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DETAINED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

ENRIQUE ENRIQUEZ-GUERRA,)
)
Petitioner,)
)
v.)
)
FIELD OFFICE DIRECTOR, RIPA GARRET,)
U.S. IMMIGRATION AND)
CUSTOMS ENFORCEMENT,)
)
)
)
Respondent. _____

Case No. 1:26-cv-20828

Reply Brief in Support of Petition for Writ of Habeas Corpus

I. This Court Has Jurisdiction Under § 2241 Because Petitioner Challenges Detention Authority, Not Removal Proceedings

The government's jurisdictional arguments fundamentally mischaracterize this case. Petitioner does not seek review of the Immigration Judge's dismissal order or challenge DHS's prosecutorial discretion in removal proceedings. Instead, petitioner challenges the statutory authority for his continued detention and seeks constitutionally adequate process regarding custody.

The Supreme Court in *DHS v. Regents of University of California* clarified that Section 1252(b)(9) "does not present a jurisdictional bar 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." Canal A Media Holding, LLC v. United States Citizenship & Immigration Servs., 964 F.3d 1250 (11th Cir. 2020). The Court emphasized that the zipper clause only affects cases that "involve[] review of an order of removal." Canal A Media Holding, LLC v. United States Citizenship & Immigration Servs., 964 F.3d 1250 (11th Cir. 2020). Here, petitioner's removal proceedings were dismissed, not adjudicated to a final order. Petitioner's separate BIA appeal of that dismissal does not transform this detention challenge into prohibited removal review.

Similarly, Section 1252(g) applies only to three discrete categories: decisions "to commence proceedings, adjudicate cases, or execute removal orders." Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020). The Supreme Court has "rejected as 'implausible' the Government's suggestion that §1252(g) covers 'all claims arising from deportation proceedings' or imposes 'a general jurisdictional limitation. Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020). "' Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020). Petitioner's challenge to detention authority following dismissal of proceedings does not "arise from" any of the three enumerated DHS actions. The detention stems from DHS's post-dismissal custody decision and issuance of expedited removal documentation, not from the original decision to commence or adjudicate proceedings.

II. Petitioner's Detention Is Governed by § 1226(a), Not § 1225(b)(2)

The government's classification of petitioner as an "applicant for admission" subject to mandatory detention under § 1225(b)(2) ignores the procedural posture and statutory framework. When removal proceedings are dismissed without prejudice, the alien's status reverts to that existing before proceedings commenced. Petitioner was physically present in the United States for over three years before his October 2025 detention, during which time he was released on his own recognizance.

The government's reliance on out-of-circuit authority, particularly the Fifth Circuit's decision in Buenrostro-Mendez, is misplaced for several reasons. First, that decision is not binding on this Court and conflicts with established Eleventh Circuit precedent treating long-term residents as subject to § 1226(a) detention. Second, the procedural posture differs significantly-petitioner here was in dismissed proceedings with a pending appeal, not active removal proceedings.

More fundamentally, DHS cannot unilaterally reclassify a long-term resident into expedited removal proceedings after regular removal proceedings are dismissed. The issuance of expedited removal paperwork post-dismissal appears to be an improper attempt to circumvent the bond protections of § 1226(a). The statutory scheme does not permit such bootstrapping to avoid individualized custody determinations.

III. Exhaustion Is Excused Due to Futility and Agency Inability to Grant Relief

The government's exhaustion argument fails because exhaustion in § 2241 cases is prudential, not jurisdictional, and multiple exceptions apply. The rejection of petitioner's bond motion for filing in the wrong immigration court demonstrates the futility of further administrative proceedings. . The government provides no clear guidance on which forum would be "correct" for a detainee whose proceedings were dismissed and who faces expedited removal.

Moreover, if the government's position that petitioner is subject to mandatory detention under § 1225(b)(2) were correct, no Immigration Judge would have authority to grant bond relief. This creates the classic futility exception-requiring petitioner to pursue administrative remedies that cannot provide the relief sought. The agency's inability to grant meaningful relief excuses exhaustion.

The government's suggestion that petitioner should refile his bond motion in an unspecified "correct" forum while facing potential transfer to expedited removal proceedings demonstrates the inadequacy of administrative remedies. Such a requirement would create indefinite delay without meaningful opportunity for relief.

IV. Continued Detention Violates Due Process Under Jennings

While the Supreme Court in *Jennings* declined to impose a statutory bond hearing requirement, it explicitly preserved as-applied constitutional challenges to prolonged detention *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 142 S. Ct. 1827 (2022). The Court emphasized that statutory language permitting detention does not automatically satisfy constitutional requirements when detention becomes prolonged.

Petitioner's detention since October 2025, with no definite end in sight due to the pending BIA appeal and potential expedited removal proceedings, raises constitutional concerns. The government provides no timeline for resolution of either the BIA appeal or the expedited removal process. This indefinite detention without individualized review violates substantive due process.

The constitutional violation is compounded by the procedural defects in petitioner's case. The dismissal of removal proceedings without adequate opportunity to present his asylum claim, combined with immediate detention and reclassification into expedited removal, denies

petitioner meaningful process. . The rejection of his bond request due to forum confusion further demonstrates the lack of adequate procedural safeguards.

V. Appropriate Relief

Given the jurisdictional and constitutional violations, this Court should order DHS to provide petitioner with a prompt individualized bond hearing before an Immigration Judge under § 1226(a). Alternatively, if the Court finds that petitioner's detention lacks statutory authority due to the improper reclassification post-dismissal, immediate release is warranted.

The remedy should not interfere with petitioner's pending BIA appeal of the dismissal order. The custody determination is separate from the merits of removal proceedings and can be resolved without prejudicing either party's position on appeal.

Conclusion

The government's response fails to establish that this Court lacks jurisdiction or that petitioner's detention is lawful. Petitioner challenges detention authority, not removal proceedings, placing this case squarely within § 2241 habeas jurisdiction. The improper classification under § 1225(b)(2) and denial of individualized process violate both statutory and constitutional requirements. This Court should grant the petition and order appropriate relief to remedy these violations.

Respectfully submitted,

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