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

10 YULIANA TAHINA ALEMAN
11 GONZALEZ,

12 Petitioner,

13 v.
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15 WARDEN, *Otay Mesa Detention Center*,

16 Respondent,
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Case No.: 26-cv- 3449-DMS-DEB

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

I. Introduction

Petitioner is currently detained in Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C. § 1225(b)(2). Petitioner's habeas petition seeks release. Through multiple provisions of 8 U.S.C. § 1252, Congress has stripped federal courts of jurisdiction over challenges to the commencement of removal proceedings, including the consequent detention pending removal proceedings. Moreover, Petitioner's detention is mandated by statute. The Court should deny and dismiss the petition.

II. Factual Background¹

Petitioner is a citizen and national of Nicaragua. On August 14, 2023, Petitioner arrived in the United States at Miami, Florida. At that time, Petitioner was granted temporary parole, under 8 U.S.C. § 1182(d)(5), valid until June 12, 2025. ECF No. 1. On May 27, 2026, Petitioner was apprehended and detained by ICE/Enforcement Removal Operations. At the time of re-detention, DHS issued and served on Petitioner a Notice to Appear (NTA), which commended removal proceedings against Petitioner. *See* ECF No. 1-2. Petitioner was charged as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an alien not in possession of an unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality. *See id.* Petitioner remains detained at the Otay Mesa Detention Center and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

III. Argument

B. Claims and Requested Relief Jurisdictionally Barred

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

Courts lack jurisdiction over any claim or cause of action arising from any decision to commence or adjudicate removal proceedings or execute removal orders.

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

1 *See* 8 U.S.C. § 1252(g) (“[N]o court shall have jurisdiction to hear any cause or claim
2 by or on behalf of any alien arising from the decision or action by the Attorney General
3 to *commence proceedings, adjudicate cases, or execute removal orders.*”) (emphasis
4 added). Section 1252(g) also bars district courts from hearing challenges to the method
5 by which the government chooses to commence removal proceedings, including the
6 decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203
7 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s
8 discretionary decisions to commence removal” and bars review of “ICE’s decision to
9 take [plaintiff] into custody and to detain him during his removal proceedings”).

10 Removal proceedings commence by the filing of a notice to appear in
11 immigration court. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 600 (9th Cir. 2002).
12 “The Attorney General may arrest the alien against whom proceedings are commenced
13 and detain that individual until the conclusion of those proceedings.” *Herrera-Correra*
14 *v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept.
15 11, 2008). “[A]n alien’s detention throughout this process arises from the Attorney
16 General’s decision to commence proceedings.” *Id.* (citing *Sissoko v. Rocha*, 509 F.3d
17 947, 949 (9th Cir. 2007)); 8 U.S.C. § 1252(g); *but see Vasquez Garcia v. Noem*, No.
18 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025).

19 Here, Petitioner’s claims arise from her detention during removal proceedings,
20 which stem from the government’s decision to commence such proceedings. As such,
21 § 1252(g) bars this Court’s review over Petitioner’s claims. *See S.Q.D.C. v. Bondi*, No.
22 25-3348 (PAM/DLM), 2025 WL 2617973, at * 2 (D. Minn. Sept. 9, 2025) (finding that
23 § 1252(g) jurisdictionally bars review of a petitioner’s challenge to ongoing detention
24 during removal proceedings).

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

unnecessary to comprehensively address the scope of § 1252(b)(9), the Supreme Court in *Jennings* provided guidance on the types of challenges that may fall within the scope of § 1252(b)(9). *See Jennings*, 583 U.S. at 293–94. The Court found that “§ 1252(b)(9) [did] not present a jurisdictional bar” in situations where “respondents . . . [were] not challenging the decision to detain them in the first place.” *Id.* at 294–95. In this case, Petitioner does challenge the government’s decision to detain her in the first place. Though Petitioner attempts to frame her challenge as one relating to detention authority, rather than a challenge to DHS’s decision to detain her in the first instance, such creative framing does not evade the preclusive effect of § 1252(b)(9). Indeed, that Petitioner is challenging the basis upon which she is detained is enough to trigger § 1252(b)(9) because “detention *is* an ‘action taken . . . to remove’ an alien.” *See Jennings*, 583 U.S. at 319 (emphasis in original); *see also* 8 U.S.C. § 1252(b)(9).

The Court should dismiss this matter for lack of jurisdiction under 8 U.S.C. § 1252. *See S.Q.D.C.*, 2025 WL 2617973.

B. Petitioner is Lawfully Detained

Petitioner’s claims for alleged statutory and constitutional violations fail because she is subject to mandatory detention under 8 U.S.C. § 1225.

While Petitioner was previously released from custody on parole, her parole was terminated and, in any event, has expired. When Petitioner was detained, she was served with a Notice to Appear, which served to terminate her parole status. *See* 8 CFR § 212.5(e)(2)(i) (“When a charging document is served on the alien, the charging document will constitute written notice of termination of parole”). The Notice to Appear constituted written notice of the termination of her parole. *Id.* Moreover, Petitioner’s grant of parole was valid for only one year and that period has now expired. ECF No. 1-4. There is no basis to order Petitioner’s immediate release from immigration detention based on the argument that she was not provided written notice of the expiration of her parole. *See Omer G. G. v. Kaiser*, No. 1:25-CV-01471-KES-SAB (HC), 2025 WL 3254999, *3 n. 6 (E.D. Cal. Nov. 22, 2025) (“Petitioner’s claim

1 concerning the regulations is without merit because the regulations governing
2 termination of humanitarian parole provide that “[p]arole shall automatically be
3 terminated without written notice . . . at the expiration of the time for which parole was
4 authorized” 8 C.F.R. § 212.5(e)(1). As petitioner’s parole expired on August 28,
5 2025, *see* Doc. 1 at 33, petitioner was not entitled to notice under the regulations.”).
6 Petitioner does not appear to contest that her parole expired and was terminated. *See*
7 ECF No. 1 at 12-13.

8 The termination and expiration of her parole emphasizes Petitioner’s status as an
9 applicant for admission, subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
10 *See* 8 U.S.C. § 1182(d)(5)(A) (“ . . . *such parole of such alien shall not be regard as an*
11 *admission* of the alien and when the purposes of such parole shall . . . have been served
12 the alien shall forthwith return or be return to the custody from which he was paroled
13 and thereafter his case shall continue to be dealt with in the same manner as that of any
14 other *applicant for admission* to the United States”) (emphasis added).

15 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*
16 *applicant for admission*, if the examining immigration officer determines that an alien
17 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*
18 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025)
19 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Section 1225(a)(1)
20 “expressly defines that “[a]n alien present in the United States who has not been
21 admitted . . . shall be deemed for purposes of this Act *an applicant for admission*.”” *Id.*
22 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original).

23 Here, Petitioner is an “alien present in the United States who has not been
24 admitted.” *See* ECF No. 1-2; *see also* 8 U.S.C. § 1182(d)(5)(A) (“such parole of such
25 alien shall not be regarded as an admission of the alien.”). Thus, as found by the district
26 court in *Chavez v. Noem* and as mandated by the plain language of the statute, Petitioner
27 is an “applicant for admission” and subject to the mandatory detention provisions of §
28 1225(b)(2).

1 Because Petitioner is properly detained under § 1225, she cannot show
2 entitlement to relief.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Respondents respectfully request that the Court
5 dismiss this action.

6 DATED: June 17, 2026

Respectfully submitted,

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8 *s/Danielle Brown*
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