UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Rigoberto Izquierdo Lopez Petitioner, v. Mary de Anda-Ybarra, Field Office Director for Enforcement and Removal Operations, El Paso Field Office Immigration and Customs Enforcement, *et al.*, Respondents.	)	No. 3:25-cv-00482-LS Judge Schydlower

REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, the Petitioner, RIGOBERTO IZQUIERDO LOPEZ, by and through undersigned counsel and hereby submits this Reply to the Respondent's Response to Mr. Izquierdo Lopez's Petition for Writ of Habeas Corpus. The Respondent's reply reiterates arguments that have been rejected by multiple U.S. District Courts. *See, e.g., Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025); *Martinez v. Hyde*, No. 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, Doc. 20 at 7 (W.D. La. Aug. 27, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS, Doc. 11 at 5 (C.D. Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025, at *10 (D. Md. Aug. 24, 2025); *Romero v. Hyde*,

No. 25-11631-BEM, 2025 WL 2403827, at *13 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); *Maldonado*, 2025 WL 2374411, at *13; *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988, at *8 (D. Mass. Aug. 14, 2025); *Dionisa Quinonez v. Olsen et al*, No. 1:2025-cv-13524-Document 12 (N.D. Ill. Nov. 14, 2025).

As such, Petitioner will not reply to every issue and argument made by the Respondent. The absence of any rebuttal is not, however, a waiver or abandonment of any claim or argument made previously. For the arguments not addressed here, Petitioner stands on the arguments presented in his Petition for Writ of Habeas Corpus.

I. This Court does not lack jurisdiction over this case under 8 U.S.C § 1252(g), 1252(b)(9), or 8 U.S.C. § 1252(e)(3).

Respondent argues that this Court lacks jurisdiction to hear the petition under 8 U.S.C § 1252(g), 1252(b)(9), and 8 U.S.C. § 1252(e)(3). Petitioner disagrees. Section 1252(g) is not applicable in Petitioner's case. Section 1252(g) provides that "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." 8 U.S.C. § 1252(g). In this case, Petitioner is not challenging the "commence[ment]" of removal proceedings, the "adjudication" of his case, or the "execut[ion] of removal orders against him. Instead, Petitioner is challenging the unlawfulness of his detention without a bond hearing. The Supreme Court has "rejected as 'implausible'" any claim that Section 1252(g) covers "all claims arising from deportation proceedings." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). *See also Jennings*, 583 U.S. at 294 (holding that § 1252(g) does not "sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General"; instead, the Supreme Court "read[s] the

language to refer to just those three specific actions themselves."); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) ("The provision applies only to three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'") (emphasis in original). As such, jurisdiction is not limited on this basis.

Moreover, this Court's jurisdiction is not limited by 8 U.S.C. § 1252(b)(9). Section 1252(b)(9) provides that the Court of Appeals is the exclusive forum for "judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States." 8 U.S.C. § 1252(b)(9). In this case, Petitioner is challenging the legality of his detention and the denial of his right to seek bond under the mandatory detention framework of Section 1225(b) while his removal case proceeds, not an action arising from the decision to remove Petitioner from the United States. The Supreme Court has stated that § Section 1252(b)(9) "does not present a jurisdictional bar" where petitioners are "not asking for a review of an order removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined." *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018).

Lastly, this Court's jurisdiction is not constrained by 8 U.S.C. § 1252(e)(3). Respondent's reliance on that provision is misplaced. Respondent asserts that § 1252(e)(3) applies because Petitioner was supposedly detained under 8 U.S.C. § 1225(b)(2)(A). But § 1252(e)(3) governs only challenges to the validity of expedited-removal *procedures*, and only where DHS has actually invoked those procedures. Section 1225(b)(2)(A) itself makes this explicit: if an individual is deemed inadmissible, "the officer **shall order the alien removed** from the United

States without further hearing or review." DHS has never issued such an order during Petitioner's six years in the United States.

Petitioner brings a due-process challenge to his prolonged, no-bond detention. Such a claim falls squarely within this Court's jurisdiction under 28 U.S.C. § 2241(c)(3), which authorizes relief where a person is "in custody in violation of the Constitution or laws or treaties of the United States." The Supreme Court has long confirmed that habeas jurisdiction remains intact for constitutional challenges to immigration detention. *Demore v. Kim*, 538 U.S. 510, 517 (2003). "[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const. art. I, § 9, cl. 2). Petitioner was detained within the territorial jurisdiction of this Court by a custodian subject to this Court's authority when he filed his petition. *See Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (per curiam) (confirming that "core habeas petitions" must be filed in the district of confinement).

Because Petitioner challenges the Government's asserted statutory authority as unconstitutional—not the manner in which his removal proceedings are conducted—this case does not fall within any bar under 8 U.S.C. §§ 1252(g), 1252(b)(9), or 1252(e)(3). Respondent's position attempts to collapse every constitutional challenge into an unreviewable "removal" issue. The law does not permit such a result, and this Court retains full jurisdiction to hear Petitioner's claims.

II. Respondent is eligible for bond under 8 U.S.C. §1226

Petitioner's detention must be analyzed under 8 U.S.C. § 1226(a)—not 8 U.S.C. § 1225. Petitioner entered the United States six years ago and lived here continuously without any encounter with immigration authorities until 2025. Petitioner therefore stands on the argument

advanced in his original habeas petition: he is not, and has never been, subject to mandatory detention under § 1225. The Government's attempt to classify him under that provision lacks any factual or legal foundation.

Petitioner requests that the habeas petition be granted.

Respectfully submitted,

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