

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

ASSANE DIOUF,

Petitioner,

v.

KEVIN RAYCRAFT,
Immigration and Customs Enforcement,
Acting Director of the Detroit Field
Office, Enforcement and Removal
Operations,

Respondent.

Case No. 1:25-cv-00834

District Judge Susan J. Dlott

Magistrate Judge Chelsey M. Vascura

**EMERGENCY MOTION FOR RELIEF FROM THIS COURT'S
ORDER (ECF 2) TO PERMIT EXECUTION OF PETITIONER'S
REMOVAL ORDER**

Respondent respectfully moves this Court for Emergency Relief from its November 18, 2025 Order (Order, ECF 2) to permit the scheduled execution of Petitioner's Removal Order. Attached to this emergency motion is the Declaration of Stephanie Parker, a Deportation Officer with the Columbus Sub-Office of Enforcement and Removal Operations ("ERO"), U.S. Immigration and Customs Enforcement ("ICE"), Department of Homeland Security ("DHS") (Exh. 1), the Declaration of Miguel Rodriguez, Detention and Deportation Officer ("DDO") for the Removal Management Division ("RMD") – RIO Africa, ERO (Exh. 2), along with Form I-269 (Exh. 3).

Respondent notes that this Court granted near identical emergency motions in two other habeas cases, *Mbah v. Immigration and Customs Enforcement*, Case No. 1:25-cv-00816, ECF 12, 15, 16 (Dlott, J.) and *Karaga v. Robert K. Lynch*, Case No. 1:25-cv-00735, ECF 11, 15 (Dlott, J.). In both cases, the petitioner was removed, and this Court thereafter denied the habeas petitions as moot. *Mbah*, ECF 19 (Mar. 3, 2026); *Karaga*, ECF 17 (Feb. 3, 2026).

Petitioner Assane Diouf (“Petitioner” or “Diouf”) is currently detained at the Butler County Jail in Hamilton, OH. He has been detained since October 28, 2025. Stephanie Parker Declaration, Ex. 1, at ¶4). Subject to unforeseen circumstances such as weather or mechanical delays, Diouf is manifested as a passenger on a Special High-Risk (“SHRC”) flight scheduled to depart the United States on March 29, 2026. (*Id.*, at ¶6). The transfer and removal of detained aliens via either charter or commercial air transportation is managed by ICE Air Operations (“IAO”). Air Charter Operations transports detained aliens ordered removed from the United States to their countries of origin and transfers detained aliens domestically throughout the United States to various ICE managed detention facilities and staging areas at its operational locations in Arizona, Texas, Louisiana, and Florida. A general overview about IAO is also available at <https://www.ice.gov/factsheets/ice-air-operations>. (*Id.*, at ¶7).

Diouf is currently scheduled to be transported to the IAO operational location to be determined on or before March 28, 2026, if the Court vacates the November 18, 2025 Order preventing his transfer from the Southern District of Ohio. (*Id.*, at ¶8).

ICE's Removal and International Operations ("RIO") division coordinates, manages and facilitates efforts to successfully remove aliens from the United States with ERO's field offices nationwide, personnel based overseas, the Department of State, and international partners. RIO develops and implements strategies to remove aliens by collaborating within the agency and with interagency stakeholders, foreign embassies and consulates, and host-nation government officials. (*Id.*, at ¶9). According to the most recent information provided to Ms. Parker by RIO personnel on March 14, 2026: (i) the list of manifested passengers for these scheduled charter missions has been provided to the Government of Mauritania; (ii) removals to Mauritania are currently not dependent on the issuance or receipt of valid passports/travel documents and can be completed with expired Mauritanian passports/travel documents. (*Id.*, at ¶10).

Furthermore, the Mauritanian Government has agreed to accept the DHS Certificate of Identity for Departure from the United States, Form I-269, (Exh. 3), as a valid travel document for removing Mauritanian nationals, like Petitioner, from the United States. This information was relayed to DDO Miguel Rodriguez by the U.S. Department of State, Bureau of African Affairs, based on a cable that was sent and received on March 2, 2026, from the U.S. Embassy in Nouakchott, Mauritania. (Miguel Rodriguez Declaration, Exh. 2). DHS is therefore prepared to remove Petitioner from the United States pursuant to the Form I-269, on a scheduled charter on March 29, 2026, absent any judicial order or stay. (*Id.*).¹

¹ On March 23, 2026, District Judge Jeffery P. Hopkins denied a request from Respondent to lift a similar order prohibiting the petitioner's removal to Mauritania, while inviting

On November 18, 2025, for purposes of “preserv[ing] its jurisdiction, and pursuant to its authority under the All Writs Act,” this Court ordered that “Respondent shall neither remove Ly from this District nor allow him to be removed from this District unless or until the Court orders otherwise.” (Order, ECF 2). Unless this Court lifts its November 18, 2025 Order, it will be necessary for ICE to reschedule Petitioner’s removal to Mauritania, further prolonging Petitioner’s detention and delaying the lawful enforcement of his removal order.

Moreover, this Court is without jurisdiction to prevent the execution of Petitioner’s removal order. Section 1252(g) categorically bars jurisdiction over “*any* cause or claim by or on behalf of any alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence proceedings*, adjudicate cases, or execute removal orders against any alien.” 8 U.S.C. § 1252(g) (emphasis added). The Secretary of Homeland Security’s decision to *execute removal orders*, including the decision to detain an alien pending such removal, squarely falls within this jurisdictional bar. *See Hamama v. Adducci*, 912 F.3d 869, 876 (6th Cir. 2018).

In other words, Petitioner’s detention clearly “aris[es] from” the decision to execute his removal order. *See Tazu v. Att’y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir. 2020) (holding that the text of § 1252(g) prevents challenge because short re-detention for removal is “integral” to executing a removal order). Put in the Supreme

Respondent to provide additional information for the Court’s consideration. *Camara v. Field Office Director*, Case No. 1:25-cv-740. That decision, however, was entered in a dissimilar procedural posture, immediately after the Court’s grant of the habeas Petition. Here, Petitioner remains detained pending his removal. Respondent maintains that the relief requested in this Motion will permit it to effectuate Petitioner’s lawful removal order.

Court's words, detention pending removal is a "specification" of the decision to commence proceedings. *See Reno v. Am.-Arab Anti-Discrimination Comm. ("AADAC")*, 525 U.S. 471, 485 n.9 (1999) ("§ 1252(g) covers" a "specification of the decision to 'commence proceedings'"). Significantly, Petitioner is not without a remedy. As the Sixth Circuit explained in *Hamama v. Adducci*, "[w]hen Congress stripped the courts of jurisdiction to grant habeas relief in § 1252(g), it provided an aliens with an alternative method to challenge the legality an alien's detention" 912 F.3d at 876. Moreover, the Suspension Clause is not violated when courts are stripped of "habeas jurisdiction so long as it provides a substitute that is adequate and effective to test the legality of a person's detention. *Id.*; see also *Karki v. Jones*, No. 1:25-cv-281, 2025 WL 1638070 (S.D. Ohio June 9, 2025); *Bartolon v. Bondi*, No. 1:25-cv-747, 2025 WL 3674604, at *4-5 (S.D. Ohio Dec. 18, 2025) (same). For these reasons, this Court is without jurisdiction to prevent the execution of Petitioner's removal order.

Moreover, this Court issued its Order not to remove Petitioner from the district in order to "preserve[] its jurisdiction, . . ." (Order, ECF 2). Yet, this Order to preserve jurisdiction is unnecessary. In *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 445 (3d Cir. 2021), the following question was considered: "what happens to a district court's jurisdiction when the § 2241 petitioner, . . . is transferred out of the court's territorial jurisdiction after the proper filing of the petition?" The Third Circuit Court of Appeals explained that,

The Supreme Court addressed this question in *Padilla*: "[w]hen the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction

and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release.

Anariba v. Dir. Hudson Cnty. Corr. Ctr., 17 F.4th 434, 445 (3d Cir. 2021) (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004)) (reaffirming its "important but limited" holding in *Ex parte Endo*, 323 U.S. 283, 306-07 (1944), "concerning post-filing transfer of a § 2241 petitioner"); see also *White v. Lamanna*, 42 F. App'x 670, 671 (6th Cir. 2002).

In *White v. Lamanna*, the Sixth Circuit recognized that, "A district court's jurisdiction generally is not defeated when a prisoner who has filed a § 2241 petition while present in the district is involuntarily removed from the district while the case is pending. 42 F. App'x at 671 (citing *United States ex rel. Snyder v. State of Illinois*, 442 F. Supp. 75, 76 n.2 (N.D. Ill. 1977); see, e.g., *Gonzalez v. Noem*, 1:25-cv-150, 2025 WL 3140802 (N.D. Ohio Nov. 10, 2025); *Martinez v. Healy*, No. 4:24-cv-00833, 2025 WL 2021533, at *1 n.2 (N.D. Ohio July 18, 2025); *Wright v. Hemingway*, No. 1:21-cv11043, 2025 WL 4311642, at *1 n.1 (E.D. Mich. Sept. 26, 2024). As a result, this Court's Order not to remove Petitioner from the district is unnecessary and if not lifted will interfere with the execution of a removal order. Therefore, Respondent respectfully moves this Court for Emergency Relief to lift its November 18, 2025 Order permitting the execution of Petitioner's Removal Order to Mauritania on or about March 29, 2026.

Signature on following page.

Respectfully submitted,

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