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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

KARLENIS MENDEZ LOS SANTOS,

Petitioner,

v.

CHRISTOPHER J. LAROSE; et al.,

Respondents.

Case No.: 25-cv-2216-TWR-MSB

RESPONDENTS' RETURN TO HABEAS PETITION

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I. Introduction

Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a (240 proceedings) and is detained in Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C. § 1225(b)(2). While Petitioner's habeas petition seeks[1] release and a bond hearing, and broadly asserts that her detention is unlawful, her causes of action attack decisions that have not occurred, namely termination of her 240 proceedings and commencement of expedited removal proceedings under 8 U.S.C. § 1225(b)(1). As Petitioner is challenging actions that have not happened, her claims present no controversy, and she lacks standing. Apart from the fact that the challenged actions have not occurred, the petition should be denied because (1) the claims presented are not proper habeas claims, (2) through multiple provisions of 8 U.S.C. § 1252, Congress has unambiguously stripped federal courts of jurisdiction over challenges to the commencement of removal proceedings and adjudication of removal proceedings, including detention pending removal proceedings, and (3) Petitioner is unnecessarily attempting to expedite review of her lawful detention by not first requesting a bond hearing before an immigration judge, or seeking review before the Board of Immigration Appeals (BIA). On whole, Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2), and her claims lack merit. Respondents respectfully request that the Court deny Petitioner's requests for relief.

II. Factual Background

Petitioner is a citizen and national of Venezuela. On October 29, 2023, she arrived at the San Ysidro Port of Entry and applied for admission to the United States. At the time of her arrival, she was not in possession of a valid entry document. She was determined to be an arriving alien applying for admission and inadmissible under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document.

[1] To the extent Petitioner also seeks an order enjoining her relocation, ICE has agreed that Petitioner will not be moved out of the Southern District of California during the pendency of this matter.

She was then placed in removal proceedings under 8 U.S.C. § 1229a (240 proceedings) and issued a Notice to Appear (NTA).

On July 15, 2025, Petitioner filed written pleadings with the immigration court, wherein Petitioner admitted to being an arriving alien who applied for admission to the United States on October 29, 2023, and at that time was not in possession of a valid entry document. She also conceded her inadmissibility under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document.

Following her initial encounter, Petitioner was released from ICE custody on conditional parole pursuant to 8 U.S.C. § 1226(a)(2). On April 18, 2025, her conditional parole was revoked pursuant to 8 U.S.C. § 1226(b). On August 26, 2025, a master calendar hearing was held in her removal proceedings. During the hearing, DHS counsel made an oral motion to dismiss her 240 proceedings. The immigration judge set September 5, 2025 as a deadline for her to respond to DHS's motion, and continued the hearing until September 17, 2025. On August 26, 2025, a Form I-200, Warrant for Arrest, was issued for her arrest. On August 26, 2025, she was apprehended by San Diego ICE/ERO.

Petitioner is currently detained at the Otay Mesa Detention Center and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). As she is currently in 240 removal proceedings, she is not in expedited removal proceedings under 8 U.S.C. § 1225(b)(1). If her 240 proceedings are terminated and the dismissal order becomes administratively final, ICE intends to place her in expedited removal proceedings under 8 U.S.C. § 1225(b)(1).

III. Argument

A. There is No Case or Controversy

The Constitution limits federal judicial power to designated "cases" and "controversies." U.S. Const., Art. III, § 2; *SEC v. Medical Committee for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a "case" or "controversy" within the meaning of Article III). "Absent a real and

immediate threat of future injury there can be no case or controversy, and thus no Article III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlow Env't Servs., Inc.*, 528 U.S. 167, 190 (2000) ("[I]n a lawsuit brought to force compliance, it is the plaintiff's burden to establish standing by demonstrating that, if unchecked by the litigation, the defendant's allegedly wrongful behavior will likely occur or continue, and that the threatened injury if certainly impending."). At the "irreducible constitutional minimum," standing requires that Plaintiff demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the United States and (3) likely to be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

The Court should not entertain Petitioner's petition because she is challenging actions that have not occurred. Petitioner is currently in 240 proceedings and is not in expedited removal proceedings. The immigration judge has provided Petitioner until September 5, 2025 to respond to DHS's motion to dismiss. As such, there is no controversy concerning her 240 proceedings or placement in expedited removal proceedings for the Court to resolve. Federal courts do not have jurisdiction "to give opinion upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it." *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). "A claim is moot if it has lost its character as a present, live controversy." *Rosemere Neighborhood Ass'n v. U.S. Env't Prot. Agency*, 581 F.3d 1169, 1172-73 (9th Cir. 2009). The Court therefore lacks jurisdiction because there is no live case or controversy remaining. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969); *see also Murphy v. Hunt*, 455 U.S. 478, 481 (1982).

B. Petitioner Brings Improper Habeas Claims

Moreover, the Court should deny Petitioner's petition because she is not challenging the lawfulness of her custody. Rather, she is challenging a not-rendered

decision to dismiss her 240 proceedings, a hypothetical placement into expedited removal, and the potential type of review she receives over her asylum claims. An individual may seek habeas relief under 28 U.S.C. § 2241 if she is "in custody" under federal authority "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically "provide[s] a means of contesting the lawfulness of restraint and securing release."). The Ninth Circuit squarely explained how to decide whether a claim sounds in habeas jurisdiction: "[O]ur review of the history and purpose of habeas leads us to conclude the relevant question is whether, based on the allegations in the petition, release is *legally required* irrespective of the relief requested." *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on the petitioner's claim would "necessarily lead to immediate or speedier release."). Notably, seeking judicial review under the Administrative Procedure Act (APA) is not properly sought through a habeas petition. *See Flores-Miramontes v. INS.*, 212 F.3d 1133, 1140 (9th Cir. 2000) ("For purposes of immigration law, at least, "judicial review" refers to petitions for review of agency actions, which are governed by the Administrative Procedure Act, while habeas corpus refers to habeas petitions brought directly in district court to challenge illegal confinement."). Here, a review on a decision to terminate her 240 proceedings and a decision to place her into expedited removal proceedings would not automatically entitle Petitioner to release from detention. *See Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners' claims did not arise under § 2241 because they were not arguing they were unlawfully in custody and receiving the requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1,

2025) ("Like in *Pinson*, the Court lacks jurisdiction over Petitioner's § 2241 habeas petition since it cannot be fairly read as attacking 'the legality or duration of confinement.'") (quoting *Pinson*, 69 F.4th at 1065). Thus, Petitioner's claims do not arise under § 2241 and her petition should be dismissed.

C. Petitioner's Claims and Requested Relief are Barred by 8 U.S.C. § 1252

The Court also lacks jurisdiction to hear Petitioner's claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). Petitioner brings her habeas action under 28 U.S.C. § 2241, but jurisdiction over her claims is barred under 8 U.S.C. § 1252(a)(2)(A), § 1252(e), § 1252(g), and § 1252(b)(9).

In general, courts lack jurisdiction to review a decision to commence or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) ("[N]o 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."); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process."); *Limpin v. United States*, 828 Fed. App'x 429 (9th Cir. 2020) (holding district court properly dismissed under 8 U.S.C. § 1252(g) "because claims stemming from the decision to arrest and detain an alien at the commencement of removal proceedings are not within any court's jurisdiction"). In other words, § 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney may take: [his] 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*, 525 U.S. at 482 (emphasis removed). Plainly stated, Petitioner requests that this Court review a potential decision to dismiss her 240 proceedings, her potential placement into expedited

removal, and the type of review she receives over her asylum claims. Thus, Petitioner's claims necessarily arise "from the decision or action by the Attorney General to commence proceedings [and] adjudicate cases," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g).

Moreover, under 8 U.S.C. § 1252(b)(9), "[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." Further, judicial review of a final order is available only through "a petition for review filed with an appropriate court of appeals." 8 U.S.C. § 1252(a)(5). The Supreme Court has made clear that § 1252(b)(9) is "the unmistakable 'zipper' clause," channeling "judicial review of all" "decisions and actions leading up to or consequent upon final orders of deportation," including "non-final order[s]," into proceedings before a court of appeals. *Reno*, 525 U.S. at 483, 485; *see J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9) is "breathtaking in scope and vise-like in grip and therefore swallows up virtually all claims that are tied to removal proceedings"). "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] PFR process." *J.E.F.M.*, 837 F.3d at 1031 ("[W]hile these sections limit *how* immigrants can challenge their removal proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose *all* judicial review of agency actions. Instead, the provisions channel judicial review over final orders of removal to the courts of appeal.") (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"). Petitioner's challenge concerning the potential dismissal of her 240 proceedings is strictly barred by these provisions. As such, Petitioner's claims would be more appropriately presented before the BIA and Ninth Circuit. *See* 8 U.S.C. §§ 1252(a)(5), (b)(9).

Moreover, "[s]ection 1252(a)(2)(A) is a jurisdiction-stripping and channeling provision, which bars review of almost 'every aspect of the expedited removal process.'" *Azimov v. U.S. Dep't of Homeland Sec.*, No. 22-56034, 2024 WL 687442, at *1 (9th Cir. Feb. 20, 2024) (quoting *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1154 (9th Cir. 2022) (describing the operation of § 1252(a)(2)(A)). These jurisdiction-stripping provisions cover "the 'procedures and policies' that have been adopted to 'implement' the expedited removal process; the decision to 'invoke' that process in a particular case; the 'application' of that process to a particular alien; and the 'implementation' and 'operation' of any expedited removal order." *Mendoza-Lineras*, 51 F.4th at 1155. "Congress chose to strictly cabin this court's jurisdiction to review expedited removal orders." *Guerrier v. Garland*, 18 F.4th 304, 313 (9th Cir. 2021) (finding that the Supreme Court abrogated any "colorable constitutional claims" exception to the limits placed by § 1252(a)(2)(A)); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) (holding that limitations within § 1252(a)(2)(A) do not violate the Suspension Clause). "Congress has chosen to explicitly bar nearly all judicial review of expedited removal orders concerning such aliens, including 'review of constitutional claims or questions of law.'" *Mendoza-Linares*, 51 F.4th at 1148 (citing 8 U.S.C. § 1252(a)(2)(A), (D)); *see Dept' of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138-39 (2020) (explicitly rejecting Ninth Circuit's holding that an arriving alien has a "constitutional right to expedited removal proceedings that conform to the dictates of due process").

"Congress could scarcely have been more comprehensive in its articulation of the general prohibition on judicial review of expedited removal orders." *Mendoza-Lineras*, 51 F.4th at 1155. Specifically, Section 1252(a)(2)(A) states:

> (2) Matters not subject to judicial review
> (A) Review relating to section 1225(b)(1)
> 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 review-

> (i) except as provided in subsection (e), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) of this title,
>
> (ii) except as provided in subsection (e), a decision by the Attorney General to invoke the provisions of such section,
>
> (iii) the application of such section to individual aliens, including the determination made under section 1225(b)(1)(B) of this title, or
>
> (iv) except as provided in subsection (e), procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1) of this title.

8 U.S.C. § 1252(a)(2)(A). Thus, "Section 1252(a)(2)(A)(i) deprives courts of jurisdiction to hear a 'cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1),' which plainly includes [Petitioner's] collateral attacks on the validity of the expedited removal order." *Azimov*, 2024 WL 687442, at *1 (quoting *Mendoza-Linares*, 51 F.4th at 1155) (citing *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031-35 (9th Cir. 2016) (concluding that the "arising from" language in neighboring § 1252(b)(9) sweeps broadly)). By challenging the standards and process of expedited removal proceedings, Petitioner necessarily asks the Court "to do what the statute forbids [it] to do, which is to review 'the application of such section to [her]." *Mendoza-Linares*, 51 F.4th at 1155. Most notably, a determination made concerning inadmissibility "is not subject to judicial review." *Gomez-Cantillano v. Garland*, No. 19-72682, 2021 WL 5882034 (9th Cir. Dec. 13, 2021) (citing 8 U.S.C § 1252(a)(2)(A)(iii)). "And § 1252(a)(2)(A)(iv) deprives courts of jurisdiction to review 'procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1) of this title,' which plainly includes [Petitioner's] claims regarding how [Respondents may] implement[]" § 1225(b)(1). *Azimov*, 2024 WL 687442, at *1 (citing *Mendoza-Linares*, 51 F.4th at 1154–55).

In setting forth provisions for judicial review of § 1225(b)(1) expedited removal orders, Congress expressly limited available relief: "Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the

action, no court may" "enter declaratory, injunctive, other equitable relief in any action pertaining to an order to exclude an alien in accordance with section § 1225(b)(1) of this title except as specifically authorized in a subsequent paragraph of this subsection." 8 U.S.C. § 1252(e)(1)(A). Congress delineated two limited avenues for judicial review concerning expedited removal orders: (1) narrow habeas corpus proceedings under § 1252(e)(2); and (2) challenges to the validity of the system under § 1252(e)(3). Any permissible challenge to the validity of the system "is available [only] in an action in the United States District Court for the District of Columbia . . . ." 8 U.S.C. § 1252(e)(3).

Narrow habeas corpus proceedings are expressly "limited to determinations" of three questions: (1) "whether the petitioner is an alien"; (2) "whether the petitioner was ordered removed under [section 1225(b)(1)]"; and (3) "whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien" who has been granted status as a lawful permanent resident, refugee, or asylee. 8 U.S.C. § 1252(e)(2)(A)-(C). "In determining whether an alien has been ordered removed under section 235(b)(1) [8 U.S.C. § 1225(b)(1)], the court's inquiry shall be limited *to whether such an order in fact was issued* and *whether it relates to the petitioner*. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal." 8 U.S.C. § 1252(e)(5) (emphasis added). To the extent Petitioner is challenging the expedited process, each of Petitioner's claims fall outside the limited habeas corpus authority provided within § 1252(e)(2).

Accordingly, this Court lacks jurisdiction over this petition under 8 U.S.C. § 1252.

D. Petitioner is Lawfully Detained

Petitioner's previous parole was properly revoked under 8 U.S.C. § 1226(b), and Petitioner is currently subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

"To determine whether Congress has authorized [a petitioner's] detention, we must first identify the statutory provision that purports to confer such authority on the Attorney General." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).

Section 1226(a) provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). The statute also provides for release from custody on bond or conditional parole. 8 U.S.C. § 1226(a)(2). However, "[t]he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b); *see* 8 U.S.C. § 236.1(c)(9) ("When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time . . . in which event the alien may be taken into physical custody and detained.").

While Petitioner was previously released from custody on parole under § 1226(a)(2), such parole may be revoked "at any time." 8 U.S.C. § 1226(b). Importantly, discretionary decisions under Section 1226 are not subject to judicial review. 8 U.S.C. § 1226(e) ("No court may set aside any action or decision by the Attorney General under this section regarding the detention or any alien or the revocation or denial of bond or parole."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."). As Petitioner challenges the decision to remand her back into custody, her claims are barred by Section 1226(e). *See Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) ("As we have previously explained, § 1226(e) precludes an alien from 'challenging] a "discretionary judgment" by the Attorney General or a "decision" that the Attorney General has made regarding his detention or release.' But § 1226(e) does not preclude 'challenges [to] the statutory framework that permits [the alien's] detention without bail.'").

Section 1225 applies to "applicants for admission," such as Petitioner, who are defined as "alien[s] present in the United States who [have] not been admitted" or "who arrive[] in the United States." 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and "certain other" aliens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid document." *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is "found not to have such a fear," they are detained until removed from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (citing *Jennings*, 583 U.S. at 299). However, the Department of Homeland Security (DHS) has the sole discretionary authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C. § 1225(b) and stated that "[r]ead most naturally, §§ 1225(b)(1) and (b)(2) [] mandate detention of applicants for admission until certain proceedings have concluded." 583

U.S. at 297. The Court noted that neither § 1225(b)(1) nor § 1225(b)(2) "impose[] any limit on the length of detention" and "neither § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings." *Id.* The Court added that the sole means of release for noncitizens detained pursuant to §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300. The Court observed that because aliens held under § 1225(b) may be paroled for "urgent humanitarian reasons or significant public benefit," "[t]hat express exception to detention implies that there are no *other* circumstances under which aliens detained under 1225(b) may be released." *Id.* (citations and internal quotation omitted) (emphasis in the original). Courts thus may not validly draw additional procedural limitations "out of thin air." *Id.* at 312. The Supreme Court concluded: "In sum, §§ 1225(b)(1) and (b)(2) mandate detention of [noncitizens] throughout the completion of applicable proceedings." *Id.* at. 302.

As Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2), her claims fail, and her petition should be denied.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss this action.

DATED: August 29, 2025

Respectfully submitted,

ADAM GORDON
United States Attorney

s/ Erin Dimbleby
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Assistant United States Attorney
Attorneys for Respondents

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KARLENIS MENDEZ LOS SANTOS, Petitioner, v. CHRISTOPHER J. LAROSE; et al., Respondents.	Case No.: 25-cv-2216-TWR-MSB **DECLARATION OF Jose Barrios, Jr.**

I, Deportation Officer Jose Barrios, Jr., pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following statements are true and correct, to the best of my knowledge, information, and belief:

1. I am a Deportation Officer (DO) with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the San Diego Field Office. I have been with ICE since December 15, 2002, and have held my position as a DO since September 20, 2015.

2. I am familiar with ICE policy and procedures governing the detention and removal of aliens who come into ICE's custody. The following information is based on my personal knowledge, as well as my review of government databases and

documentation relating to Petitioner Karlenis Mendez Los Santos (Petitioner).

3. Petitioner is a citizen and national of Venezuela. On October 29, 2023, Petitioner arrived at the San Ysidro Port of Entry and applied for admission to the United States. At the time of her arrival, Petitioner was not in possession of a valid entry document.

4. Petitioner was determined to be an arriving alien applying for admission and inadmissible under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document. She was then placed in removal proceedings under 8 U.S.C. § 1229a (240 proceedings) and issued a Notice to Appear (NTA). On July 15, 2025, Petitioner filed written pleadings with the immigration court, wherein Petitioner admitted to being an arriving alien who applied for admission to the United States on October 29, 2023, and at that time was not in possession of a valid entry document. Petitioner also conceded her inadmissibility under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document.

5. Following her initial encounter, Petitioner was released from DHS custody on conditional parole pursuant to 8 U.S.C. § 1226(a)(2).

6. On April 18, 2025, Petitioner's conditional parole was revoked pursuant to 8 U.S.C. § 1226(b).

7. On August 26, 2025, a master calendar hearing was held in Petitioner's removal proceedings. During the hearing, DHS counsel made an oral motion to dismiss Petitioner's 240 proceedings. The immigration judge set September 5, 2025 as a deadline for Petitioner to respond to DHS's motion. The immigration judge continued the hearing until September 17, 2025.

8. On August 26, 2025, a Form I-200, Warrant for Arrest, was issued for the arrest of Petitioner. On August 26, 2025, Petitioner was apprehended by San Diego ICE/ERO.

9. Petitioner is currently detained at the Otay Mesa Detention Center and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

10. As the Petitioner is currently in 240 removal proceedings, she is not in expedited removal proceedings under 8 U.S.C. § 1225(b)(1). If Petitioner's 240 proceedings are terminated and the dismissal order becomes administratively final, ICE intends to place Petitioner in expedited removal proceedings under 8 U.S.C. § 1225(b)(1).

11. While in the custody of ICE, Petitioner will not be moved out of the Southern District of California during the pendency of her removal proceedings.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on August 28, 2025, in Otay Mesa, California.

JOSE R BARRIOS JR Digitally signed by JOSE R BARRIOS JR
Date: 2025.08.28 16:48:48 -07'00'

Jose Barrios, Jr.
Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

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UNITED STATES DISTRICT COURT
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KARLENIS MENDEZ LOS SANTOS,

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CHRISTOPHER LAROSE; et al.,

Respondents.

Case No.: 25-cv-2216-TWR-MSB

TABLE OF EXHIBITS

Exhibits:

1. Form I-213, Record of Deportable/Inadmissible Alien, dated October 29, 2023
2. Notice to Appear, dated October 29, 2023
3. Form I-213, Record of Deportable/Inadmissible Alien, dated August 26, 2025
4. Form I-200, Warrant for Arrest of Alien, dated August 26, 2025