UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Maria Paramo Onate,	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 4:25-cv-05547
	§	
Pam Bondi, et al,	§	
	§	
Respondents.	§	

RESPONSE TO SHOW CAUSE ORDER

Respondents Pam Bondi, United States Attorney General; Kristi Noem, Secretary of the U.S. Department of Homeland Security; Bret Bradford, Houston Field Office Director, Immigration and Customs Enforcement; and Randall Tate, Warden, Montgomery Processing Center hereby respond to the Court's Order to Show Cause (ECF No. 6) regarding why Petitioner should not be released from custody.

BACKGROUND

Petitioner is in removal proceedings and has been issued a Notice to Appear. ECF No. 1 at 3. Petitioner is detained in Conroe, Texas and filed this suit seeking release. *Id.* at 5. Petitioner has a bond hearing scheduled for December 2, 2025 at 1:00 p.m. before the immigration court. Ex. 1.

ARGUMENT

A. Detention during removal proceedings is permissible.

Petitioner questions whether the Government will prevail in her upcoming removal proceedings (ECF No. 1 at 3) yet provides no legal basis to challenge her detention in the

interim. "Detention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003); *see also Arquimedes Maceda Jimenez v. Raymond Thomson et al*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025) (Eskridge, J.) ("[T]he Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings.") (quoting *Demore*, 538 U.S. at 531).

B. Petitioner did not exhaust her administrative remedies prior to filing the Petition.

As a threshold matter, the Court should deny the habeas petition because Petitioner has not administratively exhausted her claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking judicial relief, a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies); *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (same); *United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992) (same).

A petitioner seeking release from detention must first request a bond from an immigration judge. *Singh v. U.S. Immigr. & Customs Enf't*, No. 4:22-CV-3432, 2023 WL 3571958, at *2 (S.D. Tex. Apr. 26, 2023) (Bennett, J.) In *Singh*, immigration officials revoked Singh's bond and returned him to immigration detention under § 1226. *Id.* An Immigration Judge ordered Singh removed, and his appeal to the BIA remained pending. *Id.* Singh filed a § 2241 petition in federal district court, arguing that his continued detention violated his due process rights. *Id.* The Court denied his § 2241 motion because he failed to exhaust administrative remedies. *Id.* at *2. Specifically, the Court held: "Immigration habeas petitioners

must exhaust administrative and judicial remedies available to them prior to seeking habeas relief through the district courts under 28 U.S.C. § 2241." *Id.* The Court applied this to Singh's case: "In the instant case, petitioner has not exhausted his available remedies for challenging his current detention. Specifically, he can request a bond hearing before an immigration judge to challenge his re-arrest and current detention." *Id.* Because Singh had failed to make such a request, habeas relief was unwarranted. *Id.*

Here, Petitioner has a bond hearing scheduled for December 2, 2025 at 1:00 p.m. before the immigration court. Ex. 1. If bond is denied, she must appeal to (and receive a decision from) the BIA for the matter to be administratively exhausted. *See Abdoulaye Ba v. Director of Detroit Field Office, ICE*, No. 4:25-CV-02208, 2025 WL 2977712, at *2 (N.D. Ohio Oct. 22, 2025) (dismissing for failure to exhaust where petitioner had yet to appeal to the BIA). The bond proceedings are currently pending, and Petitioner does not have a final administrative bond order.

For the sake of clarity, the Fifth Circuit has recognized exceptions to the exhaustion requirement and noted that they "apply only in extraordinary circumstances," including when exhaustion would be "patently futile." *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (quotation omitted). *Fuller* is illustrative of lack of futility, where the petitioner argued that administrative appeal was futile because the time for filing an appeal has already elapsed. *See id.* The Fifth Circuit disagreed, holding that "until he actually appeals and that appeal is acted on, we do not know what the appeals board will do with [petitioner]'s claim, and until the appeals board has been given an opportunity to act, [petitioner] has not exhausted his administrative remedies."

Id. Without exhaustion, the result of Petitioner's appeal is unknown, so her Petition should be denied.

C. To the extent that Petitioner is challenging the decision to place her in removal proceedings, the Court lacks jurisdiction to hear that claim.

Petitioner cannot challenge the decision to place her in removal proceedings. Section 1252(g) categorically bars jurisdiction over "*any* cause or claim by or on behalf of any alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence proceedings*, adjudicate cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g) (emphasis added). The Secretary of Homeland Security's decision to *commence removal proceedings*, including the decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar. In other words, detention clearly "aris[es] from" the decision to commence removal proceedings against an alien. *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 also to review "ICE's decision to take [plaintiff] into custody and to detain him during removal proceedings"); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir. 2020) ("The text of § 1252(g) . . . strips us of jurisdiction to review the Attorney General's decision or *action* . . . to . . . execute [a] removal order[ ] . . . . [T]o perform or complete a removal, the Attorney General must exercise [her] discretionary power to detain an alien for a few days. That detention does not fall within some other part of the deportation process.") (citations and quotations omitted). As such, to the extent that Petitioner is challenging the decision to place her in removal proceedings, her claim is barred by § 1252(g).

CONCLUSION

For the foregoing reasons, Petitioner should not be released at this time.

Dated: December 1, 2025

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I certify that on December 1, 2025, the foregoing was filed and served on the counsel for Petitioner through the Court's CM/ECF system.

/s/ Myra Siddiqui
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