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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JAMEURAHMAN NOORI, Petitioner, v. CHRISTOPHER J. LAROSE, *et al.*, Respondents.	Case No.: 3:25-cv-03006-BAS-MMP **RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION**

I. INTRODUCTION

Petitioner Jameurahman Noori 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 Afghanistan. ECF No. 1 ¶ 37. On June 17, 2024, Petitioner arrived at the San Ysidro Port of Entry as a CBP-One appointment and applied for admission to the United States. *Id.* ¶ 39. At the time of his arrival, he was not in possession of a valid entry document. 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. He then was placed in removal proceedings under 8 U.S.C. § 1229a ("240 proceedings") and issued a Notice to Appear. ECF No. 1 ¶ 40; Ex. 1. 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. ECF No. 1 ¶ 39; *see* 8 U.S.C. § 1182(d)(5)(A). On December 12, 2024, an immigration judge terminated Petitioner's removal proceedings without prejudice. *Id.* ¶ 41; Ex. 2.

On October 4, 2025, Petitioner was apprehended by military police and subsequently transferred to ICE custody. Ex. 3 at 2. He was then charged with inadmissibility under 8 U.S.C. § 1182(a)(7)(i)(I), as an immigrant not in possession of a valid entry document. *Id.* at 3. On October 6, 2025, Petitioner was served with a Notice to Appear, initiating new removal proceedings and terminating Petitioner's previously

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

granted parole. Ex. 4. Petitioner is currently detained at the Otay Mesa Detention Center and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). ECF No. 1 ¶ 5.

III. ARGUMENT

A. Petitioner Brings Improper Habeas Claims

To the extent Petitioner bases his claims on applications for relief from removal and removal proceedings, such claims are an improper basis for habeas review. An individual may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody" under federal authority "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically "provide[s] a means of contesting the lawfulness of restraint and securing release."). To determine if a claim sounds in habeas jurisdiction, a court considers "whether, based on the allegations in the petition, release is *legally required* irrespective of the relief requested." *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on the petitioner's claim would "necessarily lead to immediate or speedier release."). Here, a review of such claims would not automatically entitle him to release from detention. *See Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300783, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners' claims did not arise under § 2241 because they were not arguing they were unlawfully in custody and receiving the requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) ("Like in *Pinson*, the Court lacks jurisdiction over Petitioner's § 2241 habeas petition since it cannot be fairly read as attacking 'the legality or duration of confinement.'") (quoting *Pinson*, 69 F.4th at 1065).

While Petitioner correctly acknowledges that he is in removal proceedings, he argues that the commencement of such proceedings deprives him "of the bundle of rights associated with his pending asylum application." ECF No. 1 ¶ 58. However, the commencement of removal proceedings is not subject to judicial review. *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."). Moreover, the filing of Petitioner's Notice to Appear simply transferred jurisdiction over Petitioner's asylum application to an immigration judge. *See also* 8 C.F.R. § 208.2(b) ("Immigration judges shall have exclusive jurisdiction over asylum applications filed by an alien who has been served a . . . Notice to Appear."). Within his removal proceedings under § 1229a, Petitioner may apply for relief from removal with an immigration judge, including asylum under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and relief under the Convention Against Torture.

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 Committee*, 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"). Critically, "1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) ("[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]"). The petition-for-review process before the court of appeals ensures that noncitizens have a proper forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law.").

Thus, Petitioner's claims unrelated to the lawfulness of his current detention do not arise under § 2241 and should be dismissed.

B. 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 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). While holding that it was unnecessary to comprehensively address the scope of § 1252(b)(9), the Supreme Court in *Jennings v. Rodriguez* provided guidance on the types of challenges that may fall within the scope of § 1252(b)(9). *See Jennings*, 583 U.S. 281, 293–94 (2018). 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.

C. 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 on humanitarian parole, his parole was properly terminated upon his re-detention. On October 6, 2025, he was served with a Notice to Appear, which served to terminate his parole status. Ex. 4; *see* 8 CFR § 212.5(e)(2)(i) ("When a charging document is served on the alien, the charging

1 document will constitute written notice of termination of parole . . . ."). The termination
2 of his parole emphasizes his status as an applicant for admission, subject to mandatory
3 detention under 8 U.S.C. § 1225(b)(2). *See* 8 U.S.C. § 1182(d)(5)(A) (". . . *such parole*
4 *of such alien shall not be regarded as an admission* of the alien and when the purposes
5 of such parole shall . . . have been served the alien shall forthwith return or be return to
6 the custody from which he was paroled and thereafter his case shall continue to be dealt
7 with in the same manner as that of any other *applicant for admission* to the United
8 States") (emphasis added).

9 Section 1225(b)(2)(A) requires mandatory detention of "an alien who is *an*
10 *applicant for admission*, if the examining immigration officer determines that an alien
11 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]" 8 U.S.C.
12 § 1225(b)(2)(A) (emphasis added); *see Barrios Sandoval v. Acuna, et al.*, No. 6:25-cv-
13 01467, 2025 WL 3048926, at *3 (W.D. La. Oct. 31, 2025); *Chavez v. Noem*, No. 3:25-
14 cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025). Section 1225(a)(1)
15 "expressly defines that '[a]n alien present in the United States who has not been
16 admitted … shall be deemed for purposes of this Act *an applicant for admission*.'"
17 *Chavez,* 2025 WL 2730228, at *4 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in
18 original).

19 Here, Petitioner is an "arriving alien," not in possession of a valid entry document
20 as required by the Immigration and Nationality Act. Ex. 4; *see also* 8 U.S.C. §
21 1182(d)(5)(A) ("such parole of such alien shall not be regarded as an admission of the
22 alien."). Thus, as mandated by the plain language of the statute, Petitioner is an
23 "applicant for admission" and subject to the mandatory detention provisions of §
24 1225(b)(2).

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

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IV. CONCLUSION

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

DATED: November 13, 2025

Respectfully submitted,

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s/ Alyssa Sanderson
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