



U.S. Department of Justice

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The Honorable Meredith A. Vacca
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

**Re: Chuqui v. Kurzdorfer, et al.
25-CV-06614-MAV**

Dear Judge Vacca:

Respondents submit this letter-brief in opposition to Petitioner's request to stay removal or transfer out of the Western District of New York, and in opposition to any other restrictions on ICE's ability to arrange for appropriate places of detention for Petitioner (including the requirement of giving notice prior to transfer).

In his motion for a temporary restraining order, Petitioner seeks to stay his removal, but it is practically black letter law that such relief cannot be granted by a district court. In addition to the unequivocally clear language of the jurisdiction-stripping provision within the Immigration and Nationality Act itself, nearly every currently-sitting judge in this district has said as much. *See* 8 U.S.C. § 1252(g) (“[N]o 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.”) (boldface added); *see also* *Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *7 (W.D.N.Y. May 2, 2025) (“And ‘because district courts have no jurisdiction to review final orders of removal, they have no jurisdiction to review requests for stays of removal.’”) (quoting now-retired Judge Larimer in *Al-Garidi v. Holder*, 2009 WL 1439216, at *1 (W.D.N.Y. May 15, 2009)); *Fulton v. Mayorkas*, No. 25-CV-63 (JLS), 2025 WL 296051, at *4 (W.D.N.Y. Jan. 24, 2025) (Judge Sinatra holding that “[b]ecause his challenges arise from Respondents’ action to execute his removal order, Section 1252(g) divests the Court of jurisdiction to grant the relief sought.”) (cleaned up); *K.K. v. Garland*, No. 23-CV-6281-FPG, 2025 WL 274431, at *2 (W.D.N.Y. Jan. 23, 2025), appeal dismissed as moot sub nom. *K.K. v. Bondi*, No. 25-190, 2025 WL 1233307 (2d Cir. Apr. 8, 2025) (“[T]he Court does not have jurisdiction over Petitioner's claims related to a stay of removal.”); *Diakhate v. Casey*, No. 6:23-CV-06736 EAW, 2024 WL 4882264, at *4 (W.D.N.Y. Nov. 25, 2024) (“[N]umerous courts in this circuit and others’ have concluded ‘that the plain meaning of Section 1252 deprives federal district courts of jurisdiction over requests to stay orders of

removal.”) (quoting *Ahmed v. Barr*, No. 20-CV-395 (JLS), 2020 WL 2395694, at *2 (W.D.N.Y. May 12, 2020); alteration in original); *Tewodros v. Garland*, No. 20-CV-7022 CJS, 2021 WL 1534731, at *3 (W.D.N.Y. Apr. 19, 2021); *Enwonuw v. Chertoff*, No. 06-CV-0834SR, 2006 WL 3833481, at *2 (W.D.N.Y. Dec. 22, 2006) (Judge Arcara holding that district courts lack jurisdiction to stay removal).

Similarly, to the extent Petitioner seeks an order enjoining his transfer outside of the Western District of New York, Judge Vilardo has explained why such relief is not required:

This Court agrees that § 1231(g)(1) provides DHS with broad authority to decide where an alien is detained. But this Court need not speculate about the scope of that authority because “[i]t is well established that jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change.” See *Santillanes v. U.S. Parole Comm’n*, 754 F.2d 887, 888 (10th Cir. 1985). In other words, regardless of where Singh is housed, this Court retains jurisdiction over his habeas petition. So there is no need to interfere with DHS’s authority to “arrange for appropriate places of detention” under 8 U.S.C. § 1231(g)(1).

Singh v. Whitaker, 362 F. Supp. 3d 93, 106 (W.D.N.Y. 2019); see *Shaikh v. Barr*, No. 20-CV-6300 CJS, 2020 WL 7021443, at *3 (W.D.N.Y. Nov. 30, 2020) (Judge Siragusa citing *Singh* and gathering cases); *Dorval v. Barr*, 414 F. Supp. 3d 386, 396 (W.D.N.Y. 2019) (Judge Telesca citing *Singh*).

Accordingly, Petitioner’s motion for a temporary restraining order should be denied in its entirety.

Respectfully submitted,

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BY: /s/ ADAM A. KHALIL
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