United States District Court
Eastern District of Michigan

DARYNEL GERARDO MEDINA LOPEZ,

Petitioner,

v.

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

Respondents.

Civil No. 26-10784

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

Respondents' Response to Petitioner's Motion for Permanent Injunction

---

On May 15, 2026, the Court granted petitioner a writ of habeas corpus, ordered his release from custody, and invited petitioner to seek a permanent injunction preventing his removal. (Order, ECF No. 15, PageID.191). Petitioner accepted the Court's invitation, (Mot., ECF No. 19), but, for the reasons described in the attached brief, the Court should deny petitioner's motion because a permanent injunction prohibiting his removal is beyond the scope of this case, petitioner cannot demonstrate an irreparable injury absent an injunction, and petitioner has an adequate alternative remedy.

Respectfully submitted,

Jerome F. Gorgon Jr.
United States Attorney

/s/ Zak Toomey

Zak Toomey (MO61618)
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9617
zak.toomey@usdoj.gov

Dated: June 2, 2026

United States District Court
Eastern District of Michigan

DARYNEL GERARDO MEDINA LOPEZ,

Petitioner,

v.

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

Respondents.

Civil No. 26-10784

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

Respondents' Brief in Support of Their Response to Petitioner's Motion for Permanent Injunction

---

Issue Presented

Should the Court deny petitioner's request for a permanent injunction when the relief petitioner seeks is beyond the scope of this habeas case, he will not suffer a continuing irreparable injury absent an injunction, and there is an alternative adequate remedy for petitioner to challenge his order of removal?

Table of Contents

Table of Authorities

Cases

Statutes

Other Authorities

Rules

Regulations

Introduction

In 2018, petitioner's order of removal became administratively final and immigration officials detained him pursuant to that order in March 2026. Under controlling Supreme Court precedent, detention pursuant to an administratively final order of removal is statutorily and constitutionally proper for at least six months. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Despite this controlling case law, the Court concluded that petitioner's detention of approximately three months pursuant to his indisputably administratively final order of removal, *see Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), violated his constitutional rights because the Court believed that petitioner's administratively final order of removal was not "executable." (*See* Order, ECF No. 15). The Court further invited petitioner to seek a permanent injunction preventing his removal, (*see id.* at PageID.191), and petitioner promptly acted on the Court's encouragement, (*see* Mot., ECF No. 19). However, the Court must deny petitioner's motion because the petition in this case only challenged petitioner's detention, so a permanent injunction relating to his removal would be improper and because petitioner has not demonstrated that he would suffer irreparable harm without an injunction or shown that he lacks an adequate alternative remedy to challenge his removal.

Background

Petitioner Darynel Gerardo Medina Lopez is a noncitizen who was ordered removed by an immigration judge in 2017. (*See* Pet., ECF No. 1, PageID.2). Petitioner appealed that decision, but the Board of Immigration Appeals denied his appeal in 2018. (*See id.*).

In 2019, USCIS granted petitioner Special Immigrant Juvenile Classification. (SIJ Notice, ECF No. 4-2, PageID.44). Special Immigrant Juvenile (SIJ) classification is a form of relief for immigrants who are under twenty-one years old, unmarried, and placed under the custody of a person appointed by a juvenile court because "reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis . . . ." 8 U.S.C. § 1101(a)(27)(J). SIJ classification itself does not grant a noncitizen lawful status, it only creates a pathway for certain noncitizens to obtain lawful status. *See* 8 U.S.C. §§ 1255(a), (h). Indeed, the notice petitioner received from USCIS explicitly states that "it does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for extension, change, or adjustment of status." (SIJ Notice, ECF No. 4-2, PageID.44).

The priority date for petitioner's SIJ notice is May 2019. (SIJ Notice, ECF No. 4-2, PageID.44). Therefore, he has been eligible to apply for adjustment of status for at least several years. (*See* Visa Bulletin, ECF No. 4-3, PageID.49) (showing visas available for Employment Based, 4th preference class for priority dates before

July 2021). However, petitioner did not seek to adjust status until after he was arrested in March 2026, which was approximately 8 years after his order of removal had become administratively final. (*See* Hughley Decl., ECF No. 7-2, PageID.81).

There is no explicit evidence in the record indicating that USCIS granted petitioner deferred action pursuant to his SIJ status. For instance, USCIS did not indicate that it granted petitioner deferred action in its approval notice and it has done so explicitly when it granted deferred action in other cases. (*See Velasquez Rodas v. Raycraft*, 26-10675 (E.D. Mich.), ECF No. 1-2, PageID.33 (SIJ approval notice that explicitly grants deferred action). And petitioner never filed any other document indicating that USCIS granted him deferred action or any document describing the term of his deferred action. The only document petitioner filed that could reflect deferred action is his employment authorization card, which indicates it was issued under category C14 because USCIS can use that category to authorize employment for individuals who have received deferred action. (*See* Employment Auth., ECF No. 11-1, PageID.129); 8 C.F.R. § 274a.12(c)(14). However, his employment authorization and, therefore, his deferred action, expired on May 13, 2026. (*See* Employment Auth., ECF No. 11-1, PageID.129). Further, under the plain terms of the regulation governing deferred action under C14, it does not prevent ICE from pursuing a noncitizen's removal, it only makes the recipient's removal a "lower priority." *See* 8 C.F.R. § 274a.12(c)(14).[1] Ultimately, petitioner's counsel conceded at a hearing on petitioner's habeas petition that, if petitioner had been granted deferred action, it would have expired on the same day as his employment authorization. Therefore, there is no evidence in the record in this case indicating that petitioner was entitled to deferred action when the Court issued its order or that he is entitled to deferred action now.

In March 2026, local law enforcement officials encountered petitioner at a traffic stop and contacted immigration officials who took petitioner into custody at that time. (*See* Hughley Decl., ECF No. 7-2, PageID.81).

Immediately after petitioner's arrest, he filed a motion to re-open his immigration proceedings with the Board of Immigration Appeals. (*See* Pet., ECF No. 1, PageID.2). Petitioner's motion to re-open does not affect the finality of his

---

[1] In the Court's recent order, it erroneously conflated deferred action under 8 C.F.R. § 274a.12(c)(14) with other kinds of deferred action, such as DACA, or humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), which are governed by different statutes, regulations, and policy memoranda and which grant beneficiaries different privileges. (*See* Order, ECF No. 15, PageID.162 (relying on cases interpreting DACA)). But, to be clear, there is not even an allegation in this case that petitioner had any kind of deferred action other than that prescribed in 8 C.F.R. § 274a.12(c)(14) and, by its own terms, that kind of deferred action is limited only to lowering the priority of a noncitizen's removal; it does not explicitly or implicitly guarantee that a noncitizen will not be removed during the period of deferred action, *see* 8 C.F.R. § 274a.12(c)(14), which is significantly different than the scope of deferred action under DACA, for instance. *See Enriquez-Perdomo v. Newman*, 54 F.4th 855, 858 (6th Cir. 2022) (explaining that a grant of DACA results in a "two-year deferral of removal" and eligibility for public benefits, not simply a diminishment of enforcement priority.).

order of removal or stay his removal. (*See* Hughley Decl., ECF No. 7-2, PageID.81); 8 C.F.R. § 1003.23(b)(1)(v). The Board of Immigration Appeals has jurisdiction to stay a noncitizen's removal while it considers a motion to re-open. *See* 8 C.F.R. §§ 241.6(b), (c), 1003.23(b)(1)(v). However, petitioner did not move to stay his removal in the Board of Immigration Appeals when he filed his motion to re-open. (*See* Hughley Decl., ECF No. 7-2, PageID.81).

On March 9, 2026, petitioner sought a writ of habeas corpus in federal court. (*See* Pet., ECF No. 1). The grounds for the petition were that petitioner's detention violated his Fifth Amendment due process rights under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), which only applies when ICE takes too long to remove a noncitizen subject to a final order of removal. (*See* Pet., ECF No. 1, PageID.14). Further, in his petition, petitioner indicated that he would file a motion to stay his removal in the BIA, but acknowledged that, because his order of removal had not yet been stayed, "ICE may execute that order at any time." (*See id.* at PageID.2).

On March 12, 2026, ICE transferred petitioner to a detention facility in Texas to facilitate his removal from the United States. (*See* Hughley Decl., ECF No. 7-2, PageID.81). On March 13, 2026, petitioner filed an emergency motion to stay his removal in this Court. (*See* Mot. for TRO, ECF No. 4, PageID.23). The Court granted the motion the same day and ordered ICE to immediately return petitioner to Michigan. (*See* Order, ECF No. 5; Order, ECF No. 6). ICE returned petitioner to

Michigan on March 15, 2026. (*See* Order, ECF No. 6).

On March 20, 2026, petitioner filed an emergency motion to stay his removal in the Board of Immigration Appeals. (*See* BIA Mot. to Stay, ECF No. 7-5, PageID.87). The Board has not yet ruled on that motion or on petitioner's motion to re-open, therefore, his order remains administratively final under clear and controlling Supreme Court case law. *See Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

On May 15, 2026, the Court found that petitioner's detention violated his due process rights and granted petitioner a writ of habeas corpus. (Order, ECF No. 17). In its order, the Court found that the duration of petitioner's detention violated his constitutional rights under *Zadvydas*, even though petitioner had been detained for only three months, because petitioner's removal was not likely in the reasonably foreseeable future. (*See id.* at PageID.185–190). In particular, the Court found that petitioner was protected from removal by his SIJ classification, which explicitly did not grant petitioner any lawful status, and his grant of deferred action, which had expired before the Court issued its order. (*See id.*). The Court also invited petitioner to seek a permanent injunction that would prevent his future removal, even though petitioner never challenged the lawfulness of his removal in his petition. (*See id.* at PageID.191; Pet., ECF No. 1).

On May 22, 2026, petitioner moved for a permanent injunction seeking to prevent petitioner's future removal from the United States. (Mot., ECF No. 19).

Argument

A party may obtain a permanent injunction after a final decision on the merits that a party's constitutional rights have been violated "upon showing 1) a continuing irreparable injury if the court fails to issue the injunction, and 2) the lack of an adequate remedy at law." *Kallstrom v. City of Columbus*, 136 F.3d 1055, 1067 (6th Cir. 1998); *see also Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 506–07 (1959) ("The basis of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies."). For the reasons explained below, the Court should deny petitioner's request for a permanent injunction because an injunction preventing his removal is beyond the scope of this habeas case, petitioner has not submitted any evidence supporting his claim that he will suffer an irreparable injury absent an injunction, and he has an alternative adequate remedy.

I. An Injunction Preventing Petitioner's Removal is Beyond the Scope of This Case

A court may only issue a permanent injunction after a final decision on the merits. *See Kallstrom*, 136 F.3d at 1067 ("Where the plaintiff establishes a constitutional violation after a trial on the merits . . ."). A party "must" include all claims for relief in their initial or amended pleadings. Fed. R. Civ. P. 8(a). A party cannot obtain a final decision on the merits of a claim if it is not raised in their pleadings. Fed. R. Civ. P. 54.

In this habeas suit, petitioner alleged that the duration of his detention violated his constitutional rights. (*See* Pet., ECF No. 1). Petitioner did not challenge the validity of his order of removal or claim that his removal would violate his constitutional rights. (*See id.*). Therefore, the merits of this case are limited to the constitutionality of his detention, as described in his petition. (*See id.*). And the Court could not have reached any final decision on the merits regarding the constitutionality of his removal because petitioner never raised that claim in his petition. (*See id.*). Accordingly, the Court cannot issue a permanent injunction preventing petitioner's removal because petitioner did not challenge his removal in his petition. *See Thomas v. Bryant*, 614 F.3d 1288, 1317 (11th Cir. 2010) ("To obtain a permanent injunction, a party must show: (1) that he has prevailed in establishing the violation of the right asserted *in his complaint* . . . .") (emphasis added).

The fact that petitioner sought a temporary restraining order to prevent his removal during these proceedings does not change this conclusion. The purpose of petitioner's motion to stay his removal was not to challenge the validity or constitutionality of his order of removal, but instead to preserve the Court's jurisdiction over his challenge to his detention. (*See* Mot., ECF No. 4, PageID.36–37). And, in any event, a motion is not a pleading. *See* Fed. R. Civ. P. 7(a). Therefore, even if petitioner challenged the constitutionality of his order of removal in his motion and the Court granted that preliminary motion, it would not constitute a final decision on the merits of that issue and could not support a permanent injunction, which requires a final decision on the merits. *See* Fed. R. Civ. P. 54; *Kallstrom*, 136 F.3d at 1067.

II. Petitioner Will Not Face Irreparable Injury Absent and Injunction

"In order to obtain either a preliminary or permanent injunction, plaintiffs must demonstrate that failure to issue the injunction is likely to result in irreparable harm." *Kallstrom*, 136 F.3d at 1068. In order to demonstrate irreparable injury, a party must submit admissible evidence, such as affidavits or declarations, or identify evidence in the record supporting their claim. *See, e.g.*, Fed. R. Civ. P. 65; *Libertarian Party of Ohio v. Husted*, 751 F.3d 403, 417 (6th Cir. 2014) (affirming denial of preliminary injunction because of "scant" evidence submitted of injury).

The Court should reject petitioner's argument that his removal would constitute irreparable injury because it has been rejected by the Supreme Court. Petitioner argues that a removal would prejudice him by preventing him from challenging his administratively final order of removal. (*See* Mot., ECF No. 19, PageID.251). However, under controlling Supreme Court precedent, a removal does not establish irreparable injury sufficient to warrant injunctive relief. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) ("It is accordingly plain that the burden of removal alone cannot constitute the requisite irreparable injury."). That is because noncitizens "who are removed may continue to pursue their petitions for review, and those who prevail can be afforded effective relief by facilitation of their return, along with restoration of the immigration status they had upon removal." *Id.* Further, petitioner's authority does not support his argument. For instance, petitioner cites *Nken*, but *Nken* refutes his argument. Petitioner also cites *Pinho v. Gonzales*, 432 F.3d 193 (3d Cir. 2005), but that case did not involve a claim that a removal would constitute an irreparable injury. *See id.* at 203. In addition, petitioner cites *Nat'l TPS All. v. Noem*, 150 F.4th 1000 (9th Cir. 2025), but that case involved harms beyond removal alone that are not present here and have not even been alleged. *See id.* at 1025 ("these harms go beyond the removal of individuals from the United States . . ."). Finally, petitioner has attached no evidence to his motion or cited to any in the record supporting his argument that his removal will cause him irreparable injury beyond that described in *Nken*, (likely because he never challenged his removal on the merits), so he has failed to demonstrate that he is entitled to a permanent injunction preventing his removal.

III. Petitioner Has an Alternative Adequate Remedy to Challenge His Removal

"It is axiomatic that the strong arm of equity should not interpose the extraordinary remedy of injunction where there is available a plain and adequate statutory remedy." *Panhandle E. Pipe Line Co. v. Michigan Consol. Gas Co.*, 177 F.2d 942, 945 (6th Cir. 1949). "An 'adequate remedy at law' is a remedy that is plain and complete and as practical and efficient to the ends of justice as the remedy in equity by injunction." *USACO Coal Co. v. Carbomin Energy, Inc.*, 689 F.2d 94, 99 (6th Cir. 1982).

Here, petitioner has two alternative adequate remedies to a permanent injunction. First, petitioner can challenge his order of removal administratively by moving to re-open his removal proceedings in the Board of Immigration Appeals. 8 C.F.R. § 1003.23. While a motion to re-open does not automatically stay a noncitizen's removal, a noncitizen may move to stay his removal while his motion to re-open is pending. 8 C.F.R. §§ 241.6(b), (c), 1003.23(b)(1)(v); *see also Matter of Boulama*, 2023 WL 9658707, at *1 n.1 (BIA Aug. 2, 2023) (noting that BIA had granted stay of removal for consideration of motion to re-open); *Matter of Mcdonald*, 2023 WL 7014309, at *1 (BIA Feb. 7, 2023) (BIA granting motion to stay removal). This administrative process for challenging his order of removal and seeking to stay his removal (which petitioner has, in fact, already pursued) is an adequate alternative remedy to a permanent injunction that defeats his motion. *See Smith v. Duldner*, 175 F.2d 629, 630, 56 Ohio Law Abs. 12 (6th Cir. 1949) ("where an administrative remedy is provided by statute, it is such an adequate legal remedy as bars injunctive relief.").

Second, petitioner can challenge his removal in the Sixth Circuit. With the REAL ID Act of 2005, Congress granted the U.S. Courts of Appeals exclusive jurisdiction to hear motions to stay removals in federal court. *See* REAL ID Act of

2005, H.R. 1268, 109th Cong. (2005) (enacted), Pub. L. No. 109-13, Div. B., 119 Stat. 231, 8 U.S.C. § 1252(a)(5). In particular, the Act establishes that "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." 8 U.S.C. § 1252(a)(5) (emphasis added). Consistent with this duty, the courts of appeals have developed special procedures for hearing motions to stay removals in immigration cases on an expedited basis. *See* 6th Cir. R. 18(b). And each court of appeals considers emergency motions to stay removal several times per month, at a minimum. *See, e.g., Perez-Perez v. Bondi*, No. 25-3146 (6th Cir.), ECF No. 14 (granting emergency stay of removal); *Alanis v. Bondi*, No. 25-3872 (6th Cir.), ECF No. 7 (granting temporary stay of removal so court could consider emergency stay of removal); *Arateco-Munoz v. Bondi*, No. 25-3721 (6th Cir.), ECF No. 8 (same); *Garcia v. Bondi*, No. 25-3666 (6th Cir.), ECF No. 12) (same). Accordingly, petitioner cannot credibly argue that the Sixth Circuit is incapable of appropriately exercising its jurisdiction to hear any challenges to his removal, so the Court must reject his motion for a permanent injunction.

Conclusion

Respondents respectfully request that the Court deny petitioner's motion for a permanent injunction.

Respectfully submitted,

Jerome F. Gorgon Jr.
United States Attorney

/s/ Zak Toomey
Zak Toomey (MO61618)
Assistant U.S. Attorney
211 W. Fort Street, Ste. 2001
Detroit, Michigan 48226
(313) 226-9617
zak.toomey@usdoj.gov

Date: June 2, 2026

Certificate of Service

I hereby certify that on June 2, 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