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7 Attorneys for Respondents

8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 IDRISS ZAKARIA ISSA,

11 Petitioner,

12 v.

13 MARKWAYNE MULLIN, Secretary of  
14 the Department of Homeland Security,  
15 TODD BLANCHE, Acting Attorney  
16 General, TODD M. LYONS, Acting  
17 Director, Immigration and Customs  
18 Enforcement, JESUS ROCHA, Acting  
Field Office Director, San Diego Field  
Office, JEREMY CASEY, Warden at  
Imperial Regional Detention Center,

19 Respondents.

Case No.: 26-cv-02117-BJC-DDL

**RETURN TO PETITION FOR WRIT  
OF HABEAS CORPUS**

20  
21 **I. Introduction**

22 Petitioner requests that this Court order his release from Immigration and  
23 Customs Enforcement (ICE) custody. However, as Petitioner’s claims are direct and  
24 indirect challenges to his expedited removal proceedings, jurisdiction over his claims is  
25 barred under 8 U.S.C. § 1252(a)(2)(A), § 1252(e), and § 1252(g). Moreover, as  
26 Petitioner is inadmissible, his claims lack merit. Respondents respectfully request that  
27 the Court deny Petitioner’s requests for relief.

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## II. Factual Background

1  
2 Petitioner is a native and citizen of Sudan currently detained at the Imperial  
3 Regional Detention Facility. *See* Declaration of Natalie Mendoza at ¶ 5. On March 9,  
4 2025, Petitioner was apprehended by Border Patrol soon after entering the United States  
5 illegally earlier in the day. *Id.* at ¶ 6. Border Patrol turned Petitioner over to ICE on  
6 March 10, 2025, and Petitioner was processed for expedited removal (ER) pursuant to  
7 Immigration & Nationality Act (INA) § 235(b)(1). *Id.*

8 At the time of his apprehension, Border Patrol determined that Petitioner was  
9 subject to the Presidential proclamation which suspended physical entry and restricted  
10 access to provisions of the INA that permitted continued presence in the United States.  
11 *See* Presidential Proclamation 10888 (*Guaranteeing the States Protection Against*  
12 *Invasion*). Accordingly, Petitioner was not referred for a credible fear or reasonable fear  
13 interview with an Asylum Officer (AO). *Id.* at ¶ 7. Petitioner was instead referred for  
14 a Convention Against Torture (CAT) assessment by an AO. These assessments were at  
15 that time administered to aliens whose entry into the United States had been suspended  
16 or restricted by Presidential Proclamation 10888. Following the assessment, the AO  
17 determined that Petitioner did not establish that it was more likely than not that he would  
18 be tortured if removed to Sudan. *Id.* at ¶ 8.

19 On September 24, 2025, Petitioner was issued an expedited order of removal that  
20 superseded the ER order of March 9, 2025. *Id.* at ¶ 9. On September 25, 2025, Petitioner  
21 was referred for a credible fear interview with an Asylum Officer (AO). The AO  
22 determined that Petitioner did not establish a credible fear of persecution or torture. *Id.*  
23 at ¶ 10. On September 26, 2025, an Immigration Judge affirmed the AO's negative  
24 credible fear determination and ordered that Petitioner's case be returned to DHS for  
25 removal. *Id.* at ¶ 11.

26 DHS is not in possession of a valid unexpired Sudanese passport pertaining to  
27 Petitioner. *Id.* at ¶ 12. Accordingly, on or about March 8, 2026, ERO sent the Sudanese  
28 Government a written request for issuance of a travel document pertaining to Petitioner.

1 *Id.* at ¶ 13. Before Sudan will issue a travel document to ICE on behalf of one of its  
2 citizens, it requires that its citizen first be interviewed by the Sudanese consulate. *Id.* at  
3 ¶ 14. On March 18, 2026, Petitioner refused ERO’s request that he participate in a travel  
4 document interview with the Sudanese consulate and Petitioner was issued a Notice of  
5 Failure to Comply Pursuant to 8 C.F.R. § 241.4(g). *Id.* at ¶ 15.

6 The sole impediment to Petitioner’s removal to Sudan is his refusal to cooperate  
7 with ICE in obtaining a travel document from Sudan. *Id.* at ¶ 16. According to publicly  
8 available statistics, ICE removed 27 Sudanese citizens from the United States from  
9 October 2020 to December 2024.<sup>1</sup> *Id.* at ¶ 18. As of November 24, 2025, DHS is able  
10 to remove Sudanese aliens from the United States commercially via Ethiopian Airlines,  
11 which conducts daily flights to Port Sudan. *Id.* at ¶ 17.

### 12 III. Argument

#### 13 A. Petitioner’s Claims and Requested Relief are Barred by 8 U.S.C. § 1252

14 The Court lacks jurisdiction to hear Petitioner’s claims. *See Ass’n of Am. Med.*  
15 *Coll. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000); *Finley v. United States*,  
16 490 U.S. 545, 547-48 (1989). Petitioner brings his habeas action under 28 U.S.C.  
17 § 2241, but jurisdiction over his claims is barred under 8 U.S.C. § 1252(a)(2)(A),  
18 § 1252(e), and § 1252(g).

19 In general, courts lack jurisdiction to review a decision to commence or  
20 adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g)  
21 (“[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any  
22 alien arising from the decision or action by the Attorney General to commence  
23 proceedings, adjudicate cases, or execute removal orders.”); *Reno v. Am.-Arab Anti-*  
24 *Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There was good reason for  
25 Congress to focus special attention upon, and make special provision for, judicial  
26 review of the Attorney General’s discrete acts of “commenc[ing] proceedings,  
27 adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent the initiation

28 <sup>1</sup> *See* ICE Removals Statistics, <https://www.ice.gov/statistics>.

1 or prosecution of various stages in the deportation process.”); *Limpin v. United States*,  
2 828 Fed. App’x 429 (9th Cir. 2020) (holding district court properly dismissed under 8  
3 U.S.C. § 1252(g) “because claims stemming from the decision to arrest and detain an  
4 alien at the commencement of removal proceedings are not within any court’s  
5 jurisdiction”).

6 Moreover, “[s]ection 1252(a)(2)(A) is a jurisdiction-stripping and channeling  
7 provision, which bars review of almost ‘every aspect of the expedited removal  
8 process.’” *Azimov v. U.S. Dep’t of Homeland Sec.*, No. 22-56034, 2024 WL 687442, at  
9 \*1 (9th Cir. Feb. 20, 2024) (quoting *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1154  
10 (9th Cir. 2022) (describing the operation of § 1252(a)(2)(A)). These jurisdiction-  
11 stripping provisions cover “the ‘procedures and policies’ that have been adopted to  
12 ‘implement’ the expedited removal process; the decision to ‘invoke’ that process in a  
13 particular case; the ‘application’ of that process to a particular alien; and the  
14 ‘implementation’ and ‘operation’ of any expedited removal order.” *Mendoza-Lineras*,  
15 51 F.4th at 1155. “Congress chose to strictly cabin this court’s jurisdiction to review  
16 expedited removal orders.” *Guerrier v. Garland*, 18 F.4th 304, 313 (9th Cir. 2021)  
17 (finding that the Supreme Court abrogated any “colorable constitutional claims”  
18 exception to the limits placed by § 1252(a)(2)(A)); see *Dep’t of Homeland Sec. v.*  
19 *Thuraissigiam*, 591 U.S. 103 (2020) (holding that limitations within § 1252(a)(2)(A) do  
20 not violate the Suspension Clause). “Congress has chosen to explicitly bar nearly all  
21 judicial review of expedited removal orders concerning such aliens, including ‘review  
22 of constitutional claims or questions of law.’” *Mendoza-Linares*, 51 F.4th at 1148  
23 (citing 8 U.S.C. § 1252(a)(2)(A), (D)); see *Dept’ of Homeland Sec. v. Thuraissigiam*,  
24 591 U.S. 103, 138-39 (2020) (explicitly rejecting Ninth Circuit’s holding that an  
25 arriving alien has a “constitutional right to expedited removal proceedings that conform  
26 to the dictates of due process”).

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1 “Congress could scarcely have been more comprehensive in its articulation of the  
2 general prohibition on judicial review of expedited removal orders.” *Mendoza-Lineras*,  
3 51 F.4th at 1155. Specifically, Section 1252(a)(2)(A) states:

4 (2) Matters not subject to judicial review

5 (A) Review relating to section 1225(b)(1)

6 Notwithstanding any other provision of law (statutory or nonstatutory),  
7 including section 2241 of Title 28, or any other habeas corpus provision,  
8 and sections 1361 and 1651 of such title, no court shall have jurisdiction  
9 to review-

10 (i) except as provided in subsection (e), any individual  
11 determination or to entertain any other cause or claim arising from or  
12 relating to the implementation or operation of an order of removal pursuant  
13 to section 1225(b)(1) of this title,

14 (ii) except as provided in subsection (e), a decision by the Attorney  
15 General to invoke the provisions of such section,

16 (iii) the application of such section to individual aliens, including  
17 the determination made under section 1225(b)(1)(B) of this title, or

18 (iv) except as provided in subsection (e), procedures and policies  
19 adopted by the Attorney General to implement the provisions of section  
20 1225(b)(1) of this title.

21 8 U.S.C. § 1252(a)(2)(A). Thus, “Section 1252(a)(2)(A)(i) deprives courts of  
22 jurisdiction to hear a ‘cause or claim arising from or relating to the implementation or  
23 operation of an order of removal pursuant to section 1225(b)(1),’ which plainly includes  
24 [Petitioner’s] collateral attacks on the validity of the expedited removal order.” *Azimov*,  
25 2024 WL 687442, at \*1 (quoting *Mendoza-Linares*, 51 F.4th at 1155) (citing *J.E.F.M.*  
26 *v. Lynch*, 837 F.3d 1026, 1031-35 (9th Cir. 2016) (concluding that the “arising from”  
27 language in neighboring § 1252(b)(9) sweeps broadly)). By challenging the standards  
28 and process by which the expedited removal order was entered against Petitioner, he  
necessarily asks the Court “to do what the statute forbids [it] to do, which is to review  
‘the application of such section to [him].” *Mendoza-Linares*, 51 F.4th at 1155. Most  
notably, a determination made concerning inadmissibility “is not subject to judicial  
review.” *Gomez-Cantillano v. Garland*, No. 19-72682, 2021 WL 5882034 (9th Cir.  
Dec. 13, 2021) (citing 8 U.S.C § 1252(a)(2)(A)(iii)). “And § 1252(a)(2)(A)(iv) deprives

1 courts of jurisdiction to review ‘procedures and policies adopted by the Attorney  
2 General to implement the provisions of section 1225(b)(1) of this title,’ which plainly  
3 includes [Petitioner’s] claims regarding how [Respondents] have implemented” §  
4 1225(b)(1). *Azimov*, 2024 WL 687442, at \*1 (citing *Mendoza-Linares*, 51 F.4th at  
5 1154–55).

6 In setting forth provisions for judicial review of § 1225(b)(1) expedited removal  
7 orders, Congress expressly limited available relief: “Without regard to the nature of the  
8 action or claim and without regard to the identity of the party or parties bringing the  
9 action, no court may” “enter declaratory, injunctive, other equitable relief in any action  
10 pertaining to an order to exclude an alien in accordance with section § 1225(b)(1) of  
11 this title except as specifically authorized in a subsequent paragraph of this subsection.”  
12 8 U.S.C. § 1252(e)(1)(A). Congress delineated two limited avenues for judicial review  
13 concerning expedited removal orders: (1) narrow habeas corpus proceedings under  
14 § 1252(e)(2); and (2) challenges to the validity of the system under § 1252(e)(3). Any  
15 permissible challenge to the validity of the system “is available [only] in an action in  
16 the United States District Court for the District of Columbia . . .” 8 U.S.C. § 1252(e)(3).

17 Narrow habeas corpus proceedings are expressly “limited to determinations” of  
18 three questions: (1) “whether the petitioner is an alien”; (2) “whether the petitioner was  
19 ordered removed under [section 1225(b)(1)]”; and (3) “whether the petitioner can prove  
20 by a preponderance of the evidence that the petitioner is an alien” who has been granted  
21 status as a lawful permanent resident, refugee, or asylee. 8 U.S.C. § 1252(e)(2)(A)-(C).  
22 “In determining whether an alien has been ordered removed under section 235(b)(1) [8  
23 U.S.C. § 1225(b)(1)], the court’s inquiry shall be limited *to whether such an order in*  
24 *fact was issued and whether it relates to the petitioner*. There shall be no review of  
25 whether the alien is actually inadmissible or entitled to any relief from removal.” 8  
26 U.S.C. § 1252(e)(5) (emphasis added). Petitioner’s primary request within his petition  
27 is to have this Court review DHS’s determination of his inadmissibility. However, “a  
28 habeas court lacks jurisdiction to review ‘whether the alien [1] is actually inadmissible

1 or [2] entitled to any relief from removal.” *Mendoza-Linares*, 51 F.4th at 1158 (quoting  
2 8 U.S.C. § 1252(e)(5)).

3 None of the three narrow avenues for habeas relief apply here. Petitioner  
4 concedes that he is a noncitizen. *See* ECF No. 1 at 1-3. Petitioner also does not assert  
5 that he has been granted status as a lawful permanent resident, refugee, or asylee.  
6 Moreover, “[t]here is no doubt that an order ‘under section 235(b)(1)’ was in fact issued  
7 here, because (1) the order that is in the record and that [Petitioner] challenges expressly  
8 states that it was entered ‘under section 235(b)(1)’ of the INA.” *Mendoza-Linares*, 51  
9 F.4th at 1158. Each of Petitioner’s claims fall outside the limited habeas corpus  
10 authority provided within § 1252(e)(2).

11 Thus, as Petitioner’s claims are direct and indirect challenges to his § 1225(b)(1)  
12 expedited removal order and the application of the expedited removal process to  
13 Petitioner, this Court lacks jurisdiction under 8 U.S.C. § 1252.

14 **B. Petitioner’s Statutory Claims Fail on the Merits**

15 Even assuming the Court has jurisdiction over his petition, Petitioner cites to the  
16 wrong statutory authority. ECF No. 1 at 6-9. Petitioner is not detained under 8 U.S.C. §  
17 1231 and *Zadvydas v. Davis* does not apply. 533 U.S. 678 (2001). As an individual  
18 subject to a final *expedited* removal order as well as mandatory detention under 8 U.S.C.  
19 § 1225(b)(1), Petitioner “shall be” detained until removed. 8 U.S.C. § 1225(b)(1). As  
20 Petitioner entered the United States less than two years ago without a proper travel  
21 document, and without then being admitted or paroled, he is subject to expedited  
22 removal and mandatory detention. *See Id.* Accordingly, Petitioner’s statutory violation  
23 claims fail.

24 **C. Petitioner’s Due Process Claims Fail on the Merits**

25 Even assuming the Court has jurisdiction over his petition, Petitioner’s Fifth  
26 Amendment due process claims fail. Petitioner contends that his “continued detention  
27 without any bond hearing violates his right to due process under the Fifth Amendment.”  
28 ECF No. 1 at ¶ 55. But the only due process rights he has are those rights statutorily

1 afforded by Congress. *See Thuraissigiam*, 591 U.S. at 139 (collecting cases); 8 U.S.C.  
2 § 1225(b)(1)(B)(iii)(IV); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (“This Court has  
3 long held that an alien seeking initial admission to the United States requests a privilege  
4 and has no constitutional rights regarding his application, for the power to admit or  
5 exclude aliens is a sovereign prerogative.”) (citations omitted); *see generally I.N.S. v.*  
6 *Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984) (“Consistent with the civil nature of the  
7 proceeding, various protections that apply in the context of a criminal trial do not apply  
8 in a deportation hearing.”).

9 In *Jennings v. Rodriguez*, 583 U.S. 281, 296–303 (2018), The Supreme Court has  
10 evaluated the proper interpretation of 8 U.S.C. § 1225(b) and has stated that “[r]ead  
11 most naturally, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants  
12 for admission until certain proceedings have concluded.” *Id.* at 297. The Supreme Court  
13 noted that neither 8 U.S.C. § 1225(b)(1) nor § 1225(b)(2) “impose[] any limit on the  
14 length of detention” and “neither § 1225(b)(1) nor § 1225(b)(2) say[] anything  
15 whatsoever about bond hearings.” *Id.* The Supreme Court added that the sole means of  
16 release for noncitizens detained pursuant to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to  
17 removal from the United States is temporary parole at the discretion of the Attorney  
18 General under 8 U.S.C. § 1182(d)(5). *Id.* at 300 (“That express exception to detention  
19 implies that there are no *other* circumstances under which aliens detained under [8  
20 U.S.C.] § 1225(b) may be released.”) (emphasis in original).

21 In *Thuraissigiam*, the Supreme Court once again addressed the due process rights  
22 of inadmissible arriving noncitizens and stated that such individuals have no due  
23 process rights “other than those afforded by statute.” *Id.* at 107; *id.* at 140 (“[A]n alien  
24 in respondent’s position has only those rights regarding admission that Congress has  
25 provided by statute.”). The Supreme Court noted that its determination was supported  
26 by “more than a century of precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United*  
27 *States*, 142 U.S. 651, 660 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544  
28 (1950); *Mezei*, 345 U.S. at 212; *Landon*, 459 U.S. at 32). “[I]n the expedited removal

1 context, a petitioner’s due process rights are coextensive with the statutory rights  
2 Congress provides.” *Guerrier*, 18 F.4th at 310; *see also Mendoza-Linares*, 51 F.4th at  
3 1149 (“Because Congress has clearly and unambiguously precluded us from asserting  
4 jurisdiction over the merits of individual expedited removal orders, even with regard to  
5 constitutional challenges to such orders, and because that prohibition on jurisdiction  
6 raises no constitutional difficulty, we conclude that we lack jurisdiction over Mendoza-  
7 Linares’s petition.”); *Rauda v. Jennings*, 8 F.4th 1050, 1058 (9th Cir. 2021) (“Congress  
8 has already balanced the amount of due process available to petitioners with the  
9 executive’s prerogative to remove individuals, and we decline to expand judicial review  
10 beyond the parameters set by Congress.”); *Mendoza-Linares v. Garland*, No. 21-cv-  
11 1169-BEN (AHG), 2024 WL 3316306, at \*2 (S.D. Cal. June 10, 2024) (“[T]he Court  
12 finds that Petitioner has no Fifth Amendment right to a bond hearing pending his  
13 removal proceedings. The only due process due an alien seeking admission to the  
14 United States is ‘those rights regarding admission that Congress has provided by  
15 statute.’” (quoting *Thuraissigiam*, 591 U.S. at 140); *Zelaya-Gonzalez v. Matuszewski*,  
16 No. 23-CV-151 JLS (KSC), 2023 WL 3103811, at \*4 (S.D. Cal. Apr. 25, 2023)  
17 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks  
18 any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond  
19 hearing.”).

20 As Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), which  
21 does not afford a right to a determination by this Court as to whether his release is  
22 warranted nor a right to a bond hearing before an immigration judge, the Court should  
23 reject his claim that his detention violates the Fifth Amendment’s Due Process Clause  
24 and deny his requested relief. *See Thuraissigiam*, 591 U.S. at 107, 140; *Mezei*, 345 U.S.  
25 at 212; *Guerrier*, 18 F.4th at 310.

26 **D. Despite not being relevant in this context, there is a Significant Likelihood**  
27 **of Removal in the Reasonably Foreseeable Future**

28 The Petition should be denied on the merits as there is a significant likelihood of

1 removal in the reasonably foreseeable future—should Petitioner not continue to obstruct  
2 his own removal. Ramirez Decl. at ¶ 11. An alien ordered removed must be detained  
3 for ninety (90) days pending the government’s efforts to secure the alien’s removal  
4 through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney  
5 General “shall detain” the alien during the 90-day removal period). The statute “limits  
6 an alien’s post-removal detention to a period reasonably necessary to bring about the  
7 alien’s removal from the United States” and does not permit “indefinite detention.”  
8 *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has held that a six-  
9 month period of post-removal detention constitutes a “presumptively reasonable period  
10 of detention.” *Id.* at 683. Release is not mandated after the expiration of the six-month  
11 period unless “there is no significant likelihood of removal in the reasonably foreseeable  
12 future.” *Id.* at 701.

13 In *Zadvydas*, the Supreme Court held: “[T]he habeas court must ask whether the  
14 detention in question exceeds a period reasonably necessary to secure removal. It should  
15 measure reasonableness primarily in terms of the statute’s basic purpose, namely,  
16 *assuring the alien’s presence at the moment of removal.*” *Id.* at 699 (emphasis added).  
17 In so holding, the Court recognized that detention is presumptively reasonable pending  
18 efforts to obtain travel documents, because the noncitizen’s assistance is needed to  
19 obtain the travel documents, and a noncitizen who is subject to an imminent, executable  
20 warrant of removal becomes a significant flight risk, especially if he or she is made  
21 aware that removal is imminent.

22 The Supreme Court also held that the detention could exceed six months: “This  
23 6-month presumption, of course, does not mean that every alien not removed must be  
24 released after six months. To the contrary, an alien may be held in confinement until it  
25 has been determined that there is no significant likelihood of removal in the reasonably  
26 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good  
27 reason to believe that there is no significant likelihood of removal in the reasonably  
28 foreseeable future, the Government must respond with evidence sufficient to rebut that

1 showing and that the noncitizen has the initial burden of proving that removal is not  
2 significantly likely.” *Id.* The sole impediment to Petitioner’s removal to Sudan is his  
3 refusal to cooperate with ICE in obtaining a travel document from Sudan. *Id.* at ¶ 16.  
4 According to publicly available statistics, ICE removed 27 Sudanese citizens from the  
5 United States from October 2020 to December 2024.<sup>2</sup> *Id.* at ¶ 18. As of November 24,  
6 2025, DHS is able to remove Sudanese aliens from the United States commercially via  
7 Ethiopian Airlines, which conducts daily flights to Port Sudan. *Id.* at ¶ 17.

8 **IV. CONCLUSION**

9 For the foregoing reasons, Respondents respectfully request that the Court deny  
10 the petition.

11 DATED: April 29, 2026

12 Respectfully submitted,

13 ADAM GORDON  
14 United States Attorney

15 *s/ Hunter V. Norton*  
16 HUNTER V. NORTON  
17 Assistant United States Attorney  
18 Attorneys for Respondents  
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28 <sup>2</sup> See ICE Removals Statistics, <https://www.ice.gov/statistics>.