

1 Chief District Judge David G. Estudillo
2 Magistrate Judge Grady J. Leupold
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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 TAREQ ZIAD FOUAD ZAKARNEH,
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11 v. Petitioner,
12 UNITED STATES IMMIGRATION AND
13 CUSTOMS ENFORCEMENT, *et al.*,
14 Respondents.

Case No. 2:25-cv-00707-DGE-GJL

FEDERAL RESPONDENT'S RESPONSE
TO PETITIONER'S MOTION BLOCK
DEPORTATION

Noted for Consideration:
September 19, 2025

15 I. INTRODUCTION

16 Pursuant to this Court's Order (Dkt. No. 43), Federal Respondent submits this response to
17 Petitioner Tareq Ziad Fouad Zakarneh's motion to block his deportation. Dkt. No. 32 ("Mot."
18 Or "Motion"). Petitioner alleges that U.S. Immigration and Customs Enforcement ("ICE") has
19 tried and continues to try to remove Petitioner to Israel. Mot., at 1. This is incorrect. The
20 immigration court has ordered Petitioner to be removed from the United States to the Palestinian
21 Occupied Territories. Dkt. No. 20, Motion to Dismiss, at 5. ICE will remove Petitioner to the
22 West Bank, Occupied Palestinian Territories, when a removal flight becomes available. Dkt No.
23 46, Supplemental Declaration of Daniel Strzelczyk, ¶ 3. While Petitioner's removal may require
24 him to pass through Israel, ICE is not attempting to remove him to Israel. *Id.*, ¶ 3; *see also* Dkt.

1 No. 21, Rodriguez Decl., ¶¶ 30, 33. Petitioner's request to stay his removal is an improper
 2 challenge to his removal order. *See* 8 U.S.C. § 1251(a)(5) (jurisdiction channeling provision); 8
 3 U.S.C. § 1252(g). This Court has no cause to stay Petitioner's removal and should deny this
 4 Motion.

5 II. ARGUMENT

6 This Court should not stay Petitioner's removal to the Palestinian Occupied Territories.

7 First, Petitioner is subject to a final order of removal. An Immigration Judge ordered him
 8 removed. Dkt. No. 20, Motion to Dismiss, at 5. The Board of Immigration Appeals ("BIA")
 9 thereafter dismissed Petitioner's administrative appeal of the removal order. *Id.* The Ninth
 10 Circuit denied his subsequent Petition for Review, and his removal order became final on April
 11 28, 2025. *Id.*, at 6. Finally, Petitioner claims that he "has an asylum application with a motion to
 12 reopen at the [BIA]." Motion, at 1-2. But the BIA recently denied Petitioner's motion to reopen,
 13 and his removal order remains final. Strzelczyk Decl., ¶ 7.

14 Second, Petitioner's reference to the "Deferred Enforcement Departure executive order"
 15 for Palestinians is not relevant here. As a preliminary matter, Petitioner has not demonstrated
 16 that he met the eligibility requirements for deferred enforced departure. *See Implementation of*
 17 *Employment Authorization for Individuals Covered by Deferred Enforced Departure for Certain*
 18 *Palestinians*, 89 Fed. Reg. 26167, 26168 (Apr. 15, 2024) (describing eligibility requirements).
 19 But even if he had qualified, which Federal Respondent does not concede here, this program
 20 ended on August 13, 2025. *See* U.S. Citizenship and Immigration Service, *USCIS Announces*
 21 *Employment Authorization Procedures for Palestinians Covered by Deferred Enforced*
 22 *Departure*, available at <https://www.uscis.gov/newsroom/news-releases/uscis-announces-employment-authorization-procedures-for-palestinians-covered-by-deferred-enforced> (last
 23

1 visited September 9, 2025) (explaining that deferral of removal of certain Palestinians ends on
 2 August 13, 2025).

3 Finally, and fatal to Petitioner's request here, this Court lacks jurisdiction to stay
 4 Petitioner's removal order. In the exercise of its constitutional power to define federal court
 5 jurisdiction, in 1996, Congress enacted the Illegal Immigration Reform and Immigrant
 6 Responsibility Act ("IIRIRA"), which repealed the existing scheme for judicial review of final
 7 orders of deportation, and replaced it with a more restrictive scheme. *See Reno v. American-*
 8 *Arab Anti-Discrimination Committee ("AADC")*, 525 U.S. 471, 474 (1999). Among the IIRIRA
 9 amendments to the Immigration and Nationality Act ("INA"), Congress provided in the
 10 newly-enacted section 1252(g) that reads as follows:

11 Except as provided in this section and notwithstanding any other provision of law,
 12 no court shall have jurisdiction to hear any cause or claim by or on behalf of any
 13 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 Act.

14 8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended section 1252(g) to
 15 clarify that the statute's proscription against jurisdiction does in fact apply to habeas actions,
 16 such as the one Petitioner now brings before this Court. *See* REAL ID Act of 2005, Pub. L. No.
 17 109-13, 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID
 18 Act, section 1252(g), now provides that:

19 Except as provided in this section and notwithstanding any other provision of law,
 20 (*statutory or nonstatutory*), *including section 2241 of Title 28, or any other*
habeas corpus provision, and sections 1361 and 1651 of such title, no court shall
 21 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.

23 8 U.S.C. § 1252(g) (2017) (emphasis added).

1 In addition to the bar to jurisdiction at section 1252(g), the IIRIRA and REAL ID Act
 2 amendments to the INA also reflect Congress's desire to "streamline immigration proceedings"
 3 and to "effectively limit all aliens to one bite of the apple with regard to challenging an order of
 4 removal." *Singh v. Gonzales*, 499 F.3d 969, 976-77 (9th Cir. 2007) (quoting *Bonhommetre v.*
 5 *Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005)). Under these amendments, individuals who seek to
 6 challenge an order of removal may do so, but only as part of a petition for review in the
 7 appropriate court of appeals, as provided under section 1252. In particular, section 1252(b)(9)
 8 provides that:

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

16 other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review

17 filed with an appropriate court of appeals in accordance with this section shall be the sole and

18 exclusive means for judicial review of an order of removal . . ."). Thus, any challenge to the

19 removal order is not properly before this Court.

20 In *AADC*, the Supreme Court held that 1252(g) precludes judicial review of three discrete

21 actions that DHS may take: the "'decision or action' to 'commence proceedings, adjudicate

22 cases, or execute removal orders.'" 525 U.S. at 482 (original emphasis). It is indisputable that

23 Petitioner is subject to a final order of removal. Petitioner's request to stay his removal directly

24 arises from ICE's decision to execute his removal order. Thus, Section 1252(g) applies to the

1 request to stay his removal, and this Court is precluded from exercising its jurisdiction over his
2 request. *See Mora Flores v. Garland*, No. C24-1692-RSM, 2024 WL 4520052, at *2 (W.D.
3 Wash. Oct. 17, 2024) (finding that the court lacked jurisdiction to issue a TRO to prevent a
4 deportation hearing based on a pending motion to reopen).

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

6 **III. CONCLUSION**

7 For the foregoing reasons, Federal Respondent requests that this Court deny Petitioner's
8 motion to block his deportation.

9 DATED this 10th day of September, 2025.

10 Respectfully submitted,

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24 *I certify that this memorandum contains
1,192 words, in compliance with the Local
Civil Rules.*

CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee in the Office of the United States Attorney for the
3 Western District of Washington and of such age and discretion as to be competent to serve
4 papers.

5 I further certify on this date, I electronically filed the foregoing with the Clerk of the
6 Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF
7 participant(s):

8 - 0 -

9 I further certify on this date, I arranged for service of the foregoing on the following non-
10 CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as
11 follows:

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A# [REDACTED]
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DATED this 10th day of September, 2025.

s/ Stephanie Huerta-Ramirez

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