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Court Protects Nationwide Class from Deportations to Nondesignated Countries Without Notice and Opportunity to Seek Protection from Torture

Boston, MA – Today, a federal judge in Boston certified a nationwide class of individuals with final removal orders who have been removed or face possible removal to a country that was not designated in the removal proceedings (generally the person’s country of citizenship is the designated country of removal). Further, the district court issued a preliminary injunction preventing the Department of Homeland Security (DHS) from deporting class members to such countries without first providing them with written notice and an opportunity to show that they will suffer torture and/or death if deported there. The Plaintiffs and certified class are represented by National Immigration Litigation Alliance (NILA), Northwest Immigrant Rights Project (NWIRP), and Human Rights First (HRF).

The court ruled that the Plaintiffs who brought the lawsuit - three individuals subject to final orders of removal at risk of deportation to countries other than those authorized by their removal orders and one individual whom DHS already deported to a third country after he was granted protection from his country of citizenship – represent a nationwide class of similarly-situated individuals.

In response to the government’s argument that DHS can send a noncitizen with a final order to a nondesignated country without providing an opportunity to express a fear of danger or death, the Court

stated that “[a]ll nine sitting justices of the Supreme Court of the United States, the Assistant Solicitor General of the United States, Congress, common sense, basic decency, and this Court all disagree.”

As to this nationwide class, the court ordered that before DHS can deport an individual to a country not previously authorized during the person’s removal proceedings, DHS must provide written notice of the country in a language they understand, provide a meaningful opportunity to present their fear of return, move to reopen proceedings before an immigration judge if the noncitizen demonstrates that their fear is reasonable, and an opportunity and 15 day stay of removal to move to reopen if the fear is not determined to be reasonable. The court ruled that the government’s obligations under the Convention Against Torture and the Due Process Clause prevent removing noncitizens to a country where they are likely to be subjected to torture.

The preliminary injunction will remain in effect until the court issues a final ruling on Plaintiffs’ request for declaratory relief and proactive disclosure of agency records relating to deportations to non-designated countries, absent an order from an appellate court.

“Today’s decision means that hundreds of individuals remain protected from covert deportations without knowing where they are being taken and without an opportunity to articulate a fear of being tortured there,” said Trina Realmuto, NILA’s Executive Director. “The ruling provides important procedural protections from torture for the certified class, and we continue to fight for protections from persecution as well.”

“The Trump administration’s deportation agenda does not supersede the law,” said Matt Adams, Legal Director for NWIRP. “The Court’s ruling requires DHS to provide basic procedural protections so that persons are not secretly removed to a country where they may be persecuted or tortured.”

“Many of the people whom DHS has been abruptly deporting to third countries are refugees who have been granted protection against return to their countries of origin because they would face persecution or torture there,” said Anwen Hughes, Director of Legal Strategy for Refugee Programs at Human Rights First. “The protections the court has ordered here are critical to make sure DHS does not turn around and ship them to a third country where they would face the same harms, or which would in turn send them back to their country of origin, without their being given notice and the opportunity to be heard.”

View the [complaint](#)

View the [class certification and preliminary injunction order](#)

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