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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 MERAV BUSKILA EDIRI,

15 Petitioner,

16 v.

17 KRISTI NOEM SECRETARY OF
HOMELAND SECURITY, ET AL,

18 Respondents.
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No. 2:25-cv-09305-MCS-BFM

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

*[Declaration of Jonathan E. Sanchez filed
concurrently herewith]*

Honorable Brianna Fuller Mircheff
United States Magistrate Judge

I. INTRODUCTION

Petitioner Merav Buskila Ederi filed her Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 requesting immediate release from immigration detention at the Adelanto Immigration Processing Center. Respondents respectfully request that the Court deny the Petition because: (1) Petitioner's detention by Immigration and Customs Enforcement pending removal is authorized by statute; (2) the Petition fails to allege any specific factual basis for habeas relief, violating the habeas pleading standard; (3) this Court lacks jurisdiction over the Petition to the extent it seeks to review ICE's decision to initiate removal proceedings, detain, and remove Petitioner; and (4) the Petition names improper parties as respondents.

II. STATEMENT OF FACTS¹

Petitioner is a citizen of Isreal who first entered the United States on August 22, 2000, as a B-2 nonimmigrant visitor for pleasure. Declaration of Jonathan E. Sanchez ("Sanchez Decl."), ¶¶ 2-3.

On February 22, 2001, Petitioner's six-month authorized B-2 stay expired, and she failed to depart the U.S. as required. *Id.*, ¶ 4.

On January 14, 2002, Petitioner filed a form I-539, Application to Extend/Change her nonimmigrant status, with USCIS. *Id.*, ¶ 5.

On January 25, 2003, USCIS approved Petitioner's I-539 Application. *Id.*, ¶ 6.

On May 27, 2010, Petitioner filed Form I-130 Petition for Alien Relative and Form I-485 Application to Register Permanent Residence or Adjust Status, with USCIS. *Id.*, ¶ 7.

On August 5, 2011, USCIS completed an investigation and confirmed that Petitioner had engaged in marriage fraud, as per INA Sec. 237(a)(1)(G)(ii) as an alien who attempted to obtain immigration benefits through a fraudulent marriage. *Id.*, ¶ 8.

¹ In light of the Petition's failure to provide any factual background, the following facts are taken from agency records.

1 On June 9, 2015, Petitioner departed the United States to Israel. *Id.*, ¶ 11.

2 On July 29, 2015, Petitioner arrived in the United States from Israel and was
3 paroled into the United States with authorization to remain until July 29, 2016. *Id.*, ¶ 12.
4 She did not present valid entry documents at the time of entry. *Id.*

5 On April 28, 2016, USCIS denied Petitioner's form I-130 Application. *Id.*, ¶ 13.

6 On April 30, 2016, USCIS denied Petitioner's I-485 Application. *Id.*, ¶ 14.

7 On July 28, 2016, Petitioner's Parole status expired. *Id.*, ¶ 4.

8 On January 19, 2017, Petitioner filed Form EOIR-29, Notice of Appeal to the
9 Board of Immigration Appeals (BIA), from a DHS officer's decision. *Id.*, ¶ 16.

10 On June 13, 2017, the BIA dismissed Petitioner's EOIR-29 appeal. *Id.*, ¶ 17.

11 On October 17, 2017, Petitioner, through counsel, filed a complaint with the U.S.
12 District Court for the Central District of California. *Id.*, ¶ 18.

13 On October 19, 2018, the U.S. District Court ruled that the decision to deny her
14 Form I-130 petition was not arbitrary or capricious. *Id.*, ¶ 19.

15 December 20, 2018, Petitioner filed a Notice of Appeal with the Ninth Circuit
16 Court of Appeals. *Id.*, ¶ 20.

17 On May 27, 2020, the Ninth Circuit Court of Appeals affirmed the District Court's
18 decision. *Id.*, ¶ 21.

19 On or about September 17, 2025, Petitioner again filed forms I-130 and I-485 with
20 USCIS. *Id.*, ¶ 22.

21 On September 29, 2025, Petitioner reported to the ICE VEN ERO office for her
22 scheduled check-in, and ICE ERO officers arrested her pursuant to charges under INA
23 212(a)(7)(A)(i)(I) (No valid entry documents). *Id.*, ¶ 23.

24 On September 29, 2025, DHS issued Petitioner a Notice to Appear, charging
25 Petitioner that she was subject to removal under INA 212(a)(7)(A)(i)(I), "as an
26 immigrant who, at the time of application for admission, is not in possession of a valid
27 unexpired immigrant visa, reentry permit, border crossing card, or other valid entry
28 document required by the Act." *Id.*, ¶ 24.

1 An immigration judge (“IJ”) denied Petitioner’s request for bond on October 14,
2 2025, finding that the Petitioner was, “an arriving alien, and thus ineligible for bond.”
3 *Id.*, ¶ 26.

4 Petitioner is currently in removal proceedings with her next hearing scheduled for
5 November 3, 2025. *Id.*, ¶ 27.

6 **III. ARGUMENT**

7 **A. The Government is Authorized to Arrest and Detain Non-Citizens in** 8 **Connection with Removal Proceedings.**

9 8 U.S.C. § 1226 provides for arrest and detention of non-citizens “pending a
10 decision on whether the alien is to be removed from the United States.” 8 U.S.C. §
11 1226(a). Under § 1226(a), the government may detain a non-citizen during his removal
12 proceedings, release him on bond, or release him on conditional parole. By regulation,
13 immigration officers can release a non-citizen if the non-citizen demonstrates that he
14 “would not pose a danger to property or persons” and “is likely to appear for any future
15 proceeding.” 8 C.F.R. § 236.1(c)(8). A non-citizen can also request a custody
16 redetermination (i.e., a bond hearing) by an IJ at any time before a final order of removal
17 is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

18 At a custody redetermination, the IJ may continue detention or release the non-
19 citizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs
20 have broad discretion in deciding whether to release a non-citizen on bond. *In re Guerra*,
21 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider).
22 Regardless, a non-citizen “who presents a danger to persons or property should not be
23 released during the pendency of removal proceedings.” *Id.* at 38.

24 Non-citizens may also be detained pursuant to 8 U.S.C. § 1225, which applies to
25 “applicants for admission,” who are defined as “alien[s] present in the United States who
26 [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1).
27 Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1)
28 and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

1 Section 1225(b)(1) applies to arriving non-citizens and “certain other” non-
2 citizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack
3 of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These non-citizens are
4 generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i).
5 But if the non-citizen “indicates an intention to apply for asylum . . . or a fear of
6 persecution,” immigration officers will refer the non-citizen for a credible fear interview.
7 *Id.* § 1225(b)(1)(A)(ii). A non-citizen “with a credible fear of persecution” is “detained
8 for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the
9 non-citizen does not indicate an intent to apply for asylum, express a fear of persecution,
10 or is “found not to have such a fear,” he is detained until removed. *Id.* §
11 1225(b)(1)(A)(i), (B)(iii)(IV).

12 **B. The Petition Fails to Plead Any Factual Basis for Granting Relief.**

13 Federal habeas petitioners are subject to a higher pleading standard than Fed. R.
14 Civ. P. Rule 8 and must make specific factual allegations. *See* Rules Governing Section
15 2254 Cases, Rule 2(c)(1)-(2) (federal habeas petitions must “specify all the grounds for
16 relief,” and “state the facts supporting each ground”); *see also* *Mayle v. Felix*, 545 U.S.
17 644, 655 (2005) (Fed. R. Civ. P. 8(a) requires only “fair notice” whereas Habeas Rule
18 2(c) is “more demanding” and that federal habeas petitions are “expected to state facts
19 that point to a real possibility of constitutional error”) (citations omitted); *Jones v.*
20 *Gomez*, 66 F.3d 199, 204–05 (9th Cir. 1995) (conclusory allegations unsupported by a
21 statement of specific facts do not warrant habeas relief); *Hendricks v. Vasquez*, 908 F.2d
22 490, 491 (9th Cir. 1990) (allegations that are vague, conclusory, or unsupported by a
23 statement of specific facts, are insufficient to warrant relief and subject to summary
24 dismissal).

25 Here, the Petition is based on Yom Kippur, which began on October 1, 2025, at
26 sunset, and the fact that Petitioner is an Orthodox Jew. Petition at 2:7-15. Petitioner
27 alleged that continuing to detain her during Yom Kippur violated her constitutional
28 rights to freedom of religion. *Id.* The Court rejected this argument and denied

1 Petitioner's *ex parte* application for a Temporary Restraining Order to release Petitioner
2 from detention on bond. Dkt. 17. There are no specific factual allegations explaining
3 why the arrest is unlawful, what and how rights are implicated. Hence, there are not
4 sufficient allegations to point to "a real possibility of constitutional error." *Mayle*, 545
5 U.S. at 655. Accordingly, the Petition should be dismissed.

6 **C. To the extent Petitioner is challenging the decision to commence**
7 **removal proceedings, 8 U.S.C. § 1252(g) and 8 U.S.C. § 1252(b)(9) strip**
8 **the Court of jurisdiction over this Petition.**

9 A federal court generally may not rule on the merits of a case without first
10 determining that it has jurisdiction. *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*,
11 549 U.S. 422, 430-31 (2007). "The limits upon federal jurisdiction, whether imposed by
12 the Constitution or by Congress, must be neither disregarded nor evaded." *Owen Equip.*
13 *& Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978). In general, a district court may
14 exercise jurisdiction over a § 2241 habeas petition when the petitioner is in custody and
15 alleges that the custody violates the Constitution, laws, or treaties of the United States.
16 28 U.S.C. § 2241(c); *Maleng v. Cook*, 490 U.S. 488, 490 (1989). However, that
17 jurisdiction is constrained in immigration contexts by two specific statutes. First, 8
18 U.S.C. § 1252(g) provides that:

19 Except as provided in this section and notwithstanding any other provision of
20 law . . . no court shall have jurisdiction to hear any cause or claim by or on
21 behalf of any alien arising from the decision or action by the Attorney General
22 to commence proceedings, adjudicate cases, or execute removal orders
against any alien under this chapter.

23 "When asking if a claim is barred by § 1252(g), courts must focus on the action being
24 challenged." *Canal A Media Holding, LLC v. U.S. Citizenship & Imm. Servs.*, 964 F.3d
25 1250, 1257-58 (11th Cir. 2020). Section 1252(g) applies "to three discrete actions[:] . . .
26 [the] 'decision or action' to 'commence proceedings, adjudicate cases, or execute
27 removal orders.'" *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471,
28 482 (1999). Thus, to the extent Petitioner's generic claims challenge the decision to

1 initiate removal proceedings, § 1252(g) renders this Court without jurisdiction to hear his
2 habeas claims. *See Aransiola v. Warden, FCI Victorville Medium*, [2025 WL 576591](#), at
3 *6 (C.D. Cal. Jan. 22, 2025) (no habeas jurisdiction to challenge commencement of
4 removal proceedings).

5 Second, under § 1252(b)(9), “judicial review of all questions of law . . . including
6 interpretation and application of statutory provisions . . . arising from any action
7 taken . . . to remove an alien from the United States” is only proper before the
8 appropriate federal court of appeals in the form of a petition for review of a final
9 removal order. *See 8 U.S.C. § 1252(b)(9); American-Arab*, [525 U.S. at 483](#). Section
10 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels judicial review of all
11 [claims arising from deportation proceedings]” to a court of appeals in the first instance.
12 *Id.*; accord [8 U.S.C. § 1252\(a\)\(5\)](#) (petition for review with the Court of Appeals is “the
13 sole and exclusive means for judicial review of an order of removal . . . except as
14 provided in subsection (e) [concerning aliens not admitted to the United States]”).

15 “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether
16 legal or factual—arising from *any* removal-related activity can be reviewed *only* through
17 the [petition-for-review] process.” *J.E.F.M. v. Lynch*, [837 F.3d 1026, 1031](#) (9th Cir.
18 2016) (emphasis in original); *see id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review
19 of all claims, including policies-and-practices challenges . . . whenever they ‘arise from’
20 removal proceedings”). Here, Petitioner appears to challenge the government’s decision
21 and action to detain him, which arises from DHS’s decision to commence removal
22 proceedings, and is thus an “action taken . . . to remove [them] from the United States.”
23 *See 8 U.S.C. § 1252(b)(9); see also, e.g., Jennings*, [583 U.S. at 294–95](#); *Saadulloev v.*
24 *Garland*, [2024 WL 1076106](#), at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is
25 no judicial review of the threshold detention decision, which flows from the
26 government’s decision to “commence proceedings”). As such, to the extent Petitioner is
27 challenging the decision to commence removal proceedings, the Court lacks jurisdiction
28 over this action.

D. Prior agency practices are not entitled to deference under *Loper Bright*.

The asserted longstanding agency practice carries little, if any, weight under *Loper Bright*. The weight given to agency interpretations “must always ‘depend upon their thoroughness, the validity of their reasoning, the consistency with earlier and later pronouncements, and all those factors which give them power to persuade.’” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 432–33 (2024) (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (cleaned up)). And here, the agency provided no analysis to support its reasoning. See 62 Fed. Reg. at 10323. To be sure, “when the best reading of a statute is that it delegates discretionary authority to an agency,” the Court must “independently interpret the statute and effectuate the will of Congress.” *Loper Bright*, 603 U.S. at 395 (cleaned up). But read most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded. *Jennings*, 583 U.S. at 297. Petitioner thus cannot show a likelihood of success on the merits.

E. DHS and ICE should be dismissed as improper Respondents.

Pursuant to the federal habeas statute, 28 U.S.C. § 2242, which applies to § 2241 petitions, “there is generally only one proper respondent to a given prisoner’s habeas petition [, and it is] ... ‘the person’ with the ability to produce the prisoner’s body before the habeas court.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004); see 28 U.S.C. § 2242 (requiring a federal habeas petitioner to provide “the name of the person who has custody over him”) (emphasis added). When a habeas petitioner challenges his present physical confinement, “the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Padilla*, 542 U.S. at 435.

Here, the Petition names DHS, ICE, and Adelanto ICE Processing Center, Warden as Respondents. DHS and ICE should be dismissed as improperly named Respondents.

IV. CONCLUSION

Respondents respectfully request that the Court deny the habeas petition and dismiss

1 the action.

2 Dated: October 31, 2025

Respectfully submitted,

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