

United States Senate

June 2, 2025

The Honorable John D. Bates
Chair, Committee on Rules of Practice and Procedure
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle NE
Washington, DC 20544

Dear Judge Bates,

I write in my capacity as Chairman of the Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights. I respectfully request that the Committee on Rules of Practice and Procedure review Standing Order 2025-01, issued by the Chief Judge of the U.S. District Court for the District of Maryland on May 21, 2025, and amended on May 28, 2025.

As originally issued, the standing order automatically enjoined the U.S. Government from removing or altering the legal status of any alien detainee who files a habeas petition in that district—regardless of the petitioner’s physical location. The order is self-executing, requires no individualized judicial finding, and remains in effect for a minimum of two business days following the filing of each petition. In form and effect, it operates as a procedural rule of general applicability governing all future habeas filings.

The amended version, issued on May 28, narrows that scope by clarifying that the order applies only to petitions filed “on behalf of an alien detainee located in the District of Maryland.” While the geographic limitation marks a partial improvement, serious concerns remain. The order continues to function as an automatic injunction, absent judicial findings, and still governs all qualifying habeas filings in advance of any case-specific review.

Moreover, the fact that the order was initially drafted with nationwide effect underscores the structural risks it poses. That a single district court judge assumed power to delay removals of detainees located anywhere in the country—without a record, hearing, or jurisdictional tether—raises substantial questions about Article III limits and judicial rulemaking authority.

Under 28 U.S.C. § 2071(b), however, “[a]ny rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment.” To my knowledge, no such notice or comment opportunity was provided by the District of Maryland. That omission raises serious questions about whether Standing Order 2025-01 complies with federal law governing judicial rulemaking.

In addition, the order appears to conflict with binding Supreme Court precedent. Just last month, in *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025), the Court vacated district court injunctions halting removals under the Alien Enemies Act and reiterated that habeas petitions must be filed in the district of confinement, not in distant forums of strategic convenience. Writing per curiam, the Court stated unequivocally: “[f]or ‘core habeas petitions,’ ‘jurisdiction lies in only one district: the district of confinement.’” *J.G.G.*, 145 S. Ct. at 1005–06 (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)).

Even as amended, the Maryland order may enable jurisdictionally improper filings—particularly when the physical location of the detainee is unclear or in dispute, as often occurs in expedited removal contexts.

The real-world consequences are significant. Courts are increasingly asked to intervene in removal proceedings through emergency habeas petitions. One high-profile example is Kilmar Armando Abrego Garcia, a Maryland resident who was deported to El Salvador in March 2025 despite a court order prohibiting his removal to that country. That case triggered interagency conflict, litigation in multiple courts, and an ongoing judicial inquiry. But Mr. Abrego Garcia is only one among many; the Department of Homeland Security is now executing a broad removal campaign under renewed executive directives, and filings are accelerating.

Standing Order 2025-01 risks turning a single district court into a national command center for halting removals—sidestepping local jurisdiction, inviting forum-shopping, and preempting the case-specific evaluation that habeas jurisprudence has long required.

Accordingly, I respectfully request that the Committee evaluate the following:

- Whether Standing Order 2025-01, as amended, constitutes a “rule” subject to 28 U.S.C. § 2071(b);

- If so, whether the District of Maryland complied with the required notice-and-comment process;
- Whether the order's automatic and broad application to the whole state of Maryland is consistent with the Supreme Court's jurisdictional rulings, including *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025); and
- Whether the original nationwide reach of the order, prior to the May 28 amendment, exceeded the district court's authority and set a concerning precedent for other courts to follow.

This request is submitted in connection with an upcoming oversight hearing I will convene on June 3, 2025, at 2:30 PM on the subject of judicial overreach and Article III excess. That hearing will examine how procedural devices like Standing Order 2025-01 enable judicial overreach in ways that threaten the separation of powers and impair lawful executive enforcement.

I respectfully request a written response from the Committee by June 30, 2025, so that the Senate Judiciary Committee's Subcommittee on Federal Courts may evaluate any recommendations in advance of further legislative or oversight activity.

Thank you for your attention to this matter. My staff and I welcome any guidance the Committee may offer.

Sincerely,



Senator Ted Cruz
Chairman, Subcommittee on Federal Courts, Oversight, Agency Action, and
Federal Rights
U.S. Senate Committee on the Judiciary