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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**

SEFERINO RESENDIZ RESENDIZ, )  
)  
Petitioner, )  
)  
v. )  
)  
)  
WARDEN, Broward Transitional Center; )  
KRISTI NOEM, Secretary of Homeland )  
Security; )  
PAMELA JO BONDI, U. S. Attorney General; )  
)  
GARRETT RIPA, Miami Field Office Director, )  
U.S. Immigration and Customs Enforcement )  
and Removal Operation; )  
TODD LYONS, Acting Director of Immigration )  
and Customs Enforcement; )  
U.S. DEPARTMENT OF HOMELAND )  
SECURITY; )  
U.S. IMMIGRATION AND CUSTOMS )  
ENFORCEMENT; and )  
U.S. DEPARTMENT OF JUSTICE )  
)  
Respondents. )  
)  
)  
/

Case No. 0:26-cv-60207-EA

Agency No. 

**APPLICATION FOR ISSUANCE  
OF ORDER TO SHOW CAUSE**

**BRIEF IN SUPPORT OF JURISDICTION TO REVIEW MR. RESENDIZ'S PETITION  
FOR HABEAS CORPUS**

**I. INTRODUCTION**

On January 27, 2026, Mr. Seferino RESENDIZ RESENDIZ (hereinafter, "Petitioner" or

“Mr. Resendiz”) filed a verified Petition for a Writ of Habeas Corpus. Doc. No. 1. On February 9, 2026, this Honorable U. S. District Court requested briefing on whether it has subject-matter jurisdiction to review Mr. Resendiz’s petition. Doc. No. 4. This brief follows.

## II. ISSUES

1. Whether 8 U.S.C. § 1252(b)(9) precludes Petitioner from challenging the legality of his detention;
2. Whether 8 U.S.C. § 1252(g) precludes Petitioner from challenging the legality of his detention;
3. Whether 28 U.S.C. 2241 confers subject-matter jurisdiction to review habeas corpus petitions by aliens in immigration-related detention.

## III. SUMMARY OF ARGUMENT

Numerous precedents from the U. S. Supreme Court and United States Court of Appeals for the Eleventh Circuit held that U. S. District Courts have subject-matter jurisdiction to review aliens’ habeas corpus petitions in immigration-related detention. Although the issues surrounding 8 U.S.C. § 1252(b)(9) and 8 U.S.C. § 1252(g) overlap, this brief addresses them separately for clarity.

The jurisdictional bars in 8 U.S.C. § 1252(b)(9) and 8 U.S.C. § 1252(g) are narrow—neither of them precludes subject-matter jurisdiction to challenge the legality of an alien’s detention. *See Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1253 (11th Cir. 2020) (“Also, we hold that 8 U.S.C. § 1252(b)(9) and (g) do not bar the Plaintiffs’ challenge to the visa petition denial.”).

U.S.C. § 1252(b)(9) precludes subject-matter jurisdiction for requests to review an order of removal, the decision to seek removal, or the process by which removability will be

determined. *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020). 8 U.S.C. § 1252(g) only bars jurisdiction to challenge the government’s decision to commence proceedings, adjudicate cases, or execute removal orders. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

#### IV. ARGUMENT

A. **8 U.S.C. § 1252(b)(9) does not preclude subject-matter jurisdiction because it relates to the review of certain removal orders, not challenges to detention.**

8 U.S.C. § 1252(b) establishes the requirements for review of certain orders of removal, not challenges to the legality of an alien’s detention, “With respect to review of an order of removal under subsection (a)(1), the following requirements apply...”. Specifically, 8 U.S.C. § 1252(b)(9) is the “zipper clause.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d at 1257 (11th Cir. 2020).

The U. S. Supreme Court ruled that the zipper clause does not preclude subject-matter jurisdiction “where those bringing suit ‘are not asking for review of an order of removal,’ ‘the decision ... to seek removal,’ or ‘the process by which ... removability will be determined.’” *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020) (quoting *Jennings v. Rodriguez*, 138 S.Ct. 830, 841 (2018) (plurality opinion)). Here, Petitioner is not asking for the review of an order of removal, the decision to seek removal, nor the process by which removability will be determined. Instead, Petitioner is challenging the legality of his detention. The legality, or lack thereof, of Petitioner’s detention does not impinge upon the removal proceedings commenced against him. Even if the government does not restrict Petitioner’s liberty, removal proceedings will remain against him, completely unaffected. Therefore, 8 U.S.C. § 1252(b)(9) does not

preclude this Court from exercising subject-matter jurisdiction over Petitioner’s habeas corpus claim.

In *Jennings v. Rodriguez*, 138 S.Ct. 830 (2018), the U. S. Supreme Court directly addressed this issue in the detention context. The U. S. Supreme Court ruled, “[8 U.S.C. § 1252(b)(9)] does not deprive us of jurisdiction. We are required in this case to decide ‘questions of law,’ specifically, whether, contrary to the decision of the Court of Appeals, certain statutory provisions require detention without a bond hearing.” *Jennings*, 138 S.Ct. at 840. In *Jennings*, the U. S. Supreme Court allowed challenges against the aliens’ detention to proceed, holding:

it is enough to note that respondents are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined.

138 S.Ct. at 841. Similarly, here, Petitioner is challenging his detention—not an order of removal, not the decision to detain him in the first place or to seek removal, and not any part of the process by which his removability will be determined. Therefore, this Court has subject-matter jurisdiction to consider Mr. Resendiz’s petition for habeas corpus.

**B. 8 U.S.C. § 1252(g) does not preclude subject-matter jurisdiction, because petitioner is not challenging the government’s decision to “commence proceedings, adjudicate cases, or execute removal orders”—instead, he is challenging his detention.**

In *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999), the U. S. Supreme Court ruled, “The provision [8 U.S.C. § 1252(g)] applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’” More recently, *Canal A. Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257 (11<sup>th</sup> Cir. 2020) similarly held, “Instead, § 1252(g) bars challenges only to the ‘three discrete actions’ enumerated in the statute.” Here, Petitioner is challenging his detention, not the government’s decision to commence proceedings, adjudicate cases, or execute

removal orders. Therefore, this Court has subject-matter jurisdiction to review Mr. Resendiz's petition for habeas corpus.

Mr. Resendiz's position is also consistent with Supreme Court and Eleventh Circuit precedents directly addressing habeas corpus petitions. For example, in *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001), the U. S. Supreme Court ruled that U. S. district courts have subject-matter jurisdiction to review "challenges to the lawfulness of immigration-related detention," habeas corpus petitions.

In *Zadvydas*, the U. S. Supreme Court explained:

We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. 2241 confers jurisdiction upon the federal courts to hear these cases. See 2241(c)(3) (authorizing any person to claim in federal court that he or she is being held 'in custody in violation of the Constitution or laws ... of the United States').

533 U.S. at 687. Similarly, *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006), held that 8 U. S. C. § 1252(g) "does not proscribe substantive review of the underlying legal bases" for an alien's detention. Therefore, consistent with U. S. Supreme Court and Eleventh Circuit precedents, 28 U.S.C. § 2241 establishes subject-matter jurisdiction to review habeas corpus petitions in immigration-related detention cases.

In an unrelated case, *Gupta v. McGahey*, 709 F.3d 1062, 1063 (11th Cir. 2013), the Eleventh Circuit found no jurisdiction in a *Bivens* claim "aris[ing] from the agents' decision or action to commence removal proceedings." In *Gupta*, a citizen of India sought declaratory relief and monetary damages for alleged irregularities during his arrest and seizure of property by Immigration Customs Enforcement. 709 F.3d at 1064. The purpose of the arrest and seizure of property were to commence removal proceedings. *Id.* at 1065. There, the alien was not challenging his detention. In fact, he had been released on bond prior to the suit. *Id.* at 1064. Here, Mr. Resendiz is not challenging his initial arrest nor the government's decision to

commence removal proceedings. Instead, he is challenging the lawfulness of his continued detention without an individualized bond hearing. *See Javier Gimenez Rivero v. Sheriff John Mina et al.*, Case No. 6:26-cv-66-RBD-NWH, at 4-6 (M. D. Fla. Jan. 26, 2026) (“Because Gupta directly challenged his removal, the Eleventh Circuit affirmed the district court’s dismissal of his case on jurisdictional grounds under § 1252(g). But § 1252(g) does not ‘impose a general jurisdictional limitation.’” (internal citations omitted)).

**C. Numerous U. S. district courts have found subject-matter jurisdiction in cases identical to Petitioner’s.**

In *Hernandez Lopez v. Miami Federal Detention Center FDC et al.*, Case No. 26-20187-CV-DIMITROULEAS (S. D. Fla. Jan. 27, 2026), *Acando Ceballo v. Parra et al.*, Case No.: 25-cv-25271-JB (S. D. Fla. Dec. 4, 2025), and *Duvallon Boffill v. Field Office Director, Miami Field Office et al.*, Case No.: 25-cv-25179-JB, (S. D. Fla. Nov. 20, 2025), the Southern District of Florida reviewed habeas corpus petitions by aliens detained by the Department of Homeland Security, which alleged that the alien was subject to mandatory detention under 8 U. S. C. § 1225(b)(2). Before granting the petitions, *Hernandez Lopez*, at 3, *Acando Ceballo*, at 4, and *Duvallon Boffill*, at 4, determined:

District courts have the authority to grant writs of habeas corpus. See 28 U.S.C. § 2241(a). Habeas corpus is fundamentally ‘a remedy for unlawful executive detention.’ *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citation omitted). A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the Constitution or federal law. See 28 U.S.C. § 2241(c)(3). The Court’s jurisdiction extends to challenges involving immigration-related detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

Regarding 8 U.S.C. § 1252(b)(9), *Duvallon Boffill*, at 9, explained:

This position was squarely addressed in *Jennings v. Rodriguez*, where the United States Supreme Court held that ‘questions of law’ regarding whether ‘certain statutory provisions require detention without a bond hearing’ *do not* ‘arise from’ the decision to remove an alien from the country as set forth in section 1252(b)(9). *Jennings*, 583 U.S. 281, 292–294 (2018).

[Emphasis added.]. Regarding 8 U.S.C. § 1252(g), *Duvallon Boffill*, at 7, ruled, “Here, Petitioner’s claim does not implicate the Attorney General’s decision to commence proceedings, adjudicate cases, or execute removal orders. Rather, Petitioner challenges the legality of his detention. Such claim is reviewable.”

## V. CONCLUSION

Decades of Supreme Court and Eleventh Circuit precedents hold that U. S. district courts have jurisdiction to review aliens’ petitions for habeas corpus. Regarding 8 U.S.C. § 1252(b)(9), Petitioner is not asking for the review of an order of removal, the decision to seek removal, nor the process by which removability will be determined—he is challenging the legality of his detention. In fact, the government’s removal proceedings against Petitioner will continue even if he is released. Therefore, 8 U.S.C. § 1252(b)(9) is no obstacle for habeas jurisdiction.

Similarly, regarding 8 U.S.C. § 1252(g), the Petitioner is not challenging the government’s decision to commence proceedings, adjudicate cases, nor execute removal orders. Petitioner is challenging the government’s policy of detaining him without an individualized bond hearing. As the U. S. Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001), 28 U. S. C. § 2241 confers jurisdiction to review Mr. Resendiz’s habeas corpus petition.

Respectfully submitted this 15<sup>th</sup> day of February of 2026.

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### CERTIFICATE OF SERVICE

I hereby certify that, on February 15, 2026, I electronically served a true and correct copy of the foregoing, including any and all attachments, on counsel for Respondents via transmission of a Notice of Electronic Filing generated by the CM/ECF system of the U.S. District Court of the Southern District of Florida.

I further certify that on February 15, 2026, I e-mailed a true and correct copy of the foregoing, including any and all attachments, on counsel for the Respondents, via usafls-immigration@usdoj.gov and usafls-2255@usdoj.gov.

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