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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 OKECHUKWU DESMOND AMADI,
12 Petitioner,

13 v.

14 WARDEN JEREMY CASEY, *et al.*,
15 Respondents.

Case No.: 25-cv-03497-RSH-BJW
**RESPONDENTS' RETURN TO
HABEAS PETITION**

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1 I. INTRODUCTION

2 Petitioner has filed a habeas petition requesting that this Court order his
3 immediate release from Immigration and Customs Enforcement (ICE) custody or
4 require that he be afforded a bond hearing. For the reasons set forth below, the Court
5 should deny Petitioner’s requests for relief and dismiss the petition.¹

6 II. FACTUAL AND PROCEDURAL BACKGROUND²

7 Petitioner is a native of Canada and a citizen of Nigeria. ECF No. 1 at 9, ¶ 1. On
8 or about August 26, 1997, Petitioner entered the United States as a non-immigrant
9 pursuant to an F1-visa (i.e., student). Form I-213 (Apr. 14, 2025), attached as Exhibit
10 1. On October 20, 2004, he adjusted status to a lawful permanent resident. *Id.*

11 On September 28, 2017, Petitioner flew into the United States from France.
12 Form I-213 (Sept. 28, 2017), attached as Exhibit 2. At that time, Petitioner had an
13 outstanding arrest warrant in the United States, therefore, he was arrested at the airport
14 and paroled into the United States for federal prosecution. *Id.* CBP paroled Petitioner
15 into the United States only for 90 days and only for purposes of federal prosecution.
16 *Id.* On April 10, 2019, the United States District Court, Middle District of Florida,
17 convicted Petitioner for the offense of conspiracy to commit money laundering and
18 money laundering in violation of 18 U.S.C. § § 1956(h) and 1856(a)(1)(B)(i). *Id.* He
19 was sentenced to one-hundred and thirty-five months in prison and ordered to pay
20 restitution in the amount of \$1,358,500.00. Ex. 1.

21 On April 14, 2025, Enforcement and Removal Operations (ERO) encountered
22 Petitioner at Bureau of Prisons in Butner, North Carolina. *Id.* On this same day, the
23 Department of Homeland Secured lodged an immigration detainer with the Butner
24 Federal Corrections Institution. Form I-247A, attached as Exhibit 3. On May 2, 2025,
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26 ¹ For purposes of judicial efficiency, Respondents herein respond to both
27 Petitioner’s habeas petition and motion for temporary restraining order.

28 ² The information contained within this factual background has been obtained
from ICE counsel. Further, the attached exhibits are true copies, with redactions of
private information, of documents obtain from ICE counsel.

1 Petitioner was transferred to ICE custody.

2 On May 2, 2025, Petitioner was issued a Notice to Appear, charging him as
3 inadmissible under 8 U.S.C. § 1182(a)(2)(A)(i)(I) (as an alien present in the United
4 States who admits to committing acts which constitute the essential elements of a crime
5 involving moral turpitude or an attempt or conspiracy to commit such a crime). *See*
6 ECF No. 1-2 at 1. On May 21, 2025, the immigration court held a bond hearing and
7 determined that the court did not have jurisdiction to order bond because Petitioner is
8 an arriving alien. Order of Immigration Judge (May 21, 2025), attached as Exhibit 4.

9 On September 26, 2025, Petitioner was served with Additional Charges of
10 Inadmissibility/Deportability, charging him as inadmissible under 8 U.S.C. §
11 1182(a)(2)(I)(i) (as an alien who a consular officer or the Attorney General knows, or
12 has reason to believe, has engaged in, is engaging, or seeks to enter the United States
13 to engage, in an offense which is described in section 1956 or 1957 of title 18, United
14 States Code (related to laundering of monetary instruments)) and 8 U.S.C. §
15 1182(a)(2)(I)(ii) (as an alien who a consular office or the Attorney General knows is,
16 or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in
17 an offense which is described in such action). Form I-261, attached as Exhibit 5.

18 The filing of the NTA initiated removal proceedings against Petitioner, and those
19 proceedings remain ongoing. Within his removal proceedings under § 1229a,
20 Petitioner has filed applications for asylum under 8 U.S.C. § 1158, withholding of
21 removal under 8 U.S.C. § 1231(b)(3), relief under the Convention Against Torture,
22 cancellation of removal for certain permanent residents, and a waiver of inadmissibility
23 under 8 U.S.C. § 1182(h). On December 2, 2025, the immigration judge (IJ) issued an
24 order premitting Petitioner's applications for relief. Order of Immigration Judge
25 (Dec. 2, 2025), attached as Exhibit 6. Petitioner has an individual hearing before the IJ
26 on December 29, 2025, however, on December 22, 2025, Petitioner filed a motion to
27 continue the individual hearing.

28 Petitioner remains detained in ICE custody under 8 U.S.C. § 1225(b)(2), as his

1 detention is mandatory.

2 **III. ARGUMENT**

3 **A. Petitioner’s Claims are Barred by 8 U.S.C. § 1252.**

4 Respondents contend that judicial review over Petitioner’s claim is barred by 28
5 U.S.C. § 1252(g), which states that “[n]o court shall have jurisdiction to hear any cause
6 or claim by or on behalf of any alien arising from the decision or action by the Attorney
7 General to commence proceedings, adjudicate cases, or execute removal orders.”

8 Here, Petitioner’s claims of unlawful detention necessarily arise from the
9 Department of Homeland Security’s³ decision to commence removal proceedings
10 against him because that decision unavoidably triggers mandatory detention under 8
11 U.S.C. § 1225(b)(1)(B)(ii) until the conclusion of his removal proceedings. *See, e.g.,*
12 *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D.
13 Cal. Aug. 18, 2010) (finding section 1252(g) bars judicial review of false imprisonment
14 claim because the plaintiff’s detention arose from the decision to commence removal
15 proceedings, and in turn, the “statute mandating detention during removal proceedings
16 of a person charged as an ‘arriving alien.’”).

17 As explained by another district court, removal proceedings are commenced
18 when, as occurred here, “the alien is issued a Notice to Appear before an immigration
19 court.” *Herrera-Correra v. United States*, No. CV 08–2941 DSF (JCx), 2008 WL
20 11336833, at *3 (C.D. Cal. Sept. 11, 2008); *see also* ECF No. 1-2. The government
21 “may arrest the alien against whom proceedings are commenced and detain that
22 individual until the conclusion of those proceedings.” *Herrera-Correra*, 2008 WL
23 11336833, at *3. “Thus, an alien’s detention throughout this process arises from the
24 [government’s] decision to commence proceedings” and review of claims arising from
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27
28 ³ “In 2002, Congress transferred the Attorney General’s immigration enforcement responsibilities to the Secretary of Homeland Security.” *Ibarra-Perez v. United States*, 154 F.4th 989, 995 n.2 (9th Cir. 2025).

1 such detention is barred under section 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d
2 947, 949 (9th Cir. 2007)); *see also Wang*, 2010 WL 11463156, at *6.

3 Because this habeas petition brings a claim “arising from the decision or action
4 by the [government] to commence proceedings,” review of Petitioner’s claim is barred
5 under 8 U.S.C. § 1252(g).

6 Moreover, under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law
7 and fact . . . arising from any action taken or proceeding brought to remove an alien
8 from the United States under this subchapter shall be available only in judicial review
9 of a final order under this section.” Further, judicial review of a final order is available
10 only through “a petition for review filed with an appropriate court of appeals.”
11 8 U.S.C. § 1252(a)(5). The Supreme Court has made clear that § 1252(b)(9) is “the
12 unmistakable ‘zipper’ clause,” channeling “judicial review of all” “decisions and
13 actions leading up to or consequent upon final orders of deportation,” including
14 “non-final order[s],” into proceedings before a court of appeals. *Reno*, 525 U.S. at 483,
15 485; *see J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9)
16 is “breathhtaking in scope and vise-like in grip and therefore swallows up virtually all
17 claims that are tied to removal proceedings”). “Taken together, § 1252(a)(5) and
18 § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-
19 related activity can be reviewed *only* through the [petition for review] PFR process.”
20 *J.E.F.M.*, 837 F.3d at 1031 (“[W]hile these sections limit *how* immigrants can challenge
21 their removal proceedings, they are not jurisdiction-stripping statutes that, by their
22 terms, foreclose *all* judicial review of agency actions. Instead, the provisions channel
23 judicial review over final orders of removal to the courts of appeal.”) (emphasis in
24 original); *see id.* at 1035 (“[Sections] 1252(a)(5) and [(b)(9)] channel review of all
25 claims, including policies-and-practices challenges . . . whenever they ‘arise from’
26 removal proceedings.”).

27 Critically, “1252(b)(9) is a judicial channeling provision, not a claim-barring
28 one.” *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D)

1 provides that “[n]othing . . . in any other provision of this chapter . . . shall be construed
2 as precluding review of constitutional claims or questions of law raised upon a petition
3 for review filed with an appropriate court of appeals in accordance with this section.”
4 *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) (“[J]urisdiction to review
5 such claims is vested exclusively in the courts of appeals[.]”). The petition-for-review
6 process before the court of appeals ensures that aliens have a proper forum for claims
7 arising from their immigration proceedings and “receive their day in court.” *J.E.F.M.*,
8 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*,
9 627 F.3d 58, 61 (2d Cir. 2010) (“The REAL ID Act of 2005 amended the [INA] to
10 obviate . . . Suspension Clause concerns” by permitting judicial review of
11 “nondiscretionary” BIA determinations and “all constitutional claims or questions of
12 law”). These provisions divest district courts of jurisdiction to review both direct and
13 indirect challenges to removal orders, including decisions to detain for purposes of
14 removal or for proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018)
15 (stating section 1252(b)(9) includes challenges to the “decision to detain [an alien] in
16 the first place or to seek removal”).

17 Thus, as Petitioner’s claims arise from the decision to commence proceedings,
18 this Court lacks jurisdiction under 8 U.S.C. § 1252.

19 **B. Petitioner’s Detention is Lawful and Mandatory.**

20 Petitioner’s claims for alleged statutory and constitutional violations fail because
21 Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

22 On September 28, 2017, Petitioner arrived at the United States. At that time,
23 Petitioner had an outstanding arrest warrant in the United States, therefore, he was
24 arrested at the airport and paroled into the United States for federal prosecution. CBP
25 paroled Petitioner into the United States for 90 days and only for purposes of federal
26 prosecution. The termination and expiration of his parole emphasizes his status as an
27 applicant for admission, subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
28 *See* 8 U.S.C. § 1182(d)(5)(A) (“. . . *such parole of such alien shall not be regard as an*

1 *admission* of the alien and when the purposes of such parole shall . . . have been served
2 the alien shall forthwith return or be return to the custody from which he was paroled
3 and thereafter h[er] case shall continue to be dealt with in the same manner as that of
4 any other *applicant for admission* to the United States”) (emphasis added); *see also* 8
5 CFR § 212.5(e)(2)(i) (“When a charging document is served on the alien, the charging
6 document will constitute written notice of termination of parole . . .”).

7 Moreover, while Petitioner had acquired lawful permanent resident status, he is
8 still considered an arriving alien subject to the same restrictions placed onto arriving
9 aliens because of his criminal history. “An alien lawfully admitted for permanent
10 residence in the United States shall not be regarded as seeking an admission into the
11 United States for purposes of the immigration laws *unless* the alien . . . has committed
12 an offense identified in section 1182(a)(2) of this title, unless since such offense the
13 alien has been granted relief under section 1182(h) or 1229b(a) of the title.” 8 U.S.C.
14 § 1101(a)(13)(C)(v). Petitioner was paroled into the United States for charges of
15 money laundering and then was convicted of money laundering and conspiracy to
16 commit money laundering.

17 Petitioner requests that the Court order him released from ICE custody. But the
18 Supreme Court has rejected such contention, explaining: “Read most naturally,
19 §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until
20 certain proceedings have concluded. . . . Nothing in the statutory text imposes any limit
21 on the length of detention. And neither § 1225(b)(1) nor § 1225(b)(2) says anything
22 whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Except for temporary
23 parole granted at the discretion of the Attorney General “for urgent humanitarian
24 reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5), “there are no *other*
25 circumstances under which aliens detained under § 1225(b) may be released.” *Id.* at 300
26 (emphasis in original).

27 As Petitioner’s removal proceedings are pending, and he has not been granted
28 temporary parole, section 1225(b)(1)(B) mandates his detention until the proceedings

1 have concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention
2 under § 1225(b) must end as well.”). Because Petitioner is lawfully detained under
3 section 1225(b)(2) and the statute does not entitle him to release at this time, his
4 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151
5 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to
6 find that the petitioner had no right to release or a bond hearing).

7 **C. Petitioner’s Detention is Not Unconstitutionally Prolonged**

8 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.
9 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]
10 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain
11 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)
12 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither
13 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The
14 Supreme Court added that the sole means of release for noncitizens detained pursuant
15 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary
16 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300
17 (“That express exception to detention implies that there are no *other* circumstances
18 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis
19 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens
20 throughout the completion of applicable proceedings[.]” *Id.* at 302.

21 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
22 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
23 detention without a hearing violated his constitutional rights. The Supreme Court
24 rejected the petition, concluding that the noncitizen’s continued detention did not
25 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial
26 entry stands on a different footing: ‘Whatever the procedure authorized by Congress
27 is, it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation
28 omitted).

1 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
2 (2020), the Supreme Court once again addressed the due process rights of inadmissible
3 arriving noncitizens seeking initial entry into the United States. The Supreme Court
4 stated that such individuals have no due process rights “other than those afforded by
5 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only
6 those rights regarding admission that Congress has provided by statute.”). The
7 Supreme Court noted that its determination was supported by “more than a century of
8 precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660
9 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.
10 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due
11 Petitioner is that afforded under section 1225(b), the Court must reject his claim that
12 his detention violates the Fifth Amendment’s Due Process Clause and deny his
13 requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at
14 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The
15 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme
16 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make
17 rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore*
18 *v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4
19 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks
20 any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond
21 hearing.”).

22 Since the Supreme Court’s decision in *Thuraissigiam*, numerous published
23 decisions have acknowledged *Thuraissigiam*’s impact on the precise Fifth Amendment
24 Due Process Clause that Petitioner might have raised in this petition: Does an alien
25 detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond
26 hearing after being detained for a certain period of time? The answer is no. *See*
27 *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, *2
28 (S.D. Cal. June 10, 2024) (“[T]he Court finds that Petitioner has no Fifth Amendment

1 right to a bond hearing pending his removal proceedings.”); *Zelaya-Gonzalez*, 2023
2 WL 3103811. *3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*,
3 535 F. Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F.
4 Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579
5 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

6 Even if the Court infers a constitutional right against prolonged mandatory
7 detention, Petitioner’s claim still fails. “In general, as detention continues past a year,
8 courts become extremely wary of permitting continued custody absent a bond hearing.”
9 *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal.
10 April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-
11 BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half
12 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL
13 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,
14 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at *2 (S.D. Cal. March 29, 2019) (two
15 years). Petitioner’s detention falls significantly short of the length courts have found to
16 raise due process concerns.

17 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,
18 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801,
19 at *5 (“[W]hile the *Mathews* [*v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-
20 suited to determining whether due process requires a second bond hearing, they are not
21 particularly dispositive of whether prolonged mandatory detention has become
22 unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-
23 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding
24 “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of
25 the possible constitutional implications of Petitioner’s ongoing detention without
26 process.”).

27 Under *Lopez*, to determine whether continued mandatory detention has become
28 unreasonable, “the Court will look to the total length of detention to date, the likely

1 duration of future detention, and the delays in the removal proceedings caused by the
2 petitioner and the government.” 631 F. Supp. 3d at 879.

3 First, Petitioner has been detained for approximately 7 months. Courts in this
4 district have found detention for much longer periods to be unreasonably prolonged.
5 *See Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at *5 (S.D. Cal.
6 Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL 3028093, at *4 (19 months);
7 *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years); *Kydyrali v. Wolf*, 499 F. Supp.
8 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at *1 (42
9 months). The length of detention “is the most important factor.” *Sanchez-Rivera*, 2023
10 WL 139801, at *6 (citation omitted). And Petitioner’s current detention does not fall
11 within the range those courts have found to be unreasonable. Moreover, the length of
12 Petitioner’s detention, by itself, does not favor granting habeas relief. *See Sadeqi v.*
13 *LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12,
14 2025) (“The Court agrees with Respondents that the length of Petitioner’s detention to
15 date—almost 12 months—does not by itself, without more, establish prolonged
16 detention in violation of due process.”). Not only does the length of Petitioner’s
17 detention fall comparatively short of the length courts in this district have found to
18 warrant habeas relief, but the other *Lopez* factors do not favor habeas relief either.

19 Second, the likely duration of future detention weighs against Petitioner. There
20 is no reason to believe that once Petitioner’s individual hearing is concluded, the IJ will
21 not issue an order resolving Petitioner’s asylum application. *Id.* at 8:12-15 (“Although
22 the outcome of this hearing is yet to be determined, this fact does not support
23 Petitioner’s claim that his detention will continue for a significant time in the future.
24 At this juncture, the Court declines to engage in the speculation that Petitioner relies
25 on in his argument on this point.”). Moreover, on December 22, 2025, Petitioner filed
26 a motion to continue his individual hearing to allow additional time to gather materials
27 in support of his application for relief under the Convention Against Torture.

28 Finally, there is no indication of any delay in the removal proceedings on the

1 part of the government.

2 Balancing the above factors, the record does not support a finding that “detention
3 has become so unreasonable as to require an initial bond hearing,” *Sanchez-Rivera*,
4 2023 WL 139801, at *6, or an order requiring Petitioner’s release. Thus, the Court
5 should reject Petitioner’s claim that his mandatory detention entitled him to be released
6 from ICE custody during the pendency of his removal proceedings.

7 **IV. CONCLUSION**

8 For the reasons stated above, the Court should deny the petition.

9 DATED: December 23, 2025

Respectfully submitted,

10
11 ADAM GORDON
United States Attorney

12
13 *s/ Mary Cile Glover-Rogers*
MARY CILE GLOVER-ROGERS
14 Assistant United States Attorney
15 Attorney for Respondents
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