

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHANTHILA SOUVANNARATH

CIVIL ACTION

VERSUS

NO. 25-938-SDD-SDJ

**U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT, *et al.***

SUPPLEMENTAL RESPONSE CONCERNING REMEDY BY RESPONDENTS

Pursuant to the Court’s Minute Entry, Doc. 36, the Respondents¹ provide the Court with this supplemental briefing concerning the status of this case and the Petitioner’s motion to enforce the Court’s temporary restraining order.

I. FACTUAL BACKGROUND

On October 16, 2025, the petitioner Chanthila Souvannarath (“Petitioner”) initiated this habeas corpus proceeding pursuant to 28 U.S.C. § 2241. Doc. 1. Based on a final order of removal issued by an immigration judge (“IJ Order”), the Petitioner had been detained by the Department of Homeland Security (DHS) for purposes of effectuating his removal from the United States since June 18, 2025 – approximately four (4) months. Doc. 15-1, ¶¶ 3-4.

The Petitioner had ample notice of his risk of removal. His IJ order, issued in 2006, specifically directed the Government to remove the Petitioner to either Thailand or Laos. For 19 years, the Petitioner did not challenge the findings of his IJ order, nor did he seek any other relief from the immigration court, including a reopening of his proceedings.

On October 17, 2025, the Petitioner sought “emergency” relief from the Court through two filings – an “Emergency Petition for Writ of Habeas Corpus (28 U.S.C. § 2241),” Doc. 2; and an

¹ The respondents are U.S. Immigration and Customs Enforcement (ICE); Attorney General Pamela Bondi; Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Secretary Kristi Noem; the United States of America; and any other respondent sued in their official capacity.

“Emergency Motion for Stay of Removal and Expedited Order to Show Cause,” Doc. 3. By those motions, Petitioner asserted he was a U.S. citizen by derivation under INA § 321(a), since repealed.

The Petitioner mailed copies of his court filings – Docs. 1, 2, and 3 – to various entities identified in a certificate of service. Doc. 3, pp. 6-7. The U.S. Attorney’s Office received that mailing on October 21. The Attorney General received that mailing on October 23.

On October 23, 2025, the Court issued an *ex parte* temporary restraining order prohibiting the Respondents from (1) “transferring” the Petitioner from the Court’s jurisdiction; or (2) “removing” Petitioner from the United States. Doc. 4, p. 4. Notice was provided to the Respondents via U.S. mail. The mailing to the U.S. Attorney’s Office was postmarked Saturday, October 25, 2025. Doc. 15, p. 4, n. 5.

On October 24, 2025, at 2:51 p.m., the U.S. Attorney’s Office was made aware of the Court’s *ex parte* order through a proactive docket check of this case.² Immediately thereafter, at 2:56 p.m., the U.S. Attorney’s Office communicated that order to DHS. Records at DHS indicated the Petitioner had already been removed from the United States, and DHS contacts immediately began to gather information on the Petitioner’s movements prior to and after issuance of the Court’s *ex parte* order to submit to the Court a detailed declaration. *Cf.* Doc. 15-1.

After reviewing appropriate records, Respondents determined that on October 20, 2025, the Petitioner was moved from the Louisiana ICE Processing Center (LIPC) to the Alexandria Staging Facility (ASF). Doc. 15-1, ¶ 7. On October 24, at 3:00 a.m., the Petitioner was flown from ASF to Baltimore, MD. *Id.* ¶ 8. On October 24 at 11:45 a.m. EDT/ 10:45 a.m. CDT, the Petitioner was removed from the United States on a contract charter flight. *Id.* That flight made stops in

² At the time, Government appropriations had lapsed, and most employees were subject to furlough. Undersigned counsel was the exception, serving as the point of contact for the civil division and the only civil AUSA not subject to furlough. Numerous dockets were proactively checked to keep aware of litigation that could impact the United States, including this one.

Bucharest, Romania; New Delhi, India; Colombo, Sri Lanka; Phnom Penh, Cambodia; and Vientiane, Laos, where Petitioner departed on October 26.

II. ARGUMENT

Respondents previously briefed the Court on the numerous jurisdictional hurdles that foreclose the Petitioner's return to the United States and that prevent judicial review of Petitioner's claim of citizenship. Doc. 15. During a status conference on November 4, the Court permitted the parties to engage in limited discovery addressing Respondents' knowledge of the Court's *ex parte* order and any alleged adverse treatment. Respondents cooperated in that discovery.

The results of that exercise are clear. There is no evidence that Respondents knew of the Court's *ex parte* order prior to Petitioner's physical removal from the United States. Though Petitioner has insisted otherwise, pointing to an alleged phone call by his spouse to an unrelated ICE field office, he has not produced any evidence to substantiate that allegation. Nor is there evidence that Respondents violated any policy or guidance directing Petitioner's return to the United States. And facilitating his return on the same aircraft was simply not feasible.

There is also no evidence of adverse treatment. To the contrary, Respondents reviewed Petitioner's claim of purported citizenship as required by an ICE directive. Petitioner did not demonstrate a probative claim, nor did he pursue his claims in a court of competent jurisdiction.

Based on these facts and the applicable law, Respondents do not believe that any remedy is available or appropriate.

A. Respondents Lacked Knowledge of the Court's Order Prior to Removal

Respondents removed Petitioner from the United States at approximately 10:45 a.m. CDT. They did not have notice of the Court's *ex parte* order until 2:51 p.m. CDT, or four (4) hours later, when the Petitioner's removal flight was mid-air and outside U.S.-airspace.

Petitioner initially sought to undermine this timeline by arguing that his spouse contacted the ICE Los Angeles Field Office on the morning of October 24. Doc. 16, p. 3.³ Petitioner never elaborated on the substance of this call or even its precise timing. Indeed, Petitioner never explained why his wife contacted a Los Angeles field office when he was always detained in Louisiana. Before this habeas petition was filed, the Petitioner's spouse contacted the ICE New Orleans Field Office by e-mail, demonstrating at least some familiarity with who would have direct responsibility over the Petitioner's detention. *See* Doc. 33-3, p. 44, Request no. 3. Petitioner has still not produced any evidence of this call. *See* Doc. 37.

Through a recent filing, Petitioner now insists that Respondents should have returned him to the United States once they learned of the Court's order but before he was turned over to Lao authorities. Doc. 33-5, ¶ 13. There is no DHS policy governing this situation. Rather, when DHS learns of a TRO, Enforcement and Removal Operations (ERO) works with agency counsel to note there is a legal impediment to removal and cancels removal efforts until the litigation is resolved. Doc. 33-3, p. 36, Request no. 16. Further, the Court directed that the Petitioner not be "removed" from the country. The order did not define removal, and Respondents understood the reference to be to physical removal – which had already been accomplished.

Recent litigation involving another removal is instructive. In *J.G.G. v. Trump*, 147 F.4th 1044 (Mem) (D.C. Cir. 2025), a group of five aliens sought emergency relief from the district court preventing their removal. The plaintiffs sought, and received, class certification from the district court. Two emergency orders were also entered after a hearing. First, the plaintiffs themselves

³ Through a late-night e-mail on October 31, 2025, Petitioner's counsel informed the undersigned that the Petitioner's wife had contacted the ICE Los Angeles Field Office on the morning of October 24. Counsel was provided the phone numbers for the field office and the Petitioner's spouse but no further information, including the time of this call or even a generic description of the ICE official. Respondents can find no record of this call. They did find a record that the Petitioner's spouse called the ICE Detention, Removals, and Information Line (DRIL) on October 22, 2025. *See* Doc. 33-3, p. 45, Request no. 8. This call would predate the Court's *ex parte* order.

were not to be removed from the United States pursuant to an *ex parte* TRO. *Id.* at 1048 (Katsas, J., concurring). Second, the Government was prohibited “from removing members of such class (not otherwise subject to removal)” for 14 days. *Id.* at 1049.

As the district court would later learn, some class members were already outside U.S. airspace and in route, by plane, to El Salvador when the second order was issued. They were not returned to the United States. Upon learning of this fact, the district court sought to impose contempt sanctions against the Government.⁴ The D.C. Circuit granted mandamus to the Government and vacated the order. *J.G.G.*, 147 F.4th at 1045.

Through a concurrence, Judge Katsas analyzed the meaning of “remove.” “By its terms, the TRO prohibited the government from ‘removing’ suspected [Tren de Aragua] members. This prohibition could be interpreted in either of two ways. It might have barred the government simply from expelling detainees from United States territory. Or, it might have barred the government from surrendering *custody* of the detainees to a foreign sovereign.” *J.G.G.*, 147 F.4th at 1046 (Katsas, J., concurring). But “[t]he docket text did not explain what constituted ‘removing’ class members.” *Id.* at 1051. “As the district court later recounted, one possible reading is that the TRO simply prohibited the government ‘from transporting class members outside of U.S. territory’—*i.e.*, from physically expelling them from the country. On that interpretation, the government did not violate the TRO, for it is undisputed that the removal flights at issue...were well outside United States airspace when the second TRO issued.” *Id.*

⁴ To be clear, the Court has not suggested that it is considering contempt against Respondents, and Respondents deny that they have engaged in any contumacious actions. Nor would a contempt finding be appropriate because, “[b]efore contempt may lie[,] the parties must have actual knowledge of the order and the order must be sufficiently specific to be enforceable.” *In re Hailey*, 621 F.2d 169, 172 (5th Cir. 1980) (citation and internal quotation marks omitted). As discussed above, neither criterion is met here.

Judge Katsas observed that “removal” has a specific meaning under the Immigration and Nationality Act. “The INA specifically provides that ‘any alien ordered deported or removed ... who has left the United States, shall be considered to have been deported or removed in pursuant of law.’” *Id.* at 1053 (Katsas, J. concurring) (citing 8 U.S.C. § 1101(g)). Removal occurs even where the departure is brief. *Id.* (citing *Nicusor-Remus v. Sessions*, 902 F.3d 895, 896 (9th Cir. 2018); *United States v. Sanchez*, 604 F.3d 356, 359 (7th Cir. 2010)). Even removal “in an unlawful manner – for instance, by taking an alien to the wrong country – does not affect whether the *removal* itself was executed.” *Id.* (citing *Sanchez*, 604 F.3d at 356-57). Removal can occur in the absence of Government custody. *Id.* (citing *United States v. Ramirez-Carcamo*, 559 F.3d 384, 387-89 (5th Cir. 2009)). The Government’s understanding of “removal,” as a “territory-based interpretation,” comported with “ordinary dictionary meanings” and “legal usage in governing or related statutes.” *Id.* at 1057.

Here, there was no context to suggest any alternative meaning. The Court’s order was issued *ex parte*, and it barred Respondents from removing Petitioner “from the United States.” Doc. 4, p. 4. Petitioner had already been removed “from the United States” before Respondents had notice or knowledge of the Court’s *ex parte* order, so they could not comply as directed.

There is no DHS policy or guidance addressing this scenario that would authorize Respondents to order a plane to divert mid-flight or to override a flight plan and direct a plane to return to the United States on a new itinerary. Petitioner’s declarant does not contradict that point. And while his declaration insists “it has long been government policy and practice” to “expeditiously return” an individual, he cites no authority for that proposition. Nor are Respondents aware of any.

The declaration also ignores the realities of Petitioner's removal flight. The Petitioner did not travel to Laos on a direct flight, and his plane did not immediately return to the United States. After the Petitioner's plane departed Laos, it flew next to Vietnam for a 24-hour layover. Petitioner would need a passport and visa to enter Vietnam,⁵ but he had neither. Nor could Petitioner depart at any other intermediate stop on the plane's itinerary. He had no travel documents for any country other than Laos, and Respondents cannot order a foreign nation to admit or parole the Petitioner while it arranges alternate transportation.

B. Petitioner Has Not Credibly Alleged Adverse Treatment

Without evidence, Petitioner alleges that his claims of citizenship "fell on deaf ears" while he was detained by ICE and that he was removed from the United States without notice. Doc. 11-1, pp. 2, 4. That is wrong on both counts. The Petitioner was detained for four (4) months. And the Petitioner's claims of citizenship were afforded all due consideration under ICE Directive 16001.2 *Investigating the Potential U.S. Citizenship of Individuals Encountered by ICE*. Doc. 33-3, p. 31, request no. 3; p. 36, request no. 17.

Petitioner did not demonstrate a probative claim for U.S. citizenship. Petitioner provided ICE with a copy of the divorce decree of his parents. *Id.* p. 31, request no. 3. The decree makes plain that custody was awarded to his mother, not his father. *See* Exh. A. Even if Petitioner did reside with his father for a time while in middle school, Doc. 2, p. 3, ¶ 4, that would not entitle him to be a U.S. citizen under former INA § 321(a). On this point, Fifth Circuit precedent is clear. Custody of the Petitioner would not simply have to apply to his father; the custody rights of his mother must also be so eliminated that she was "removed from the picture." *Kamara v. Lynch*, 786

⁵ International Travel, Vietnam, "Entry, Exit and Visa Requirements," U.S. Dept. of State, available at: <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Vietnam.html> (last accessed November 30, 2025).

F.3d 420, 424-25 (5th Cir. 2015) (citing *Bustamante–Barrera v. Gonzales*, 447 F.3d 388, 397-98 (5th Cir.2006); *Matter of M-*, 3 I. & N. Dec 850, 851 (1950)).

The divorce decree does not demonstrate such an arrangement. Indeed, the Petitioner himself was emancipated as a 16-year-old, and his petition in that case identified only his mother as a parent or guardian, not his father. *State of Washington vs. In re the Matter of Chanthila Souvannarath AKA*, no. 98-2-03540-2 (Snohomish Co. Superior Court, Washington), Doc. 1, p. 1, § 1.3. *See* Exh. B. But ultimately, as Respondents have repeatedly emphasized, and do so again below, neither ICE nor this Court has the authority to resolve Petitioner’s claim to citizenship. So, the Petitioner’s habeas petition was flawed from the beginning. But there is no evidence that he received any adverse treatment by the Respondents because of this habeas petition.

C. There Is No Jurisdiction to Return Petitioner

Finally, Respondents again emphasize that there are multiple jurisdictional hurdles to this proceeding that Petitioner cannot overcome. Petitioner asks this Court to “declare” his citizenship. Doc. 2-3, p. 8, § X(3); Doc. 3, p. 2, § I(2). Under 8 U.S.C. § 1503(a), a person within the United States may bring an action for “declaration” of their U.S. nationality via the Declaratory Judgment Act, 28 U.S.C. § 2201. But exhaustion of administrative remedies is a jurisdictional prerequisite to seeking any such declaration. *Flores v. Hartnett*, No. 21-50139, 2022 WL 101978, at *3 (5th Cir. Jan. 10, 2022). Moreover, no person can seek such a declaration of citizenship if raised “in connection with any removal proceeding” 8 U.S.C. § 1503(a)(1). Such challenges must instead be presented to the appropriate court of appeals. *See id.* § 1252(b)(5).

Further, the INA explicitly reserves issues of nationality to the relevant U.S. Court of Appeals or, *if transferred*, to the district court where the petitioner resides. 8 U.S.C. § 1252(b)(5)(A)-(B) (emphasis added); *see also Omolo v. Gonzales*, 452 F.3d 404, 407 (5th Cir.

2006). “The petitioner may have such a nationality claim decided only as provided in this paragraph.” 8 U.S.C. § 1252(b)(5)(C) (emphasis added). The exclusive means of review of a final order of removal is through “a petition filed with an appropriate court of appeals . . . ,” 8 U.S.C. § 1252(a)(5), meaning that the order is incontestable in this proceeding. Petitioner did not move to reopen that final order of removal. And the Court lacks jurisdiction to hear any cause or claim arising from the execution of a removal order. 8 U.S.C. § 1252(g).

D. Remedy

Respondents finally turn to the question of “remedy.” Doc. 36. The Court does not have jurisdiction (1) over claims arising from the execution of Petitioner’s final order of removal; (2) to reopen or alter that final order of removal; or (3) to declare Petitioner a U.S. citizen. *See* Docs. 15, 23. Even if Petitioner were returned to the United States, these jurisdictional hurdles would remain, and Petitioner would immediately be subject to re-removal from the United States. So there is no legal or factual basis to compel Petitioner’s return to the United States.

And while the Court retains *habeas* jurisdiction over this matter, that jurisdiction is limited to the issue of detention, not removal. *See Pierre v. United States*, 525 F.2d 933, 935-36 (5th Cir. 1976) (stating that habeas “is not available to review questions unrelated to the cause of detention”); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3091705, at *1 (W.D. La. Oct. 9, 2025) (finding that the court lacked jurisdiction under 8 U.S.C. § 1252(g) to grant a temporary restraining order preventing removal during habeas case). Because Petitioner is no longer detained, his habeas claims are moot.⁶

The Court raised the prospect of attorneys’ fees during the status conference on November 25. However, the legal basis for such an award is unclear, particularly since Petitioner does not

⁶ *See, e.g., Oguntuyi v. Manuel*, No. 2:25-cv-1069, 2025 WL 2399184, at *2 (W.D. La. July 21, 2025).

qualify as a “prevailing party” under the Equal Access to Justice Act. *See* 28 U.S.C. § 2412(b), (d)(1)(A). Nor are attorneys’ fees appropriate under these facts. On the one hand, Petitioner’s counsel insists they began to “look into” the Petitioner’s claims as early as October 20, 2025, after a “legal consultation.” Doc. 16, p. 2, n. 1. But counsel did not enroll in this case until October 28, 2025. Petitioner’s counsel also insisted that Respondents knew of the Court’s *ex parte* order “on the morning of October 24.” Doc. 16, p. 3. At this late stage, and despite a court order, Doc. 37, they have yet to produce any *evidence* of this call, despite having the burden of persuasion.

This is not a case where Respondents ignored a directive from the Court. An *ex parte* order was issued hours before the Petitioner’s removal flight departed the United States. By happenstance, counsel for Respondents became aware of that order and acted immediately. But the Petitioner was already removed from the country, and there was no practical way to return him. And other than medical personnel, there were no ICE personnel on board that flight to contact. Doc. 33-3, pp. 36-37, request no. 18.

CONCLUSION

Respondents respect the Court’s authority and its orders. But to comply with those orders, it must know about them. Even with the benefit of discovery, there is no evidence of bad faith or intent in this proceeding. Respondents concede – and have always conceded – that Petitioner was removed from the United States after the Court *issued* its order. But Respondents assert that they did not have knowledge of the Court’s order before the Petitioner was removed. The distinction matters. Respondents request that the Court deny Petitioner’s motion to enforce and dismiss this habeas case as moot.

Respectfully submitted,

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