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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

O.S.S., an adult,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and TODD BLANCHE, Acting Attorney General of the United States,

Respondents.

Case No. 3:26-cv-00796-IM

Agency No: AXXXXXX040

SUPPLEMENTAL BRIEF ADDRESSING THE COURT'S JURISDICTION

Petitioner, O.S.S., through counsel, respectfully submits the following supplemental brief addressing the Court's jurisdiction per the Court's order issued on April 23, 2026. ECF 6.

I. Introduction

The Court ordered counsel for Petitioner to file a supplemental brief addressing the Court's jurisdiction over the petition. ECF 6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Moreover, because Petitioner does not challenge the Respondents' right to execute the removal order but rather whether his detention and the *manner* by which the Respondents seek to execute the removal comport with due process and the Administrative Procedures Act, the Court has jurisdiction over the claims presented.

II. Law and Argument

A. Although this Court does not have jurisdiction to review the validity of Petitioner's removal order, it has jurisdiction to review Petitioner's claims challenging how the order of removal is effectuated under the Due Process Clause and the Administrative Procedures Act.

Although a United States District Court generally lacks subject matter jurisdiction to review orders of removal, *see* 8 U.S.C. § 1252(a)(1), (g), *Rauda v. Jennings*, 55 F. 4th 773, 777-78 (9th Cir. 2022), it generally has jurisdiction over habeas petitions. *See* 28 U.S.C. § 2241(a); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (plurality opinion). Furthermore, the Supreme Court recently clarified that when a petitioner's "claims for relief necessarily imply the invalidity of their confinement and removal … their claims fall within the core of the writ of habeas corpus and thus *must* be brought in habeas." *Trump v. J.G.G.*, 145 S. Ct. 1003, 1005 (2025) (emphasis added) (internal quotations omitted).

Pursuant to 28 U.S.C. § 2241, federal courts have habeas jurisdiction to determine whether a person is in custody in violation of the laws or Constitution of the United States. "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr,* 533 U.S. 289, 301 (2001), *superseded on other grounds by statute as stated in Patel v. U.S. Att'y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020). Habeas corpus is a "speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination." *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–738 (9th Cir. 1954). "[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States." *Hamdi,* 542 U.S. at 525 (citing U.S. Const., art. I, § 9, cl. 2).

Here, Petitioner is not requesting that this Court review the validity of his removal order. He is simply asking this Court to require the Government to comply with procedural and substantive due process and the Administrative Procedures Act (APA) when executing the removal order. As many courts have found, therefore, Petitioner's request falls comfortably outside §1252(g). *See, e.g.*, *Arenado-Borges v. Bondi*, No. 2:25-cv-02193-JNW, 2025 WL 3687518, at *2–3 (W.D. Wash. Dec. 19, 2025); *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267, at *7 (D. Or. Aug. 21, 2025) (Aiken, J.) ("Courts have 'distinguished between challenges to ICE discretion to execute a removal order, which are barred, and challenges to the manner in which ICE executes the removal order, which are not.'" (quoting *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. May 2, 2025)).

B. Unlike the current petition, the petitioner in *Rauda v. Jennings* improperly challenged the validity of his removal order.

In requesting Petitioner to brief the jurisdictional question, the Court referenced *Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 2022), and 8 U.S.C. § 1252(g). ECF 6. However, *Rauda* does not dispose of the jurisdictional question, because that case involved a habeas petitioner attempting to use 28 U.S.C. § 2241 to directly challenge a removal order—that is, using habeas proceedings to prohibit the government from executing its removal order. *See Rauda*, 55 F. 4th at 777 ("[Petitioner] seeks to enjoin the government from removing him—or in other words, enjoin 'action by the Attorney General to ... execute removal orders against [Petitioner].'").

Whether a district court has jurisdiction "will turn on the substance of the relief that a plaintiff is seeking," *Ozturk v. Hyde*, 136 F.4th 382, 400 (2d Cir. 2025). Here, Petitioner is seeking to not be unlawfully and indefinitely detained and removed in a *manner* that violates his due process rights, the APA, and CAT. These claims fall squarely within this Court's jurisdiction under 28 U.S.C. § 2241. *See Zhang v. Gevalo*, 814 F. Supp. 3d 307, 320 (E.D.N.Y. 2025) (finding *Rauda* unlike "the [case] before the Court, where a petitioner seeks relief from detention, but does not seek to stay or otherwise challenge his order of removal.").

While Petitioner's habeas claims and TRO request may relate to his pending removal proceedings, his claims do not challenge the removal order. It is well established that 8 U.S.C. § 1252 "'does not present a jurisdictional bar' where those bringing suit 'are not asking for a review of an order of removal,' 'the decision . . . to seek removal,' or 'the process by which . . . removability will be determined.'" *Department of Homeland Security v. Regents of the University of California*, 591 U.S. 1, 19 (2020) (quoting *Jennings v. Rodriguez*, 583 U.S. 281 295–95 (2018) (plurality opinion)). As the Supreme Court observed in *Jennings*, if this Court

were to interpret all challenges to immigration detention as challenges to the removal order itself, this would "make claims of prolonged detention effectively unreviewable" and "lead to staggering results." 583 U.S. at 293.

C. Federal courts have routinely exercised habeas jurisdiction over similarly situated petitioners who are subject to removal orders.

In *Zadvydas v. Davis*, the Supreme Court rejected the application of 8 U.S.C. § 1252 to limit judicial review of post-removal-period detentions. 533 U.S. 678, 687–88 (2001) (holding "that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."). In addition, "[w]here habeas petitioners raise Due Process claims and have also involved the Court's jurisdiction under 28 U.S.C. § 1331, the Court has 'the authority both to entertain [the petitioner's] constitutional challenges and to grant injunctive relief in response to them,' 'irrespective of the accompanying habeas petition.'" *Francisco Lorenzo v. Bondi*, Case No. 2:25-cv-02660-LK, 2026 WL 237501, at *6 (W.D. Wash. Jan. 29, 2026) (quoting *Roman v. Wolf*, 977 F.3d 935, 941–42 (9th Cir. 2020)).

District courts in this circuit have consistently found they have jurisdiction over, and granted injunctive and habeas relief in, cases involving similarly situated petitioners. *See Sayaseng v. Scott*, No. 2:26-CV-00476-RAJ, 2026 WL 972725, at *3 (W.D. Wash. Apr. 10, 2026) (prohibiting Government from re-detaining Petitioner from Laos absent advance notice and a hearing even after travel documents to Laos were obtained by ICE); *Yang v. Scott*, No. 2:26-CV-00469-JNW, 2026 WL 632661, at *4 (W.D. Wash. Mar. 6, 2026) (same); *Somsanuk v. Bondi,* No. C26-48-MLP, 2026 WL 221139, at *2 (W.D. Wash. Jan. 28, 2026) (prohibiting

Government from re-detaining Petitioner from Laos absent advance notice and a hearing where Government was actively in the process of securing travel documents to Laos).

Accordingly, neither 8 U.S.C. § 1252(g) nor *Rauda* is dispositive on the question of the Court's jurisdiction. Instead, notwithstanding the final removal order, the relief sought by Petitioner falls comfortably "within the core of the writ of habeas corpus and thus *must* be brought in habeas." *J.G.G.*, 145 S. Ct. At 1005.

CONCLUSION

For the foregoing reasons, the Court should conclude it has jurisdiction to adjudicate the merits of Petitioner's claims for relief.

Dated: April 23, 2026.

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