

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

ABDIKHALAQ MOHAMED ALI,	)	CIVIL ACTION NO. 25-cv-00419
	)	SEC. P
	)	
	)	JUDGE DOUGHTY
VERSUS	)	
	)	MAGISTRATE JUDGE PEREZ-
JUSTIN WILLIAMS, ET AL	)	MONTES
	)	

INTRODUCTION

Given Petitioner's TPS application, his clear eligibility, and the long, unbroken, duration of TPS Somalia, Respondents have not provided evidence sufficient to continue Petitioner's now 28-month long detention. Respondents have not provided evidence sufficient to continue trying to remove Petitioner to Ethiopia considering it has not provided him any opportunity to demonstrate the likelihood of persecution if removed to Ethiopia. The Court must disregard Respondents' justification because they are premised on statements that the actual records contradict. The Court accordingly should grant this Petition.

ADDITIONAL FACTUAL BACKGROUND

Petitioner is a native and a citizen of Somalia. *See* Doc. No. 14, at Ex. B; Ex. C; Ex. D; Ex. E; Ex. F; Ex. G; Ex. H; Ex. I; Ex. J; Ex. K; Ex. L; Ex. N. While Petitioner traveled using a fake Ethiopian passport, *see* Doc. No. 14, at Ex. L; Ex.

T; Ex. U; Doc. No. 20, at Ex. D, Respondents agreed before the immigration court that he is Somali. *See* Doc. No. 14, at Ex. K; Ex. L; Ex. M. Petitioner arrived in the United States on March 15, 2023, carrying a fraudulent Ethiopian passport. *See* Doc. No. 14, at Ex. T; Ex. U.¹ He was detained and on April 17, 2023, and a border patrol officer prepared an I-867A *without the assistance of an interpreter* in which Petitioner allegedly indicated he was born on January 27, 1992, in Gashamo, Ethiopia, and that he and his parents were Ethiopian. *See* Doc. No. 20, at Ex. D.²

Petitioner was then afforded a credible fear interview *with* a Somali translator. He identified himself as Somali, disclosed and described the use of the false Ethiopian passport, and described his fear of returning to Somalia. *See* Doc. No. 14, at Ex. L. He credibly established his identity and nationality. *See id.* at 4. Respondents then issued a Notice to Appear that designated Petitioner as Somali and charged him as removable as an alien lacking a visa or valid entry document.

¹ In court proceedings, the Department described that Ethiopian passport as fraudulent. *See* Doc. No. 14, at Ex. M.

² Counsel has attempted to correspond with Petitioner on this point but Respondents have denied counsel's access to Petitioner on multiple occasions, returning documents and cancelling scheduled calls. *See* Doc. No. 20, at Ex. G. Counsel suspects this was information drawn from Petitioner's concededly fake Ethiopian passport.

See Doc. No. 14, at Ex. K.³ On March 1, 2024, Petitioner was ordered removed to Somalia. *See* Doc. No. 14, at Ex. A.

On August 27, 2024, Petitioner filed an application for Temporary Protected Status. Respondents scheduled Petitioner for a biometrics appointment in St. Paul, Minnesota. *See* Doc. No. 14, at Ex. Q; Ex. R; Doc. No. 20, at Ex. A. On October 10, 2025, USCIS issued a Notice of Intent to Deny on the grounds that he was “encountered by immigration officers on March 16, 2023, near the San Ysidro Port of Entry and [he allegedly] identified [him]self as Abdikhalaq Mohamed Ali, a citizen of Ethiopia” and that he was “in possession of an Ethiopia passport #EP[REDACTED] and a Somali passport# P[REDACTED]” Doc. No. 20, at Ex. B. The NOID requested proof of Somali nationality and residency in the United States since July 12, 2024. *See id.*

Petitioner responded with Petitioner’s passport, a letter from the Somali embassy confirming its legitimacy, his Somaliland identity card, his education documents, his father’s passport, affidavits from several people confirming his identity, his declaration, the immigration judge’s order, and several DHS prepared records related to the investigation of his background upon his arrival in the United

³ Respondents reference this document in their affidavit. *See* Doc. No. 12, at Ex. A ¶ 4 but fail to disclose that they alleged that Respondent was Somali in that document.

States. *See* Doc. No. 20, at Ex. C. On February 25, 2025, USCIS denied the application solely because it had been “abandoned” for Respondent’s failure to attend a biometrics appointment in St. Paul, Minnesota. *See* Doc. No. 14, at Ex. S.

On July 14, 2025, Respondent once again filed an application for TPS Somalia. *See* Doc. No. 14, at Ex. P. He remains *prima facie* eligible for approval. The federal government captured Petitioner’s biometrics, and this data is readily available to any sub-agency of the Department of Homeland Security without an additional appointment to capture this data.

REPLY ARGUMENT

Petitioner has presented sufficient evidence proving that removal is not reasonably foreseeable and there is no support for his continued detention. Respondents argue two points: (1) Petitioner has prevented his own removal, thereby “tolling” the removal period, and that (2) Petitioner’s removal is imminent. *See* Resp. Br. at 6-7. Both rest on flawed premises and cannot stand.

A. Respondent’s Removal Is Not Reasonably Foreseeable

Respondents concede that “Petitioner completed travel documents for Somalia” on “March 26, 2024.” *See* Doc. No. 12, at Ex. A ¶ 7. He was ordered removed to “Somalia.” *See* Doc. No. 14, at Ex. A. According to the Respondents’ recitation of the facts, Respondent requested a travel document from Somalia more than a year ago, but he still has not been removed. Respondent also has a Somali

passport. *See* Doc. No. 14, at Ex. B. The Somali embassy confirmed its validity. *See* Doc. No. 14, at Ex. C. Still, there does not appear to have been any progress in removing Respondent to Somalia as ordered by law in the last year. That is presumably unreasonably. *See Zadvydas*, 533 U.S. at 701.

Petitioner has applied for TPS. The Act states, “Attorney General may grant the alien temporary protected status in the United States and shall not remove the alien from the United States during the period in which such status is in effect.” 8 U.S.C. § 1254a(a)(1)(A). Even while such an application is pending, “an alien who establishes a prima facie case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien’s eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits.” 8 U.S.C. § 1254a(a)(4)(B).

Petitioner cannot be removed if he holds TPS or has a prima facie case for TPS. His application illustrates prima facie eligibility, *see* Doc. No. 14, at Ex. P, and his prior application was only denied because Respondents prevented him from attending his biometrics appointment in violation of their own policy requiring that “U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations is responsible for completing background and security checks for those who are incarcerated at DHS facilities and applying for benefits with USCIS.” USCIS Policy Manual, Vol. 1, Pt. C, Ch. 2 § B (June 24, 2025); Doc. No.

14, at Ex. S; Doc. No. 20, at Ex. F. Moreover, even if the application is denied, Petitioner enjoys a right to appeal, *see* 8 C.F.R. § 244.10(c), and “he will remain unremovable during that process.” *Salad v. Dep’t of Corr.*, 769 F. Supp. 3d 913, 932 (D. Alaska 2025). Furthermore, “Somalia’s designation for TPS has been consecutively extended since its initial designation ... on September 16, 1991.” Extension and Redesignation of Somalia for Temporary Protected Status, 89 Fed. Reg. 59,136 (July 22, 2024). *See also* Extension and Redesignation of Somalia for Temporary Protected Status, 83 Fed. Reg. 43,695 (August 27, 2018).

Indeed, another court confronting the same question reached a nearly identical conclusion. *See Salad v. Dep’t of Corr.*, 769 F. Supp. 3d 913, 931 (D. Alaska 2025). *Salad* held that “Petitioner’s prima facie eligibility for TPS currently poses a complete bar to his removal, and it strongly indicates that his application will eventually be granted.” *Id.* at 932. The same is true here. TPS for Somalia runs until March of 2026. 89 Fed. Reg. 59,136.

Petitioner is eligible for TPS if were in fact Ethiopian too. Ethiopians are eligible for TPS and entitled to the same protections as eligible Somalis. *See* Extension and Redesignation of Ethiopia for Temporary Protected Status, 89 Fed. Reg. 26,172 (Apr. 15, 2024). Thus, even if the Court were to overrule the immigration court as to Petitioner’s nationality, he would still be eligible for TPS Ethiopia. This too forecloses his removal. *See* 8 U.S.C. § 1254a(a)(1)(A).

Respondent's insentience that Petitioner's "removal is imminent," *see* Resp. Br. at 7, lacks legal support. Petitioner's removal is not reasonably foreseeable, and his detention must cease.

B. Respondent Is Not Ethiopian

Respondents rely on Robert Ainley's affidavit to try to circumvent Petitioner's arguments. The core of Respondent's argument rests on the contention that Petitioner:

[H]as thwarted his removal by claiming to be from a country to which he has no ties, refusing to apply for travel documents to the country of which he is a native and citizen, refusing to comply with the Ethiopian Consulate interview; and by becoming combative and physically preventing his removal during the airplane boarding process.

See Resp. Br. at 6-7. However, Petitioner is Somali, not Ethiopian. *See* Doc. No. 14, at Ex. B; Ex. C; Ex. D; Ex. E; Ex. F; Ex. G; Ex. H; Ex. I; Ex. J; Ex. K; Ex. L; Ex. N. Petitioner and his family say so. *See* Doc. No. 14, at Ex. H; Ex. I; Ex. J; Ex. O. The Department of Homeland Security has said so. *See* Doc. No. 14, at Ex. K; Ex. L; Ex. M. The immigration judge said so. *See* Doc. No. 14, at Ex. A. The only evidence to the contrary comes from the use of fraudulent Ethiopian passport, which Respondents described as fraudulent before the immigration court and the Department of Homeland Security, *See* Doc. No. 14, at Ex. L; Ex. T, and an I-867A prepared by a Border Patrol officer shortly after Petitioner's arrival *without* the assistance of an interpreter. *See* Doc. No. 20, at Ex. D.

The fact that Petitioner has resisted removal to a third country, one to which he has indicated he fears, but to which has been afforded no opportunity to challenge, is more reflective of Respondents' disregard for its obligations under the 8 U.S.C. § 1231(b)(3)(A) than improper conduct from Petitioner. See 8 C.F.R. § 1240.10(f). The order named Somalia. *See* Doc. No. 14, at Ex. A. The order says nothing about Ethiopia. Petitioner did nothing to interfere with the execution of the order in this case.

Mr. Ainley's affidavit is fundamentally flawed. Mr. Ainley claims to have reviewed "the DHS electronic databases and documents contained in the alien administrative file (Alien file)" *see* Doc. No. 12, at Ex. A ¶ 4, and in the next breath states that "[o]n March 2, 2024, Petitioner received a final order of removal to Ethiopia." *See* Doc. No. 12, at Ex. A ¶ 6. One of these statements is demonstrably untrue because the record clearly shows that on March 1, 2024, Petitioner was ordered removed to Somalia. *See* Doc. No. 14, at Ex. A. Both the country and the date are also wrong. Either Mr. Ainley failed to review the file or Mr. Ainley made rather egregious factual errors under oath. The Court cannot deem this declaration probative when it plainly misstates the record. Mr. Ainley's claims contradict the record and Respondents' own prior position. *Compare* Doc. No. 12, at Ex. A ¶ 4, *with* Doc. No. 14, at Ex. B; Ex. C; Ex. K; Ex. L; Ex. M. He claims that "Petitioner's Somalia documents were fraudulent and that Petitioner

has no ties to that country” based on a “May 31, 2024 report,” *see* Doc. No. 12, at Ex. A ¶ 10, but prior analysis of supporting documents filed in Petitioner’s asylum case found that “[d]ue to the lack of comparable genuine Somalia supporting document standards or reference material on file in the laboratory’s reference library, Exhibits 1.1 through 1.24 could not be authenticated by a comparative examination.” Doc. No. 20, at Ex. E. Notably, Respondents do not appear to have inquired into the authenticity of Petitioner’s Somali passport or identity documents before the Immigration Court. Instead, they call the Ethiopian document fraudulent, *see* Doc. No. 14, at Ex. M, and charged Petitioner as Somali. *See* Doc. No. 14, at Ex. K. This makes sense given that the Somali embassy has confirmed the veracity of his Somali passport. *See* Doc. No. 14, at Ex. C.

Mr. Ainley continues to mischaracterize the record when he stated that “[P]etitioner was given thirty days to appeal USCIS decision.” Doc. No. 12, at Ex. A ¶ 15. There was no right to appeal because a “denial due to abandonment may not be appealed.” Doc. No. 12, at Ex. S. Mr. Ainley neglected to mention why USCIS denied application and Respondents’ unclean hands in causing the denial. Respondents failed to comply with its internal guidance that provides that “U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations is responsible for completing background and security checks for those who are incarcerated at DHS facilities and applying for benefits with USCIS.” USCIS

Policy Manual, Vol. 1, Pt. C, Ch. 2 § B (June 24, 2025); Doc. No. 20, at Ex. F. Petitioner is in custody today because the government is selectively following its regulations. The Court must demand more accountability when someone like Petitioner has a clear path to relief and should have been released months ago without having to seek out judicial intervention. Whether Petitioner is Ethiopian or Somali, he is eligible for TPS. Relief from this Court is appropriate.

CONCLUSION

The Court must conclude that Respondents have failed to rebut Petitioner's showing that there is no significant likelihood of any lawful removal in the reasonably foreseeable future. As such, the Petition must be granted.

Respectfully submitted,

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