

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

**DIOUF, Assane**

Petitioner,

vs.

**KEVIN RAYCRAFT**, in his official capacity  
as Acting Field Office Director, Enforcement  
and Removal Operations Detroit, U.S.  
Immigration and Customs Enforcement,  
Department of Homeland Security,

Respondent.

Case No. 1:25-cv-00834

District Judge Susan J. Dlott

Magistrate Judge Chelsey M. Vascura

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

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**I. INTRODUCTION**

Petitioner (Mr. Diouf), by and through undersigned Counsel, respectfully opposes Respondent's emergency motion for relief from this court's order (ECF 2) to permit execution of Petitioner's removal order and requests that the Court deny the motion in its entirety based on the arguments submitted below.

**II. FACTS AND PROCEDURAL HISTORY**

Petitioner, Mr. Diouf, entered the United States in 2003 after fleeing Mauritania. Mr. Diouf applied for asylum and withholding of removal to remain in this country based on a fear of returning to Mauritania. Mr. Diouf was ordered removed on March 30, 2012, and his appeal was dismissed on August 29, 2013. ICE detained Mr. Diouf on or around October 28, 2025, during a routine ICE check-in appointment. Mr. Diouf is currently in custody of ICE at the Butler County

Correctional Complex. On November 14, 2025, Mr. Diouf filed a petition for a writ of habeas corpus under 8 U.S.C. § 2241 contending that he is unlawfully detained under 8 U.S.C. § 1231(a) because removal is not reasonably foreseeable, and that Respondent's actions violate the Due Process Clause of the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act and implementing regulations. On November 18, 2025, this Court issued an order (ECF No. 2) directing that Respondent is prohibited from removing Petitioner from this District. The order further provides that Petitioner may not be transferred or removed from the District unless and until the Court expressly authorizes such action.

### **III. ARGUMENTS**

The Respondent seeks to lift the Do Not Move Order to proceed with Mr. Diouf's removal. According to the Motion to Vacate, the Respondent asserts that Mr. Diouf is scheduled to depart the United States on a charter (non-commercial) flight on March 29, 2026, at an unknown time and location. (ECF 9). In support of this request, the Respondent relies on two statements issued by ICE or other government agents, claiming they are sufficient to demonstrate that Mauritania will accept Mr. Diouf and that his removal is reasonably foreseeable. However, in relying on these statements, the Respondent's position is internally inconsistent and contradictory.

Indeed, the first statement (ECF 9-1, PageId #67) from the Deportation Officer fails to establish that Mr. Diouf's removal is reasonably foreseeable and does not support lifting the Do Not Move Order. The agent asserts: "(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." (ECF 9-1, PageId #68 at 10). Neither assertion withstands scrutiny.

First, the claim that a list of passengers has been provided to the Government of Mauritania is unsupported by the record. Respondent offers no documentary evidence or corroboration demonstrating that such a list was actually transmitted. Even assuming, *arguendo*, that a list was sent, this fact alone is legally insufficient. The mere transmission of names does not establish that Mauritania has agreed to accept those individuals. There is no evidence of acknowledgment, approval, or acquiescence by the Mauritanian government. Without proof of acceptance, Respondent cannot meet its burden of showing that removal is significantly likely in the reasonably foreseeable future.

Second, the agent's statement regarding travel documents further undermines Respondent's position. While the agent claims that valid, unexpired documents are not required, the statement clearly indicates that, at minimum, an expired Mauritanian passport or travel document is still necessary to effectuate removal. Here, Respondent has failed to produce any such document for Mr. Diouf. There is no evidence that Mr. Diouf possesses a Mauritanian passport, expired or unexpired, or any official travel document issued by Mauritanian authorities. Nor has Respondent submitted any documentation confirming Mr. Diouf's citizenship as recognized by Mauritania.

In sum, Respondent's own evidence demonstrates critical gaps: (1) there is no proof that Mauritania will accept; and (2) there is no qualifying travel documentation for Mr. Diouf. These deficiencies directly contradict the assertion that removal is imminent or reasonably foreseeable and therefore do not justify vacating the Do Not Move Order.

The second statement (ECF 9-2, PageId #69) submitted by Respondent only deepens the inconsistencies in its position and further undermines any claim that Mr. Diouf's removal is

reasonably foreseeable. In that statement, the agent asserts: “On March 2, 2026, I received notification from the U.S. Department of State, Bureau of African Affairs, that they received a cable from the U.S. Embassy in Nouakchott, Mauritania. The cable indicated that the Mauritanian Government has agreed to accept the DHS Certificate of Identity for Departure from the United States (Form I-269) as a valid travel document for removing Mauritanian nationals from the United States.” (ECF 9-2, PageId 70 # at 4).

This assertion directly contradicts the first statement. Whereas the initial declaration suggests that removal requires, at minimum, a Mauritanian passport or travel document, albeit expired, the second statement claims that a DHS-issued Certificate of Identity (Form I-269) is sufficient. These positions cannot be reconciled. A document created and issued by the U.S. Department of Homeland Security is **not** a Mauritanian passport, nor is it a travel document issued or authenticated by Mauritanian authorities. Respondent offers no explanation as to how a domestically generated document substitutes for proof of nationality or satisfies the receiving country’s requirements.

Moreover, the second statement raises a fundamental evidentiary problem: how Respondent intends to establish Mr. Diouf’s Mauritanian nationality to the Mauritanian government in the absence of any documentation issued by that government. A DHS-generated form, standing alone, does not constitute proof of citizenship recognized by a foreign sovereign. Without any Mauritanian-issued passport, national identification, or other official documentation confirming nationality, there is no basis to conclude that Mauritania will accept Mr. Diouf upon presentation of a U.S.-manufactured document.

In addition, the statement lacks any proper foundation. Respondent provides no copy of the alleged diplomatic cable, no written confirmation from the Mauritanian government, and no documentation from the U.S. Embassy or Department of State substantiating the claim. The assertion is therefore based on multiple layers of hearsay, with no supporting evidence in the record. Critically, there is no indication that Mauritania has specifically agreed to accept Mr. Diouf, or even similarly situated individuals, without Mauritanian-issued documentation establishing nationality.

Taken together, both statements are speculative and unsupported. They fail to demonstrate any concrete agreement, acceptance, or coordination with Mauritanian authorities sufficient to establish that Mr. Diouf's removal is significantly likely in the reasonably foreseeable future. As such, they do not provide a valid basis for vacating the Do Not Move Order.

The record and historical practice further undermine Respondent's claim. As reflected in prior removal proceedings and longstanding international practice, Mauritania, like other foreign sovereigns, has consistently required a travel document or passport issued by its own government in order to receive and accept deportees. Respondent provides no evidence that Mauritania has departed from this established practice in Mr. Diouf's case or in any comparable circumstance.

Importantly, Respondent's own actions contradict its current position. On November 7, 2025, ICE ERO requested a travel document for Mr. Diouf from the Government of Mauritania. This request implicitly acknowledges that a Mauritanian-issued travel document is, in fact, necessary to effectuate removal. Yet, there is no evidence in the record that Mauritania has issued such a document or even responded to that request. The apparent lack of progress since that time further demonstrates that removal is not imminent. At the same time, Respondent now claims that such

documentation is suddenly unnecessary. This assertion is directly undermined by Respondent's prior efforts to obtain a travel document.

Courts have consistently rejected similarly unsupported assertions. In *Rafiq Wasiq v. Roy L. Hendricks, et al.*, Civil Action No. 13-6420 (SDW) (D.N.J. July 9, 2014), the United States District Court for the District of New Jersey granted relief where the Government failed to present substantial evidence that removal was likely in the reasonably foreseeable future. The same deficiency is present here. Respondent relies on speculative, internally inconsistent statements without documentary support, and fails to demonstrate any concrete likelihood that Mr. Diouf will be accepted by Mauritania.

Petitioner's position is further supported by recent, highly relevant authority from the Southern District of Ohio in *Camara v. Field Office Director for Enforcement and Removal Operations Detroit*, Case No. 1:25-CV-740-JPH-PBS. The parallels between *Camara* and the present case are striking. There, as here, Respondent advanced the same arguments, relied on materially identical agency declarations, and invoked the same theory that removal to Mauritania was reasonably foreseeable based on the purported use of a DHS Certificate of Identity (Form I-269).

The court in *Camara* squarely rejected those arguments. It granted the habeas petition and ordered the petitioner's immediate release. Notably, after Respondent re-detained Mr. Camara only days later, again relying on the same assertions regarding the Form I-269, the court intervened a second time and ordered his release once more, finding no material change in circumstances to justify re-detention.

In reaching its decision, the court found Respondent's evidence insufficient, internally inconsistent, and ultimately unpersuasive. Specifically, the court concluded that Respondent had

failed to demonstrate that removal to Mauritania was reasonably foreseeable. The declarations relied upon by Respondent did not establish that the Mauritanian government would accept the petitioner, particularly in the absence of any travel document or proof of nationality issued by Mauritanian authorities. The court emphasized that a DHS-issued document, such as the Form I-269, is not a Mauritanian travel document and does not constitute proof of citizenship recognized by a foreign sovereign. *Telephonic Conferece, Camara v. Field Office Director for Enforcement and Removal Operations Detroit*, Case No. 1:25-CV-740-JPH-PBS.

The court's concern with the lack of evidentiary support is reflected in its order, which required Respondent to provide concrete documentation substantiating its claims:

“As stated during the conference, counsel for Respondent shall submit the documentation outlined in the Court's March 22, 2026, Notation Order and provide specific information detailing whether the government of Mauritania will accept the DHS Certificate of Identity for Departure from the United States (Form I-269) as a valid travel document as asserted in the Declaration of Miguel Rodriguez [...] The Court further ORDERS that Mr. Camara be immediately released from custody[.]”

*Camara v. Field Office Director for Enforcement and Removal Operations Detroit*, Case No. 1:25-CV-740-JPH-PBS, order

The court further underscored a critical point that applies with equal force here: absent a travel document issued by the receiving country, removal is not reasonably foreseeable. As the court explained, “[b]y all measures, then, it appears to the Court that Camara will not be permitted to re-enter Mauritania.” In support of this conclusion, the court cited analogous cases where removal was deemed not foreseeable due to the government's failure to provide evidence that the receiving country would issue or accept travel documents. See *Islam v. Kane*, No. CV-11-515,

2011 WL 4374226, at \*4 (D. Ariz. Aug. 30, 2011); *Shefqet v. Ashcroft*, No. 02 C 7737, 2003 WL 1964290, at \*6 (N.D. Ill. Apr. 28, 2003).

The reasoning in *Camara* applies directly to the present case. Here, as in *Camara*, Respondent relies on unsupported assertions, contradictory statements, and the speculative use of a DHS-issued Form I-269, without any documentary evidence from Mauritanian authorities confirming nationality or acceptance. There is likewise no indication that Mauritania has issued, or is willing to issue, a travel document for Mr. Diouf.

Accordingly, *Camara* strongly supports Petitioner's position that Respondent has failed to meet its burden. The same deficiencies identified by the court in that case are present here: a lack of credible evidence, no proof of acceptance by Mauritania, and no basis to conclude that removal is significantly likely in the reasonably foreseeable future. These failures compel the same result, denial of Respondent's motion and maintenance of the Do Not Move Order.

Respondent cites two different cases in which this court has granted their motion to vacate. In doing so, Respondent explained that the motions are "near identical". That is factually incorrect. They cite the following 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.). These two cases are materially distinguishable from Mr. Diouf's case or even Mr. Camara's. In both cited cases, Respondent was able to secure travel documents issued by the Petitioners' home countries. *Mbah v. Immigration and Customs Enforcement* at ECF 15-1 PageId #63), Case No.1:25-cv-00816, ECF 12, 15, 16 (Dlott, J.); *Karaga v. Robert K. Lynch* at ECF 11-1, PageId #63) Case No.1:25-cv-00735, ECF 11, 15 (Dlott, J.) This is not the case here.

Mr. Diouf does not have a valid or expired travel document or identity document from Mauritania.

Petitioner has been in ICE custody since October 28, 2025, and during this time, DHS has been unable to effectuate his removal. Moreover, statistics indicate that DHS removed only 43 people total to Mauritania from December 2020 through the end of December 2024. (See **Exhibit A**, ICE Removal Statistics). Similarly, DHS removed only 34 people (out of the aforementioned 43) who, like Mr. Diouf, were arrested by ICE specifically. (See **Exhibit B**, ICE Removal Statistics). As such, DHS statistics indicate that there may be institutional barriers preventing the removal of Mauritanian nationals.

Notably, this data pertains to individuals who, unlike Mr. Diouf, are citizens of Mauritania. Petitioner may not even be recognized as a Mauritanian citizen. He left Mauritania in 2003 and was not present for the 2011 census. Due to his absence, Mr. Diouf was not registered by Mauritanian authorities. He has lived in the United States for over 24 years and does not possess a Mauritanian passport or travel document. Despite his efforts to obtain Mauritanian documentation, he has been unable to secure either, further calling into question whether he is recognized as a citizen of Mauritania.

Petitioner has now been detained for 148 days, yet there has been no material change in his circumstances that would justify continued detention. Respondent remains unable to secure travel documents for Mr. Diouf and, critically, has not demonstrated that his removal is reasonably foreseeable. To the contrary, the record reflects continued uncertainty, lack of progress, and unsupported assertions regarding the feasibility of removal.

Mr. Diouf does not present a flight risk. He has strong and meaningful ties to the United States, including U.S. citizen children and a spouse. He has consistently complied with all ICE reporting

requirements and has fully cooperated with efforts related to his removal. His history demonstrates reliability, stability, and a willingness to abide by supervision conditions.

In light of the prolonged detention, the absence of any material change in circumstances, and Respondent's failure to establish that removal is significantly likely in the reasonably foreseeable future, continued detention is unwarranted.

Accordingly, Petitioner not only opposes the Respondent's Motion to Vacate but hereby, respectfully requests that this Court issue an emergency order directing his immediate release from government custody and reinstating his prior order of supervision under appropriate terms and conditions, such as the Petitioner in *Camara*. Petitioner further requests that the Court maintain the Do Not Remove Order and prohibits Respondent from detaining, transferring, or removing Mr. Diouf while these proceedings remain pending.

#### **IV. CONCLUSION**

For all the foregoing reasons, the Immigration Judge should deny Respondent's Motion to Vacate, maintain the Court's prior Order (ECF No. 2), and order Mr. Diouf's immediate release from custody. As a matter of law and procedure, Respondent has failed to meet its burden of providing substantial, credible evidence demonstrating that its motion should be granted or that continued detention is justified.

DATED: 3/25/2026

Respectfully submitted,

s/ Julie Nemecek

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