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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
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13 N.A.,

14 Petitioner,

15 v.

16 CHRISTOPHER J. LAROSE, et al.,

17 Respondents.
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Case No.: 25-cv-2936 BTM MMP

**RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF
HABEAS CORPUS**

I. Introduction

Petitioner is detained in Immigration and Customs Enforcement (ICE) custody pending removal proceedings and is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). Through multiple provisions of 8 U.S.C. § 1252, Congress has stripped federal courts of jurisdiction over challenges to the commencement of removal proceedings, including the consequent detention during those proceedings. Moreover, Petitioner’s detention is mandated by statute. The Court should deny Petitioner’s requested relief and dismiss the petition.

II. Factual and Procedural Background

Petitioner is a citizen and national of El Salvador. ECF No. 1 at ¶¶ 1-2. In 2023, he entered the United States without being admitted or paroled. *Id.* On March 3, 2025, Petitioner was arrested by Florida Fish and Wildlife authorities for wrongfully harvesting oysters and placed in removal proceedings. Form I-831, attached as Exhibit 1. In connection with those proceedings, an immigration judge granted Petitioner a \$1,500 bond. ECF No. 1 at ¶ 11. DHS appealed, and the Board of Immigration Appeals (BIA) reversed the bond order because the immigration judge lacked jurisdiction. *Id.* Accordingly, Petitioner remains detained at the Otay Mesa Detention Facility pursuant to 8 U.S.C. § 1225(b)(2). *Id.* at ¶ 1. A hearing on Petitioner’s asylum application is currently scheduled for December 3, 2025.

III. Statutory Background

A. Individuals Seeking Admission to the United States

For more than a century, the immigration laws of the United States have authorized immigration officials to charge noncitizens as removable from the country, arrest those subject to removal, and detain them during removal proceedings. *See Abel v. United States*, 362 U.S. 217, 232–37 (1960). “The rule has been clear for decades: ‘[d]etention during deportation proceedings [i]s ... constitutionally valid.’” *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024) (quoting *Demore v. Kim*, 538 U.S. 510, 523 (2003)), *rehearing by panel and en banc denied*, *Banyee v. Bondi*, No. 22-2252, 2025

1 WL 837914 (8th Cir. Mar. 18, 2025). Over time, Congress has enacted a multi-layered
2 statutory scheme for the civil detention of aliens pending a decision on removal, during
3 the administrative and judicial review of removal orders, and in preparation for removal.
4 *See generally* 8 U.S.C. §§ 1225, 1226, 1231. It is the interplay between these statutes
5 that is at issue here.

6 **B. Detention Under 8 U.S.C. § 1225**

7 “To implement its immigration policy, the Government must be able to decide
8 (1) who may enter the country and (2) who may stay here after entering.” *Jennings v.*
9 *Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step
10 in this process, *id.*, stating that all “applicants for admission . . . shall be inspected by
11 immigration officers.” 8 U.S.C. § 1225(a)(3). The statute – in a provision entitled
12 “ALIENS TREATED AS APPLICANTS FOR ADMISSION” – dictates who shall be
13 deemed “an applicant for admission,” defining that term to encompass *both* an alien
14 “present in the United States who has not been admitted *or* [one] who arrives in the
15 United States” *Id.* § 1225(a)(1) (emphasis added). Section 1225(b) governs the
16 inspection procedures applicable to all applicants for admission. They “fall into one of
17 two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”
18 *Jennings*, 583 U.S. at 287.

19 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially
20 determined to be inadmissible due to fraud, misrepresentation, or lack of valid
21 documentation.” *Jennings*, 583 U.S. at 287. These aliens are generally subject to
22 expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien
23 “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration
24 officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An
25 alien “with a credible fear of persecution” is “detained for further consideration of the
26 application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent
27 to apply for asylum, express a fear of persecution, or is “found not to have such a fear,”
28

1 they are detained until removed from the United States. *Id.* §§ 1225(b)(1)(A)(i),
2 (B)(iii)(IV).

3 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*,
4 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).”
5 *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained
6 for a removal proceeding “if the examining immigration officer determines that [the]
7 alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8
8 U.S.C. § 1225(b)(2)(A); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA
9 2025) (“[A]liens who are present in the United States without admission are applicants
10 for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C.
11 § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.”);
12 *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking
13 admission into the United States who are placed directly in full removal proceedings,
14 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until
15 removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

16 **C. Detention Under 8 U.S.C. § 1226(a)**

17 Section 1226 provides for arrest and detention “pending a decision on whether
18 the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a),
19 the government may detain an alien during his removal proceedings, release him on
20 bond, or release him on conditional parole. By regulation, immigration officers can
21 release an alien who demonstrates that he “would not pose a danger to property or
22 persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An
23 alien can also request a custody redetermination (i.e., a bond hearing) by an IJ at any
24 time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a).

25 Notably, Section 1226(a) does not grant “any *right* to release on bond.” *Matter*
26 *of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)).
27 Nor does it address the applicable burden of proof or factors that must be considered.
28 *See generally* 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad

1 discretionary authority to determine, after arrest, whether to detain or release an alien
2 during his removal proceedings. *See id.* If, after the bond hearing, either party disagrees
3 with the decision of the IJ, that party may appeal the decision to the BIA. *See* 8 C.F.R.
4 §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3). The regulations also include a
5 provision that allows DHS to invoke an automatic stay of any decision by an IJ to
6 release an individual on bond when DHS files an appeal of the custody redetermination.
7 8 C.F.R. § 1003.19(i)(2).

8 **D. Review Before the Board of Immigration Appeals**

9 The BIA is an appellate body within the Executive Office for Immigration
10 Review (EOIR) that possesses delegated authority from the Attorney General. 8 C.F.R.
11 §§ 1003.1(a)(1), (d)(1). The BIA is “charged with the review of those administrative
12 adjudications under the [INA] that the Attorney General may by regulation assign to
13 it,” including IJ custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The
14 BIA is also directed to, “through precedent decisions, [] provide clear and uniform
15 guidance to DHS, the immigration judges, and the general public on the proper
16 interpretation and administration of the [INA] and its implementing regulations.” *Id.* §
17 1003.1(d)(1). Decisions rendered by the BIA are final, except for those reviewed by the
18 Attorney General. 8 C.F.R. § 1003.1(d)(7).

19 If an automatic stay of a custody decision is invoked by DHS, regulations require
20 the BIA to track the progress of the custody appeal “to avoid unnecessary delays in
21 completing the record for decision.” 8 C.F.R. § 1003.6(c)(3). The stay lapses in 90 days,
22 unless the detainee seeks an extension of time to brief the custody appeal, 8 C.F.R.
23 § 1003.6(c)(4), or unless DHS seeks, and the BIA grants, a discretionary stay. 8 C.F.R.
24 § 1003.6(c)(5). If the BIA denies DHS’s custody appeal, the automatic stay remains in
25 effect for five business days. 8 C.F.R. § 1003.6(d). DHS may, during that five-day
26 period, refer the case to the Attorney General under 8 C.F.R. § 1003.1(h)(1) for
27 consideration. *Id.* Upon referral to the Attorney General, the release is stayed for 15
28 business days while the case is considered. *Id.*

1 **IV. Argument**

2 **A. Petitioner’s Requests are Barred by 8 U.S.C. § 1252**

3 Petitioner bears the burden of establishing that this Court has subject matter
4 jurisdiction over his claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d 770,
5 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). As a
6 threshold matter, Petitioner’s claims are jurisdictionally barred under 8 U.S.C.
7 § 1252(g) and 8 U.S.C. § 1252(b)(9). *See S.Q.D.C. v. Bondi*, No. CV 25-3348
8 (PAM/DLM), 2025 WL 2617973 (D. Minn. Sept. 9, 2025) (finding no jurisdiction
9 pursuant to § 1252 and dismissing similar habeas petition).

10 Courts lack jurisdiction over any claim or cause of action arising from any
11 decision to commence or adjudicate removal proceedings or execute removal orders.
12 *See* 8 U.S.C. § 1252(g) (“[N]o court shall have jurisdiction to hear any cause or claim
13 by or on behalf of any alien arising from the decision or action by the Attorney General
14 to *commence proceedings, adjudicate cases, or execute removal orders.*”) (emphasis
15 added). In other words, § 1252(g) removes district court jurisdiction over “three discrete
16 actions that the Attorney may take: [his] ‘decision or action’ to ‘commence proceedings,
17 adjudicate cases, or execute removal orders.’” *Reno v. Am.-Arab Anti-Discrimination*
18 *Comm.*, 525 U.S. 471, 482 (1999) (emphasis removed). Petitioner’s claims necessarily
19 arise “from the decision or action by the Attorney General to commence proceedings
20 [and] adjudicate cases,” over which Congress has explicitly foreclosed district court
21 jurisdiction. 8 U.S.C. § 1252(g).

22 Section 1252(g) also bars district courts from hearing challenges to the method
23 by which the government chooses to commence removal proceedings, including the
24 decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203
25 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s
26 discretionary decisions to commence removal” and bars review of “ICE’s decision to
27 take [plaintiff] into custody and to detain him during his removal proceedings”);
28 *Valecia-Meja v. United States*, No. 08-2943 CAS (PJWz), 2008 WL 4286979, at *4

1 (C.D. Cal. Sept. 15, 2008) (“The decision to detain plaintiff until his hearing before the
2 Immigration Judge arose from this decision to commence proceedings.”); *Tazu v. Att’y*
3 *Gen. U.S.*, 975 F.3d 292, 298–99 (3d Cir. 2020) (holding that 8 U.S.C. § 1252(g) and
4 (b)(9) deprive the district court of jurisdiction to review a removal order).

5 “For the purposes of § 1252, the Attorney General commences proceedings
6 against an alien when the alien is issued a Notice to Appear before an immigration
7 court.” *Herrera-Correra v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833,
8 at *3 (C.D. Cal. Sept. 11, 2008). “The Attorney General may arrest the alien against
9 whom proceedings are commenced and detain that individual until the conclusion of
10 those proceedings.” *Id.* at *3. “Thus, an alien’s detention throughout this process arises
11 from the Attorney General’s decision to commence proceedings” and review of claims
12 arising from such detention is barred under § 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509
13 F.3d 947, 949 (9th Cir. 2007)); 8 U.S.C. § 1252(g). As such, judicial review of the claim
14 that Petitioner is entitled to bond is barred by § 1252(g). *See S.Q.D.C. v. Bondi*, 2025
15 WL 2617973 at *2 (noting that § 1252(g)’s exception for “pure questions of law” is
16 “narrow” and does not apply to such claims); *but see Vasquez Garcia v. Noem*, No. 25-
17 cv-02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025).

18 Moreover, under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law
19 and fact . . . arising from any action taken or proceeding brought to remove an alien
20 from the United States under this subchapter shall be available only in judicial review
21 of a final order under this section.” And judicial review is available only through “a
22 petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5).
23 The Supreme Court has made it clear that § 1252(b)(9) is “the unmistakable ‘zipper’
24 clause,” channeling “judicial review of all” “decisions and actions leading up to or
25 consequent upon final orders of deportation,” including “non-final order[s],” into
26 proceedings before a court of appeals. *Reno*, 525 U.S. at 483, 485; *see J.E.F.M. v.*
27 *Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9) is “breathtaking in
28 scope and vise-like in grip and therefore swallows up virtually all claims that are tied to

1 removal proceedings”). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any*
2 issue – whether legal or factual – arising from *any* removal-related activity can be
3 reviewed *only* through the [petition for review] PFR process.” *J.E.F.M.*, 837 F.3d at
4 1031.

5 Critically, “1252(b)(9) is a judicial channeling provision, not a claim-barring
6 one.” *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D)
7 provides that “[n]othing . . . in any other provision of this chapter . . . shall be construed
8 as precluding review of constitutional claims or questions of law raised upon a petition
9 for review filed with an appropriate court of appeals in accordance with this section.”
10 The petition-for-review process before the court of appeals ensures that noncitizens
11 have a forum for claims arising from their immigration proceedings and “receive their
12 day in court.” *J.E.F.M.*, 837 F.3d at 1031-32 (internal quotations omitted). That said,
13 these provisions also divest district courts of jurisdiction to review both direct and
14 indirect challenges to removal orders, including decisions to detain for purposes of
15 removal or for proceedings. *See Jennings*, 583 U.S. at 294-95. Accordingly, this Court
16 should deny Plaintiff’s petition for lack of jurisdiction.

17 **B. Petitioner is Subject to Mandatory Detention**

18 The Court should reject any argument that 8 U.S.C. § 1226(a) governs
19 Petitioner’s detention instead of 8 U.S.C. § 1225. When there is “an irreconcilable
20 conflict in two legal provisions,” then “the specific governs over the general.”
21 *Karczewski v. DCH Mission Valley LLC*, 862 F.3d 1006, 1015 (9th Cir. 2017). Section
22 1226(a) applies to those “arrested and detained pending a decision” on removal. In
23 contrast, section 1225 is narrower. It applies only to “applicants for admission”; that is,
24 as relevant here, aliens present in the United States who have not be admitted. *See*
25 *Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023). Because
26 Petitioner falls within that category, the specific detention authority under § 1225
27 governs over the general authority found at § 1226(a).

28

1 Under 8 U.S.C. § 1225(a), an “applicant for admission” is defined as an “alien
2 present in the United States who has not been admitted or who arrives in the United
3 States.” Applicants for admission “fall into one of two categories, those covered by
4 § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section
5 1225(b)(2) – the provision relevant here – is the “broader” of the two. *Id.* It “serves as
6 a catchall provision that applies to all applicants for admission not covered by
7 § 1225(b)(1)” and mandates detention. *Id.* at 297; *see also Matter of Yajure Hurtado*,
8 29 I&N Dec. at 218-19 (for “those aliens who are seeking admission and who an
9 immigration officer has determined are ‘not clearly and beyond a doubt entitled to be
10 admitted’ . . . the INA explicitly requires that this third ‘catchall’ category of applicants
11 for admission be mandatorily detained for the duration of their immigration
12 proceedings”); *Matter of Q. Li*, 29 I&N Dec. at 69 (“[A]n applicant for admission who
13 is arrested and . . . subsequently placed in removal proceedings is detained under section
14 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on
15 bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”). Section 1225(b) applies
16 to Petitioner because he is present in the United States without being admitted. *See*
17 *Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 (BIA 2012) (“many people who are not
18 *actually* requesting permission to enter the United States in the ordinary sense are
19 nevertheless deemed to be ‘seeking admission’ under the immigration laws”); *Matter*
20 *of Yajure Hurtado*, 29 I&N Dec. at 221 (noting “no legal authority for the proposition
21 that after some undefined period of time residing in the interior of the United States
22 without lawful status, the INA provides that an applicant for admission is no longer
23 ‘seeking admission,’ and has somehow converted to a status that renders him or her
24 eligible for a bond hearing under section 236(a) of the INA”).

25 Statutory language “is known by the company it keeps.” *Marquez-Reyes v.*
26 *Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*, 579
27 U.S. 550, 569 (2016)). The phrase “seeking admission” in § 1225(b)(2)(A) must be read
28 in the context of the definition of “applicant for admission” in § 1225(a)(1). Applicants

1 for admission are both those individuals present without admission and those who arrive
2 in the United States. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be “seeking
3 admission” under §1225(a)(1). *See Matter of Yajure Hurtado*, 29 I&N Dec. at 221;
4 *Lemus-Losa*, 25 I&N Dec. at 743. Congress made that clear in § 1225(a)(3), which
5 requires all aliens “who are applicants for admission or otherwise seeking admission”
6 to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word “or” here
7 “introduce[s] an appositive – a word or phrase that is synonymous with what precedes
8 it (‘Vienna or Wien,’ ‘Batman or the Caped Crusader’).” *United States v. Woods*, 571
9 U.S. 31, 45 (2013). If Congress did not want § 1225(b)(2)(A) to apply to “applicants
10 for admission,” then it would not have included the phrase “applicants for admission”
11 in the subsection. *See* 8 U.S.C. § 1225(b)(2)(A); *see also Corley*, 556 U.S. at 314.

12 When the plain text of a statute is clear, “that meaning is controlling” and courts
13 “need not examine legislative history.” *Washington v. Chimei Innolux Corp.*, 659 F.3d
14 842, 848 (9th Cir. 2011). Indeed, “in interpreting a statute a court should always turn
15 first to one, cardinal canon before all others.” *Conn. Nat’l Bank v. Germain*, 503 U.S.
16 249, 253-54 (1992). The Supreme Court has “stated time and again that courts must
17 presume that a legislature says in a statute what it means and means in a statute what it
18 says there.” *Id.* (citations omitted). Thus, “[w]hen the words of a statute are
19 unambiguous, then, this first canon is also the last: ‘judicial inquiry is complete.’” *Id.*
20 (citing *Rubin v. United States*, 449 U.S. 424 at 430 (1981)).

21 But to the extent legislative history is relevant here, nothing “refutes the plain
22 language” of § 1225. *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th
23 Cir. 2011). Congress passed IIRIRA to correct “an anomaly whereby immigrants who
24 were attempting to lawfully enter the United States were in a worse position than
25 persons who had crossed the border unlawfully.” *Torres v. Barr*, 976 F.3d 918, 928 (9th
26 Cir. 2020) (en banc). It “intended to replace certain aspects of the [then] current ‘entry
27 doctrine,’ under which illegal aliens who have entered the United States without
28 inspection gain equities and privileges in immigration proceedings that are not available

1 to aliens who present themselves for inspection at a port of entry.” *Matter of Yajure*
2 *Hurtado*, 29 I&N Dec. at 234 (quoting H.R. Rep. 104-469, pt. 1, at 225). Petitioner’s
3 position requires an interpretation that would put aliens who “crossed the border
4 unlawfully” in a better position than those “who present themselves for inspection at a
5 port of entry.” *Id.* Such interpretation would allow aliens who presented at a port of
6 entry to be subject to mandatory detention under § 1225, but those who crossed illegally
7 eligible for a bond under § 1226(a). *See Matter of Yajure Hurtado*, 29 I&N Dec. at 225
8 (“The House Judiciary Committee Report makes clear that Congress intended to
9 eliminate the prior statutory scheme that provided aliens who entered the United States
10 without inspection more procedural and substantive rights than those who presented
11 themselves to authorities for inspection.”).

12 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which is binding on IJs,
13 clearly directs: “Based on the plain language of section 235(b)(2)(A) of the Immigration
14 and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack
15 authority to hear bond requests or to grant bond to aliens who are present in the United
16 States without admission.” Because Petitioner is properly detained under § 1225, he
17 cannot show entitlement to relief and his petition should be denied. This was the
18 conclusion reached by another court in this district on nearly identical facts. *See Chavez*
19 *v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025)
20 (finding that “[b]y the plain language of § 1225(a)(1),” immigration detainees are
21 “‘applicants for admission’ and this subject to the mandatory detention provisions of
22 ‘applicants for admission’ under § 1225(b)(2)’”).

23 Although Respondents acknowledge that other courts in this district have come
24 to different conclusions, Respondents maintain that Petitioner is properly subject to
25 mandatory detention under § 1225 and dismissal is proper. *Cf. Vargas Lopez v. Trump*,
26 No. 8:25CV526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025); *Sandoval v. Acuna*,
27 No. 6:25-CV-01467, 2025 WL 3048926, at *5 (W.D. La. Oct. 31, 2025). To the extent
28 the Court finds this Petitioner subject to detention authority under 8 U.S.C. § 1226(a),

1 however, Respondents contend the proper remedy would be to direct a new bond
2 hearing under § 1226(a) because the Court lacks jurisdiction to order reinstatement of
3 the IJ’s bond order that was vacated by the BIA. *See* 8 U.S.C. § 1226(e) (“No court may
4 set aside any action or decision by the Attorney General under this section regarding
5 the detention of any alien or the revocation or denial of bond or parole.”); *Jennings v.*
6 *Rodriguez*, 583 U.S. 281, 295 (2018) (“As we have previously explained, § 1226(e)
7 precludes an alien from ‘challeng[ing] a “discretionary judgment” by the Attorney
8 General or a “decision” that the Attorney General has made regarding his detention or
9 release.’ But § 1226(e) does not preclude ‘challenges [to] the statutory framework that
10 permits [the alien’s] detention without bail.”); 8 U.S.C. § 1226(b) (“The Attorney
11 General at any time may revoke a bond or parole authorized under subsection (a),
12 rearrest the alien under the original warrant, and detain the alien.”).

13 **C. Claims Regarding Expedited Removal Are Unfounded**

14 Petitioner’s habeas petition asserts allegations concerning expedited removal
15 proceedings, which are conducted pursuant to 8 U.S.C. § 1225(b)(1). However,
16 Petitioner is in removal proceedings under 8 U.S.C. § 1229a and has not been placed
17 into expedited removal. As such, there is no controversy concerning expedited removal
18 for this Court to resolve. Federal courts do not have jurisdiction “to give opinions upon
19 moot questions or abstract propositions, or to declare principles or rules of law which
20 cannot affect the matter in issue in the case before it.” *Church of Scientology of Cal. v.*
21 *United States*, 506 U.S. 9, 12 (1992) (internal quotations and citations omitted). Here,
22 any claims regarding expedited removal are unfounded.

23 **V. CONCLUSION**

24 The Court should deny Petitioner’s petition and dismiss this case.

25 DATED: November 12, 2025

26 ADAM GORDON
27 United States Attorney
28 *s/ Michael Garabed*
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Assistant United States Attorney