

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 10, 2026

Thomas B. Plunkett, III
Clerk

No. 26-10925

ABASSE GAKOU,

Petitioner—Appellant,

versus

WARDEN OF THE PRAIRIELAND DETENTION CENTER;
ROBERT CERNA, *in his official capacity as Field Office Director of
Enforcement and Removal Operations, Dallas Field Office, US Immigration &
Customs Enforcement*; DAVID VENTURELLA, *Acting Director, U.S.
Immigration and Customs Enforcement, in his official capacity as Acting
Director of US Immigration and Customs Enforcement*;
MARK WAYNE MULLIN, *in his official capacity as US Secretary of
Homeland Security*; TODD BLANCHE, *in his official capacity as Attorney
General of the United States*,

Respondents—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:26-CV-2878

PUBLISHED ORDER

Before SMITH, SOUTHWICK, and DOUGLAS, *Circuit Judges*.

PER CURIAM:

Abasse Gakou, a native of Senegal, is in U.S. Immigration and

Customs Enforcement custody and set to be deported immediately to Sierra Leone. He filed a habeas petition in the Northern District of Texas challenging his continued detention and seeking an injunction against third-country removal pending further litigation of his Convention Against Torture claims. The district court denied all relief and declined to enter a stay of removal. He moves for an emergency stay of removal pending appeal. We deny his motion.

A stay pending appeal “is not a matter of right, even if irreparable injury might otherwise result to the appellant.” *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926) (citing *In re Haberman Mfg. Co.*, 147 U.S. 525, 530 (1893)). “We consider four factors in deciding whether to grant a stay pending appeal: ‘(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.’” *Veasey v. Abbott*, 870 F.3d 387, 391 (5th Cir. 2017) (per curiam) (quoting *Nken v. Holder*, 556 U.S. 418, 425–26 (2009)). Because we determine that Gakou is deeply unlikely to prevail on the merits of his claims, we do not consider any of the three remaining factors.

Subject to limited enumerated exceptions, “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien under this chapter.” 8 U.S.C. § 1252(g) (emphasis added). Additionally, courts are barred from hearing “claims connected directly and immediately with” these matters. *Humphries v. Various Fed. USINS Emps.*, 164 F.3d 936, 943 (5th Cir. 1999). “A request for stay of removal is a challenge to a removal order”

within the ambit of § 1252(g)'s jurisdiction-stripping effect. *Imran v. Harper*, No. 25-30370, 2026 WL 93131, at *1 (5th Cir. Jan. 13, 2026) (per curiam) (unpublished) (citing *In re Asemani*, No. 25-1513, 2025 WL 1823953, at *1 (4th Cir. July 2, 2025) (per curiam)). Therefore, we lack the power to entertain Gakou's motion. Cf. *Fabuluje v. Immigration & Naturalization Agency*, 244 F.3d 133, 133 (5th Cir. 2000) (unpublished) (table) (holding that courts are without jurisdiction to grant stays of removal under § 1252(g)); *Idokogi v. Ashcroft*, 66 F. App'x 526, 526 (5th Cir. 2003) (same).

Separately, the Supreme Court has effectively ratified third-country removal of the sort that Gakou faces when it granted certiorari in a case raising the issue while still explicitly permitting the government to continue with third-country removals unabated pending full resolution on the merits. *See DHS v. D.V.D.*, Nos. 26-426, 26A406 (U.S. Sept. 29, 2026) (per curiam). As a result, Gakou's claim to an injunction against his removal to a country besides Senegal is unavailing and cannot be used to support the stay he currently seeks.

Because Gakou has not demonstrated any meaningful probability of success on the merits, he is not entitled to a stay. The emergency motion for a stay pending appeal is DENIED.

Therefore, IT IS ORDERED that Gakou's opposed motion for an administrative stay prohibiting respondents from removing him from the United States while this court considers this emergency motion is DENIED. IT IS FURTHER ORDERED that the opposed motion for stay of removal pending appeal is likewise DENIED.