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8 DIEGO ALEJANDRO LARA URRIOLO

9 UNITED STATE DISTRICT COURT
10 SOUTHER DISTRICT OF CALIFORNIA

11 DIEGO ALEJANDRO LARA
12 URRIOLO,

13 Plaintiff,

14 v.

15 CHRISTOPHER J. LAROSE, Senior
16 Warden, Otay Mesa Detention Center;
17 DANIEL A. BRIGHTMAN, San Diego
18 Field Office Director, Immigration and
19 Customs Enforcement and Removal
20 Operations ("ICE/ERO"); TODD M.
21 LYONS, Acting Director of Immigration
22 Customs Enforcement ("ICE"); U.S.
23 Immigration and Customs
24 Enforcement; KRISTI NOEM, Secretary
25 of the Department of Homeland
26 Security ("DHS"); U.S. Department of
27 Homeland Security; and PAMELA
28 BONDI, Attorney General of the United
States,

Respondents.

CASE NO.:

PETITIONER'S TRAVERSE IN SUPPORT
OF PETITION FOR WRIT OF HABEAS
CORPUS

SLG
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INTRODUCTION

1 This case concerns the limits of the Government’s detention authority and the judiciary’s duty to
2 enforce those limits. Mr. Lara Urriola does not challenge the Government’s discretion to initiate
3 removal proceedings or to make a lawful custody decision in the first instance. Consistent with that
4 principle, Respondents now concede that Mr. Lara Urriola is detained under 8 U.S.C. § 1226(a),
5 not under the mandatory detention scheme of § 1225(b).

6 That concession does not resolve the case. It exposes its central flaw. Mr. Lara Urriola was
7 previously released after an individualized determination that he posed neither a flight risk nor a
8 danger to the community. The Government has never lawfully rescinded that determination. His
9 current detention is therefore not a discretionary custody decision subject to routine bond
10 procedures. It is an unlawful re-detention undertaken without statutory authority, regulatory
11 compliance, or due process.

12 Respondents attempt to reframe the dispute as one about bond eligibility. That framing
13 misunderstands both the nature of the detention and the scope of this Court’s review. When the
14 Government acts beyond its authority and deprives a person of liberty without a lawful basis,
15 habeas relief lies not in further administrative reconsideration, but in release.

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ARGUMENT

I. This Court Has Proper Jurisdiction

This Court has authority to hear this case. Section 1252(g) does not bar review of all claims arising from removal proceedings. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The Supreme Court has limited that provision to claims arising solely from “the decision or action of the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” *Id.*

Courts retain jurisdiction over purely legal challenges that do not contest the Government’s discretionary authority. *Ibarra-Perez v. United States*, __ F.4th __, 2025 WL 2461663, at *6 (9th Cir. Aug. 27, 2025). Numerous courts agree. See, e.g., *Kong*, 62 F.4th at 617 (holding that § 1252(g) does not bar review of a challenge to the lawfulness of detention, including ICE’s failure to follow its own regulations); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (same); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (holding that § 1252(g) did not apply to a claim concerning detention); *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL 1810210, at *3 (W.D. Wash. June 30, 2025) (holding that § 1252(g) did not bar claims alleging failure to carry out non-discretionary statutory duties and provide due process); *D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025).

In *Ibarra-Perez*, the Ninth Circuit held that “§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders.” 2025 WL 2461663, at *9. The statute is “limited ... to actions challenging the Attorney General’s discretionary decisions to initiate proceedings, adjudicate cases, and execute removal orders.” *Arce v. United States*, 899 F.3d 796, 800 (9th Cir. 2018). It does not apply where the Government “entirely lacked the authority, and therefore the discretion,” to take the challenged action. *Id.* The same reasoning applies here. Mr. Lara Urriola challenges only violations of ICE’s mandatory duties under the INA, its regulations, and the Constitution.

Respondents rely on Eleventh Circuit authority stating that § 1252(g) bars challenges to the Government’s decision to commence removal proceedings, including the initial decision to detain. See *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016). But Mr. Lara Urriola does not dispute the Government’s authority to detain him when proceedings began. He disputes only the claim that his current detention is mandatory and exempt from bond consideration.

1 Accordingly, although § 1252(g) limits review of the executive’s discretionary decisions to
2 commence proceedings, adjudicate cases, or execute removal orders, this Court retains habeas
3 jurisdiction over the issue presented here: the lawfulness of Mr. Lara Urriola’s continued detention
4 without a lawful basis. See Y.T.D., 2025 WL 2675760, at *5. The Court therefore has jurisdiction.

5 **II. Mr. Lara Urriola Is Detained Under 8 U.S.C. § 1226(a)**

6 Respondents now confirm that Mr. Lara Urriola is detained under 8 U.S.C. § 1226(a), abandoning
7 their earlier assertion that his custody was governed by the mandatory detention provisions of §
8 1225(b). Following the final judgment in *Maldonado Bautista v. Santacruz*, the Government
9 “acknowledge[s] that Petitioner is detained under 8 U.S.C. § 1226(a).” Govt. Suppl. Response.
10 Respondents argue that, because § 1226(a) applies, the proper remedy is a bond hearing. That
11 argument misses the point. Section 1226(a) authorizes discretionary detention in the first instance.
12 It does not validate a detention that results from an unlawful revocation of a prior release decision.
13 Mr. Lara Urriola was previously released on his own recognizance after an individualized
14 assessment by DHS. The Government has identified no intervening change in facts or
15 circumstances that would justify his re-arrest.

16 **III. Bond Is Not an Appropriate Remedy Because Petitioner’s Detention Results from
17 an Unlawful Re-detention**

18 This case does not involve an initial custody determination. It involves re-detention. DHS had
19 already determined—based on individualized facts—that Mr. Lara Urriola posed no flight risk and
20 no danger to the community. He then complied for more than eighteen months with all supervision
21 requirements and court obligations.

22 The subsequent arrest occurred immediately after Mr. Lara Urriola appeared for a required
23 immigration court hearing, following DHS’s unsuccessful attempt to terminate proceedings and
24 place him in expedited removal. The Government cited no new facts and conducted no
25 individualized reassessment. Detention under these circumstances serves no legitimate civil
26 purpose and is instead coercive and punitive.

27 When custody results from an unlawful revocation of release rather than a valid discretionary
28 decision, ordering a bond hearing obscures the real defect. The appropriate remedy is release from
unlawful custody, not reconsideration of a detention decision that should never have occurred.

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CONCLUSION

1 Respondents now concede the central legal premise of this case: Mr. Lara Urriola is detained under
2 8 U.S.C. § 1226(a), not under a mandatory detention provision. That concession sharpens, rather
3 than resolves, the violation before the Court.

4 This is not a challenge to an initial discretionary custody decision or a request for routine bond
5 review. It is a challenge to an unlawful re-detention imposed after the Government had already
6 determined—on the same facts—that Mr. Lara Urriola posed no flight risk and no danger to the
7 community. No change in circumstances justified revoking that determination. No individualized
8 reassessment occurred.

9 Because Mr. Lara Urriola’s custody rests on an unlawful revocation of release rather than a valid
10 exercise of discretion, a bond hearing would not cure the defect. The Constitution, the INA, and
11 the Government’s own regulations require lawful authority at the outset. Where that authority is
12 absent, habeas relief requires release.

13 For these reasons, the Court should grant the petition and order Mr. Lara Urriola’s immediate
14 release from ICE custody, along with any further relief the Court deems just and proper.

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16 Date: 12/23/2025

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