

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BANGALLY FATTY,

Petitioner,

Case No. C17-1535-MJP-BAT

V.

ELAINE DUKE, *et al.*,

Respondents

ORDER GRANTING TEMPORARY
STAY OF REMOVAL AND
DIRECTING SERVICE

Petitioner Bangally Fatty is a native and citizen of Gambia who is currently detained by

15 U.S. Immigration and Customs Enforcement (“ICE”) at the Northwest Detention Center. On

16 | October 13, 2017, petitioner, proceeding through counsel, filed a petition for writ of habeas

17 corpus pursuant to 28 U.S.C. § 2241, together with an emergency motion for stay of removal.

18 Dkts. 1, 2. Petitioner, by way of the instant habeas action, seeks to preserve his right to an

¹⁹ adjudication of his T (trafficking victim) visa application. He also challenges ICE's recent

²⁰ refusal to accept and consider his I-246 request for stay of removal. Petitioner asserts that he

21 requires a stay of removal because physical presence in the United States is an eligibility

²² requirement for a T visa.

²² See, for example, the discussion of the 1992 Constitutional Convention in the *Constitutional Convention of 1992: The Final Report* (1993).

**ORDER GRANTING TEMPORARY STAY
OF REMOVAL AND DIRECTING SERVICE - 1**

1 The Court, having reviewed petitioner's submissions, hereby ORDERS as follows:

2 (1) In light of the immediacy of the harm to petitioner before an opportunity for
3 review of the case on the merits takes place, petitioner's removal is temporarily STAYED
4 pending briefing and a resolution of petitioner's motion for stay. The Court expresses no views
5 at this time as to the merits of petitioner's habeas petition or motion for stay.

6 (2) If not previously accomplished, electronic posting of this Order and petitioner's
7 § 2241 habeas petition shall effect service upon the United States Attorney of the petition and of
8 all related and supporting documents. Service upon the United States Attorney is deemed to be
9 service upon the named respondents.

10 (3) ***Within thirty (30) days after such service***, respondents shall show cause why a writ
11 of habeas corpus should not be granted by filing and serving a return as provided in 28 U.S.C. §
12 2243. As a part of the return, respondents shall submit a memorandum of authorities in support of
13 their position and state whether an evidentiary hearing is necessary. Also as a part of the return,
14 respondents shall respond to petitioner's request for stay.

15 (4) The return will be treated in accordance with Local Rule LCR 7. Accordingly, on
16 the face of the return, respondents shall note it for consideration on the fourth Friday after it is
17 filed, and the Clerk shall note the return accordingly. Petitioner may file and serve a response not
18 later than the Monday immediately preceding the Friday appointed for consideration of the matter,
19 and respondents may file and serve a reply brief not later than the Friday designated for
20 consideration of the matter.

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1 (5) The Clerk shall send copies of this Order to counsel for petitioner and to the
2 Honorable Brian A. Tsuchida.

3 DATED this 16th day of October, 2017.

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7 Marsha J. Pechman
United States District Judge

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