Matter of R-P-L-, Respondent

Decided August 28, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

The Department of Homeland Security properly imposed a civil monetary penalty after the respondent failed to depart the United States in compliance with his voluntary departure order.

FOR THE RESPONDENT: Aamna Aziz, Esquire, Atlanta, Georgia

BEFORE: Board Panel: VOLKERT and CHABAN, Appellate Immigration Judges; TERRIEN, Temporary Appellate Immigration Judge.

VOLKERT, Appellate Immigration Judge:

The respondent, a native and citizen of India, has appealed from a Department of Homeland Security ("DHS") immigration officer's September 29, 2025, decision imposing a civil monetary penalty in the amount of $3,000 for failure to depart the United States before expiration of a voluntary departure period. *See* section 240B(d) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229c(d) (2024). We will dismiss the appeal.

I. BACKGROUND

In a December 2, 2003, decision, an Immigration Judge denied the respondent's application for asylum and withholding of removal and granted voluntary departure. *See* INA §§ 208(b)(1), 240B(b)(1), 241(b)(3), 8 U.S.C. §§ 1158(b)(1), 1229c(b)(1), 1231(b)(3) (2000). The Immigration Judge's order advised the respondent that if he did not depart the United States by January 2, 2004, he "will be subject to civil penalties of not less than $1,000 nor more than $5,000." The respondent appealed the decision to the Board.

On December 20, 2004, the Board affirmed the Immigration Judge's decision and reinstated the grant of voluntary departure for a period of 30 days from the date of the Board's order. The Board's decision further advised the respondent that if he "fail[ed] to depart the United States within the time period specified, or any extensions granted by the DHS, [he] shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and shall be ineligible for a period of 10 years for any further relief under section 240B and sections 240A, 245, 248, and 249 of the [INA]." Nevertheless, the respondent did not depart the United States. On April 23, 2025, DHS served him with a Notice of Intention to Fine, Form I-79. The respondent challenged the fine and has appealed the decision imposing the fine.[1]

II. DISCUSSION

"The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens." *Arizona v. United States*, 567 U.S. 387, 394 (2012). "Voluntary departure is a discretionary form of relief that allows certain favored aliens . . . to leave the country willingly." *Dada v. Mukasey*, 554 U.S. 1, 8 (2008). "The existence of voluntary departure enables aliens identified by the government as being illegally present in the United States to leave the country of their own accord without being forcibly removed by the government." *Thapa v. Gonzales*, 460 F.3d 323, 327 (2d Cir. 2006); *accord Barker v. Ashcroft*, 382 F.3d 313, 317 (3d Cir. 2003).

Voluntary departure benefits both the government and the alien. The government need not expend resources removing the alien from the United States, and the alien is likely to leave the country more quickly than if the government were to execute an order of removal. *See, e.g., Rife v. Ashcroft*, 374 F.3d 606, 614 (8th Cir. 2004). For the alien, voluntary departure allows them to sidestep some of the penalties associated with removal. *Dada*, 554 U.S. at 11. Aliens who are granted voluntary departure must "either follow the rules [and] depart voluntarily . . . or break the rules by failing to leave [and] accept the penalties associated with that failure." *Thapa*, 460 F.3d at 328 (quoting *Lopez-Chavez*, 383 F.3d at 651).

It is undisputed that the respondent was statutorily eligible for and was granted the discretionary relief of voluntary departure at the conclusion of his removal proceedings. *See* INA § 240B(b), 8 U.S.C. § 1229c(b) (setting forth the statutory requirements for post-conclusion voluntary departure); 8 C.F.R. § 1240.26(c). Further, the voluntary departure order included the mandatory notice of the civil penalties for failing to depart in accordance with the order. *See* INA § 240B(d)(3), 8 U.S.C. § 1229c(d)(3) (2024).

[1] The Board has appellate authority to review DHS decisions involving fines and civil monetary penalties imposed under 8 C.F.R. § 280 prior to June 27, 2025. 8 C.F.R. §§ 281.1(h), 1003.1(b)(4), 1280.1(b) (2026). For fines imposed on or after June 27, 2025, appellate review is now solely within the jurisdiction of DHS. 8 C.F.R. § 281.1 (2026).

The INA has long authorized the imposition of numerous civil monetary penalties for various immigration-related violations by entities or persons who fail to comply with statutory and regulatory requirements designed to prevent aliens' unlawful entry and presence in the United States. In 1996, Congress substantially amended the INA through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub L. No. 104-208, Div. C, § 304, 110 Stat. 3009-546, 3009-597, to also authorize civil monetary penalties against aliens to deter noncompliance with removal orders. Specifically, Congress added three provisions to the INA that authorize the Attorney General to impose civil monetary penalties against aliens, including for those who are granted voluntary departure but fail to depart the United States within the allotted time period, as codified in section 240B(d) of the INA, 8 U.S.C. § 1229c(d).[2]

Congress' decision to include an amendment to the INA that authorizes the imposition of civil monetary fines against aliens who fail to depart after being issued a final order of removal or being granted voluntary departure reflects Congress' intent that voluntary departure and removal orders be enforced.[3] *See Dada*, 554 U.S. at 19–20 (observing that "[v]oluntary departure is an agreed-upon exchange of benefits, much like a settlement agreement," and that allowing an alien to stay past the departure date negates "the benefit to the Government—a prompt and costless departure— . . . [and] would invite abuse by aliens who wish to stay in the country"). Further, the imposition of civil monetary fines is a longstanding method designed by Congress for the government to employ in order to encourage adherence to laws established by Congress, and such penalties have withstood constitutional scrutiny. *See United States v. Regan*, 232 U.S. 37, 46–47 (1914) (upholding the enforcement of a civil penalty for a violation of the Alien Immigration Act); *Hepner v. United States*, 213 U.S. 103, 109 (1909) (allowing a civil suit by the United States to recover a monetary penalty for violation of an immigration statute). The standard of proof required to impose an immigration civil penalty fine is a preponderance of the evidence. *Regan*, 232 U.S. at 46–50.

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[2] This authority was transferred to the Secretary of Homeland Security as part of the Homeland Security Act of 2002.

[3] The present case involves a civil penalty of $1,000 to $5,000, for overstaying a voluntary departure order. A civil penalty of up to $998 per day may be imposed on an alien who willfully fails or refuses to depart from the United States pursuant to a final order of removal. INA § 274D, 8 U.S.C. § 1324d (2024); 8 C.F.R. § 280.53(b)(14) (2026).

We review all questions arising in appeals from decisions of DHS officers de novo. 8 C.F.R. § 1003.1(d)(3)(iii) (2026). Section 240B(d)(1) of the INA provides, subject to an exception for domestic violence victims that is not relevant here, that:

> if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, the alien—
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> (A) shall be subject to a civil penalty of not less than $1,000 and not more than $5,000; and
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> (B) shall be ineligible, for a period of 10 years, to receive any further relief under this section and sections 240A, 245, 248, and 249.

Section 240B(d)(3) of the INA, 8 U.S.C. § 1229c(d)(3), specifies that "[t]he order permitting an alien to depart voluntarily shall inform the alien of the penalties under this section."

The respondent does not dispute that the Immigration Judge granted him the privilege of voluntary departure in the December 2, 2003, decision, and that he never departed the United States. He also does not assert that the Board did not reinstate the period of voluntary departure in its December 20, 2004, decision. Although the respondent argues that he did not receive the mandatory notice of the penalties for violating the voluntary departure order, both the Immigration Judge and the Board explicitly included notice of the penalties for failing to depart the United States at the end of their respective orders in accordance with section 240B(d)(3) of the INA, 8 U.S.C. § 1229c(d)(3). Further, there is no requirement that notice of the voluntary departure fines be included in an alien's notice to appear.

The respondent also argues that notice of the fine may not be imputed to him because he was not provided the requisite statutory notice by his counsel in a language that he understands. However, it is well-established that "there is no requirement that an alien in immigration proceedings be provided with a notice to appear or any other document in their native language." *Matter of J.J. Rodriguez*, 27 I&N Dec. 762, 765 (BIA 2020); *see also Urquia-Yanez v. Blanche*, 176 F.4th 622, 629 (9th Cir. 2026) ("English-language notices of an alien's obligations generally are reasonably calculated to reach and to inform aliens of their obligations, and thus [are] sufficient to satisfy the demands of due process." (citation omitted)); *Platero-Rosales v. Garland*, 55 F.4th 974, 977–78 (5th Cir. 2022) (holding that a notice to appear does not need to be provided to an alien in any language other than English); *Lopez v. Garland*, 990 F.3d 1000, 1003 (6th Cir. 2021) ("[W]e have held time and again that the INA does not require that the Notice to Appear be explained or written in an alien's native language." (citation omitted)); *Singh v. Holder*, 749 F.3d 622, 626 (7th Cir. 2014) (observing that "[i]n the immigration context, personal service in English to a non-English-speaker typically satisfies due process"); *Lopes v. Gonzales*, 468 F.3d 81, 85 (2d Cir. 2006) ("The relevant statute does not require that notice [of the consequences of failing to appear] be provided in any particular language").

Moreover, notice sent to an alien's attorney of record is deemed proper notice to the alien, and the respondent has not established that his attorney did not notify him of the voluntary departure order or the penalties for failing to comply with that order in the course of his representation.[4] *See* 8 C.F.R. § 1292.5(a) (2026); *Matter of Barocio*, 19 I&N Dec. 255, 259 (1985); *cf. Matter of Zmijewska*, 24 I&N Dec. 87, 94 (2007) (holding that where an alien, through no fault of his or her own, is unaware of the voluntary departure order, the consequences do not apply). Consequently, we are satisfied that DHS met its burden to show that the respondent was fully informed of the penalties associated with a failure to comply with the voluntary departure order and that the requirements of due process have been satisfied.

Although the respondent argues on appeal that he was never directed to depart, the decisions of both the Immigration Judge and the Board ordered the respondent to voluntarily depart. Further, the statute does not require the failure to depart to be willful. The plain language of section 240B(d)(1) of the INA, 8 U.S.C. § 1229c(d)(1), states that if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, then the penalties shall be applied. *See United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241 (1989) (stating that "where the statute's language is plain, the sole function of the courts is to enforce it according to its terms." (citation omitted)). The term "willful" is not contained in the statute.

Additionally, the statute does not contain any provision allowing an alien to remain in the United States indefinitely after a voluntary departure order is issued while applying for any other form of relief from removal. An alien subject to a failure-to-depart penalty has typically already availed himself of the immigration process, has had the opportunity to request relief or protection from removal, and was ordered removed or granted voluntary departure. In fact, the respondent's violation of the voluntary departure order rendered him subject to further penalty in that he is, among other things, ineligible to adjust his status pursuant to section 245 of the INA, 8 U.S.C.

[4] The respondent has not raised a claim alleging ineffective assistance of counsel or otherwise complied with the procedural requirements for such a claim as set forth in *Matter of Lozada*, 19 I&N Dec. 637, 639 (BIA 1988).

§ 1255 (2024), for a period of 10 years even with an approved visa petition. *See* INA § 240B(d)(1)(B), 8 U.S.C. § 1229c(d)(1)(B). Hence, his appellate argument that he continued to seek lawful ways to legalize his status such that he did not willfully violate the voluntary departure order is unavailing.

The respondent's assertion that he lacked the necessary resources to return to his home country is also unavailing. His request for voluntary departure was approved by the Immigration Judge because the respondent demonstrated that he had the means to depart the United States promptly in accordance with the statutory requirements. *See* INA § 240B(b)(1)(D), 8 U.S.C. § 1229c(b)(1)(D). The voluntary departure order was an explicit order directing him to depart the United States within 30 days.

Although the respondent argues that the amount of the fine is excessive, the imposition of a fine in the amount of $3000 is consistent with both the statute and the regulation at 8 C.F.R. § 1240.26(l) (2026). *See BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 574 (1996) (due process is satisfied where a person receives "fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty"); *Stop Ill. Health Care Fraud, LLC v. Sayeed*, 100 F.4th 899, 907 (7th Cir. 2024) ("To violate the [Eighth Amendment's] Excessive Fines Clause, a penalty must be grossly disproportional to the gravity of the . . . offense." (citation omitted)).

In sum, the record reflects that DHS has established that the respondent failed to depart the United States prior to the expiration of his voluntary departure period and that he was appropriately notified of the penalties for doing so. DHS properly imposed a civil monetary penalty in the amount of $3,000 after the respondent failed to depart in compliance with his voluntary departure order. To the extent the respondent seeks equitable relief, the Board has limited jurisdiction and no power to grant equitable remedies or confer general humanitarian relief beyond its delegated authority. *See Matter of Medina*, 19 I&N Dec. 734, 746 (BIA 1988).

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.