

United States Court of Appeals

For the First Circuit

No. 25-2238

RASHA ALAWIEH,

Petitioner, Appellant,

YARA CHEHAB, as next friend of RASHA ALAWIEH,

Petitioner,

v.

MARKWAYNE MULLIN,* Secretary of U.S. Department of Homeland Security (DHS); RODNEY S. SCOTT,* in the official capacity as Commissioner, U.S. Customs and Border Protection (CBP); TWEEDIE, Officer of U.S. Customs and Border Protection at the Boston Logan International Airport; KANE, Officer of U.S. Customs and Border Protection at the Boston Logan International Airport; CAROLINE R. TULLY, Officer of U.S. Customs and Border Protection at the Boston Logan International Airport; JOHN/JANE DOE, Acting Field Office Director of the Boston Field Office of U.S. Customs and Border Protection; TODD BLANCHE,* Attorney General, U.S. Department of Justice,

Respondents, Appellees,

MARCO RUBIO, U.S. Secretary of State; JOHN DOE, Field Director, CBP, Boston Field Office,

Respondents.

* Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Secretary of U.S. Department of Homeland Security Markwayne Mullin is substituted for former Secretary of U.S. Department of Homeland Security Kristi Noem, Attorney General Todd Blanche is automatically substituted for former Attorney General Pamela J. Bondi, and Commissioner, U.S. Customs and Border Protection, Rodney S. Scott is substituted for former Commissioner, U.S. Customs and Border Protection, Peter R. Flores, as appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Leo T. Sorokin, U.S. District Judge]

Before

Gelpí, Lynch, and Dunlap, Circuit Judges.

Sadaf Hasan, with whom Reem Subei, Muslim Advocates, Mark Fleming, and National Immigrant Justice Center, were on brief for appellant.

Christina Luo, Cynthia D. Vreeland, and Wilmer Cutler Pickering Hale and Dorr LLP, on brief for American Immigration Council, American Immigration Lawyers Association, Creating Law Enforcement Accountability & Responsibility, The National Immigration Project of the National Lawyers Guild, The National Immigration Law Center, and Van Der Hout LLP as amici curiae supporting appellant.

Joshua A. Clem, Trial Attorney, U.S. Department of Justice, Civil Division, Office of Immigration Litigation, with whom James J. Walker, Senior Litigation Counsel, Anthony P. Nicastro, Director, Drew C. Ensign, Deputy Assistant Attorney General, and Brett A. Shumate, Assistant Attorney General, were on brief for appellees.

October 13, 2026

LYNCH, Circuit Judge. Rasha Alawieh appeals from the district court's dismissal of her amended habeas petition, including her claims for declaratory and injunctive relief. See Alawieh v. Tweedie, 808 F. Supp. 3d 205 (D. Mass. 2025). Alawieh, a Lebanese citizen, alleges that Customs and Border Patrol ("CBP") officers invalidly issued her an order of expedited removal and wrongfully cancelled her H-1B visa upon her attempt to reenter the United States at Boston Logan Airport following her trip to Lebanon. Because Congress, in the Immigration and Naturalization Act ("INA"), has barred judicial review of such orders, see 8 U.S.C. § 1252(a)(2), (e)(1), and Alawieh does not fit within the statutory exception, see id. § 1252(e)(2)(B), (e)(5), we lack jurisdiction to review her claims. We **affirm** the district court's dismissal of Alawieh's petition for habeas corpus for lack of jurisdiction.

I.

A. Facts

Dr. Rasha Alawieh, born and raised in Lebanon where she still has family, initially came to the U.S. on an exchange visitor visa in June 2018. She had received her medical degree from the American University in Beirut in 2015 and had completed her residency at the American University in Beirut Medical Center in 2018. After she had completed a series of medical fellowships in the U.S., Brown University Health hired her and sponsored her for

an H-1B visa, which she obtained on June 17, 2024. She practiced transplant nephrology at Brown University Health and taught at The Warren Alpert Medical School of Brown University.

In February 2025, Alawieh traveled home to Lebanon and visited her family. She returned on Air France from Beirut, via Paris, to Boston Logan Airport, arriving on March 13, 2025, at 5:35 AM. CBP officers at Logan Airport inspected her as an "applicant for admission" to the United States, searched the contents of her cell phone, and interviewed her while detaining her overnight during the inspection process.

Before her interview, a CBP officer served her with a notice stating that she would be asked to provide a sworn statement and that her apparent inadmissibility may result in her immediate removal from the U.S., which may bar her from reentry for five years or longer. Alawieh stated that she understood and freely and voluntarily agreed to answer the officer's questions.

CBP officers found on her phone photos and videos of Hassan Nasrallah, the recently deceased leader of Hezbollah. Hezbollah has been designated as a foreign terrorist organization by the U.S. since October 8, 1997. They also found photos and videos of Hezbollah fighters and martyrs, and Ayatollah Ali Khamenei, the leader of Iran at the time. Officers observed that the deleted photo file contained many of those photos and that the photos had been deleted one or two days before her arrival, and

the interviewing officer asked Alawieh if she had deleted them. She admitted she had deleted them and stated she did so "[b]ecause I don't want the perception. But I can't delete everything. But I know I'm not doing anything wrong. I'm not related to anything politically or militarily. Many of these things are related to being a Shia Muslim." The officer then asked if she had deleted the photos and videos so that they would not be found during inspection, to which she stated, "[s]o I could have done that and deleted everything, but I did not."

The CBP officer asked Alawieh if she knew Hezbollah was designated as a terrorist organization. Alawieh stated that she did know, denied supporting Hezbollah, and offered no statement criticizing Hezbollah's terroristic activities. She did acknowledge that her family in Tyre, Lebanon, were Hezbollah supporters. Alawieh stated that, as a devout Shia Muslim, she supported, admired, and followed Nasrallah's religious and spiritual teachings and was saddened by his death. She stated that was the reason she and her family attended a commemoration of Nasrallah's death during her Lebanon trip. The CBP officer asked Alawieh to explain why she holds Nasrallah "in the highest regards" and "choose[s] to ignore the terrible acts that he advocates for Hezbollah to commit." She answered that she is "not a political person." She made no statement critical of Nasrallah.

The CBP officer asked Alawieh about the photos of Hezbollah martyrs and fighters, which her phone showed Alawieh had sent to and received from her friends and family. She stated that the pictures she received were sent for her to determine if the martyrs and fighters were from her village. When the CBP officer asked Alawieh if she supported Ayatollah Khamenei, she stated, "[a]gain, I'm a Shia Muslim. He's a religious figure. It has nothing to do with politics. It's all religious spiritual things." Again, she made no statement critical of Khamenei.

The officer also questioned Alawieh about her travels to Syria in 2006 and, between 2015 to 2018, to Iraq, Iran, and Saudi Arabia, before her arrival in the U.S. in 2018. She stated her trips to Iraq, Iran, and Saudi Arabia were religious pilgrimages.

At the conclusion of her interview, the CBP officer determined that Alawieh was "inadmissible under [8 U.S.C. § 1182](a)(7)(A)(i)(I) as an immigrant without a valid and unexpired immigrant document because [her] true intentions could not be determined due to derogatory information discovered during the inspection process." The officer asked her if she feared persecution in Lebanon upon her return, and she stated that she did not. The officer then served her with a Notice and Order of Expedited Removal dated March 14, 2025. Alawieh does not dispute that the document was completed and delivered to her, and that she signed it. The officer revoked her H-1B visa pursuant to 22 C.F.R.

§ 41.122(e)(2), and she became subject to a five-year bar from applying for readmission under 8 U.S.C. § 1182(a)(9)(A)(i). The officer then arranged for Alawieh's prompt return via Paris to Lebanon on Air France at 7:43 PM on March 14, 2025, the same airline and flight pattern she had used to return to Boston.

This appeal turns on whether this court has been deprived of jurisdiction over Alawieh's amended habeas corpus petition. The amended petition was filed by Alawieh through new and present counsel, on May 5, 2025, after her March removal. In that amended petition, she requested a declaration that the March 14, 2025, expedited removal order executed by the CBP officer was in violation of the Appointments Clause and Suspension Clause. She sought an order requiring respondents to put her into removal proceedings before an Immigration Judge, an order to give her a pre-deprivation hearing on immigration detention, a declaration that the revocation of her H-1B visa violates the Administrative Procedure Act (APA), an order to reinstate her H-1B visa, and attorneys' fees. On the government's motion, the district court dismissed the amended petition, giving rise to this appeal.¹

¹ The original habeas petition was filed one hour before Alawieh's removal flight to Lebanon, via Paris, on March 14, 2025, by her cousin on her behalf. Alawieh's attorney was at Logan Airport and notified CBP of the case. The district court promptly issued an order prohibiting Alawieh's transfer outside of the District of Massachusetts without forty-eight hours' notice. Alawieh's attorney was unable to notify CBP officers of the court's order before her departure as the officers had already left the

As to the amended petition, the district court held that it lacked jurisdiction over the expedited removal order and its consequences under the jurisdiction-stripping provisions of the INA and could not grant the relief sought. Alawieh, 808 F. Supp. 3d at 212-13. In doing so, it cited § 1252(e)(2), which limits judicial review of expedited removal orders made under § 1225(b)(1) to three issues: "(A) whether the petitioner is an alien, (B) whether the petitioner was ordered removed under such section, and (C) whether . . . the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee . . . or has been granted asylum." Id. at 210 & n.7. Congress specified that when a court reviews "whether the petitioner was ordered removed" under § 1252(e)(2)(B), review is limited to "whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal." 8 U.S.C. § 1252(e)(5). The district court determined that Alawieh's claims do not challenge whether the order was issued or relates to her, so the claims do not fall within the statutory

service desk to escort Alawieh to her departure gate. The district court found that CBP did not know of the court's order and so was not in violation of the court's order by putting her on the flight. Alawieh, 808 F. Supp. 3d at 208 n.5.

The district court dismissed as moot Alawieh's original habeas petition, filed before she was ordered removed, seeking to stop the removal and to release her from detention. Id. at 212.

exception. Alawieh, 808 F. Supp. 3d at 213. The district court next rejected Alawieh's argument that the Suspension Clause preserves the court's jurisdiction over her claims for relief because such relief "falls outside the scope of the writ as it was understood when the Constitution was adopted." Id. at 209, 212-13 (quoting Dep't of Homeland Sec. v. Thuraissigiam, 591 U.S. 103, 119 (2020)).

II.

We engage in de novo review of the INA provisions involved here as an issue of law.² See Samayoa v. Bondi, 146 F.4th 128, 137 (1st Cir. 2025) (citing 8 U.S.C. § 1252(a)(2)(D)).

Alawieh argues that the CBP officers who ordered her expedited removal were not appointed in accordance with the Appointments Clause of the U.S. Constitution, so her removal was void ab initio. She argues that her expedited removal order never issued since the CBP officers lacked authority to remove her, so her challenge concerns the issue of whether she was ordered removed within the scope of § 1252(e)(2)(B).

The government, in response, makes tiered arguments. It first argues that Alawieh's claims are barred by the jurisdiction-stripping provisions as to arriving aliens and

² Review of a district court's dismissal of a habeas petition is also de novo. McCants v. Alves, 67 F.4th 47, 51 (1st Cir. 2023) (citing Dorisca v. Marchilli, 941 F.3d 12, 17 (1st Cir. 2019)).

expedited removal orders under the INA, and that the exception in § 1252(e)(2)(B) does not apply. Next, the government argues that if Alawieh's Appointments Clause challenge is not barred by § 1252(e), then it is a systemic challenge which could only have been brought in the District Court for the District of Columbia within sixty days of the implementation of the challenged statute, regulation, or policy directive. See 8 U.S.C. § 1252(e)(3). Third, the government argues that Alawieh's claims fall outside of the core of habeas corpus, so relief is unavailable through habeas, citing Thuraissigiam.

We hold that we lack jurisdiction over Alawieh's appeal.³ When Alawieh arrived at Logan Airport she was an "applicant for admission" and subject to inspection by immigration officers. See 8 U.S.C. § 1225(a)(1), (3); see also 8 C.F.R. § 235.1(f). Where, as here, "an immigration officer determines that an alien . . . who is arriving in the United States . . . is inadmissible under . . . section 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i).

³ Because we lack jurisdiction, we do not reach the issue of mootness or the merits of Alawieh's Appointments Clause claim.

We are barred from reviewing Alawieh's challenge to her expedited removal order by § 1252(a)(2)(A)(i), which precludes judicial review of "any individual determination or . . . any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1)," unless it fits within one of § 1252(e)(2)'s three narrow exceptions in habeas cases. Alawieh challenges the validity of her expedited removal order, not whether it has issued. Only the second exception, § 1252(e)(2)(B), is relevant here. Nothing in the text of § 1252(e)(2)(B) gives us jurisdiction over Alawieh's challenge.⁴

The Third Circuit has also held that § 1252(e)(2)(B) does not grant jurisdiction to consider the validity of expedited removal orders. See Osorio-Martinez v. Att'y Gen., 893 F.3d 153, 164-66 (3d Cir. 2018). In Osorio-Martinez, the Third Circuit held that it lacked jurisdiction under § 1252(e)(2)(B) to consider

⁴ Alawieh's challenge clearly differs from those in district court opinions exercising jurisdiction under § 1252(e)(2)(B). For example, in Martinez v. Hyde, No. 25-11613, 2025 WL 1859273 (D. Mass. June 17, 2025), DHS detained the petitioner for the purpose of effectuating expedited removal, but continued detaining him without removing him, id. at *1. The district court held that it had jurisdiction to determine whether the petitioner was ordered removed, and when DHS failed to produce evidence that an order of expedited removal existed, the court granted the petition. Id. at *2. In Dugdale v. U.S. Customs & Border Protection, 88 F. Supp. 3d 1 (D.D.C. 2015), the district court held that it had jurisdiction under § 1252(e)(2)(B) to determine whether the expedited removal order "in fact was issued" pursuant to § 1252(e)(5) where the order lacked the necessary signature of a CBP supervisor, id. at 6-7.

petitioners' argument that petitioners' special immigrant juvenile status invalidated their removal orders. Id. Congress had specified in § 1252(e)(5) "that review should only be for whether an immigration officer issued that piece of paper and whether the Petitioner is the same person referred to in that order." Id. at 164-65 (quoting Castro v. U.S. Dep't of Homeland Sec., 835 F.3d 422, 431 (3d Cir. 2016)).⁵

Alawieh's argument that we have jurisdiction is also not advanced by her mischaracterization of the district court's opinion as using Thuraissigiam to disregard circuit precedent, Leitao v. Reno, 311 F.3d 453 (1st Cir. 2002). Leitao did not involve the jurisdiction-stripping provisions of § 1252. The issue presented there was whether the case involving a different context was moot. Id. at 455. In Leitao, we held that release from detention does not necessarily moot a habeas petition if the petitioner still suffers collateral consequences from that detention, and the court can grant the petitioner relief from those consequences.⁶ Id. at 456.

⁵ Similar to Alawieh, petitioners in D.A.M. v. Barr, 486 F. Supp. 3d 404 (D.D.C. 2020), argued that their removal, which was ordered pursuant to an invalid regulation, was void ab initio, id. at 419. The court explained that the prior ruling invalidating the regulation "may well provide a basis to argue petitioners' removal orders were unlawfully issued," but the court lacked jurisdiction because, under § 1252(e)(2)(B), "petitioners must raise a claim that their removal orders were, as a matter of law, not issued." Id. (citation omitted).

⁶ The parties also dispute whether Alawieh's amended petition

It was in response to Alawieh's argument in her amended petition that the jurisdiction-stripping provisions of the INA violate the Suspension Clause, that the district court cited to Thuraissigiam. See Alawieh, 808 F. Supp. 3d at 212-13. In Thuraissigiam, the Supreme Court held that § 1252's jurisdictional strip did not violate the Suspension Clause and petitioner's request for another opportunity to apply for asylum did not fit under any of the three reviewable issues under § 1252(e)(2). See 591 U.S. at 133. The Supreme Court there held that the Suspension Clause does not guarantee habeas jurisdiction outside of the confines of § 1252(e)(2) beyond what the writ protected at the time of the founding. Id. at 117. The district court rejected Alawieh's Suspension Clause argument, applying Thuraissigiam. Alawieh, 808 F. Supp. 3d at 212-13. Alawieh did not pursue her Suspension Clause argument on appeal, so we do not address that issue. Instead, Alawieh now attempts to distinguish her petition from Thuraissigiam's by arguing her petition falls within the

was mooted by her release from detention. Alawieh argues that the five-year bar on readmission is a collateral consequence that preserves a live controversy, citing Leitao, 311 F.3d at 455-56. The government agrees that under other circumstances collateral consequences may preclude mootness in a properly brought habeas petition, but not in this case. The government distinguishes Leitao from this case because in Leitao, intervening Supreme Court precedent during the petitioner's appeal entitled him to seek the relief that the district court had denied. The jurisdiction-stripping provisions of § 1252 require dismissal of this appeal, and so we do not address or resolve this dispute.

confines of § 1252(e)(2)(B), an argument which we have rejected for the reasons stated above.

We **affirm** the district court's dismissal of Alawieh's petition for habeas corpus for lack of jurisdiction.⁷

⁷ See Ishak v. Gonzales, 422 F.3d 22, 33 (1st Cir. 2005) (affirming district court's dismissal of habeas petition for lack of jurisdiction under 8 U.S.C. § 1252); see also Bouarfa v. Mayorkas, 604 U.S. 6, 19 (2024) (same).