



11). Respondent attached a travel document for Petitioner purportedly issued by The Embassy of the Republic of Gambia in Washington, DC. (Motion, ECF 11).

Petitioner requests that the Court deny the motion in its entirety because Respondent's motion misconstrues the scope of 8 USC § 1252(g) and this Court's well-established authority under the All Writs Act to prevent actions that would moot a properly filed habeas petition. Furthermore, vacating this Court's order, when Respondent has not shown any material plans and timelines by which it intends to remove Petitioner, would deprive this Court of its ability to grant effective relief to Petitioner. The Motion should therefore be denied.

**A. 8 U.S.C § 1252(g) does not strip this Court of its Authority to Preserve its jurisdiction during the pendency of a Habeas Petition**

Section 1252(g) does not preclude district court habeas review of ICE detention because its plain text confines jurisdictional stripping claims "arising from any decision or action ... to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). The REAL ID Act of 2005 does not preclude the use of the writ of habeas corpus to challenge detention by ICE. REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A), (B), (C) and § 242(g). Moreover, the Sixth Circuit has held that the REAL ID Act only deprives the district court of habeas jurisdiction to review orders of removal, not challenges to detention. *Kellici v. Gonzales*, 472 F.3d 416, 419-20 (6th Cir. 2006).

Petitioner submitted a detention-based claim because removal is not reasonably foreseeable. The Government's reliance on § 1252(g) misses the mark because Petitioner challenges the lawfulness of post-proceeding actions, not discretionary execution decisions. Specifically, Petitioner challenges the lawfulness of Respondent's scheme to deprive him of his statutory and constitutional rights by detaining him when removal is not reasonably foreseeable.

Accordingly, Section 1252(g) does not strip the district courts of jurisdiction to review the claim. Thus, this Court properly exercised its jurisdiction on October 21, 2025, when it issued the order prohibiting removal of Petitioner from this District for the purpose of preserving its jurisdiction.

**B. The District Court's Order is Necessary**

This Court's order granted on October 21, 2025, should continue to remain in place because Respondent has not shown any material plans and timelines by which it intends to remove Petitioner. It is unclear how many people the government has been able to remove to the Gambia in the past year and whether the government will be able to effect Petitioner's removal in the foreseeable future. Respondent asserts that it possesses a valid travel document for Petitioner. However, material portions of that document, specifically those necessary for Petitioner to assess its authenticity, have been redacted. As a result, Petitioner is unable to verify the document's validity and reasonably questions its validity. Assuming without admitting that the document is valid, the document is set to expire in June 2026. Absent this Court's October 21 Order—and in the absence of any concrete plans or a definitive timeline for Respondent to effect Petitioner's removal—Petitioner faces a substantial risk of remaining in unlawful detention for an extended period beyond the time already endured.

For the foregoing reasons, this Court should deny the Respondent's motion.

DATED: 1/06/2026

Respectfully submitted,

/S/ Julie C. Nemecek  
Julie C. Nemecek  
Attorney for Petitioner (A240-734-305)  
The Nemecek Firm, Ltd  
471 East Broad Street, Suite 1200  
Columbus, Ohio 43215  
Telephone: (614) 459-2180  
Fax: (614) 340-7888  
Email: [julie@jnimmigration.com](mailto:julie@jnimmigration.com)