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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

YANLING XIE, Petitioner, v. SERGIO ALBARRAN, *et al.*, Respondents,	No. 5:26-cv-07571-EKL **RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**

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I. INTRODUCTION

Petitioner is a noncitizen subject to a final order of removal. She previously filed a habeas petition in the Eastern District of California, but at that time Respondents had not received a travel document for her removal to China. The Eastern District therefore granted the petition and held that Petitioner's re-detention would be permitted only after certain conditions were satisfied—all related to Respondents' ability to show that there was a significant likelihood of removal in the reasonably foreseeable future. Respondents now have a travel document, and those conditions imposed by the Eastern District have been satisfied. Because Respondents can demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future, Petitioner cannot obtain the injunctive relief she seeks.

Put simply, there are no impediments to Petitioner's removal. The U.S. Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO") has a valid travel document for Petitioner to return to her country of citizenship; Petitioner's Order of Supervision ("OSUP") has been revoked to execute her removal; and Petitioner's final order of removal may now be effectuated. In these circumstances, detention is pursuant to 8 U.S.C. § 1231(a)(6) for the purpose of removal, and this Court has no subject matter jurisdiction to hear Petitioner's claim challenging her detention or removal. *Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) ("'no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien'") (emphasis in original) (quoting 8 U.S.C. § 1252(g). Therefore, this Court should deny Petitioner's request for a preliminary injunction and dismiss her habeas petition.

II. FACTUAL BACKGROUND

A. Petitioner's Entry Into the United States and Her 2020 Removal Order

Petitioner is a native and citizen of China who entered the United States without inspection at or near Hidalgo, Texas on or about September 19, 2019. Declaration of Deportation Officer Stephen P. Semple ("Semple Decl.") ¶ 5. On the same day, Petitioner was apprehended by U.S. Customs and Border Protection ("CBP") officers and processed for Expedited Removal pursuant to section 235(b)(1) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b)(i) ("§ 1225(b)(i). *Id.* She remained

detained pursuant to § 1225(b)(1). *Id.* On November 12, 2019, after an asylum officer determined Petitioner had a credible fear of persecution if returned to China, the U.S. Department of Homeland Security ("DHS") placed Petitioner into removal proceedings, as an alien present without admission or parole and an applicant for admission who was not in possession of a valid entry document. She was charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i) and § 1182(a)(7)(A)(i)(I). *Id.* ¶ 6. During this time, Petitioner was mandatorily detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii). *Id.* Petitioner, represented by counsel, withdrew her asylum application, and on February 4, 2020, an immigration judge ("IJ") ordered Petitioner removed. Semple Decl. ¶ 7.[1] Petitioner waived her right to appeal this decision. *Id.* ¶ 7 & Ex. 1. On April 13, 2020, ICE released Petitioner on OSUP due to no significant likelihood of removal in the reasonably foreseeable future ("SLRRFF"). *Id.* ¶ 8.

B. ICE's Revocation of OSUP in 2025 and the Eastern District of California's Subsequent Preliminary and Permanent Injunctions

On October 14, 2025, ICE revoked Petitioner's OSUP pursuant to 8 C.F.R. §§ 241.4, 241.13, and took her into custody to execute the removal order. *Id.* ¶ 9. Soon thereafter, on October 22, 2025, Petitioner filed a petition for writ of habeas corpus with the U.S. District Court for the Eastern District of California, *Yan-Ling X. v. Lyons*, No. 1:25-cv-1412 (E.D. Cal., Oct. 22, 2025) ("*Yan-Ling X*"). *Id.* ¶ 10. On November 7, 2025, ICE released Petitioner pursuant to a preliminary injunction issued in *Yan-Ling X* and placed Petitioner back on OSUP. *Id.* ¶ 11; *see also Yan-Ling X. v. Lyons*, 813 F. Supp. 3d 1157, 1167 (E.D. Cal. 2025).

On December 5, 2025, Petitioner's habeas petition in *Yan-Ling X* was referred to a Magistrate Judge ("MJ") for preparation of findings and recommendation thereon. *Yan-Ling X. v. Lyons*, No. 1:25-cv-1412, 2026 WL 494468, at *1 (E.D. Cal. Feb. 23, 2026), *report and recommendation adopted*, No. 1:25-cv-1412, 2026 WL 1198417 (E.D. Cal. May 1, 2026). On February 23, 2026, the Magistrate Judge entered an order making those findings and recommendations. 2026 WL 494468, at *2–3. The Magistrate Judge concluded that "the regulations at 8 C.F.R. §§ 241.13(i) and 241.4(l) apply and outline

[1] Although Petitioner alleges in her habeas petition that she was without counsel at the removal proceedings, Dkt. No. 1 ¶¶ 2, 14, this assertion is inconsistent with the IJ's order. *See* Semple Decl., Ex. 1 (listing "Attorney Name" and "Attorney Address" in the caption, and indicating Electonric Service of order to "Alien's atty/rep.").

the process to be followed" and, further, "establish that, when ICE revokes release to effectuate removal, 'it is [ICE's] burden to show a significant likelihood that the alien may be removed." 2026 WL 494468, at *2. The Magistrate Judge made clear that Petitioner's "[d]etention is permissible only if ICE can show that there is a significant likelihood of removal in the reasonably foreseeable future or if there was a violation of the order of supervision," *id.* at *3, and enjoined re-detention because the government could not show that China was likely to issue a travel document in the reasonably foreseeable future. *Id.* at 5. On May 1, 2026, the U.S. District Court for the Eastern District of California adopted the Magistrate Judge's report and recommendations, granted Petitioner's petition for writ of habeas corpus, and issued a permanent injunction enjoining ICE "from re-detaining [Petitioner] unless and until they obtain a travel document for her removal, and unless and until they follow all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures." *Yan-Ling X. v. Lyons*, No. 1:25-cv-1412, 2026 WL 1198417 at *1. (E.D. Cal. May 1, 2026) ("Prior Injunction").

C. The Issuance of a Valid Travel Document and ICE's Revocation of OSUP

On June 25, 2026, ICE received a travel document for Petitioner from the People's Republic of China. Semple Decl. ¶ 14 & Ex. 2. The document was issued on June 15, 2026, and is valid within three months from the date of issue, or until September 15, 2026. *Id.* On July 16, 2026, Assistant Field Director ("AFOD") Manuel Starr revoked Petitioner's OSUP pursuant to 8 C.F.R. §§ 241.4(l) and 241.13(i)[2] because the purposes of release had been served and circumstances had changed. Specifically, ICE had obtained a travel document for Petitioner such that there is now SLRRFF. *Id.* ¶ 15, Ex. 3. On that same day, Petitioner filed a motion to reopen her immigration proceedings based on *Matter of M-A-M-*, 25 I. & N. Dec. 474 (BIA 2011). *See* Dkt. Nos. 1 ¶ 12; 2-2 at 10 (while it is unclear what arguments Petitioner made in the motion to reopen, *Matter of M-A-M-* deals with alien competency to participate in immigration proceedings. Petitioner has not alleged that she was ordered removed in absentia after failing to appear at an immigration hearing). This filing does not automatically stay an order of removal or deportation. *See* 8 C.F.R. § 1003.23(b)(1)(v) ("Except in cases involving in absentia orders, the filing

[2] On June 10, 2026, the Acting Executive Associate Director ("EAD") for ERO delegated the authority to revoke an alien's release on OSUP under 8 C.F.R. §§ 241.4 and 241.13 to ERO Field Office Directors ("FODs"), Deputy Field Office Directors ("DFODs"), and Assistant Field Directors ("AFODs"). Semple Decl. ¶ 13.

of a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case.).

D. Petitioner's July 17, 2026 and July 22, 2026 Appointments With ICE

On July 17, 2026, Petitioner appeared at her scheduled appointment with ICE. Semple Decl. ¶ 16. ICE coordinated a medical screening for detention with a telehealth nurse and Mandarin-speaking telephonic interpreter. *Id.* The nurse recommended, based on her assessment of Petitioner's physical and mental health, that Petitioner should not be detained at that time. *Id.* Concurrently, Petitioner's attorney arrived and filed a Form I-246, Application for a Stay of Deportation or Removal ("Form I-246") with ICE. *Id.* Petitioner's attorney also informed ICE that she had filed a Motion to Reopen Petitioner's removal proceedings with the immigration court. *Id.* ICE conducted an interview with Petitioner at this appointment and decided not to detain her at this time, even though it had already revoked her OSUP. *Id.* ICE directed Petitioner to report back in person on July 22, 2026, to provide ICE additional time to review her legal status. *Id.* On July 21, 2026, ICE denied Petitioner's Form I-246, Application for a Stay of Deportation or Removal. *Id.* ¶ 17.

On July 22, 2026, approximately three hours before her scheduled appointment with ICE, Petitioner filed a Petition for Writ of Habeas Corpus ("Petition") and Ex Parte Application for Temporary Restraining Order ("Motion") in the Northern District of California. Dkt. Nos. 1; 2. Petitioner alleged that she "has been detained by the [DHS] and [ICE] without ever having received a bond hearing to determine whether her continued detention is justified." Dkt. No. 2-2 at 7. But as of that time, she was not in ICE custody, and indicated that, on her information and belief, ICE planned to re-detain her at this July 22, 2026 check-in. *See id.* at 10.

On that same date, at approximately 2:00 p.m., Petitioner reported to her scheduled appointment with ICE. Semple Decl. ¶ 18. ICE conducted a medical screening with a telehealth medical professional and the assistance of a telephonic Mandarin interpreter. *Id.* At approximately 2:57 p.m., following the medical screening, ICE conducted an interview with Petitioner, with Petitioner's attorney present and with support from a Mandarin interpreter. *Id.* During the course of the interview, ICE presented Petitioner and her attorney with the denial of the Form I-246 she had previously filed, and informed them that Petitioner's OSUP had been revoked. *Id.* At 3:08 p.m., ICE served Petitioner with ICE Form

71-091, Notice of Revocation of Release ("Form 71-091"). *Id.* ¶ 20, Ex. 3. After providing Petitioner with the Form 71-091, ICE conducted an informal interview to afford Petitioner an opportunity to respond to the reasons for revocation stated in the Form 71-091. *Id.* During the interview, Petitioner's attorney informed ICE that Petitioner did not want to make a statement at that time and verbally requested to provide a statement in the future. *Id.* Petitioner's attorney also verbally requested ICE provide a 72-hour notice before Petitioner would be removed from the United States. *Id.* This interview was memorialized in the ICE Form 71-090, Alien Informal Interview Upon Revocation of Order of Supervision Under 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i) ("Form 71-090"). *Id.* ¶ 20 & Ex. 4. On information and belief, the Mandarin writing on the Form 71-090 reiterates Petitioner's request to make a statement at a later time and to receive a 72-hour notice to her attorney prior to her removal. *Id.*

On the same date, at 3:26 p.m., after the informal interview concluded, ICE served Petitioner with ICE Form 71-089, Notice of Imminent Removal Pursuant to 8 C.F.R. § 241.4(g)(4) ("Form 71-089"). *Id.* ¶ 21, Ex. 5. ICE then took Petitioner into custody. *Id.* ¶ 21. Due to Petitioner's mental condition, as acknowledged by the telehealth nurse, ICE chose not to use handcuffs on Petitioner. *Id.*

On the same date, at 8:02 p.m., this Court issued a Temporary Restraining Order ("TRO"), ordering Petitioner's immediate return to San Francisco and release, and an order to show cause why a preliminary injunction should not issue. Dkt. No. 10. At approximately 10:30 p.m. on that same date, ICE released Petitioner in San Francisco. Dkt. No. 11; Semple Decl. ¶ 22.

III. LEGAL STANDARD

A. The Preliminary Injunction Standard

The standard for issuing a temporary restraining order is "substantially identical" to the standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). The moving party must show that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

The purpose of a preliminary injunction is to preserve the status quo pending final judgment rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). "A preliminary injunction can take two forms." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserves the status quo pending a determination of the action on the merits.'" *Id.* (internal quotation omitted). "A mandatory injunction orders a responsible party to take action," as Plaintiff seeks here. *Id.* at 879 (internal quotation omitted). "A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored." *Id.* "In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases." *Id.* Where plaintiffs seek a mandatory injunction, "courts should be extremely cautious." *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). The moving party "must establish that the law and facts *clearly favor* [their] position, not simply that [they are] likely to succeed." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis original).

B. Detention of Noncitizens Under 8 U.S.C. § 1231(a)

Congress enacted a multi-layered statute that provides for the civil detention of aliens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008). Where an individual falls within this scheme affects whether his detention is discretionary or mandatory, as well as the kind of review process available. *Id.* at 1057.

ICE's authority to detain noncitizens while removal proceedings are pending is generally governed by 8 U.S.C. §§ 1225 and 1226. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018). Petitioner is not in removal proceedings and therefore is not governed by § 1225. Instead, as set forth below, this case concerns the detention authority for individuals whose removal proceedings have been completed: 8 U.S.C. § 1231(a). Section 1231(a) governs the detention of a noncitizen who has been ordered removed from the country—an individual subject to a "final order of removal." *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022); *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021).

Section 1231(a)(2) provides that the government "shall detain" the noncitizen for a 90-day "removal period," the commencement of which can be triggered by various events in the noncitizen's

proceedings. *See* 8 U.S.C. § 1231(a)(1)(B). Thereafter (the "post-removal period"), the noncitizen "may be detained beyond the [90-day] removal period" if, among other things, she is "inadmissible" (for example, because she reentered the country unlawfully, *see* 8 U.S.C. § 1182(a)(9)(C)), or removable on certain specified grounds, or if the government determines that she is "a risk to the community or unlikely to comply with the order of removal." *Id.* § 1231(a)(6); *Arteaga-Martinez*, 596 U.S. at 579; *Zadvydas v. Davis*, 533 U.S. 678, 688–89 (2001). A noncitizen detained beyond the removal period under Section 1231(a)(6) shall, if released, "be subject to [certain] terms of supervision." *Arteaga-Martinez*, 596 U.S. at 579.

Section 1231(a) does not permit indefinite detention; rather, the Supreme Court has held the government can detain noncitizens under Section 1231(a) only for "a period reasonably necessary to bring about that alien's removal from the United States"—presumptively six months. *Zadvydas*, 533 U.S. at 689. When removal is not reasonably foreseeable, continued detention is no longer authorized, but "the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances, and the alien may no doubt be returned to custody upon a violation of those conditions." *Zadvydas*, 533 U.S. at 700 (citing 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.5).

Continued detention and release during the post-removal period is governed by Post Order Custody Review ("POCR") Regulations. 8 C.F.R. §§ 241.4, 241.13. The POCR regulations provide for periodic custody reviews by ICE, at which the noncitizen is afforded certain protections, "including the rights to receive written notice of the review, to submit information in writing to support release and to be assisted by any individual of his or her choosing in preparing or submitting information in response to the notice." *Diouf v. Napolitano*, 634 F.3d 1081, 1089–90 (2011) ("*Diouf II*").; 8 C.F.R. §§ 241.4(h), (k).

While § 1231(a)(6) contemplates release pursuant to an order of supervision in appropriate cases, the POCR Regulations also authorize ICE to return to custody a noncitizen "who has been released under an order of supervision or other conditions of release who violates the conditions of release." 8 C.F.R. § 241.4(*l*)(1). A separate regulation, 8 C.F.R. § 241.13, was promulgated in 2001 and applies where the noncitizen "has provided good reason to believe there is no significant likelihood of removal

... in the reasonably foreseeable future." 8 C.F.R. § 241.13(a). Although the different regulations apply to different revocation circumstances, they both require that the noncitizen be (a) "notified of the reasons for revocation of his or her release," and (b) given "an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. §§ 241.4(*l*)(1), 241.13(i)(3).

As noted above, detention during the 90-day removal period is mandatory; there is no entitlement to a bond hearing or discretionary relief. Nor does Section 1231(a) provide for a bond hearing for the noncitizen to challenge his detention during the post-removal period. *See Guzman Chavez*, 594 U.S. at 526; *Arteaga-Martinez*, 596 U.S. at 581.

IV. ARGUMENT

A. The Proper Detention Authority is 8 U.S.C. § 1231, Not 8 U.S.C. § 1225(b)(2) Or 8 U.S.C. § 1226(a)

Petitioner is subject to a final removal, and therefore is subject to detention 8 U.S.C. § 1231. *See* Semple Decl., Ex. 1; 8 U.S.C. § 1231 ("Detention and removal of aliens ordered removed"). As such, Respondents do not "purport[] to detain Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)." Dkt., No. 2-2 at 11. The majority of Petitioner's Motion argues that Petitioner is subject to detention under 8 U.S.C. § 1226(a), and that mandatory detention under 8 U.S.C. § 1225(b)(2) would violate her due process rights. *See* Dkt. No. 2-2 at 15–23. That argument is irrelevant since both of those statues refer to noncitizens that have not yet been placed in, or are currently in, removal proceedings. On the contrary here, Petitioner has already been ordered removed.[3] A motion to reopen does not affect a final removal order until an IJ has granted the motion. *See Dada v. Mukasey*, 554 U.S. 1, 21 (2008) ("The alien may be removed by the DHS within 90 days, even if the motion to reopen has yet to be adjudicated.").

B. Petitioner Is Unlikely To Succeed On The Merits Of Her Claim

1. Petitioner's Re-Detention Is Permitted Under the Prior Injunction

The statute governing detention in this case, 8 U.S.C. § 1231(a)(6), expressly permits an alien

[3] Petitioner's argument that the "warrantless detention of Petitioner violated the Fourth Amendment" is meritless. Petitioner was not detained at the time of the filing of her motion.

like Petitioner, who has been ordered removed, to be detained beyond the 90-day removal period. *See* 8 U.S.C. § 1231(a)(6). ICE's re-detention of Petitioner on July 22, 2026 is consistent with the constitutional limit set forth in *Zadvydas*. Indeed, the Prior Injunction set forth the conditions with which ICE must comply to re-detain Petitioner, and ICE satisfied those conditions.

First, the applicable regulations provide that supervised release can be revoked for various reasons, including that the "purposes of release have been served" and for "revocation for removal." 8 C.F.R. §§ 241.4 (*l*)(2)(i), 241.13(i)(2). The Prior Injunction was granted because, at the time, ICE had not obtained a travel document for Petitioner, and therefore there was no SLRRFF. *See Yan-Ling X.*, 2026 WL 494468 at *5. That has now changed. Petitioner indisputably has a final order of removal, and ICE now has a valid travel document for Petitioner to return to her country of citizenship. *See* Semple Decl. ¶ 14, Ex. 2. ICE therefore properly made the determination that the purpose for release has been served and that revocation is necessary to enforce a removal order. There is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future, and detention is therefore appropriate. *Zadvydas*, 533 U.S. at 700.

Second, once release is revoked and the alien is returned to custody, the alien must be notified of the reasons for the revocation, and the Service will conduct an informal interview to allow the alien to respond to the reasons for revocation. 8 C.F.R. §§ 241.4 (*l*)(1), 241.13(i)(3). The alien is to be provided an "opportunity to respond to the reasons for revocation stated in the notification." *Id.* Those conditions have been satisfied here. [INSERT CITE to Semple Decl.]

In sum, ICE fully complied with the regulations and terms of the Prior Injunction, following the process laid out at 8 C.F.R. §§ 241.13(i) and 241.4(l) and satisfying its "burden to a significant likelihood that the alien may be removed." *Yan-Ling X.,* 2026 WL 494468, at *2; *see also Yan-Ling X,* 2026 WL 1198417 at *1 (concluding that ICE cannot re-detain [Petitioner] unless and until they obtain a travel document for her removal, and unless and until they follow all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures").

2. This Court Lacks Subject-Matter Jurisdiction Over Petitioner's Claim Because All Conditions of Removal Have Been Satisfied

This Court lacks jurisdiction over this habeas petition because it arises from the decision to

execute Petitioner's removal order. *Rauda*, 55 F.4th at 777. "Federal courts are courts of limited jurisdiction …They possess only that power authorized by Constitution and statute…which is not to be expanded by judicial decree." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (omitting citations). Though there is a presumption favoring review of agency action, that presumption is overcome "whenever the congressional intent to preclude judicial review is 'fairly discernible in the statutory scheme.'" *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984) (quoting *Data Processing Service v. Camp*, 397 U.S. 150, 157 (1970)).

Courts lack jurisdiction to review a decision to commence or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) ("[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders."); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of 'commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders'—which represent the initiation or prosecution of various stages in the deportation process."); *Limpin v. United States*, 828 Fed. App'x 429 (9th Cir. 2020) (holding district court properly dismissed under 8 U.S.C. § 1252(g) "because claims stemming from the decision to arrest and detain an alien at the commencement of removal proceedings are not within any court's jurisdiction"). In other words, § 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*, 525 U.S. at 482 (emphasis removed). Congress has explicitly foreclosed district court jurisdiction over claims that necessarily arise "from the decision or action by the Attorney General to commence proceedings [and] adjudicate cases . . . ." 8 U.S.C. § 1252(g).

8 U.S.C. § 1252(g) "does not prevent the district court from exercising jurisdiction over the plaintiffs' due process claims." *Walters v. Reno*, 145 F.3d 1032, 1052 (9th Cir. 1998). However, ICE did comply with the OSUP revocation regulations present at 8 C.F.R. § 241.13. *See* Semple Decl. ¶ 19–21; Exs. 3–5. Justice Sotomayor, in her Statement Respecting the Disposition of the Application in *Noem v. Abrego Garcia*, specifically identified 8 C.F.R. §241.4(l) as part of the "[f]ederal law governing

detention and removal of immigration" that continues to be binding on ICE. *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (Statement of Sotomayor, J.). Describing these requirements, Justice Sotomayor wrote that "in order to revoke conditional release, the Government must provide adequate notice and 'promptly' arrange an 'initial informal interview . . . to afford the alien an opportunity to respond to the reasons for the revocation stated in the notification." *Id.* As such, Respondents complied with due process in revoking Petitioner's OSUP pursuant to the regulations. *See Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1163 (S.D. Cal. 2025) ("Both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 were intended to 'provide due process protections to [noncitizens] following the removal period as they are considered for continued detention, release, and then possible revocation of release ...") (citation omitted).

With a valid travel document for Petitioner in hand and a final order of removal in place, ICE lawfully detained Petitioner to execute the removal order. Under section 1252(g), "*no court* shall have jurisdiction *to hear any cause or claim* by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders against any alien under this chapter*." 8 U.S.C. § 1252(g) (emphasis added); *see also Rauda*, 55 F.4th at 777; *Am.-Arab Anti-Discrimination Comm.*, 525 U.S. at 487 (holding that § 1252(g) precluded judicial review of petitioners' suit challenging Attorney General's decision to commence proceedings). Section 1252(g) is thus "a clear statement of congressional intent to repeal habeas jurisdiction" over claims by aliens arising from the government's decision or action to execute a removal order. *I.N.S. v. St. Cyr*, 533 U.S. 289, 298 (2001). Because Section 1252(g) squarely covers Petitioner's claim, this jurisdiction-stripping provision is dispositive and fatal to Petitioner's habeas petition.

3. Petitioner Was Not Entitled To A Hearing Before A Neutral Arbitrator Prior To Revocation Of Her Release

The Supreme Court has made clear that "there is no plausible construction of the text of § 1231(a)(6) that requires the government to provide bond hearings before immigration judges after six months of detention, with the government bearing the burden of providing by clear and convincing evidence" that a detained noncitizen poses a flight risk and a danger to the community. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 581 (2022). And just as § 1231(a)(6) "does not address or even hint at

the requirements" for a bond hearing following the six-month mark of immigration detention, *id.* at 580–81 (quotation omitted), it similarly does not require a hearing before immigration authorities can re-detain an alien who was previously on an order of supervision pending removal. *See* 8 U.S.C. § 1231(a)(6). Such an order would not only contradict the plain language of 8 C.F.R. § 241.13, which governs whether there is a significant likelihood of removing an alien in the reasonably foreseeable future and revocation of release, and 8 C.F.R. § 241.4, which governs the continued detention of inadmissible aliens beyond the removal period, it also would deprive immigration authorities of their operational discretion and regulatory authority to take the actions necessary to effectuate the deportation of aliens illegally in the United States.

Further, the Due Process Clause does not prohibit Petitioner's re-detention. Although the Fifth Amendment entitles aliens to due process of law, the Ninth Circuit interprets the Due Process Clause "consistent with longstanding precedent recognizing that the process due aliens must account for the government's countervailing interests in immigration enforcement – considerations that do not apply to U.S. citizens." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022). It is well-established that "Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Demore v. Kim*, 538 U.S. 510, 522 (2003). This is true because "any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government, which are core sovereign powers." *Id.* To the extent that Petitioner asks this Court to apply due process rights afforded to incarcerated United States citizens to him, the Supreme Court has expressly stated that those precedents do not apply. *Rodriguez Diaz*, 53 F.4th at 1205-06.

And assuming the factors set forth in *Mathews v. Eldridge* apply in this context to determine whether procedural protections satisfy the Due Process Clause, the Court considers the following the three factors: (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 the probable value, if any, of additional or substitute procedural safeguards; (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *Mathews* is not a bright-line

test, but a flexible standard that must account for the heightened governmental interest in the immigration detention context. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022) (citing cases).

The first factor favors Respondents because Petitioner's liberty interest in her supervised release is low. Petitioner was on notice that she was removable. When Petitioner was released from custody, she was placed on an order of supervision. She understood that she was removable, and her release could be revoked to effectuate his removal.

The second *Mathews* factor also favors Respondents. In the context of an alien with a final order of removal that is in the process of being executed, the risk of erroneous deprivation is relatively low. This is especially true when a District Court enjoins re-detention until certain conditions are met. Here, Petitioner is undisputedly subject to a final order of removal, § 1231(a)(6) explicitly authorizes Petitioner's detention in order to effectuate his removal order, and *Zadvydas* permits her detention because her removal is likely in the reasonably foreseeable future now that the travel document has been issued. Due Process does not mandate procedures that reduce the risk of erroneous deprivation to zero, a result that is beyond grasp. *Rodriguez Diaz*, 53 F.4th at 1213. In addition, the Prior Injunction provides specific criteria that Respondents must meet in order to re-detain Petitioner, further reducing the risk of erroneous deprivation. Respondents did meet those conditions.

The final *Mathews* factor weighs decisively in Respondents' favor. The government has a strong interest in preventing aliens from remaining in the United States in violation of our law and, to this end, effectuating a final order of removal as quickly as possible. *See Rodriguez Diaz*, 53 F.4th at 1208. Once the government determines that an alien may be removed in the reasonably foreseeable future, there should not be any additional hurdles, such as a pre-detention hearing, to effectuate what is already a final order. As found by the Ninth Circuit, district courts cannot provide injunctive relief to enjoin or forestall the execution of final removal orders through habeas petitions. *See Rauda* 55 F.4th at 777–78 (finding the district court cannot enjoin removal via a habeas petition); *see also Reyes-Aguilar v. United States Dep't of Homeland Security*, No. 2012 WL 12849082 (C.D. Cal. Oct. 10, 2012) (citing cases that find a district court cannot halt the execution of an order of removal).

C. Petitioner Lacks Standing To Pursue the Prospective Injunctive Relief Sought in Her Habeas Petition

Federal courts may only adjudicate actual "Cases" and "Controversies." U.S. Const. art. III, § 2, cl. 1. Article III gives rise to four justiciability doctrines: ripeness, standing, mootness, and political question. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006). Both standing and ripeness are lacking here. Petitioner must establish Article III standing to seek prospective injunctive relief. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 412 (2013). That means they must show a future injury that is "imminent, not conjectural or hypothetical." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). But Petitioner cannot make that showing since the events she feared did not materialize, confirming her future injury was purely speculative.

1. Respondents' Arguments in Prior Response

At the outset, Respondent's wish to re-clarify their arguments made in their Response to Ex Parte Motion For Temporary Restraining Order, Dkt. No. 4. *See also* Dkt. No. 8 (clarifying prior arguments based on the Court's understanding of Respondents' representations, Dkt. No. 6.). First, undersigned counsel sincerely regrets the phrasing used in Respondents' Response, Dkt. No. 4, that gave the Court the impression that the Form 71-091 "appears to reflect that ICE had decided to re-detain Petitioner at today's appointment **six days ago**". Dkt. No. 10 at 2 (emphasis in original). The decision to revoke OSUP and the decision to detain, while usually intertwined, are not the same in this case, leading to undersigned counsel's use of the phrase "*based on this record*, that decision has not been made." Dkt. No. 4 at 3 (emphasis added). As the Court and all parties are now aware, ICE made the decision to revoke Petitioner's OSUP on July 16, 2026. Dkt. No. 8-1. Petitioner then appeared for an ICE appointment the next day, on July 17, 2026, where ICE informed Petitioner that they planned to re-detain her. Dkt. No. 2-3 at 2. However, after Petitioner received a medical screening, and on the advice of the nurse who conducted the screening, ICE did not detain Petitioner at that appointment. *Id.*; Semple Decl. ¶ 16. As such, even though ICE had already revoked Petitioner's OSUP, ICE's decision to detain Petitioner could not have been made until after she received a medical screening when she appeared for her appointment on July 22, 2026, well after Respondents filed their Response.

Next, Respondents regret that their representation that the "conditions set forth in the Prior Injunction" had not yet been satisfied at the time of Petitioner's habeas led the Court to the understanding "that Respondents will not re-detain Petitioner at the ICE appointment" on July 22, 2026.

Dkt. No. 6 at 2. Respondents are appreciative that the Court understood their representations to mean "that Respondents do not intend to violate the Prior Injunction." *Id.* However, Respondents did not "contend that Petitioner lacks standing to bring this habeas petition because her fears of re-detention are 'conjectural' and 'hypothetical.'" *Id.* As explained further below, Respondents argued that Petitioner' injury, that "Petitioner will continue to be unlawfully detained by Respondents", Dkt. No. 2-2 at 25[4], is speculative because the *unlawful* detention would require a showing that "ICE does not intend to comply with the regulations and the order of another District Court". Dkt. No. 4 at 3. Petitioner made no argument that re-detention itself is inherently unlawful, much less so when it was authorized by a District Court Judge after certain conditions are met.

2. Petitioner has Not Identified A Concrete Future Injury

Petitioner's July 22, 2026 habeas petition demonstrates that she had suffered no injury in fact and was merely seeking relief for conjectural or hypothetical injuries that she believed may occur at some point in the future. An injury in fact requires "'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016) (quoting *Lujan*, 504 U.S. at 560); *Sierra Club v. Morton*, 405 U.S. 727, 734–35 (1972); *see also Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451, 464 (2017) ("For standing purposes, a loss of even a small amount of money is ordinarily an 'injury.'").

Here, the injury is not detention per se, but instead *unlawful* detention. Respondents' argument is that Petitioner cannot establish a concrete future injury of *unlawful* detention—a detention resulting from ICE's violations of the regulations and Prior Injunction, or where there is no SLRRFF—and therefore lacks standing.

Petitioner cannot establish that any concrete future injury is imminent and reasonably certain. *See J.P. v. Santacruz*, No. 25-cv-1640, 2025 WL 2998305, at *4 (C.D. Cal. Oct. 24, 2025) (dismissing petitioner's challenge to "his future detention and/or arrest at another physical appointment" because petitioner "fails to present sufficient allegations or evidence of the threat of future injury to confer Article III standing"). Her "alleged threat of future injury is too speculative and unripe," *id.*, at *4, and

[4] Petitioner was not detained at the time of filing, Respondents interpret this to mean Petitioner's *future* unlawful detention.

thus she does not have standing. She has failed to show, upon her habeas filing, a credible threat that ICE would in fact violate the regulations and Prior Injunction during its re-detention of Petitioner. *See Thai v. Lyons*, No. 25-cv-6293, 2026 WL 1303056, at *3 (N.D. Cal. May 12, 2026) ("Thai has not shown a 'credible threat' of future wrongful detention. Thus, he fails to allege a sufficiently imminent injury for purposes of Article III standing.") (citations omitted). And Petitioner points to no authority that re-detention pursuant to a District Court order would be wrongful or unlawful. *See Guillermo M.R. v. Albarran*, No. 25-cv-5436, 2026 WL 1486580, at *2 (N.D. Cal. May 27, 2026) ("Now that M.R. has received a predeprivation hearing [as ordered by the Court prior to any re-detention], the risk of an erroneous deprivation has been sufficiently mitigated and. . . the Court does not find that additional procedures are required under the Due Process Clause at this time."). Further, as the situation played out, Petitioner's fears did not materialize, as ICE properly followed the regulations to revoke Petitioner's OSUP before taking her into custody, in compliance with the Prior Injunction.

Petitioner's evidence provided with her TRO Motion underscores the speculative and conjectural nature of her belief that that ICE would violate the regulations and Prior Injunction when re-detaining her. Petitioner filed her Motion at 11:34 a.m., approximately two-and-a-half hours before her scheduled appointment with ICE on July 22, 2026. Dkt. No. 2. In support of her Motion, Petitioner's counsel submitted a sworn declaration claiming that "ICE also failed to notify Petitioner of the reasons for the revocation of her release and did not conduct an initial informal interview on the day of her arrest, in compliance with 8 C.F.R. § 241.13(i)(3) which violates [Eastern District] Judge Sheriff's order." Dkt. No. 2-3 ¶ 9. Petitioner's counsel continued, alleging that:

> ICE never served any paperwork on [Petitioner] at the time of her arrest and did not ask her to sign any documents, including to sign that she was served with the Notice of Revocation of Release. Petitioner has had no conversation or informal interview with any ICE officer about the basis for her re-detention. No notice was provided, nor was Petitioner given an opportunity to respond. ICE never provided Petitioner with a copy of her travel document. Without access to the travel document—the sole asserted basis for her redetention— it would have been impossible to afford Petitioner an opportunity to respond to reasons for her revocation.

Id. ¶ 10. But because Petitioner's re-detention had yet to occur, Petitioner's counsel could not have known these "facts" prior to Petitioner's appointment with ICE. Petitioner's counsel offered pure conjecture about what she thought would happen at least two-and-a-half hours prior to their occurrence.

As it turns out, none of these conjectures came to pass. Petitioner, and her attorney, were indeed provided with the reasons for revocation for release. Semple Decl. ¶ 20, Ex. 3. ICE conducted two interviews with Petitioner, both before and after she was served with the Notice of Revocation of Release and before she was taken into custody, fully in compliance with the regulations and the Prior Injunction. *See* 8 C.F.R. §§ 241.4(*l*)(1); 241.13(i)(3). ICE provided Petitioner with an opportunity to respond to the reasons for revocation, but she did not want to make a statement. Semple Decl. ¶ 20. The regulations do not require ICE to wait until Petitioner decides that they want to make a statement, it merely requires ICE to provide Petitioner the opportunity to respond to the reasons for revocation. *See* 8 C.F.R. §§ 241.4(*l*)(1); 241.13(i)(3). Petitioner's refusal to make a statement during that interview does not vitiate ICE's compliance with the regulations in providing that opportunity. *See Va v. Albarran et al.*, 3:26-cv-05142-JD, Dkt. No. 17 (N.D. Cal., May 29, 2026) (directing the government to file a sworn declaration stating "the time and duration of the interview with petitioner Va, what was said during the interview by Va, and why the 'oral response' section of the interview report is blank.") (internal citation omitted); *id.* at Dkt. No. 19 ("The Carrasco declaration establishes that the government fulfilled its obligations under 8 CFR Section 241.13(i)(3) to notify Va of 'the reasons for revocation of his or her release' and provide an 'opportunity to respond to the reasons for revocation.' A question of fairness could be raised about the government's failure to provide the detainee's travel document when he was initially seized, but the record does not indicate Section 241.13 was violated.") (citations omitted).

D. Habeas Relief Is Both Inappropriate and Premature Because Petitioner Is Challenging Hypothetical Regulatory Violations

Habeas relief is an appropriate request when an individual is detained and requesting release from that detention. U.S. Const. Art. 1, § 9, Cl. 2; 28 U.S.C. § 2241(c) ("The writ of habeas corpus shall not extend to a prisoner unless [h]e is in custody "); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 117–18 (2020) ("[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and [] the traditional function of the writ is to secure release from illegal custody."). An individual does not need to be in actual physical custody to seek habeas relief; the "in custody" requirement may be satisfied where an individual's release from detention is subject to specific conditions or restraints. *See Dow v. Cir. Ct. of the First Circuit*, 995 F.2d 922, 923 (9th Cir. 1993)

(holding that release subject to mandatory attendance at alcohol rehabilitation classes constituted "custody" for habeas purposes). The Supreme Court has "interpreted 'custody' to encompass circumstances in which the state has imposed 'significant restraints on [a] petitioner's liberty.'" *Munoz v. Smith*, 17 F.4th 1237, 1241 (9th Cir. 2021) (quoting *Jones v. Cunningham*, 371 U.S. 236, 242 (1963)).

Courts in this Circuit are generally split as to whether release conditions imposed by ICE, such as enrollment in ISAP and the requirement to wear an ankle monitor, meet the requirements of "custody" for purposes of habeas relief. *See Harrington v. Albarran, et al.,* No. 26-cv-1889, 2026 WL 800113, at *4 (N.D. Cal. Mar. 23, 2026) (finding such conditions satisfy the definition of "custody"); *A.B.D. v. Wamsley*, No. 6:25-cv-2014, 2026 WL 178306, at *8 (D. Or. Jan. 22, 2026) (finding the "intensive supervision" measures constitute custody from which petitioners may be granted habeas relief); *but see Ba v. Lyons*, No. 3:25-cv-2871, 2026 WL 218936, at *1 (S.D. Cal. Jan. 27, 2026) (holding that requirements to "wear a GPS monitoring ankle bracelet, attend frequent in person office visits, and not travel outside 75 miles without permission" did not constitute custody).

If the Court were to construe Petitioner's facts as to present the argument that she is currently "in custody" for purposes of habeas relief, her Petition still fails. This habeas petition does not purport to challenge that custodial arrangement or secure their release from any present "custody." Petitioner is not in physical custody and is not challenging whatever restraints ICE has currently imposed. Rather, Petitioner seeks an injunction to prevent a possible future *unlawful* detention that would only be unlawful due to ICE's violation of both their own regulations and a District Court order. *See Maleng v. Cook,* 490 U.S. 488, 490–91 (1989) ("the habeas petitioner be 'in custody' under the conviction or sentence *under attack* at the time his petition is filed.") (emphasis added). The habeas relief that they seek is not connected to the immigration custody on which they base their petition. Thus, Petitioner does not seek a remedy that sounds in habeas. *See J.P. v. Santacruz, et al.*, No. 25-cv-1640, 2025 WL 2633198 (C.D. Cal. Aug. 27, 2025). In *J.P.*, the court held that even assuming that petitioner's OSUP satisfied the "in custody" requirement, "Petitioner fails to adequately demonstrate he is challenging his confinement." *Id.* at *3. The court specifically noted that challenges to *future* detention did not fall within habeas jurisdiction:

> Here, Petitioner does not challenge the lawfulness of his alleged custody. . . . Rather, Petitioner challenges his *potential* confinement absent a pre-

> deprivation hearing before a neutral adjudicator. . . . Petitioner's concern about re-detention stems from Respondents indication that they *may possibly* re-detain Petitioner at a future in-person appointment that the ISAP scheduled. . . . Based on the record in this case, the court would not find that Petitioner adequately demonstrates a challenge to his custody.

Id. Petitioner's claim here similarly challenges her hypothetical future *unlawful* confinement, not their present "custody," and therefore habeas jurisdiction is inappropriate.

Here, Petitioner does not know if ICE will violate both their own regulations and a permanent injunction to detain her at her upcoming appointment. She was apparently unaware of any precipitating event that would cause ICE to violate the regulations and Prior Injunction. *Cf. Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1028 (N.D. Cal. 2025) (habeas petition filed after petitioner was instructed to go in for a "case review" with ICE, where he was advised that he would be detained).

This does not provide the basis for the extraordinary remedy of a preliminary injunction. Without any knowledge that of violation of the regulations or Prior Injunction is likely or imminent, Petitioner is seeking an insurance policy from the Court to guarantee that they will not be detained., despite another District Court already determining that re-detention is lawful if certain conditions are met. That is not the purpose of a habeas petition, and it is not the purpose of a preliminary injunction.

In sum, this petition is premature. If Petitioner is in fact detained at some hypothetical future appointment and they believe that ICE violated the regulations and Prior Injunction, they can file a petition and TRO motion at that time. If the Court agrees that the standard for a TRO has been met, based on the actual facts presented by the arrest, it can issue an appropriate TRO. However, ICE has already shown that they will not violate the regulations or Prior Injunction, as they did not when they re-detained Petitioner on July 22.

E. Petitioner Has Not Met Her Burden to Show Likely Irreparable Harm Without Immediate Injunctive Relief

As explained above, Petitioner has merely speculated about an irreparable harm that can only be remedied with immediate injunctive relief. Petitioner alleged, without evidence, that ICE would violate its own regulations and the Prior Injunction in order to re-detain her. However, this assumption turned out to be false. Immigration laws have long authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain aliens pending removal.

Demore, 538 U.S. at 523–26. "Detention is necessarily a part of [the] deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Reno v. Flores*, 507 U.S. 292, 306 (1993) ("Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.").

F. The Balance of Equities and Public Interest

When the government is a party, the third and fourth preliminary injunction factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). "The government's interest in efficient administration of the immigration laws" is "weighty," and "it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). Further, the government's interest in protecting the public and preventing deportable non-citizens from fleeing is strong and compelling. See, e.g., *Rodriguez Diaz*, 53 F.4th at 1208 (The government's interests in the prompt execution of removal orders are "interests of the highest order that only increase with the passage of time" and the "risk of a detainee absconding also inevitably escalates as the time for removal becomes more imminent."). These interests outweigh any interest Petitioner may have in continuing on release for whatever limited time she has left before being removed from the United States.

G. This Court Cannot Stay Petitioner's Removal Until the Immigration Court Adjudicates Her Pending Motion to Reopen

Petitioner also seeks an order from this Court enjoining Petitioner's removal "until the immigration court adjudicates her pending motion to reopen and motion for stay of removal, and for a reasonable period thereafter sufficient to permit any administrative appeal and judicial review." Dkt. No. 2-1. However, the Ninth Circuit has explicitly said the District Court lacks the jurisdiction to issue this relief. 8 U.S.C. § 1252(g) strips this Court of jurisdiction to stay a Petitioner's removal while a motion to reopen proceedings is pending before the immigration court. *See Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) ("The district court correctly concluded that § 1252(g) deprived it of jurisdiction to hear [petitioner]'s claims."); *id.* at 777 ("[Petitioner] asserts that applying the plain text of § 1252(g) and refusing to enter a stay of removal pending the resolution of his motion to reopen 'would deprive a noncitizen [of] his statutory right to file a motion to reopen.' But that's not true.") (citation omitted in

original); *see also Willian Matias Rauda v. David Jennings, et al.*, No. 21-cv-3897, 2021 WL 2413006, at *3 (N.D. Cal. June 14, 2021), *aff'd sub nom. Rauda*, 55 F.4th ("Mr. Matias's habeas petition and his motion for a TRO both ask the Court to enjoin the government from executing his removal order. Because his claims arise from the government's 'decision or action' to 'execute' his removal order, § 1252(g) bars the Court from hearing them.") (internal citations omitted). Therefore, Congress has specifically stripped this Court of jurisdiction to order such relief.

V. CONCLUSION

For the foregoing reasons, the government respectfully requests that the Court deny Petitioner's motion for a preliminary injunction and dismiss her habeas petition.

DATED: July 27, 2026

Respectfully submitted,

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