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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Pedro Yimi Cardin Alvarez,
17
18 Petitioner,
19
20 v.
21
22 David Rivas, et al.,
23
24 Respondents.

No. CV-25-02943-PHX-GMS (CDB)

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS AND
REQUEST FOR ORDER TO SHOW
CAUSE**

25 **I. Introduction.**

26 Petitioner is currently in removal proceedings under 8 U.S.C. § 1225(b)(1)(A)
27 which deprives the Court of jurisdiction over his claims. His Habeas Petition should be
28 dismissed because multiple provisions of 8 U.S.C. § 1252 unambiguously strip federal
courts of jurisdiction over challenges to the commencement of removal proceedings,
claims arising from removal proceedings, and the application of expedited removal
proceedings.

Petitioner is an arriving alien as defined by the statute. As such, he is subject to
mandatory detention without bond under 8 U.S.C. § 1225(b)(2), which the Supreme Court
has held comports with due process. Moreover, because he is an applicant for admission

1 as defined by the statute, his Due Process rights are limited to those proscribed by
2 Congress. Respondents respectfully request that the Court deny his requests for relief.

3 **II. Factual and procedural background.**

4 Petitioner is a native and citizen of Cuba, who was born there in 1990. *See* Ex. A,
5 Dec. of Fernando Valenzuela, Assistant Field Office Director of the Department of
6 Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement
7 Removal Operations (ERO) in the San Diego Field Office, at ¶ 4. Petitioner entered the
8 United States without being admitted, inspected or paroled by an immigration officer on
9 an unknown date at an unknown location. *Id.* at ¶ 5.

10 He was subsequently encountered by Border Patrol agents on February 9, 2022. *Id.*
11 at ¶ 6. Generally, arriving aliens found at or near the border who have not been admitted
12 or paroled are found to be inadmissible and processed under expedited removal
13 proceedings pursuant to 8 U.S.C. § 1225, and are subject to mandatory detention under 8
14 U.S.C. § 1225(b). However, on February 12, 2022, Petitioner was issued a Notice to
15 Appear (NTA) Form I-862 in general removal proceedings under INA § 240, 8 U.S.C.
16 § 1229a and was charged with inadmissibility under § 212(a)(6)(A)(i) of the INA, 8 U.S.C.
17 § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or
18 paroled. *Id.* at ¶ 7. Petitioner received an Order of Release on Recognizance with
19 instructions to report to a local ERO Office. *Id.* at ¶ 8.

20 On June 28, 2022, Petitioner filed a Form I-589, Application for Asylum,
21 Withholding of Removal and Protection under the Convention Against Torture. *Id.* at ¶ 9.
22 Further, on August 31, 2023, Petitioner submitted an I-485 application to register
23 permanent residence or adjust his status with the USCIS. *Id.* at ¶ 11.

24 On May 27, 2025, Petitioner attended his scheduled hearing before an Immigration
25 Judge at the Miami Immigration Court in Miami, Florida. *Id.* at ¶ 13. During the hearing,
26 the DHS moved to dismiss Petitioner's INA I-589 proceedings to allow DHS to re-process
27 Petitioner, and to place him in expedited removal proceedings pursuant to INA § 235, 8
28 U.S.C. § 1225. *Id.*

1 The IJ granted the motion and withdrew any pending applications for relief. *Id.* at
2 ¶ 14. ICE officers arrested Petitioner after his hearing and took him into custody. *Id.* at ¶
3 16. Also on May 2, 2025, the ERO in Miami issued and served Petitioner a Notice of Order
4 of Expedited Removal, Form I-860, charging him with inadmissibility under Section
5 212(a)(7)(a)(i) of the INA. *Id.* at ¶ 15.

6 Petitioner was transferred to San Luis Regional Detention Center on June 8, 2025,
7 and is being processed under expedited removal proceedings. *Id.* at ¶ 16.

8 On July 2, 2025, Petitioner filed a motion for custody redetermination before the IJ
9 in Imperial California. *Id.* at ¶ 19. The IJ denied his request for a bond redetermination,
10 finding that the IJ Court had no jurisdiction since he was not currently in § 240 proceedings.
11 *Id.* at ¶ 19. Rather, Petitioner was an applicant for admission detained under INA § 235,
12 8 U.S.C. § 1225, and therefore subject to mandatory detention under INA § 235(b), 8
13 U.S.C. § 1225b).

14 On or about June 27, 2025, ERO started the process of preparing a travel document
15 request for Petitioner. *Id.* at ¶ 21. On July 8, 2025, ERO interviewed the Petitioner to inquire
16 whether he wished to be removed to Mexico. He declined removal to Mexico. *Id.* at ¶ 22.

17 On July 14, 2025, ERO began working on requesting travel documents to facilitate
18 the Petitioner's removal to Cuba. *Id.* at ¶ 23. On July 14, 2025, ERO served the Form I-
19 229(a) Warning for Failure to Depart along with an instruction sheet for Petitioner to assist
20 in their removal. He refused to sign this form and sheet. *Id.* at ¶ 24.

21 On August 10, 2025, ERO worked on assembling a travel documentation request
22 for the Petitioner to be removed to Cuba. *Id.* at ¶ 25.

23 On August 21, 2025, ERO submitted a travel document request packet to the
24 Detention and Deportation Officer (ODO) assigned to Cuban cases at ERO Headquarters,
25 Removal and International Operations (RIO) for review. *Id.* at ¶ 26

26 On September 15, 2025, ERO inquired with RIO as to the status of Petitioner's
27 travel documents and learned that no response had yet been received. *Id.* at ¶ 27.

28 On August 14, 2025, Petitioner filed a Petition for Writ of Habeas Corpus. Doc. 1.

1 Petitioner challenges DHS's dismissal of his I-589 application under INA § 240, 8 U.S.C.
2 § 1229a removal proceedings to allow DHS to pursue expedited removal proceedings
3 under INA § 235, 8 U.S.C. § 1225.

4 To date, Petitioner has made no request for a credible fear interview. *Id.* at ¶ 20.

5 **III. This Court lacks subject matter jurisdiction under 8 U.S.C. § 1252.**

6 The Court lacks jurisdiction over Petitioner's claims. *Ass'n of Am. Med. Coll. v.*
7 *United States*, 217 F.3d 770, 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545,
8 547-48 (1989). While Petitioner seeks to bring his habeas action under 28 U.S.C. § 2241,
9 jurisdiction over his claims is plainly barred under 8 U.S.C. §§ 1252(a)(2)(A), -1252(e), -
10 1252(g), and -1252(b)(9).

11 In general, courts lack jurisdiction to review a decision to commence or adjudicate
12 removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) (“[N]o court shall
13 have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
14 decision or action by the Attorney General to commence proceedings, adjudicate cases, or
15 execute removal orders.”); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471,
16 483 (1999) (“There was good reason for Congress to focus special attention upon, and
17 make special provision for, judicial review of the Attorney General's discrete acts of
18 “commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—
19 which represent the initiation or prosecution of various stages in the deportation process.”);
20 *Limpin v. United States*, 828 Fed.App'x 429 (9th Cir.2020) (district court properly
21 dismissed under 8 U.S.C. § 1252(g) “because claims stemming from the decision to arrest
22 and detain an alien at the commencement of removal proceedings are not within any court's
23 jurisdiction”).

24 In other words, § 1252(g) removes district court jurisdiction over “three discrete
25 actions that the Attorney may take: [his] ‘decision or action’ to ‘commence proceedings,
26 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis removed).
27 Here, Petitioner's claims necessarily arise “from the decision or action by the Attorney
28 General to commence proceedings [and] adjudicate cases,” over which Congress has

1 explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g).

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

6 The Supreme Court has made clear that § 1252(b)(9) is “the unmistakable ‘zipper’
7 clause.” It channels “judicial review of all” “decisions and actions leading up to or
8 consequent upon final orders of deportation,” including “non-final order[s],” into
9 proceedings before a court of appeals. *Reno*, 525 U.S. at 483, 485; see *J.E.F.M. v. Lynch*,
10 837 F.3d 1026, 1031 (9th Cir.2016), noting that § 1252(b)(9) is “breathtaking in scope and
11 vise-like in grip and therefore swallows up virtually all claims that are tied to removal
12 proceedings.” “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any issue—
13 whether legal or factual—arising from any removal-related activity can be reviewed only
14 through the [petition for review] PFR process.” *J.E.F.M.*, 837 F.3d at 1031 (“[W]hile these
15 sections limit how immigrants can challenge their removal proceedings, they are not
16 jurisdiction-stripping statutes that, by their terms, foreclose all judicial review of agency
17 actions. Instead, the provisions channel judicial review over final orders of removal to the
18 courts of appeal.”); *Id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review of all claims,
19 including policies-and-practices challenges...whenever they ‘arise from’ removal
20 proceedings”).

21 Thus, Petitioner’s challenges to the administration’s practice of dismissing § 1229
22 proceedings to pursue § 1225 proceedings are precluded by §§ 1252(a)(5) and (b)(9) as
23 well as by § 1252(g).

24 Further, “Section 1252(a)(2)(A) is a jurisdiction-stripping and channeling provision,
25 which bars review of almost ‘every aspect of the expedited removal process.’” *Azimov v.*
26 *U.S. Dep’t of Homeland Sec.*, 2024 WL 687442, at *1 (9th Cir. Feb. 20, 2024), *quoting*
27 *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1154 (9th Cir. 2022) (describing the operation
28 of § 1252(a)(2)(A)). These jurisdiction-stripping provisions cover “the ‘procedures and

1 policies' that have been adopted to 'implement' the expedited removal process; the
 2 decision to 'invoke' that process in a particular case; the 'application' of that process to a
 3 particular alien; and the 'implementation' and 'operation' of any expedited removal order."
 4 *Mendoza-Lineras*, 51 F.4th at 1155. Further, "Congress chose to strictly cabin this court's
 5 jurisdiction to review expedited removal orders." *Guerrier v. Garland*, 18 F.4th 304, 313
 6 (9th Cir.2021) (the Supreme Court abrogated any "colorable constitutional claims"
 7 exception to the limits placed by § 1252(a)(2)(A)); *see Dept. of Homeland Sec. v.*
 8 *Thuraissigiam*, 591 U.S. 103 (2020) (limitations within § 1252(a)(2)(A) do not violate the
 9 Suspension Clause). *Cf., Mendoza-Linares*, 51 F.4th at 1148 ("Congress has chosen to
 10 explicitly bar nearly all judicial review of expedited removal orders concerning such aliens,
 11 including 'review of constitutional claims or questions of law'"), *citing* 8 U.S.C.
 12 § 1252(a)(2)(A), (D); *Thuraissigiam*, 591 U.S. 103 at 138-39 (explicitly rejecting Ninth
 13 Circuit's holding that an arriving alien has a "constitutional right to expedited removal
 14 proceedings that conform to the dictates of due process").

15 Petitioner is therefore subject to mandatory detention under 8 U.S.C. § 1225(b). By
 16 challenging the standards and process of expedited removal proceedings, Petitioner
 17 necessarily asks the Court "to do what the statute forbids [it] to do, which is to review 'the
 18 application of such section to him.'" *Mendoza-Linares*, 51 F.4th at 1155. Most notably, a
 19 determination made concerning inadmissibility "is not subject to judicial review." *Gomez-*
 20 *Cantillano v. Garland*, 2021 WL 5882034 (9th Cir. Dec. 13, 2021), *citing* 8 U.S.C.
 21 § 1252(a)(2)(A)(iii). "§ 1252(a)(2)(A)(iv) deprives courts of jurisdiction to review
 22 'procedures and policies adopted by the Attorney General to implement the provisions of
 23 section 1225(b)(1) of this title,' which plainly includes [Petitioner's] claims regarding how
 24 [Respondents may] implement[]" § 1225(b)(1). *Azimov*, 2024 WL 687442, at *1, *citing*
 25 *Mendoza-Linares*, 51 F.4th at 1154-55.

26 Thus, to the extent Petitioner is challenging the expedited process, each of
 27 Petitioner's claims fall outside the limited habeas corpus authority stated in § 1252(e)(2).
 28 Narrow habeas corpus proceedings are expressly "limited to determinations" of three

1 questions: (1) “whether the petitioner is an alien”; (2) “whether the petitioner was ordered
2 removed under [section 1225(b)(1)]”; and (3) “whether the petitioner can prove by a
3 preponderance of the evidence that the petitioner is an alien” who has been granted status
4 as a lawful permanent resident, refugee, or asylee. 8 U.S.C. § 1252(e)(2)(A)-(C). Further,

5 In determining whether an alien has been ordered removed under section
6 235(b)(1) [8 U.S.C. § 1225(b)(1)], the court’s inquiry shall be limited to
7 whether such an order in fact was issued and whether it relates to the
8 petitioner. There shall be no review of whether the alien is actually
9 inadmissible or entitled to any relief from removal. 8 U.S.C. § 1252(e)(5)

10 Put simply, this Court lacks jurisdiction over the issues raised in the petition under
11 these various provisions of 8 U.S.C. § 1252.

12 *A. Petitioner brings improper habeas claims.*

13 An individual may seek habeas relief under 28 U.S.C. § 2241 if he or she is “in
14 custody” under federal authority “in violation of the Constitution or laws or treaties of the
15 United States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge *only* the
16 legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th
17 Cir.2023); *Crawford v. Bell*, 599 F.3d 890, 891 (9th Cir.1979); *Thuraissigiam*, 591 U.S.
18 103 at 117 (the writ of habeas corpus historically “provide[s] a means of contesting the
19 lawfulness of restraint and securing release.”). The Ninth Circuit has explained how to
20 decide whether a claim sounds in habeas jurisdiction: “[O]ur review of the history and
21 purpose of habeas leads us to conclude the relevant question is whether, based on the
22 allegations in the petition, release is legally required irrespective of the relief requested.”
23 *Pinson*, 69 F.4th at 1072; *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir.2016)(the
24 key inquiry is whether success on the petitioner’s claim would “necessarily lead to
25 immediate or speedier release.”).

26 Petitioner’s attack on the Administration’s policy to expand expedited removals
27 falls outside the scope of relief provided for in a habeas petition, particularly since it fails
28 to challenge the legality or duration of Petitioner’s confinement. *Giron Rodas v. Lyons*,
2025 WL 2300781, at *3 (S.D.Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks
jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as

1 attacking ‘the legality or duration of confinement’”), *quoting Pinson*, 69 F.4th at 1065.

2 Thus, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and
3 this comports with his procedural and substantive due process rights.

4 *B. No credible fear.*

5 Section 1225 applies to “applicants for admission,” such as Petitioner, who are
6 defined as “alien[s] present in the United States who [have] not been admitted” or “who
7 arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into
8 one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”
9 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

10 *1. Section 1225(b)(1).*

11 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially
12 determined to be inadmissible due to fraud, misrepresentation, or lack of valid document.”
13 *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited
14 removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an
15 intention to apply for asylum...or a fear of persecution,” immigration officers will refer the
16 alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). This Section is inapplicable.
17 Though he claims that he submitted an I-589 Application for Aylum, Withholding of
18 Removal and Convention against Torture with the USCIS (Pet., Doc. 1, ¶ 24), Petitioner
19 has not requested a credible fear interview. Ex. A, Valenzuela Dec. at ¶ 20. He must be
20 detained until removed from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

21 *2. Section 1225(b)(2).*

22 Nor does release under Section 1225(b)(2) apply. This section is “broader” and
23 “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for
24 admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an
25 applicant for admission” shall be detained for a removal proceeding “if the examining
26 immigration officer determines that [the] alien seeking admission is not clearly and beyond
27 a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see Matter of Q. Li*, 29 I. & N.
28 Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking admission into the United States

1 who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8
2 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) *citing Jennings*, 583 U.S. at 299.

3
4 However, DHS has the sole discretionary authority to temporarily release on parole
5 “any alien applying for admission to the United States” on a “case-by-case basis for urgent
6 humanitarian reasons or significant public benefit.” *Id.* § 1182(d)(5)(A); *Biden v. Texas*,
7 597 U.S. 785, 806 (2022).

8 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.
9 § 1225(b) and stated that “[r]ead most naturally, §§ 1225(b)(1) and (b)(2) [] mandate
10 detention of applicants for admission until certain proceedings have concluded.” 583 U.S.
11 at 297. The Court added that the sole means of release for noncitizens detained pursuant
12 to §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary parole at
13 the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300. The Court
14 observed that because aliens held under § 1225(b) may be paroled for “urgent humanitarian
15 reasons or significant public benefit,” “[t]hat express exception to detention implies that
16 there are no other circumstances under which aliens detained under 1225(b) may be
17 released.” *Id.* Courts thus may not validly draw additional procedural limitations “out of
18 thin air.” *Id.* at 312. The Supreme Court concluded: “In sum, §§ 1225(b)(1) and (b)(2)
19 mandate detention of [noncitizens] throughout the completion of applicable proceedings.”
20 *Id.* at 302.

21 *C. No violation of procedural or substantive due process.*

22 Since Petitioner is subject to mandatory detention and lawfully detained under 8
23 U.S.C. § 1225(b)(2), DHS was not required to show changed circumstances to detain him,
24 nor did due process require a bond hearing prior to his detention.

25 Petitioner argues that when he was initially detained under 8 U.S.C. § 1225(b),
26 during his arrest, ICE did not provide him with any process or access to counsel. Pet., Doc.
27 1, ¶ 32. However, due process did not prohibit ICE from re-detaining Petitioner in this
28 manner; no statutory or regulatory requirement exists entitling him to a “pre-detention”

1 hearing. To read such a requirement into the immigration custody statutes would create an
 2 extra-statutory process which the current statutory and regulatory scheme do not provide.
 3 *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 580-82 (2022). Thus, Petitioner can cite no
 4 liberty interest to which due process protections attach, particularly where he is subject to
 5 mandatory detention under 8 U.S.C. § 1225(b)(2).

6 Further, the Supreme Court has long held that “Congress regularly makes rules”
 7 regarding immigration that “would be unacceptable if applied to citizens.” *Mathews v.*
 8 *Diaz*, 426 U.S. 67, 79-80 (1976). Under these circumstances, Petitioner does not have a
 9 cognizable liberty interest in a pre-detention hearing. “Procedural due process imposes
 10 constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’
 11 interests within the meaning of the [Fifth Amendment] Due Process Clause.” *Mathews v.*
 12 *Eldridge*, 424 U.S. 319, 332 (1976). “The fundamental requirement of [procedural] due
 13 process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’”
 14 *Id.* at 333, *quoting Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

15 To determine whether procedural protections satisfy the Due Process Clause, courts
 16 consider three factors: (1) “the private interest that will be affected by the official action”;
 17 (2) “the risk of an erroneous deprivation of such interest through the procedures used, and
 18 the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the
 19 Government’s interest, including the function involved and the fiscal and administrative
 20 burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

21 The first factor favors Respondents. The Supreme Court recognizes that due process
 22 is limited for noncitizens seeking admission. Understanding the statutory interpretation of
 23 8 U.S.C. § 1225(b) and the rights it affords to “arriving aliens” like Petitioner, is critical.
 24 For “more than a century” now, the Supreme Court has held that the rights of such
 25 noncitizens are confined exclusively to those granted by Congress. *Thuraissigiam*, 591
 26 U.S. at 131; *see also Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892) (for
 27 “foreigners who have never been naturalized, nor acquired any domicile or residence
 28 within the United States, nor even been admitted into the country pursuant to law,” “the

1 decisions of executive or administrative officers, acting within powers expressly conferred
2 by Congress, are due process of law.”); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (“This
3 Court has long held that an alien seeking initial admission to the United States requests a
4 privilege and has no constitutional rights regarding his application, for the power to admit
5 or exclude aliens is a sovereign prerogative”); *Shaughnessy v. United States ex rel. Mezei*,
6 345 U.S. 206, 212 (1953) (rejecting noncitizens’ habeas petitions premised on their claim
7 that their detention without a bond hearing violated their Fifth Amendment Due Process
8 rights because “an alien on the threshold of initial entry stands on a different footing:
9 ‘Whatever the procedure authorized by Congress is, it is due process as far as an alien
10 denied entry is concerned.’”).

11 The Supreme Court’s view was reinforced in *Thuraissigiam*, a habeas action
12 involving a noncitizen. Like Petitioner, Thuraissigiam sought initial entry into the United
13 States and was ultimately detained under 8 U.S.C. § 1225(b). He too raised a Fifth
14 Amendment Due Process Clause challenge. 591 U.S. 106-07. The Supreme Court
15 “reiterated th[e] important rule” (*Id.* at 138) that a noncitizen seeking initial entry to the
16 United States “has no entitlement” to any legal rights, constitutional or otherwise, other
17 than those expressly provided by statute. *Id.* at 107 (“Congress is entitled to set the
18 conditions for an alien’s lawful entry into this country and [] as a result [] an alien at the
19 threshold of initial entry cannot claim any greater rights under the Due Process Clause.”);
20 *Id.* (a noncitizen seeking initial entry “has no entitlement to procedural rights other than
21 those afforded by statute”); *Id.* at 140 (A noncitizen seeking initial entry to the United
22 States “has only those rights regarding admission that Congress has provided by statute”
23 and “the Due Process Clause provides nothing more[.]”).

24 *D. Petitioner’s arrest did not violate his Fourth Amendment rights.*

25 Petitioner’s arguments about his arrest are also unavailing. ICE had reason to
26 believe he was unlawfully present in the United States without having been admitted. Thus,
27 his re-arrest did not violate his Fourth Amendment rights. The legality of an arrest of an
28 alien based upon a civil immigration violation is well established. *Abel v. United States*,

1 362 U.S. 217, 230 (1960) (“statutes authorizing administrative arrest to achieve detention
2 pending deportation have the sanction of time.”). The statute authorizing the warrantless
3 arrest of an alien by an ICE officer does not require probable cause. It authorizes the arrest
4 if the officer “has reason to believe” that the alien is in the United States in violation of a
5 law governing admission or removal of aliens, and is likely to escape before a warrant is
6 issued. 8 U.S.C. § 1357(a)(2).

7 **IV. Conclusion.**

8 For all the foregoing reasons, the Habeas Petition must be denied.

9 RESPECTFULLY SUBMITTED September 16, 2025.

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12 District of Arizona

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