

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

BRAYAN FERNEY LOPEZ LIZARAZO,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 5:25-cv-105
)	
WARDEN, FOLKSTON ICE)	
PROCESSING CENTER, ET AL.,)	
)	
Respondents.)	

RESPONSE IN OPPOSITION TO MOTION FOR INTERIM RELIEF

I. Introduction

Petitioner Brayan Ferney Lopez Lizarazo (“Petitioner” or “Lizarazo”) filed a habeas corpus petition, an amended habeas corpus petition, and a motion for interim relief. Docs. 1; 8; 11. The filings are closely related, as Petitioner principally seeks release from detention in all three. Docs. 1 at 15; 8-1 at 20; 11 at 7. Contemporaneously with the filing of this opposition memorandum, Respondent is moving to dismiss Lizarazo’s initially filed and amended habeas corpus petitions. This is Respondent’s opposition to Lizarazo’s motion for interim relief. Doc. 8. Lizarazo’s motion for interim relief should be denied.

In his motion for interim relief, Lizarazo prays for (1) “his immediate release under bail or any other mechanism pending resolution of” his habeas corpus claims; and (2) an order “[e]njoining Respondent[] from removing Petitioner from the Court’s jurisdiction[.]” Doc. 8-1 at 20. In support of the request for immediate release contained in his motion for interim relief, Lizarazo relies on the same grounds (the

Due Process Clause and the Administrative Procedures Act) and makes the same arguments as those alleged in Lizarazo's habeas corpus petition and amended habeas corpus petition. Respondent's motion to dismiss comprehensively addresses Lizarazo's arguments for immediate release and the grounds on which those arguments are based; in the interest of judicial economy, Respondent refers the Court to Respondent's motion to dismiss for a comprehensive rebuttal to Lizarazo's claim for immediate release. It is neither necessary nor appropriate for Respondent to restate here points that Respondent makes in his motion to dismiss. Respondent herein concisely advances obstacles to Petitioner's request for interim relief that are independent of Respondent's motion to dismiss.

II. Argument

A. Additional Barriers to Petitioner's Request for Immediate Release Contained in His Motion for Interim Relief.

Lizarazo's request for immediate release in some interim fashion is doomed for reasons independent of those that Respondent provides in his motion to dismiss. For starters, it is almost certain that Lizarazo's motion for interim relief will not be adjudicated prior to the Court's resolution of Petitioner's habeas corpus claims. The principal reason for this is that, as a threshold matter, the Court must determine whether Lizarazo is likely to succeed on his habeas corpus claims to adjudicate Lizarazo's motion for interim relief. And, significantly, to prevail on his motion for interim relief, Lizarazo must meet additional stringent standards inherent to motions for preliminary injunctive relief that are absent from the Court's adjudication of Lizarazo's substantive habeas claims. *See* Doc. 8-1 at 16-20 (arguing three

preliminary-injunctive-relief prongs). Lizarazo does not make a persuasive case on any of the four prongs that are decisive in the Court's adjudication of Lizarazo's request for immediate release on an interim basis. Finally, even if Lizarazo's habeas corpus claims were meritorious (they are not), the proper remedy is not his immediate release from detention; rather, the correct remedy in such circumstance would be an individualized bond hearing under 8 U.S.C. § 1226(a). To the extent Lizarazo seeks immediate release from detention pending resolution of his habeas corpus claims, his request is plainly meritless and should be denied.

B. Petitioner's Request for a Ruling Enjoining His Transfer.

Lizarazo's request for an order enjoining his transfer fares no better.¹ This Court has explained why this is so on multiple occasions, so Respondent will be brief here. *See, e.g., Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3113200, at *4 (S.D. Ga. Oct. 16, 2025), *Report and Recommendation adopted*, 2025 WL 3113509 (S.D. Ga. Nov. 6, 2025) ("It is well settled that if a district court properly acquires jurisdiction when the case is filed, then the petitioner's subsequent removal to another judicial district does not destroy the court's jurisdiction."); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) ("[W]hen the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release."). This alone is a sufficient ground

¹ The same practical obstacles addressed in Section "A" above apply here as well; for the sake of judicial economy, Respondent does not restate them.

for denying Lizarazo's interim-relief request.

Regardless, this Court lacks authority to interfere with ICE's discretionary decision concerning where to detain aliens in immigration detention. Lizarazo's claims constitute a challenge to the commencement of removal proceedings over which this Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(g). *See Alvarez v. U.S. Immigr. & Customs Enft.*, 818 F.3d 1194, 1202 (11th Cir. 2016). The commencement of proceedings requires ICE to determine whether, when, and where to commence such proceedings, meaning that § 1252(g) bars this Court's review of ICE's decision where to initiate removal proceedings. *See, e.g., Alvarez*, 818 F.3d at 1203 ("The challenge to ICE's decision, made by its counsel, Defendant Emery, essentially asks this Court to find that the agency should have chosen a different method of commencing proceedings. The district court was correct to find that Section 1252(g) strips us of the power to entertain such a claim."); *Arostegui v. Holder*, 368 F. App'x 169, 171 (2d Cir. 2010) (holding, upon a petition for review of a final removal order: "Whether and when to commence removal proceedings is within the discretion of DHS, and we do not have jurisdiction to review such decisions, unless petitioner raises constitutional claims or questions of law.") (citing 8 U.S.C. § 1252(g)).

Additionally, the Executive's authority under 8 U.S.C. § 1231(g) to decide the location of detention for individuals detained pending removal proceedings falls within the review bar codified in 8 U.S.C. § 1252(a)(2)(B)(ii). That is because, under § 1231(g), ICE "necessarily has the authority to determine the location of detention of an alien in deportation proceedings," including whether to change that location

during the pendency of proceedings. *Gandarillas-Zambrana v. Bd. Immigration Appeals*, 44 F.3d 1251, 1256 (4th Cir. 1995); *see, e.g., Wood v. United States*, 175 F. App'x 419, 420 (2d Cir. 2006) (holding that the Secretary “was not required to detain [Plaintiff] in a particular state” given the Secretary’s “statutory discretion” under § 1231(g)).

In sum, a district court may not exercise jurisdiction over ICE’s decision to detain an alien in a given location and may not order ICE to transfer an alien from one location to another. *See, e.g., Salazar v. Dubois*, No. 17-cv-2186 (RLE), 2017 WL 4045304, at *1 (S.D.N.Y. Sept. 11, 2017) (concluding that the district court “does not have authority to issue an order to change or keep [an alien] at any particular location”); *Zheng v. Decker*, No. 14-cv-4663 (MHD), 2014 WL 7190993, at *15-16 (S.D.N.Y. Dec. 12, 2014) (denying petitioner’s request that the Court order ICE not to transfer him to another jurisdiction, holding that § 1231(g) transfer authority “is among the Attorney General’s ‘discretionary’ powers”). *See* 8 U.S.C. § 1252(a)(2)(B)(ii) (barring district courts from exercising subject matter jurisdiction over “any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter [8 U.S.C. §§ 1151-1381] to be in the discretion of the Attorney General . . .”). For these reasons, this Court lacks authority to award Lizarazo the interim relief he seeks.

III. Conclusion

This Court should deny Lizarazo's motion for interim relief.

Respectfully submitted, this 19th day of November, 2025.

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