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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SUKHSAGAR SINGH,

Petitioner,

v.

WARDEN OF IMPERIAL REGIONAL
DETENTION FACILITY, et al.,

Respondents.

Case No.: 26-cv-401-DMS-KSC

RETURN TO HABEAS PETITION

1 **I. Introduction**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Based on the
3 arguments below, the Court should deny any requests for relief and dismiss the petition.

4 **II. Factual Background¹**

5 Petitioner is a citizen and national of India. On or about June 17, 2023, Petitioner
6 unlawfully entered the United States without inspection. Petitioner did not then have
7 any valid entry documents to enter the United States. He was determined to be
8 inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i), 1182(a)(7)(A)(i)(I), placed in
9 expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1), and taken into
10 Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C.
11 § 1225(b)(1)(B). After receiving a positive credible fear determination, pursuant to 8
12 U.S.C. § 1225(b)(1)(B), Petitioner was issued a Notice to Appear (NTA). The filing of
13 the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against
14 Petitioner, and those proceedings remain ongoing. On July 14, 2023, Petitioner was
15 granted parole, under 8 U.S.C. § 1182(d)(5), valid until July 14, 2024, and released from
16 custody. On November 26, 2025, Petitioner was apprehended and detained by DHS
17 officials. Petitioner transferred into ICE custody and remains detained mandatorily
18 under 8 U.S.C. § 1225(b)(2).

19 **III. Argument**

20 **B. Claims and Requested Relief Jurisdictionally Barred**

21 Petitioner bears the burden of establishing that this Court has subject matter
22 jurisdiction over asserted claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d
23 770, 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989).

24 Courts lack jurisdiction over any claim or cause of action arising from any
25 decision to commence or adjudicate removal proceedings or execute removal orders.
26 *See* 8 U.S.C. § 1252(g) (“[N]o court shall have jurisdiction to hear any cause or claim
27

28 ¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from agency counsel.

1 by or on behalf of any alien arising from the decision or action by the Attorney General
2 to *commence proceedings, adjudicate cases, or execute removal orders.*) (emphasis
3 added). Section 1252(g) also bars district courts from hearing challenges to the method
4 by which the government chooses to commence removal proceedings, including the
5 decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203
6 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s
7 discretionary decisions to commence removal” and bars review of “ICE’s decision to
8 take [plaintiff] into custody and to detain him during his removal proceedings”).

9 Removal proceedings commence by the filing of a notice to appear in
10 immigration court. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 600 (9th Cir. 2002).
11 “The Attorney General may arrest the alien against whom proceedings are commenced
12 and detain that individual until the conclusion of those proceedings.” *Herrera-Correra*
13 *v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept.
14 11, 2008). “[A]n alien’s detention throughout this process arises from the Attorney
15 General’s decision to commence proceedings.” *Id.* (citing *Sissoko v. Rocha*, 509 F.3d
16 947, 949 (9th Cir. 2007)); 8 U.S.C. § 1252(g); *but see Vasquez Garcia v. Noem*, No.
17 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025).

18 Here, Petitioner’s claims arise from his detention during removal proceedings,
19 which stem from the Attorney General’s decision to commence such proceedings. As
20 such, § 1252(g) bars this Court’s review over Petitioner’s claims. *See S.Q.D.C. v. Bondi*,
21 No. 25-3348 (PAM/DLM), 2025 WL 2617973, at * 2 (D. Minn. Sept. 9, 2025) (finding
22 that § 1252(g) jurisdictionally bars review of a petitioner’s challenge to ongoing
23 detention during removal proceedings).

24 Moreover, under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law
25 and fact . . . arising from any action taken or proceeding brought to remove an alien
26 from the United States under this subchapter shall be available only in judicial review
27 of a final order under this section.” (emphasis added). While holding that it was
28 unnecessary to comprehensively address the scope of § 1252(b)(9), the Supreme Court

1 in *Jennings* provided guidance on the types of challenges that may fall within the scope
2 of § 1252(b)(9). *See Jennings*, 583 U.S. at 293–94. The Court found that “§ 1252(b)(9)
3 [did] not present a jurisdictional bar” in situations where “respondents . . . [were] not
4 challenging the decision to detain them in the first place.” *Id.* at 294–95. In this case,
5 Petitioner does challenge the government’s decision to detain him in the first place.
6 Though Petitioner attempts to frame his challenge as one relating to detention authority,
7 rather than a challenge to DHS’s decision to detain him in the first instance, such
8 creative framing does not evade the preclusive effect of § 1252(b)(9). Indeed, that
9 Petitioner is challenging the basis upon which he is detained is enough to trigger §
10 1252(b)(9) because “detention *is* an ‘action taken . . . to remove’ an alien.” *See Jennings*,
11 583 U.S. at 319 (emphasis in original); *see also* 8 U.S.C. § 1252(b)(9).

12 The Court should dismiss this matter for lack of jurisdiction under 8 U.S.C.
13 § 1252.²

14 **B. Petitioner is Lawfully Detained**

15 Petitioner’s claims for alleged statutory and constitutional violations fail because
16 he is subject to mandatory detention under 8 U.S.C. § 1225.

17 While Petitioner was previously released from custody on parole, his parole was
18 valid for only one year and that period has now expired. There is no basis to order
19 Petitioner’s immediate release from immigration detention. *See Omer G. G. v. Kaiser*,
20 No. 1:25-CV-01471-KES-SAB (HC), 2025 WL 3254999, *3 n. 6 (E.D. Cal. Nov. 22,
21 2025) (“Petitioner’s claim concerning the regulations is without merit because the

22 _____
23 ² On an alternative basis, the Court should ensure Petitioner properly exhausts
24 administrative remedies. The Ninth Circuit requires that “habeas petitioners exhaust
25 available judicial and administrative remedies before seeking relief under § 2241.”
26 *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). “When a petitioner does
27 not exhaust administrative remedies, a district court ordinarily should either dismiss the
28 petition without prejudice or stay the proceedings until the petitioner has exhausted
remedies, unless exhaustion is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160
(9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014)
(issue exhaustion is a jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080
(9th Cir. 2010) (no jurisdiction to review legal claims not presented in the petitioner’s
administrative proceedings before the BIA).

1 regulations governing termination of humanitarian parole provide that “[p]arole shall
2 automatically be terminated without written notice . . . at the expiration of the time for
3 which parole was authorized . . .” 8 C.F.R. § 212.5(e)(1). As petitioner’s parole expired
4 on August 28, 2025, *see* Doc. 1 at 33, petitioner was not entitled to notice under the
5 regulations.”).

6 The expiration of his parole emphasizes his status as an applicant for admission,
7 subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See* 8 U.S.C.
8 § 1182(d)(5)(A) (“ . . . *such parole of such alien shall not be regarded as an admission*
9 *of the alien and when the purposes of such parole shall . . . have been served the alien*
10 *shall forthwith return or be return to the custody from which he was paroled and*
11 *thereafter his case shall continue to be dealt with in the same manner as that of any other*
12 *applicant for admission to the United States*”) (emphasis added).

13 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*
14 *applicant for admission*, if the examining immigration officer determines that an alien
15 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*
16 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025)
17 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Section 1225(a)(1)
18 “expressly defines that “[a]n alien present in the United States who has not been
19 admitted . . . shall be deemed for purposes of this Act *an applicant for admission*.” *Id.*
20 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original). Because Petitioner is properly
21 detained under § 1225, he cannot show entitlement to relief.

22 IV. CONCLUSION

23 For the foregoing reasons, Respondents respectfully request that the Court
24 dismiss this action.

25 DATED: January 28, 2026

Respectfully submitted,

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