News



Migrants detained by U.S. Border Patrol agents after crossing into the United States from Mexico to request asylum get into a vehicle to be transferred to a detention center in El Paso, Texas, Dec. 19, 2022. (OSV News/Reuters/Jose Luis Gonzalez)

Kurt Jensen

View Author Profile

OSV News

View Author Profile

Join the Conversation

Send your thoughts to *Letters to the Editor*. Learn more

Washington, D.C. — June 26, 2025
Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

A leading Catholic immigration expert expressed outrage over the Supreme Court's June 23 ruling allowing the Trump administration to remove immigrants who lack legal authorization to live and work in the U.S., to countries not specifically identified in their removal orders — known as "third-country removals" — without advance notice.

"It is rather shocking that the court would approve of the removal of a person to a country they do not know and is nowhere near their home country, especially without due process," J. Kevin Appleby, senior fellow for policy and communications at the Center for Migration Studies of New York, said in a statement to OSV News.

"The countries they are being sent to, such as South Sudan and El Salvador, are dangerous and unstable," he said. "These are still human beings who will be exposed to harm and left stranded in precarious situations."

The brief unsigned order pauses an April ruling by Brian Murphy, a U.S. District Court judge in Boston, which temporarily prohibited the government from sending immigrants to "third-party countries" unless it had ensured that the immigrants would not face torture there. It did not address the merits of the case.

The plaintiffs, eight men, are all unauthorized immigrants with deportation orders. These deportations could begin immediately, said Tricia McLaughlin, assistant secretary of the Department of Homeland Security.

"If these activist judges had their way, aliens who are so uniquely barbaric that their own countries won’t take them back, including convicted murderers, child rapists and drug traffickers, would walk free on American streets. DHS can now execute its lawful authority and remove illegal aliens to a country willing to accept them. Fire up the deportation planes."
On June 24, Solicitor General D. John Sauer asked the Supreme Court to "make clear beyond any doubt that the government can immediately proceed with the third-

country removals of the criminal aliens from Djibouti."

In a June 23 dissent, Justice Sonia Sotomayor, joined by Justices Elena Kagan and Ketanji Brown Jackson, wrote that the majority was granting the government "emergency relief from an order it has repeatedly defied."

"Apparently," Sotomayor wrote, "the Court finds the idea that thousands will suffer violence in far-flung 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."

"In matters of life and death, it is best to proceed with caution," she wrote. The government "wrongfully deported one plaintiff to Guatemala, even though an immigration judge found he was likely to face torture there. Then, in clear violation of a court order, it deported six more to South Sudan, a nation the State Department considers too unsafe for all but its most critical personnel."

Advertisement

The Massachusetts court's "timely intervention only narrowly prevented a third set of unlawful removals to Libya."

The Massachusetts ruling was made after immigration officials put migrants from Myanmar, Vietnam and Cuba on a plane to South Sudan, though they later were taken to a U.S. naval base in Djibouti, where they remain. All had been convicted of serious crimes in the United States.

"These individuals are pretty bad actors," Andrew "Art" Arthur, the resident fellow in law and policy at the Center for Immigration Studies in Washington, told OSV News.

The Massachusetts judge "just made those standards up," he said of the District Court ruling. "There's nothing in the law that requires that."

DHS is bound by law not to remove someone to a country where there's a legitimate fear of torture, but "that's a determination for DHS to make. It's not a determination for anyone else to make."

"These individuals voluntarily came to the United States, and by doing so, ran the risk of being removed, not back home, but to a third country."

And although the law prohibits the removal to a country where torture is a risk, "we're not under a moral obligation to remove you to a country you're most comfortable in," said Arthur.

Sotomayer's dissent claimed flaws, saying that the government "obfuscates the issue by asserting that some (perhaps "many") members of the class should be treated as if they never entered the United States. Yet even if that were true as to some class members, it could show at most that the class might be too broadly defined, not that the Government is likely to succeed on the constitutional merits."

"Similarly," she added, "the Government relies on precedent about the wartime transfer of detainees to assert that the Executive's determination that 'a country will not torture a person on his removal' is 'conclusive.'"

"There is no evidence in this case that the Government ever did determine that the countries it designated (Libya, El Salvador, and South Sudan) 'w[ould] not torture' the plaintiffs.
"Plaintiffs merely seek access to notice and process, so that, in the event the Executive makes a determination in their case, they learn about it in time to seek an immigration judge's review.

Jeff Joseph, president of the American Immigration Lawyers Association, said in a statement that the Supreme Court has given "essentially a green light to secret deportations, including to countries considered dangerous."

"This decision is not only deeply troubling in itself, it is part of a broader pattern of the administration denying basic legal protections to vulnerable individuals," he said. "As judicial checks continue to erode, it is imperative that Congress act and assert its constitutional role. Protecting due process is not optional, it is the backbone of our democracy."