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

10 HUANG QIULI,
11

12 Petitioner,

13 v.

14 CHRISTOPHER J. LAROSE; et al.,
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16 Respondents.
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Case No.: 26-cv-02320-JLS-JLB

**RESPONDENTS' RETURN TO
HABEAS PETITION**

I. Introduction

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a and is charged with deportability/removability under 8 U.S.C. § 1227(a)(1)(B), as an individual who was admitted to the United States but remained for a time longer than permitted by law (i.e., a visa overstay). As such, Petitioner is detained pursuant to 8 U.S.C. § 1226(a). On March 25, 2026, Petitioner had a bond an immigration judge (IJ) pursuant to 8 U.S.C. § 1226(a). Based on the arguments set forth below, the Court should deny any requests for relief and dismiss the petition.

II. Factual Background¹

Petitioner is a native and citizen of China. *See* Exhibit 1 (Notice to Appear). On July 3, 2023, she was admitted into the United States on a nonimmigrant visa. *See id.* On March 17, 2026, a Form I-200, Warrant for Arrest, was issued for Petitioner's arrest. *See* Exhibit 2 (I200). On March 17, 2026, she was apprehended by San Diego ICE/ERO on that arrest warrant. *See* Exhibit 3 (I213) DHS determined that Petitioner is deportable/removable under 8 U.S.C. § 1227(a)(1)(B), as an individual who was admitted to the United States and has remained for a time longer than permitted by law (i.e., a visa overstay). Based on that charge, she was issued a Notice to Appear (NTA) and placed in removal proceedings under 8 U.S.C. § 1229a. *See* Exhibit 1. Within her removal proceedings under § 1229a, Petitioner has the opportunity to apply for relief from removal before an IJ, including asylum under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and relief under the Convention Against Torture.

Petitioner is currently detained at the Otay Mesa Detention Center under 8 U.S.C. § 1226(a); *Petitioner has only been in custody for about 34 days.* On March 25, 2026, Petitioner had a bond hearing before an IJ pursuant to 8 U.S.C. § 1226(a). *See* Exhibit 4 (IJ Order denying bond). Petitioner was ultimately denied bond as the IJ determined

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

1 that Petitioner “failed to establish that she does not present a danger to the community.”
2 *See id.* Any appeal with Board of Immigration Appeals (“the Board”) is due no later
3 than April 24, 2026. *See id.* As of today, Petitioner has not filed an appeal before the
4 Board regarding the denial of her bond. *See* Exhibit 5 (ECAS Printout). Based on the
5 arguments set forth below, the Court should deny any requests for relief and dismiss the
6 petition.

7 **III. Argument**

8 **A. Petitioner is Lawfully Detained Under 8 U.S.C. § 1226(a)**

9 Section 1226 provides for arrest and detention “pending a decision on whether
10 the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a),
11 the government may detain an alien during her removal proceedings, release her on
12 bond, or release her on conditional parole. By regulation, immigration officers can
13 release aliens upon demonstrating that the alien “would not pose a danger to property
14 or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).
15 An alien can also request a custody redetermination (i.e., a bond hearing) by an IJ at
16 any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§
17 236.1(d)(1), 1236.1(d)(1), 1003.19.

18 As set forth above, on March 17, 2026, a Form I-200, Warrant for Arrest, was
19 issued for Petitioner’s arrest. On the same date, she was apprehended on that arrest
20 warrant and detained pursuant to 8 U.S.C. § 1226(a). DHS determined that Petitioner is
21 deportable/removable under 8 U.S.C. § 1227(a)(1)(B), as an individual who was
22 admitted to the United States but remained for a time longer than permitted by law (i.e.,
23 a visa overstay). Based on that charge, she was issued a Notice to Appear (NTA) and
24 placed in removal proceedings under 8 U.S.C. § 1229a. As such, Petitioner is detained
25 pursuant to 8 U.S.C. § 1226(a). Accordingly, Petitioner was entitled to a bond hearing
26 before an IJ.

27 Petitioner had a bond hearing before an IJ on March 25, 2026. Petitioner was
28 ultimately denied bond based on the fact that she “failed to establish that she does not

1 present a danger to the community.” *See* Exhibit 4. Therefore, because Petitioner’s bond
2 was denied by an IJ, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a).

3 **B. Administrative Remedies Should Be Exhausted**

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

15 As of today, Petitioner has not filed an appeal before the Board. Accordingly, the
16 Court should dismiss without prejudice or stay these proceedings until a bond appeal is
17 conducted and concluded before the Board.

18 **C. Petitioner’s Improper Habeas Claims**

19 To the extent Petitioner asserts claims regarding the commencement of removal
20 proceedings and relief applications, such claims are improper. An individual may seek
21 habeas relief under 28 U.S.C. § 2241 if he is “in custody” under federal authority “in
22 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §
23 2241(c). But habeas relief is available to challenge only the legality or duration of
24 confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*,
25 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591
26 U.S. 103, 117 (2020) (The writ of habeas corpus historically “provide[s] a means of
27 contesting the lawfulness of restraint and securing release.”). The Ninth Circuit squarely
28 explained how to decide whether a claim sounds in habeas jurisdiction: “[O]ur review

1 of the history and purpose of habeas leads us to conclude the relevant question is
2 whether, based on the allegations in the petition, release is *legally required* irrespective
3 of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles*
4 *v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on
5 the petitioner’s claim would “necessarily lead to immediate or speedier release.”). Here,
6 a review of such claims would not automatically entitle Petitioner to release from
7 detention. *See Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300783, at
8 *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241
9 because they were not arguing they were unlawfully in custody and receiving the
10 requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No.
11 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in
12 *Pinson*, the Court lacks jurisdiction over Petitioner’s § 2241 habeas petition since it
13 cannot be fairly read as attacking ‘the legality or duration of confinement.’”) (quoting
14 *Pinson*, 69 F.4th at 1065).

15 **D. Claims and Requested Relief Jurisdictionally Barred**

16 Petitioner bears the burden of establishing that this Court has subject matter
17 jurisdiction over asserted claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d
18 770, 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989).

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 or prosecution of various stages in the deportation process.”); *Limpin v. United States*,

1 828 Fed. App'x 429 (9th Cir. 2020) (holding district court properly dismissed under 8
2 U.S.C. § 1252(g) “because claims stemming from the decision to arrest and detain an
3 alien at the commencement of removal proceedings are not within any court’s
4 jurisdiction”). In other words, § 1252(g) removes district court jurisdiction over “three
5 discrete actions that the Attorney may take: [his] ‘decision or action’ to ‘commence
6 proceedings, adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482
7 (emphasis removed). Congress has explicitly foreclosed district court jurisdiction over
8 claims that necessarily arise “from the decision or action by the Attorney General to
9 commence proceedings [and] adjudicate cases,” over which. 8 U.S.C. § 1252(g).

10 Section 1252(g) also bars district courts from hearing challenges to the method
11 by which the government chooses to commence removal proceedings, including the
12 decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203
13 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s
14 discretionary decisions to commence removal” and bars review of “ICE’s decision to
15 take [plaintiff] into custody and to detain him during his removal proceedings”).

16 Other courts have held, “[f]or the purposes of § 1252, the Attorney General
17 commences proceedings against an alien when the alien is issued a Notice to Appear
18 before an immigration court.” *Herrera-Correra v. United States*, No. 08-2941 DSF
19 (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008). “The Attorney General
20 may arrest the alien against whom proceedings are commenced and detain that
21 individual until the conclusion of those proceedings.” *Id.* at *3. “Thus, an alien’s
22 detention throughout this process arises from the Attorney General’s decision to
23 commence proceedings” and review of claims arising from such detention is barred
24 under § 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007)); *Wang*,
25 2010 WL 11463156, at *6; 8 U.S.C. § 1252(g).

26 Moreover, under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law
27 and fact . . . arising from any action taken or proceeding brought to remove an alien
28 from the United States under this subchapter shall be available only in judicial review

of a final order under this section.” Further, judicial review of a final order is available only through “a petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5). The Supreme Court has made clear that § 1252(b)(9) is “the unmistakable ‘zipper’ clause,” channeling “judicial review of all” “decisions and actions leading up to or consequent upon final orders of deportation,” including “non-final order[s],” into proceedings before a court of appeals. *Reno*, 525 U.S. at 483, 485; *see J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting § 1252(b)(9) is “breathtaking in scope and vise-like in grip and therefore swallows up virtually all claims that are tied to removal proceedings”). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition for review] PFR process.” *J.E.F.M.*, 837 F.3d at 1031 (“[W]hile these sections limit *how* immigrants can challenge their removal proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose *all* judicial review of agency actions. Instead, the provisions channel judicial review over final orders of removal to the courts of appeal.”) (emphasis in original); *see id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they ‘arise from’ removal proceedings”).

Critically, “1252(b)(9) is a judicial channeling provision, not a claim-barring one.” *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that “[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.” *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) (“[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]”). The petition-for-review process before the court of appeals ensures that noncitizens have a proper forum for claims arising from their immigration proceedings and “receive their day in court.” *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) (“The REAL ID Act of 2005 amended the [INA] to

1 obviate . . . Suspension Clause concerns” by permitting judicial review of
2 “nondiscretionary” BIA determinations and “all constitutional claims or questions of
3 law.”). These provisions divest district courts of jurisdiction to review both direct and
4 indirect challenges to removal orders, including decisions to detain for purposes of
5 removal or for proceedings. *See Jennings*, 583 U.S. at 294–95 (section 1252(b)(9)
6 includes challenges to the “decision to detain [an alien] in the first place or to seek
7 removal”).

8 In evaluating the reach of subsections (a)(5) and (b)(9), the Second Circuit has
9 explained that jurisdiction turns on the substance of the relief sought. *Delgado v.*
10 *Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011). Those provisions divest district courts of
11 jurisdiction to review both direct and indirect challenges to removal orders, including
12 decisions to detain for purposes of removal or for proceedings. *See Jennings*, 583 U.S.
13 at 294–95 (section 1252(b)(9) includes challenges to the “decision to detain [an alien]
14 in the first place or to seek removal[.]”).

15 Here, Petitioner challenges the government’s decision and action to detain, which
16 arises from DHS’s decision to commence removal proceedings, and is thus an “action
17 taken . . . to remove [him/her] from the United States.” *See* 8 U.S.C. § 1252(b)(9); *see*
18 *also, e.g., Jennings*, 583 U.S. at 294–95; *Velasco Lopez v. Decker*, 978 F.3d 842, 850
19 (2d Cir. 2020) (finding that 8 U.S.C. § 1226(e) did not bar review in that case because
20 the petitioner did not challenge “his initial detention”); *Saadulloev v. Garland*, No.
21 3:23-CV-00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that
22 there is no judicial review of the threshold detention decision, which flows from the
23 government’s decision to “commence proceedings”).

24 Accordingly, this Court lacks jurisdiction over this petition under 8 U.S.C.
25 § 1252.

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F. Administrative Procedure Claims Are Without Merit

The Administrative Procedure Act (APA) does not provide an avenue for relief in this case. The APA places limits on when agency action is subject to judicial review. “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.” 5 U.S.C. § 704; *Navajo Nation v. Dep’t of the Interior*, 876 F.3d 1144, 1171 (9th Cir. 2017) (“[Section] 704’s requirement that to proceed under the APA, agency action must be final or otherwise reviewable by statute is an independent element without which courts may not determine APA claims.”). Reviewable “agency action” is defined to include “the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 U.S.C. § 551(13). “While this definition is ‘expansive,’ federal courts ‘have long recognized that the term [agency action] is not so all-encompassing as to authorize . . . judicial review over everything done by an administrative agency.’” *Wild Fish Conservancy v. Jewell*, 730 F.3d 791, 800–01 (9th Cir. 2013) (quoting *Fund for Animals, Inc. v. U.S. Bureau of Land Management*, 460 F.3d 13, 19 (D.C. Cir. 2006)). Here, it is not altogether clear what final agency action Petitioner seeks review over. Importantly, habeas relief is available to challenge only the legality or duration of confinement. *Pinson*, 69 F.4th at 1067; *see also Flores-Miramontes*, 212 F.3d at 1140 (“For purposes of immigration law, at least, ‘judicial review’ refers to petitions for review of agency actions, which are governed by the Administrative Procedure Act, while habeas corpus refers to habeas petitions brought directly in district court to challenge illegal confinement.”). The Court should therefore reject Petitioner’s APA claims.

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1 **IV. CONCLUSION**

2 For the foregoing reasons, Respondents respectfully request that the Court
3 dismiss this action.

4 DATED: April 20, 2026

Respectfully submitted,

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