

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

ERROL WALKER, :  
A# 38-200-339, :  
 :  
Petitioner, :  
 :  
V. : CASE NO. 3:04CV1057 (RNC)  
 :  
JOHN ASHCROFT, et al., :  
 :  
Respondents. :

ORDER DIRECTING RESPONDENT TO SHOW CAUSE  
AND DIRECTING SERVICE AND  
STAY OF REMOVAL

Petitioner, a citizen of Jamaica, is subject to a final order of removal and is currently detained. He brings this habeas corpus action arguing that his detention and removal order violate the United States Constitution and moves for a stay of removal.

Accordingly, respondent is hereby ordered to show cause why the relief petitioner seeks should not be granted. Respondent will file and serve a response within twenty days of receipt of service.

In order to allow adequate time for the court to reach the merits of his claim, petitioner's removal is hereby stayed pending further order of this court. A request for a stay of removal is evaluated according to the following equitable principles: (1) whether the movant will suffer irreparable injury absent a stay, (2) whether a party will suffer substantial injury if a stay is issued, (3) whether the movant has demonstrated a substantial possibility,

though less than a likelihood, of success, and (4) the public interests that may be affected. See Jenkins v. INS, 32 F.3d 11, 14-15 (2d Cir. 1994) overruled on other grounds by Aguirre v. INS., 79 F.3d 315 (2d Cir. 1996). Based on the current record, the Court cannot exclude the possibility that petitioner will succeed on his claim, and he would be irreparably harmed if he is removed before his claim is decided on the merits. These factors and the public's interest in proper enforcement of the immigration laws outweigh any interest in immediate execution of the removal order.

The United States Marshal shall serve this order, together with a copy of the Petition, on the respondent's representative, Kevin O'Connor, United States Attorney, Connecticut Financial Center, 157 Church Street, New Haven, CT, on or before July \_\_\_\_, 2004.

So ordered.

Dated at Hartford, Connecticut this \_\_\_\_ day of July, 2004.

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ROBERT N. CHATIGNY  
UNITED STATES DISTRICT JUDGE