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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11

12 VICTOR AMADO RODRIGUEZ-
13 FLORES,

14 Petitioner,

15 v.

16 F. SEMAIA, in his official capacity as
17 Warden, Adelanto Detention Facility, et
al.,

18 Respondents.
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Case No. 2:25-cv-06900-JGB-JC

**RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS**

**[Declaration of Fernando Negrete filed
concurrently]**

Honorable Jesus G. Bernal
United States District Judge

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner has filed a Petition for Writ of Habeas Corpus challenging his immigration detention. Respondents respectfully request that the Petition be denied.

I. SUMMARY OF FACTS

Petitioner Victor Rodriguez-Flores is a native and citizen of Guatemala. *See* Fernando Negrete Decl. ¶ 4. On September 18, 2003, Petitioner attempted to enter the United States without inspection near Douglas, Arizona. *Id.* at ¶ 5. He was apprehended by immigration authorities, and he voluntarily returned to Guatemala. *Id.* On March 8, 2010, Petitioner was apprehended by immigration authorities near Tecate, California. *Id.* at ¶ 6. He was processed for expedited removal, and on April 12, 2020, he was removed to Guatemala. *Id.* at ¶ 7. On June 12, 2010, Petitioner was apprehended near Hidalgo, Texas. *Id.* He did not express a fear of returning to Guatemala. *Id.* Therefore, his prior removal order was reinstated, and he was once again removed to Guatemala. *Id.* at ¶ 7.

On October 24, 2019, Petitioner was taken into custody after being encountered in Murrieta, California. Negrete Decl. at ¶ 8. On November 6, 2019, Petitioner indicated he was afraid of returning to Guatemala. *Id.* at ¶ 9. Therefore, his case was forwarded to an asylum officer to conduct a reasonable fear interview as required pursuant to 8 C.F.R. § 1208.31. *Id.* After a positive reasonable fear determination, on November 27, 2019, Petitioner was issued and served with Form I-863, Notice of Referral to the Immigration Judge. *Id.* at ¶ 10.

On March 10, 2020, the immigration judge denied all of Petitioner's applications for relief and ordered him removed to Guatemala. *Id.* at ¶ 11.

On April 22, 2020, the immigration judge ("IJ") ordered Petitioner to be released on a \$5,000 bond and left it to the agency's discretion whether to also place him on an alternative to detention program. *Id.* at ¶ 12. On April 22, 2020, Petitioner was released from custody pursuant to the bond order, and he was also placed on an Order of

Supervision, GPS ankle monitor, and enrolled in the Intensive Supervision Appearance Program as the alternative to detention. *Id.* at ¶ 13.

On December 2, 2020, the Board of Immigration Appeals (“BIA”) dismissed Petitioner’s appeal of the IJ’s decision. *Id.* at ¶ 14. On December 29, 2020, Petitioner filed a motion to reconsider the prior BIA appeal dismissal. *Id.* at ¶ 15. On January 4, 2021, ERO received information that Petitioner had filed a petition for review in the Ninth Circuit Court. *Id.* at ¶ 16. ERO was also informed that in that petition for review Petitioner had requested a stay of removal. *Id.* On October 12, 2021, BIA vacated the prior order dismissing Petitioner’s appeal and reinstated his appeal. *Id.* at ¶ 17. BIA also considered the brief that Petitioner submitted but once again dismissed Petitioner’s appeal. *Id.*

On January 4, 2022, the Ninth Circuit issued a temporary stay of removal to continue until a mandate issued unless the court ordered otherwise. *Id.* at ¶ 18. On February 25, 2022, the Ninth Circuit issued an order administratively closing the docket and indicating that no mandate would issue during the time the case remained closed. *Id.* at ¶ 19.

On April 2, 2025, the Ninth Circuit ordered the docket reopened and ordered Petitioner’s opening brief to be filed on June 10, 2025. *Id.* at ¶ 20. On June 7, 2025, Petitioner was served with a Notice of Intent/Decision to Reinstate Prior Order. *Id.* at ¶ 22. On July 3, 2025, Petitioner filed a motion for custody redetermination with the Adelanto Immigration Court. *Id.* at ¶ 23. A hearing was scheduled for July 11, 2025. *Id.* On July 11, 2025, the IJ denied bond. *Id.* at ¶ 24. Petitioner remains in custody at the Adelanto Detention Center. *Id.* at ¶ 25.

II. ARGUMENT

A. Petitioner’s Habeas Claims Run Afoul of the INA’s Jurisdiction Stripping Provisions

Petitioner is currently subject to a final removal order issued by an Immigration Judge, subject to his pending efforts to seek appellate review with the Ninth Circuit. *See*

1 Negrete Declaration. To the extent he contests the decision to enforce that removal order,
2 that runs afoul of 8 U.S.C. § 1252(g), where Congress provided that “no court” has
3 jurisdiction over “any cause or claim” arising from the execution of removal orders,
4 “notwithstanding any other provision of law,” whether “statutory or nonstatutory,”
5 including habeas, mandamus, or the All Writs Act. Accordingly, by its terms, this
6 jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well
7 as review pursuant to the All Writs Act and Administrative Procedure Act) of claims
8 arising from a decision or action to “execute” a final order of removal. *See Reno v.*
9 *American-Arab Anti-Discrimination Committee* (“AADC”), 525 U.S. 471, 482 (1999).

10 Furthermore, Sections 1252(a)(5) and 1252(b)(9) of the INA also bar review. By
11 law, “the sole and exclusive means for judicial review of an order of removal” is a “petition
12 for review filed with an appropriate court of appeals,” that is, “the court of appeals for the
13 judicial circuit in which the immigration judge completed the proceedings.” 8 U.S.C. §§
14 1252(a)(5), (b)(2). The statute explicitly excludes review via “section 2241 of Title 28, or
15 any other habeas corpus provision.” 8 U.S.C. § 1252(a)(5).

16 Section 1252(b)(9) then eliminates this Court’s jurisdiction over Petitioner’s claims
17 by channeling “all questions of law and fact, including interpretation and application of
18 constitutional and statutory provisions, arising from any action taken or proceeding
19 brought to remove an alien” to the courts of appeals. 8 U.S.C. § 1252(b)(9). Again, the
20 law is clear that “no court shall have jurisdiction, by habeas corpus” or other means. *Id.*
21 (emphasis added).

22 Section 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels judicial
23 review of all” claims arising from deportation proceedings to a court of appeals in the first
24 instance. *AADC*, 525 U.S. at 483. Under Ninth Circuit law, “[t]aken together, §§
25 1252(a)(5) and [(b)(9)] mean that any issue— whether legal or factual—arising from any
26 removal-related activity can be reviewed only through the [petition for review] process.”
27 *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016); *see id.* at 1035 (“§§ 1252(a)(5)

1 and 1252(b)(9) channel review of all claims, including policies-and- practices challenges,
2 through the PFR process whenever they ‘arise from’ removal proceedings”).

3 Insofar as Petitioner seeks to effectively block his arrest and detention pursuant to
4 a removal order, his claims are precluded by these jurisdiction stripping provisions.

5 **B. There Is No Jurisdiction to Contest the IJ Bond Decisions**

6 After he was recently detained pursuant to his final removal order, Petitioner
7 received a hearing from an Immigration Judge, who denied his release on bond. *See*
8 Petition, ¶¶ 22-25. 8 U.S.C. § 1226(e) provides that bond decisions “shall not be subject
9 to judicial review” and that “[n]o court may set aside any action or decision . . .
10 regarding the detention or release of any alien or the grant, revocation, or denial of
11 bond[.]” As the Supreme Court has recognized, “§ 1226(e) precludes an alien from
12 challenging a discretionary judgment by the Attorney General or a decision that the
13 Attorney General has made regarding his detention or release.” *Jennings v. Rodriguez*,
14 583 U.S. 281, 295 (2018) (internal quotations, alterations, and citations omitted).

15 Similarly, because section 1226(e) commits bond determinations to agency
16 discretion by statute, the Court also lacks jurisdiction pursuant to 8 U.S.C. §
17 1252(a)(2)(B)(ii). *See Kucana v. Holder*, 558 U.S. 233, 241-52 (2009); *see also* Resp. 9-
18 10. Thus, the relief Petitioner is requesting must be denied because the Court lacks
19 jurisdiction to review his custody determination and bond orders under both section
20 1226(e) and section 1252(a)(2)(B)(ii).

21 **C. Petitioner Has Not Shown That Due Process Compelled Providing Him**
22 **a Special IJ Hearing Prior to Detention, And Petitioner Also Received**
23 **An IJ Hearing Affirming His Current Detention.**

24 Finally, Petitioner argues that he should not have been arrested because an IJ
25 ordered him released on an OSUP previously back in 2020, and yet he was arrested and
26 detained in 2025 without a neutral hearing before an IJ.

27 When a noncitizen receives a final removal order, their detention is mandatory for
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1 the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's
2 discretion under 8 U.S.C. § 1231(a)(6). Under *Zadvydas v. Davis*, detention for six months
3 following a final removal order is presumptively valid. 533 U.S. 678, 701 (2001). After
4 that time, a noncitizen may request release, and it is his burden to show "there is no
5 significant likelihood of removal in the reasonably foreseeable future." *Id.* The law does
6 not require that "every [noncitizen] not removed must be released after six months." *Id.*
7 Instead, it prevents only "indefinite" or "potentially permanent" detention. *Id.* at 689–91.
8 Here, to the extent Petitioner has obtained a temporary appellate stay of his final removal
9 order due to his seeking appellate review, that is not indefinite.

10 Furthermore, when a valid removal order is issued and a non-citizen is released
11 under an order of supervision, the government is authorized to revoke supervised release
12 pursuant to 8 C.F.R. § 241.1(l)(1), and 8 CFR § 241.4(l)(2). while Petitioner contends that
13 there were not changed material circumstances prior to his redetention, Petitioner's Ninth
14 Circuit Appeal (which issued a temporary stay of the removal) was administratively closed
15 from February 2022 onwards. On April 2, 2025, however, the Ninth Circuit ordered the
16 docket reopened and ordered Petitioner's opening brief to be filed on June 10, 2025. *See*
17 Negrete Decl., at ¶ 20. On June 7, 2025, Petitioner was served with a Notice of
18 Intent/Decision to Reinstate Prior Order. *Id.* at ¶ 22. This is a significantly changed
19 circumstance.

20 Perhaps most importantly, however, Petitioner's situation differs from the authority
21 he cites insofar as he *received* an IJ bond decision affirming his current continuing
22 detention pursuant to his final removal order. Petitioner seeks release from detention as
23 his current remedy, and he is currently detained. He has asserted his right to remain out on
24 conditional release, free of detention, as a liberty interest to be considered before a neutral
25 decision maker. While it is true that he received that IJ hearing after he was detained, the
26 issues he complains of were presented before the Immigration Judge. *See* Petition, ¶¶ 23–
27 27. His arguments on such points were considered by the Immigration Judge, but were not
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1 accepted by that Immigration Judge. *Id.* Relative to his claim for release from current
2 detention, due process is provided by that IJ procedure.

3 **III. CONCLUSION**

4 Respondents respectfully request that the Court deny the habeas petition and dismiss
5 the action.

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7 Dated: August 8, 2025

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