

United States District Court
Eastern District of Michigan

DARYNEL GERARDO MEDINA
LOPEZ,

Petitioner,

Civil No. 26-10784

v.

Honorable F. Kay Behm
Mag. Judge Anthony P. Patti

KEVIN RAYCRAFT, Acting Field
Office Director of Enforcement and
Removal Operations, Detroit Field
Office, Immigration and Customs
Enforcement; et al.,

Respondents.

**Respondents' Reply Brief in Support of Their Motion to Vacate the
Court's Temporary Restraining Order**

Issue Presented

Should the Court vacate its order enjoining petitioner's removal from the United States and/or transfer out of Michigan when the Court lacked jurisdiction to stay petitioner's removal and the Court's order was unwarranted under the circumstances?

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Introduction

In 2017, an immigration judge ordered petitioner removed and he appealed to the Board of Immigration Appeals. In 2018, the Board dismissed his appeal and he should have immediately departed the United States at that time or appealed to the Sixth Circuit. Instead, he abandoned his removal proceedings and unlawfully remained in the United States for another eight years until local law enforcement officers encountered him and contacted immigration officials, who attempted to promptly execute petitioner's lawful order of removal. However, after he was apprehended, this Court entered a temporary restraining order preventing his removal. Respondents moved to vacate the Court's order and argued that the Court lacked jurisdiction and its order was unwarranted under the circumstances. In response, petitioner argues that the Court should extend its temporary restraining order but fails to identify any authority whatsoever that could allow this Court to usurp the Board of Immigration Appeals and the Sixth Circuit's exclusive jurisdiction over petitioner's removal. Accordingly, the Court should vacate its temporary restraining order.

I. The Court's Temporary Restraining Order Has Expired

Under Rule 65, a temporary restraining order “expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer

extension.” Fed. R. Civ. P. 65(b)(2). If a court extends a temporary restraining order, “[t]he reasons for an extension must be entered in the record.” *Id.* Further, if a court issues a temporary restraining order, a hearing regarding whether to convert the temporary restraining order into a preliminary injunction “must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character.” *See* Fed. R. Civ. P. 65(b)(3).

Here, the Court’s temporary restraining order has expired. The Court issued its temporary restraining order on March 13, 2026, but it did not specify a date of expiration, therefore, by Rule it was set to expire on March 27, 2026. (*See* Order, ECF No. 5); Fed. R. Civ. P. 65(b)(2). Before that time, the Court did not extend the temporary restraining order or hold a hearing to convert its order into a preliminary injunction. Therefore, the Court’s temporary restraining order is no longer enforceable, and the Court should vacate its order to ensure that further litigation about the Court’s order does not ensue after petitioner’s lawful removal.

II. The Court Should Vacate its Order Enjoining Petitioner’s Removal

Federal district courts have no jurisdiction under the Habeas Act or the All Writs Act 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.” 8 U.S.C. § 1252(g); *Hamama v. Adducci*, 912 F.3d 869, 877 (6th Cir. 2018); *Muka v. Baker*, 559 F.3d 480, 483 (6th Cir. 2009).

Instead, the Board of Immigration Appeals and the U.S. Courts of Appeals have exclusive jurisdiction to hear challenges to a noncitizen's removal. 8 U.S.C. § 1252(a)(5); 8 C.F.R. §§ 241.6(b), (c), 1003.23(b)(v).

Here, the Court should vacate its stay of removal. This Court has no jurisdiction to hear any challenge to petitioner's removal. *See* 8 U.S.C. § 1252(g). The proper venue for petitioner's motion to stay his removal is the Board of Immigration Appeals and then a U.S. Court of Appeals. (*See* BIA Mot. to Stay, ECF No. 7-5, PageID.87); 8 U.S.C. § 1252(a)(5). And petitioner has recently pursued that avenue for relief. (*See id.*). Therefore, the Court should vacate its order staying petitioner's removal to allow the Board of Immigration Appeals to determine whether the merits of his motion to re-open his administrative immigration proceedings warrant a stay of removal in this case.

The Court should reject petitioner's argument that it has jurisdiction to stay his removal. First, petitioner cites no authority whatsoever indicating that a federal district court has jurisdiction to stay a noncitizen's removal. (*See* Resp., ECF No. 10, PageID.108–112). Indeed, the only authority he cites is *Elgharib v. Napolitano*, 600 F.3d 597 (6th Cir. 2010), however, *Elgharib* directly refutes his argument. In *Elgharib*, a noncitizen filed suit in federal district court and argued that his removal would violate his constitutional rights and sought a temporary restraining order preventing his removal. *See Elgharib*, 600 F.3d at 599. The district denied the

motion for temporary restraining order and dismissed his case because federal district courts lack jurisdiction to hear challenges to removal under § 1252(g). *See id.* On appeal, the Sixth Circuit affirmed and held that federal district courts lack jurisdiction to hear any challenges to removal under the plain language of § 1252(g). *See id.* at 600–07. Therefore, the only petitioner’s only authority dictates that the Court’s temporary restraining order exceeded its jurisdiction.

Second, petitioner’s argument improperly conflates the Court’s jurisdiction over detention claims with its jurisdiction over removal claims. Respondents do not dispute that district courts have jurisdiction to hear challenges to immigration detention. *See Hamama*, 912 F.3d at 877. Respondents only argue that petitioner’s detention-based claim in this case is meritless because he has not been detained for a long period of time and the only barrier to petitioner’s removal is this Court’s order. (*See Habeas Resp.*, ECF No. 7). But, just as the Sixth Circuit found in *Hamama*, even if a district court has jurisdiction over a noncitizen’s detention-based claim, it is error for a district court to exercise jurisdiction over a related removal-based claim. *See Hamama*, 912 F.3d at 874–77.

Third, petitioner argues that this Court must maintain its temporary restraining order because “the BIA indicated that they had no need to rule on the Motion to Stay Removal [in the BIA] because the TRO from this Court is already staying the removal.” (*Resp.*, ECF No. 10, PageID.108). Petitioner cites no evidence for this

assertion, and the Board of Immigration Appeals has not issued any order on petitioner's motion to stay or otherwise indicated that it will not rule on his motion to stay. Therefore, the Court should not credit this unsupported argument.

II. The Court Should Vacate its Order Enjoining Transfer

Petitioner concedes that ICE generally has discretion to determine where noncitizens are detained, but argues that the Court should enjoin his transfer, which will effectively enjoin his removal, because his order of removal is flawed and he is entitled to reopen his removal proceedings. (*See Resp.*, ECF No. 10, PageID.112–113). However, as noted above, the validity of his order of removal is within the exclusive jurisdiction of the Board of Immigration Appeals and the Sixth Circuit and there is absolutely no reason for the Court to question the Sixth Circuit's ability to discern whether or not petitioner's order of removal is proper, as the Sixth Circuit routinely reviews challenges to orders of removal and denials of motions to reopen. *See, e.g., Sanchez-Gonzalez v. Garland*, 4 F.4th 411, 413–14 (6th Cir. 2021). Therefore, the Court must reject the only argument petitioner offers on this point.

Conclusion

Respondents respectfully request that the Court vacate its order enjoining petitioner's removal and petitioner's transfer from his current detention facility.

Respectfully submitted,

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Date: May 6, 2026

Certificate of Service

I hereby certify that on May 6, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Zak Toomey

Zak Toomey

Assistant U.S. Attorney