UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JULIO CESAR SANCHEZ PUENTES and LUDDIS NORELIA SANCHEZ GARCIA,	§	
Petitioners,	§	
v.	§	**EP-25-CV-00127-DB**
ANGEL GARITE, MARY DE-ANDA-YBARRA, TODD LYONS, KRISTI NOEM, and PAM BONDI,	§	
Respondents.	§	

RESPONDENTS' EMERGENCY MOTION FOR ORDER ON STAY OF RELIEF PENDING APPEAL

On April 25, 2025, this Court issued a memorandum opinion and order in this case. *See* Western District of Texas PACER Docket No. 3:25-cv-00127-DB, ECF 27. Respondents move under Federal Rule of Civil Procedure 62(d) for an order suspending and staying the district-wide relief that was granted by the Court in that memorandum opinion and order. *See id.* at 35-37. This motion is properly presented to this Court. Federal Rule of Appellate Procedure 8(a)(1) provides, in relevant part, that a party seeking "an order suspending, modifying, restoring, or granting an injunction while an appeal is pending" must "ordinarily move first in the district court" for such relief. *See also* Fed. R. Civ. P. 62(d)(e). Respondents intend to timely file a notice of appeal of this Court opinion and order with the Court of Appeals for the Fifth Circuit no sooner than the end of the day on Monday, May 5, 2025.

As grounds for relief, Respondents submit that (1) the Court's district-wide order exceeded its authority circumscribed by Article III, and the limits on habeas, in that it issued "class" relief without following class procedures; (2) the Court's order imposing onerous notice requirement on

the Department of Homeland Security ("DHS") is inconsistent with the Supreme Court's decision in *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682 (D.C. Cir. Mar. 26, 2025) and with the broad discretion granted to the Executive in the Alien Enemies Act ("AEA"); and (3) the directive from this Court enjoining the DHS from removing all immigration detainees "who were, are, or will be" subject to the AEA contravenes the Immigration and Nationality Act ("INA"), which expressly bars this Court from enjoining the transfer of noncitizens detained under Title 8. Respondents assert that these impositions onto the Executive's authority interfere with the Government's interest in public security, and thus, a stay pending appeal, with respect to the District-wide relief granted by this Court's April 25, 2025, order, is warranted.

In accordance with W.D.TX R.CV-7, undersigned counsel for Respondents certifies that representatives for the Respondents conferred with counsel for Petitioners as to this motion, and counsel for Petitioners represented that Petitioners oppose the relief sought in this motion. Respondents request that the Court issue an immediate order on this motion. If the Court is inclined to deny this motion, Respondents recognize that the Court just held a hearing on this matter on April 23, 2025, and Respondents have no objection to the Court doing so without requiring a response from the Petitioners or holding a hearing.

ARGUMENT

I. The Court Exceeded its Authority by Issuing District-Wide Relief Without Engaging in Class Certification Procedures

This Court exceeded its authority by ordering district-wide relief to all noncitizens detained in the Western District of Texas "who were, are, or will be subject to the March 2025 'Invocation of the" AEA, without engaging in any class certification procedures, much less the "rigorous analysis" required by the Supreme Court. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 351 (2011). This is a case that involves *two individuals*. The parties did not brief or argue any issues

related to class-wide relief. Thus, relief must be limited to the named petitioners and not expanded to non-ascertainable class that – given the speculative nature of the order, in that it includes anyone who "will be" subject to the AEA in the future – likely includes every detained noncitizen in the Western District of Texas.

This Court's authority is circumscribed by Article III and the limits on habeas. Indeed, a habeas action may not be used to issue class-wide relief given that the writ extends only to determine whether an individual's custody "is in violation of ... law[]", 28 U.S.C. § 2241(c)(3), not to impose district-wide procedures for future cases as if the court were replicating APA jurisdiction that it lacks. *See J.G.G.*, 2025 WL 1024097 (detainees may not "seek equitable relief against the implementation of the Proclamation"); *Jennings v. Rodriguez*, 583 U.S. 281, 322 (2018) (Thomas, J., concurring) ("Respondents do not seek habeas relief, as understood by our precedents" because they ask for "an injunction that would provide relief for both present and future class members"). Moreover, this Court lacked authority to grant relief to a non-ascertainable class that extends to people who are designated under the AEA and those who are not. By awarding relief to an amorphous district-wide class, the district court effectively circumvented equitable limitations on universal relief in a sensitive national-security context. Accordingly, this Court should stay its order insofar as it granted class-wide relief, and limit any surviving order to the named Petitioners only.

II. The Government's Notice Procedure Satisfies Due Process, and this Court Exceeded its Authority by Limiting the Executive's Discretion Regarding its Notice Procedures

Despite not hearing arguments or permitting briefing regarding the Executive's notice procedures under the AEA, this Court ordered, *sua sponte*, the DHS to "provide a twenty-one (21) day notice to individuals detained in the Western District of Texas pursuant to the AEA and the TdA Proclamation," and required the written notice to be "given and written" in a language that

the noncitizen understands, and to "include the individual's right to seek judicial review, and inform individuals they may consult an attorney, at their own expense, regarding their detention and the Government's intent to remove them." ECF 27 at 37. This Court's onerous directive interferes with the discretion of the Executive to establish notice procedures in accordance with the Supreme Court's decision in *J.G.G.* , 2025 WL 914682 at *2, and the AEA, 50 U.S.C. § 21.

Indeed, a stay is necessary to avoid impeding the discretion of the Executive. The AEA permits the Executive broad discretion to establish the conditions and processes the Executive will use to implement a Presidential Proclamation, and does not impose any particular notice time period. 50 U.S.C. § 21; *Schlueter v. Watkins*, 158 F.2d 853, 853 (2d Cir. 1946) (the AEA authorizes "the making of an order of removal of an alien enemy without a court order and without a hearing of any kind"); *Ludecke v. Watkins*, 335 U.S. 160, 162–63 (1948) (noting the entirely administrative process established for determining whether an individual was an alien enemy). The only process due in this context is the process Congress has provided, *DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020), and under the AEA that process is the availability of habeas relief. And as this case shows, the notice periods are sufficient to permit individuals to request and seek relief through habeas.[1] *J.G.G.*, 2025 WL 1024097, at *2.

The government has developed procedures to comply with that directive that are presently being enjoined in this District by this Court's order, but are being employed elsewhere. Immigration and Customs Enforcement ("ICE") serves Form AEA-21B on an alien who is

[1] In fact, these noncitizens are far from being the only detainees who received notice under the Executive's AEA procedures (as opposed to the procedures proscribed by this Court's order) and were able to challenge their detention through habeas petitions brought in their districts of confinement. Courts continue to hear habeas cases by noncitizens challenging their detention and designation under the AEA, and those Courts continue to adjudicate their claims. *See, e.g., D.B.U. v. Trump*, No. 1:25-cv-01163 (D.Co.); *G.F.F. v. Trump*, No. 25-cv-2886 (S.D.N.Y.); *J.A.V. v. Trump*, No. 25-cv-72 (S.D. Tex.); *A.S.R. v. Trump*, No. 25-cv-133 (W.D. Pa.); *Viloria-Aviles v. Trump*, No. 25-cv611 (D. Nev.); *A.A.R.P. v. Trump*, No. 25-cv-59 (N.D. Tex.); *Gutierrez-Contreras v. Trump*, No. 25-cv-911 (C.D. Cal.); *Quintanilla Portillo v. Trump*, No. 25-cv-1240 (D. Md.); *Sanchez Puentes v. Trump*, 25-cv-0127 (W.D. Tex.); *F.J.G.C. v. Noem*, 1:25-cv-04107 (N.D. Il.).

detained subject to Title 50. Exhibit A, Cisneros Declaration ¶ 4, 9. The notice is read to the alien in a language they understand. *Id.* ¶ 4, 9. That the notice is not *written* in the alien's native language is of no moment. This is no different than the notice to appear that is provided in Title 8 removal proceedings—the form is in English and explained orally in another language, if necessary, which is commonplace for ICE, given that it regularly works with non-English speakers. *Id.* ¶ 5-8; *Platero-Rosales v. Garland*, 55 F.4th 974, 977 (5th Cir. 2022) ("[T]here is no legal authority to support her assertion that the United States is required to provide notice in any language other than English."); *see also Manyary v. Bondi*, 129 F.4th 473, 478 (8th Cir. 2025) ("The statute does not require notice in any language other than English."); *Khan v. Ashcroft*, 374 F.3d 825, 828 (9th Cir. 2004) (same). Along with service, ICE informs the noncitizen they can, and ensures that they are able, to make a telephone call to a recipient of their choosing, including to a lawyer— alleviating the concern that the noncitizen will not be able to seek counsel. Exh. A (Cisneros Declaration) ¶ 10. A federal court has recently held that this type of counsel access alleviates constitutional concerns in connection with immigration detention at Guantanamo. *Las Americas v. Noem*, No. 25-418, Oral Ruling Tr. 69, 76 (D.D.C. Mar. 14, 2025) (discussing telephone access and concluding that "[i]n light of the practices in place for access to counsel, any transferred plaintiff would be able to contact the lawyers here who represent them and seek renewed injunctive relief"). Following service, an alien who indicates an intention to file a habeas will have at least twenty-four to do so. *Id.* ¶ 11, 12.

These procedures comport with the limited due process owed in this discreet context. Congress has created an analogously fast procedure in the expedited removal context, where "review shall be concluded ... to the maximum extent practicable within 24 hours." 8 U.S.C. § 1225(b)(1)(B)(iii)(III). This Court does not, in its order, address why the timeframe should be

slower in the context of an ongoing foreign incursion. As the government explained in its motion, The Supreme Court has upheld this procedure and explained that "[w]hatever the procedure authorized by Congress is, it is due process." *Thuraissigiam*, 591 U.S. at 139; *see also Am. Immigr. Laws. Ass'n v. Reno*, 18 F. Supp.2d 38, 58 (D.D.C. 1998), *aff'd*, 199 F.3d 1352, 1357 (D.C. Cir. 2000) (affirming "the dismissal of these claims substantially for the reasons stated in the court's thorough opinion"). The AEA, in turn, imposes no timeframe for notice. Thus, this Court should find that its order, requiring different procedures, "deeply intrudes into the core concerns of the executive branch," *Adams v. Vance*, 570 F.2d 950, 954 (D.C. Cir. 1978), such as effective implementation of a wartime measure to expel designated terrorists as well as administering detention facilities, *Bell v. Wolfish*, 441 U.S. 520, 548 (1979) ("the operation of [detention] facilities is peculiarly the province of the Legislative and Executive Branches of our Government, not the Judicial"); *Turner v. Safley*, 482 U.S. 78, 84-85 (1987). Accordingly, this Court should amend its order to eliminate its directive regarding notice procedures under the AEA.

III. The Court's Overbroad Restraint on Transferring Class Members out of the District is Contrary to the INA

The government may detain noncitizens pending removal proceedings under 8 U.S.C. § 1226(a) and removable noncitizens under § 1231(a). And the government *must* detain noncitizens who are inadmissible or removable under certain provisions. *See id.* §§ 1226(c)(1), 1231(a)(2)(A). Here, this Court's order preventing the transfer of any noncitizen who "who were, are, or will be" detained under the AEA, is therefore overbroad insofar as it also restrains the government from acting according to those authorities for noncitizens who are *currently* detained under Title 8 (and not under the AEA), simply because they either were designated under the AEA in the past or might be so designated in the future. *See J.G.G.*, 2025 WL 825116.

Indeed, the INA bars this Court from entering injunctive relief with respect to transfers in three different ways. First, under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where to detain Petitioners. The INA precludes review of "any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter to be in the discretion of the Attorney General . . ." 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore, § 1252(a)(2)(B)(ii) bars relief that would impact where and when to detain Petitioners.

Second, 8 U.S.C. § 1252(g) also bars enjoining transfers under Title 8. It prohibits district courts from hearing challenges to decisions and actions about whether, when, and where to commence removal proceedings. Reading the discretionary language in Sections 1231(g)(1) and 1252(g) together confirms that Congress foreclosed piecemeal litigation over *where* a detainee may be placed into removal proceedings. *See Glushchenko v. DHS*, 566 F. Supp. 3d 693, 701-04 (W.D. Tex. 2021) (distinguishing between unreviewable discretionary detention determinations and statutory and constitutional challenges to immigration detention); *see also Liu v. INS*, 293 F.3d 36, 41 (2d Cir. 2002) (habeas petition "must not be construed to be 'seeking review of any discretionary decision'" (quoting *Chmakov v. Blackman*, 266 F.3d 210, 215 (3d Cir. 2001))), *superseded by statute on other grounds as recognized by Ruiz-Martinez v. Mukasey*, 516 F.3d 102, 113 (2d Cir. 2008); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002); *Tercero v. Holder*, 510 F. App'x 761, 766 (10th Cir. 2013) (Attorney General's discretionary decision to detain aliens is not reviewable by way of habeas.).

And finally, this Court lacks jurisdiction "to enjoin or restrain the operation of" 8 U.S.C. §§ 1221–32 "other than with respect to the application of such provisions to *an individual alien* against whom proceedings under such [provisions] have been initiated." 8 U.S.C. § 1252(f)(1) (emphasis added). Thus, this Court has no authority to prevent the government's transfer of any

putative class member, not named in this action on an individual basis, to a place of its discretion under 8 U.S.C. § 1231(g). *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550 (2022) ("§ 1252(f)(1) 'prohibits federal courts from granting classwide injunctive relief' but 'does not extend to individual cases.'" (quoting *AADC*, 525 U.S. at 481–82).

IV. A Stay of Relief Pending Appeal Prevents Irreparable Harm to the Respondents

This Court's district-wide order impedes the government's ability to enforce the immigration laws and to arrest, detain, and remove unlawfully present aliens who may pose a danger to the public, such as Tren de Aragua members. *See, e.g., Nken v. Holder*, 556 U.S. 418, 436 (2009) (noting that there "is always a public interest in prompt execution of removal orders," and that interest "may be heightened" where "the alien is particularly dangerous"). And the court's order is overbroad in seeking to provide relief throughout the Western District of Texas to any detained individual who was, is, or will be subject to the AEA, even though no class procedures have been conducted. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 351 (2011) (Rule 23 demands a "rigorous analysis").

The TRO also irreparably harms the United States' conduct of foreign policy. It usurps the executive branch's statutory and constitutional authority to address what the President has announced was an invasion or predatory incursion. *See Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108, 116 (2013) (warning of "the danger of unwarranted judicial interference in the conduct of foreign policy"). The Executive Branch's protection of these interests, including "sensitive and weighty interests of national security and foreign affairs" inherent to combating terrorist groups, warrants significant deference. *Holder v. Humanitarian Law Project*, 561 U.S. 1, 33-35 (2010).

Meanwhile, a stay of the district-wide relief granted by this Court's order will not harm the named Petitioners at all, given that this Court has already ordered their immediate release from

detention, and has enjoined the government from transferring or removing them. Thus, the balance of equities favors granting this motion to stay pending appeal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2025, a true and correct copy of the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will transmit notification of such filing to the following CM/ECF participant: Christopher Benoit and Sherilyn A. Bunn, *Attorneys for Petitioners.*

By: /s/ Daniel Cappelletti

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ORDER

The Court, having considered Respondents' Motion for Order for Stay of Relief Pending Appeal, is of the opinion that said motion should be GRANTED.

IT IS THEREFORE ORDERED that this Court's April 25, 2025, memorandum opinion and order, with respect to the District-wide relief granted in that order, is stayed pending the appeal to the Fifth Circuit Court of Appeals.

SIGNED this _____ day of _____, 2025.

_____
DAVID BRIONES
SENIOR UNITED STATES DISTRICT JUDGE