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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MIDSON DOXY

Petitioner,

v.

CHRISTOPHER J. LAROSE; et al.,

Respondents.

Case No.: 25-cv-2609-BTM-DDL

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION

I. Introduction

Petitioner has filed a habeas petition pursuant to 28 U.S.C. § 2241. For the reasons set forth below, the Court should deny Petitioner's requests for relief and dismiss the petition.

II. Factual and Procedural Background

Petitioner is a citizen and national of Haiti. ECF No. 1 at ¶ 3. On or about December 3, 2024, he arrived at the San Ysidro, California Port of Entry for a CBP-One appointment and applied for admission to the United States. At the time of his arrival, he was not in possession of a valid entry document. Exhibit 1 [Form I-213, dated Dec. 3, 2024]. Petitioner was determined to be an arriving alien seeking admission and inadmissible under 8 U.S.C. § 1182(a)(7)(i)(I) as an immigrant not in possession of a valid entry document. He was then issued a Notice to Appear (NTA), which placed him in removal proceedings under 8 U.S.C. § 1229a. Exhibit 2 [Notice to Appear, dated Dec., 4, 2024]. On December 4, 2024, Petitioner was paroled into the United States. *See* 8 U.S.C. § 1182(d)(5)(A).

At a master calendar hearing on June 25, 2025, the Department of Homeland Security (DHS), pursuant to 8 C.F.R. § 1239.2(c), orally moved to dismiss Petitioner's § 1229a removal proceedings. Declaration of Jason Cole (Cole Decl.) at ¶ 6. Petitioner verbally opposed the motion at the hearing, and later filed written opposition to the motion, but the IJ ultimately granted DHS's motion to dismiss on June 30, 2025. *Id.* at ¶ 11. Petitioner did not appeal the IJ's order dismissing his proceedings.

On June 25, 2025, a Form I-200, Warrant for Arrest, was issued for the arrest of Petitioner. *Id.* at ¶ 7. On June 25, 2025, Petitioner was apprehended by ICE Enforcement and Removal Operations (ERO). *Id.* at ¶ 8. At that same time, a Form I-860, Notice and Order of Expedited Removal, was issued and served upon Petitioner, which terminated Petitioner's previously granted parole. *Id.* at ¶¶ 9-10. He was then placed in expedited removal proceedings under 8 U.S.C. § 1225(b)(1). *Id.* at ¶ 12.

On August 15, 2025, Petitioner had a credible fear interview with a United States Citizenship and Immigration Services (USCIS) asylum officer. *Id.* at ¶ 13. On August 19, 2025, the USCIS asylum officer issued a negative credible fear finding and Petitioner requested review by an immigration judge. *Id.* On August 28, 2025, an immigration judge affirmed the negative credible fear finding. *Id.* The immigration judge's order affirming the negative determination made Petitioner's expedited removal order to Haiti final. *Id.* at ¶ 14. As Petitioner is now subject to a final order of removal, he remains detained in Otay Mesa Detention Facility pursuant to 8 U.S.C. § 1231(a).

III. Argument

A. Petitioner Brings Improper Habeas Claims

The Court should deny Petitioner's petition to the extent he asserts claims regarding the termination of his 1229a proceedings and placement into expedited removal proceedings, because such claims do not challenge the lawfulness of his custody. Rather, such claims challenge the decision to dismiss his 1229a proceedings, his placement into expedited removal, and the type of review he receives over his asylum claims. An individual may seek habeas relief under 28 U.S.C. § 2241 if he 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."). Here, a review on a decision to terminate Petitioner's 1229a proceedings and a decision to place him into expedited removal proceedings would not automatically entitle him 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 his petition should be dismissed.

B. Petitioner's Claims and Requests are Barred by 8 U.S.C. § 1252

The Court lacks jurisdiction to hear Petitioner's claims, which stem from DHS's decision to arrest and detain Petitioner pending removal proceedings. *See Ass'n of Am. Med. Coll.*, 217 F.3d at 778–79; *Finley*, 490 U.S. at 547–48. Petitioner brings his habeas action under 28 U.S.C. § 2241, but jurisdiction over his claims is barred under 8 U.S.C. § 1252(a)(2)(A), § 1252(b)(9), § 1252(e), and § 1252(g).

1. The Court lacks jurisdiction under 8 U.S.C. 1252(g)

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."); *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 v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (emphasis removed). Plainly stated, Petitioner requests that this Court review a decision to dismiss his 1229a proceedings, his placement into expedited removal, and the type of review he receives over his asylum claims. Thus, Petitioner's claims necessarily arise "from the decision or action by the Attorney General to commence proceedings [and] execute removal orders," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g).

Section 1252(g) also bars district courts from hearing challenges to the *method* by which the government chooses to commence removal proceedings, including the decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take [plaintiff] into custody to detain him during removal proceedings").

Other courts have held, "[f]or the purposes of § 1252, the Attorney General commences proceedings against an alien when the alien is issued a Notice to Appear before an immigration court." *Herrera-Correra v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008). "The Attorney General may arrest the alien against whom proceedings are commenced and detain that individual until the conclusion of those proceedings." *Id.* at *3. "Thus, an alien's detention throughout this process arises from the Attorney General's decision to commence proceedings" and review of claims arising from such detention is barred under § 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007)); *Wang v. United States*, No. CV 10-0389 SVW (RCX), 2010 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010); 8 U.S.C. § 1252(g).

2. *The Court lacks jurisdiction under 8 U.S.C. 1252(b)(9)*

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 ("[Sections] 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings.").

Critically, "1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) ("[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]"). The petition-for-review process before the court of appeals ensures that aliens have a proper forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*,

837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law"). These provisions divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (stating section 1252(b)(9) includes challenges to the "decision to detain [an alien] in the first place or to seek removal").

Here, Petitioner's claims stem from his detention during removal proceedings. However, that detention arises from DHS's decision to commence such proceedings against him. *See, e.g.*, *Valecia-Meja v. United States*, No. 08-2943 CAS (PJWz), 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) ("The decision to detain plaintiff until his hearing before the Immigration Judge arose from this decision to commence proceedings."); *Wang*, 2010 WL 11463156, at *6; *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298–99 (3d Cir. 2020) (holding that 8 U.S.C. § 1252(g) and (b)(9) deprive district court of jurisdiction to review action to execute removal order). Petitioner's challenge concerning the dismissal of his 1229a proceedings and commencement of expedited removal 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).

3. *The Court lacks jurisdiction under 8 U.S.C. 1252(a)(2)(A)*

Additionally, "[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 Thuraissigiam*, 591 U.S. 103 (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 Thuraissigiam*, 591 U.S. at 138-39 (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 [him]." *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).

4. *The Court lacks jurisdiction under 1252(e)*

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 removal process, each of Petitioner's claims fall outside the limited habeas corpus authority provided within § 1252(e)(2).

In sum, as Petitioner's claims arise from the decision to commence proceedings and execute removal orders, this Court lacks jurisdiction under 8 U.S.C. § 1252.

C. Petitioner is Lawfully Detained

Even assuming the Court has jurisdiction over his petition, Petitioner has not stated a statutory violation or a Fifth Amendment due process violation. Petitioner is currently subject to mandatory detention under 8 U.S.C. § 1231(a).

While Petitioner was previously released from custody on humanitarian parole, his parole was terminated. When Petitioner was detained on June 25, 2025, he was served with a Notice of Expedited Removal, which served to terminate his parole status. *See* 8 CFR § 212.5(e)(2)(i) ("When a charging document is served on the alien, the charging document will constitute written notice of termination of parole . . . ."); Cole

Decl. at ¶¶ 9-10. ; 8 U.S.C. § 1182(d)(5)(A) (". . . such parole of such alien shall not be regard as an admission of the alien and when the purposes of such parole shall . . . have been served the alien shall forthwith return or be return to the custody from which [s]he was paroled and thereafter h[er] case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States"). While Petitioner was previously released from custody, the decision to remand him back into custody is a discretionary decision not subject to review. *See* 8 U.S.C. § 1225(b)(1)(B)(ii); 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."); *Jennings*, 583 U.S. at 295 ("As we have previously explained, § 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.' But § 1226(e) does not preclude 'challenges [to] the statutory framework that permits [the alien's] detention without bail.'").

Moreover, Petitioner's mandatory detention is proper under 8 U.S.C. § 1231(a) and, as discussed further below, there is a significant likelihood of removal in the reasonably foreseeable future because Respondents are working expeditiously to effectuate Petitioner's removal to Haiti.

An alien ordered removed must be detained for 90 days pending the government's efforts to secure the alien's removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien during the 90-day removal period); *see also Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). The statute "limits an alien's post-removal detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that a six-month period of post-removal detention constitutes a "presumptively reasonable

period of detention." *Id.* at 683; *see also Clark v. Martinez*, 543 U.S. 371, 377 (2005) ("[T]he presumptive period during which the detention of an alien is reasonably necessary to effectuate his removal is six months…"); *Lema v. INS*, 341 F.3d 853, 856 (9th Cir. 2003).

Release is not mandated after the expiration of the six-month period unless "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701; *see also Clark*, 543 U.S. at 377. The Supreme Court limited the statute, allowing post-removal detention "to a period reasonably necessary to bring about that alien's removal from the United States." *Zadvydas*, 533 U.S. at 689. "[O]nce removal is no longer foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. Ultimately, "an alien can be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future [("SLRRFF")]." *Id.*

The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003). The alien must make such a showing to shift the burden to the government.

> [O]nce the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut the showing. And for the detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.

Zadvydas, 533 U.S. at 701.

Petitioner's filing is premature as the six-month presumptively reasonable removal period will not end until approximately February 28, 2026. *See Ali v. Barlow*, 446 F. Supp. 2d 604, 609-610 (E.D. Va. 2006) (finding habeas petition was unripe for review where *Zadvydas* six-month period had not expired; dismissing petition without prejudice); *Gonzales v. Naranjo*, No. EDCV 12-1392 DSF (FFM), 2012 WL 6111358

(C.D. Cal. 2012) (same); *Waraich v. Ashcroft*, No. CVF051036, 2005 WL 2671406, at *1 (E.D. Cal. Oct. 19, 2005) (same). *But see Trinh v. Homan*, 466 F. Supp. 3d 1077, 1093 (C.D. Cal. 2020) ("At no point did the *Zadvydas* Court preclude a noncitizen from challenging their detention before the end of the presumptively reasonable six-month period.").

Even if the removal period had extended beyond six months, Petitioner cannot show that there is no significant likelihood of removal in the reasonably foreseeable future. Petitioner's detention is proper under 8 U.S.C. § 1231(a) as Respondents are working expeditiously to effectuate Petitioner's removal to Haiti. To do so, ICE must first receive approval from the government of Haiti. Cole Decl. at ¶ 16. Once ICE has this approval, it can generate a travel document (TD). *Id.* ICE has been working diligently with the Haitian Embassy to obtain approval from the Haitian government. *Id.* at ¶ 17. Once ICE receives the TD, it will begin efforts to secure a flight itinerary for Petitioner and promptly execute his removal. *Id.* at ¶ 21. ICE's confidence in effecting Petitioner's removal to Haiti is based on their current ability to do so. ICE has been routinely getting approval from the Haitian government for removal of Haitian citizens. *Id.* at ¶¶ 18-19. Indeed, ICE has flights scheduled to Haiti every month. *Id.* at ¶ 20.

To the extent Petitioner is challenging ICE's decision to detain him for the purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g) ("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.") (emphasis added); *see also 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").

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny the petition.

DATED: October 20, 2025

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MIDSON DOXY,

Petitioner,

v.

CHRISTOPHER J. LaROSE; et al.,

Respondents.

Case No.: 25-cv-2609-BTM-DDL

DECLARATION OF JASON COLE IN SUPPORT OF RESPONDENTS' RESPONSE TO PETITIONER'S WRIT OF HABEAS CORPUS

I, Jason Cole, 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 employed by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the San Diego Field Office, as a Deportation Officer (DO). I have held this position since September 28, 2020.

2. I am currently assigned to the Otay Mesa suboffice and my responsibilities include enforcing final orders of deportation and removal from the United States for aliens

and requesting travel documents from foreign consulates as part of the removal process. I am familiar with the repatriation of Haitian nationals.

3. I am currently responsible for monitoring this case. I make this declaration based upon my own personal knowledge and experience as a law enforcement officer and information provided to me in my official capacity as a DO in the ICE ERO San Diego Field Office. I make this declaration based on review of Petitioner Midson Doxy's alien file, consultation with other ICE officers, and review of official documents and records maintained by ICE .

4. Petitioner is a citizen and native of Haiti.

5. On December 3, 2024, Petitioner arrived at the San Ysidro Port of Entry as a CBP-One appointment and applied for admission to the United States. At the time of his arrival, he was not in possession of a valid entry document. He 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. He was then placed in removal proceedings under 8 U.S.C. § 1229a (240 proceedings) and issued a Notice to Appear (NTA). At this time, Petitioner was provided humanitarian parole, pursuant to 8 U.S.C. § 1182(d)(5)(A).

6. On June 25, 2025, at a master calendar hearing, DHS made an oral motion to dismiss Petitioner's INA 240 proceedings.

7. On June 25, 2025, a Form I-200, Warrant for Arrest, was issued for Petitioner's arrest.

8. On June 25, 2025, Petitioner was apprehended by San Diego ICE/ERO.

9. On June 25, 2025, Petitioner was served with a Notice and Order of Expedited Removal.

10. Petitioner's humanitarian parole was terminated upon the service of the Notice and Order of Expedited Removal, in compliance with 8 C.F.R. § 212.5(e)(2)(i).

11. On June 30, 2025, an immigration judge issued an order dismissing Petitioner's removal proceedings under 8 U.S.C. § 1229a.

12. On June 30, 2025, Petitioner was placed into expedited removal proceedings under 8 U.S.C. § 1225 and detained pursuant to 8 U.S.C. § 1225(b)(1).

13. On August 15, 2025, Petitioner had a credible fear interview with a United States Citizenship and Immigration Services (USCIS) asylum officer. On August 19, 2025, the USCIS asylum officer issued a negative credible fear finding and Petitioner requested review by an immigration judge. On August 28, 2025, an immigration judge affirmed the negative credible fear finding

14. The immigration judge's order affirming the negative determination made Petitioner's expedited removal order to Haiti final and Petitioner's continued detention became mandated by 8 U.S.C. § 1231(a).

15. ICE is not seeking to remove Petitioner to a third country.

16. To effectuate Petitioner's removal to Haiti, ERO must first receive approval from the government of Haiti for removal. Once ERO has approval, the field generates an I-269, and that I-269 is then used as the ID document and travel document (TD) for removal. ERO will then schedule a flight for Petitioner. Since Petitioner's detention and the issuance of a final order of removal, ERO has worked expeditiously to effectuate Petitioner's removal to Haiti. These removal efforts remain ongoing.

17. ERO has been working diligently with the Haitian embassy to receive approval for Petitioner's removal from the Haitian government.

18. Based on my experience and having reviewed the progress of ERO's request for the Haitian government to approve the removal of Petitioner, there is a high likelihood of removal to Haiti in the near future. I am aware of no barrier to the to the Haitian government to approve removal for Petitioner.

19. ICE has been routinely obtaining approval for removal for Haitian citizens by the Haitian government.

20. ICE has flights to Haiti scheduled every month.

21. Once ERO receives approval for removal from the Haitian government, the field will generate Petitioner's I-269 and his removal can be effected promptly.

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

Executed this 20 day of October 2025.

JASON N COLE Digitally signed by JASON N COLE Date: 2025.10.20 10:29:11 -07'00'

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Attorneys for Respondents

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MIDSON DOXY,

Petitioner,

v.

CHRISTOPHER LAROSE; et al.,

Respondents.

Case No.: 25-cv-2609-BTM-DDL

TABLE OF EXHIBITS

Exhibits:

1. Form I-213, Record of Deportable/Inadmissible Alien, dated December 4, 2024
2. Notice to Appear, dated December 4, 2024
3. Order of the Immigration Judge, dated June 30, 2025
4. Form I-213, Record of Deportable/Inadmissible Alien, dated June 25, 2025
5. Form I-200, Warrant for Arrest of Alien, dated June 25, 2025
6. Form I-860, Notice and Order of Expedited Removal, dated June 25, 2025
7. Order of the Immigration Judge, dated August 28, 2025