

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

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A.M.V.V.,

*Petitioner,*

v.

JASON WOOSLEY, *et al.*,

*Respondents.*

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Case No. 4:25-cv-00118-BJB

**PETITIONER'S SUPPLEMENTAL BRIEF IN SUPPORT OF A WRIT OF HABEAS  
CORPUS**

On October 23, 2025, this Court held a hearing in this matter to “address the petition for a writ of habeas corpus and any other issues ripe for the Court’s review.” Dkt. 7. At the hearing, the Court requested additional briefing regarding the Court’s jurisdiction over Petitioner’s habeas claim. Petitioner files this supplemental brief in response.

**A. This Court Has Subject Matter Jurisdiction to Hear This Habeas Petition**

At the hearing, the Court referenced the “jurisdiction stripping” authority of 8 U.S.C. § 1252(g) and § 1252(b)(9). As explained below, these provisions do not apply to Petitioner’s claim because she is not contesting the execution of a removal order or her placement in withholding-only proceedings. Rather, she is challenging her unlawful arrest and detention.

As to 8 U.S.C. § 1252(g), the Supreme Court has made clear that Section 1252(g)’s application is narrow: “That provision limits review of cases ‘arising from’ decisions ‘to commence proceedings, adjudicate cases, or execute removal orders,’” and the Court has “rejected

as ‘implausible’” any claim that it covers “all claims arising from deportation proceedings.” *DHS v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) (quoting *Reno v. American-Arab Anti-Discrimination Comm. (AADC)*, 525 U.S. 471, 482 (1999)).

Here, Respondents have conceded that there is no evidence that Petitioner's detention “arises from” DHS’s decision to initiate removal proceedings. In a supplemental filing submitted before the hearing on this matter, Respondents stated that they “have not located a record of the revocation of Petitioner’s supervised release.” Dkt. 13. Without such a revocation, there is no basis to support a contention that Petitioner’s detention “arises from” execution of a removal order because *there is no decision* providing the basis for her re-detention.

Even setting aside this issue, courts, including the Sixth Circuit, have consistently recognized that challenges to the legality of a noncitizens detention are independent of removal-based claims and not barred by Section 1225(g). *See, e.g., Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018) (acknowledging that “the district court had jurisdiction over the detention-based claims and that this jurisdiction is an independent consideration that is not tied to whether the district court has jurisdiction over the removal-based claims.”);<sup>1</sup> *Carrera-Valdez v. Perryman*, 211 F.3d 1046, 1047 (7th Cir. 2000) (“nothing in § 1252(g) precludes review of the decision to confine.”). Further, Section 1252(g) does not prohibit purely legal challenges that do not challenge the Attorney General’s discretionary authority. *United States v. Hovespian*, 359 F.3d 1144, 1155 (9th Cir. 2004) (en banc); *Bowrin v. INS*, 194 F.3d 483, 488 (4th Cir. 1999) (Section 1252 “does not apply” to Government’s interpretations of law); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir.

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<sup>1</sup> In *Hamama*, the Sixth Circuit ultimately concluded that the detention-related claims were also barred from review; but that was because 8 U.S.C. § 1252(f)(1) bars claims seeking class-wide, non-habeas, injunctive relief, something Petitioner does not seek. *Hamama*, 912 F.3d at 877.

2023) (Section 1252(g) does not bar review of the “lawfulness” of a removal-related action because such claims are “collateral” to the discretionary decisions immunized by Section 1252(g)).

Section 1252(b)(9) also does not bar this Court’s review. That section bars review of claims “arising from” actions or proceedings brought to remove a noncitizen. But here, too, the Supreme Court has cautioned against an overbroad application, noting that it “does not present a jurisdictional bar” where those bringing suit “are not asking for review of an order of removal,” “the decision to detain them in the first place or to seek removal,” or “the process by which their removability will be determined.” *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018); *see also Regents*, 591 U.S. at 19. Indeed, courts have cautioned that the phrase “arising from” is not “infinitely elastic” and does not reach “claims that are independent of, or wholly collateral to, the removal process,” or that bear “only a remote or attenuated connection to the removal of a[] [noncitizen].” *Aguilar v. ICE*, 510 F.3d 1, 10-11 (1st Cir. 2007). As relevant here, courts have routinely entertained individual petitions for writ of habeas corpus as a means to challenge unlawful detention notwithstanding the language of Section 1252(b)(9). *See, e.g., Mahdawi v. Trump*, 136 F.4th 443, 452 (2d Cir. 2025) (rejecting claim that § 1252(b)(9) barred detention challenge because “[c]onstruing an independent constitutional challenge to detention as necessarily implying a challenge to removal would lead to what *Jennings* called an ‘absurd’ result.”); *accord Kong*, 62 F.4th at 614.

The legislative history for the 2005 REAL ID Act confirms Section 1252’s inapplicability to detention-related habeas challenges. It states twice that “it should also be noted that section 106 [8 U.S.C. §1252] will not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.” H.R. Cong. Rep. No. 109-72, at 175 (May 3, 2005); *id.* at 176

(same); *see* 8 U.S.C. §1252 (credits). Cognizant of these concerns, several courts around the country have found jurisdiction to consider the exact issues raised here. *See, e.g. K.E.O. v. Woosley*, 2025 WL 2553394, at \*6 (W.D. Ky. Sept. 4, 2025) (“The briefing makes clear that K.E.O. is seeking to ‘challenge the legality’ of her detention, not the execution of her removal [and therefore] . . . the [c]ourt has proper jurisdiction.”); *Villanueva v. Tate*, 2025 WL 2774610, at \*11 (S.D. Tex. Sept. 26, 2025) (“Villanueva's petition does not challenge his removal; he challenges the manner in which the government revoked his release, which he contends was done without due process and in violation of ICE's own regulations [and] [t]hese types of claims are not barred by 8 U.S.C. § 1252(g)"); *Santamaria Orellana v. Baker*, 2025 WL 2444087, at \*8 (D. Md. Aug. 25, 2025) (because “Santamaria Orellana does not ask this Court to enter an order staying ICE's execution of his removal order . . . [and instead] challenges the legality of his detention pending the effectuation of his removal order [the c]ourt has jurisdiction to evaluate this challenge”); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025) (“[i]n sum, while section 1252 would bar this [c]ourt from exercising jurisdiction over any claims to enjoin or stay Ceesay's removal, Ceesay is not seeking such relief here); *Phan v. Noem*, 2025 WL 2898977, at \*5 (S.D. Cal. Oct. 10, 2025); *Diaz v. Wofford*, 2025 WL 2581575, at \*9 (E.D. Cal. Sept. 5, 2025); *Grigorian v. Bondi*, 2025 WL 2604573, at \*10 (S.D. Fla. Sept. 9, 2025); *Perez-Escobar v. Moniz*, 2025 WL 2084102, at \*2 (D. Mass. July 24, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267, at \*12 (D. Or. Aug. 21, 2025).

**B. Petitioner has Established a Violation of her Due Process Rights.**

As discussed in her Petition, Petitioner has established a violation of her due process rights because her detention on March 17, 2025, lacked the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause. Dkt. 1, p. 11-14. At the October 23,

2025, hearing, this Court inquired into the due process rights of noncitizens who enter at the border or port of entry.

As the Supreme Court has recognized, the due process clause applies to “*all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.*” *Zadvydas v. Davis*, 533 U.S. 690, 693 (2001) (emphasis added); *see also Rosales-Garcia v. Holland*, 322 F.3d 386, 413–14 (6th Cir. 2003) (en banc) (“Because we do not believe that our Constitution could permit persons living in the United States—whether they can be admitted for permanent residence or not—to be subjected to *any* government action without limit, we conclude that government treatment of excludable [noncitizens] *must* implicate the Due Process Clause of the Fifth Amendment.”).

The Court’s later holding in *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959 (2020) does not disturb this precedent. In *Thuraissigiam*, the Court considered whether arriving noncitizens were entitled to judicial review of negative credible fear determinations. 140 S. Ct. at 1983. “[T]he Court did not consider whether an entering [noncitizen’s] status also limited his ability to challenge the legality of his detention.” *Mbalivoto v. Holt*, 527 F. Supp. 3d 838, 846 (E.D. Va. 2020). Indeed, that reading of *Thuraissigiam* would imply the overruling of *Clark v. Martinez*, 543 U.S. 371 (2005), which considered whether an arriving noncitizen was detained too long after being ordered removed. Writing for the majority, Justice Scalia found that the habeas petition “should have been granted.” *Id.* at 386-86. *Clark* supports Petitioner’s contention, which numerous courts have found persuasive, that the Court has authority in habeas to determine the legality of ongoing detention, regardless of the noncitizen’s manner of entry. *See supra* p. 4 (collecting cases).

Further, here, Petitioner lived in the United States for eight years prior to her unnoticed re-detention in March 2025. It can hardly be said that a noncitizen who has lived in the United States

for nearly a decade and who was arrested hundreds of miles from any border or port of entry is “arriving” in the United States, such that fewer procedural due process protections would apply.

**CONCLUSION**

Despite fully complying with her Order of Supervision for over eight years, ICE officers unlawfully revoked Petitioner’s release and arrested and detained her in violation of the agency’s regulations and the Fifth Amendment’s Due Process Clause. Because she was unlawfully arrested and detained, causing her and her children irreparable harm, this Court should order her immediate release.

DATED this 24 of October, 2025

Respectfully submitted,

s/Colleen Cowgill  
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**CERTIFICATE OF SERVICE**

I, Colleen Cowgill, hereby certify that on October 24, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notice of filing to all parties receiving electronic notice.

s/ Colleen Cowgill

*Attorney for Petitioner*