

**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

RESPONDENT'S REPLY MEMORANDUM

Respondent respectfully files this reply memorandum in support of the Emergency Motion to Vacate (ECF No. 9).

Diouf is a citizen of Mauritania. This is uncontested. (*See* Petition, ECF No. 1; *see also* Exh. 1, Petitioner's Birth Certificate and Exh. 2, Petitioner's National Identity Card). It is also uncontested that an Immigration Judge ordered Petitioner removed from the United States to Mauritania, a decision which was upheld by both the Board of Immigration Appeals and the Sixth Circuit Court of Appeals. (*See* Declaration of John Wissel, ¶¶10-13, 15, attached as Exh. A, to Respondent's Return of Writ, ECF No. 7).

Now, Respondent is attempting to effectuate Petitioner's removal to Mauritania by asking this Court to lift its do not remove order, ECF No. 2. As this

Court previously held, this would end Petitioner's detention *and* render this habeas case moot. *Mbah v. Immigration and Customs Enforcement*, Case No 1:25-cv-00816, ECF 12, 15, 16, 19 (Dlott, J.); *Karaga v. Robert K. Lynch*, Case No. 1:25-cv-00735, ECF 11, 15, 17 (Dlott, J.). For all practical purposes, a denial of Respondent's motion would result in a continuation of Petitioner's detention, inhibiting ICE's ability to effectuate Petitioner's removal. One of ICE's central goals is to actually remove those persons who are ordered removed from the United States—not to keep them detained in the United States.¹

Petitioner challenges the planned removal itself instead of detention, asking this Court to apply a burden of proof and evidentiary standards without citing any legal authority for those standards. For example, in attempting to contest that the passenger list for the March 29, 2026 flight at issue includes Diouf, Petitioner contends that Respondent offered no "documentary evidence or corroboration." (Response in Opposition, ECF No. 10, at PageID 75). To the contrary. Respondent submitted the declaration of Stephanie Parker (Exh. 1 to ECF No. 9) stating, under penalty of perjury, that Petitioner is manifested as a passenger on a Special High-Risk flight scheduled to depart the United States on March 29, 2026. Further, the declaration of Miguel Rodriguez (Exh. 2 to ECF No. 9) avers that DHS is prepared to remove Petitioner from the United States pursuant to the scheduled charter. This shows that removal is imminent: nothing further is needed.

¹ Thus, ICE is requesting the Court to enter a timely decision to allow Diouf to be removed on the March 29 flight. But if that is not possible for the Court, ICE anticipates additional flights to Mauritania and therefore still requests the Court to rule on the motion even if it does not do so in time for the March 29 flight.

Challenging the imminent removal instead of detention, Petitioner argues that “[t]here is no evidence of acknowledgment, approval, or acquiescence by the Mauritanian government.” (Response in Opposition, ECF No. 10, at PageID 75). This again is incorrect. Respondent has put forth sufficient evidence that the Mauritanian Government will accept the DHS Certificate of Identity for Departure from the United States, Form I-269 (Exh. 3 to ECF No. 9), as a valid travel document for removing Mauritanian nationals, like Petitioner, from the United States. Petitioner argues that “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.” (Response in Opposition, ECF No. 10, at PageID 77). Since the filing of the Motion to Vacate (ECF No. 9), the undersigned learned the following additional facts:

- The cable was sent on Monday, March 2, 2026.
- The cable was received on Monday, March 2, 2026.
- The cable was signed by Corina R. Sanders, Chargé D’Affaires A.I. with the U.S. Embassy in Mauritania on March 2, 2026.
- It was transmitted the same day to the Department of State, Bureau of African Affairs in Washington, D.C., including Ciera Dehmand, Mauritania Desk Officer, Office of West African Affairs.
- Desk Officer Dehmand then transmitted it to ICE DDO Miguel Rodriguez on March 2, 2026.

Based on those additional facts, absent unforeseen circumstances such as weather or mechanical delays, Respondent expects that Petitioner's removal will be effectuated on March 29, 2026, to Mauritania, using the Form I-269, which is acceptable to the Country of Mauritania. Petitioner contends, based upon "prior removal proceedings and longstanding international practice," that there exists only a single mechanism by which removal can be effectuated—namely, that countries require a "travel document or passport issued by its own government in order to receive and accept deportees." (Response in Opposition, ECF No. 10, at PageID 77). Respondent recognizes that, commonly, removal is effectuated after issuance of a passport or other document issued by the country of removal. But that is not the *only* possible way to effectuate removal. And here, the Country of Mauritania has informed the United States that it will accept the Form I-269 that Respondent previously provided to the Court.

Accordingly, based on the information previously provided to the Court and the supplemental information provided in this Reply, Respondent respectfully moves this Court for Emergency Relief to lift its November 18, 2025 Order, resulting in an end to Petitioner's detention, in order to permit 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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s/Adam C. Tieger

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