UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

PABLO CARPIO-GUAMAN,
Petitioner,

v.

WARDEN, CAMP EAST MONTANA, *et al.*,
Respondents.

No. 3:26-CV-02178-KC

Federal Respondents' Response to the Petition

Respondents provide this Response to Petitioner's habeas petition and to notify the Court of Petitioner's physical removal from the United States, which action potentially moots this habeas challenge to the legality of his detention. *See Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020) (habeas relief mooted where noncitizen released from custody); *Ortez v. Chandler*, 845 F.2d 573, 575 (5th Cir. 1988); Riley v. I.N.S., 310 F.3d 1253, 1257 (10th Cir. 2002); *Virani v. Huron*, 2020 WL 7405655, at *3 (W.D. Tex. Dec. 17, 2020).

On or about August 20, 2026, Petitioner filed this habeas claim, seeking release from detention. ECF No. 1. On July 23, 2026, Petitioner was issued a removal order by an immigration judge and Petitioner waived appeal of the decision. *See* Ex. B (Order of the Immigration Judge); *see also* 8 C.F.R. 1241.1(b) (Order of removal made by immigration judge at the conclusion of proceedings becomes final upon waiver of appeal). On August 24, 2026, Petitioner was removed to Ecuador pursuant to the final order of removal. Ex. A (Urquidi Declaration). Despite waiving appeal of the removal order, Petitioner filed an appeal to the Board of Immigration Appeals on August 20, 2026. Ex. C (Filing Receipt for Appeal) at 1. The Board of Immigration Appeals issued the filing receipt for appeal, acknowledging receipt of the appeal, on August 26, 2026, after Petitioner had already been removed on his final order. *Id.*, Ex. A. On the same day, August 26,

2026, this Court issued an order preventing Petitioner's removal from the United States. ECF No. 2 at 4. However, Petitioner had already been removed prior to the Court's Order and was not in ICE custody. *See* Ex. A.

The purpose of a petitioner for a writ of habeas corpus is to challenge the legality of detention, as Petitioner's is no longer detained, any challenge to detention seeking release is moot. *See Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020) (habeas relief mooted where noncitizen released from custody); *Ortez v. Chandler*, 845 F.2d 573, 575 (5th Cir. 1988); Riley v. I.N.S., 310 F.3d 1253, 1257 (10th Cir. 2002); *Virani v. Huron*, 2020 WL 7405655, at *3 (W.D. Tex. Dec. 17, 2020).

Any challenge Petitioner wishes to raise against his removal order is outside the scope of habeas relief and the jurisdiction of this Court. Section 1252(g) provides that "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. §1252(g).[1] The INA 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). "…[N]o court shall have jurisdiction, by habeas corpus…to review such an order." *Id.* And Congress has 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).

[1] Reference to the "Attorney General" includes the Secretary of Homeland Security. 6 U.S.C. §202(3).

Read together, these provisions express Congress's intent to channel judicial review of every aspect of removal proceedings into the petition-for-review process in the courts of appeals. *See 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)"). Therefore, "most claims that even relate to removal" are improper if brought before the district court. *E.O.H.C. v. DHS*, 950 F.3d 177, 184 (3d Cir. 2020); *see also AADC*, 525 U.S. at 483 (labeling §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."). If Petitioner wishes to challenge the execution of his removal order, such an action would need to be brought before the appropriate court of appeals in a petition for review, not through a habeas petition. Additionally, the Board of Immigration Appeals still has jurisdiction to determine if Petitioner properly waived appeal, whether the appeal should move forward, and whether he should be returned for further proceedings. At the time Petitioner was removed his removal order was final and there was no District Court order preventing his removal. Any challenge to that removal is properly filed with to the appropriate Circuit Court via a petition for review.

Since the relief Petitioner sought, namely release, has already occurred, Respondents respectfully request the Court deny or dismiss the petition as moot.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Given that Petition has been removed from the United States and has no known address outside the United States, Respondents request that service upon the court clerk be considered proper service under Fed. R. Civ. P. 5(b)(2)(D).

Dated: September 2, 2026

Respectfully submitted,

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