

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Samuel Cabrera-Perez,

Petitioner-Plaintiff,

v.

ATTORNEY GENERAL PAM BONDI,  
ET AL.

Respondent-Defendants.)

) CASE NO. 4:25-cv-1348  
)

) JUDGE BENITA Y. PEARSON  
)

) **FEDERAL DEFENDANTS' RETURN**  
) **OF WRIT AND MOTION TO**  
) **DISMISS FOR LACK OF**  
) **JURISDICTION**

### INTRODUCTION

In response to the Court's July 3, 2025 Order, Pamela Bondi, Attorney General of The United States; Kristi Noem, Secretary of the U.S. Department of Homeland Security; Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement; and Robert Lynch, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement (collectively, "federal defendants") request this Court to deny the relief requested in Petitioner Samuel Cabrera-Perez's Petition and dismiss the action for lack of subject matter jurisdiction. On July 4, 2025, and pursuant to notice provided to him on June 25, 2025, Cabrera-Perez was removed to Mexico and released from federal custody. His Petition, exclusively containing claims challenging his detention, is therefore moot. To the extent his Petition challenges his removal or execution of his removal from the United States, this Court lacks subject-matter jurisdiction over those claims.

### BACKGROUND

Petitioner Samuel Cabrera-Perez brings this action as a petition for habeas corpus under 28 U.S.C. § 2241. (Petition ¶ 1, 18, ECF No. 1, PageID # 2, 5.) Cabrera-Perez, a Guatemalan national, was not lawfully admitted or paroled into the United States of America at any relevant point in time. (Petition ¶ 16, ECF No. 1, PageID # 5; *see also* Declaration of Israel Grimm ("Grimm Decl.") ¶ 4, Attached as Exhibit A.) At the time this Petition was filed, Cabrera-Perez was detained at the Northeast Ohio Correctional Center and aware that he would be deported to Mexico. (Pet. ¶ 9, ECF No. 1, PageID # 4; *see* Grimm Decl. ¶ 11.)

On March 14, 2024, Cabrera-Perez plead guilty to criminal charges for identity fraud under Ohio Revised Code 2913.49(B)(1). (Pet. ¶ 1, PageID # 2.) It appears from the docket that Cabrera-Perez was represented by defense counsel at the time. (Ex. C to Pet., Doc. 1-5, PageID 39-46.) On April 15, 2024, the Mercer County Court of Common Plea convicted him of those

three counts of identity fraud and sentenced him to “one hundred and eighty (180) days in the Mercer County Adult Detention Facility, Celina, Ohio” with credit for time served. (Grimm Decl. ¶ 3.)

Also on April 15, 2024, Cabrera-Perez was issued a Form I-862, Notice to Appear (NTA), charging him with being subject to removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i)<sup>1</sup> for being in the United States without being admitted or paroled. (Grimm Decl. ¶ 4.) Immigration and Customs Enforcement (“ICE”) officers served him the following day and detained him pending a final administrative determination in removal proceedings pursuant to 8 U.S.C. § 1226. (Grimm Decl. ¶ 5.) An immigration judge denied Cabrera-Perez’s request for release and determined that he was not eligible for bond. (Grimm Decl. ¶ 6.) Throughout his removal proceedings, Cabrera-Perez sought various forms of relief from removal, including a Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, and a Form I-589, an Application for Asylum and for Withholding of Removal in removal proceedings. (Grimm Decl. ¶ 7,8.) These efforts were largely unsuccessful: an immigration judge issued an order denying Cabrera-Perez’s Form EOIR-42B on October 30, 2024. (Grimm Decl. ¶¶ 7,8.)

While removal proceedings were ongoing, on June 28, 2024, Cabrera-Perez moved to withdraw his guilty plea as to the Mercer County criminal conviction. (Mercer County Docket,

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<sup>1</sup> 8 U.S.C. § 1182(a)(6)(A)(i) states:

Except as otherwise provided in this chapter, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States: [...]

(6)(a)(i) An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

Ex. C to Pet., ECF No. 1-5, PageID # 45; Pet. ¶¶ 9, 17, ECF No. 1, PageID # 4-5.) On December 20, 2024, he filed, again through counsel, supplemental briefing in support of the motion to withdraw his plea. On May 27, 2025, he filed a reply in support of the motion. (*Id.*, PageID # 46.) The Mercer County Court of Common Pleas held numerous attorney conferences in the intervening months from when Cabrera-Perez initially sought to vacate his motion and when it was finally set for hearing. (*Id.*, PageID # 44-46.) This included multiple conferences following his final order of removal from the immigration court. (*Id.*)

An immigration judge issued an order denying his application for asylum on April 14, 2025. (Grimm Decl. ¶ 9.) Also, on April 14, 2025, the immigration judge issued a final order of removal to Guatemala and granted Cabrera-Perez withholding of removal to Guatemala. (Grimm Decl. ¶ 9; Pet. ¶¶ 15, 19, ECF No. 1, PageID # 5-6.) This meant that while Cabrera-Perez could not be removed to Guatemala, ICE remained able to remove him to another country. (Pet. ¶ 21, ECF No. 1, PageID # 6; *see* 8 C.F.R. § 1208.16(f).)

Cabrera-Perez remained in ICE custody during the 90-day period following when the order of removal became administratively final on April 14, 2025, while ICE attempted to make arrangements for his removal to a country other than Guatemala, in accordance with 8 U.S.C. § 1231. (Grimm Decl. ¶ 10.)

On June 6, 2025, more than a month after Cabrera-Perez's removal order became final, the Mercer County court set a hearing for July 22, 2025, on Cabrera-Perez's motion to withdraw his guilty plea. (Mercer County Docket, Ex. C to Pet., ECF No. 1-5, PageID # 46; Pet. ¶ 9, ECF No. 1, PageID # 4.) On June 27, 2025, the Mercer County court denied his motion to expedite the July 22, 2025 hearing. (Judgment Entry, Exhibit D to Pet., ECF No. 1-6, PageID # 48.) The judgment entry ordered the Mercer County Sheriff to take possession of Cabrera-Perez and

convey him to Mercer County for appearance before the court on July 22, 2025. (*Id.*) No writ or other process has been implemented to put this order into effect.

On June 25, 2025, Cabrera-Perez received written notification of ICE's intent to remove him to Mexico. (Grimm Decl. ¶ 11.) He alleges that on June 27, 2025, his counsel physically delivered an administrative Application for a Stay of Deportation or Removal to ICE in Cleveland.<sup>2</sup> (Notice ¶ 8, ECF No. 4, PageID # 55.) Fewer than 90 days after his removal order became administratively final, on July 4, 2025, and pursuant to the written notice delivered to on June 25, 2025, Cabrera-Perez was removed to Mexico. (Grimm Decl. ¶ 12.)

Cabrera-Perez filed this instant Petition on June 27, 2025, alleging that his detention following a final order of removal is impermissible because his removal was not reasonably foreseeable. He named as respondents Douglas Fender, Warden of Northeast Ohio Correctional Center; Pamela Bondi, Attorney General of The United States; Kristi Noem, Secretary of the U.S. Department of Homeland Security; Todd Lyons, Acting Direct of U.S. Immigration and Customs Enforcement; and Robert Lynch, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement. He raises three claims for relief under 28 U.S.C. § 2241: (1) that his continued post-removal order detention has become unreasonable because his removal was not reasonable foreseeable; (2) that his continued detention is arbitrary and capricious under 5 U.S.C. § 706(2)(A) because ICE allegedly violated its own policies regarding post-removal order detention review; and (3) that by failing to conduct a detention review, the federal defendants deprived Cabrera-Perez of his due process rights. (Pet. ¶¶ 52-61, ECF No. 1,

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<sup>2</sup> It is unclear whom counsel delivered the administrative stay application to, or what form the application took. Undersigned counsel is aware that Cabrera-Perez's attorney emailed an ICE detention officer an electronic filing confirmation from filing this Petition, together with a copy of the Mercer County order to the Mercer County sheriff and setting the July 22, 2025 hearing. That email did not contain the Petition itself nor an application for a stay of removal.

PageID # 17-18.) In short, he challenges the duration and fact of his detention following a final removal order. Cabrera-Perez seeks release from detention, declaratory and injunctive relief in the form of barring continued detention, and attorneys' fees. (*Id.*, PageID # 18.)

This Court ordered Respondent-Defendants to respond to the Petition and Complaint by July 7, 2025 at 12:00 p.m. (ECF No. 5, PageID # 56-57.) Cabrera-Perez has not served any federal defendant with a copy of the Petition or any other process.

### **LAW AND ARGUMENT**

Cabrera-Perez's petition and complaint ultimately seek relief in the form of release from detention. Because he has been removed from the United States and has received the relief he seeks, i.e., release from detention, this Court lacks jurisdiction. The complaint does not contain claims challenging his removal; however, under 8 U.S.C. § 1252, the Court would lack jurisdiction over those claims as well. For these reasons, this Court should deny the Petition as moot and dismiss this action for lack of subject-matter jurisdiction.

#### **I. STANDARD OF REVIEW**

Federal courts are courts with limited jurisdiction and may only hear cases that are "authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). If at any time, the court determines that it lacks subject-matter jurisdiction, that court must dismiss the action in front of them. *Mich. Emp't Sec. Comm'n v. Wolverine Radio Co.*, 930 F.2d 1132 (6th Cir. 1991).

A motion under Fed. R. Civ. P. 12(b)(1) can raise facial or factual attacks. *W6 Rest. Grp., Ltd v. Loeffler*, 140 F.4th 344, 349 (6th Cir. 2025). Regardless of which attack is used, the plaintiff bears the burden of persuading the Court that subject matter jurisdiction exists. *Dismas Charities, Inc. v. U.S. Dep't of Justice*, 401 F.3d 666, 671 (6th Cir. 2005).

#### **II. PLAINTIFF'S PETITION IT IS MOOT**

Cabrera-Perez's Petition challenges his detention at NEOCC on the flawed basis that his removal from the United States was not reasonably foreseeable, and as a result, his continued detention violates his Fifth Amendment rights to due process. The only relief he seeks is release from detention and a review process that he assumed would result in his release from detention. (Pet., ECF No. 1, PageID # 18.) Not only was Cabrera-Perez's removal to Mexico reasonably foreseeable at the time he filed his Petition, he has since been removed to Mexico and is no longer in detention. (Grimm Decl. ¶ 12.) There is no relief this Court could afford him that would resolve the controversy before this Court. Accordingly, his claims are moot.

Article III limits federal courts to adjudicating actual cases and controversies. This "cradle-to-grave requirement . . . must be met in order to file a claim in federal court and ... to keep it there." *W6 Rest. Grp.*, 140 F.4th at 349, quoting *Fialka-Feldman v. Oakland Univ. Bd. of Trs.*, 639 F.3d 711, 713 (6th Cir. 2011). "Thus, when a case at first presents a question concretely affecting the rights of the parties, but—as a result of events during the pendency of the litigation—the court's decision would lack any practical effect, the case is moot." *Id.* at 349-50, quoting *Ohio v. U.S. Env't Prot. Agency*, 969 F.3d 306, 308 (6th Cir. 2020).

The mootness doctrine applies to suits brought under 28 U.S.C. § 2241 as well: a federal district court may entertain an application for habeas relief only by a person held "in custody under or by color of the authority of the United States," or "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c) (1), (3); *see also* *Munaf v. Geren*, 553 U.S. 674, 685 (2008). Because a petition for a writ of habeas corpus challenges a government custodian's authority to continue detention, an individual's release from custody after filing generally moots the petition. *Lane v. Williams*, 455 U.S. 624, 632 (1982).

In the context of immigration detention, as presented here, the Sixth Circuit has held that

a petition for a writ of habeas corpus challenging the length of detention pending removal is rendered moot by the petitioner's removal from the United States. *Enazeh v. Davis*, 107 F. App'x 489, 491 (6th Cir. 2004) ("Enazeh's August 2003 deportation has rendered his first two claims for relief moot. Enazeh sought release from detention pending his removal from the United States and an injunction against execution of the removal order. Because he has already been deported, the court can no longer grant the requested relief."); *Haddad v. Ashcroft*, 76 Fed.Appx. 672, 673 (6th Cir. 2003) (removal moots claims relating to conditions of detention.). Here, Cabrera-Perez was informed of his likelihood of his imminent removal to Mexico as early as June 25, 2025. (Grimm Decl. ¶ 11.) As of July 4, 2025, and within less than 90 days from receiving a final order of removal, Cabrera-Perez was removed from the United States and is no longer in federal custody.<sup>3</sup> (Grimm Decl. ¶ 12).

Thus, this Court can no longer grant his request for relief from his continued detention, as he has already been released, rendering his Petition moot. *See Carras v. Williams*, 807 F.2d 1286, 1288 (6th Cir.1986) ("Mootness results when events occur during the pendency of a litigation which render the court unable to grant the requested relief."); *see also Powell v. McCormack*, 395 U.S. 486, 496 (1969) ("[A] case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome.") That Cabrera-Perez also sought declaratory and injunctive relief seeking review of his detention does not revive his petition: he is no longer in detention and now lacks a legally cognizable interest in the

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<sup>3</sup> As Cabrera-Perez recognizes, 8 U.S.C. § 1231(a)(6) permits the detention of removable aliens for a period of 90 days. Rather than authorizing "indefinite detention," this statute has been read to "limit[ ] an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal." *Karki v. Jones*, No. 1:25-CV-281, 2025 WL 1638070, at \*8 (S.D. Ohio June 9, 2025), quoting *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Here, Cabrera-Perez's removal was not only foreseeable within 90 days of the final order of removal, it was actually effectuated within 90 days.

outcome of any such review.<sup>4</sup> In this scenario, district courts within the Sixth Circuit, too, have overwhelmingly held an alien's removal from the United States renders moot an action challenging an alien's detention pending removal. *See, e.g., Sy v. Immigr. & Customs Enf't*, No. 4:19 CV 894, 2020 WL 5821516, at \*3 (N.D. Ohio), *report and recommendation adopted*, No. 4:19-CV-894, 2020 WL 5814594 (N.D. Ohio Sept. 30, 2020); *Ashqar v. LaRose*, No. 4:18 CV 1141, 2019 WL 1793000, at \*8 (N.D. Ohio Mar. 26, 2019), *report and recommendation adopted sub nom. Ashqar v. Adducci*, No. 4:18CV1141, 2019 WL 1790453 (N.D. Ohio Apr. 24, 2019); *Laurent v. Sessions*, No. 4:18-CV-935, 2019 WL 118603, at \*1 (N.D. Ohio Jan. 7, 2019) ("In any event, ICE successfully deported Petitioner in July after he had spent one year, six months, and four days in custody. As Laurent has obtained the relief he sought in his petition, his case is moot . . . ."); *Amoah v. Sessions*, No. 4:18CV126, 2018 WL 4932502, at \*2 (N.D. Ohio July 26, 2018), *report and recommendation adopted*, No. 4:18-CV-126, 2019 WL 1409439 (N.D. Ohio Mar. 28, 2019); *Thabet v. Adducci*, No. 4:18 CV 611, 2018 WL 4271044, at \*3 (N.D. Ohio), *report and recommendation adopted*, No. 4:18 CV 611, 2018 WL 4266050 (N.D. Ohio Sept. 6, 2018); *Ibrahim v. Sessions*, No. 4:18V122, 2018 WL 3548827 at \* 1 (N.D. Ohio July 24, 2018); *Adinan v. Sessions*, No. 4:18-CV-00426, 2018 WL 3489626 at \* 2 (N.D. Ohio) *report and recommendation adopted by* 2018 WL 3475447 (N.D. Ohio July 19, 2018); *Suleman v. Sessions*, No. 4:18-cv-00467, 2018 WL 1973692 at \* 2 (N.D. Ohio) *report and recommendation adopted by* 2018 WL 1961161 (N.D. Ohio Apr. 26, 2018); *Frimpong v. Sessions*, No. 4:18-cv-0125, 2018 WL 2422038 at \* 2 (N.D. Ohio) *report and recommendation adopted by* 2018 WL 2417841 (N.D. Ohio May 29, 2018); *Cole v. Warden of Seneca Cnty. Jail*, No. 3:17-cv-00155, 2017 WL

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<sup>4</sup> To the extent a live controversy remains, the federal defendants do not concede that Cabrera-Perez would have been entitled to relief, under DHS policy or otherwise.

4220416 at \* 2 (N.D. Ohio) *report and recommendation adopted by* 2017 WL 4182299 (N.D. Ohio Sept. 21, 2017); *Abdourahmane v. Lynch*, No. 3:15-cv-1072, 2015 WL 5813192 at \* 2 (N.D. Ohio Oct. 5, 2015).

Finally, the “collateral consequences” exception to the general rule does not apply here, because the Petition itself does not seek relief from any alleged “enduring and significant collateral consequence of deportation.” *See, e.g., Zundel v. Berrong*, 106 F. App’x 331, 334-35 (6th Cir. 2004) (citing *Spencer v. Kemna*, 523 U.S. at 7); *see also Ali v. I.N.S.* 2010 WL 3001901, at \*2 (N.D. Ohio July 9, 2010) (no subject-matter jurisdiction once a petitioner has been removed from the United States and seeks no relief based on collateral consequences). That the Mercer County Court of Common Pleas set a hearing on Cabrera-Perez’s attempt to vacate his criminal conviction is immaterial to his removal from the United States; Cabrera-Perez was put in proceedings as an alien who has never been admitted or paroled into the United States, and he would have been ineligible to receive visas or be legally admitted to the United States. *See* 8 U.S.C. § 1182(a)(6)(A)(i); Grimm Decl. ¶ 4. Nor, in the speculative event that his state court motion was successful, could he show that he would have been granted Cancellation of Removal under INA § 240A(b) if he applied. (*See* Pet. ¶ 9, ECF No. 1, PageID # 4.) Not only are these allegations too attenuated and speculative to save the Petition, a change in Cabrera-Perez’s removability is not a collateral consequence of detention. Rather, these are incidental effects of a collateral attack on his removal order and the execution of his removal. This Court would not have jurisdiction over such challenges, even if the Petition properly pled them.

Thus, because Petitioner’s deportation to Mexico resulted in his release from detention, and because there is no controversy for this Court to adjudicate, this matter is moot.

### **III. THIS COURT LACKS JURISDICTION OVER ANY REMAING ALLEGATIONS**

**IN THE PETITION<sup>5</sup>**

Cabrera-Perez's Petition seeks his release from detention. However, he alleges that had he been released from detention, he would have had an opportunity to reverse his criminal conviction, which, if successful, *might* have enabled him to seek cancellation of removal. (Petition ¶ 9, ECF No. 1, PageID # 4.) These allegations are speculative at best. Indeed, he has had numerous opportunities to seek relief both from his criminal conviction and his immigration proceedings. But to the extent that his present petition could be read to challenge, stay, or prevent his removal, or even permit him an opportunity to do so, this Court lacks subject-matter jurisdiction. *See, e.g.*, 8 U.S.C. § 1252(g) ("no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action [...] to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.")

A. **UNDER 8 U.S.C. § 1252, ET SEQ., CABRERA-PEREZ CANNOT CHALLENGE HIS REMOVAL IN DISTRICT COURT.**

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<sup>5</sup> Cabrera-Perez did not ask this Court to enjoin or stay his removal to Mexico. However, had he done so, he would have been a member of the non-opt out class of the *D.V.D. v. Dep't of Homeland Sec.*, No. 25-cv-10676, 2025 WL 114968 (D. Mass. Apr. 18, 2025) nationwide class injunction. The Supreme Court has now twice stayed injunctive relief, finding that the Government is likely to prevail on the merits of its appeal. *See* 606 U.S. \_\_\_\_ (June 23, 2025) (granting application to stay preliminary injunction of the District of Massachusetts, case No. 25-cv-10676); 606 U.S. \_\_\_\_ (July 3, 2025) (Order on Motion for Clarification.)

This Court should decline to wade into any claims regarding third country removal that are already being actively litigated before the First Circuit and upon which the Supreme Court has already found the Government is likely to succeed. To do otherwise would cut against the entire purpose of a Fed. R. Civ. P. 23(b)(2) non-opt out class action and risk an order that will conflict with the Supreme Court's stay. *See Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982) ("After rendition of a final judgment, a class member is ordinarily bound by the result of a class action . . . If a class member cannot relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified"); *Groseclose v. Dutton*, 829 F.2d 581, 582 (6th Cir. 1987) (holding that individual suits for injunctive and declaratory relief cannot be brought where class action exists); *Bennett v. Blanchard*, 802 F.2d 456 (6th Cir. 1986) (holding that duplicative suits should be dismissed once a class action certified).

As an initial matter, Cabrera-Perez's delayed attempt to challenge his removal order by vacating his criminal conviction is not itself reviewable in this Court, nor is his alleged administrative application for a stay of removal. *See* 8 U.S.C. § 1252(a)(2)(A)(i) (“[N]o court shall have jurisdiction to review . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal[.]”).

Federal law channels review of various immigration-related decisions exclusively through the Boards of Immigration Appeals and the Circuit Courts of Appeal. *See Nasrallah v. Barr*, 590 U.S. 573, 579 (2020) (noting how § 1252(b) was amended to funnel all “issues arising from a final order of removal” to the immigration courts with “direct review in the courts of appeals,” and thereby “eliminating review in the district courts”). In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), which included provisions intended to deprive district courts of jurisdiction over removal-based claims. Then, in 2005, Congress amended § 1252(b) to ensure that all review of final orders of removal would be channeled to the courts of appeals. Although this Court might have had jurisdiction over a habeas petition for unreasonable delay, district courts lack jurisdiction to address any claims related to Cabrera-Perez's attempt to challenge or stay his final removal order. 8 U.S.C. § 1252(a)(5) (Review of BIA final orders “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.”)

The outcome Cabrera-Perez implicitly desires—release from detention and a stay of removal so that he may challenge a criminal conviction and his ultimate removal—will have the effect of enjoining or restraining DHS's implementation of, *inter alia*, 8 U.S.C. § 1231. Section 1231 generally governs the detention, release, and removal of aliens ordered removed. 8 U.S.C. § 1231. But 8 U.S.C. § 1252(f)(1) explicitly bars such relief. Any attempt to enjoin the federal

defendants from executing his removal orders would have necessarily restrained ICE's authority to remove individuals under § 1231(b). Section 1252(f)(1) provides, "[r]egardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of part IV of this subchapter . . . other than with respect to the application of such provisions to an individual alien against whom proceedings . . . have been initiated." 8 U.S.C. § 1252(f)(1) (emphasis added).

The Supreme Court held that § 1252(f)(1) "generally prohibits lower courts from entering injunctions that order federal officials to take or to refrain from taking actions to enforce, implement, or otherwise carry out the specified statutory provisions." *Biden v. Texas*, 597 U.S. 785, 797 (2022) (quoting *Garland v. Aleman Gonzalez*, 596 U.S. 543, 544 (2022)). Section 1231 is one of the statutory provisions § 1252(f)(1) covers. As a result, § 1252(f)(1) thus eliminates this Court's authority to issue orders enjoining or restraining implementation of § 1231(b).

**B. SECTION 1252(G) BARS REVIEW OF PETITIONERS' CLAIMS.**

In addition, any attempt to stay or delay Cabrera-Perez's removal would have interfered with Immigration and Customs Enforcement's ("ICE") execution of those removal orders in violation of 8 U.S.C. § 1252(g), which strips district courts of jurisdiction over claims arising from ICE's decision or action to execute a removal order regardless of the legal or constitutional nature of the challenge. In enacting 8 U.S.C. § 1252(g) through the REAL ID Act, Congress limited the jurisdiction of federal courts as follows:

Except as provided in this section and notwithstanding any other provision of law (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 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.

8 U.S.C. § 1252(g) (emphasis added). “In the REAL ID Act, Congress decided that, as a matter of public policy, [federal courts] do not have jurisdiction to decide claims that arise from the decision of the Executive Branch to execute a removal order.” *Karki v. Jones*, No. 1:25-CV-281, 2025 WL 1638070, at \*4 (S.D. Ohio June 9, 2025), quoting *Rranxburgaj v. Wolf*, 825 F. App’x 278, 283 (6th Cir. 2020). This holds true “whether or not [federal courts] agree with ICE’s decision to execute [a petitioner’s] removal order.” *Id.* Thus, the plain language of 8 U.S.C. § 1252(g) limits this Court’s jurisdiction over the execution of removal orders, even if jurisdiction would otherwise be proper. *See Elgharib v. Napolitano*, 600 F.3d 597, 607 (6th Cir. 2010). Indeed, by its terms, this jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and Administrative Procedure Act) of claims arising from a decision or action to “execute” a final order of removal. *See Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999).

Although Cabrera-Perez’s Petition does not explicitly challenge his removal, he filed this Petition and an application for an administrative stay shortly after learning that he would be removed to Mexico. This Court barred from entertaining such an attack under 8 U.S.C. § 1252(g). The Sixth Circuit and including other Courts of Appeals have consistently held that similar petitioners’ seeking a stay of removal—even temporarily to assert other claims to relief—are barred by § 1252(g). *Hamama v. Adducci*, 912 F.3d 869, 874–77 (6th Cir. 2018) (vacating district court’s injunction staying removal, concluding that § 1252(g) stripped district court of jurisdiction over removal-based claims and remanding with instructions to dismiss those claims); *see also Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) (declining to enjoin removal for lack of jurisdiction while motion to reopen removal proceedings remained pending); *Camarena v. Dir., ICE*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider

‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal order. If we held otherwise, any petitioner could frame his or her claim as an attack on the government’s authority to execute a removal order rather than its execution of a removal order.”); *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021) (rejecting the argument that jurisdiction remained in similar circumstances because petitioner was challenging, DHS’s legal authority as opposed to its “discretionary decisions”); *Tazu v. Att’y Gen., U.S.*, 975 F.3d 292, 297 (3d Cir. 2020) (observing that “the discretion to decide whether to execute a removal order includes the discretion to decide when to do it” and that “[b]oth are covered by the statute”) (emphasis in original); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017) (Section 1252(g) applies to constitutional claims arising from the execution of a final order of removal, and language barring “any cause or claim” made it “unnecessary for Congress to enumerate every possible cause or claim”); *Poghosyan v. U.S. Dep’t of Homeland Security*, Case No. 2:25-cv-03091, 2025 WL 1287771 (C.D. Cal. May 1, 2025) (on appeal); *Rranxburgaj v. Wolf*, 825 Fed. Appx. 278 (6th Cir. 2020) (“[t]he decision to deny a temporary stay of removal arises directly from the decision of the Attorney General to execute a removal order, so it is rendered unreviewable by § 1252(g).”).

In the *Hamama* case, for example, a class of Iraqi nationals claimed that ICE could not enforce their years-old removal orders without first providing them an opportunity to reopen their proceedings and make new fear-based claims. The Sixth Circuit held that “[u]nder a plain reading of the text of the statute, the Attorney General’s enforcement of long-standing removal orders falls squarely under the Attorney General’s decision to execute removal orders and is not subject to review.” 912 F.3d at 874. The Fourth Circuit’s decision in *Mapoy v. Carroll*, 185 F.3d 224 (4th Cir. 1999) is also instructive. There, the petitioner filed a habeas petition pursuant to 28

U.S.C. § 2241 and sought a preliminary injunction staying his removal while he attempted to reopen proceedings before the Board of Immigration Appeals (“BIA”) and adjust his status based on his marriage to a United States citizen. *Mapoy*, 185 F.3d at 225–26. The Fourth Circuit reversed the lower court’s grant of an injunction, holding that “Congress could have hardly been more clear and unequivocal that courts shall not have subject matter jurisdiction over claims arising from the actions of the Attorney General enumerated in § 1252(g) other than jurisdiction that is specifically provided by § 1252.” *Id.* at 230. The Court further noted that Section 1252(b) provided the only avenue for review, but even then, only allowed review from the BIA to the courts of appeal. *Id.* In sum, the statutory scheme here forecloses any habeas review under section 2241 in district courts which seeks to stay the execution of a removal order. *Id.*; *see also Fernandez v. Keisler*, 502 F.3d 337, 346 (4th Cir. 2007) (holding that the provision of the INA channeling judicial review through courts of appeal “expressly eliminate[s] district courts’ habeas jurisdiction over removal orders”); *Loera Arellano v. Barr*, 785 Fed. Appx. 195 (4th Cir. 2019) (affirming dismissal of habeas action seeking stay of removal); *Futeryan-Cohen v. U.S. Immigration & Naturalization Svc.*, 34 Fed. Appx. 143, 145 (4th Cir. 2002) (reversing district court’s grant of habeas relief to stay order of deportation and ordering dismissal).

In short, Cabrera-Perez’s attempt here is no different than those rejected by numerous courts of appeals, to the extent he seeks to collaterally prevent or challenge his removal through his actions in the Mercer County Court of Common Pleas. Section 1252(g) contains no exception for such claims regardless of their nature or merit. Therefore, this Court lacks jurisdiction over Cabrera-Perez’s attempt to collaterally challenge his removal from the United States.

### CONCLUSION

Because Cabrera-Perez’s claims are moot, and because this Court lacks subject-matter jurisdiction over the execution of his removal, this Court must deny relief and dismiss the action.

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