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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAMUEL DAVID GRANADILLO ARAUJO,

Petitioner,

v.

CHRISTOPHER J. LAROSE, *et al.*,

Respondents.

Case No.: 3:25-cv-02942-BTM-MMP

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION

I. INTRODUCTION

Petitioner Samuel David Granadillo Araujo is currently detained in Immigration and Customs Enforcement ("ICE") custody pursuant to 8 U.S.C. § 1225(b)(2). Petitioner's habeas petition seeks, *inter alia*, immediate release. 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 pending removal proceedings. Moreover, Petitioner's detention is mandated by statute. The Court should deny and dismiss the petition.

II. FACTUAL BACKGROUND[1]

Petitioner is a citizen and national of Venezuela. Decl. of Hugo Lara Ramirez ("Ramirez Decl.") ¶ 4; ECF No. 1 ¶ 21. On September 29, 2024, Petitioner arrived at the Calexico Port of Entry as a CBP-One appointment and applied for admission to the United States. Ramirez Decl. ¶ 5. At the time of his arrival, he was not in possession of a valid entry document. *Id.* He was determined to be an arriving alien applying for admission and inadmissible under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document. *Id.* He then was placed in removal proceedings under 8 U.S.C. § 1229a ("240 proceedings") and issued a Notice to Appear. *Id.*; ECF No. 1 ¶ 23. On the same day of the initial encounter, Petitioner was released from the U.S. Department of Homeland Security's ("DHS") custody on humanitarian parole. Ramirez Decl. ¶ 5; *see* 8 U.S.C. § 1182(d)(5)(A).

On July 28, 2025, a Form I-200, Warrant for Arrest, was issued for Petitioner's arrest, and subsequently, Petitioner was apprehended by San Diego ICE/ERO. Ramirez Decl. ¶¶ 7, 8; Ex. 1. At that same time, a Form I-860, Notice and Order of Expedited Removal,[2] was issued and served upon Petitioner, which terminated Petitioner's previously granted parole. *Id.* ¶ 9; Ex. 2.

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[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

[2] Upon resolution of the appeal of the immigration judge's dismissal order, and if the termination order becomes final, DHS will move forward with the Order of Expedited

On August 5, 2025, a custody redetermination hearing was held before an immigration judge. Ex. 3 at 1. The immigration judge found that it had no jurisdiction to redetermine Petitioner's custody status because he is an arriving alien, and his detention is authorized by § 1225. *Id.* Notably, counsel for the Petitioner conceded the Court's lack of jurisdiction on the record. *Id.*

On August 12, 2025, an immigration judge granted DHS's motion to dismiss Petitioner's 240 removal proceedings so that Petitioner could be placed in expedited removal proceedings. Ramirez Decl. ¶ 6; Ex. 4. On September 4, 2025, Petitioner filed an appeal of the immigration judge's dismissal order with the Board of Immigration Appeals ("BIA"), which remains pending. Ramirez Decl. ¶ 6. Petitioner is currently detained at the Otay Mesa Detention Center and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

III. ARGUMENT

A. Petitioner's Claims and Requested Relief are Jurisdictionally Barred

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction over his claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). As a threshold matter, Petitioner's claims are jurisdictionally barred under 8 U.S.C. § 1252(g) and 8 U.S.C. § 1252(b)(9).

Courts lack jurisdiction over any claim or cause of action arising from any decision to commence or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) ("[N]o 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.") (emphasis added). Section 1252(g) also bars district courts from hearing challenges to the method by which the government chooses to commence removal proceedings, including the

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Removal. ERO is not seeking to pursue expedited removal proceedings, under 8 U.S.C. § 1225(b)(1), until the pending appeal before the BIA becomes administratively final. Ramirez Decl. ¶ 11.

decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and bars review of "ICE's decision to take [plaintiff] into custody and to detain him during his removal proceedings").

Removal proceedings commence by the filing of a notice to appear in immigration court. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 600 (9th Cir. 2002). "The Attorney General may arrest the alien against whom proceedings are commenced and detain that individual until the conclusion of those proceedings." *Herrera-Correra v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008). "[A]n alien's detention throughout this process arises from the Attorney General's decision to commence proceedings." *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007)); 8 U.S.C. § 1252(g); *but see Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025).

Here, Petitioner's claims arise from his detention during removal proceedings, which stem from the Attorney General's decision to commence such proceedings. As such, § 1252(g) bars this Court's review over Petitioner's claims. *See S.Q.D.C. v. Bondi*, No. 25-3348 (PAM/DLM), 2025 WL 2617973, at * 2 (D. Minn. Sept. 9, 2025) (finding that § 1252(g) jurisdictionally bars review of a petitioner's challenge to ongoing detention during removal proceedings).

Moreover, under 8 U.S.C. § 1252(b)(9), "[j]udicial review of all questions of law and fact . . . *arising from any action taken 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." (emphasis added). Further, judicial review of a final order is available only through "a petition for review filed with an appropriate court of appeals." 8 U.S.C. § 1252(a)(5). The Supreme Court has made clear that § 1252(b)(9) is "the unmistakable 'zipper' clause," channeling "judicial review of all" "decisions and actions leading up to or consequent upon final orders of deportation," including "non-final order[s]," into proceedings before a court of appeals. *Reno v. Am.-Arab Anti-*

Discrimination Comm., 525 U.S. 471, 483, 485 (1999); *see J.E.F.M. v Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9) is "breathtaking in scope and vise-like in grip and therefore swallows up virtually all claims that are tied to removal proceedings"). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition for review] PFR process." *J.E.F.M.*, 837 F.3d at 1031 ("[W]hile these sections limit *how* immigrants can challenge their removal proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose *all* judicial review of agency actions. Instead, the provisions channel judicial review over final orders of removal to the courts of appeal.") (emphasis in original); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings"). These provisions divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (section 1252(b)(9) includes challenges to the "decision to detain [an alien] in the first place or to seek removal").

While holding that it was unnecessary to comprehensively address the scope of § 1252(b)(9), the Supreme Court in *Jennings* provided guidance on the types of challenges that may fall within the scope of § 1252(b)(9). *See Jennings*, 583 U.S. at 293–94. The Court found that "§ 1252(b)(9) [did] not present a jurisdictional bar" in situations where "respondents . . . [were] not challenging the decision to detain them in the first place." *Id.* at 294–95. In this case, Petitioner does challenge the government's decision to detain him in the first place. Though Petitioner attempts to frame his challenge as one relating to detention authority, rather than a challenge to DHS's decision to detain him in the first instance, such creative framing does not evade the preclusive effect of § 1252(b)(9). Indeed, that Petitioner is challenging the basis upon which he is detained is enough to trigger § 1252(b)(9) because "detention *is* an 'action

taken . . . to remove' an alien." *See Jennings*, 583 U.S. at 319 (emphasis in original); *see also* 8 U.S.C. § 1252(b)(9).

The Court should dismiss this matter for lack of jurisdiction under 8 U.S.C. § 1252. *See S.Q.D.C.*, 2025 WL 2617973.

B. Petitioner is Lawfully Detained

Petitioner's claims for alleged statutory and constitutional violations must be denied because he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

While Petitioner was previously released from custody, his parole was properly terminated upon his re-detention. On July 28, 2025, he was served with a Notice and Order of Expedited Removal, which served to terminate his parole status. Ex. 2; *see* 8 CFR § 212.5(e)(2)(i) ("When a charging document is served on the alien, the charging document will constitute written notice of termination of parole . . . ."). The termination of his parole emphasizes his status as an applicant for admission, subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See* 8 U.S.C. § 1182(d)(5)(A) (". . . *such parole of such alien shall not be regarded as an admission* of the alien and when the purposes of such parole shall . . . have been served the alien shall forthwith return or be return to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other *applicant for admission* to the United States") (emphasis added).

Section 1225(b)(2)(A) requires mandatory detention of "an alien who is *an applicant for admission*, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added); *see Barrios Sandoval v. Acuna, et al.*, No. 6:25-cv-01467, 2025 WL 3048926, at *3 (W.D. La. Oct. 31, 2025); *Chavez v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025). Section 1225(a)(1) "expressly defines that '[a]n alien present in the United States who has not been admitted … shall be deemed for purposes of this Act *an applicant for admission.*'" *Chavez,* 2025 WL 2730228, at *4 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in

original).

Here, Petitioner is an "arriving alien," not in possession of a valid entry document as required by the Immigration and Nationality Act. Ex. 2; *see also* 8 U.S.C. § 1182(d)(5)(A) ("such parole of such alien shall not be regarded as an admission of the alien."). Notably, both in the Petition, *see* ECF No. 1 ¶ 33, and at a custody redetermination hearing before an immigration judge, *see* Ex. 3, Petitioner conceded that he is an "arriving alien." Thus, as mandated by the plain language of the statute, Petitioner is an "applicant for admission" and subject to the mandatory detention provisions of § 1225(b)(2).

Because Petitioner is properly detained under § 1225(b)(2), he cannot show entitlement to relief.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny the petition and dismiss this action.

DATED: November 17, 2025

Respectfully submitted,

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s/ Alyssa Sanderson
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