

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

PATRICK STARZENSKI
A 

PETITIONER

v.

CIVIL ACTION NO. 5:25-cv-00063-DCB-BWR

WARDEN A.W. LEE

RESPONDENT

RESPONSE IN OPPOSITION TO MOTION TO STOP REMOVAL

Respondent Warden A.W. Lee, by and through the United States Attorney for the Southern District of Mississippi, and the undersigned Assistant United States Attorney, submits this response in opposition to Petitioner Patrick Starzenski's Motion to Stop Removal. *See* Dkt. No. 8.

I. INTRODUCTION

On August 4, 2025, Petitioner Patrick Starzenski, who is currently within the institutional custody of Immigration and Customs Enforcement ("ICE"), filed a Motion to Stop Removal, requesting the Court to enjoin the removal proceedings against him. *See* Dkt. No. 8. As a Visa Waiver Program ("VWP") entrant, however, Starzenski waived his right to assert any non-asylum objection to his removal. Further, the REAL ID Act divested district courts of jurisdiction over removal orders and made courts of appeals

the exclusive means of judicial review. Thus, Starzenski's Motion to Stop Removal [8] should be denied.

II. BACKGROUND¹

Petitioner Starzenski, a native and citizen of Poland, was admitted to the United States on July 5, 2024, through the VWP with authorization to remain in the United States until October 1, 2024. *See* Dkt. No. 1, at 3. Shortly thereafter, on July 16, 2024, Starzenski filed for asylum, and was issued a Notice of Action, Form I-797C, acknowledging receipt of the asylum application. *See* Dkt. No. 22-1.

Starzenski remained in the United States beyond his authorized stay, and on April 24, 2025, was taken into ICE custody and issued a Notice of Intent to Issue a Final Administrative Removal Order for remaining in the United States for longer than permitted. *See* Dkt. No. 1, at 3. A Final Administrative Removal Order was also entered, removing Starzenski to Poland. *See id.* at 5.

On October 17, 2025, the immigration judge entered an Order denying Starzenski's requests for asylum, withholding of removal under Immigration and Nationality Act § 241(b)(3), withholding of removal under the Convention Against Torture, deferral of removal under the Convention Against Torture. *See* Dkt. No. 25-1, *Immigration Judge*

¹ Respondent incorporates herein the Background section of his Response to Starzenski's section 2241 petition. *See* Dkt. No. 25.

Order. Starzenski did not appeal. *See id.* at 1 (indicating Starzenski had 30 days to appeal the decision to the Board of Immigration Appeals (“BIA”).

III. DISCUSSION

Starzenski requests the Court to “stop removal procedures issued against [him].” Dkt. No. 8, at 1. The Court lacks jurisdiction to grant this request.

When Starzenski entered the United States as a nonimmigrant under the VWP on July 5, 2024, “he waived his rights to anything but an application for asylum.” *Novak v. Dep’t of Homeland Sec.*, No. CV-18-01330-PHX-RCC (BGM), 2019 WL 4372347, at *5 (D. Ariz. Aug. 9, 2019); *see also Nose v. Att’y Gen. of U.S.*, 993 F.2d 75, 80 (5th Cir. 1993) (indicating that § 1187(b) unambiguously states that a VWPP-alien may only apply for asylum relief as a means of contesting deportation); *Kim v. Obama*, No. EP-12-CV-173-PRM, 2012 WL 10862140, at *2 (W.D. Tex. July 10, 2012) (finding petitioner ineligible for a bond redetermination because he “entered the United States under the VWP” and “waived all statutory rights to contest his deportation, except on the basis of asylum”). As immigration judges have exclusive jurisdiction over asylum applications, *see* 8 C.F.R. § 1208.2(c)(1)(iv), and Starzenski’s asylum proceedings have already concluded, this Court does not have jurisdiction to grant Starzenski any additional relief. *See Vargas v. U.S. Dep’t of Homeland Sec.*, No. 1:17-cv-00356, 2017 WL 962420, at *2 (W.D. La. Mar. 10, 2017) (“[T]his Court does not have jurisdiction to consider Vargas’s challenge to her removal order concerning her admission pursuant to the Visa Waiver Program.”).

Additionally, “[t]he passage of the REAL ID Act divested district courts of jurisdiction over removal orders.” *Moreira v. Mukasey*, 509 F.3d 709, 712 (5th Cir. 2007). Under the Act, “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 entered or issued under any provision of this Act....” 8 U.S.C. § 1252(a)(5). “[T]he terms ‘judicial review’ and ‘jurisdiction to review’ include habeas corpus review pursuant to section 2241 of Title 28, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).” *Id.* “Thus, the Act strips the district courts of jurisdiction to review general removal orders, via a petition for habeas corpus, leaving review of such orders to the courts of appeals.” *Benitez-Garay v. Dep’t of Homeland Sec.*, No. SA-18-CA-422-XR, 2019 WL 542035, at *3 (W.D. Tex. Feb. 8, 2019)

Here, Starzenski unquestionably seeks to challenge his removal order. This Court lacks jurisdiction over such a challenge. *See Western v. Gillis*, No. 5:20-cv-221-KS-MTP, 2021 WL 3828738, at *2 (S.D. Miss. July 30, 2021); *see also Idokogi v. Ashcroft*, No. 02-CV-205, 2003 WL 21018263, at *1 (5th Cir. 2003) (“The district court therefore correctly determined that it lacked jurisdiction to stay the order of removal.”); *Fabuluje v. Immigration & Naturalization Agency*, No. 00-10796, 2000 WL 1901410, at *2 (5th Cir. Dec. 5, 2000) (“[T]he district court correctly determined that it was without jurisdiction to consider Fabuluje's request for a stay of the removal proceedings.”); *Singh v. Att’y Gen.*,

No. 5:14-cv-41-DCB-MTP, 2014 WL 2805091, at *3 (S.D. Miss. June 20, 2014) (finding the REAL ID Act precluded the court from considering the petitioner's claims challenging his removal order). Accordingly, Starzenski's Motion to Stop Removal [8] should be denied.

IV. CONCLUSION

Because the Court lacks jurisdiction to stay Starzenski's removal, Respondent respectfully requests that the Court deny Starzenski's Motion to Stop Removal Process. See Dkt. No. 8.

Respectfully submitted,


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Dated: December 1, 2025

CERTIFICATE OF SERVICE

I, Jessica Bourne Williams, Assistant U.S. Attorney, hereby certify that, on this day, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I further certify that, on this day, I caused a true copy of the foregoing document to be mailed *via* United States Postal Service, postage prepaid, to the *pro se* petitioner at the following address:

Pro Se Petitioner
Patrick Starzenski

Adams County Correctional Center
20 Hobo Folk Road
Natchez, MS 39120

December 1, 2025

/s/ Jessica Bourne Williams
JESSICA BOURNE WILLIAMS
Assistant United States Attorney