

1 BRETT A. SHUMATE
 Assistant Attorney General
 2 Civil Division
 ERNESTO H. MOLINA
 3 Deputy Director
 BENJAMIN M. MOSS
 4 Senior Counsel
 NANCY N. SAFAVI (TXBN 24042342)
 5 Senior Trial Attorney
 JESSICA D. STROKUS
 6 Trial Attorney
 7 Office of Immigration Litigation
 8 Civil Division, U.S. Dept. of Justice
 P.O. Box 878, Ben Franklin Station
 9 Washington, DC 20044
 Tel: (202) 616-8779
 10 Email: Jessica.D.Strokus@usdoj.gov
 11 *Counsel for Defendants*

CRAIG H. MISSAKIANA (CABN 125202)
 United States Attorney
 PAMELA T. JOHANN (CABN 145558)
 Assistant United States Attorney
 Chief, Civil Division
 DOUGLAS JOHNS (CABN 314798)
 Assistant United States Attorney
 60 South Market Street, Suite 1200
 San Jose, California 95113
 Tel: (415) 846-8947
 E-mail: Douglas.Johns@usdoj.gov

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

16 JOSE TELETOR SENTE,

17 Petitioner,

18 v.

19 SERGIO ALBARRAN, Field Office Director of)
 the San Francisco Immigration and Customs)
 20 Enforcement Office, KRISTI NOEM, Secretary)
 of the United States Department of Homeland)
 Security, TODD M. LYONS, Acting Director)
 21 United States Immigration and Customs)
 Enforcement, acting in their official capacities;)
 22 U.S. DEPARTMENT OF HOMELAND)
 SECURITY; U.S. IMMIGRATION AND)
 23 CUSTOMS ENFORCEMENT,)

24 Respondents.
25

) CASE NO. 5:25-cv-10832-PCP

) **RESPONDENTS' RETURN AND**
) **OPPOSITION TO WRIT OF**
) **HABEAS CORPUS**

) Honorable P. Casey Pitts
) United States District Judge

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION 1

II. FACTUAL AND PROCEDURAL BACKGROUND 1

III. ARGUMENT..... 2

 A. PETITIONER’S CLAIMS SHOULD BE DISMISSED FOR LACK OF JURISDICTION UNDER RULE 12(b)(1). 2

 1. 8 U.S.C. § 1252(e)(3) Bars Review of Petitioner’s Claims. 2

 2. 8 U.S.C. § 1252(g) Bars Review of Petitioner’s Claims. 3

 3. 8 U.S.C. § 1252(b)(9) Bars Review of Petitioner’s Claims. 4

 B. THE COURT SHOULD DISMISS THE PETITION FOR WRIT OF HABEAS CORPUS AS PETITIONER IS SUBJECT TO DETENTION UNDER 8 U.S.C. § 1225. 6

 1. Petitioner Is Subject to Mandatory Detention as an Applicant for Admission Under 8 U.S.C. § 1225(b)(2). 6

 2. Section 1226 Does Not Impact the Detention Authority for Applicants for Admission..... 7

 C. PETITIONER CANNOT OBTAIN AN INJUNCTION PROHIBITNG HIS TRANSFER. 9

 D. THIS COURT SHOULD NOT REVERSE THE BURDEN OF PROOF. 10

 E. THIS COURT LACKS JURISDICTION TO ORDER SOME OF THE RELIEF PETITIONER SEEKS..... 10

 F. THIS COURT SHOULD NOT AFFECT THE EXECUTION OF ANY FUTURE REMOVAL ORDER. 101

 G. PETITIONER IS NOT ENTITLED TO FEES. 12

IV. CONCLUSION..... 12

TABLE OF AUTHORITIES

1		
2	CASES	PAGE(S)
3	<i>Aguilar v. ICE,</i>	
4	510 F.3d 1 (1st Cir. 2007)	5
5	<i>Alonzo v. Noem,</i>	
6	No. 25-cv-01519 WBS SCR , 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025)	7
7	<i>Altamirano Ramos v. Lyons,</i>	
8	No. 25-cv-09785-SVW-AJR , 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025)	7
9	<i>Alvarez v. ICE,</i>	
10	818 F.3d 1194 (11th Cir. 2016)	3
11	<i>Camarena v. Dir., ICE,</i>	
12	988 F.3d 1268 (11th Cir. 2021)	11
13	<i>Barton v. Barr,</i>	
14	590 U.S. 222 (2020)	8, 9
15	<i>E.F.L. v. Prim,</i>	
16	986 F.3d 959 (7th Cir. 2021)	12
17	<i>Hamama v. Adducci,</i>	
18	912 F.3d 869 (6th Cir. 2018)	12
19	<i>Hernandez v. Sessions,</i>	
20	872 F.3d 976 (9th Cir. 2017).....	10
21	<i>J.E.F.M. v. Lynch,</i>	
22	837 F.3d 1026 (9th Cir. 2016)	4
23	<i>Jennings v. Rodriguez,</i>	
24	583 U.S. 281 (2018)	4, 5, 8
25	<i>Khorrami v. Rolince,</i>	
26	493 F. Supp. 2d 1061 (N.D. Ill. 2007)	3
27	<i>Lopez v. Barr,</i>	
28	No. 20-1330, 2021 WL 195523 (D. Minn. Jan. 20, 2021)	4
	<i>M.M.V. v. Garland,</i>	
	1 F.4th 1100 (D.C. Cir. 2021)	2
	<i>Matter of Adeniji,</i>	
	22 I&N Dec. 1102 (BIA 1999)	8
	<i>Matter of Guerra,</i>	
	24 I&N Dec. 37 (BIA 2006)	8
	RESPONDENTS’ RETURN AND OPPOSITION TO WRIT OF HABEAS CORPUS	
	25-CV-10831-PCP	

1 *Matter of M-S-*,
 27 I&N Dec. 509 (U.S. Atty. Gen. 2019) 8

2

3 *Matter of Q. Li*,
 29 I&N Dec. 66 (BIA 2025) 8

4 *Matter of Yajure Hurtado*,
 29 I&N Dec. 216 (BIA 2025)9

5

6 *Meza-Vazquez v. Garland*,
 993 F.3d 726 (9th Cir. 2021) 12

7

8 *Milan-Rodriguez v. Sessions*,
 No. 16-cv-01578-AWI-SAB-HC, 2018 WL 400317 (E.D. Cal. Jan. 12, 2018)9, 10

9 *Morales v. Trans World Airlines, Inc.*,
 504 U.S. 374 (1992) 7

10

11 *Nasrallah v. Barr*,
 590 U.S. 573 (2020) 4

12 *Nielsen v. Preap*,
 586 U.S. 392 (2019) 8

13

14 *Perez-Guzman v. Lynch*,
 835 F.3d 1066 (9th Cir. 2016) 7

15 *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*,
 566 U.S. 639 (2012) 7

16

17 *Rauda v. Jennings*,
 55 F.4th 773 (9th Cir. 2022) 11

18 *Reno v. American-Arab Anti-Discrimination Comm.*,
 525 U.S. 471 (1999) 4, 11

19

20 *Rios-Berrios v. I.N.S.*,
 776 F.2d 859 (9th Cir. 1985)9, 10

21 *Rodriguez Diaz v. Garland*,
 53 F.4th 1189 (9th Cir. 2022) 10

22

23 *Rosario v. Holder*,
 627 F.3d 58 (2d Cir. 2010) 5

24

25 *Ruiz v. Mukasey*,
 552 F.3d 269 (2d Cir. 2009) 4

26 *Russello v. United States*,
 464 U.S. 16 (1983) 2

27

1	<i>Saadulloev v. Garland, No.</i>	
2	No. 23-cv-00106, 2024 WL 1076106 (W.D. Pa. Mar. 12, 2024)	5
3	<i>Silva v. United States,</i>	
4	866 F.3d 938 (8th Cir. 2017)	12
5	<i>Sissoko v. Rocha,</i>	
6	509 F.3d 947 (9th Cir. 2007)	3
7	<i>Sixtos Chavez v. Noem,</i>	
8	No. 25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025)	7
9	<i>Tazu v. Att’y Gen. United States,</i>	
10	975 F.3d 292 (3d Cir. 2020)	3, 12
11	<i>United States v. Wong Kim Bo,</i>	
12	472 F.2d 720 (5th Cir. 1972)	3
13	<i>Valencia v. Chestnut,</i>	
14	No. 25-cv-01550 WBS JDP, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025)	7
15	<i>Valencia-Mejia v. United States,</i>	
16	No. CV 08-2943 CAS (PJWx), 2008 WL 4286979 (C.D. Cal. Sept. 15, 2008)	3
17	<i>Velasco Lopez v. Decker,</i>	
18	978 F.3d 842 (2d Cir. 2020)	5
19	<i>Wang v. United States,</i>	
20	No. CV 10-0389 SVW (RCx), 2010 WL 11463156 (C.D. Cal. Aug. 18, 2010).....	3
21	<i>Xiao Ji Chen v. U.S. Dep’t of Justice,</i>	
22	434 F.3d 144 (2d Cir. 2006)	5
23	<i>Zadvydas v. Davis,</i>	
24	533 U.S. 678 (2001)	11
25	STATUTES	
26	8 U.S.C. § 1225	<i>passim</i>
27	8 U.S.C. § 1226	5, 7, 8, 9
28	8 U.S.C. § 1229a	7, 9
29	8 U.S.C. § 1231	11
30	8 U.S.C. § 1252	<i>passim</i>
31	8 U.S.C. § 1357	8
32	RESPONDENTS’ RETURN AND OPPOSITION TO WRIT OF HABEAS CORPUS	
33	25-CV-10831-PCP	

1 28 U.S.C. § 2241 1, 11

2
3 **REGULATIONS**

4 8 C.F.R. § 287.3 8

5 8 C.F.R. § 1003.19 8, 10

6 8 C.F.R. § 236.1 8

7 8 C.F.R. § 1236.1 8

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28 RESPONDENTS' RETURN AND OPPOSITION TO WRIT OF HABEAS CORPUS
25-CV-10831-PCP

1 **I. INTRODUCTION**

2 Petitioner, Juan Teletor Sente (“Petitioner”), seeks the grant of a petition for writ of habeas corpus
3 pursuant to 28 U.S.C. § 2241, challenging the lawfulness of any future detention by Immigration and
4 Customs Enforcement (“ICE”) and seeking, among other remedies, an order enjoining Respondents from
5 re-detaining him “without an order from *this Court* finding that a material change in individual
6 circumstances related to his flight risk or danger to the community justifies his re-arrest and re-detention,”
7 or, alternatively, an order enjoining Respondents from re-detaining him “unless his re-detention is ordered
8 at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear
9 and convincing evidence, that he is a flight risk or danger to the community.” Petitioner is not in custody.
10 His petition must be denied for the reasons set forth below.

11 **II. FACTUAL AND PROCEDURAL BACKGROUND**

12 Petitioner is a native and citizen of Guatemala who last entered the United States without
13 admission, inspection, or parole at or near El Paso, Texas, on or about July 4, 2019. *See* Declaration of
14 Deportation Officer Michael Silva (“Silva Decl.”) at ¶ 7.¹ An immigration officer served him a Notice to
15 Appear (“NTA”) for removal proceedings based on his presence in the United States without being
16 admitted or paroled. *See id.* at ¶ 8. Petitioner has never been re-detained by Defendants.

17 After the Court issued a preliminary injunction in *Pinchi*, *see* Case No. 25-cv-05632-PCP, ECF
18 No. 33, on October 10, 2025, Ms. Garro Pinchi filed a Class Action Complaint and Amended Petition for
19 Writ of Habeas Corpus, which Plaintiffs corrected on October 16, 2025, seeking to join two new parties,
20 including Petitioner, and allege claims arising under the Administrative Procedure Act (“APA”) and the
21 United States Constitution. Case No. 25-cv-05632-PCP, ECF No. 38, 45.

22 On December 18, 2025, the Court issued an order severing Petitioner’s habeas claims from the
23 claims arising under the APA and the United States Constitution. *See* Order Granting Mot. to Sever, ECF
24 No. 84. Based on that order, Petitioner filed the operative habeas petition the night of December 23, 2025.

25 _____
26 ¹ On December 18, 2025, the Court issued an order severing Petitioner’s habeas claims from other
27 claims that were joined in the initial habeas action filed in *Pinchi, et. al, v. Noem, et. al.* *See* Order
28 Granting Mot. to Sever, Case No. 25-cv-05632-PCP, ECF No. 84. As a consequence, there are some
citations to the docket for Petitioner’s initial habeas action.

1 *See generally* Pet. Petitioner is not in custody and he has not been in custody since his initial release
2 following his apprehension along the Southern Border in July 2019. *See* Silva Decl. ¶¶ 7-10; Pet. ¶ 2, 14,
3 62-66.

4 **III. ARGUMENT**

5 **A. PETITIONER’S CLAIMS SHOULD BE DISMISSED FOR LACK OF 6 JURISDICTION UNDER RULE 12(b)(1).**

7 Respondents acknowledge that the Court previously analyzed some of their jurisdictional
8 arguments in other contexts in this case including, but not limited to, 8 U.S.C. § 1252(e)(3). *See* Order
9 Provisionally Certifying Classes and Staying Agency Action, Case No. 25-cv-05632-PCP, ECF No. 85
10 (analyzing 8 U.S.C. § 1252 within the context of Petitioner’s motion for class certification and motion for
11 a stay of agency action). Respondents make some of those jurisdictional arguments again in this individual
12 habeas return to reserve all of their rights including the right to appeal.

13 **1. 8 U.S.C. § 1252(e)(3) Bars Review of Petitioner’s Claims.**

14 Section 1252(e)(3) deprives this court of jurisdiction, including habeas corpus jurisdiction, over
15 Petitioner’s challenge to any future detention under § 1225(b)(2)(A). Section 1252(e)(3) limits judicial
16 review of “determinations under section 1225(b) of this title and its implementation” to only in the District
17 Court for the District of Columbia. 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited
18 review to (1) whether § 1225(b) or an implementing regulation is constitutional or (2) whether a
19 regulation or other written policy directive, guideline, or procedure implementing the section violates the
20 law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also* *M.M.V. v. Garland*, 1 F.4th 1100, 1109 (D.C. Cir.
21 2021). Unlike other provisions within 1252(e), section 1252(e)(3) applies broadly to judicial review of
22 section 1225(b), not just determinations under section 1225(b)(1). *Compare* 8 U.S.C. § 1252(e)(1)(A),
23 (e)(2), *with* 8 U.S.C. § 1252(e)(3)(A). *See* *Russello v. United States*, 464 U.S. 16, 23 (1983) (quoting
24 *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)) (“[W]here Congress includes
25 particular language in one section of a statute but omits it in another section of the same Act, it is
26 generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”
27 . . . We refrain from concluding here that the differing language in the two subsections has the same
28 meaning in each. We would not presume to ascribe this difference to a simple mistake in draftsmanship.”).

1 Here, Petitioner challenges the determination that aliens who entered the United States without
2 inspection are subject to mandatory detention under § 1225(b)(2) and thus may be re-detained consistent
3 with statutory mandate. *See, e.g.*, Pet. ¶¶ 20-30, 37-66. Petitioner thus seeks judicial review of a written
4 policy or guideline implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii).

5 **2. 8 U.S.C. § 1252(g) Bars Review of Petitioner’s Claims.**

6 Section 1252(g) categorically bars jurisdiction over “*any* cause or claim by or on behalf of any
7 alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence*
8 *proceedings*, adjudicate cases, or execute removal orders against any alien.” 8 U.S.C. § 1252(g) (emphasis
9 added). The Secretary of Homeland Security’s decision to *commence removal proceedings*, including the
10 decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar.
11 In other words, detention clearly “aris[es] from” the decision to commence removal proceedings against
12 an alien. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars
13 us from questioning ICE’s discretionary decisions to commence removal” and also to review “ICE’s
14 decision to take [plaintiff] into custody and to detain him during removal proceedings”); *Tazu v. Att’y*
15 *Gen. United States*, 975 F.3d 292, 298 (3d Cir. 2020) (“The text of § 1252(g)... strips us of jurisdiction to
16 review... [T]o perform or complete a removal, the [Secretary of Homeland Security] must exercise [her]
17 discretionary power to detain an alien for a few days. That detention does not fall within some other part
18 of the deportation process.”) (cleaned up) (internal quotations and citations omitted); *Valencia-Mejia v.*
19 *United States*, No. CV 08–2943 CAS (PJWx), 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) (“The
20 decision to detain plaintiff until his hearing before the Immigration Judge *arose from* this decision to
21 commence proceedings[.]”) (emphasis added); *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010
22 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010) (citing *Khorrami v. Rolince*, 493 F. Supp. 2d 1061 (N.D.
23 Ill. 2007) (“[Plaintiff’s] detention necessarily *arises from* the decision to initiate removal proceedings
24 against him.”) (emphasis added); *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008
25 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008) (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir.
26 2007) (“The [Secretary] may arrest the alien against whom proceedings are commenced and detain that
27 individual until the conclusion of those proceedings. . . . Thus, an alien’s detention throughout this process

1 arises from the [Secretary]’s decision to commence proceedings[.]” and review of claims arising from such
 2 detention is barred under § 1252(g)) (emphasis added). Put in the Supreme Court’s words, detention
 3 pending removal is a “specification” of the decision to commence proceedings. *See Reno v. Am.-Arab*
 4 *Anti-Discrimination Comm.* (“AADC”), 525 U.S. 471, 485 n.9 (1999) (“§ 1252(g) covers” a “specification
 5 of the decision to ‘commence proceedings’”). As such, judicial review of the Petitioner’s claims is barred
 6 by § 1252(g).

7 3. 8 U.S.C. § 1252(b)(9) Bars Review of Petitioner’s Claims.

8 Under § 1252(b)(9), “judicial review of all questions of law . . . including interpretation and
 9 application of statutory provisions . . . arising from any action taken . . . to remove an alien from the
 10 United States” is only proper before the appropriate court of appeals in the form of a petition for review of
 11 a final removal order. *See* 8 U.S.C. § 1252(b)(9); *AADC*, 525 U.S. at 483. Section 1252(b)(9) is an
 12 “unmistakable ‘zipper’ clause” that “channels judicial review of all [claims arising from deportation
 13 proceedings]” to a court of appeals in the first instance. *AADC*, 525 U.S. at 483; *see Lopez v. Barr*, No.
 14 CV 20-1330 (JRT/BRT), 2021 WL 195523, at *2 (D. Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590
 15 U.S. 573, 579–80 (2020)).

16 Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for judicial
 17 review of immigration proceedings.

18 Notwithstanding any other provision of law (statutory or nonstatutory), . . .
 19 a petition for review filed with an appropriate court of appeals in
 20 accordance with this section shall be the sole and exclusive means for
 21 judicial review of an order of removal entered or issued under any
 provision of this chapter, except as provided in subsection (e) [concerning
 aliens not admitted to the United States].

22 8 U.S.C. § 1252(a)(5). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether
 23 legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition-for-
 24 review] process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original); *see id.* at
 25 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices
 26 challenges . . . whenever they ‘arise from’ removal proceedings”); *accord Ruiz v. Mukasey*, 552 F.3d 269,
 27 274 n.3 (2d Cir. 2009) (only when the action is “unrelated to any removal action or proceeding” is it

1 within the district court’s jurisdiction); *cf. Xiao Ji Chen v. U.S. Dep’t of Justice*, 434 F.3d 144, 151 n.3 (2d
2 Cir. 2006) (a “primary effect” of the REAL ID Act is to “limit all aliens to one bite of the apple” (internal
3 quotation marks omitted)).

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

14 Subsections (a)(5) and (b)(9) divest district courts of jurisdiction to review both direct and indirect
15 challenges to removal orders, including decisions to detain for purposes of removal or for proceedings.
16 *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (section 1252(b)(9) includes challenges to the
17 “decision to detain [an alien] in the first place or to seek removal[.]”). Here, Petitioner challenges the
18 decision and action to detain him in the future, which arises from DHS’s decision to commence removal
19 proceedings, and is thus an “action taken . . . to remove [him] from the United States.” *See* 8 U.S.C.
20 § 1252(b)(9); *see also, e.g., Jennings*, 583 U.S. at 294–95; *Velasco Lopez v. Decker*, 978 F.3d 842, 850
21 (2d Cir. 2020) (finding that 8 U.S.C. § 1226(e) did not bar review in that case because the petitioner did
22 not challenge “his initial detention”); *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024 WL 1076106,
23 at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is no judicial review of the threshold detention
24 decision, which flows from the government’s decision to “commence proceedings”). As such, the Court
25 lacks jurisdiction over this action and to enjoin Petitioner’s future detention. The reasoning in *Jennings*
26 outlines why the Petitioner’s claims cannot be reviewed by the Court.

1 The fact that the Petitioner is challenging the basis upon which he may be detained in the future is
2 enough to trigger § 1252(b)(9) because “detention *is* an ‘action taken . . . to remove’ an alien.” *See*
3 *Jennings*, 583 U.S. at 319 (Thomas, J., concurring); 8 U.S.C. § 1252(b)(9). The Court should dismiss the
4 Petitioner’s claims for lack of jurisdiction under § 1252(b)(9). Petitioner must present his claims before
5 the appropriate court of appeals because he challenges the Government’s decision or action to detain him
6 in the future, which must be raised before a court of appeals, not this Court. *See* 8 U.S.C. § 1252(b)(9).

7 **B. THE COURT SHOULD DISMISS THE PETITION FOR WRIT OF HABEAS**
8 **CORPUS AS PETITIONER IS SUBJECT TO DETENTION UNDER 8 U.S.C. §**
9 **1225.**

10 **1. Petitioner Is Subject to Mandatory Detention as an Applicant for Admission**
11 **Under 8 U.S.C. § 1225(b)(2).**

12 For the reasons set forth in Respondents’ prior briefing including, but not limited to, the motion to
13 dismiss (Case No. 25-cv-05632-PCP, ECF No. 66), the opposition to Plaintiffs’ motion to stay agency
14 action (Case No. 25-cv-05632-PCP, ECF No. 67), the opposition to Plaintiffs’ motion for class
15 certification (Case No. 25-cv-05632-PCP, ECF No. 68), and the motion to sever, transfer, and consolidate
16 (Case No. 25-cv-05632-PCP, ECF No. 76), as well as the hearing for these motions, Respondents contend
17 that Petitioner is subject to mandatory detention as an “applicant for admission” under 8 U.S.C.
18 § 1225(b)(2). Briefly, as an “applicant for admission,” who is present in the United States without having
19 been admitted, he is subject to mandatory detention and is entitled only to the process due to him under
20 the statute.

21 Respondents acknowledge this Court’s prior ruling rejecting their analysis to Petitioner’s
22 challenges to Respondents’ policies or practices at issue in this case including those arising under 8 U.S.C.
23 § 1225(b)(2). *See* Order Provisionally Certifying Class and Staying Agency Action, Case No. 25-cv-
24 05632-PCP, ECF No. 85. While Respondents respectfully disagree with that analysis, in the interest of
25 judicial economy and to conserve judicial resources, Respondents rely on all of their prior arguments
26 explaining why Petitioner is subject to mandatory detention under 8 U.S.C. § 1225 in this opposition and
27 return. Respondents reserve all rights, including the right to appeal, and the right to raise any prior
28 argument they made arising under 8 U.S.C. § 1225 in any future appeal. After the Court issued its orders
granting a preliminary injunction as to Petitioner, several courts in other districts in the Ninth Circuit

1 have denied motions for a temporary restraining order or preliminary injunctive relief for individuals, like
2 Petitioner, who were detained under 8 U.S.C. § 1225(b)(2) following conditional parole; moreover, these
3 courts have upheld, at least preliminarily, mandatory detention under § 1225(b)(2). *See Altamirano Ramos*
4 *v. Lyons*, No. 25-cv-09785, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (acknowledging that the
5 court had previously rejected the government’s interpretation of § 1225(b)(2), but “after additional
6 research and analysis, the court has concluded that Petitioner is subject to mandatory detention under
7 § 1225(b)(2)(a), and that Petitioner is not eligible for a bond hearing under 8 U.S.C. § 1226(a)”; *Sixtos*
8 *Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed*, No.
9 25-7077 (9th Cir. Nov. 7, 2025); *Valencia v. Chestnut*, No. 25-cv-01550, 2025 WL 3205133 (E.D. Cal.
10 Nov. 17, 2025); *Alonzo v. Noem*, No. 25-cv-01519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025). Should
11 the Court prefer to receive a more exhaustive and fulsome analysis of any issue arising under 8 U.S.C.
12 § 1225, Respondents will do so upon the Court’s request.

13 **2. Section 1226 Does Not Impact the Detention Authority for Applicants for**
14 **Admission.**

15 Section 1226(a) is the applicable detention authority for aliens who have been admitted and are
16 subject to removal proceedings under 8 U.S.C. § 1229a, 8 U.S.C. §§ 1226, 1227(a), and 1229a, and does
17 not impact the directive in 8 U.S.C. § 1225(b)(2)(A) that “if the examining immigration officer determines
18 that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be
19 detained for a proceedings under [8 U.S.C. § 1229a],” *id.* § 1225(b)(2)(A).² As the Supreme Court

20
21 ² The specific mandatory language of 8 U.S.C. § 1225(b)(2)(A) governs over the general permissive
22 language of 8 U.S.C. § 1226(a). “[I]t is a commonplace of statutory construction that the specific governs
23 the general” *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992); *see RadLAX Gateway*
24 *Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (explaining that the general/specific canon
25 is “most frequently applied to statutes in which a general permission or prohibition is contradicted by a
26 specific prohibition or permission” and in order to “eliminate the contradiction, the specific provision is
27 construed as an exception to the general one”); *Perez-Guzman v. Lynch*, 835 F.3d 1066, 1075 (9th Cir.
28 2016) (discussing, in the context of asylum eligibility for aliens subject to reinstated removal orders, this
canon and explaining that “[w]hen two statutes come into conflict, courts assume Congress intended
specific provisions to prevail over more general ones”). Here, 8 U.S.C. § 1225(b)(2)(A) “does not negate
[8 U.S.C. § 1226(a)] entirely,” which still applies to admitted aliens who are deportable, “but only in its
application to the situation that [8 U.S.C. § 1225(b)(2)(A)] covers.” A. Scalia & B. Garner, *Reading Law:
The Interpretation of Legal Texts* 185 (2012).

1 explained, 8 U.S.C. § 1226(a) “applies to aliens already present in the United States” and “creates a
2 default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their
3 arrest and detention pending removal proceedings.” *Jennings*, 583 U.S. at 289, 303; *Matter of Q. Li*,
4 29 I&N Dec. 66, 70 (BIA 2025); *see also Matter of M-S-*, 27 I&N Dec. 509, 516 (U.S. Atty. Gen. 2019)
5 (describing 8 U.S.C. § 1226(a) as a “permissive” detention authority separate from the “mandatory”
6 detention authority under 8 U.S.C. § 1225).³

7 Generally, such aliens may be released on bond or their own recognizance, also known as
8 “conditional parole.” 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not,
9 however, confer the *right* to release on bond; rather, both DHS and IJs have broad discretion in
10 determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight
11 risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N
12 Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). Further, ICE must detain
13 certain aliens due to their criminal history or national security concerns under 8 U.S.C. § 1226(c). *See* 8
14 U.S.C. § 1226(c)(1), (c)(2); 8 C.F.R. §§ 236.1(c)(1)(i), 1236.1(c)(1)(i); *see also id.* § 1003.19(h)(2)(i)(D).
15 Release of such aliens is permitted only in very specific circumstances. *See* 8 U.S.C. § 1226(c)(2).

16 Notably, 8 U.S.C. § 1226(c) references certain grounds of inadmissibility, 8 U.S.C.
17 § 1226(c)(1)(A), (D)-(E), and the Supreme Court in *Barton v. Barr*—after issuing its decision in
18 *Jennings*—recognized the possibility that aliens charged with certain grounds of inadmissibility could be
19 detained pursuant to 8 U.S.C. § 1226. 590 U.S. 222, 235 (2020); *see also Nielsen v. Preap*, 586 U.S. 392,

20
21 ³ Importantly, a warrant of arrest is not required in all cases. *See* 8 U.S.C. § 1357(a). For example, an
22 immigration officer has the authority “to arrest any alien who in his presence or view is entering or
23 attempting to enter the United States in violation of any law or regulation” or “to arrest any alien in the
24 United States, if he has reason to believe that the alien so arrested is in the United States in violation of
25 any such law or regulation and is likely to escape before a warrant can be obtained for his arrest” *Id.*
26 § 1357(a)(2); 8 C.F.R. § 287.3(a), (b) (recognizing the availability of warrantless arrests); *see Q. Li*, 29
27 I&N Dec. at 70 n.5. Moreover, DHS may issue a warrant of arrest within 48 hours (or an “additional
28 reasonable period of time” given any emergency or other extraordinary circumstances), 8 C.F.R.
§ 287.3(d); doing so does not constitute “post-hoc issuance of a warrant,” *Q. Li*, 29 I&N Dec. at 69 n.4.
While the presence of an arrest warrant is a threshold consideration in determining whether an alien is
subject to 8 U.S.C. § 1226(a) detention authority under a plain reading of 8 U.S.C. § 1226(a), there is
nothing in *Jennings* that stands for the assertion that aliens processed for arrest under 8 U.S.C. § 1225
cannot have been arrested pursuant to a warrant. *See Jennings*, 583 U.S. at 302.

1 416-19 (2019) (recognizing that aliens who are inadmissible for engaging in terrorist activity are subject to
2 8 U.S.C. § 1226(c)). As the Supreme Court in *Barton* also noted, “redundancies are common in statutory
3 drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional
4 inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human
5 communication.” *Barton*, 590 U.S. at 239. “Redundancy in one portion of a statute is not a license to
6 rewrite or eviscerate another portion of the statute contrary to its text” *Id.*; see also *Matter of Yajure*
7 *Hurtado*, 29 I&N Dec. 216, 222 (BIA 2025) (“Interpreting the provisions of section [1226(c)] as rendering
8 null and void the provisions of section [1225](b)(2)(A) (or even the provisions of section... 1225(b)(1)),
9 would be in contravention of the ‘cardinal principle of statutory construction,’ which is that courts are to
10 give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section.”
11 (quoting *United States v. Menasche*, 348 U.S. 528, 538–39 (1955)). The statutory language of 8 U.S.C.
12 § 1226(c)—including the most recent amendment pursuant to the Laken Riley Act, see 8 U.S.C.
13 § 1226(c)(1)(E), merely reflects a “congressional effort to be doubly sure” that certain aliens are detained,
14 *Barton*, 590 U.S. at 239.

15 To reiterate, to interpret 8 U.S.C. § 1225(b)(2)(A) as not applying to all applicants for admission
16 would render it meaningless. As explained above, Congress expanded 8 U.S.C. § 1225(b) in 1996 to apply
17 to a broader category of aliens, including those aliens who crossed the border illegally. IIRIRA § 302.
18 There would have been no need for Congress to make such a change if 8 U.S.C. § 1226 was meant to
19 apply to aliens present without admission. Thus, 8 U.S.C. § 1226 does not have any controlling impact on
20 the directive in 8 U.S.C. § 1225(b)(2)(A) that “if the examining immigration officer determines that an
21 alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be
22 detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

23 **C. PETITIONER CANNOT OBTAIN AN INJUNCTION PROHIBITING HIS**
24 **TRANSFER.**

25 In his habeas petition, Petitioner improperly seeks an order enjoining Respondents from “deporting
26 Petitioner[] pending the duration of these proceedings.” See Pet. at 20. The Court cannot provide that
27 relief. The Attorney General has discretion to determine the appropriate place of detention. *Milan-*
28 *Rodriguez v. Sessions*, No. 16-cv-01578-AWI, 2018 WL 400317, *10 (Jan. 12, 2018) (citing *Rios-Berrios*

1 v. *I.N.S.*, 776 F.2d 859, 863 (9th Cir. 1985) (“We wish to make ourselves clear. We are not saying that the
2 petitioner should not have been transported to Florida. That is within the province of the Attorney General
3 to decide.”)). And while the Court may review whether such discretion resulted in a deprivation of rights,
4 Petitioner has not shown how his mandatory future detention, or any transfer, would interfere with the
5 ability to present his case or access counsel more than any other similarly situated detainee. *See Milan-*
6 *Rodriguez*, 2018 WL 400317, *10 (“There is nothing in the record to indicate that Petitioner’s transfer was
7 irregular or anything other than an ordinary incident of immigration detention.”). If Petitioner is detained,
8 Respondents have the authority under the INA to transfer him outside of the district.

9 **D. THIS COURT SHOULD NOT REVERSE THE BURDEN OF PROOF.**

10 Petitioner claims that at any custody hearing, Respondents should bear the burden of proving by,
11 clear and convincing evidence, that he is a flight risk or a danger to the community. *See* Pet. at 20. At
12 any future hearing, Petitioner should have the burden of demonstrating that he is not a flight risk or
13 danger to the community. It would be improper to reverse the burden of proof and place it on
14 Respondents in these circumstances. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1210-12 (9th Cir. 2022)
15 (“Nothing in this record suggests that placing the burden of proof on the government was
16 constitutionally necessary to minimize the risk of error, much less that such burden-shifting would be
17 constitutionally necessary in all, most, or many cases.”); *Matter of Guerra*, 24 I&N at 39.

18 **E. THIS COURT LACKS JURISDICTION TO ORDER SOME OF THE RELIEF
19 PETITIONER SEEKS**

20 This Court lacks jurisdiction to “prohibit[] Defendants from re-arresting or re-detaining
21 Petitioner without an order from *this Court* finding that a material change in individual circumstances
22 related to his flight risk or danger to the community justifies his re-arrest and re-detention.” Pet. 20
23 (emphasis added). Pursuant to 8 C.F.R. § 1003.19, immigration judges—not district courts—have
24 jurisdiction to review custody and bond determinations made by the Department of Homeland Security.
25 *See also Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (explaining process of custody and
26 bond determinations). Petitioner cites to no authority whatsoever permitting this Court to assume
27 jurisdiction over such determinations. *See* Pet. 20. As such, the Court should reject Petitioner’s attempt
28 to swap this Court’s role and that of the immigration judge.

1 **F. THIS COURT SHOULD NOT AFFECT THE EXECUTION OF ANY FUTURE**
2 **REMOVAL ORDER.**

3 Petitioner’s habeas petition suggests that this Court can enjoin his detention indefinitely and
4 even if he is subject to a final removal order. *See* Pet. 20 & ¶¶ 68-79. Petitioner’s immigration
5 proceedings will continue even after the Court rules on his habeas petition. At some point, Petitioner
6 may be subject to a final order of removal. Assuming Petitioner becomes subject to a final order of
7 removal, his detention is mandatory under the INA. *See* 8 U.S.C. § 1231(a)(2)(A) (“During the removal
8 period, the Attorney General shall detain the alien. Under no circumstance during the removal period
9 shall the Attorney General release an alien who has been found inadmissible under section 1182(a)(2)
10 or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title”). The
11 Supreme Court has unambiguously upheld detention pending an alien’s removal. *See Zadvydas v.*
12 *Davis*, 533 U.S. 678, 701 (2001) (an alien is not entitled to habeas relief after the expiration of the
13 presumptively reasonable six-month period of detention under § 1231(a)(6) unless he can show the
14 detention is “indefinite”—*i.e.*, that there is “good reason to believe that there is no significant
15 likelihood of removal in the reasonably foreseeable future.”). Thus, if Petitioner becomes subject to a
16 future final order of removal, his detention will be required by statute.

17 Moreover, 8 U.S.C. § 1252(g) further limits the Court’s authority to stay removal even during the
18 process of extra-statutory procedures. Congress spoke clearly that “no court” has jurisdiction over “any
19 cause or claim” arising from the execution of removal orders, “notwithstanding any other provision of
20 law,” whether “statutory or nonstatutory,” including habeas, mandamus, or the All Writs Act. 8 U.S.C.
21 § 1252(g). This jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well
22 as review pursuant to the All Writs Act and Administrative Procedure Act) of claims arising from a
23 decision or action to “execute” a final order of removal. *See AADC*, 525 U.S. at 482. Numerous courts of
24 appeals, including the Ninth Circuit, have consistently held that claims seeking a stay of removal—even
25 temporarily to assert other claims to relief—are barred by Section 1252(g). *See Rauda v. Jennings*,
26 55 F.4th 773, 778 (9th Cir. 2022) (holding Section 1252(g) barred plaintiff’s claim seeking a temporary
27 stay of removal while he pursued a motion to reopen his immigration proceedings); *Camarena v. Dir.,*
28 *ICE*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or

1 claim brought by an alien arising from the government’s decision to execute a removal order. If we held
2 otherwise, any petitioner could frame his or her claim as an attack on the government’s authority to
3 execute a removal order rather than its execution of a removal order.”); *E.F.L. v. Prim*, 986 F.3d 959, 964-
4 65 (7th Cir. 2021) (rejecting plaintiff’s argument that jurisdiction remained because petitioner was
5 challenging DHS’s “legal authority” as opposed to its “discretionary decisions”); *Tazu*, 975 F.3d at 297
6 (observing that “the discretion to decide whether to execute a removal order includes the discretion to
7 decide when to do it” and that “[b]oth are covered by the statute”) (emphasis in original); *Hamama v.*
8 *Adducci*, 912 F.3d 869, 874–77 (6th Cir. 2018) (vacating district court’s injunction staying removal,
9 concluding that § 1252(g) stripped district court of jurisdiction over removal-based claims and remanding
10 with instructions to dismiss those claims); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017)
11 (Section 1252(g) applies to constitutional claims arising from the execution of a final order of removal,
12 and language barring “any cause or claim” made it “unnecessary for Congress to enumerate every possible
13 cause or claim”).

14 Even if the Court grants Petitioner’s habeas petition, any order cannot affect the execution of any
15 future removal order including, but not limited to, Petitioner’s mandatory detention under the INA.

16 **G. PETITIONER IS NOT ENTITLED TO FEES.**

17 Finally, Petitioner seeks “reasonable attorney’s fees and costs.” *See* Pet. at 20. Petitioner fails to
18 state why he would be entitled to fees or why Respondents’ positions are not “substantially justified.”
19 *See generally* Pet.; *see also Meza-Vazquez v. Garland*, 993 F.3d 726, 729 (9th Cir. 2021) (explaining
20 the test for when the Federal Government’s positions are substantially justified). If the Court concludes
21 that Petitioner is entitled to fees, Respondents request the opportunity to brief whether fees are
22 permissible and proper.

23 **IV. CONCLUSION**

24 The Court lacks jurisdiction over Petitioner’s claims. Additionally, Petitioner is subject to
25 mandatory detention under 8 U.S.C. § 1225(b). Accordingly, the Court should deny Petitioner’s habeas
26 petition. At minimum, the Court cannot issue an order that affects the execution of any future final order
27 of removal for Petitioner.

1 DATED: January 6, 2026

Respectfully submitted,

2
3 BRETT A SHUMANTE
Assistant Attorney General
Civil Division

4
5 ERNESTO H. MOLINA
Deputy Director
Office of Immigration Litigation

6
7 BENJAMIN M. MOSS
Senior Counsel

8
9 NANCY N. SAFAVI
Senior Trial Attorney

10 /s/ Jessica D. Strokus
JESSICA D. STROKUS
Trial Attorney
Office of Immigration Litigation
U.S. Dep't of Justice, Civil Division
P.O. Box 878, Ben Franklin Station
Washington, D.C. 20001
11
12 (202) 616-8779
13 Jessica.D.Strokus@usdoj.gov

14 *Attorneys for Respondents-Defendants*

ATTACHMENT

EXHIBIT 2

1 CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney

2 PAMELA T. JOHANN (CABN 145558)
3 Chief, Civil Division

4 ELIZABETH D. KURLAN (CABN 255869)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102-3495
7 Telephone: (415) 436-7298
8 Facsimile: (415) 436-6748
elizabeth.kurlan@usdoj.gov

9 Attorneys for Defendants-Respondents

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 FRESCIA GARRO PINCHI, JUANY GALO)
14 SANTOS, and JOSE TELETOR SENTE, on)
behalf of themselves and others similarly)
15 situated,)

16 Plaintiffs-Petitioners,)

17 v.)

18 SERGIO ALBARRAN, Field Office Director)
of the San Francisco Immigration and)
19 Customs Enforcement Office; KRISTI)
NOEM, Secretary of the United States)
20 Department of Homeland Security; TODD)
LYONS, Acting Director of United States)
21 Immigration and Customs Enforcement,)
acting in their official capacities; U.S.)
22 DEPARTMENT OF HOMELAND)
SECURITY; U.S. IMMIGRATION AND)
23 CUSTOMS ENFORCEMENT,)

24 Defendants-Respondents.)

CASE NO. 25-cv-5632-PCP

**DECLARATION OF DEPORTATION OFFICER
MICHAEL SILVA**

Date: December 9, 2025

Time: 10:00 a.m.

Courtroom:

Honorable P. Casey Pitts
United States District Judge

1 I, Michael Silva, make the following statements under oath and subject to the penalty of perjury:

2 1. I am over 18 years of age and have personal knowledge of the matters set forth in my
3 declaration, and if called to testify with respect thereto, could, and would do so competently under oath.

4 2. I am a Deportation Officer (“DO”) with the U.S. Department of Homeland Security
5 (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations
6 (“ERO”), in the San Francisco Field Office. I have been employed with DHS since September 20, 2015,
7 as a DO.

8 3. I am currently assigned to the Alternatives to Detention Unit, and my responsibilities
9 include enforcing final orders of removal against aliens. This includes monitoring non-detained cases with
10 removal orders, obtaining travel documents for aliens ordered removed, and effectuating the removal of
11 aliens to their home countries.

12 4. I am familiar with ICE policies and procedures governing the detention and removal of
13 aliens who come into ICE’s custody.

14 5. I am the DO assigned to the case of Mr. Jose Telefor Sente (“Petitioner”). The facts in this
15 declaration are based on my personal knowledge, consultation with other DHS and ICE personnel, and
16 review of official documents and records maintained by the agency and Department and other relevant
17 sources during the regular course of my duties. I provide this declaration based on the best of my
18 knowledge, information, belief, and reasonable inquiry for the above-captioned case.

19 6. I have obtained and attached to my declaration true and correct copies of the following
20 documents from the above-named Petitioner’s case file and records maintained by DHS, which will be
21 referenced as Exhibits (“Exh.”) as follows:

22 Exh. A: Form I-862, Notice to Appear (NTA), dated July 4, 2019.

23 Exh. B: Form I-220A, Order of Release on Recognizance.

24 **Petitioner’s Background and Procedural History**

25 7. Petitioner is a native and citizen of Guatemala who entered the United States without
26 admission, inspection, or parole at or near El Paso, Texas, on or about July 4, 2019. *See* Exh. A.

27 8. On July 4, 2019, Petitioner was issued a Notice to Appear placing him into removal
28

1 proceedings before the Immigration Court, charging him with removability under section 212(a)(6)(i) of
2 the Immigration and Nationality Act (INA). *See* Exh. A.

3 9. On July 4, 2019, Petitioner was issued a Form I-220A, Order of Release on Recognizance
4 pursuant to Section 236 of the INA. *See* Exh. B.

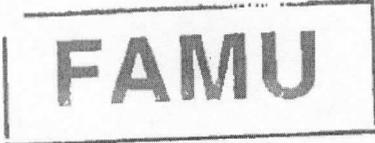
5 10. Petitioner was scheduled for an initial master calendar hearing at the San Francisco
6 Immigration Court on April 23, 2020, which was rescheduled by the court ten times, with the hearing now
7 set for November 23, 2027.

8 I affirm under penalty of perjury under the laws of the United States of America that the foregoing
9 is true and correct to the best of my knowledge and belief. Executed on November 14, 2025, in San
10 Francisco, California.

11 **MICHAEL SILVA** Digitally signed by MICHAEL SILVA
Date: 2025.11.14 12:22:59 -08'00'

12 Michael Silva
13 Deportation Officer
14 Enforcement and Removal Operations
15 U.S. Immigration and Customs Enforcement
16 U.S. Department of Homeland Security
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A



U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS #: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

Respondent: JOSE WALDEMAR TELETOR SENTE currently residing at:

[REDACTED] (Number, street, city and ZIP code)

[REDACTED] (Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of GUATEMALA and a citizen of GUATEMALA ;
3. You arrived in the United States at or near EL PASO, TEXAS, on or about July 4, 2019;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

DEPARTMENT OF JUSTICE

IMMIGRATION REVIEW
IMMIGRATION COURT

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:
212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
100 MONTGOMERY ST., SUITE 800 San Francisco CA US 94104

April 23, 2020 1:30 PM Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

TRAVIS INMAN

ACTING PATROL AGENT IN CHARGE

(Signature and Title of Issuing Officer)

Date: July 04, 2019

Alamogordo, New Mexico

(City and State)

See reverse for important information

EOIR - 1 of 2

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on July 04, 2019, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- in person by certified mail, returned receipt requested by regular mail
 Attached is a credible fear worksheet.
 Attached is a list of organizations and attorneys which provide free legal services.

The alien was provided oral notice in the Spanish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

[Signature]
(Signature of Respondent if Personally Served)

DAVID MARTINEZ BORDER PATROL AGENT

[Signature]
(Signature and Title of officer)

EOIR - 2 OF 2

EXHIBIT B

U.S. Department of Homeland Security

Order of Release on Recognizance

File No: [Redacted]
Date: July 04, 2019
Event No: [Redacted]

Name: JOSE WALDEMAR TELETOR SENTE

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

[X] You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.

[X] You must surrender for removal from the United States if so ordered.

[X] You must report in (writing) (person) to NON DETAINED UNIT, OFFICER ON DUTY
630 SANSOME STREET, 5TH FLOOR SAN FRANCISCO, CA on WITHIN 30 DAYS OF ARREST at 08:00 AM
at 94111 (Location of DHS Office) (Day of each month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

[X] You must not change your place of residence without first securing written permission from the immigration officer listed above.

[X] You must not violate any local, State, or Federal laws or ordinances.

[X] You must assist the Department of Homeland Security in obtaining any necessary travel documents.

[X] Other: MONDAY-THURSDAY FROM 08:00AM-12:00PM

[] See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

[Signature]
(Signature of DHS Official)
TRAVIS INMAN
ACTING PATROL AGENT IN CHARGE
(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

DAVID MARTINEZ [Signature] [Signature of Alien] 7/4/19
(Signature of Immigration Officer Serving Order) (Signature of Alien) (Date)

Cancellation of Order

I hereby cancel this order of release because: [] The alien failed to comply with the conditions of release.

[] The alien was taken into custody for removal. [Signature] 07/04/2019
(Signature of Immigration Officer Canceling Order) (Date)