

United States District Court
Eastern District of Michigan

John Doe,

Petitioner-Plaintiff, and

James Smith,

Plaintiff,

Civil No. 25-13124

Honorable Mark A. Goldsmith
Mag. Judge Patricia T. Morris

v.

Kevin Raycraft, in his official capacity
as Acting Field Office Director of
Enforcement and Removal Operations,
Detroit Field Office, Immigration and
Customs Enforcement, et al.,

Respondent-Defendants.

Defendants' Reply in Support of Their Motion to Dismiss

Pursuant to Local Rule 7.1(d)(1)(A), defendants submit this reply in support of their motion to dismiss plaintiffs' Second, Third and Fourth claims for relief. As described in the attached brief, defendants respectfully request that the Court dismiss these claims because the Administrative Procedure Act does not provide jurisdiction for plaintiffs' Second Claim and plaintiffs have failed to state a claim on their Third and Fourth Claims.

Respectfully submitted,

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Defendants' Reply Brief in Support of Their Motion to Dismiss

Issues Presented

- I. Does the Court lack jurisdiction to hear plaintiffs' Second Claim for relief under the Administrative Procedure Act when it challenges ICE's discretionary revocation of Doe's parole and the Court lacks jurisdiction to review the agency's discretionary decision to revoke a noncitizen's parole?
- II. Are plaintiff's Third and Fourth Claims for relief moot when they sought to compel USCIS to adjudicate petitioners' applications for immigration benefits and USCIS has recently denied Smith's I-130 application, which renders Doe ineligible for the benefit he seeks in his I-485 application?

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In this suit, plaintiffs assert three claims under the Administrative Procedure Act (APA) challenging ICE's revocation of Doe's parole and seeking to compel USCIS to adjudicate plaintiffs' applications for immigration benefits. The Court should dismiss Doe's claim challenging the revocation of his parole because Doe cannot establish this Court's jurisdiction to review the agency's discretionary decision to revoke his parole. Further, even if the Court had jurisdiction, the Court should reject Doe's arguments because the agency's decision was not arbitrary or capricious. Finally, the Court should dismiss plaintiffs' claims seeking to expedite USCIS's adjudication of their applications for immigration benefits because those claims are moot based on USCIS's recent denial of Smith's I-130 application, which renders Doe ineligible for the benefit he sought in his I-485 application.

I. The Court Lacks Jurisdiction to Review ICE's Revocation of Doe's Parole

The APA does not grant federal courts jurisdiction to review agency action if another statute precludes review. *See* 5 U.S.C. § 701(a)(1); *Beamon v. Brown*, 125 F.3d 965, 967 (6th Cir. 1997). Congress has precluded judicial review of discretionary agency actions in the immigration context. 8 U.S.C. § 1252(a)(2)(B)(ii).

Congress has granted immigration officials discretion to revoke parole. *See* 8 U.S.C. § 1182(d)(5)(A). Specifically, the statute states that “when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been

served the alien shall forthwith return or be returned to the custody” of the agency. *Id.* Therefore, Doe cannot establish this Court’s jurisdiction to review the agency’s decision to revoke his parole under the plain language of § 1252(a)(2)(B)(ii). *See, e.g., Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010); *Samirah v. O’Connell*, 335 F.3d 545, 549 (7th Cir. 2003).

The Court should reject Doe’s argument that another provision of § 1252 restores jurisdiction to this Court to hear “constitutional claims or questions of law.” (MTD Reply, ECF No. 10, PageID.286). The provision Doe cites—8 U.S.C. § 1252(a)(2)(D)—restores jurisdiction to hear constitutional claims and questions of law to “an appropriate court of appeals.” *See* 8 U.S.C. § 1252(a)(2)(D). Therefore, it does not grant this Court jurisdiction to hear Doe’s challenge.

Similarly, Doe’s reliance on *Accardi* is misguided. In *Accardi*, the Supreme Court established “a rule of federal administrative law” that applied in habeas cases, not “a rule of constitutional law” and it did not address the scope of the APA when another provision precludes review. *See West v. Kentucky Horse Racing Comm’n*, 972 F.3d 881, 892 (6th Cir. 2020). Therefore, it does not govern Doe’s claim under the APA because § 1252(a)(2)(B)(ii) precludes review in this case. And, in any event, the kind of ministerial discrepancies that Doe alleges, even if true, would not warrant any relief in this case because he cannot show that the procedural errors themselves have caused him any prejudice. *See Connor v. U.S. Civil Service*

Comm'n, 721 F.2d 1054, 1056 (6th Cir.1983) (“[A]n agency’s violation of its procedural rules will not result in reversible error absent a showing that the claimant has been prejudiced on the merits or deprived of substantial rights because of the agency’s procedural lapses”); *see also Villegas de la Paz v. Holder*, 640 F.3d 650, 656 (6th Cir. 2010).

II. The Agency’s Revocation of Doe’s Parole Was Not Arbitrary or Capricious

“The Administrative Procedure Act, which sets forth the full extent of judicial authority to review executive agency action for procedural correctness, permits (insofar as relevant here) the setting aside of agency action that is ‘arbitrary’ or ‘capricious.’” *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 513 (2009) (citations omitted). The review provided by the APA is “narrow” and “a court is not to substitute its judgment for that of the agency, and should uphold a decision of less than ideal clarity if the agency’s path may reasonably be discerned.” *Id.* The Sixth Circuit has recognized that “[t]he arbitrary or capricious standard is the least demanding review of an administrative action.” *Reg’l Airport Auth. of Louisville & Jefferson Cnty.*, 286 F.3d 382, 389 (6th Cir. 2002)).

Here, the agency’s revocation of Doe’s parole was not arbitrary or capricious. Doe was encountered while attempting to leave the United States a few months before his parole expired. (I-94, ECF No. 1-3, PageID.48; Parole Worksheet, ECF No. 1-14, PageID.98). Based on these facts, the agency properly concluded he was

a flight risk and revoked his parole to ensure that he would appear for his administrative immigration proceedings. (*See id.*). While Doe has offered an explanation for his presence at the border, neither the APA nor the constitution require that the agency uncritically accept it under these circumstances.

The Court should reject petitioner's argument that the agency did not follow its own procedures when it revoked Doe's parole. Under the agency's regulations, "parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole." 8 C.F.R. § 212.5(e)(2)(i). Immigration officials served Doe notice of his arrest and a notice indicating that it intended to detain him for the duration of his administrative immigration proceedings on the day he was arrested. (*See* I-200, ECF No. 6-4, PageID.146; I-286, ECF No. 6-5, PageID.147). Therefore, the notice the agency provided to Doe was not arbitrary or capricious.

Similarly, Doe's argument that he did not have an adequate opportunity to respond to the agency's revocation is not persuasive. "While the decision whether to grant parole is discretionary, ICE policy is generally to grant parole to aliens if they can establish their identity and that they pose neither a flight risk nor a danger to the community." (Parole Notice, ECF No. 1-14, PageID.95). Before the agency made its decision, Doe had the opportunity to offer any evidence that he possessed. (*See id.*). And, even though the agency has denied his request for parole, Doe, at any

time, “may request a redetermination . . . based upon changed circumstances in [his] case or additional documentation [he] would like ICE to consider.” (*Id.* at PageID.96). Therefore, Doe has a meaningful opportunity to seek parole.

Moreover, Doe is incorrect when he argues that the agency is somehow prohibited from revoking his parole until his asylum proceedings are complete. First, Doe was not paroled so that he could pursue administrative asylum proceedings. The agency may only parole noncitizens like Doe “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Paroling noncitizens to pursue administrative asylum proceedings is not a ground for parole because a noncitizen can seek asylum while detained. *See* 8 C.F.R. § 212.5(b). And, although, the specific reason for Doe’s parole is not specified in the record, (*see* I-213, ECF No. 6-3, PageID.145, given the date on which he entered the United States, it is likely that Doe was paroled only because the agency lacked the capacity to detain him at that time. *See, e.g., Biden v. Texas*, 597 U.S. 785 (2022).

Second, even if Doe’s asylum proceedings somehow qualified as “a significant public benefit,” the agency is explicitly granted discretion to revoke parole when officials determine that parole no longer serves the public interest. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(ii). The public has an interest in the efficient operation of the nation’s immigration enforcement laws. *See Nken v. Holder*, 556 U.S. 418 (2009) (“There is always a public interest in prompt execution

of removal orders”). And ensuring that noncitizens appear for immigration proceedings furthers that interest. *See, e.g.*, 236.1(c)(8) (allowing release if noncitizen can show “they are likely to appear for any future proceeding”). Given that Doe was apprehended while attempting to leave the country, the agency’s determination that his release is not in the public interest because he presents a flight risk is not arbitrary or capricious.

III. Petitioners’ Claims Regarding Their Applications for Immigration Benefits are Moot

The jurisdiction of federal courts is limited to actual cases or controversies. *See* U.S. Const. Art. III, § 2. “That limitation requires those who invoke the power of a federal court to demonstrate standing—a personal injury fairly traceable to the defendant’s allegedly unlawful conduct and likely to be redressed by the requested relief.” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90 (2013) (quotation omitted). An “actual controversy” must exist at the time the complaint is filed and at all subsequent stages of the litigation. *Id.* A case becomes moot (*i.e.*, it no longer presents an actual controversy) “when events occur during the pendency of a litigation which render the court unable to grant the requested relief.” *Demis v. Sniezek*, 558 F.3d 508, 513 (6th Cir. 2009).

Here, petitioners’ Third and Fourth Claims for Relief, which seek to compel

because of that, Doc is not eligible for the benefit he seeks with his I-485 application. *See* 8 C.F.R. §§ 103.2(b)(1), 245.1(a). Therefore, these claims are moot because the plaintiffs have already received the relief they request for these claims.

Conclusion

Defendants respectfully request that the Court dismiss plaintiffs' Second, Third, and Fourth Claims Claim for Relief.

Respectfully submitted,

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Dated: November 6, 2025

Certificate of Service

I hereby certify that on November 6, 2025, 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