

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

YUSUF TOURAY,

Petitioner,

v.

ROBERT K. LYNCH,¹
Field Office Director for Enforcement and
Removal Operations, United States
Immigration and Customs Enforcement,

Respondent.

Case No. 1:25-cv-00683

District Judge Douglas R. Cole

Magistrate Judge Caroline H. Gentry

**RESPONDENT'S RESPONSE TO PETITIONER'S EMERGENCY
MOTION FOR TEMPORARY RESTRAINING ORDER TO STAY
REMOVAL PENDING RESOLUTION OF HABEAS PETITION**

This Court cannot enjoin Respondent from taking action to remove Petitioner from the United States. Petitioner, Yusuf Touray, is lawfully detained pursuant to 8 U.S.C § 1231(a). As a result, Petitioner's Emergency Motion for Temporary Restraining Order to Stay Removal Pending Resolution of Habeas Petition should be denied. (Motion for TRO, Doc. 2.) Petitioner has raised no issues subject to judicial review, pled no facts inconsistent with due process, and made no claims that his removal will not happen in the reasonably foreseeable future. (Return of Writ, ECF 5.) Specifically, Petitioner cannot demonstrate that this Court can grant any relief requested in his motion for a TRO. More specifically, this Court has no jurisdiction to enjoin ICE's execution of Petitioner's removal order. Therefore, this Court should deny Petitioner's Motion for TRO.

¹ Kevin Raycraft is currently the Acting Field Office Director for Enforcement and Removal Operations, United States Immigration and Customs Enforcement.

I. FACTUAL BACKGROUND

The factual background is set forth in Respondent's Return of Writ. (Return of Writ, ECF 5.) At issue in Petitioner's Motion for TRO are the following facts:

Petitioner, Yusuf Touray ("Petitioner" or "Touray"), is a national and citizen of Gambia. (Petition, ECF 1, PageID 3, ¶8; Declaration of John Wissel, Exhibit A, at 1-2, ¶2.)

Petitioner was ordered removed from the United States 15 years ago, and subsequently, released on supervision pursuant to 8 U.S.C. § 1231(a)(3). (Petition, ECF 1, PageID 3, ¶6; Wissel Decl., Ex. A, at 2, ¶5.) Petitioner appealed the Immigration Judge's decision to the BIA but it was dismissed on September 15, 2022. (Wissel Decl., Ex. A, at 2, ¶5.)

Since August 13, 2025, Petitioner was arrested and is detained in the custody of U.S. Immigration and Customs Enforcement ("ICE") at the Butler County Correctional Complex after after an ICE check-in appointment. (*Id.*, at PageID 3-4, ¶¶8, 13; Wissel Decl., Ex. A, at 2, ¶7.) He has been detained for just over a month. (Petition, ECF 1, PageID 4, ¶14.) He is awaiting removal pursuant to a valid removal order. (Petition, ECF 1, PageID 3, ¶6; Wissel Decl., Ex. A, at 2, ¶¶5, 9-11.)

On August 25, 2025, ICE Enforcement and Removal Operations ("ERO") requested a travel document for Petitioner from the Gambian Consulate. (Wissel Decl., Ex. A, at 2, ¶8.)

On September 18, 2025, Petitioner Touray was interviewed regarding the travel document request by the Gambian Consulate. (*Id.*)

ICE ERO expects the Gambian Consulate will issue the Petitioner's travel document by September 29, 2025. (Wissel Decl., Ex. A, at 2, ¶8.)

ICE ERO intends to move Petitioner to a detention facility in Alexandria, Louisiana tomorrow, September 27, 2025. (*Id.* at ¶9.)

On September 28, 2025, Petitioner is scheduled for transfer from Louisiana to Mesa, Arizona for removal from the United States. He will be removed to Gambia from the United States, from Mesa, Arizona, on October 1, 2025. (*Id.*)

Thus, ICE believes there is a significant likelihood Touray will be removed in the reasonably foreseeable future, that is: on Wednesday, October 1, 2025. (Wissel Decl., at 2-3, ¶¶9-11.)

Petitioner's Motion for TRO was filed on September 19, 2025. (Motion for TRO, ECF 2.) Petitioner is requesting this Court to:

1. Prevent Respondent from executing Petitioner's valid removal order while his Habeas Petition remains pending. (*Id.* at PageID 12, 14, 17.)
2. Require Respondent to keep Petitioner in this district and where he is currently in detained. (*Id.* at PageID 14, 17.)
3. Require Respondent to provide at least 14 days of notice before Petitioner is removed. (*Id.* at PageID 17.)

II. ARGUMENT

A. Imminent and Irreparable Harm

Petitioner claims imminent and irreparable harm because he is "challenging the legality of his detention and/or removal," and would violate due process and his statutory right to judicial review under 28 U.S.C. § 2241. (*Id.* at PageID, 14-15.) He

also claims that if he is removed, he may be unable to return, even if removal is found unlawful. (*Id.* at PageID, 15.) He alleges risk of physical harm if removed, impaired ability to access legal counsel, or participate in further proceedings. (*Id.* at PageID, 15.)

B. Likelihood of Success on the Merits

Even assuming the imminent and irreparable harm faced by Petitioner when he is deported, Petitioner does not assert he has a likelihood of success on the merits. This is because Petitioner has no likelihood of success on the merits to prevent his removal. This Court lacks jurisdiction to prevent Respondent's removal, which is imminent. (*See* Return of Writ, ECF 5, PageID 27-30.) *See e.g., Portillo v. Wolf*, Case No. 2:20-cv-12730, 2020 WL 6130880, *3 (E.D. Mich. Oct. 19, 2020) ("Because the Court lacks jurisdiction over the petition, it lacks jurisdiction [pursuant to §1252(a)(5) and (g)] to issue a temporary restraining order" denying TRO preventing execution of removal order); *see also Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018) ("[E]nforcement of longstanding removal orders falls squarely under the Attorney General's decision to execute removal orders and is not subject to judicial review.").

Further, *Zadvydas v. Davis* does not apply here because Petitioner will be removed next week. 533 U.S. 678 (2001). (Wissel Decl., ECF 5-1, PageID 9-11.)

Furthermore, Petitioner was provided due process. (*See* Return of Writ, ECF 5, PageID 34-35); *see also Portillo v. Wolf*, 2020 WL 6130880, *2.

Where there is no likelihood of success for one party, the analysis for a TRO ends. As a result, Petitioner's Motion for TRO should be denied.

Further, this Court should withdraw its request for Petitioner to remain in the United States. Respondent has had an opportunity to respond to the TRO.

Importantly, Petitioner should not be able to interfere with his removal by simply requesting he not be deported and remain in the district via a Motion for TRO.

VI. CONCLUSION

Because Petitioner's Motion for TRO is without merit, his removal is lawful and imminent, and this Court is without jurisdiction to prevent his removal, Petitioner's Motion for TRO should be denied.

Respectfully submitted,

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