

Magistrate Judge S. Kate Vaughan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YUNIOR CARDONA MEJIA,

Petitioner,

v.

JULIO HERNANDEZ, *et al.*,

Respondents.

Case No. 2:26-cv-01149-SK

FEDERAL RESPONDENTS' RETURN
MEMORANDUM

Noted for Consideration:
April 27, 2025

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Abdulahi Macali at the Northwest ICE Processing Center ("NWIPC") pursuant to 8 U.S.C. § 1225(b).

In 2014, immigration authorities encountered Petitioner with his parents and siblings after they unlawfully entered the United States. The family was issued expedited orders of removal but released due to a lack of bed space. Later, Petitioner's brother used his name and date of birth when arrested criminally, and eventually removed under Petitioner's name. In March 2026, Petitioner was encountered by immigration authorities and presented identification. Immigration authorities arrested Petitioner believing him to be his brother, but then issued a notice to appear for Petitioner to undergo removal proceedings while detained due to the confusion.

DECLARATION OF JORDAN C. STEVESON
[Case No. 2:26-cv-01149-SKV] - 1

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Petitioner asserts Fourth and Fifth Amendment violations and requests relief. Dkt. 5, pg. 30-32.

II. BACKGROUND

A. Petitioner Yunion Cardona Mejia

Petitioner is a citizen of Honduras. Declaration of Jordan Steveson (“Steveson Decl.”), Exh. A, Form I-213. On or about January 28, 2014, Petitioner was encountered by U.S. Border Patrol (“USBP”) in Texas in the Rio Grande sector, along with his parents and two brothers. *Id.* USBP determined that Petitioner had entered the United States without admission or parole by an immigration officer, and all family members were issued expedited orders of removal. *Id.* Initially, Petitioner’s first name was errantly listed as Fernando. *Id.* The family was released on an order of supervision due to the lack of space at the Berks Family Center. *Id.*

One of Petitioner’s brothers, Isaac, used Petitioner’s correct name, Yunion, and date of birth when faced with serious felony charges including Assault First Degree and Attempted 1st Degree Murder. Steveson Decl., Exh. A. Isaac was removed to Honduras under Petitioner’s name on July 2, 2025. *Id.*

Petitioner was encountered by ICE on March 6, 2006, when ICE was searching for Petitioner’s father. Steveson Decl., Exh. A. ICE requested identification from Petitioner, which he provided. This identification indicated that Petitioner is Yunion Cardona Mejia—the name and date of birth indicated serious criminal history and removal from the United States last year. *Id.* ICE then detained Petitioner. *Id.* During processing, ICE determined the discrepancy. *Id.*

ICE did not immediately remove Petitioner on the expedited order of removal. Declaration of Deportation Officer Gary Ingram (“Ingram Decl.”), ¶¶ 9-10. Due to the confusion with Petitioner’s brother, ICE issued Petitioner a new A-number. *Id.*; Steveson Decl. Exh. A. Instead of removing Petitioner, ICE issued a warrant, a custody determination, and a notice to appear.

1 Steveson Decl., Exh. B, Warrant for Arrest of Alien; Exh. C, Notice of Custody Determination;
2 Exh. D, Notice to Appear. Petitioner is charged as removable pursuant to 8 U.S.C. §
3 1182(a)(6)(A)(i).

4 Petitioner is in immigration proceedings for the first time and remains detained at the
5 Northwest ICE Processing Center. Ingram Decl. ¶¶ 11-13.

6 **B. Detention Authority**

7 A noncitizen who “arrives in the United States,” or “is present” in this country but “has not
8 been admitted,” or “who is brought to the United States after having been interdicted in
9 international or United States waters” is treated as “an applicant for admission.” 8 U.S.C. §
10 1225(a)(1). Noncitizens who are apprehended almost immediately after illegally crossing the
11 border and who are determined to be inadmissible due to lacking a visa or valid entry
12 documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed pursuant to an expedited removal order
13 unless they express an intention to apply for asylum or a fear of persecution in their home country.
14 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to expedite the removal
15 from the United States of aliens who indisputably have no authorization to be admitted to the
16 United States, while providing an opportunity for such an alien who claims asylum to have the
17 merits of his or her claim promptly assessed by officers with full professional training in
18 adjudicating asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

19 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
20 noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
21 documentation, and certain other noncitizens designated by the Attorney General in her discretion.
22 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
23 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
24 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

1 Congress has determined that all noncitizens subject to Section 1225(b) must be detained.
2 Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2), the sole means of
3 release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or
4 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.
5 If a noncitizen subject to Section 1225(b)(1) asserts a credible fear of persecution, the noncitizen
6 “shall be detained for further consideration of the application for asylum.” 8 U.S.C. §
7 1225(b)(1)(B)(ii). “Any alien subject to the procedures under this clause shall be detained pending
8 a final determination of credible fear of persecution and, if found not to have such a fear, until
9 removed.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *see also* 62 Fed. Reg. 10,312, 10,315 (Mar. 6, 1997)
10 (“[t]he provisions of § 235.3(b)(2)(iii) require[e] detention of all aliens subject to the expedited
11 removal provisions and issued a removal order”); *Matter of M-S-*, 27 I. & N. Dec. 509, 509 (A.G.
12 2019) (“Generally, aliens placed in expedited proceedings must be detained until removed. INA
13 § 235(b)(1)(B)(iii)(IV).”).

14 III. LEGAL STANDARD

15 “The district courts of the United States ... are courts of limited jurisdiction. They possess
16 only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopach Servs.,*
17 *Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been
18 tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of Homeland*
19 *Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district
20 courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the
21 burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws,
22 or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943,
23 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. **Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A) and he is not entitled to a redetention hearing.**

Petitioner is an applicant for admission. ICE detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026) (affirming the government's position that aliens who have not been admitted or are not entitled to be admitted to the United States are "applicants for admission" who are subject to mandatory detention under Section 1225(b)(2)(A)). Section 1225 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in the United States who [have] not been admitted" or noncitizens "who arrive[] in the United States," whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1).

As the Fifth Circuit recently found, aliens who are present without admission in the United States are "applicants for admission" as defined in Section 1225(a)(1). *Buenrostro-Mendez*, 166 F.4th at 502. The court clarified that an "applicant for admission" is a person "seeking admission" regardless of whether that person is actively engaged in admissions procedures when detained. *Id.*, at 502-06. The Eighth Circuit has agreed that the two terms are the same. *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *3 (8th Cir. Mar. 25, 2026) ("[W]hile an alien remains an 'applicant for admission' so long as he is 'present in the United States [and] has not been admitted,' 8 U.S.C. § 1225(a)(1), he is also 'presently seeking admission' during this time, regardless of whether he takes 'any further affirmative steps to gain admittance,' *Buenrostro-Mendez*, 166 F.4th at 402.").

The sole means of release from detention pursuant to Section 1225(b) is temporary parole 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018). This parole terminates automatically at the expiration of the time for which parole was authorized, or upon service of a charging document for either expedited

removal proceedings under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1); (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time of parole. *See id.*

On July 8, 2025, DHS issued a memorandum to ICE employees explaining that DHS had revisited its legal position on detention and release authorities. *Rodriguez Vasquez v. Bostock*, 802 F. Supp. 3d 1297, 1308 (W.D. Wash. 2025). The memorandum defined an “applicant for admission” as “an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. *Id.* (citing 8 U.S.C. § 1225(a)(1)).

The memorandum clarified, “Effective immediately, it is the position of DHS that such aliens are subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by [8 U.S.C. § 1182(d)(5)].” *Rodriguez Vasquez*, 802 F. Supp. 3d at 1308.

Federal Respondents are aware that courts in this district have found that individuals in similar situations to Petitioner are subject to Section 1226(a), not Section 1225(b). *See e.g., Herrera Gomez v. Wamsley*, No. 2:25-CV-02642-JNW, 2026 WL 279966, at *2 (W.D. Wash. Feb. 3, 2026). Federal Respondents respectfully disagree.

Federal Respondents assert that due process does not compel Petitioner’s release due to the circumstances of this case. “Due process is flexible and calls for such procedural protections as the particular situation demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). *Mathews* calls for an analysis of (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards,” and (3) the Government’s interest. *Id.*, at 334-35. Due process does not mandate a pre-detention hearing here.

As to the first *Mathews* factor, Federal Respondents recognize the “weighty liberty interests implicated by the Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021

1 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that
2 noncitizens released from immigration detention have a protected liberty interest in remaining out
3 of custody, the weight of that liberty must be considered in the broader picture of the immigration
4 system, which has long acknowledged that an alien has a lesser liberty interest than a citizen. After
5 all, “[t]he recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme
6 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to
7 aliens that would be unacceptable if applied to citizens.’” *Rodriguez Diaz v. Garland*, 53 F.4th
8 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme
9 Court has explained, “[i]n the exercise of its broad power over naturalization and immigration,
10 Congress regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v.*
11 *Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention
12 during deportation proceedings as a constitutionally valid aspect of the deportation process.”
13 *Demore*, 538 U.S. at 523. However, in this instance initially immigration authorities had already
14 determined that Petitioner should be removed, but the family was released due to a lack of space.
15 Instead of being returned to Honduras on the expedited removal order, Petitioner is being afforded
16 additional due process because of the confusion between his identity with that of his brother. These
17 immigration proceedings are temporary and could potentially result in Petitioner’s release or
18 removal.

19 Turning to the second *Mathews* factor, the risk of a constitutionally significant and
20 erroneous deprivation of Petitioner’s liberty is minimal here. By default, Petitioner “shall be
21 detained” for his immigration proceedings. 8 U.S.C. § 1225(b)(2)(A). Petitioner does not contend
22 that he is a U.S. citizen or that he has never been admitted into the United States.

23 Regarding the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
24 test and procedural safeguards “must account for the heightened government interest in the

immigration detention context.” *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). “This is especially true when it comes to determining whether removable aliens must be released on bond during the pendency of removal proceedings.” *Rodriguez Diaz*, 53 F.4th at 1208.

Federal Respondents’ have an important interest in ensuring that Petitioner is removed from the United States. The Government intended to remove Petitioner and his family in 2014 but was unable to do so due to a lack of bed space. Due to a mix up with Petitioner’s criminal brother, the Government believed that Petitioner had been removed last year. Petitioner has remained in the United States, in violation of law, for years.

Accordingly, this Court should deny Petitioner’s request for release from immigration custody.

B. Petitioner’s Fourth Amendment arrest claims are not properly brought in habeas.

Petitioner’s claims concerning his arrest by immigration officers are not cognizable in this habeas action. *Labrador Abadin v. Noem*, No. 25-cv-2411, 2026 WL 217148 (W.D. Wash. Jan. 28, 2026) (stating that a habeas petitioner brought pursuant to 28 U.S.C. § 2241 “is not the appropriate mechanism to challenge the legality of [an] arrest”); *Marroquin Salazar v. Noem*, No. 5:25-cv-02367, 2025 WL 3535050, at *1 (C.D. Cal. Dec. 8, 2025). But even if he could establish his Fourth Amendment claim – which Federal Respondents do not concede, this claim should not be brought via habeas and release would not be an appropriate form of relief.

Since removal proceedings are underway, Petitioner’s current custody flows not from his arrest and initial post-arrest detention, but from the authority of the Immigration and Nationality Act (“INA”). *See, e.g.*, 8 U.S.C. § 1225(b)(2). The legality of Petitioner’s arrest is not presently

1 relevant and thus cannot be the basis for habeas relief. The habeas statute allows a petitioner who
2 is “in custody” to challenge that custody on various grounds, 28 U.S.C. § 2241(c), including that
3 “[h]e is in custody in violation of the Constitution or laws or treaties of the United States.” 28
4 U.S.C. §2241(c)(3). The statute is written in the present tense, making clear that Section 2241
5 only allows a petitioner to challenge his current custody, not his past custody. *See Preiser v.*
6 *Rodriguez*, 411 U.S. 475, 484 (1973) (“the essence of habeas corpus is an attack by a person *in*
7 *custody* upon the legality of *that custody*” (emphasis added)).

8 While Petitioner is free to challenge his current custody based on that statutory authority,
9 any habeas claim basis on his arrest is now moot, since the arrest is not the source of his present
10 custody. *See Barker v. Estelle*, 913 F.2d 1433, 1440 (9th Cir. 1990) (habeas petition challenging
11 pretrial detention was moot once petitioner was incarcerated pursuant to a judgment of conviction);
12 *James v. Reese*, 546 F.2d 325, 328 (9th Cir. 1976) (same).

13 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
14 and deportable noncitizens and to ensure that noncitizens who are removable are in fact removed
15 from the United States. “[D]etention necessarily serves the purpose of preventing deportable []
16 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that if
17 ordered removed, the aliens will be successfully removed.” *Demore v. Kim*, 538 U.S. 510, 528
18 (2003). The Supreme Court has long held that deportation proceedings “would be in vain if those
19 accused could not be held in custody pending the inquiry” of their immigration status. *Wong Wing*
20 *v. United States*, 163 U.S. 228, 235 (1896).

21 Furthermore, this Court does not have jurisdiction to hear Petitioner’s claims that should
22 be raised in his immigration proceedings. In 8 U.S.C. §1252(b), Congress “consolidated judicial
23 review of immigration proceedings into one action in the court of appeals.” *Guerrero-Lasprilla v.*
24 *Barr*, 589 U.S. 221, 233 (2020) (quotation marks and citation omitted). This provision is known

1 as the “zipper clause” because it “consolidates or ‘zips’ ‘judicial review’ of immigration
2 proceedings into one action in the court of appeals.” *Singh v. Gonzales*, 499 F.3d 969, 976 (9th
3 Cir. 2007) (citation omitted). This statute provides:

4 Judicial review of all questions of law and fact, including interpretation and application of
5 constitutional and statutory provisions, arising from any action taken or proceeding brought to
6 remove an alien from the United States under this subchapter shall be available only in judicial
7 review of a final order under this section. *Except as otherwise provided in this section, no court*
8 *shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus*
9 *provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or*
10 *nonstatutory), to review such an order or such questions of law or fact.* 8 U.S.C. § 1252(b)(9)
11 (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“a petition for review . . . shall be the sole and
12 exclusive means for judicial review of an order of removal”). “Taken together, § 1252(a)(5) and
13 § 1252(b)(9) mean that any issue – whether legal or factual – arising from any removal-related
14 activity can be reviewed only through the [petition for review] process.” *J.E.F.M. v. Lynch*, 837
15 F.3d 1026, 1031 (9th Cir. 2016).

16 While claims “collateral to, or independent of” the removal process are still subject to
17 habeas review, “[w]hen a claim by an alien, however it is framed, challenges the procedure and
18 substance of an agency determination that is ‘inextricably linked’ to the order of removal, it is
19 prohibited by section 1252(a)(5).” *Id.* Here, Petitioner’s claims are inextricably linked to
20 “questions of law and fact, including interpretation and application of constitutional and statutory
21 provisions, arising from any action taken or proceeding brought to remove an alien.” 8 U.S.C. §
22 1252(b)(9).

23 Finally, the remedy for an unlawful arrest is the suppression of evidence obtained
24 therefrom, not release from custody. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1040-41 (1984);

1 *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131-32 (9th Cir.), cert. denied, 549 U.S. 935
2 (2006); *see also Martinez-Medina v. Holder*, 673 F.3d 1029, 1033-34 (9th Cir. 2011) (exclusionary
3 rule applies in civil removal proceedings only when the Fourth Amendment violation is egregious).
4 “The ‘body’ or identity of a defendant or respondent in a criminal or civil proceeding is never itself
5 suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search,
6 or interrogation occurred.” *Lopez-Mendoza*, 468 U.S. at 1039; *see also Stone v. Powell*, 428 U.S.
7 465, 485 (1976) (noting that “judicial proceedings need not abate when the defendant's person is
8 unconstitutionally seized” (citing *Gerstein v. Pugh*, 420 U.S. 103, 119 (1975); *Frisbie v. Collins*,
9 342 U.S. 519 (1952))); *Garcia-Beltran*, 443 F.3d at 1132 (“[T]here is no sanction to be applied
10 when an illegal arrest only leads to discovery of the man’s identity.” (quotation omitted)).

11 Accordingly, because Petitioner seeks his release from custody based on an allegedly
12 unlawful arrest, there is no basis for the Court to grant such relief. *See, e.g., Rodrigues De Oliveira*
13 *v. Joyce*, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) (“Petitioner’s argument that an illegal
14 arrest automatically results in an illegal detention is misguided. . . . [E]ven if Petitioner’s initial
15 arrest was unlawful, her detention pending removal may stand.”); *Alonso-Portillo v. Bondi*, 2025
16 WL 2483393, at *11 (S.D. Ohio Aug. 28, 2025) (“Traditional application of the exclusionary rule
17 results in the suppression of evidence, as ‘fruits of the poisonous tree,’ obtained in violation of the
18 Fourth Amendment. But the rule does not, as Alonso-Portillo asserts here, dictate his immediate
19 release from detention.”); *Marvan v. Slaughter*, 2025 WL 1940043, at *3-4 (D. Mont. July 15,
20 2025) (petitioner could not obtain habeas relief on Fourth Amendment violation where
21 administrative removal proceedings had commenced); *H.N. v. Warden*, Stewart Det. Ctr., 2021
22 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (“even if the Court accepted Petitioner’s argument
23 that his initial detention was somehow unlawful, he is still not entitled to habeas relief.”); *Medina*
24 *v. U.S. Dep’t of Homeland Sec.*, 2017 WL 1101370, at *1-2 (W.D. Wash. Mar. 24, 2017)

(immigration detainee was not entitled to habeas relief because “the remedy for an unlawful arrest in violation of the Fourth Amendment is suppression of evidence,” so if he “desire[d] release from his current detention, his avenue for seeking such release should occur in the context of his removal proceedings” (citations omitted)); *Amezcu-Gonzalez v. Lobato*, 2016 WL 6892934, at *2 (W.D. Wash. Oct. 6, 2016) (dismissing petition challenging immigration detainee’s arrest on Fourth Amendment grounds where detainee did not dispute that he was subject to final order of removal, and his “only assertion [was] that he should be released because his arrest violated the Fourth Amendment”; “even if petitioner’s arrest amounts to an egregious Fourth Amendment violation, he is not entitled to habeas relief”), report and recommendation adopted, 2016 WL 6892547 (W.D. Wash. Nov. 22, 2016); *Nynwa v. Gurule*, 2014 WL 12984435, at *1 (D. Ariz. June 13, 2014) (“It is doubtful that Petitioner’s arrest was unlawful. But even if it was, his allegedly unlawful arrest does not invalidate his current immigration detention because ‘the “body” or identity of a defendant in a criminal or civil proceeding is never itself suppressible as the fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.’” (quoting *Lopez-Mendoza*, 468 U.S. at 1039)).

C. Petitioner’s Administrative Procedure Act claims must be dismissed for lack of Subject Matter Jurisdiction.

Petitioner seeks to challenge his detention on grounds that violated the APA. The Court has no subject matter jurisdiction to hear these claims.

Where other adequate statutory remedies exist, the APA does not apply. *See* 5 U.S.C. § 704 (“Agency action made reviewable by statute and final agency action *for which there is no other adequate remedy in a court* are subject to judicial review.”) (emphasis added). Simply put, “federal courts lack jurisdiction over APA challenges whenever Congress has provided another ‘adequate remedy.’” *Brem-Air Disposal v. Cohen*, 156 F.3d 1002, 1004 (9th Cir. 1998).

1 Because habeas corpus is a fully adequate remedy on a claim seeking redress for custodial
2 detention that is alleged to be unlawful, relief is jurisdictionally unavailable under the APA. *See*
3 *Trump v. J. G. G.*, 604 U.S. 670, 671 (2025) (vacating TROs based on the APA because Plaintiffs'
4 claims necessarily implied the invalidity of the Plaintiffs' confinement and removal under the
5 "Alien Enemies Act" and so had to be brought as habeas corpus claims in the jurisdiction of their
6 confinement). As Justice Kavanaugh stated in his concurring opinion, "[e]specially given the
7 history and precedent of using habeas corpus to review transfer claims, and given 5 U.S.C. § 704,
8 which states that claims under the APA are not available when there is another 'adequate remedy
9 in a court,' I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *Id.*
10 at 674; *cf. O'Banion v. Matevosian*, 835 Fed. Appx. 347, 350 (10th Cir. 2020) (holding that
11 "habeas actions" provide an "adequate remedy" displacing APA review under Section 704); *and*
12 *see Lucas v. Fed. Bureau of Prisons*, 2018 WL 3038496, at *2 (S.D.N.Y. June 19, 2018)
13 ("Accordingly, because plaintiff could adequately remedy his conditions of confinement claim in
14 a habeas corpus petition, the Court does not have jurisdiction to decide his APA claim.").

15 Moreover, to be reviewable under the APA an action must be a "final agency action,"
16 which is to say that it is the "consummation of the agency's decisionmaking process." *See Bennett*
17 *v. Spear*, 520 U.S. 154, 177–78 (1997). Administrative detention for purposes of executing a
18 removal order is not within that category because it is only an intermediary step in the process. *See*
19 *Gamez Lira v. Noem*, 2025 WL 2581710, at *4 (D.N.M. Sept. 5, 2025). Accordingly, Petitioner's
20 claims based on alleged APA should be denied.

21 V. CONCLUSION

22 For the foregoing reasons, this Court should deny the Petition.

23 //

24 //

1 DATED this 20th day of April, 2026.

2 Respectfully submitted,

3 s/ Jordan C. Steveson

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13 *I certify that this memorandum contains 4,049*
14 *words, in compliance with the Local Civil Rules.*