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Appendix A
[Filed: Feb. 5, 2026]

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of February, two thousand twenty-six.

PRESENT: ROBERT D. SACK,
DENNY CHIN,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

DANIEL ORIAKHI,

Petitioner–Appellant

v.

No. 25–243–cv

DEPARTMENT OF HOMELAND SECURITY, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES,

Respondents–Appellees.[*]

FOR APPELLANT:	Daniel Oriakhi, *pro se*, Elmont, NY
FOR APPELLEES:	Varuni Nelson, Diana E. Mahoney, Assistant United States Attorneys, *for* Joseph Nocella, Jr., United States Attorney for the Eastern District of New York, Brooklyn, NY

Appeal from a judgment of the United States District Court for the Eastern District of New York (Kiyo A. Matsumoto, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the District Court is AFFIRMED. Petitioner Daniel Oriakhi, representing himself, appeals from a January 10, 2025 judgment of the United States District Court for the Eastern District of New York (Matsumoto, *J.*) dismissing his habeas petition

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[*] The Clerk of Court is directed to amend the caption as set forth above.

under 28 U. S. C. §2241 for lack of subject matter jurisdiction. We assume the parties' familiarity with the underlying facts and the record of prior proceedings, to which we refer only as necessary to explain our decision to affirm.

"We review *de novo* the district court's dismissal for lack of subject matter jurisdiction." *Delgado v. Quarantillo*, 643 F. 3d 52, 54 (2d Cir. 2011). We also construe "the submissions of a *pro se* litigant . . . liberally" as "rais[ing] the strongest arguments that they suggest." *Triestman v. Fed. Bureau of Prisons*, 470 F. 3d 471, 474 (2d Cir. 2006) (citation modified).

The District Court concluded that it lacked jurisdiction over Oriakhi's petition because the petition seeks to vacate his 2012 final administrative removal order ("FARO") and only the federal circuit courts may review such petitions. *See* 8 U. S. C. §1252(a)(5), (b)(2); *Delgado*, 643 F. 3d at 55–56. On appeal, Oriakhi concedes, as he must, that the District Court's conclusion was correct because the relief he seeks effectively would require the court to review and potentially invalidate his removal order. *See Singh v. USCIS*, 878 F. 3d 441, 445–46 (2d Cir. 2017); *Gittens v. Menifee*, 428 F. 3d 382, 384–85 (2d Cir. 2005).

Oriakhi instead invites this Court to construe his appeal as a petition for review of his removal order. We decline to do so. *See Shabaj v. Holder*, 718 F. 3d 48, 51 (2d Cir. 2013); *Nouritajer v. Jaddou*, 18 F. 4th 85, 90 n.1 (2d Cir. 2021). Even if we could construe Oriakhi's appellate filings as a petition for review of his 2012 FARO, we would conclude that the petition was not timely filed. *See* 8 U. S. C. §1252(b)(1); *Riley v. Bondi*, 606 U. S. 259, 266–67 (2025); *Castejon-Paz v.*

Bondi, 143 F. 4th 116, 118 (2d Cir. 2025). And Oriakhi does not argue that he is entitled to equitable tolling.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

Appendix B
[Filed: Jan. 8, 2025]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x
DANIEL ORIAKHI,

Petitioner,

-against-

DEPARTMENT OF HOMELAND SECURITY and UNITED STATES CITIZEN AND IMMIGRATION SERVICES,,

Respondents.
----------x

MEMORANDUM & ORDER

23–cv–5569 (KAM)

KIYO A. MATSUMOTO, United States District Judge:

Petitioner Daniel Oriakhi ("Mr. Oriakhi") commenced this action on July 21, 2023 by filing a *pro se* habeas petition pursuant to 28 U.S.C. §2241, in which he requests that this Court intervene in his efforts to adjust his immigration status. (*See generally* ECF No. 1, the "Petition".) Mr. Oriakhi paid the filing fee to commence this action. (ECF No. 2, Filing Fee Receipt.) For the reasons that follow, the Petition is hereby dismissed because this Court lacks jurisdiction to consider Mr. Oriakhi's request.

BACKGROUND

Unless otherwise stated, the following facts are taken from the Petition and assumed to be true for purposes of this Memorandum and Order. On November 8, 2012, a Department of Homeland Security ("DHS") officer entered a final administrative removal order against Mr. Oriakhi. (Petition at 3-4; *id.* app. 4, exhibit A, "Final Removal Order.") In pertinent part, the Final Removal Order stated that Mr. Oriakhi is "not a citizen or national of the United States and that [he] is not lawfully admitted for permanent residence," that he is "ineligible for any relief from removal that the Secretary of Homeland Security[] may grant in an exercise of discretion," and that he is "deportable as an alien convicted of an aggravated felony," as well as ordered that he be removed from the United States to Nigeria (Final Removal Order.)

Approximately six and a half years later, on or about April 8, 2019, Mr. Oriakhi filed a United States Citizen and Immigration Services ("USCIS") Form I-485 "to adjust [his] status to lawful permanent resident with the [USCIS]" on the basis that he was the relative of a U.S. citizen or another lawful permanent resident who had submitted a USCIS Form I-130 (a form titled "Petition for Alien Relative") on Mr. Oriakhi's behalf (the "I-485 Application"). (Petition at 4.) In a notice dated April 25, 2019, USCIS rejected Mr. Oriakhi's I-485 Application but asked him to "resubmit [his] application with the proper documentation," which in his case comprised the USCIS Form I-130 naming Mr. Oriakhi as a beneficiary. (*Id.* at 3; *id.* app. 4, exhibit C.)

Mr. Oriakhi then resubmitted his I-485 Application on September 10, 2019 attaching a copy of his USCIS Form I-130. (Petition at 4.) In a letter dated September 27, 2019, USCIS directed him to appear at a support center in Queens, New York on October 17, 2019 so that USCIS could collect his biometric information. (*Id.* at 4; *id.* app. 2.) Then, in a letter dated January 13, 2020, the USCIS denied Mr. Oriakhi's I-485 Application "because USCIS does not have jurisdiction to decide whether [he] [is] eligible for adjustment of status since an Immigration Judge entered a Final Removal Order against [him] on November 8, 2012." (Petition at 4; *id.* app. 1 ("Notice of Decision").)

Mr. Oriakhi unsuccessfully sought to reverse the Notice of Decision by submitting requests in or around January 2020 to (i) the USCIS at its office at 26 Federal Plaza in New York, New York, (ii) the Immigration Court at 201 Varick Street in New York, New York and (iii) the Immigration Court at 1901 South Bell Street in Arlington, Virginia. (Petition at 5-6.) In a brief dated April 3, 2023 and captioned for DHS and USCIS, Mr. Oriakhi wrote, in part, "Had I been issued a Notice to Appear . . . instead of the [Final Removal Order] . . .[,] [m]y resulting outcome would potentially be different." (*Id.* app. 4, Motion to Change Venue, Brief in Support ¶ 7.)

Mr. Oriakhi has filed two prior petitions in this Court seeking judicial intervention in his immigration proceedings. The Court dismissed both petitions, finding that it lacked jurisdiction to consider Mr. Oriakhi's requests under 8 U. S. C. §1252(a)(5), which provides in part that "a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of

removal." *See Oriakhi v. DHS*, No. 20-cv-821 (KAM), 2020 WL 3430682, at *1 (E.D.N.Y. June 23, 2020); *Oriakhi v. DHS*, No. 21-cv-2373 (KAM), 2021 WL 2037820, at *1 (E.D.N.Y. May 21, 2021).

In June 2021, Mr. Oriakhi petitioned the Second Circuit Court of Appeals for relief, "asserting that he was ordered removed without a notice to appear." *Oriakhi v. Garland*, No. 21-6385, 2022 WL 3479214, at *1 (2d Cir. Feb. 10, 2022). The Second Circuit dismissed the petition for lack of jurisdiction, because Mr. Oriakhi did not file it within 30 days of his removal order. *Id.* (citing *Luna v. Holder*, 637 F.3d 85, 92 (2d Cir. 2011)).

In his July 2023 Petition in this action, Mr. Oriakhi now argues that the Final Removal Order, by ordering that he be removed without first providing him with a notice to appear and an opportunity to contest the proceedings, violated his due-process rights under the Fifth Amendment. (Petition at 3, 6-11.) On that basis, he asks this Court for an order "invalidating the deportation order and directing DHS/USCIS to grant the I-485 [A]pplication." (*Id.* at 12.)

On July 16, 2024, Mr. Oriakhi filed a motion to stay deportation or removal proceedings pending resolution of the Petition. (ECF No. 4.) On July 24, 2024, the United States Attorney's Office for the Eastern District of New York filed a letter on behalf of DHS and USCIS ("Respondents") requesting that the Court dismiss the Petition for lack of jurisdiction pursuant to 8 U.S.C. §1252(a)(5). (ECF No. 5.) Mr. Oriakhi responded on July 31, 2024, opposing Respondents' request for dismissal and asking that the Court direct Respondents to produce a copy of "the immigration judges' [*sic*] removal and deportation order against me,

dated November 8, 2012," and "attending hearing transcripts." (ECF No. 6 at 2-3.)

DISCUSSION

As the Court explained when dismissing Mr. Oriakhi's two prior petitions, the federal district courts' jurisdiction over immigration matters is limited by 8 U.S.C. §1252(a)(5) and (b)(2). Only "the court of appeals for the judicial circuit in which the immigration judge completed the proceedings" may review an order of removal. 8 U.S.C. §1252(b)(2); *see also id.* § 1252(a)(5) ("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"). This limitation applies to direct challenges and to any claims that are "inextricably linked to" a removal order, including mandamus actions to compel USCIS to consider adjustment-of-status petitions that indirectly challenge a prior removal order. *See Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011) (per curiam); *Singh v. USCIS*, 878 F.3d 441, 445-46 (2d Cir. 2017) (affirming dismissal for lack of subject matter jurisdiction based on § 1252(a)(5)'s jurisdictional limitation).

Mr. Oriakhi's Petition and other submissions indicate that he was issued a Final Removal Order on November 8, 2012. Regardless of Mr. Oriakhi's factual assertions and legal arguments, this Court cannot adjudicate his claims because it does not have jurisdiction over any challenge to a removal order that has not been disturbed. Accordingly, the Petition is dismissed.

As the Court lacks jurisdiction over Mr. Oriakhi's challenge to the immigration proceedings, it denies

Mr. Oriakhi's request for an order compelling production of a November 8, 2012 order of an immigration judge or judges and of associated transcripts of any hearings concerning the November 8, 2012 order. Nonetheless, the Court recommends that the United States Attorney's Office for the Eastern District of New York work with Respondents to voluntarily produce to Mr. Oriakhi available documents that are part of the record of any decisions made as to Mr. Oriakhi's immigration status, and that may assist him in understanding the legal significance of his immigration status.

CONCLUSION

For the foregoing reasons, the Petition is dismissed. The Court certifies pursuant to 28 U. S. C. § 1915(a)(3) that any appeal from this Memorandum and Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. The Clerk of Court is respectfully directed to enter judgment dismissing the action and to close this case. The United States Attorney's Office for the Eastern District of New York is respectfully directed to mail a copy of this Order and the judgment to Mr. Oriakhi and note service on the docket.

SO ORDERED

Dated: January 8, 2025
Brooklyn, New York

/s/ Kiyo A. Matsumoto
HON. KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York

Appendix C
[Filed: Mar. 5, 2026]

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of March, two thousand twenty-six.

Daniel Oriakhi,

Petitioner-Appellant,

v.

Department of Homeland Security, United States Citizenship and Immigration Services,

Respondents-Appellees.

ORDER
Docket No: 25–243

Appellant, Daniel Oriakhi, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

Appendix D

Final Administrative Removal Order
In removal proceedings under section 238(b) of the Immigration and Nationality Act

Event No: RCM1310000026
FIN # 1141670506
File Number A026441929
Date October 23, 2012

To: Daniel ORIAKHI AKA: ADOGA, SMITH ; ORIAKHI, DANIEL ; SMITH, DANIEL
Address: 509 NORTH WATERWORKS RD FARMVILLE VA UNITED STATES 23901
(Number, Street, City, State and ZIP Code)
Telephone: _____
(Area Code and Phone Number)

ORDER

Based upon the allegations set forth in the Notice of Intent to Issue a Final Administrative Removal Order and evidence contained in the administrative record, I, the undersigned Deciding Officer of the Department of Homeland Security, make the following findings of fact and conclusions of law. I find that you are not a citizen or national of the United States and that you are not lawfully admitted for permanent residence. I further find that you have a final conviction for an aggravated felony as defined in section 101(a)(43)(B,U) of the Immigration and Nationality Act (Act) as amended, 8 U.S.C. 1101(a)(43)(B,U), and are ineligible for any relief from removal that the Secretary of Homeland Security may grant in an exercise of discretion. I further find that the administrative record established by clear, convincing, and unequivocal

evidence that you are deportable as an alien convicted of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii). By the power and authority vested in the Secretary of Homeland Security, and in me as the Secretary's delegate under the laws of the United States, I find you deportable as charged and order that you be removed from the United States to:

Nigeria
or to any alternate country prescribed in section 241 of the Act.

/s/ Norman L. Parrish
(Signature of Authorized Official)

Assistant Field Office Director
(Title of Official)

11/7/2012 Fairfax, VA
(Date and Office Location)

Certificate of Service

I served this FINAL ADMINISTRATIVE REMOVAL ORDER upon the above named individual.

11/8/12 9:20 AM Richmond, VA In person
(Date, Time, Place and Manner of Service)

/s/ [illegible], D.O.
(Signature and Title of Officer)

Form I-851A (Rev. 08/01/07)