

United States District Court  
Eastern District of Michigan

Mohan Karki,

Petitioner,

Civil No. 25-13186

v.

Honorable Stephen J. Murphy III  
Mag. Judge Kimberly G. Altman

Kevin Raycraft, Field Office Director  
of Enforcement and Removal  
Operations, Detroit Field Office,  
Immigration and Customs  
Enforcement; et al.,

Respondents.

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**Respondents' Emergency Motion to Vacate Order Requiring  
Petitioner's Personal Attendance at Hearing**

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In this habeas suit, petitioner challenged his detention because he alleged that his removal was not likely in the reasonably foreseeable future and because he alleged the agency did not have authority to revoke his order of supervision. On November 18, 2025, the Court entered an order requiring petitioner's personal attendance at an upcoming hearing on his petition for a writ of habeas corpus. For the reasons described in the attached brief, respondents respectfully request that the Court vacate its order requiring petitioner's personal attendance because respondents have obtained a travel document for petitioner and will remove him from the United

States before the upcoming hearing, which will render this case and the upcoming hearing moot.

Pursuant to Local Rule 7.1, counsel requested concurrence in this motion, but petitioner's counsel did not concur in the requested relief.

Respectfully submitted,

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Dated: November 30, 2025

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Eastern District of Michigan

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**Respondents' Brief in Support of Their Emergency Motion to  
Vacate Order Requiring Petitioner's Personal Attendance at  
Hearing**

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**Issue Presented**

Should the Court vacate its order requiring petitioner's personal attendance at the upcoming hearing when petitioner will likely be removed from the United States before the hearing, which will render this case and the hearing moot?

**Table of Contents**

Table of Authorities ..... iii

Introduction ..... 1

Background ..... 1

Standard of Review ..... 3

Argument..... 4

Conclusion ..... 6

Certificate of Service ..... 7

## Table of Authorities

### Cases

<i>Enazeh v. Davis</i> , 107 F. App'x 489 (6th Cir. 2004) .....	4
<i>Hamama v. Adducci</i> , 912 F.3d 869 (6th Cir. 2018).....	4
<i>Karki v. Jones</i> , No. 1:25-CV-281, 2025 WL 1638070 (S.D. Ohio June 9, 2025).....	2
<i>Shelter-Lite, Inc. v. Reeves Bros.</i> , 611 F.2d 1179 (6th Cir. 1980).....	3
<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001) .....	4

### Statutes

8 U.S.C. § 1252(a)(5).....	4
8 U.S.C. § 1252(g) .....	4, 5

### Rules

Fed. R. Civ. P. 1 .....	3
Fed. R. Civ. P. 6(b)(1).....	3

## **Introduction**

Petitioner is a noncitizen subject to a final order of removal who is being detained while the agency coordinates his removal from the United States. In this habeas suit, petitioner challenged his detention under the Fifth Amendment because he alleged that the agency was not likely to remove him in the reasonably foreseeable future, even though his own legal challenges were the only impediment to his removal. A short time ago, the Court set a hearing in this case and ordered petitioner's personal attendance at the hearing. Since the Court scheduled its hearing, the agency obtained a travel document to remove petitioner and will remove petitioner from the United States before the hearing, which will render this suit moot. Accordingly, respondents respectfully request that the Court vacate its order requiring Karki's personal attendance at the upcoming hearing.

## **Background**

Petitioner Mohan Karki is a citizen of Bhutan and a national of Nepal who entered the United States in 2011. (Tiruchelvam Decl., ECF No. 6-2, PageID.77). In May 2014, Karki was convicted of burglary in Georgia and was sentenced to three years and imprisoned for one year. (*Id.*; IJ Order, ECF No. 6-2, PageID.81). After Karki's conviction, Karki was ordered removed to Bhutan or Nepal. (Tiruchelvam Decl., ECF No. 6-2, PageID.77–78; Order of Removal, ECF No. 6-4, PageID.89).

In March 2025, immigration officials obtained a travel document to remove Karki to Bhutan, but before officials could execute Karki's removal, he filed a legal challenge which stayed his removal, until the immigration court denied his challenge. (Tiruchelvam Decl., ECF No. 6-3, PageID.78–79; IJ Order, ECF No. 6-4, PageID.81–86). In April 2025, officials obtained a new travel document, but Karki once again stayed his removal by filing a legal challenge. (Tiruchelvam Decl., ECF No. 6-3, PageID.78–79).

While his removal was stayed due to his challenge to his April travel document, Karki filed a habeas suit in the U.S. District Court for the Southern District of Ohio challenging his detention. (*See Karki v. Jones*, Civil No. 25-281 (S.D. Ohio). The Southern District of Ohio denied Karki's motion to stay his removal for lack of subject matter jurisdiction and denied his habeas petition because his detention did not violate the Fifth Amendment. *See Karki v. Jones*, No. 1:25-CV-281, 2025 WL 1638070, at \*7–8 (S.D. Ohio June 9, 2025).

Shortly after the Southern District of Ohio dismissed Karki's habeas suit, he filed another motion with the Board of Immigration Appeals, which once again stayed his removal. (Tiruchelvam Decl., ECF No. 6-3, PageID.79). While that challenge was pending, Karki filed this habeas suit challenging his detention by arguing that his removal was not likely in the foreseeable future. (*See Pet.*, ECF No. 1).

On October 27, 2025, after respondents filed their brief in this case, the BIA dismissed Karki's final appeal and lifted the stay on Karki's removal. (Exhibit 1 – BIA Decision).

On November 18, 2025, the Court entered an order requiring Karki's personal attendance at a hearing in this case and ordered ICE to produce Karki for the hearing. (Order, ECF No. 10).

On November 19, 2025, immigration officials obtained a travel document to remove Karki to Bhutan and have scheduled his removal for December 2, 2025. (Exhibit 2 – Supp. Tiruchelvam Decl. ¶¶ 6–9).

On November 26, 2025, Karki filed an emergency motion to stay his removal in the Eleventh Circuit. (*See Karki v. U.S. Atty. Gen'l*, 25-14188 (11th Cir.), ECF No. 4). On November 28, 2024, a three judge panel of the Eleventh Circuit found that Karki's upcoming removal was proper and denied Karki's motion to stay his removal. (Exhibit 3 – 11th Cir. Order).

### **Standard of Review**

A district court's decision to vacate an interlocutory order is reviewed for an abuse of discretion. *See, e.g., Shelter-Lite, Inc. v. Reeves Bros.*, 611 F.2d 1179, 1180 (6th Cir. 1980).

## Argument

Courts should manage their dockets “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. Further, a court may extend or vacate an order requiring a party to perform an act within a specific time for good cause. Fed. R. Civ. P. 6(b)(1).

Here, there is good cause to vacate the Court’s order requiring petitioner’s personal attendance at the upcoming hearing. First, petitioner’s upcoming removal will render this case and the upcoming hearing moot. It is well settled that immigration officials may detain a noncitizen while they coordinate a noncitizen’s removal as long as removal is likely in the reasonably foreseeable future. *See* 8 U.S.C. § 1231(a)(6); *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In this case, petitioner’s primary challenge to his detention is based on his claim that respondents are unlikely to remove him in the near future and he secondarily argues that respondents did not have authority to cancel his order of supervision and detain him in the first instance. (*See* Pet., ECF No. 1, PageID.18–19). Petitioner’s upcoming removal will necessarily refute petitioner’s argument that his removal is unlikely in the foreseeable future and end his detention, which will moot both grounds for his petition. *See Enazeh v. Davis*, 107 F. App’x 489, 491 (6th Cir. 2004) (holding that removal rendered challenge to detention moot).

To the extent petitioner challenges his removal or requests that the Court stay his removal so that he can appear at the upcoming hearing, this Court lacks jurisdiction to hear such a claim or to issue any order that would interfere with his lawful removal. Under controlling law, challenges to removal of any kind must be brought in the U.S. Courts of Appeals and federal district courts lack jurisdiction to enter orders staying removals. *See* 8 U.S.C. §§ 1252(a)(5), (g); *Hamama v. Adducci*, 912 F.3d 869, 880 (6th Cir. 2018) (“The district court . . . lacked jurisdiction over the removal-based claims because § 1252(g) plainly reserves for the Attorney General the authority to execute removal orders.”). And, in any event, the only Court with jurisdiction to stay Karki’s removal has already determined that a stay of removal is unwarranted in this case. (*See* Exhibit 3 – 11th Cir. Order).

Finally, if the Court wishes to proceed with the hearing even after Karki’s removal, it will not prejudice him to appear through his attorney. Karki is represented by competent counsel in this case, (*see, e.g.*, Pet., ECF No. 1), the upcoming hearing is not an evidentiary hearing, so petitioner would not be needed to provide testimony or be cross-examined, (*see* Order, ECF No. 9; Order, ECF No. 10), and the issues argued at the hearing are technical legal issues that will have little meaning to an individual who has no legal training and who will only be able to listen to the hearing through an interpreter because he does not understand English. (*See* Karki Decl., ECF No. 1-1, PageID.24–28).

## Conclusion

Respondents respectfully request that the Court vacate its order requiring petitioner's personal attendance at the upcoming hearing in this case.

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Dated: November 30, 2025

## Certificate of Service

I hereby certify that on November 30, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

*/s/ Zak Toomey* \_\_\_\_\_

**Zak Toomey**

Assistant U.S. Attorney