IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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| KAVEH ABEDI,<br><br>Petitioner,<br><br>v.<br><br>C. CARTER, Warden, FCI-Leavenworth,<br>KRISTI NOEM, Secretary,<br>Department of Homeland Security; and<br>CHRISTOPHER CHAMBERLAIN,<br>Acting Assistant Field Office Director,<br><br>Respondents. | ) | Case No. 25-3141-JWL |

**ORDER**

On July 21, 2025, petitioner, through counsel, filed a petition for habeas corpus under 28 U.S.C. § 2241, by which he challenges his detention by immigration officials after he was granted a deferral of removal. In the petition, petitioner also requests an immediate order enjoining petitioner's transfer from the jurisdiction of this Court and the Kansas City Field Office during the pendency of this petition. The parties submitted briefs specifically addressing the request for an injunction. The Court now **denies** that request.

The petition includes the following request:

> Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Kansas City Field Office of the Immigration & Customs Enforcement Office of Enforcement and Removal Operations ("ERO") and this District.

Additionally, in his prayer for relief, petitioner requests that the Court "[e]njoin Respondents from transferring the Petitioner outside the jurisdiction of the District of Kansas pending resolution of this case." Although petitioner appears to take issue with respondents' suggestion that this request was merely "tossed in" to the petition, petitioner did not include any argument or elaboration concerning this request for an injunction.

In response to this request, respondents argue that an injunction against a transfer of petitioner outside this judicial district is unnecessary because, as the Court has previously held, it would not lose jurisdiction over the petition in such event. *See Lowmaster v. Director, Bureau of Prisons*, 2024 WL 5135970, at *1 (D. Kan. Dec. 17, 2024) (Lungstrum, J.) (quoting *Santillanes v. United States Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985)). In his reply brief, petitioner does not dispute that this Court would retain jurisdiction in the event of an ordinary transfer to another facility; nor has petitioner offered any reason why an injunction against a mere transfer is necessary to preserve the Court's jurisdiction. Accordingly, petitioner's request for an injunction against transfer outside the jurisdiction of this Court or a particular government field office is hereby denied.

In their response, respondents note that the requested injunction could be interpreted to enjoin not only transfer but also removal from the country. Respondents point out that petitioner has not established any of the usual elements for an injunction, such as irreparable injury or a likelihood of success on the merits. The Court ordinarily would not interpret the requested injunction so broadly, as "transfer" implies moving petitioner to another facility also within the custody of immigration officials; and petitioner did not specifically seek in the petition to enjoin removal from the country, but referred only to

transfer outside the jurisdiction of a regional field office and this Court. Nevertheless, in his reply brief, petitioner does argue in favor of an injunction against his removal from the country during the pendency of the petition.

Petitioner does not argue that he can satisfy the usual requirements for injunctive relief under Fed. R. Civ. P. 65. He argues instead that he seeks an injunction pursuant to the All Writs Act, 28 U.S.C. § 1651(a), which allows a court to issue any writ necessary or appropriate in aid of [the court's] jurisdiction[]," *see id.*, and that those requirements do not apply to such an injunction. *See, e.g., Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1100 (11th Cir. 2004). He argues that an injunction against removal is necessary to allow the Court to rule on the merits of the petition because the petition would become moot upon his removal.

The Court concludes that an injunction is neither necessary nor appropriate here, and it therefore declines in its discretion to enjoin petitioner's removal. A court's authority under the All Writs Act is to be used "sparingly and only in the most critical and exigent circumstances," and the legal rights at issue must be "indisputably clear." *See Wisconsin Right to Life, Inc. v. Federal Election Comm'n*, 542 U.S. 1305, 1306 (2004) (internal quotations and citations omitted). If a statute addresses the particular issue, the All Writs Act does not take precedence over the statute. *See Pennsylvania Bureau of Correction v. United States Marshals Serv.*, 474 U.S. 34, 43 (1985). A court's power under the All Writs Act is "permissive, non-mandatory." *See Bailey v. State Farm Fire and Cas. Co.*, 414 F.3d 1187, 1189 (10th Cir. 2005).

The Court concludes that its jurisdiction to issue the requested injunction is not "indisputably clear" as required. Only a court of appeals may review an order of removal, and no other court has jurisdiction to hear any claim arising from the commencement of removal proceedings or the execution of a removal order. *See* 8 U.S.C. § 1252(a)(5), (g). Petitioner insists – as he stated in the petition – that he does not challenge the removal order against him, but merely challenges his present detention, and he argues that Section 1252 does not prohibit the Court's habeas review in this case. The Tenth Circuit has noted that "courts have acknowledged that § 1252 does not bar habeas relief as to claims that are independent of a removal order." *See Gonzalez-Alarcon v. Macias*, 884 F.3d 1266, 1274 (10th Cir. 2018). The Tenth Circuit has also noted, however, that that statute's jurisdiction-stripping provisions do apply to "indirect challenges to the merits of a removal order." *See id.* at 1274-75. The Court agrees with respondents that an injunction prohibiting the government from removing petitioner would effectively constitute a challenge to the government's authority to remove petitioner, and the Court therefore lacks jurisdiction to issue the requested injunction against removal. *See Alegria-Zamora v. United States Dept. of Homeland Sec.*, 2018 WL 1138280, at *2 (D. Kan. Mar. 2, 2018) (request for order restraining removal in effect sought review of a removal order, which the court lacks jurisdiction to do under Section 1252).[1] Petitioner has certainly not met his burden to show that the law indisputably permits such an injunction; nor has petitioner shown that truly exigent circumstances demand an injunction despite petitioner's inability to show either a

[1] In his reply brief, petitioner does not address this case, cited by respondents, even though petitioner's counsel also represented the petitioner in *Alegria-Zamora*.

likelihood of success on the merits of the petition or irreparable injury in the absence of an injunction.[2] Accordingly, the Court is not persuaded that an injunction against removal is appropriate or necessary to maintain the integrity of the Court's jurisdiction, and it denies the request for an injunction in its entirety.

IT IS THEREFORE ORDERED BY THE COURT THAT petitioner's request for an injunction against transfer is hereby **denied**.

IT IS SO ORDERED.

Dated this 5th day of August, 2025, in Kansas City, Kansas.

/s/ John W. Lungstrum
Hon. John W. Lungstrum
United States District Judge

[2] Petitioner does not show or even argue that his removal is imminent or likely to occur before the petition may be ruled; he notes only that his removal would moot the petition. Indeed, petitioner claims in his petition that he should be released under the Supreme Court's *Zadvydas* standard because his removal in the reasonably foreseeable future is not likely.