

District Judge Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TAREQ ZIAD FOUAD ZAKARNEH,

Petitioner,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, *et al.*,

Respondents.

Case No. 2:25-cv-1840-TL

RESPONDENT'S RESPONSE TO
PETITIONER'S EMERGENCY
MOTION FOR A RESTRAINING
ORDER

Noted for consideration on:
January 22, 2026

I. INTRODUCTION

This Court should deny Petitioner Tareq Ziad Fouad Zakarneh's request for an emergency restraining order enjoining U.S. Immigration and Customs Enforcement ("ICE") from executing his valid, final order of removal. Dkt. No. 26, Expedite Motion for a Restraining Order ("Motion" or "Mot."). Petitioner alleges that ICE intends to remove Petitioner to Israel. Mot., at 1. This is incorrect. ICE intends, and as already attempted on multiple occasions, to remove Petitioner to the West Bank, Occupied Palestinian Territories. Baz Decl., ¶ 3.

Petitioner is subject to a final order of removal to the West Bank, Occupied Palestinian Territories. The immigration court ordered Petitioner to be removed from the United States to the Palestinian Occupied Territories. *Zakarneh v. ICE*, 2:25-cv-00707-DGE-GJL, Dkt. No. 22-4,

1 Removal Order. The Board of Immigration Appeals (“BIA”) subsequently dismissed Petitioner’s
 2 administrative appeal of the removal order. *Id.*, Dkt. No. 22-6, Decision. The Ninth Circuit has
 3 denied his petition for review of the BIA’s decision. *Zakarneh v. Bondi*, No. 22-1604, Dkt. No.
 4 81 (9th Cir. Feb. 26, 2025). The Ninth Circuit’s stay of removal lifted when the petition’s mandate
 5 issued on April 28, 2025. *Id.*, Dkt. No. 89.1. In September 2025, Petitioner filed a petition for
 6 review in the Ninth Circuit contesting the BIA’s denial of his motion to reopen his removal
 7 proceedings. *Zakarneh v. Bondi*, No. 25-5806. On October 14, 2025, the Ninth Circuit denied
 8 Petitioner’s request to stay his removal. *Id.*, Dkt. No. 17. Therefore, there are no legal
 9 impediments to his removal.
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11 ICE has scheduled Petitioner’s removal to the West Bank, Occupied Palestinian Territories
 12 for February 1, 2026. Baz Decl., ¶ 6. Although Petitioner’s removal will require him to pass
 13 through Israel, ICE is not attempting to remove him to Israel. *Id.*, ¶ 3. Petitioner is currently
 14 detained at a facility in Florence, Arizona, in preparation for removal. *Id.*, ¶ 7.
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16 II. ARGUMENT

17 This Court lacks jurisdiction to enjoin ICE’s execution of Petitioner’s removal order. First,
 18 Petitioner is subject to a final order of removal. 8 U.S.C. § 1252(g). In the exercise of its
 19 constitutional power to define federal court jurisdiction, in 1996, Congress enacted the Illegal
 20 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), which repealed the existing
 21 scheme for judicial review of final orders of deportation, and replaced it with a more restrictive
 22 scheme. *See Reno v. American-Arab Anti-Discrimination Committee (“AADC”)*, 525 U.S. 471,
 23 474 (1999). Among the IIRIRA amendments to the Immigration and Nationality Act (“INA”),
 24 Congress provided in the newly-enacted section 1252(g) that reads as follows:
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26 Except as provided in this section and notwithstanding any other
 27 provision of law, no court shall have jurisdiction to hear any cause or

1 claim by or on behalf of any alien arising from the decision or action by
2 the Attorney General to commence proceedings, adjudicate cases, or
execute removal orders against any alien under this Act.

3 8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended section 1252(g) to
4 clarify that the statute's proscription against jurisdiction does in fact apply to habeas actions, such
5 as the one Petitioner now brings before this Court. *See* REAL ID Act of 2005, Pub. L. No. 109-13,
6 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, section
7 1252(g), now provides that:
8

9 Except as provided in this section and notwithstanding any other
10 provision of law, (*statutory or nonstatutory*), including section 2241 of
11 Title 28, or any other habeas corpus provision, and sections 1361 and
12 1651 of such title, 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.

13
14 8 U.S.C. § 1252(g) (2017) (emphasis added).

15 In *AADC*, the Supreme Court held that 1252(g) precludes judicial review of three discrete
16 actions that DHS may take: the “‘decision or action’ to ‘commence proceedings, *adjudicate* cases,
17 or *execute* removal orders.’” 525 U.S. at 482 (original emphasis). It is indisputable that Petitioner
18 is subject to a final order of removal. Petitioner’s request to stay his removal directly arises from
19 ICE’s decision to execute his removal order. Thus, Section 1252(g) applies to Petitioner’s request
20 to stay his removal, and this Court is precluded from exercising its jurisdiction over his request.
21 *See Mora Flores v. Garland*, No. C24-1692-RSM, 2024 WL 4520052, at *2 (W.D. Wash. Oct. 17,
22 2024) (finding that the court lacked jurisdiction to issue a TRO to prevent a deportation hearing
23 based on a pending motion to reopen).
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25 In addition to the bar to jurisdiction at section 1252(g), the IIRIRA and REAL ID Act
26 amendments to the Immigration and Nationality Act also reflect Congress’s desire to “streamline
27

1 immigration proceedings” and to “effectively limit all aliens to one bite of the apple with regard
 2 to challenging an order of removal.” *Singh v. Gonzales*, 499 F.3d 969, 976-77 (9th Cir. 2007)
 3 (quoting *Bonhomie v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005)). Under these amendments,
 4 individuals who seek to challenge an order of removal may do so, but only as part of a petition for
 5 review in the appropriate court of appeals, as provided under section 1252. In particular, section
 6 1252(b)(9) provides that:

7 Judicial review of all questions of law and fact, including interpretation
 8 and application of constitutional and statutory provisions, arising from
 9 any action taken or proceeding brought to remove an alien from the
 10 United States under this subchapter *shall be available only in judicial*
 11 *review of a final order under this section.* Except as otherwise provided
 12 in this section, *no court shall have jurisdiction, by habeas corpus under*
 13 *section 2241 of Title 28 or any other habeas corpus provision*, by
 section 1361 or 1651 of such title, or by any other provision of law
 (statutory or nonstatutory), to review such an order or such questions of
 law or fact.

14 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“Notwithstanding any
 15 other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other
 16 habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with
 17 an appropriate court of appeals in accordance with this section shall be the sole and exclusive
 18 means for judicial review of an order of removal . . .”). Thus, any challenge to the removal order
 19 is not properly before this Court.

21 Furthermore, Petitioner’s reference to the “Deferred Enforcement Departure executive
 22 order” for Palestinians does not provide this Court with jurisdiction to enjoin his removal. Mot.,
 23 at 2 (citing to “DED”). As a preliminary matter, Petitioner has not demonstrated that he met the
 24 eligibility requirements for deferred enforced departure. *See Implementation of Employment*
 25 *Authorization for Individuals Covered by Deferred Enforced Departure for Certain Palestinians*,
 26 89 Fed. Reg. 26167, 26168 (Apr. 15, 2024) (describing eligibility requirements). But even if he
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1 had qualified, which Respondents do not concede here, this program ended on August 13, 2025.
2 See U.S. Citizenship and Immigration Service, *USCIS Announces Employment Authorization*
3 *Procedures for Palestinians Covered by Deferred Enforced Departure*, available at
4 [https://www.uscis.gov/newsroom/news-releases/uscis-announces-employment-authorization-](https://www.uscis.gov/newsroom/news-releases/uscis-announces-employment-authorization-procedures-for-palestinians-covered-by-deferred-enforced)
5 [procedures-for-palestinians-covered-by-deferred-enforced](https://www.uscis.gov/newsroom/news-releases/uscis-announces-employment-authorization-procedures-for-palestinians-covered-by-deferred-enforced) (last visited January 22, 2026)
6 (explaining that deferral of removal of certain Palestinians ends on August 13, 2025).
7

8 As a result, this Court lacks jurisdiction to stay Petitioner's removal.

9 III. CONCLUSION

10 For the foregoing reasons, Respondents request that this Court deny Petitioner's Motion.

11 DATED this 22nd day of January, 2026.

12 Respectfully submitted,

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22 *I certify that this memorandum contains 1,223 words, in*
23 *compliance with the Local Civil Rules.*
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