UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHANTHILA SOUVANNARATH

CIVIL ACTION

VERSUS

NO. 25-938-SDD-SDJ

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.

RESPONSE IN OPPOSITION TO MOTION TO ENFORCE TEMPORARY RESTRAINING ORDER AND COMPEL PETITIONER'S REPATRIATION

Pursuant to the Court's Order, Doc. 19, Respondents submit this opposition to Petitioner's *Motion to Enforce Temporary Restraining Order and Compel Petitioner's Repatriation*,[1] Doc. 11.

BACKGROUND

For purposes of this motion and unless otherwise specified, the Government refers to the allegations in the Petition. Petitioner alleges he entered the United States with his parents, Bounpheng Souvannarath (*aka* Billy Koulthasen) and Manivahn Souvannarath, on or around July 29, 1982. Doc. 2, p. 3, ¶ 1. He was born in Thailand. *Id.* At the time, his family benefited from Lawful Permanent Resident (LPR) status. In 1988, his father became a naturalized U.S. citizen. Doc. 2, p. 3, ¶ 5. However, his parents divorced shortly thereafter, and Petitioner acknowledges he was in his mother's custody. *Id.* ¶ 3. Petitioner alleges he returned to his father's custody at some time before turning eighteen years old on September 6, 1999. *Id.* ¶ 4; Doc. 2-3, p. 6.

A. <u>Immigration Court Proceedings</u>

Petitioner was previously convicted of a crime classified as an "aggravated felony" pursuant to INA § 101(a)(43) [8 U.S.C. § 1101(a)(43)]. *Cf. State v. Souvannarath*, 131 Wash. App. 1062 (2006) (discussing criminal history and conviction). This conviction rendered Petitioner

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[1] Respondents' use of the word "repatriation" in this brief is not a suggestion of lawful status in the United States. Respondents dispute that Petitioner is a U.S. citizen, including whether he derived citizenship under former INA § 321(a).

"deportable" from the United States. INA § 237(a)(2)(A)(iii) [8 U.S.C. § 1227(a)(2)(A)(iii)] and INA § 237(a)(2)(C) [8 U.S.C. § 1227(a)(2)(C)]; see Ex. A, Immigration Court Records, p. 2, ¶¶ 4-5. On November 16, 2006, an immigration judge (IJ) ordered Petitioner removed from the United States. Doc. 15-1, ¶ 3; Ex. A, p. 4. The IJ order directs the Government to remove Petitioner to Thailand or, in the alternative, to Laos. *Id.* Both Petitioner and the Government waived the right to appeal, rendering it a Final Order of Removal. *Id.*; *see* 8 C.F.R. § 1241.1; Ex. A, p. 4.

For nineteen (19) years, Petitioner continued to reside in the United States. Petitioner has not alleged that he ever sought a petition for review of his immigration proceedings or that he affirmatively sought proof of citizenship by filing an application for a certificate of citizenship under 8 U.S.C. § 1452(a). *Cf. Garza-Flores v. Mayorkas*, 38 F.4th 440, 443 (5th Cir. 2022) (discussing the available methods for establishing citizenship).

B. Removal from the United States

Under the INA, the Attorney General is required to detain and remove any alien with a final order of removal within 90 days. 8 U.S.C. § 1231(a)(1)(A). That is not always feasible. Therefore, some aliens are released on their own recognizance under orders of supervision. *Id.* § 1231(a)(3).

On June 18, 2025, Petitioner was detained by DHS officers for purposes of executing his removal from the United States. Doc. 15-1, ¶ 4. Petitioner alleges he was detained at his "regularly-scheduled Immigration and Customs Enforcement check-in." Doc. 11-1, p. 2. Of note, Petitioner does not explain why he was "regularly" reporting to ICE if he believed he was a citizen, though the action would align with an order of supervision under § 1231(a)(3).[2]

[2] Once in DHS custody, Petitioner alleges his citizenship claim "fell on deaf ears." Doc. 11-1, p. 2. Petitioner also asserts he initiated this action to address his "dire situation." *Id.* Again, Petitioner had been detained for almost four (4) months before he initiated this proceeding and had already filed a separate petition in another court.

On June 20, 2025, Petitioner was booked into the Central Louisiana ICE Processing Center in Jena, LA. Doc. 15-1, ¶ 5. Petitioner filed a writ of habeas corpus in the Western District of Louisiana on July 22, 2025. *Souvannarath v. Rice*, no. 25-1058 (W.D. La. 2025). That court denied the Petitioner's motion to proceed *in forma pauperis* and subsequently dismissed the petition for failure to pay the $5.00 filing fee. On September 4, 2025, Petitioner was transferred and booked into the Louisiana ICE Processing Center in Angola, LA. Doc. 15-1, ¶ 6.

On October 16, 2025, Petitioner, appearing *pro se*, initiated this proceeding. Doc. 1. Petitioner sought "emergency" relief the following day. Docs. 2, 3. On October 20, 2025, Petitioner was transferred from the Louisiana ICE Processing Center to the Alexandria Staging Facility (ASF) in Alexandria, Louisiana, where he was booked at approximately 9:26 a.m. Doc. 15-1, ¶ 7. On October 23, 2025, the Court issued a temporary restraining order *ex parte*. Doc. 4. On October 24, 2025, at approximately 3:00 a.m., Petitioner's removal flight departed Alexandria enroute to Baltimore, MD. Doc. 15-1, ¶ 8. Petitioner was removed from the United States at approximately 11:45 a.m. EDT. *Id.*

By its order, the Court directed Respondents not to remove the Petitioner (1) from the jurisdiction of this Court or (2) from the United States. Petitioner insists he was removed "from this Court's jurisdiction" "despite this Court's unequivocal order." Doc. 11-1, p. 2. But the timeline above makes plain that Petitioner was transferred out of the Court's jurisdiction on October 20, well before the Court's *ex parte* order was even issued.

It is true that Petitioner was removed from the United States on the morning of October 24. However, Respondents did not have notice of the Court's order prior to effectuating his removal from the United States. In that regard, Respondents will candidly disclose to the Court what they know as of this filing. So far as can be discerned, the U.S. Attorney's Office first received notice of the Court's order through a proactive docket review on October 24 at 2:51 p.m. CDT, and it communicated the order to DHS at approximately 2:56 p.m. Although it appeared from DHS's records that Petitioner had already been removed at that time, the Government could not immediately confirm Petitioner's location, including whether he remained in the United States, or the timeline of Petitioner's movements. However, as set forth in the Declaration of Brian Acuna, it ultimately determined that Petitioner had already been removed from the United States as of 11:45 a.m. EDT/ 10:45 a.m. CDT. Doc. 15-1 ¶ 8.

Petitioner attempts to controvert this timeline through one vague reference in a separate filing: "On the morning of October 24, 2025, Mr. Souvannarath's wife spoke to an ICE official who indicated to her that Mr. Souvannarath's removal had been stayed following an order." Doc. 16, p. 3.

Petitioner has not offered any other specific allegation that Respondents had timely knowledge of the Court's order.[3] To be clear, at the time Respondents filed their previous Notices to this Court, Docs. 12 and 15, they had no knowledge of this purported "ICE official" with whom Petitioner's wife had spoken. And as of this filing, they still don't.

Petitioner is indistinct regarding the substance or timing of this conversation, which was first disclosed to the Respondents through Doc. 16. ICE is a large agency, so Respondents began to investigate this claim by first inquiring whether staff at the two detention facilities where Petitioner was held – Central Louisiana ICE Processing Facility (Jena, LA) and Louisiana ICE Processing Facility (Angola, LA) – had spoken with Mrs. Souvannarath on the morning of October

[3] Petitioner repeatedly conflates knowledge of his petition with knowledge of the Court's order. But the filing of a habeas petition—the sole purpose of which is to challenge the legal basis of detention—does not automatically halt the execution of a final order of removal. *Cf. Melot v. Bergami*, 970 F.3d 596, 599 (5th Cir. 2020) (articulating the Fifth Circuit's "bright-line rule" on the scope of habeas relief). The only legal impediment to Mr. Souvannarath's removal is the Court's order—again, of which Respondents had no knowledge at the time of removal.

24. Undersigned counsel also requested counsel for the Petitioner provide the ICE phone number Mrs. Souvannarath called, and the number she called from.

On the evening of Friday, October 31, Petitioner's counsel responded with Mrs. Souvannarath's phone number and advised she had contacted the general number for the ICE Field Office in Los Angeles, CA.[4] It is not known why the Petitioner's wife would contact that field office, whose areas of responsibility are limited to greater Los Angeles.[5] Nor is it clear that anyone at the Los Angeles Field Office would have been directly involved in the execution of Mr. Souvannarath's removal. Nonetheless, late Friday evening, undersigned counsel spoke with his client and forwarded this information by e-mail. As of this filing, Respondents have continued to investigate this claim but have been unsuccessful in identifying this purported official, or any other employee, who spoke with Mrs. Souvannarath on the morning of October 24.

The Court ordered the Clerk of Court to mail its order to seven (7) recipients identified by the Petitioner through a certificate of service. Doc. 4, p. 5. Respondents previously addressed the timing of this service and reproduce here the mailing that was received by the U.S. Attorney's Office on October 30, 2025. Ex. B, Mailing from the Court; *see also* Doc. 15, pp. 3-4 n.5. Respondents are prepared to address other questions regarding this timeline at the Court's hearing.

ARGUMENTS

A. <u>The Court Lacks Jurisdiction to Order Repatriation or Stay Final Removal Order</u>

Petitioner's motion seeks two forms of relief from the Court. First, he seeks return to the United States. Second, he seeks, in effect, a judicial blockade over the execution of his final removal order. The Court lacks jurisdiction to afford Petitioner either relief.

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[4] *See* https://www.ice.gov/field-office/los-angeles-field-office (last accessed November 2, 2025).

[5] The field office website, *supra* note 4, identifies the "Area of Responsibility" as the California counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, and San Luis Obispo.

Petitioner has a final order of removal issued by an immigration judge (also known as an "IJ order"). Ex. A, pp. 4-5. That order remains in effect as of this filing, and it obligates DHS to remove the Petitioner to Thailand or Laos. Under the REAL ID Act of 2005, Congress expressly eliminated the "piecemeal review of orders of removal, divided between the district courts (habeas corpus) and the courts of appeal (petitions for review)." *Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005). Three such jurisdictional barriers are applicable here.

First, "notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, ... a petition for review filed with an appropriate court of appeals in accordance with this section shall be the <u>sole and exclusive</u> means for judicial review of an order of removal entered or issued under any provision of this chapter[.]" 8 U.S.C. § 1252(a)(5).

Second, "judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from <u>any action taken</u> 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." 8 U.S.C. § 1252(b)(9).

Third, "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, ... 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 <u>execute removal orders</u> against any alien under this chapter." 8 U.S.C. § 1252(g).[6]

The Supreme Court has held that § 1252(b)(9) functions as a "zipper clause" that provides for "no judicial review in deportation cases unless this section provides for judicial review." *Reno*

[6] Immigration enforcement responsibilities were transferred from the Attorney General to the Secretary of DHS in 2002. References to the Attorney General now refer to the Secretary of DHS. *See* 6 U.S.C. §§ 202, 291, 557; *see also Clark v. Martinez*, 543 U.S. 371, 374 n.1 (2005).

v. American-Arab Anti-Discrimination Comm., 525 U.S. 471, 482-83 (1999). "In enacting section 1252(b)(9), Congress plainly intended to put an end to the scattershot and piecemeal nature of the review process that previously had held sway in regard to removal proceedings." *Aguilar v. U.S. Immigration & Customs Enf't*, 510 F.3d 1, 9 (1st Cir 2007). And § 1252(g) "was directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion." *Reno*, 525 U.S. at 485 n.9.

Fifth Circuit precedent is unequivocal: these jurisdictional limits apply to "any action directly or indirectly attacking a final order of deportation, exclusion, or removal." *Duarte v. Mayorkas*, 27 F.4th 1044, 1052 (5th Cir. 2022) (citing *Duron v. Johnson*, 898 F.3d 644, 647 (5th Cir. 2018) ("Section 1252(b)(9) operates as an unmistakable zipper clause designed to consolidate and channel review of all legal and factual questions that arise from the removal of an alien through the preordained administrative process."); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (holding the prohibition in 8 U.S.C. § 1252(g) cannot be evaded by characterizing the claim as a challenge to a different administrative action if the relief sought would preclude the execution of a removal order); *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012) (holding 8 U.S.C. § 1252(a)(5) prohibits APA claims that indirectly challenge a removal order); *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011) (same); *Estrada v. Holder*, 604 F.3d 402, 408 (7th Cir. 2010) (same)). "In other words, whenever a noncitizen's claim—regardless of how it is presented—challenges the procedure or substance of an agency decision that is 'inextricably linked' to a removal order, the federal district court lacks subject-matter jurisdiction." *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *2 (W.D. La. Sept. 11, 2025) (quoting *Duarte*, 27 F.4th at 1054-55).

Petitioner seeks immediate return to the United States. But he was removed pursuant to a final order of removal. Therefore, should he return to the United States, he would *again* be subject to removal pursuant to that same IJ order. His demands for immediate release from custody are, in practice, demands for this Court to impede the execution of his IJ order, if not to overturn it entirely through a declaration of citizenship.

Notwithstanding the issues of notice, the Court does not have jurisdiction to grant any of the relief Petitioner is seeking. His IJ order is valid and enforceable. Even where "non-frivolous" claims of citizenship have been asserted through habeas by aliens with final orders of removal, district courts lack subject matter jurisdiction to interfere in execution of the removal order. *Iasu v. Smith*, 511 F.3d 881, 888 (9th Cir. 2007) (citing *Bonhometre*, 414 F.3d at 446).

The same limits apply to repatriation or return to the United States, which would constitute a collateral attack on the execution of Petitioner's final removal order. Such a claim for relief was analyzed in *H.T. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-146-CDL-MSH, 2020 WL 12656230, at *5 (M.D. Ga. Dec. 29, 2020), *report and recommendation adopted*, No. 4:20-CV-146 (CDL), 2021 WL 5444776 (M.D. Ga. Feb. 23, 2021). In *H.T.*, the petitioner filed an application for habeas relief based on prolonged detention. *Id.* at *2. The petitioner was subsequently removed to Zimbabwe, and sought amended relief "facilitating" his return to the United States so that he could pursue review of his IJ order, which was in progress. *Id.* at *3.

The court first assessed the nature of habeas relief. "Habeas is at its core a remedy for unlawful executive detention [and] [t]he typical remedy for such detention is, of course, release." *Id.* at *3 (quoting *Munaf v. Geren*, 553 U.S. 674, 693 (2008)) (citing *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)). "Claims so far outside the 'core' of habeas may not be pursued through habeas."

Id. (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 593 U.S. 103, 119 (2020)) (citing *Skinner v. Switzer*, 562 U.S. 521, 535 (2011)).

Turning to the jurisdictional limits created by the Act, the court concluded that any facilitation of return "is, in effect, raising a claim that arises from execution of the removal order." *Id.* at *5. So that relief is foreclosed by 8 U.S.C. § 1252(g).

A similar result occurred in *Alomaisi v. Decker*, No. 20CIV5059VSBSLC, 2021 WL 611047, at *9 (S.D.N.Y. Jan. 27, 2021), *report and recommendation adopted sub nom. Alomaisi v. Mayorkas*, No. 20CV5059VSBSLC, 2021 WL 3774117 (S.D.N.Y. Aug. 25, 2021). There, a habeas petitioner sought return to the United States after removal to Yemen pursuant to an IJ order. Petitioner urged "he [was] not attacking the final order of removal, either directly or even collaterally, but instead [seeking] redress of the denied opportunity to be heard on his applications for relief." *Id.* at *7. "[W]hether a federal court has jurisdiction turns 'on the substance of the relief that the plaintiff [or petitioner] is seeking." *Id.* at *6 (quoting *Delbado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011)). The court observed that even in those cases where the petitioner, if successful, could have effectively vacated an underlying IJ order, there was no jurisdiction to set aside the final order of removal pending that adjudication. *Id.* (gathering cases). "The relief that [petitioner] seeks – 'an order returning him to the United States and prevent the [R]espondents from detaining him or removing him ... is a direct challenge to the order of removal, regardless of the fact that [he] frames his claim as a challenge to the process through which he was removed." *Id.*

The Petitioner's sole basis for challenging his detention is a purported claim of citizenship. But that misses the point. At this stage—i.e., post-final order of removal and during the execution of removal—the question is not *whether* Mr. Souvannarath is a U.S. citizen, but *who* can decide that question. "A person generally may pursue a citizenship claim in two ways." *Garza-Flores,* 38 F.4th at 443 (quoting *Lopez v. Holder*, 563 F.3d 107, 110 (5th Cir. 2009)). "A person can affirmatively seek proof of citizenship by filing an application for a certificate of citizenship under 8 U.S.C. § 1452(a), and if denied, seek relief in federal district court under 8 U.S.C. § 1503. Alternatively, a person can proceed ... by asserting citizenship defensively, in response to removal proceedings, and if denied, file a petition for review in a court of appeals under 8 U.S.C. § 1252(b)." *Id.* Here, Petitioner has done neither. He asks this Court to "declare" him a citizen, but that is relief this Court cannot provide because Petitioner has not cleared the jurisdictional hurdles necessary to obtain such a declaration under § 1503.

B. <u>Separate Barriers Implicate any Order to Facilitate Petitioner's Return</u>

Aside from the jurisdictional issues, Mr. Souvannarath's motion to compel his repatriation presents other significant hurdles. Petitioner's counsel alleges he is in a Lao jail, Doc. 11-1, p. 3, a fact that Respondents cannot confirm. But if true, on a fundamental level, this Court lacks jurisdiction over the Government of Laos, a foreign sovereign, to order his return. Similarly, the United States cannot compel the Government of Laos to take a specified action.

The Supreme Court has repeatedly recognized that "any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations [and] the war power." *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952). Such matters of foreign relations and policy "are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference." *Id.* at 589. And at least one Court has noted that "[w]hile the Supreme Court [in *Noem v. Abrego Garcia*] upheld the district court's order that the government 'facilitate Abrego Garcia's release from custody in El Salvador,' [the Supreme Court] provided little reasoning or instruction regarding the district court's jurisdiction over the relief it had ordered." *D.A. v. Noem*, Civil Action No. 25-cv-3135, 2025 WL 2646888, *8 (D.D.C. Sept. 15, 2025) (denying emergency TRO that would have prevented the return of plaintiffs, citizens of Nigeria and The Gambia, who had been removed from the United States to Ghana, to their countries of origin) (quoting *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1018 (2025)).

To be clear, this case is not *Abrego Garcia*. There, Mr. Abrego Garcia "was subject to a withholding order forbidding his removal to El Salvador . . . ." 145 S. Ct. at 1018. Mr. Souvannarath does not allege that he has any equivalent restrictions preventing the execution of his final order of removal. However, the Supreme Court in *Noem v. Abrego Garcia*, also cautioned district courts from infringing upon "the deference owed to the Executive Branch in the conduct of foreign affairs." *Noem v. Abrego Garcia*, 145 S. Ct. at 1018. Accordingly, it is the Government's position that Mr. Souvannarath's motion to compel his repatriation to the United States be denied.

C. Remaining Arguments

Respondents will briefly address a few remaining arguments that Petitioner has suggested. First, Petitioner claims he was denied "meaningful notice" to prevent his "nearly instantaneous removal." Doc. 11-1, p. 4. It is unclear what "notice" Petitioner is referencing or how his removal was "nearly instantaneous." Petitioner was detained on June 18, 2025—approximately four (4) months prior to his removal, which is hardly "instantaneous." Petitioner cites a district court case for the proposition that he be given "72-hours' notice following arrest before being physically removed." *Id.* (citing *Mei Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 402-03 (S.D.N.Y. Apr. 30, 2004)). Aside from the fact that the regulation at issue in that decision, 8 C.F.R. § 241.22, only applies to "exclusion proceedings commenced prior to April 1, 1997," *id.* § 241.20, Petitioner was served with a warrant and detained *in June*. He had more than four months to move to reopen his immigration proceedings or to seek relief in the relevant court of appeals. And even if he had done so timely, he would not be entitled to any additional notice, nor would his final order of removal be any less enforceable. *See, e.g.*, *Alomaisi*, 2021 WL 611047, at *7 ("In other words, even if [petitioner] did not have notice of his exact removal date, he offers no precedent that such notice was required, let alone how the lack of such notice would alter the conclusion that his Petition is barred by Section 1252(g).") (citing *Nieto-Ayala v. Holder*, No. 08 Civ. 8347 (LMM), 2011 WL 3918156, at *4 (S.D.N.Y. Aug. 30, 2011) (explaining that ICE is not required to await ruling on asylum application to execute removal order); *Hanif v. Gantner*, 369 F. Supp. 2d 502, 505 (S.D.N.Y. 2005) (dismissing for lack of jurisdiction mandamus petition that sought stay pending adjudication of adjustment of status application because plaintiff pointed to no authority "for the proposition that ICE has a nondiscretionary duty not to remove [plaintiff] until [USCIS] has [heard his application], or, conversely, that [USCIS] must fulfill that duty prior to ICE's execution of the removal order").

Through a separate filing, Petitioner makes unsupported allegations of "retaliation." Doc. 16, p. 3. Again, Petitioner has a valid and enforceable final order of removal. Actions taken by the Respondents to effectuate Petitioner's removal order are not "retaliation." The claim is also a red herring. The Fifth Circuit has specifically *foreclosed* such claims of "retaliation." The jurisdictional limits of § 1252(g) apply broadly, including to "claims of excessive force, denial of due process, denial of equal protection and retaliation [that] are all directly connected to the execution of the deportation order." *Foster v. Townsley*, 243 F.3d 210, 214 (5th Cir. 2001).

Petitioner suggests to the Court that it could compel his repatriation pursuant to the All Writs Act. Doc. 21, pp. 2-3. Again, such relief is foreclosed by § 1252(g), which strips the court of jurisdiction "whether invoked by habeas petition, under the All Writs Act, or under any other statutory or nonstatutory provision of law – to review claims 'arising from' a decision or action to execute a removal order against an alien." *Zarefard v. Noem*, No. 1:25-CV-00895, 2025 WL 1805864, at *1 (W.D. La. June 30, 2025) (citing *Westley v. Harper*, 25-cv-229, 2025 WL 592788, at *4 (E.D. La. 2025) (citing *Reno*, 525 U.S. at 482; 8 U.S.C. § 1252(g)); *see also Momin v. Tate*, No. 4:25-CV-4389, 2025 WL 2956131, at *2 (S.D. Tex. Oct. 1, 2025), *report and recommendation adopted*, No. 4:25CV4389, 2025 WL 2962574 (S.D. Tex. Oct. 20, 2025) (rejecting claim under All Writs Act and motion to stay removal during pendency of habeas litigation as foreclosed by § 1252(g)).

Finally, Respondents will reiterate that Petitioner has not exhausted administrative remedies for purposes of obtaining a declaration of citizenship from this Court. Under 8 U.S.C. § 1503(a), a person within the United States may bring an action for "declaration" of their U.S. nationality via the Declaratory Judgment Act, 28 U.S.C. § 2201. But such an action "may be instituted only within five years after the final administrative denial of such right or privilege" and must be filed in the district where "such person resides or claims a residence." *Id.; see also Flores v. Hartnett*, No. 21-50139, 2022 WL 101978, at *2 (5th Cir. Jan. 10, 2022). Exhaustion of administrative remedies is a jurisdictional prerequisite to seeking any such declaration. *Id.* at *3. Moreover, no person can seek such a declaration of citizenship if raised "in connection with any removal proceeding . . . ." 8 U.S.C. § 1503(a)(1). Such challenges must instead be presented to the appropriate court of appeals. *See id.* § 1252(b)(5).

Regardless, the exclusive means of review of a final order of removal is through "a petition filed with an appropriate court of appeals . . . ," 8 U.S.C. § 1252(a)(5), meaning that the order is incontestable in this proceeding. The INA explicitly reserves issues of nationality to the relevant U.S. Court of Appeals or, *if transferred*, to the district court where the petitioner resides. 8 U.S.C. § 1252(b)(5)(A)-(B) (emphasis added); *see also Omolo v. Gonzales,* 452 F.3d 404, 407 (5th Cir.

2006). "The petitioner may have such a nationality claim decided only as provided in this paragraph." 8 U.S.C. § 1252(b)(5)(C) (emphasis added).

In any event, Petitioner has not identified any legal basis compelling his return to the United States. His motion should be denied.

CONCLUSION

The Respondents regret that they could not preserve the status quo before the Petitioner's removal from the United States. The Court's order was issued ex parte, and so far as Respondents are aware, notice was not received by any officer or agent until after Petitioner had been removed. But the jurisdictional barriers to this case are real and significant. Petitioner's citizenship cannot be resolved through this Court. His final order of removal cannot be contested in this Court. The execution of that order cannot be impeded by Petitioner through this action. These are the choices Congress made in enacting the REAL ID Act of 2005. For those reasons, Respondents request the Court deny the Petitioner's motion.

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