

# Supreme Court order threatens “thousands” of immigrants with risk of torture and death

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In a decision Monday that rubber-stamps the Trump administration’s brutal anti-immigrant agenda, the US Supreme Court stayed a lower court ruling that would have required federal authorities to give meaningful notice before deporting immigrants to third countries with which they have no ties—even if they face the risk of torture or death.

The ultra-right majority offered no justification for its action. In a 6–3 decision, the court stayed a nationwide injunction issued by a federal district judge in Boston and upheld by the First Circuit Court of Appeals. That order had required the Department of Homeland Security (DHS) to provide at least 10 days’ advance notice before deporting a detained migrant to a country other than their own. If the migrant objected because of a fear of torture or death, and the DHS refused to reconsider, the migrant would then have 15 days to file an appeal.

While the decision was technically a procedural one—allowing the government to continue carrying out no-notice third-country deportations while the issue is litigated in the federal courts—that process could take years. In the interim, this would mean “exposing thousands to the risk of torture or death,” as the three moderate-liberal justices warned in a 20-page dissent.

The Trump administration’s purpose goes beyond the specific individuals it is seeking to deport to countries like Libya and South Sudan, which are wracked by civil war, mass starvation, or both. It aims to use the threat of such a fate to terrorize many more immigrants into fleeing the United States (“self-deportation”), rather than face being shipped to a country where they don’t speak the language, have no prior connection, are separated from their families, and live under the constant risk of torture and death.

The initial case involved eight detained immigrants

whom the administration planned to deport to South Sudan, even though only one was actually from that country. One was to be trans-shipped eventually to his country of origin, Myanmar. The remaining six were from Latin America or Southeast Asia and had either been denied reentry by their home countries or refused to return.

After Boston federal judge Brian Murphy issued a stay, the Department of Homeland Security flew the migrants to a US military base in Djibouti, where they have been detained in a shipping container pending the appeal.

A second group of immigrants was reportedly slated for deportation to Libya, despite denials by both of the right-wing factions vying for control of the war-torn country. Libya has endured 14 years of civil war following the US-NATO intervention that overthrew the nationalist regime of Colonel Muammar Gaddafi. Both rival governments have denied making any agreement with the United States to accept non-Libyan deportees.

In response to the ruling, Trina Realmuto, executive director of the National Immigration Litigation Alliance—one of the groups representing the migrants facing deportation to South Sudan—warned, “The ramifications of the Supreme Court’s order will be horrifying; it strips away critical due process protections that have been protecting our class members from torture and death.”

Realmuto and other legal representatives of the migrants refuted the Trump administration’s typical claim—made again in its filing with the Supreme Court—that its deportations are aimed at “the worst of the worst.” In reality, they noted, many of the migrants facing deportation have no criminal record whatsoever.

They also pointed out the staggering hypocrisy of the

Department of Homeland Security's actions: While it was deporting migrants to South Sudan, the US State Department had issued a travel advisory instructing all non-essential US personnel to leave the country due to "armed conflict" and "fighting between various political and ethnic groups."

Solicitor General John Sauer, who argued the case before the Supreme Court on behalf of the Trump administration, previously represented Trump personally in *Trump v. United States*. In that landmark decision issued a year ago, the Court ruled that a sitting president is immune from prosecution for any crime committed while carrying out his official duties.

The dissenting opinion in the deportation case, authored by Justice Sonia Sotomayor and joined by Justices Elena Kagan and Ketanji Brown Jackson, excoriated the majority's action in language rarely seen in legal documents of this kind.

The Trump administration was engaged in flagrant defiance of temporary restraining orders issued by the lower courts, for which the Supreme Court majority was rewarding it, Sotomayor wrote. The government "openly flouted two court orders, including the one from which it now seeks relief... This is not the first time the Court closes its eyes to noncompliance, nor, I fear, will it be the last."

She continued, "The Government has made clear in word and deed that it feels itself unconstrained by law, free to deport anyone anywhere without notice or an opportunity to be heard. The episodes of noncompliance in this very case illustrate the risks."

Citing the narrow escape of two groups of detainees, one bound for Libya and the other for South Sudan, Sotomayor wrote: "Only the District Court's careful attention to this case prevented worse outcomes. Yet today the Court obstructs those proceedings, exposing thousands to the risk of torture or death."

The position of the Trump administration, in the face of legal requirements that noncitizens should receive due process, including judicial hearings, before deportation, was "skipping such proceedings entirely and simply whisking noncitizens off the street and onto busses or planes out of the country."

"The Due Process Clause represents 'the principle that ours is a government of laws, not of men, and that we submit ourselves to rulers only if under rules,'" Sotomayor wrote. "By rewarding lawlessness, the

Court once again undermines that foundational principle."

She concluded, "Apparently, the Court finds the idea that thousands will suffer violence in farflung locales more palatable than the remote possibility that a District Court exceeded its remedial powers when it ordered the Government to provide notice and process to which the plaintiffs are constitutionally and statutorily entitled. That use of discretion is as incomprehensible as it is inexcusable."

The immediate impact of this ruling will be the shipping of planeloads of immigrants to El Salvador, South Sudan, Libya and any other country that will accept them in return for bribes—financial, military or political—from the US government.



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