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13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE DISTRICT OF ARIZONA**

15 Oscar Armando Solis Quintanilla,  
16 Petitioner,  
17 v.  
18 Kristi Noem, *et al.*,  
19 Respondents.

No. 2:25-cv-03828-MTL (DMF)

**RESPONSE TO EMERGENCY  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER**

20 The government responds as follows to the Motion for Temporary Restraining Order  
21 (TRO) in which Petitioner seeks this Court's emergency issuance of an injunction barring the  
22 government from removing Petitioner. Docs. 6, 8. An Immigration Judge has issued a final  
23 order of removal and Petitioner was given the opportunity to assert his views on removal to  
24 Mexico. As such, federal law deprives any federal district court from issuing such an  
25 injunction. 8 U.S.C. § 1252(g). This Court should therefore deny the Motion for a TRO.

26 The government supports this brief with a Declaration by the United States Department  
27 of Homeland Security (DHS), Petitioner's filed exhibits, and the following Memorandum of  
28 Points and Authorities.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Petitioner is a native and citizen of El Salvador, and is 32 years old. Exhibit 1,  
3 Declaration of Kenneth Livingston, ¶ 4. United States Customs and Border Protection  
4 encountered Petitioner in 2015 near Laredo, Texas, and determined that he had entered the  
5 United States unlawfully from Mexico. Exhibit 1, ¶ 5. The Department of Homeland Security  
6 (DHS) served him with a Notice to Appear on September 2, 2015, charging him under  
7 Immigration and Nationality Act (INA) § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I).  
8 Exhibit 1, ¶ 7. Petitioner was released on a bond on November 13, 2015. Exhibit 1, ¶ 8. On  
9 April 10, 2019, an Immigration Judge (IJ) entered an order of removal of Petitioner to El  
10 Salvador, while additionally ordering withholding of removal to El Salvador. Exhibit 1, ¶ 9.

11 Petitioner checked in with Immigration and Customs Enforcement (ICE) on September  
12 24, 2025, in Baltimore, Maryland. Exhibit 1, ¶ 10. ICE took Petitioner into custody on that  
13 date, on the basis of the April 10, 2019, removal order. Exhibit 1, ¶ 11. ICE also revoked his  
14 order of supervision. Exhibit 1, ¶ 12. Petitioner received an informal interview on September  
15 25, 2025, pursuant to 8 C.F.R § 241.4(l) and 8 C.F.R § 241.13(i). Exhibit 1, ¶ 13. On October  
16 28, 2025, United States Citizenship and Immigration Services (USCIS) determined that  
17 Petitioner did not establish that he would more likely than not be persecuted or tortured in  
18 Mexico. Exhibit 1, ¶ 14.

19 **STANDARD OF REVIEW**

20 Two legal standards are potentially relevant to Petitioner’s motion: the standard  
21 governing injunctive motions, and the standard for establishing subject matter jurisdiction.  
22 Here, it is solely the standard for subject matter jurisdiction that is at issue. “Once challenged,  
23 the party asserting subject matter jurisdiction has the burden of proving its existence.”  
24 *Robinson v. United States*, 586 F.3d 683, 685 (9th Cir. 2009). Further, “[f]ederal sovereign  
25 immunity insulates the United States from suit ‘in the absence of an express waiver of this  
26 immunity by Congress.’” *Id.* (quoting *Block v. North Dakota*, 461 U.S. 273, 280 (1983)).

**LAW AND ARGUMENT**

**A. 8 U.S.C. § 1252(g) Bars Review of Petitioner’s Challenge to the Execution of His Removal Order.**

Petitioner’s Memorandum filed in support of his Motion for TRO argues that this Court should issue an injunction against the government prohibiting it “from removing Petitioner to Mexico unless an Immigration Judge reviews the denial of his fear screening, and concurs in the denial.” Doc. 8 at 11. His Motion for TRO seeks even broader relief, asking the Court to enjoin the government “from removing him from the continental United States…” Doc. 6. Yet Petitioner admits that he has received a fear interview as to Mexico and that the result of this interview was negative. Doc. 8 at 2-3 (“Petitioner’s third-country fear interview took place on October 28, 2025.”). His specific argument is that, even though Petitioner has received due process prior to being issued a final order of removal, and also received due process as to a country-specific fear interview, the Court should prohibit the government from removing him to Mexico unless it provides him even more process, in the form of “IJ review” *of the results of the fear interview*. Doc. 8 at 2.

This Court simply lacks jurisdiction to do so under 8 U.S.C. § 1252(g). In passing this jurisdiction-stripping statute, Congress spoke clearly that “no court” has jurisdiction over “any cause or claim” arising from the execution of removal orders, “notwithstanding any other provision of law,” whether “statutory or nonstatutory,” including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g). By its terms, section 1252(g) precludes habeas review under 28 U.S.C. § 2241, as well as review pursuant to the All Writs Act and the Administrative Procedure Act, of any and all claims arising from a decision or action to “execute” a final order of removal. *See Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999). All such claims seeking a stay of removal—even temporarily to assert other claims to relief—are barred. *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) (holding Section 1252(g) barred petitioner’s claim seeking a temporary stay of removal while he pursued a motion to reopen his immigration proceedings); *Camarena v. Dir., Immigr. & Customs Enf’t*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal

1 order. If we held otherwise, any petitioner could frame his or her claim as an attack on the  
2 government’s *authority* to execute a removal order rather than its *execution* of a removal  
3 order.”); *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021) (rejecting petitioner’s argument  
4 that jurisdiction remained because petitioner was challenging DHS’s “legal authority” as  
5 opposed to its “discretionary decisions”); *Tazu v. Att’y Gen. United States*, 975 F.3d 292, 297  
6 (3rd Cir. 2020) (observing that “the discretion to decide *whether* to execute a removal order  
7 includes the discretion to decide *when* to do it” and that “[b]oth are covered by the statute”)  
8 (emphasis in original); *Hamama v. Adducci*, 912 F.3d 869, 874-77 (6th Cir. 2018) (vacating  
9 district court’s injunction staying removal, concluding that § 1252(g) stripped district court of  
10 jurisdiction over removal-based claims and remanding with instructions to dismiss those  
11 claims); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017) (Section 1252(g) applies to  
12 constitutional claims arising from the execution of a final order of removal, and language  
13 barring “any cause or claim” made it “unnecessary for Congress to enumerate every possible  
14 cause or claim”).

15 Further, § 1252 specifically provides that judicial review of a final order is available  
16 only through “a petition for review filed with an appropriate court of appeals.”  
17 8 U.S.C. § 1252(a)(5). The Supreme Court has made clear that § 1252(b)(9) is “the  
18 unmistakable ‘zipper’ clause,” channeling “judicial review of all” “decisions and actions  
19 leading up to or consequent upon final orders of deportation,” including “non-final order[s],”  
20 into proceedings before a court of appeals. *Reno*, 525 U.S. at 483, 485; see *J.E.F.M. v. Lynch*,  
21 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9) is “breathtaking in scope and vise-  
22 like in grip and therefore swallows up virtually all claims that are tied to removal  
23 proceedings”). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether  
24 legal or factual—arising from *any* removal-related activity can be reviewed *only* through the  
25 [petition for review] PFR process.” *J.E.F.M.*, 837 F.3d at 1031 (emphasis in original).  
26 “[W]hile these sections limit *how* immigrants can challenge their removal proceedings, they  
27 are not jurisdiction-stripping statutes that, by their terms, foreclose *all* judicial review of  
28 agency actions. Instead, the provisions channel judicial review over final orders of removal to

1 the courts of appeal.” *Id.* at 1031 (emphasis in original).

2 Critically, “section 1252(b)(9) is a judicial channeling provision, not a claim-barring  
3 one.” *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, § 1252(a)(2)(D) provides that  
4 “[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review  
5 of constitutional claims or questions of law raised upon a petition for review filed with an  
6 appropriate court of appeals in accordance with this section.” 8 U.S.C. § 1252(a)(2)(D); *see*  
7 *also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2nd Cir. 2008) (“[J]urisdiction to review such  
8 claims is vested exclusively in the courts of appeals[.]”). The petition-for-review process  
9 before the court of appeals ensures that noncitizens have a proper forum for claims arising  
10 from their immigration proceedings and “receive their day in court.” *J.E.F.M.*, 837 F.3d at  
11 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2nd Cir.  
12 2010) (“The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause  
13 concerns” by permitting judicial review of “nondiscretionary” BIA determinations and “all  
14 constitutional claims or questions of law”). These provisions divest district courts of  
15 jurisdiction to review both direct and indirect challenges to removal orders, including decisions  
16 to detain for purposes of removal or for proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281,  
17 294–95 (2018) (stating section 1252(b)(9) includes challenges to the “decision to detain [an  
18 alien] in the first place or to seek removal”).

19 Courts in this district have rejected even *ex parte* petitions for habeas corpus and  
20 motions for TROs seeking such relief, recently. *Quach v. Noem*, Dkt. 26, No. 25-cv-02937-  
21 JJT (JFM) (D. Ariz. Oct. 17, 2025). In *Quach*, Judge Tuchi held:

22 . . . even if the Court were to conclude Petitioner’s redetention violated the  
23 relevant regulations, it could not enjoin his removal to Vietnam. His request  
24 for a stay of removal does not relate to his underlying habeas claims and he  
25 could not bring a claim challenging his removal order because habeas corpus  
26 review in federal district court is not available for claims “arising from the  
27 decision or action by the Attorney General to commence proceedings,  
28 adjudicate cases, or execute removal orders,” 8 U.S.C. § 1252(g), “arising  
from any action taken or proceeding brought to remove an alien,” 8 U.S.C. §  
1252(b)(9), or “challeng[ing] a ‘discretionary judgment’ by the Attorney  
General or a ‘decision’ that the Attorney General has made regarding [an  
alien’s] detention or release,” *Demore v. Kim*, 538 U.S. 510, 516 (2003)

1 (discussing 8 U.S.C. § 1226(e))...  
2 *Id.*; *see also Turcio v. Noem*, No. 25-CV-05941 (MMG), 2025 WL 2124129, at \*2 (S.D.N.Y.  
3 July 29, 2025) (“Congress has prohibited district courts from staying a noncitizen’s  
4 removal.”); *Hernandez-Morales v. Bondi*, No. 25-CV-2551-BJC-MMP, 2025 WL 2932650,  
5 at \*3 (S.D. Cal. Oct. 15, 2025) (invoking § 1252(g) to deny injunctive relief of a final removal  
6 order); *Guerrero Sandoval ex rel. CDBG v. Bondi*, No. 2:25-CV-559, 2025 WL 1477059, at  
7 \*3 (S.D. Ohio May 22, 2025) (same).

8 **B. Petitioner Has Received All the Process Due to Him.**

9 Petitioner cites two federal district court decisions from other circuits to argue that  
10 due process considerations create an exception to section 1252(g). Doc. 8 (citing *Sagastizado*  
11 *v. Noem*, --- F. Supp. 3d ---, 2025 WL 2957002 (S.D. Tex. Oct. 2, 2025), and *Cruz-Medina v.*  
12 *Noem*, --- F. Supp. 3d ---, 2025 WL 2841488 (D. Md. Oct. 7, 2025)). Neither of these non-  
13 binding opinions is distinguishable from the Ninth Circuit’s binding precedent in *Rauda*, 55  
14 F.4th at 776-79. “While Congress could have chosen to provide Matias and other petitioners  
15 like him with access to judicial review of non-final immigration orders, it did not do so.” *Id.*  
16 at 777. Limiting jurisdiction in this manner was “understandable because Congress wanted to  
17 streamline immigration proceedings...” *Id.*

18 Notably, Petitioner points to no statutory provisions or federal regulations that he  
19 claims the government has actually violated. He appears to acknowledge this while urging this  
20 Court to nonetheless re-interpret immigration statutes in a manner that would be more  
21 favorable to him. Doc. 8 at 3 (“While the statute allows [Respondents] to do this...”).  
22 Essentially, Petitioner requests the Court to read more process into the statutes than their  
23 language supports because “due process requires” it, citing a 2015 Ninth Circuit decision and  
24 a 1976 Supreme Court decision. Doc. 8 at 3-4 (citing *Nozzi v. Housing Auth. of City of Los*  
25 *Angeles*, 806 F.3d 1178, 1190 (9th Cir. 2015) and *Mathews v. Eldridge*, 424 U.S. 319 (1976)).  
26 In *Nozzi*, the plaintiffs were Section 8 rental tenants facing a reduction of their subsidies  
27 without due process. 806 F.3d at 1183. And in *Mathews*, the plaintiffs were Social Security  
28 disability beneficiaries facing termination of benefits without due process. 424 U.S. at 324.

1 These cases only bear on Petitioner’s argument here in the most generic manner conceivable,  
2 and certainly not with the precise and binding effect of *Rauda*, 55 F.4th at 776-79.

3 Unlike other recent cases in which courts have found due process violations in the  
4 context of immigration removal actions, Petitioner here fails to argue—because he cannot  
5 argue—that he was actually *deprived* of notice and an opportunity to be heard. He argues,  
6 rather, that the notice and opportunity the statutes currently provide should be enhanced. He  
7 complains, for example, that “a non-judicial officer resulting in a check-the-box form” is  
8 inadequate notice to him of the government’s basis for rejecting his claims of fear relating to  
9 Mexico. Doc. 8 at 5. This is in contrast to *D.V.D. v. U.S. Dept. of Homeland Security*, where  
10 a federal district court issued injunctive relief because the government had failed entirely to  
11 provide even a “small modicum of process” in the form of telling the noncitizen which country  
12 he would be removed to and allowing him “an opportunity to explain” why removing him  
13 there would threaten their safety. 778 F. Supp. 3d 355, 364 (D. Mass. 2025).

14 **CONCLUSION**

15 The government respectfully requests the Court deny the Motion for TRO on grounds  
16 of 8 U.S.C. § 1252(g), for the reasons stated.

17 Respectfully submitted on October 31, 2025.

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