F. App'x 317, 318 (5th Cir. 2011) ("It is presumptively constitutional for an alien to be detained for six months after a final order of removal."). A removal order becomes administratively final "upon the earlier of—(i) a determination by the [BIA] affirming such order; or (ii) the expiration of the period in which the alien is permitted to seek review of such order by the [BIA]." 8 U.S.C. § 1101(a)(47)(B); *see also Lopez Acosta v. Rosen*, 832 F. App'x 891, 891 (5th Cir. 2021).

Here, the removal order became administratively final on May 2, 2025, when the BIA dismissed Petrova's immigration appeal. *See* 8 U.S.C. § 1101(a)(47)(B). The 90-day "removal period" from that date has not yet expired and, even if it had, Petrova "has not been in post-removal-order detention longer than the presumptively reasonable six-month period set forth in *Zadvydas*." *Agyei-Kodie*, 418 F. App'x at 318. Her challenge to her post-removal-order detention therefore is premature and should be dismissed for lack of jurisdiction, without prejudice to her right to file a § 2241 petition challenging her detention after the presumptively reasonable six-month period has expired.[5] *See id.* (dismissing the petitioner's premature challenge to his

[4] The removal period may also begin on the later of (1) the date of a court's final order, "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien," or (2) the date the alien is released from non-immigration detention or confinement. 8 U.S.C. § 1231(a)(1)(B)(ii)-(iii). Neither of these circumstances applies here.

[5] To the extent Petrova attempts to include her pre-removal-order detention in challenging her alleged prolonged detention, it does not appear she challenged her pre-

continued post-removal-order detention for want of jurisdiction).

B. Current Detention

In her four remaining grounds for relief, Petrova contends that her current detention violates her equal protection and due process rights because: (1) she is eligible for derivative asylum under 8 U.S.C. § 1158(b)(3)(A); (2) the Department of Homeland Security ("DHS") and BIA are delaying in addressing her derivative asylum eligibility and motion to reopen the removal proceedings; (3) she has been forcibly separated from her children; and (4) DHS failed to properly exercise its discretion to release her on parole and unlawfully classified her as a security risk. (*See* Dkt. No. 3 at 2-3.)

In 2005, Congress enacted the REAL ID Act of 2005 ("REAL ID Act"), Pub. L. No. 109-13, 119 Stat. 231 (2005), which altered the way in which noncitizens can seek judicial review of administrative review of removal orders. Under the REAL ID Act, a petition for review filed in the appropriate Court of Appeals is the exclusive means for judicial review of a removal order. *See* 8 U.S.C. § 1252(a)(5); *Nasrallah v. Barr*, 590 U.S. 573, 580-81 (2020) ("[F]inal orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the

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removal-order detention before her order of removal became final. (*See* Dkt. No. 3 at 2.) Because the statutory basis for her current detention was triggered once her order of removal became final, she can no longer challenge the duration of her detention before that time. *See Agyei-Kodie*, 418 F. App'x at 318 (holding that the petitioner's challenges to his pre-removal-order detention were moot after his removal order became final, and citing *Andrade v. Gonzales*, 459 F.3d 538, 542-43 (5th Cir. 2006)); *Ndudzi v. Perez*, 490 F. Supp. 3d 1176, 1182 (S.D. Tex. 2020) ("[B]ecause the finality of the removal order shifts the statutory basis of Petitioner's detention, Petitioner's claims [challenging her period of detention before the BIA's final removal order] are improperly presented.") (internal citations omitted).

courts of appeals."); *Amiri v. Garland*, 854 F. App'x 598, 599 (5th Cir. 2021). Further, under § 1252(g), a district court lacks jurisdiction to stay an order of removal.[6] *See Idokogi v. Ashcroft*, 66 F. App'x 526, 2003 WL 21018263, at *1 (5th Cir. 2003).

Here, Petrova characterizes her claims as violations of equal protection and due process, but she expressly seeks to reopen her removal proceedings, a stay of her deportation, and release on parole or supervision so she can be reunited with her family. (*See* Dkt. No. 3 at 3.) Because her argument in support of reopening her removal proceedings—namely, that she is eligible for derivative asylum based on her husband's subsequent asylum status—necessarily involves a collateral attack on her final order of removal, this Court lacks jurisdiction over her claims premised on same. *See, e.g., S.L.V. v. Rosen*, No. SA-21-CV-0017-JKP, 2021 WL 243442, at *4 (W.D. Tex. Jan. 25, 2021) (finding in part that the district court lacked jurisdiction under § 1252(a)(5) when, despite the characterization of the plaintiffs' claims, the "fact remain[ed] that they only [sought] reopening or reconsideration [of their removal orders] to alter the result and avoid their ultimate removal," and where

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[6] Section 1252(g) of Title 8 states:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, 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.

8 U.S.C. § 1252(g).

"[s]uccess in this action would thus preclude the execution of their outstanding removal orders."). The Court also lacks jurisdiction to review ICE's decision denying parole or supervision and, as discussed, to stay the execution of Petrova's removal order. *See Loa-Herrera v. Trominski*, 231 F.3d 984, 990-91 (5th Cir. 2000); *Idokogi*, 2003 WL 21018263, at *1.

Accordingly, the Court should dismiss Petrova's remaining claims for lack of jurisdiction.

III. RECOMMENDATION

The Court should **DISMISS** the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. 2241, received on June 26, 2025 (Dkt. No. 3), without prejudice for lack of jurisdiction.

SO RECOMMENDED on July 18, 2025.

BRIAN McKAY
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). To be specific, an objection must identify the finding or recommendation to which objection is made, state the basis for the objection, and indicate the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996), *modified by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections to 14 days).