

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

ROMAN ANTATOLEVICH SUROVTSEV,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondent.

Civil Action No. 1:25-CV-00160-H

RESPONSE DETAILING CITIZENSHIP AND THIRD-COUNTRY REMOVAL

On September 19, 2025, Respondents filed their response to Petitioner's Preliminary Injunction and Habeas Petition. ECF 17. In response, on September 26, 2025, the Court ordered Respondents to file a response addressing 1) whether the government has evidence of Petitioner's Ukrainian citizenship; 2) if he is stateless, whether his statelessness raises the question of third-country removal; and 3) whether third-country removal is lawful. Respondents respectfully answer those questions as follows:

A. Respondents have evidence of Petitioner's Ukrainian citizenship.

In their response, Respondents stated that Petitioner is a native of the Soviet Union and a citizen of Ukraine. ECF 17, p. 1. Petitioner's Notice to Appear states he is a native of the USSR and a citizen of Ukraine. ECF 18, p. 29. After a hearing was held, an Order of Removal was entered. In that order, the Immigration Judge specifically states that based on Petitioner's "admissions, I have determined that the respondent is subject to removal on

the charge(s) in the Notice to Appear”, and then ordered Petitioner removed to Russia and alternatively Ukraine, per Petitioner’s request. *Id.*, at p. 73; ECF Doc. 1-1, p. 37. Petitioner waived appeal. *Id.* Thus the Notice to Appear and the conclusions of the Immigration Judge, which were not appealed by Petitioner, are the primary components of Respondents’ evidence of Petitioner’s citizenship.

B. Stateless and Third Country Removal.

The term “stateless” is not defined in the INA. There is no immigration law relating to the identification of “stateless” aliens in the United States. On June 5, 2025, U.S. Citizenship and Immigration Services rescinded policy guidance regarding stateless aliens present in the United States. App. pp. 5-6. Accordingly, statelessness is a discretionary determination officers may, in their discretion, consider in making determinations in some applications, petitions, or requests—a determination of statelessness by a Deportation Officer is a finding of fact that can be a discretionary factor in an adjudication of a benefit request.

Whether Petitioner is considered “stateless” does not necessarily implicate third country removal. Petitioner has a valid order of removal from an immigration judge that orders Petitioner removed to Russia or Ukraine. Petitioner asked to be removed to either Russia or Ukraine. ECF Doc. 1-1, p. 37. ICE is moving forward with executing the removal order specifically working to remove Petitioner to Ukraine. App. p. 3. If ICE is unable to remove Petitioner to either of the countries designated on his removal order, ICE will pursue third country removal as it routinely does when someone cannot be removed to the country designated in the order of removal. *See* 8 U.S.C. § 1231(b)(1)(C)(iv) (allowing the

government to remove aliens arriving in the United States to any country that will accept the alien if it is “impracticable, inadvisable, or impossible” to send the alien to their home country).

C. Third Country Removal is Lawful.

The INA provides the Executive Branch with the authority to execute orders of removal and to ensure that aliens who have been ordered removed are in fact removed from the United States. This authority is broad. The United States may remove aliens to various countries including, where other options are unavailable, to any country willing and able to accept them. *See* 8 U.S.C. § 1231(b)(2)(E).

Section 1231(b)(2)(E) provides:

(E) ADDITIONAL REMOVAL COUNTRIES - If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

- “(i) The country from which the alien was admitted to the United States.
- “(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.
- “(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.
- “(iv) The country in which the alien was born.
- “(v) The country that had sovereignty over the alien's birthplace when the alien was born.
- “(vi) The country in which the alien's birthplace is located when the alien is ordered removed.
- “(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

DHS Guidance establishes a two-track system to address aliens who have been ordered removed but for various reasons cannot be sent to a country specifically designated in their removal orders. First, where the United States has received a sufficient assurance

from a third country that no aliens will be tortured upon removal there, the Executive may remove the alien to that country without any further process. The Supreme Court has held that when an Executive determines a country will not torture a person on his removal, that is conclusive. *Munaf v. Geren*, 553 U.S. 674, 702–03 (2008); *see also Kiyemba v. Obama*, 561 F.3d 509, 514 (D.C. Cir. 2009) (federal courts “may not question the Government’s determination that a potential recipient country is not likely to torture a detainee”), *cert. denied*, 559 U.S. 1005 (2010). Second, for countries where the United States has not received such an assurance, DHS policy provides that the alien is entitled to notice of the third country and an opportunity for a prompt screening of any asserted fear of being tortured there.

Removal to third countries is lawful and authorized by statute. *See* 8 U.S.C. § 1231(b)(2)(E). ICE routinely removes aliens to countries that will accept them when unable to remove elsewhere. *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335, 340–341 (2005). In this case, Ukraine is not a third country as it is a country listed on Petitioner’s removal order. ECF 18, p. 73.

Any challenges to Petitioner’s notice to appear, removal order, or countries designated in the removal order are properly addressed in the court of appeals. *Rivera-Cruz v. INS*, 948 F.2d 962, 968 (5th Cir.1991). Congress did not give district courts the ability to stay removals or reopen removal orders, and in fact, specifically stripped district courts of the ability to interfere with ICE’s execution of removal orders. The Fifth Circuit is the sole and exclusive means for judicial review of an order or removal. *Ojeda-Terrazas v. Ashcroft*, 290 F.3d 292, 295 (5th Cir. 2002)); 8 U.S.C. § 1252(a)(5). Judicial review of

all questions of law and fact, including interpretation of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States may only be reviewed in the courts of appeals. *See Nasrallah v. Barr*, 590 U.S. 573, 580 (2020); *Velasquez v. Nielsen*, 754 F. App'x 256, 261 (5th Cir. 2018).

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 9, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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