IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)

MAURICIO ALEXANDER ORELLANA QUINTANILLA,	*	
Petitioner,	*	Case No. 1:25-cv-02513-LKG
v.	*	
KRISTI NOEM, *et al.*,	*	
Respondents.	*	

* * * * * * * * * * * * *

MEMORANDUM OF LAW IN SUPPORT OF RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO DISMISS

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Respondents, United States Department of Homeland Security ("DHS") Secretary Kristi Noem, Acting Director of United States Immigration and Customs Enforcement ("ICE") Todd Lyons, Field Office Director for the ICE Baltimore Field Office Nikita Baker, and United States Attorney General Pamela Bondi (collectively, "Respondents"), by and through undersigned counsel, Kelly O. Hayes, United States Attorney for the District of Maryland, and Megan L. Micco, Assistant United States Attorney for that District, hereby respond to the Petition for Writ of Habeas Corpus (ECF No. 1) (the "Petition") in accordance with the August 4, 2025 Scheduling Order (ECF No. 6) and further move this Court to dismiss the Petition in its entirety.

I. INTRODUCTION

Petitioner, Mauricio Alexander Orellana Quintanilla ("Petitioner"), is a citizen and native of El Salvador who has entered into the United States without being inspected, admitted, or paroled, *i.e.*, he has entered this country illegally, four (4) times in the last two decades. He is presently detained by ICE at the Winn Correctional Center in Winnfield, Louisiana pending

removal pursuant to 8 U.S.C. § 1231(a)(5) because he is subject to a reinstated removal order. On July 31, 2025, Petitioner initiated this habeas action pursuant to 28 U.S.C. § 2241 while he was held by ICE in Baltimore, Maryland. *See* ECF No. 1 at ¶ 4. In the Petition, Petitioner challenges his detention by ICE and asserts four claims: (1) violation of 8 U.S.C. § 1231(a)(6); (2) violation of the Due Process Clause of the Fifth Amendment of the United States Constitution; (3) habeas corpus pursuant to 28 U.S.C. § 2241; and (4) violation of ICE regulations, specifically, 8 C.F.R. § 241.4(*l*) and 8 C.F.R. § 287.8(b)(2)(C), relating to ICE's revocation of Petitioner's Order of Supervision and arrest of Petitioner, under the *Accardi* doctrine. *See id.* at ¶¶ 29–44.

However, the Petition fails for numerous reasons and must be dismissed. First, there are two independent bases to deny, and ultimately dismiss, the Petition jurisdictionally: (1) 8 U.S.C. § 1252(b)(9), which limits judicial review of questions of law and fact arising "from any action taken . . . to remove an alien from the United States"; and (2) 8 U.S.C. § 1252(g), which bars district court review of decisions by the Attorney General to "execute removal orders against any alien." Second, to the extent Petitioner takes issue with Respondents' third country removal procedures, the Court should not grant any relief given the Supreme Court's stay of the preliminary injunction in *D.V.D., et al. v U.S. Department of Homeland Security et al.*, Case No. 1:25-cv-10676-BEM (D. Mass.). Third, even if the Court were to reach the merits of the claims, the Petition should be denied because statutory authority and Supreme Court precedent allow for Petitioner's detention and removal. Moreover, Petitioner's fourth claim concerning alleged violation of ICE regulations fails on two grounds: (1) the revocation of Petitioner's Order of Supervision comports with the regulations and the Constitution; and (2) the Court lacks jurisdiction over Petitioner's warrantless arrest claim under 8 U.S.C. § 1252(g) because the arrest arises from ICE's decision or

action to effectuate a final removal order. Even if the Court had jurisdiction over the warrantless arrest claim, and it does not, habeas relief is not a proper remedy for an alleged unlawful arrest.

Accordingly, the Petition should be dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted.

II. STATUTORY AND REGULATORY FRAMEWORK

A. Administrative Removal Under 8 U.S.C. § 1228

8 U.S.C. § 1228 of the Immigration and Nationality Act ("INA") governs expedited removal of aliens convicted of committing aggravated felonies. *See* 8 U.S.C. § 1228. 8 U.S.C. § 1228(b) permits DHS to expeditiously remove an alien convicted of an aggravated felony without a hearing before an immigration judge. 8 U.S.C. § 1228(b). In 8 U.S.C. § 1228(b) proceedings, a DHS Designated Official determines whether an alien is a noncitizen, is not a permanent lawful resident, and has an aggravated felony conviction. *See id.* If the DHS Designated Official determines that the alien is removable, DHS issues a Final Administrative Removal Order, Form I-851A.

B. Detention and Removal of Aliens Who Have Received Final Orders of Removal Under 8 U.S.C. § 1231

8 U.S.C. § 1231 of the INA provides a statutory scheme for the civil detention of aliens once a final order of removal has been entered. *See generally* 8 U.S.C. § 1231. Section 1231 provides the Executive Branch with the authority to execute orders of removal and to ensure that aliens who have been ordered removed are in fact removed from the United States. *See* 8 U.S.C. § 1231. This authority is broad.

8 U.S.C. § 1231(a), titled "Detention, release, and removal of aliens ordered removed," provides, in relevant part, as follows:

> **(1) Removal period**
>
> **(A) In general**
>
> Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section, referred to as the "removal period").
>
> **(B) Beginning of period**
>
> The removal period begins on the latest of the following:
>
> **(i)** The date the order of removal becomes administratively final.
>
> * * *
>
> **(2) Detention**
>
> **(A) In general**
>
> During the removal period, the Attorney General *shall detain the alien*. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under [8 U.S.C. § 1182(a)(2)] or [8 U.S.C. § 1182(a)(3)(B)] of this title or deportable under [8 U.S.C. § 1227(a)(2)] or [8 U.S.C. § 1227(a)(4)(B)] of this title.

8 U.S.C. § 1231(a)(1)–(2).

Additionally, as is relevant here, 8 U.S.C. § 1231(a)(5) pertains to reinstatement of removal orders against aliens who have illegally reentered the country and provides:

> If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, the alien is not eligible and may not apply for any relief under this chapter, *and the alien shall be removed under the prior order at any time after the reentry*.

8 U.S.C. § 1231(a)(5) (emphasis added).

8 U.S.C. § 1231(b) authorizes the United States to remove aliens to various countries including, where other options are unavailable, to any country willing and able to accept them. *See* 8 U.S.C. § 1231(b). Although the INA authorizes removal of aliens who have received a final

order of removal to a third country (*see* 8 U.S.C. § 1231(b)(1)(C)), it does not provide any additional, specific process that aliens must receive under withholding after a final order of removal has been issued but prior to removal to a third country. *See* 8 U.S.C. § 1231(b)(1)(C). Congress has delegated the decision regarding the appropriate process to the Executive Branch. *See* 8 U.S.C. § 1231. On March 30, 2025, DHS issued guidance detailing its policy in this context following President Trump's Executive Order directing DHS to take action against aliens who stay in this country for years despite being subject to final orders of removal. *See* Exhibit ("Ex.") 1, March 30, 2025 Guidance; Ex. 2, Executive Order 14165, 90 Fed. Reg. 8467.

The DHS Guidance establishes a two-track system to address aliens who have been ordered removed but for various reasons cannot be sent to a country specifically designated in their removal orders. *See* Ex. 1. First, where the United States has received a sufficient assurance from a third country that no aliens will be tortured upon removal there, the Executive may remove the alien to that country without any further process. *See id.* at 1–2. A section applies for countries where the United States has not received such an assurance. *Id.* at 2. In that case, the DHS policy provides that the alien is entitled to notice of the third country and an opportunity for a prompt screening of any asserted fear of being tortured there. *Id.*

III. FACTUAL BACKGROUND

A. Petitioner's Relevant Immigration History

Petitioner is a citizen and native of El Salvador. ECF No. 1 at ¶ 5. In the last two decades, he has entered into the United States without being inspected, admitted, or paroled, *i.e.*, he has entered this country illegally, on four (4) separate, unknown occasions.

Petitioner's first instance of illegal entry into the United States occurred sometime prior to December 2006. On or about December 29, 2006, Petitioner was arrested for the crime of

"Unauthorized Use of Vehicle (includes joyriding)," which resulted in a conviction on July 6, 2007. *See* Ex. 3, District Court of Maryland for Howard County Trial Docket in Case No. 004T00053232, at 1. Petitioner was sentenced to a five-year term of incarceration. *Id.* On or about November 29, 2007, Petitioner was arrested for the crime of "Burglary-4th Degree Theft," which resulted in a conviction on January 15, 2008. *See* Ex. 4, District Court of Maryland for Montgomery County Trial Docket in Case No. 003D00203031, at 3. He was sentenced to a term of eighteen months' incarceration. *Id.*

On or about May 5, 2009, DHS Homeland Security Investigations Baltimore arrested Petitioner and served him with a Notice to Appear ("NTA"), Form I-862, pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(2)(A)(i). Ex. 5, May 5, 2009 NTA. On March 17, 2010, an Immigration Judge determined that Petitioner was subject to removal on the grounds set forth in the NTA, but granted Petitioner voluntary departure to El Salvador. Ex. 6, March 17, 2010 Order of the Immigration Judge. On April 21, 2010, ICE Enforcement and Removal Operations ("ERO") confirmed Petitioner's departure to El Salvador via air. Ex. 7, April 21, 2010 Voluntary Departure and Verification of Departure.

Thereafter, Petitioner entered the United States illegally a second time at an unknown location. On March 19, 2014, ERO Baltimore arrested Petitioner and served him a Notice of Intent to Issue a Final Administrative Removal Order, Form I-851, and a Final Administrative Removal Order, Form I-851A, pursuant to 8 U.S.C. § 1228(b) due to his prior aggravated felony convictions for "Unauthorized Use of Vehicle (includes joyriding)" and "Burglary-4th Degree Theft." Ex. 8, March 19, 2014 Notice of Intent to Issue a Final Administrative Removal Order. On July 18, 2014, ERO Baltimore served Petitioner with a Final Administrative Removal Order, Form I-851A, pursuant to 8 U.S.C. § 1228(b). Ex. 9, July 18, 2014 Final Administrative Removal Order. On

February 9, 2015, ERO Baltimore issued a Warrant of Removal/Deportation, Form I-205, to Petitioner. Ex. 10, February 9, 2015 Warrant of Removal/Deportation. On March 11, 2015, ERO New Orleans removed Petitioner to El Salvador via air. *See id.* at 2.

Petitioner entered the United States illegally a third time following his March 11, 2015 removal. On or about October 2, 2015, United States Customs and Border Patrol arrested Petitioner in Hidalgo, Texas and served him with a Notice of Intent/Decision to Reinstate Prior Order, Form I-871, pursuant to 8 U.S.C. 1231(a)(5) based on his prior July 18, 2014 Final Administrative Removal Order. Ex. 11, October 2, 2015 Notice of Intent/Decision to Reinstate Prior Order. On that same date, Customs and Border Patrol issued a Warrant of Removal/Deportation, Form I-205, to Petitioner. Ex. 12, October 2, 2015 Warrant of Removal/Deportation. On October 27, 2015, ERO Laredo removed Petitioner to El Salvador via air. *See id.*

Petitioner entered the United States illegally a fourth time following his October 27, 2015 removal. On December 26, 2017, ERO Baltimore arrested Petitioner in Baltimore and served him with a Notice of Intent/Decision to Reinstate Prior Order, Form I-871, pursuant to 8 U.S.C. 1231(a)(5) based on his prior July 18, 2014 Final Administrative Removal Order. Petitioner was also presented to the United States Attorney's Office for the District of Maryland for prosecution under 8 U.S.C. § 1326(a)(b)(1), Reentry of Alien Deported After Felony Conviction. *See United States of America v. Mauricio Alexander Orellana Quintanilla*, Case No. 8:18-cr-00055-GJH (D. Md.). Petitioner was subsequently prosecuted for and pled guilty pursuant to 8 U.S.C. § 1326(a)(b)(1). *See* ECF No. 32 (Judgment in a Criminal Case) in *United States of America v. Mauricio Alexander Orellana Quintanilla*, Case No. 8:18-cr-00055-GJH (D. Md.).

On June 27, 2018, ERO Baltimore arrested Petitioner and served him an Information About Reasonable Fear Interview, Form M-488, and referred him to United States Citizenship and Immigration Services after he claimed fear of return to El Salvador. USCIS later found Petitioner's fear claim credible. On January 3, 2019, in withholding-only proceedings, an Immigration Judge granted Petitioner withholding of removal from El Salvador under 8 U.S.C. § 1326(b)(3). Ex. 13, January 3, 2019 Order of the Immigration Judge. On January 10, 2019, Petitioner was placed on an Order of Supervision following the Immigration Judge's withholding decision. ECF No. 1 at ¶ 21.

On July 31, 2025, Petitioner was encountered near Joint Base Andrews, Maryland, arrested, and served with a Notice of Intent/Decision to Reinstate Prior Order, Form I-871, pursuant to 8 U.S.C. 1231(a)(5) based on his prior July 18, 2014 Final Administrative Removal Order. Ex. 14, July 31, 2025 Notice of Intent/Decision to Reinstate Prior Order. Petitioner was also served with a Notice of Revocation of Release, which revoked his Order of Supervision, and three Notices of Removal notifying Petitioner that ICE intends to remove him to Mexico, Guatemala, and/or Honduras. Ex. 15, July 31, 2025 Notice of Revocation of Release; Ex. 16, July 31, 2025 Notices of Removal. Petitioner subsequently initiated this habeas action. ECF No. 1. On or about August 2, 2025, Petitioner was transferred from the ICE Baltimore Hold Room to the ICE Winn Correctional Center in Winnfield, Louisiana.

B. *D.V.D.* Non-Opt Out Class Action

In March 2025, three plaintiffs instituted a putative class action suit challenging their third country removals in the District of Massachusetts captioned *D.V.D., et al. v. U.S. Department of Homeland Security, et al.*, Case No. 1:25-cv-10676-BEM (D. Mass.). On March 28, 2025, that court entered a Temporary Restraining Order enjoining DHS and others from "[r]emoving any

individual subject to a final order of removal from the United States to a third country, i.e., a country other than the country designated for removal in immigration proceedings" unless certain conditions are met. *D.V.D.*, ECF No. 34 at 2. On April 18, 2025, the court in *D.V.D.* issued an order granting the plaintiffs' motion for class certification and motion for preliminary injunction. *D.V.D.*, ECF No. 64. That Preliminary Injunction was national in effect, certifies a non-opt out class, and establishes certain procedures that DHS must follow before removing an alien with a final order of removal to a third country. Specifically, the class is defined as:

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

Id. at 23.

On May 21, 2025, the *D.V.D.* Court issued a Memorandum on Preliminary Injunction offering the following summary and clarification of its Preliminary Injunction:

> All removals to third countries, *i.e.*, removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen's order of removal, see 8 U.S.C. § 1231(b)(1)(C), must be preceded by written notice to both the non-citizen and the non-citizen's counsel in a language the non-citizen can understand. Dkt. 64 at 46–47. Following notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal. *See id.* If the non-citizen demonstrates "reasonable fear" of removal to the third country, Defendants must move to reopen the non-citizen's immigration proceedings. *Id.* If the non-citizen is not found to have demonstrated a "reasonable fear" of removal to the third country, Defendants must provide a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening of their immigration proceedings. *Id.*

D.V.D., ECF No. 118 at 2.

The *D.V.D.* Court indicated that the Order applied "to the Defendants, including the Department of Homeland Security, as well as their officers, agents, servants, employees, attorneys, any person acting in concert, and any person with notice of the Preliminary Injunction." *Id.*

On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts' preliminary injunction pending appeal in the United States First Circuit Court of Appeals. *Department of Homeland Security v. D.V.D.*, No. 24-A-1153, 2025 WL 1732103 (June 23, 2025). That same day, the District Court of Massachusetts ordered that its remedial order granting relief to eight individual class members DHS sought to remove to South Sudan remained in effect. *D.V.D.*, ECF No. 176. Defendants moved to clarify the Supreme Court's Order and, on July 3, 2025, the Supreme Court granted the motion allowing the eight individual aliens to be removed to South Sudan. The class certification in *D.V.D.* remains in effect notwithstanding the Supreme Court's stay. *See id.*

IV. LEGAL STANDARDS

A. Motion to Dismiss for Lack of Subject-Matter Jurisdiction – Federal Rule of Civil Procedure 12(b)(1)

A motion to dismiss based on lack of subject-matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1) raises the question of whether the court has the competence or authority to hear and decide a particular case. *See Davis v. Thompson*, 367 F. Supp. 2d 792, 299 (D. Md. 2005). As a result, the court "generally may not rule on the merits of a case without first determining that it has the jurisdiction over the category of claim in suit (subject-matter jurisdiction)." *Sinochem Int'l Co. Ltd. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430–31 (2007) (citing *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93–102 (1998)). The plaintiff bears the burden of proving that subject-matter jurisdiction exists. *See Evans v. B.F. Perkins Co.*, 166 F.3d 642, 647 (4th Cir. 1999). The requirement that a plaintiff establish subject-matter

jurisdiction "as a threshold matter 'spring[s] from the nature and limits of the judicial power of the United States' and is 'inflexible and without exception.'" *Steel Co.*, 523 U.S. at 95 (some internal quotation marks omitted). For that reason, "[t]he objection that a federal court lacks subject-matter jurisdiction . . . may be raised by a party, or by a court on its own initiative, at any stage in the litigation, even after trial and the entry of judgment." *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 506 (2006) (citing Rule 12(h)(3)).

When a defendant challenges subject-matter jurisdiction, the court "is to regard the pleadings as mere evidence on the issue, and may consider evidence outside the pleadings without converting the proceeding to one for summary judgment." *Evans*, 166 F.3d at 647 (quoting *Richmond, Fredericksburg & Potomac R. Co.*, 945 F.2d 765, 768 (4th Cir. 1991)). The court may properly grant a motion to dismiss for lack of subject-matter jurisdiction "where a claim fails to allege facts upon which the court may base jurisdiction." *Davis*, 367 F. Supp. 2d at 799.

B. Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted – Federal Rule of Civil Procedure 12(b)(6)

A challenge under Federal Rule of Civil Procedure 12(b)(6) requires dismissal of a complaint if it fails to state a claim upon which relief can be granted. In ruling on such a motion, although a court must accept as true all the factual allegations in the complaint, legal conclusions drawn from those facts are not afforded deference. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (holding that "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice" to plead a claim). In addition, the Court "may properly take judicial notice of matters of public record . . . [and] consider documents attached . . . to the motion to dismiss, so long as they are integral to the complaint and authentic." *Philips v. Pitt Cty. Mem'l Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

Within this framework, a complaint must allege "a plausible claim for relief." *Iqbal*, 556 U.S. at 679. Under the plausibility standard, a complaint must contain "more than labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Although the plausibility requirement does not impose a "probability requirement," *id.* at 556, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged," *Iqbal*, 556 U.S. at 663.

V. ARGUMENT

A. 8 U.S.C. § 1252(b)(9) Bars Relief and Review.

In passing the REAL ID Act, Congress prescribed a single path for judicial review of orders of removal: "a petition for review filed with an appropriate court of appeals." 8 U.S.C. § 1252(a)(5); *see also Verde-Rodriguez v. Att'y Gen. U.S.*, 734 F.3d 198, 201 (3d Cir. 2013). The REAL ID Act further provides that "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, *arising from any action taken or proceeding brought to remove an alien from the United States* under this subchapter shall be available only in judicial review of a final order under this section." 8 U.S.C. § 1252(b)(9) (emphasis added). Read in conjunction with section 1252(b)(9), section 1252(a)(5) expresses Congress's intent to channel and consolidate judicial review of every aspect of removal efforts, including removal orders, into the petition-for-review process in the Courts of Appeals. *See* 8 U.S.C. § 1252(a)(5) ("Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision . . . a petition for review filed with an appropriate court of appeals in accordance with this section *shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter* . . . .") (emphasis added); *see also* H.R. Conf. Rep. No. 109-72, at 174–75;

Bonhometre v. Gonzales, 414 F.3d 442, 446 (3d Cir. 2005) (highlighting Congress's "clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals)" as part of a petition for review).

In fact, "most claims that even relate to removal" are improper if brought before the district court. *E.O.H.C. v. Sec. U.S. Dep't of Homeland Sec.* 950 F.3d 177, 184 (3d Cir. 2020); *Fabian A. v. Dep't of Homeland Sec.*, No. 21-1384, 2021 WL 3486905, at *2 (D.N.J. Aug. 9, 2021); *Gregory E. v. Warden of Essex Cty. Corr. Fac.*, No. 19-19287, 2020 WL 3129541, at *2 (D.N.J. June 12, 2020); *see also Reno v. Am.-Arab Anti-Discrimination Comm.* ("AADC"), 525 U.S. 471, 483 (1999) (labeling section 1252(b)(9) an "unmistakable zipper clause," and defining a zipper clause as "[a] clause that says 'no judicial review in deportation cases unless this section provides judicial review'"); *Vasquez v. Aviles*, 639 F. App'x 898, 900–01 (3d Cir. 2016); *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) ("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] process.").

That should resolve this case. Here, Petitioner challenges, *inter alia*, his detention by ICE. *See generally* ECF No. 1. As discussed at length above, Petitioner was ordered removed by a DHS Designated Official pursuant to 8 U.S.C. § 1228 on July 18, 2014. Ex. 9. On July 31, 2025, ICE reinstated the July 18, 2014 removal order pursuant to 8 U.S.C. § 1231(a)(5) and Petitioner was detained as a result pending removal. Exs. 14, 15. Petitioner's detention arises from the July 31, 2025 reinstatement of the prior removal order and ICE's removal-related activities pursuant to the reinstated removal order. Thus, Petitioner's detention is "a question of law and fact . . . arising from an[ ] action taken . . . to remove [him] from the United States," over which this Court lacks

jurisdiction under 8 U.S.C. § 1252(b)(9). Accordingly, the Petition should be dismissed for lack of subject matter jurisdiction.

B. 8 U.S.C. § 1252(g) Bars Judicial Review of the Petition.

Petitioner's claims also run headlong into the independent jurisdictional bar contained in 8 U.S.C. § 1252(g). Therefore, the Petition should be denied and dismissed on this ground, too.

Section 1252(g), as amended by the REAL ID Act, specifically deprives courts of jurisdiction, including habeas corpus jurisdiction, to review "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to [1] commence proceedings, [2] adjudicate cases, or [3] *execute removal orders against any alien under this chapter*." 8 U.S.C. § 1252(g) (emphasis added). Section 1252(g) eliminates jurisdiction "[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory)."[1] *Id.* Except as provided by § 1252, courts "cannot entertain challenges to the enumerated executive branch decisions or actions." *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021).

Section 1252(g) was "'directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion,'" to protect "'no deferred action' decisions and similar discretionary decisions." *Tazu v. Att'y Gen. United States*, 975 F.3d 292, 297 (3rd Cir. 2020) (quoting *Reno v. Am.-Arab Discrimination Comm.*, 525 U.S. 471, 485). This limitation exists for "good reason: so "[a]t each stage the Executive has discretion to abandon the endeavor." *AADC*, 525 U.S. at 483–84. In addition, through § 1252(g) and other provisions of the INA, Congress

[1] Congress initially passed section 1252(g) in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009. In 2005, Congress amended section 1252(g) by adding "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law." REAL ID Act of 2005, Pub. L. 109-13, § 106(a), 119 Stat. 231, 311. After Congress enacted the Homeland Security Act of 2002, section 1252(g)'s reference to the "Attorney General" includes the Secretary of Homeland Security. 6 U.S.C. § 202(3); *see also Enriquez-Perdomo v. Newman*, 54 F.4th 855, 863 & nn.3–4 (6th Cir. 2022) (explaining the historical development of § 1252(g)).

"aimed to prevent removal proceedings from becoming 'fragment[ed], and hence prolong[ed].'" *Tazu*, 975 F.3d at 296 (alterations in original) (quoting *AADC*, 525 U.S. at 487); *see Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022) ("Limiting federal jurisdiction in this way is understandable because Congress wanted to streamline immigration proceedings by limiting judicial review to final orders, litigated in the context of petitions for review.").

Relevant here, circuit courts have held § 1252(g) applies to the discretionary decision to execute a removal order. *See Tazu*, 975 F.3d at 297–99 ("The plain text of § 1252(g) covers decisions about *whether* and *when* to execute a removal order."); *Rauda*, 55 F.4th at 777–78 ("No matter how [petitioner] frames it, his challenge is to the Attorney General's exercise of his discretion to execute [his] removal order, which we have no jurisdiction to review."); *E.F.L.*, 986 F.3d at 964–65 (holding that section 1252(g) barred review of the decision to execute a removal order while an individual sought administrative relief); *Camerena v. Director, Immigration & Customs Enf't*, 988 F.3d 1268, 1272, 1274 (11th Cir. 2021) (holding that section 1252(g) bars review of challenges to the discretionary decision to execute a removal order); *Arce v. United States*, 899 F.3d 796, 800 (9th Cir. 2018) (finding that section 1252(g) would bar claims asking the Attorney General to delay the execution of a removal order); *Hamama v. Homan*, 912 F.3d 869, 874 (6th Cir. 2018) ("Under a plain reading of the text of the statute, the Attorney General's enforcement of long-standing removal orders falls squarely under the Attorney General's decision to execute removal orders and is not subject to judicial review."). Under the plain text of section 1252(g), the provision must apply equally to decisions and actions to *commence* proceedings that ultimately may end in the execution of a final removal order. *See Jimenez-Angeles*, 291 F.3d at 599; *see also Sissoko v. Rocha*, 509 F.3d 947, 950–51 (9th Cir. 2007) (holding that section 1252(g) barred review of a Fourth Amendment false-arrest claim that "directly

challenge[d] [the] decision to commence expedited removal proceedings"); *Humphries v. Various Fed. USINS Emps.*, 164 F.3d 936, 945 (5th Cir. 1999) (determining that section 1252(g) prohibited review of an alien's First Amendment retaliation claim based on the Attorney General's decision to put him into exclusion proceedings).

The scope of section 1252(g) also bars district courts from hearing challenges to the *method* by which the Secretary of Homeland Security chooses to commence removal proceedings. *See Alvarez v. U.S. Immigration. & Customs Enf't*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [section 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process."); *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) ("The Government's decision to arrest Saadulloev on April 4, 2023, clearly is a decision to 'commence proceedings' that squarely falls within the jurisdictional bar of § 1252(g)."). Arresting Petitioner to commence removal proceedings is an "action . . . to commence proceedings" that this Court lacks jurisdiction to review. *See Tazu*, 975 F.3d at 298–99 ("Tazu also challenges the Government's re-detaining him for prompt removal. . . . While this claim does not challenge the Attorney General's *decision* to execute his removal order, it does attack the *action* taken to execute that order. So under § 1252(g) and (b)(9), the District Court lacked jurisdiction to review it.").

In this case, Petitioner has been detained pursuant to the July 31, 2025 reinstatement of the prior removal order as ICE prepares to remove him under that reinstated order. Because Respondents have plainly taken action to execute the prior removal order, this Court is divested of jurisdiction to adjudicate the Petition. 8 U.S.C. § 1252(g). Accordingly, the Petition should be denied and dismissed. *Tazu*, 975 F.3d at 299–300 (finding that the district court lacked jurisdiction

to review the Attorney General's action taken to execute the habeas petitioner's removal order, including the petitioner's re-detention).

C. To the Extent Petitioner Challenges Respondents' Third Country Removal Procedures, the Court Should Not Grant Relief Given the Supreme Court's Stay of the *D.V.D.* Preliminary Injunction.

Petitioner is a member of the non-opt out *D.V.D.* certified class. He is an individual subject to a final order of removal who ICE plans to remove to a third country. To the extent Petitioner makes claims in the Petition concerning Respondents' third country removal procedures, the Court should not wade into those claims because such claims are being actively litigated in the *D.V.D.* class action, which is currently before the First Circuit Court of Appeals. To do otherwise would cut against the entire purpose of a Rule 23(b)(2) non-opt out class action and risk an order that will conflict with not only the relief, if any, eventually provided to the *D.V.D.* class but also the Supreme Court's rejection of the relief initially temporarily provided to class members by the District of Massachusetts.

D. Petitioner's Claims Fail on the Merits Because ICE Is Authorized to Detain and Remove Him.

ICE can lawfully detain Petitioner pursuant to 8 U.S.C. § 1231(a)(1) and (a)(2) because he is subject to a final order of removal. Further, following Supreme Court precedent, his claim that his detention violates the INA, Due Process Clause of the Fifth Amendment, and 28 U.S.C. § 2241 are not well-founded at this early point in his detention. Moreover, Petitioner's fourth claim concerning ICE's alleged violation of its own regulations fails on the merits.

1. *ICE is lawfully detaining Petitioner pursuant to 8 U.S.C. § 1231(a)(1) and (a)(2).*

ICE's detention authority stems from 8 U.S.C. § 1231, which provides for the detention and removal of aliens with final orders of removal. 8 U.S.C. § 1231. As explained above, 8 U.S.C. § 1231(a)(1)(A) directs immigration authorities to remove an individual with a final order of

removal within a period of 90 days, which is known as the "removal period." 8 U.S.C. § 1231(a)(1)(A). Per 8 U.S.C. § 1231(a)(2)(A), "[d]uring the removal period, the Attorney General *shall detain the alien*." 8 U.S.C. § 1231(a)(2)(A) (emphasis added).

Here, because Petitioner's removal order was reinstated on July 31, 2025 pursuant to 8 U.S.C. § 1231(a)(5), Petitioner is well within the 90-day mandatory removal period and, thus, must be detained. 8 U.S.C. § 1231(a)(1), (a)(2). Indeed, Petitioner *must* be detained through October 29, 2025, 90 days from July 31, 2025. *Id.* Accordingly, given that ICE has statutory authority to detain Petitioner to effectuate his removal order, Petitioner's detention is lawful and the Court should dismiss the Petition.

2. *Petitioner's claim is premature given that he has only been detained for sixteen days.*

Petitioner's claims that his detention violates 8 U.S.C. § 1231(a)(6), the Due Process Clause of the Fifth Amendment of the United States Constitution, and 28 U.S.C. § 2241 lack merit because he has been detained less than 90 days and, thus, remains in the removal period during which detention is mandatory. *See* 8 U.S.C. § 1231(a)(1), (a)(2). The 8 U.S.C. § 1231(a)(6) claim also fails in light of the recent decision in *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *3 (D. Md. July 22, 2025), which recognized that "[p]ermitting [p]etitioner to advance a cause of action under that provision would contravene 8 U.S.C. § 1231(h), which expressly provides that 'nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.'" 2025 WL 2049981, at *3.

In the Petition, Petitioner contends that his detention is not authorized under *Zadvydas v. Davis*, 533 U.S. 678 (2001). *See generally* ECF No. 1. In *Zadvydas*, the Supreme Court considered the Government's ability to detain an alien subject to a final order of removal before the removal

is effectuated. 533 U.S. at 699. The Supreme Court held that the Government cannot detain an alien "indefinitely" beyond the 90-day removal period, limiting "post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States." *Id.* At 682, 689. The Supreme Court further held that a detention period of six months is "presumptively reasonable." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

Here, *Zadvydas* does not apply because Petitioner remains within the 90-day removal period set forth in 8 U.S.C. § 1231(a)(1) and (a)(2), as explained above. Petitioner's misplaced reliance on *Zadvydas* fails to take into account the July 31, 2025 reinstated removal order. Indeed, the Petition is devoid of any reference or discussion concerning the July 31, 2025 reinstated removal order. *See* ECF No. 1. Rather, Petitioner appears to assume that the 90-day removal period ended on August 14, 2019, after the Immigration Judge granted Petitioner withholding on January 3, 2019, and that the remainder of the "presumptively reasonable" detention period expired thereafter. *See* ECF No. 1 at ¶¶ 12, 20, 29–39. There are several problems with this analysis. First, as noted, this calculation fails to account for the July 31, 2025 reinstated removal order. Second, the calculation appears to stem from the January 3, 2019 withholding order, but that order was the result of withholding-only proceedings, *not* removal proceedings. *See* Ex. 13. The withholding order was not a final order of removal from which the 90-day removal period began to run. *See id.* Finally, even if the January 3, 2019 withholding order was a removal order, and it was not, 90 days from January 3, 2019 is April 3, 2019; it is unclear where the August 14, 2019 date referenced in the Petition comes from. *See* ECF No. 1 at ¶ 12. Moreover, even assuming *arguendo* that 8 U.S.C. § 1231(a)(6) applies to Petitioner, and again, it does not, Petitioner's

calculation and argument is further rendered untenable by the *Ghamelian* decision. There, the Court (Gallagher, J.), observed the following concerning essentially the same argument (that the 90-day removal period plus a consecutive three-month period had expired many years prior):

> Against that background, this Court considers Petitioner's argument that because the 90-day statutory removal period plus a consecutive additional three-month period expired many years ago, [p]etitioner cannot be subject to further detention under § 1231(a)(6). This Court finds no support for that reading in *Zadvydas* or the text of § 1231(a)(6). *Zadvydas* did not (1) address a situation where an alien was released and then re-detained or (2) purport to create some sort of limitations period for § 1231(a)(6) detention. Instead, *Zadvydas* addressed a more limited question: at what point does the length of § 1231(a)(6) detention offend due process rights? And it answered that question by imposing a six-month presumption of constitutional detention, finding only that further detention becomes impermissible if 'it has been determined that there is no significant likelihood of removal in the foreseeable future.' The limitations on the *Zadvydas* holding are highlighted by the fact that the Supreme Court remanded those defendants' cases for evaluation of the permissibility of further detention under that standard, despite the fact that by that time Zadvydas had been released for five years and Ma for two years. In the end, then, neither the language of § 1231(a)(6) nor *Zadvydas* supports the notion that the government's ability to detain [p]etitioner expired in the late 1990s.

2025 WL 2049981, at *4 (quoting *Zadvydas*, 533 U.S. at 701–02).

Because Petitioner has only been detained for sixteen days as of the date of this filing and is well within the 90-day removal period following the July 31, 2025 reinstated removal order, Petitioner's claims concerning his detention and his reliance on *Zadvydas* fail. The Petition should be dismissed for this reason.[2]

[2] Even if the Court were inclined to find that *Zadvydas* applies and that the six-month presumptively reasonable period of detention has passed, neither of which is the case, Respondents have shown that Petitioner's removal is reasonably foreseeable. On July 31, 2025, ICE issued three Notices of Removal indicating that Petitioner's removal to Mexico, Guatemala, and/or Honduras is in process. *See* Ex. 16.

3. *ICE's revocation of release comports with regulation and the Constitution.*

a. The Post-Order Custody Regulations provide for revocation of release at ICE's discretion to effectuate a removal order.

While 8 U.S.C. § 1231(a)(3) is silent as to revocation procedures for an individual released pursuant to an Order of Supervision, ICE issued Post-Order Custody Regulations ("POCR") contained at 8 C.F.R. § 241.4 to set forth mechanisms concerning custody reviews, release from ICE custody, and revocation of release for individuals with final orders of removal. *See* 8 C.F.R. § 241.4. The regulatory provisions concerning revocation of release are contained at 8 C.F.R. § 241.4(*l*) and provide significant discretion to ICE to revoke release. *See Tanha v. Warden, Balt. Detention Facility*, No. 1:25-cv-02121-JRR, 2025 WL 2062181, at *5 (D. Md. July 22, 2025) (observing that 8 C.F.R. § 241.4(*l*) "permits the Government extraordinarily broad discretion to revoke an [order of supervised release]; and that discretion is expressly not limited to circumstances where a non-citizen violates the conditions of his [order of supervised release]. Further, the regulation does not compel the Government to demonstrate what facts or factors, if any, it based its decision to revoke under subsections (i), (iii), or (iv); nor does the regulation (or any other authority of which the court has been made aware) require the Government to demonstrate what, if any, steps, it took to effect or secure removal prior to [order of supervised release] revocation."); *Leybinsky v. U.S. Immigr. & Customs Enf't,* 553 F. App'x 108, 110 (2d Cir. 2014) (remarking on the "broad discretionary authority the regulation grants ICE" to revoke release); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (explaining that while the revocation regulation "provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion . . . ."). For example, they provide for revocation in additional circumstances such as when ICE's Field Office determines that "[t]he purposes of release have been served," or when

"[i]t is appropriate to enforce a removal order . . . against an alien," or when "[t]he conduct of the alien, *or any other circumstance,* indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(*l*)(2)(i)–(iv) (emphasis added); *see also Tanha*, 2025 WL 2062181, at *5.

When ICE revokes release of an individual under 8 C.F.R. § 241.4(*l*), ICE must conduct an "informal interview" to advise the individual of the basis for revocation and must also serve the individual with a written notice of revocation. *Id.* If ICE determines revocation remains appropriate after conducting the informal interview, then ICE will provide notice to the individual of a further custody review that "will ordinarily be expected to occur within approximately three months after release is revoked." 8 C.F.R. § 241.4(*l*)(3).

However, ICE is not required to "conduct a custody review under these procedures when [ICE] *notifies the alien that it is ready to execute an order of removal.*" 8 C.F.R. § 241.4(g)(4) (emphasis added); *Rodriguez-Guardado v. Smith*, 271 F. Supp. 3d 331, 335 (D. Mass. 2017). Further, if ICE determines in its "judgment [that] travel documents can be obtained, or such document is forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest." 8 C.F.R. § 241.4(g)(3). These regulations apply to aliens who have "filed a motion to reopen immigration proceedings for consideration of relief from removal ... unless the motion to reopen is granted." 8 C.F.R. § 241.4(b)(1); *Rodriguez-Guardado*, 271 F. Supp. 3d at 335 ("The fact that petitioner's motion to reopen the removal proceedings remains pending does not lead to a different result" as to ICE's ability to effectuate removal pursuant to Section 1231.). Moreover, a petitioner's assertion that he or she has not been afforded an initial interview is "an insufficient basis on which to grant the requested [habeas] relief." *Tanha*, 2025 WL 2062181, at *6. As the *Tanha* Court (Rubin, J.), noted, "[n]either the Notice of Revocation of Release nor § 241.4(l)(2) sets forth a timeframe within which such an interview will take place

– other than to assure that it will be done 'promptly.' Such imprecise language is too rickety a framework for the court to base a finding that 21 days with no interview is violative of [p]etitioner's rights to 'promptness' such that the court should exercise its authority to order [p]etitioner released." *Id.*

Here, ICE complied with its regulations because it notified Petitioner in the Notice of Revocation of Release that it is ready to execute an order of removal: "ICE has determined that you can be removed from the United States pursuant to the outstanding order of removal against you. On December 26, 2017, you were ordered removed to El Salvador by a Designated Official. You are subject to a final order of removal." Ex. 15. Thus, ICE was not required to provide Petitioner with an informal interview prior to issuance of the Notice of Revocation of Release. *See* 8 C.F.R. § 241.4(g)(4). Even if ICE was required to provide Petitioner with an informal interview, and it was not, sixteen days with no interview is not violative of Petitioner's right to "promptness" such that he should be released. *See Tanha*, 2025 WL 2062181, at *6.

b. ICE complied with the POCR regulations to arrest Petitioner.

To the extent Petitioner contends in his fourth cause of action (violation of regulations/*Accardi* doctrine) that ICE's arrest of Petitioner subsequent to the revocation of his supervised release violated the POCR regulations, *see* ECF No. 1 at ¶¶ 40–44, Petitioner is incorrect. Here, the Assistant Field Office Director for the ICE Baltimore Field Office issued Petitioner a written revocation notice on July 31, 2025 explaining that ICE was revoking his release pursuant to 8 C.F.R. §241.13 as it had determined that Petitioner could be removed from the United States pursuant to his final order of removal. *See* Ex. 15. In addition to explaining that ICE had determined that Petitioner can be removed pursuant to the outstanding removal order, the notice also provided the regulatory basis for detention (8 C.F.R. § 241.13) and notified Petitioner of the post-order custody review processes afforded him. *Id.* As explained above, in revoking

Petitioner's supervised release, ICE complied with the regulation that allows revocation when ICE determines that it "is appropriate to enforce a removal order . . . against an alien" and when ICE finds that the "purposes of release have been served." 8 C.F.R. § 241.4(*l*)(2). When ICE "determined that revocation was necessary to initiate [] removal ... [n]o further justification was required." *Doe v. Smith*, No. 18-cv-11363-FDS, 2018 WL 4696748, at *11 (D. Mass. Oct. 1, 2018). The regulation does not require the Assistant Field Office Director "to make a formal determination that his revocation was in the public interest[,]" instead, the Assistant Field Office Director has "discretion to determine when revocation is appropriate." *Id.* The regulation provides a "short and straight path for immigrants whom the government is ready and able to remove." *Alam v. Nielsen*, 312 F. Supp. 3d 574, 582 (S.D. Tex. 2018). As such, ICE has ample justification per its regulation to revoke release.

To the extent Petitioner believes ICE should have provided him with advance notice of its intent to revoke his release, such belief is not grounded in regulation or the Constitution. ICE is not required to provide advance notice of its intent to revoke release for the obvious reason that it could encourage flight or increase law enforcement safety concerns. *See Doe*, 2018 WL 4696748, at *7 (explaining that the "regulation does not require that a petitioner or her counsel be given 30 days' notice prior to the initial informal interview."); *see also Gutierrez-Soto v. Sessions*, 317 F. Supp. 3d 917, 929 (W.D. Tex. 2018) (finding no "due process right to not be snatched off the street without warning" when ICE revoked discretionary parole and returned individual to custody); *Reyes v. King*, No. 19-cv-8674 (KPF), 2021 WL 3727614, at *10 (S.D.N.Y. Aug. 20, 2021) (explaining that "the Due Process Clause of the Fifth Amendment does not entitle [p]etitioner to such a [pre-detention] hearing at this specified time, and [p]etitioner cites no authority within this Circuit that counsels otherwise."); *Moran v. U.S. Dep't of Homeland Sec.*, No. 20-cv-696-DOC-

JDE, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (expressing skepticism about "the source of any due process right to advance notice of revocation of supervised release or other removal-related detention.").

Courts routinely conclude that compliance with the POCR regulations protect an individual's constitutional rights while detained while executing a removal order. *See, e.g.*, *Moses v. Lynch*, No. 15-cv-4168, 2016 WL 2636352, at *4 (D. Minn. Apr. 12, 2016) ("When immigration officials reach continued-custody decisions for aliens who have been ordered removed according to the custody-review procedures established in the Code of Federal Regulations, such aliens receive the process that is constitutionally required."); *Portillo v. Decker*, No. 21-cv-9506 (PAE), 2022 WL 826941, at *6 (S.D.N.Y. Mar. 18, 2022) (collecting cases supporting the conclusion that the POCR framework has routinely been deemed constitutional and noting that petitioner had not "cite[d] legal authority in support of his generalized laments about the administrative process").

Because Petitioner does not demonstrate that ICE violated any specific procedures under the applicable regulation—§ 241.13—his petition should be denied. *See, e.g.*, *Perez v. Berg*, No. 24-cv-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025), *report and recommendation adopted,* No. 24-cv-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (finding no due process violation "[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way"); *Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where "there was no regulatory violation" in connection with custody reviews).

c. Authority to issue Notices of Revocation of Release has been properly delegated.

Petitioner's argument that his Notice of Revocation of Release is invalid because the Executive Associate Commissioner did not sign it lacks merit because authority to execute notices of revocation has been delegated to immigration officers such as Richard Cordova, the Assistant

Field Office Director for the ICE Baltimore Field Office, who signed Petitioner's Notice of Revocation of Release.

On March 1, 2003, the Secretary of the Department of Homeland Security issued a Delegation of Authority. *See* Ex. 17, Delegation of Authority. This delegation has not been rescinded or revoked. Pursuant to the Delegation of Authority, a deportation officer, such as the one that signed the Petitioner's Notice of Revocation of Release, is authorized to execute such documents pursuant to the Delegation of Authority (Section 2 (T)) which has been redelegated to deportation officers (Section 4 (D)(3)). *See* Exhibit 17 at 4, 8.

Section 2 (T) provides:

> Pursuant to the authority vested in the Secretary of Homeland Security by law, including the Homeland Security Act of 2002 ("the Act"), I hereby delegate to the Assistant Secretary of ICE:
>
> (T) Authority under the immigration laws, including but not limited to sections 235, 236, and 241 of the INA (8 U.S.C. 1225, 1226, and 1231), to issue and execute detainers and warrants of arrest or removal, detain aliens, release aliens on bond and other appropriate conditions as provided by law, and removal aliens from the United States.

Exhibit 17 at 4. Moreover, Section 2(H) broadly delegates authority "to enforce and administer the immigration laws." *Id.* at 2. Finally, Section 4 (D)(3) (Re-delegations) re-delegates this authority to *any* immigration officer within ICE:

> Immigration Officers. The Assistant Secretary of ICE, the Director of Immigration Interior Enforcement, any Regional or District Director for Interior Enforcement, and any deportation officer, detention enforcement officer, detention officer, special agent, investigative assistant, intelligence agent, immigration agent (investigations), or other immigration officer (as described in section 103 of the INA or 8 C.F.R. 103.1(j)), or senior supervisory officer of such employee, within ICE, is designated as an immigration officer authorized to exercise, and hereby delegated, the powers and duties of such officer as specified by the immigration laws and chapter 8 of the Code of Federal Regulations.

Id. at 8. As a result, ICE did not violate any laws or regulations or delegations of authority in issuing a Notice of Revocation of Release signed by Richard Cordova.

In sum, because Petitioner does not demonstrate that ICE violated any specific procedures under the applicable regulation, his argument lacks merit and the Petition should be denied. *See, e.g.*, *Perez v. Berg*, No. 24-cv-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025), *report and recommendation adopted*, No. 24-cv-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (finding no due process violation "[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way"); *Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where "there was no regulatory violation" in connection with custody reviews).

4. The Court lacks jurisdiction over Petitioner's warrantless arrest claim under 8 U.S.C. § 1252(g) and, even if the Court had jurisdiction, habeas relief is not a proper remedy for the allegedly unlawful arrest.

Finally, Petitioner's allegations in his fourth cause of action concerning the warrantless arrest, *see* ECF No. 1 at ¶ 43, fail for lack of jurisdiction and failure to state a claim. The Court lacks jurisdiction over Petitioner's warrantless arrest claim under 8 U.S.C. § 1252(g) for all the reasons stated above in Section V.B. *See also, e.g.*, *Morales v. Sessions*, No. 17-225-DLB-HAI, 2018 WL 3732670, at *7 (E.D. Ky. Aug. 6, 2018) (finding that 8 U.S.C. § 1252(g) deprived the court of jurisdiction over the habeas petitioner's "allegations of an unlawful, warrantless arrest" where the warrantless arrest arose from the "Government's decision or action to reinstate the 2006 stipulated removal order); *Kareva v. United States*, 9 F. Supp. 3d 838, 844–45 (S.D. Ohio 2014) ("The Court finds that Section 1252(g) does apply in this case because Plaintiff's claim for false arrest and imprisonment arises from 'the decision or action by the Attorney General to execute removal orders.'"). In addition to lacking jurisdiction, Plaintiff's warrantless arrest claim fails to

state a claim because habeas relief, *i.e.*, release, is not a proper remedy for an allegedly unlawful arrest. *See Morales*, 2018 WL 3732670, at *7 ("Therefore, Petitioners' § 2241 petition, which asks the Court to 'release' Morales from his 'unlawful detention' and seeks a 'declaratory judgment that' Morales's 'arrest and detention' constitute 'violations of the Fourth and Fifth Amendments' . . . fails to state a claim that warrants habeas relief."). For these reasons, Petitioner's warrantless arrest claim must be dismissed.

VI. CONCLUSION

For the foregoing reasons, the Petition should be dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted.

Dated: August 15, 2025

Respectfully submitted,

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