UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

LUIS ANGEL MALDONADO FLORES,	:	**No. 1:25-cv-02398**
Petitioner,	:	
	:	
v.	:	**(Wilson, J.)**
	:	
CRAIG LOWE, et al.,	:	
Respondents.[1]	:	**Filed Electronically**

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER

This is a habeas action filed on December 14, 2025, by Petitioner, Luis Angel Maldonado Flores, a former immigration detainee[2] of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), who was detained at the Pike County Correctional Facility in Lords Valley, Pennsylvania. (Doc. 1 at 2.) Specifically, Maldonado Flores requests the Court grant a writ of habeas corpus and "order the government to stay Luis's removal until he is able to

[1] Although Petitioner named several other government officials, the only proper respondent in this case is Craig Lowe, the Warden of Pike County Correctional Facility. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) ("[T]he default rule is that the proper respondent is the warden of the facility where the prison is being held, not the Attorney General or some other remote supervisory official."). Petitioner requests release from confinement. (Doc. 1 at 42, ¶ d.) As such, all other Respondents should be dismissed.

[2] Petitioner was transferred to Texas on December 13, 2025, and removed from the United States on December 14, 2025, at approximately 11:50 a.m. Eastern Standard Time.

fully adjudicate his motion to reopen removal proceedings, including any petition for review to the U.S. Court of Appeals." (Doc. 1 at 5.)

I. PROCEDURAL HISTORY

On December 12, 2025, Petitioner through counsel filed the instant Petition seeking declaratory judgment that his removal would violate the Immigration and Nationality Act (INA), seeking an injunction to prevent his removal until he completes the discretionary reopening of his immigration proceedings in Michigan, seeking an injunction ordering his release from detention, and an award of fees and cost pursuant to the Equal Access to Justice Act (EAJA).[3] (Doc. 1 at 19-20.) On December 13, 2025, Maldonado Flores also filed a Motion for Temporary Restraining Order "asking the Court to enjoin Respondents from removing Petitioner from the jurisdiction of this court pending adjudication of his petition for writ of habeas corpus." (Doc. 2.) Maldonado Flores' counsel did not include in that motion a certification of "any efforts made to give notice and the reasons why it should not be required." Fed. R. Civ. P. 65(b)(1)(B). The motion was granted by this Court on December 14, 2025, and the Court directed Respondent to respond to the Petition on

[3] As of the date of this filing, the United States Attorney's Office has not been served with the Petition or the motion for a Temporary Restraining Order (TRO).

or before December 22, 2025.[4] (Doc. 3.) This Response is filed in accordance with that Order.

II. FACTUAL BACKGROUND

Maldonado Flores is a native and citizen of Honduras. (Exhibit 1, DHS Record of Deportable/Inadmissible, at 1-2; Exhibit 2, Notice to Appear, at 8.) Maldonado Flores was a minor when he entered the United States illegally with his mother and was arrested on or about May 19, 2003. (Exhibit 1 at 2.)

On May 22, 2003, ICE issued a Notice to Appear directed to Maldonado Flores. (Exhibit 2 at 8.) The Notice to Appear charged him as removable pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), in that he is a noncitizen present in the United States without being admitted or paroled, or

[4] On Sunday, December 14, 2025, the undersigned received an email on his government mobile telephone from Chambers addressed to him and Assistant U.S. Attorney Richard D. Euliss. That email included courtesy copies of the petition (Doc. 1), the motion for a temporary restraining order (Doc. 2), and the order to show cause (Doc. 3). The undersigned did not review the attached documents at that time. The undersigned acknowledged the receipt of the email from Chambers by responding at 9:39 a.m. – the time when the undersigned first viewed the email. Upon returning to the office on Monday, December 15, 2025, Assistant U.S. Attorney Richard D. Euliss reviewed the Court's order and first appreciated that a TRO was issued and immediately contacted counsel for ICE to notify the agency of the TRO and was informed that ICE had already removed the Petitioner. It took until today for the U.S. Attorney's Office to confirm the approximate time of Petitioner's removal through a declaration signed on December 17, 2025. (Exhibit 4.) Any inadvertent noncompliance with the TRO by the U.S. Attorney's Office or DHS/ICE was neither willful nor with knowledge of the issuance of the TRO by the Court.

who arrived in the United States at any time or place other than as designated by the Attorney General. (*Id.*) The Notice to Appear was served on Maldonado Flores on October 31, 2003. (*Id.* at 2.)

On September 24, 2004, an Immigration Judge in Detroit, Michigan, issued an Order granting him voluntary departure in lieu of removal, with a departure date on or before January 22, 2005. (Exhibit 2, Order of Immigration Judge, at 6-7; Exhibit 4, Declaration of John J. Coulter, Jr., ¶ 1.) On October 1, 2004, Maldonado Flores received a Notice of Action-Voluntary Departure confirming the Order to self deport. (*Id.* at 5.) Maldonado Flores failed to depart, thus converting his voluntary departure into a removal order. (Exhibit 2 at 5, 6-7; Exhibit 4, Coulter Decl., ¶ 2.)

On July 17, 2005, a Warrant of Removal/Deportation was issued for Maldonado Flores. (*Id.,* at 2-4.) According to the records of the Immigration Court in Detroit, dated December 16, 2025, Maldonado Flores did not file any appeal of his Order granting voluntary departure. (Exhibit 3 at 2.) Additionally, there are no future hearings currently scheduled. (*Id.* at 1.) Further, appeal was waived before the immigration court on September 24, 2004. (Exhibit 2 at 7.)

On December 2, 2025, Maldonado Flores, was arrested by ICE and detained at the Pike County Correctional Facility, in Pennsylvania. (Doc. 1 at 5; Exhibit 1 at 2.) A database review confirms that Maldonado Flores was transferred from Newark to Harlingen, Texas on Saturday, December 13, 2025. (Exhibit 4 ¶ 5.) He was

removed on Sunday, December 14, 2025, on a flight that departed at approximately 10:50 a.m. Central time (11:50 a.m. Eastern Time). (*Id.* ¶ 6.) Counsel for Maldonado Flores forwarded the Court's Sunday morning Order issuing a show cause and granting the TRO to a Philadelphia and Harlingen ERO email mailboxes at approximately 10:07 a.m. Eastern Standard Time, receipt of which cannot be confirmed. (*Id.* ¶ 7.) Maldonado Flores' Motion to Reopen or Motion to Stay was received by DHS on December 15, 2025. (*Id.* ¶ 8.)

III. QUESTIONS PRESENTED

A. Whether the Petition is moot due to the removal of the Petitioner on December 14, 2025?

B. Alternatively, whether the Petition should be dismissed for lack of jurisdiction over Petitioner's claims seeking to stay his post-final order removal?

C. Alternatively, if the Court holds that it had jurisdiction, whether the Court should find that any inadvertent noncompliance with the TRO does not require relief because the TRO does not comply with the requirements of Fed. R. Civ. P. 65 and because Petitioner cannot demonstrate likelihood of success on the merits?

IV. ARGUMENT

A. Whether the Petition is moot due to the removal of the Petitioner on December 14, 2025?

This Court should dismiss the Petition as moot because he is no longer in ICE custody and there is no further relief available to him. *Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690, 698-99 (3d Cir. 1996) (finding that "[i]f developments occur

during the course of adjudication that eliminate a plaintiff's personal stake in the outcome of a suit or prevent a court from being able to grant the requested relief, the case must be dismissed as moot."). "A necessary predicate for the granting of federal habeas relief to [petitioners] is a determination by the federal court that their custody violates the Constitution, laws, or treaties of the United States." *Rose v. Hodges*, 423 U.S. 19, 21 (1975) (citing 28 U.S.C. § 2241). "[A] petition for habeas corpus relief generally becomes moot when a prisoner is released from custody before the court has addressed the merits of the petition." *DeFoy v. McCullough*, 393 F.3d 439, 441 (3d Cir. 2005). "[M]ootness, however it may have come about, simply deprives us of our power to act; there is nothing for us to remedy, even if we were disposed to do so." *Spencer v. Kemna*, 523 U.S. 1, 8 (1998).

Courts have held that where a petitioner challenges continued detention arising from immigration removal proceedings, the petition should be dismissed upon the removal of the petitioner. *Vasquez v. Aviles*, 639 Fed. Appx. 898, 902 (3d Cir. 2016); *Kurtishi v. Cicchi*, 270 Fed. Appx. 197, 199 (3d Cir. 2008) (affirming district court's dismissal of petition as moot because petition was no longer detained and had already been deported, noting "[i]n view of Kurtishi's deportation, there are no remaining collateral consequences that may be redressed by success on Kurtishi's challenge under § 2241 to his 'continued restraint by DHS-ICE'"); *Calderon v. Bondi*, Civ. No. 25-14827, 2025 WL 3268396 * 2-4 (W.D.Pa. Nov. 24, 2025)

(removal to third country mooted claims challenging continued immigration detention). Here, Petitioner was removed on December 14, 2025. Therefore, the Petition which challenges his detention while he seeks to reopen his immigration proceedings is now moot.

B. Alternatively, whether the Petition should be dismissed for lack of jurisdiction over Petitioner's claims seeking to stay his post-final order removal?

Even if the case was not moot, the Court lacks jurisdiction to preclude ICE from executing a final order of removal. Here, Petitioner seeks declaratory judgment that his removal would violate the Immigration and Nationality Act (INA), an injunction to prevent his removal until he completes immigration proceedings in Michigan, an injunction ordering his release from detention, and an award of fees and cost pursuant to the Equal Access to Justice Act (EAJA). (Doc. 1 at 19-20.) Habeas is not meant for such relief. *See DHS v. Thuraissigiam*, 591 U.S. 103, 118 (2020) (finding that the alien's requested relief of "vacatur of his removal order and an order directing the Department to provide him with a new opportunity to apply for asylum and other relief from removal falls outside the scope of the common-law habeas writ") (cleaned up); *id.* at 119-20 ("the opportunity to remain lawfully in the United States" falls outside the scope of habeas relief).

As the Third Circuit has observed:

> By raising his claims in the wrong proceeding, [Petitioner] chose a path that cannot lead to relief. He demands that the Attorney General wait

> before removing him. And he contests how the Government [ ]detained him to remove him promptly. But both claims challenge the act of executing his removal order. So under § 1252(g) and (b)(9), we and the District Court lack jurisdiction. He can pursue both claims, of course, but not here. He must raise them in his petition for review before the [proper court of appeals].

Tazu v. Att'y Gen., 975 F.3d 292, 300 (3d Cir. 2020).

1. 8 U.S.C. §1252(g)

Section 1252(g) provides that "no 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 against any alien under this chapter." 8 U.S.C. §1252(g). That bar applies "notwithstanding any other provision of law, including [the habeas statute.]" *Id.* This provision strips jurisdiction to adjudicate Petitioner's claims challenging his detention and removal.

a. Section 1252(g) was "'directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion'" and "similar discretionary decisions." *Tazu*, 975 F.3d at 297 (quoting *Reno v. Am.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 485 (1999)). Through §1252(g) and other provisions of the INA, Congress "aimed to prevent removal proceedings from becoming 'fragment[ed], and hence prolong[ed].'" *Id.* at 296 (alterations in original) (quoting *AADC*, 525 U.S. at 487); *see Rauda v. Jennings*, 55 F.4th 773, 777-78 (9th Cir. 2022)

(Congress' intent was to "streamline immigration proceedings by limiting judicial review to final orders, litigated in the context of petitions for review").

To achieve these ends, §1252(g) prohibits district courts from adjudicating any and all challenges related to the commencement of removal proceedings—not only whether to remove, but also when to remove. *See Tazu*, 975 F.3d at 297; *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002). Likewise, the statute bars district courts from hearing challenges to the method by which the Secretary of Homeland Security chooses to commence removal proceedings—including whether to detain an alien pending removal proceedings. *See Tazu*, 975 F.3d at 298-99 (holding that §1252(g) bars review of Government's decision to "re-detain[] him for prompt removal").

Here, Petitioner is seeking declaratory judgment that his removal would violate the Immigration and Nationality Act (INA), an injunction to prevent his removal until he completes immigration proceedings in Michigan, an injunction ordering his release from detention, and an award of fees and cost pursuant to the Equal Access to Justice Act (EAJA). (Doc. 1 at 19-20.) Those challenges fall squarely within Section 1252(g)'s bar on judicial review of "any cause or claim … arising from the decision or action … to commence proceedings … or execute removal orders against any alien under this chapter." 8 U.S.C. §1252(g).

b. A contrary holding as to Petitioner's statutory and constitutional claims (Doc. 1 at 19) would enable aliens to freely circumvent §1252(g)'s jurisdictional bar. However, §1252(g)'s prohibition applies regardless of whether noncitizen "restyle[s]" his challenge as being directed "to the Executive's general lack of authority to violate due process, equal protection, the Administrative Procedure Act, or some other federal law." *Tazu*, 975 F.3d at 298; *see also E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021) (reading §1252(g) as divesting courts over challenges to "executive branch decisions or actions"); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (recognizing that aliens may not "make an end-run around the terms of [§1252(g)] by simply characterizing their complaint"). "If a plaintiff is, at bottom, challenging [an action covered by §1252(g)], then regardless of how she technically pleads her claim, it's a challenge to [such action]. And district courts lack jurisdiction over such claims." *Duarte v. Mayorkas*, 27 F.4th 1044, 1063 (5th Cir. 2022) (Willett, J, concurring in part and dissenting in part). That is the case here.

It makes no difference that Petitioner is raising a statutory and constitutional challenge. *AADC* held that §1252(g) unequivocally closed the door to aliens raising a First Amendment challenge to the commencement of proceedings. 525 U.S. at 487-92 (holding that §1252(g) deprived district court of jurisdiction over claim that certain aliens were targeted for deportation in violation of the First Amendment);

Tazu, 975 F.3d at 298, 300 (reading §1252(g) to cover constitutional challenges to the execution of a removal order). Indeed, in *AADC* the government admitted that "the alleged First Amendment activity was the basis for selecting the individuals for adverse action." 525 U.S. at 488 n.10. Nonetheless, the Supreme Court found that the "challenge to the Attorney General's decision to 'commence proceedings' against them falls squarely within §1252(g)[.]" *Id.* at 487.

c. Whether or not §1252(g) strips the Court of jurisdiction over Petitioner's claims, the Court's issuance of a TRO is contrary to §1252(g). The TRO falls within the heartland of §1252(g)'s prohibition on federal courts deciding claims "arising from the decision or action by the Attorney General to … execute removal orders." *See, e.g., Cardoso*, 216 F.3d at 517 (holding that §1252(g) precluded entering "injunction commanding the Attorney General to adjust her immigration status and precluding the Attorney General from executing pending removal orders").

* * *

The instant case is substantially similar to a challenge brought by a habeas petitioner who was removed during the pendency of his habeas petition and sought an order for his return to the United States so he could pursue a motion to reopen immigration proceedings and apply for a U-visa. *Hector G.M. v. Warden Elizabeth*

Detention Center, No. 20-2521, 2021 WL 5320854 (3d Cir. Nov. 16, 2021). Relying largely on *Tazu*, a panel of the Third Circuit in *Hector G.M.* observed as follows:

> García Mendoza did not challenge the execution of his removal through a petition for review of a final order of removal, as he could have. Instead, he sought to pursue that challenge through a habeas petition. But by enacting subsection (g), Congress stripped away that alternative, and federal courts lack jurisdiction over García Mendoza's habeas petition.

Id. at *3. The Court further observed:

> [T]he presence of a separate federal question does not exempt García Mendoza's habeas petition from subsection (g). *See Tazu*, 975 F.3d at 297 (holding that due process challenges to removal are not immune to the provisions of § 1252(g)). To the extent that García Mendoza had any cognizable due process challenge to his removal procedures, he could have raised it in a petition for review, *see* 8 U.S.C. § 1252(a)(2)(D), but he waived that right.

Id. at *4. Here too, Petitioner waived appeal of his 2004 order by the immigration court for voluntary departure. Since 2004, Petitioner did not seek to obtain relief from the only venue Congress has vested with jurisdiction of the question of whether may legally remain in the United States until after his arrest on December 2, 2025. As the Third Circuit has repeatedly held, any relief for Petitioner's claims must be brought in that venue through a petition for review. Thus, this Court should hold likewise and dismiss the Petition for lack of jurisdiction pursuant to §1252(g).

2. 8 U.S.C. §1252(b)(9)

As stated above, any challenge to Petitioner's removal proceedings must be pursued through a petition for review in the appropriate court of appeals after a final

order of removal. *See* 8 U.S.C. §1252(a)(5), (b)(9). Petitioner cannot short-circuit that process by seeking collateral review in this Court until the immigration court acts on the motion to reopen and any future proceedings.

The INA provides that "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, 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." 8 U.S.C. §1252(b)(9). And Congress has prescribed a single path for judicial review of orders of removal: "a petition for review filed with an appropriate court of appeals." 8 U.S.C. §1252(a)(5); *see also Verde-Rodriguez v. Att'y Gen. U.S.*, 734 F.3d 198, 201 (3d Cir. 2013). Read together, these provisions express Congress's intent to channel judicial review of every aspect of removal proceedings into the petition-for-review process in the courts of appeals. *See Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (highlighting Congress's "clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals)"). Therefore, "most claims that even relate to removal" are improper if brought before the district court. *E.O.H.C. v. DHS*, 950 F.3d 177, 184 (3d Cir. 2020); *see also AADC*, 525 U.S. at 483 (labeling §1252(b)(9) an "unmistakable zipper clause," and defining a zipper clause as "[a] clause that says 'no judicial review in deportation cases unless this section provides judicial

review.'"); *Vasquez v. Aviles*, 639 Fed. Appx. 898, 900-01 (3d Cir. 2016); *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) ("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] process.").

Here, Petitioner's claims undeniably request "[j]udicial review" of "questions of law and fact ... arising from a[] ... proceeding brought to remove [him]." 8 U.S.C. §1252(b)(9). Therefore, the Court lacks jurisdiction over the Petition and it must be dismissed. *See E.O.H.C.*, 950 F.3d at 183, 187-88 (applying provision to aliens who had their proceedings reopened and argued that their statutory right-to-counsel was being infringed upon); *Tonfack v. Attorney General*, 580 Fed. Appx. 79 (3d Cir. 2014)(applying provisions to post-final order noncitizen where an immigration judge granted his motion to reopen seeking relief under the Convention Against Torture (CAT) to challenge his removal previously ordered to Cameroon); *Turcios v. ODDO*, Civ. No. 3:25-cv-0083, 2025 WL 1904384 (W.D.Pa. July 10, 2025) (applying the provisions and denying a TRO for lack of jurisdiction where noncitizen challenged his removal to a third country not stated on his removal order without meaningful notice and opportunity to be heard); Y.J.C. v. ODDO, Civ. No. 3:24-cv-0179, 2025 WL 1953256 (W.D.Pa. July 16, 2025) (same).

C. Alternatively, if the Court holds that it had jurisdiction, the Court should find that any inadvertent noncompliance with the TRO does not require relief because the TRO does not comply with the requirements of Fed. R. Civ. P. 65 and Petitioner cannot demonstrate likelihood of success on the merits.

1. Fed. R. Civ. P. 65 requires a TRO issued without prior to notice to meet the following:

> (b) Temporary Restraining Order.
> (1) Issuing Without Notice. The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:
> (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
> (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

The Third Circuit has observed that is contrary to law to issue a TRO where a petitioner's counsel has failed to certify in writing that it complied with Rule 65(B)(1)(B). *See Hope v. Warden York County Prison*, 972 F.3d 310, 321 (3d Cir. 2020). Here, no such certification accompanied Petitioner's motion, (Docs. 2; 2-1), and indeed the U.S. Attorney's Office has no record of Petitioner's counsel making any effort to give notice of the motion for temporary restraining order. [5] And while styled as "verified," the petition is not, in fact, verified by Petitioner or any other person with first-hand knowledge of the facts of this case. Therefore, the Court

[5] The rationale for this rule requiring movant's counsel to notify the non-movant is manifest in the current circumstances.

should not have issued the TRO as the requirement of Rule 65(b)(1)(B) had not been met. *See Diaz Aparicio v. Craig Lowe*, Civ. No. 3:25-cv-02413 (M.D.Pa. Dec. 16, 2025) (J. Saporito) (Doc. 2, Order) (denying the issuance of a TRO where the requirements of Rule 65 had not been met) (attached).

2. The requirements for the issuance of a preliminary injunction include: (1) the plaintiff is likely to succeed on the merits; (2) the plaintiff is likely to suffer irreparable harm if an injunction is not granted; (3) the balance of equities tips in the plaintiff's favor; and (4) an injunction is in the public interest. *Nken v. Holder*, 556 U.S. 418 (2009) (citing *Winter v. Natural Resources Defense Council*, Inc., 555 U.S. 7, 20 (2008)). Here, based on the lack of jurisdiction described above, Petitioner's challenges to the execution of his post-final order of removal are not likely to succeed on the merits. Moreover, detention of a noncitizen with a post-final order of removal, such as Petitioner here, is permissible unless there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Petitioner's motion did not raise a challenge to whether his post-final order detention pursuant to 8 U.S.C. §1231 would be unconstitutionally prolonged. To the contrary, Petitioner asserted that it was imminent. (Doc. 2 at 2.)

* * *

Based on the above, the TRO should not have issued because it did not meet the requirement under Rule 65 and Petitioner did not demonstrate that he was likely to succeed on the merits.

V. CONCLUSION

Based on the above, the Court should dismiss the Petition as moot. Alternatively, the Court should dismiss the Petition for lack of jurisdiction. Finally, if the Court were to find it has jurisdiction, if the Court holds that it had jurisdiction, the Court should find that any inadvertent noncompliance with the TRO does not require relief because the TRO does not comply with the requirements of Fed. R. Civ. P. 65 and Petitioner cannot demonstrate likelihood of success on the merits.

Respectfully submitted,
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Dated: December 17, 2025

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

TAHIROU SAMASSA	:	**No. 1:25-cv-02197**
Petitioner,	:	
	:	
v.	:	**(Wilson, J.)**
	:	
CRAIG LOWE, et al.,	:	
Respondents.	:	**Filed Electronically**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on December 17, 2025, she served a copy of the attached

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER

via Electronic Filing:
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/s/Maureen Yeager
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