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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

FALLAHI FIROOZI ARSALAN,

Petitioner,

v.

DEPARTMENT OF HOMELAND SECURITY, ADELANTO ICE PROCESSING CENTER WARDEN

Respondents.

Case No. 5:25-cv-01881-VBF-MAR

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

Filed Concurrently with the Declaration of Cane L. Langill

Honorable Margo A. Rocconi

I. INTRODUCTION

Petitioner Fallahi Firoozi Arsalan[1] filed his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 requesting immediate release from immigration detention at the Adelanto Immigration Processing Center. Respondents respectfully request that the Court deny the Petition because: (1) the Petition fails to allege any specific factual basis for habeas relief, violating the habeas pleading standard; (2) Petitioner's detention by Immigration and Customs Enforcement ("ICE") to effectuate a final removal order is authorized by statute; (3) this Court lacks jurisdiction over the Petition to the extent it seeks to review ICE's decision to remove Petitioner. Lastly, Respondents request that the Department of Homeland Security ("DHS") be dismissed as an incorrectly named respondent.

II. STATEMENT OF FACTS

Petitioner is a native and citizen of Iran. *See* Declaration of Cane L. Langill ("Langill Decl.") ¶ 4. Petitioner entered the United States as a Legal Permanent Resident on or about February 10, 2006. *Id.*

On December 6, 2016, Petitioner was convicted in the 292nd Judicial District Court in Dallas County, Texas of committing the offense of possession of a controlled substance, to wit, heroin in violation of Health and Safety Code section 481.115. *Id.* ¶ 5. For this offense, Petitioner was sentenced to serve a 200-day sentence in county jail. *Id.*

On or about July 9, 2018, Petitioner was taken into ICE custody. *Id.* ¶ 6. ICE issued Petitioner a Notice to Appear and charged him with removal under 8 U.S.C. § 1227(a)(2)(B)(i)[2] based on his December 6, 2016 conviction. *Id.* On or about September 17, 2018, after an individual hearing by an immigration judge ("IJ"), Petitioner was ordered removed to Iran. *Id.* ¶ 7. Petitioner waived appeal of this decision, making it a

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[1] While the Petition and docket reflect Petitioner's name in this order, it appears as Arsalan Fallahi Firoozi in ICE's files.

[2] Also referred to as Immigration and Nationality Act ("INA") § 237(a)(2)(B)(i), which provides for the removal of non-citizens who are convicted of a violation of any controlled substance laws after admission.

final order of removal. *Id.*

On or about September 24, 2018, ICE released Petitioner into the custody of the Dallas County Sheriff where Petitioner was facing additional criminal charges. *Id.* ¶ 8. On or about April 5, 2019, Petitioner was released from Bedford City Jail and encountered by ICE officers. *Id.* ¶ 9. On that date, ICE issued Petitioner an Order of Release on Supervision. *Id.* Petitioner was convicted of several additional criminal offenses during the time he was not in ICE custody. *Id.* ¶ 10.

On or about June 27, 2025, ICE officers took Petitioner into custody and transported him to the Adelanto ICE Processing Center. *Id.* ¶ 11. Petitioner was served with a notice of revocation of his order of supervision. *Id.* ICE has requested travel documents from the Iranian consulate and the request remains pending with the consulate. *Id.* ¶ 12. ICE is actively seeking to enforce Petitioner's removal. *Id.* ¶ 13. ICE does not anticipate any obstacles to removal once travel documents are issued. *Id.* Petitioner remains detained at the Adelanto Immigration Processing Center. *Id.* ¶ 11.

III. ARGUMENT

A. The Petition Fails to Plead Any Factual Basis for Granting Relief

Federal habeas petitioners are subject to a higher pleading standard than Fed. R. Civ. P. Rule 8 and must make specific factual allegations. *See* Rules Governing Section 2254 Cases, Rule 2(c)(1)-(2) (federal habeas petitions must "specify all the grounds for relief," and "state the facts supporting each ground"); *see also Mayle v. Felix*, 545 U.S. 644, 655 (2005) (Fed. R. Civ. P. 8(a) requires only "fair notice" whereas Habeas Rule 2(c) is "more demanding" and that federal habeas petitions are "expected to state facts that point to a real possibility of constitutional error") (citations omitted); *Jones v. Gomez*, 66 F.3d 199, 204-05 (9th Cir. 1995) (conclusory allegations unsupported by a statement of specific facts do not warrant habeas relief); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (allegations that are vague, conclusory, or unsupported by a statement of specific facts, are insufficient to warrant relief and subject to summary dismissal).

Here, the Petition is conclusory and vague, and unsupported by a statement of

specific facts. The Petition does not meet the basic pleading requirements for federal habeas petitions, and it is insufficient to justify relief. The Petition purports to bring claims on the grounds of the Fourth, Fifth, Sixth Amendments, and "Not in Accordance with Law," but only describes legal concepts and makes no factual assertions with the exception of the broad statement "Petitioner was arrested by ICE agents without administrative warrant." Petition at 6-7. There are no specific factual allegations explaining why the arrest or detention is unlawful, how the due process clause of the Fifth Amendment is implicated, how double jeopardy (described under the heading of Sixth Amendment) is implicated, or how the agency is not following their own regulations. Hence, there are not sufficient allegations to point to "a real possibility of constitutional error." *Mayle*, 545 U.S. at 655. Accordingly, the Petition should be dismissed.

1. The Petition's Fourth Amendment Allegations Are Insufficient

The Petition contends that Petitioner's Fourth Amendment rights were violated because ICE arrested him without an administrative warrant. Petition at 6. Although the Fourth Amendment prohibits "unreasonable searches and seizures" by the Government, not all warrantless stops, arrests, or seizures automatically equate to a violation of Fourth Amendment rights. *See generally Terry v. Ohio*, 392 U.S. 1 (1968). The federal statutory scheme further instructs under what circumstances an arrest of a noncitizen during the removal process is appropriate. *Arizona v. United States*, 567 U.S. 387, 407 (2012).

The Petition's sole statement that he was arrested by ICE agents without a warrant does not plead sufficient facts to form the basis for a cognizable Fourth Amendment claim. The Petition pleads no facts showing that ICE lacked the authority necessary to arrest Petitioner or that he was not properly subject to immigration detention independent of the circumstances of his arrest.

2. The Petition Fails to Allege Any Factual Allegations as to the Remainder of the Purported Claims

Petitioner lists three additional grounds titled "Fifth Amendment," "Sixth Amendment," and "Not in Accordance with Law." Petition at 6-7.

The "Fifth Amendment" claim cites to language about the due process clause but fails to allege any facts.

It is unclear what Sixth Amendment claim Petitioner is making; Petitioner labels his "Ground Three" as "Sixth Amendment" with no further allegations regarding the Sixth Amendment. Petition at 6. The Sixth Amendment does not apply in immigration proceedings. *Montes-Lopez v. Holder*, 694 F.3d 1085, 1088 (9th Cir. 2012).

Under the Sixth Amendment heading, Petitioner writes about double jeopardy under the Fifth Amendment. There are no facts alleged and there is no indication what the basis would be for a double jeopardy claim. Therefore, the Petition fails to plead an actionable habeas claim based on putative Sixth Amendment or Fifth Amendment violations.

Lastly, Petitioner appears to advance a claim regarding the agency's failure to follow its own regulations. Petition at 7. But there are no factual allegations to determine even generally what regulations Petitioner is alleging Respondents have failed to follow. He cites to case law but nowhere provides any factual context to determine what if any bearing this case law has on Petitioner's detention.

B. The Government is Authorized to Arrest and Detain Non-Citizens to Effectuate Final Removal Orders

When a non-citizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). Detention for six months pursuant to a final removal order is presumptively valid. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). After that amount of detention time, a noncitizen may bring a habeas petition seeking release, and it is his burden to show "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* The law does not require that "every [noncitizen] not removed must be released after six months." *Id.* Instead, it prevents only "indefinite" or "potentially permanent" detention. *Id.* at 689–91. Furthermore, when a valid removal order is issued and a non-citizen is released under an order of supervision, the government is authorized to revoke supervised release pursuant to 8 C.F.R. § 241.1(l)(1), and 8 CFR §

241.4(l)(2).

Here, there is a final order of removal for Petitioner. Langill Decl. ¶ 7. At this juncture, Petitioner has been in ICE custody less than six months since the issuance of the final removal order; from September 17 to 24, 2018 and from June 27, 2025 to present. *Id.* ¶¶ 7-8, 11. Petitioner fails to allege any facts in his Petition challenging the presumption of validity of a less than six-month detention pursuant to a final removal order. *See Zadvydas*, 533 U.S. at 701.

C. To the Extent Petitioner is Challenging his Final Removal Order, this Court Lacks Jurisdiction

A federal court generally may not rule on the merits of a case without first determining that it has jurisdiction. *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430-31 (2007). "The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded." *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978). In general, a district court may exercise jurisdiction over a § 2241 habeas petition when the petitioner is in custody and alleges that the custody violates the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2241(c); *Maleng v. Cook*, 490 U.S. 488, 490 (1989). However, that jurisdiction is constrained in immigration contexts by two specific statutes. First, 8 U.S.C. § 1252(g) provides that:

> [e]xcept 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.

"When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. U.S. Citizenship & Imm. Servs.*, 964 F.3d

1250, 1257-58 (11th Cir. 2020).

Section 1252(g) applies "to three discrete actions[:] . . . [the] 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno v. American-Arab Anti-Discrimination Comm.* ("AADC"), 525 U.S. 471, 482 (1999) (emphasis in original); *Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) (§ 1252(g) precludes judicial review of execution of removal order). Thus, to the extent Petitioner's generic claims is challenging the government's decision to execute the final removal order, § 1252(g) renders this Court without jurisdiction. *See Eliazar G.C. v. Wolford*, 2025 WL 1124688, at *3 (E.D. Cal. Apr. 16, 2025) (no habeas jurisdiction over habeas petition seeking to stay execution of removal order).

Second, under § 1252(b)(9), "judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States" is only proper before the appropriate federal court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999). Section 1252(b)(9) is an "unmistakable 'zipper' clause" that "channels judicial review of all [claims arising from deportation proceedings]" to a court of appeals in the first instance. *Id.*

Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for judicial review of removal proceedings:

> Notwithstanding any other provision of law (statutory or nonstatutory), . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter, except as provided in subsection (e) [concerning aliens not admitted to the United States].

8 U.S.C. § 1252(a)(5). "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." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings").

Here, there is a final removal order for Petitioner. Langill Decl. ¶ 7. Petitioner has presently been detained for less than the presumptively reasonable length of six months pursuant to a final removal order. *Id.* ¶¶ 7-8, 11; *see Zadvydas*, 533 U.S. at 701. While Petitioner purports to bring due process and double jeopardy claims, Petition at 6–to the extent that this is an attempt to challenge his final removal order, those claims can only be reviewed through the petition for review process and this Court lacks jurisdiction. Petitioner additionally alleges that agencies must follow their own regulations, Petition at 7–to the extent that this is an attempt to challenge the "interpretation and application of statutory provisions" arising from his removal proceedings, that is also expressly barred by 8 U.S.C. § 1252(b)(9).

D. DHS Should be Dismissed as an Improper Respondent

Pursuant to the federal habeas statute, 28 U.S.C. § 2242, which applies to § 2241 petitions, "there is generally only one proper respondent to a given prisoner's habeas petition [, and it is] … 'the person' with the ability to produce the prisoner's body before the habeas court." *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004); see 28 U.S.C. § 2242 (requiring a federal habeas petitioner to provide "the name of the person who has custody over him") (emphasis added). When a habeas petitioner challenges his present physical confinement, "the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Padilla*, 542 U.S. at 435.

Here, the Petition names both the Department of Homeland Security and Adelanto ICE Processing Center, Warden as Respondents. DHS should be dismissed as an improperly named Respondent.

IV. CONCLUSION

Respondents respectfully request that the Court deny the habeas petition and dismiss the action. Respondents do not believe that an evidentiary hearing is required.

Dated: August 25, 2025

Respectfully submitted,

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L.R. 11-6.1 Certification

Counsel of record for Respondents certifies that this brief contains 2,423 words, which complies with the word limit of L.R. 11-6.1.