

ECF No. 1-1. The IJ further found that Petitioner could be removed to Germany, “and in the alternative, **any country other than Iran** permitted under section 241 of the Immigration and Nationality Act, as amended.” *Id.* (emphasis added).

Notwithstanding being subject to a final order of removal, Petitioner has remained in the United States. On June 23, 2025, agents with United States Immigration and Customs Enforcement (“ICE”) apprehended Petitioner. ECF No. 1, ¶ 44. He is presently detained at the IAH Secure Adult Detention Facility in Livingston, Texas. *Id.*

II. *D.V.D* nationwide non-opt out class action.

In March 2025, three plaintiffs instituted the *D.V.D.* case in the District of Massachusetts, a putative class action suit challenging their third country removals. On March 28, 2025, that Court entered a Temporary Restraining Order (ECF No. 34) enjoining DHS and others from “[r]emoving any individual subject to a final order of removal from the United States to a third country, *i.e.*, a country other than the country designated for removal in immigration proceedings” unless certain conditions are met. On April 18, 2025, the *D.V.D.* Court issued an order (ECF No. 64) granting the Plaintiff’s motion for class certification (ECF No. 4) and motion for preliminary injunction (ECF No. 6). That Preliminary Injunction was national in effect, certified a non-opt out class, and established certain procedures that DHS must follow before removing an alien subject to a final order of removal to a third country. Relevant to this case, the class is defined as:

All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

Order at 23, *D.V.D.* (ECF No. 64).

On May 21, 2025, the *D.V.D.* Court issued a Memorandum on Preliminary Injunction (ECF No. 118) offering the following summary and clarification of its Preliminary Injunction:

All removals to third countries, *i.e.*, removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen's order of removal, *see* 8 U.S.C. § 1231(b)(1)(C), must be preceded by written notice to both the non-citizen and the non-citizen's counsel in a language the non-citizen can understand. Dkt. 64 at 46-47. Following notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for [Convention Against Torture] protection prior to removal. *See id.* If the non-citizen demonstrates "reasonable fear" of removal to the third country, Defendants must move to reopen the non-citizen's immigration proceedings. *Id.* If the non-citizen is not found to have demonstrated a "reasonable fear" of removal to the third country, Defendants must provide a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening of their immigration proceedings. *Id.*

The *D.V.D.* Court indicated that the Order applied "to the Defendants, including the Department of Homeland Security, as well as their officers, agents, servants, employees, attorneys, any person acting in concert, and any person with notice of the Preliminary Injunction." *Id.*

On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts' preliminary injunction pending appeal. In the United States First Circuit Court of Appeals. *Department of Homeland Security v. D.V.D.*, No. 24-A-1153, 2025 WL 1732103 (2025).

LEGAL STANDARD

I. Legal standard for Temporary Restraining Orders.

The standard for obtaining emergency injunctive relief is a familiar one. The movant bears the burden of establishing a substantial likelihood of success on the merits of his claims, a substantial threat of irreparable harm, that the balance of hardships weighs in his favor, and that the issuance of the relief would not be a disservice to the public. *Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012). However, in cases such as this, where the government is the nonmovant, the balance of hardships and lack of public disservice factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 920 F.3d 1, 10 (D.C. Cir. 2019) (*per curiam*).

Though Petitioner glosses over the standard, it bears emphasis that the standard has teeth and is not easily met. The Fifth Circuit has "cautioned repeatedly" that a preliminary injunction is an

“extraordinary remedy.” *Tex. Med.*, 667 F.3d at 574. For this reason, the Fifth Circuit has made clear that relief should be treated “as the exception rather than the rule.” *Miss. Power & Light v. United Gas Pipe Line Co.*, 760 F.2d 618, 621 (5th Cir. 1976). Such relief is “particularly disfavored” and should only issue when “the facts and law clearly favor the moving party.” *Id.* Therefore, without such a showing as to all four elements, the preliminary relief cannot issue. *See, e.g. Ponce v. Sorcorro Indep. Sch. Dist.*, 508 F.3d 765, 772 (5th Cir. 2007).

II. Legal framework governing removal of aliens, who have received final orders of removal, to third countries.

The Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, provides the Executive Branch with the authority to execute orders of removal and to ensure that aliens who have been ordered removed are in fact removed from the United States. This authority is broad. The United States may remove aliens to various countries including, where other options are unavailable, to any country willing and able to accept them. *See* 8 U.S.C. § 1231(b). Of course, under the statute and regulations implementing the Convention Against Torture (“CAT”), the United States will not remove any alien to a country where he is likely to be tortured—*i.e.*, the extreme scenario where the alien is likely to face severe pain or suffering intentionally inflicted by the hand or with the consent of the public official.

Although the INA authorizes removal of aliens who have received a final order of removal to a third country, it does not specify the specific process that aliens must receive under CAT. Congress has delegated the decision regarding the appropriate process entirely to the Executive Branch. *See* 8 U.S.C. § 1231 note. In March 2025, The Department of Homeland Security (“DHS”) issued guidance detailing its policy in this context, *see* May 2025 Guidance, *attached hereto as* Exhibit “A”, following President Trump’s Executive Order directing DHS to take action against the many aliens who stay in this country for years despite being subject to final orders of deportation, Executive Order 14165, 90 Fed. Reg. 8467, *attached hereto as* Exhibit “B”.

The DHS Guidance establishes a two-track system to address aliens who have been ordered removed but for various reasons cannot be sent to a country specifically designated in their removal orders. First, where the United States has received a sufficient assurance from a third country that no aliens will be tortured upon removal there, the Executive may remove the alien to that country without any further process. *See* Ex. A., Guidance at 1–2. A section applies for countries where the United States has not received such an assurance. In that case, the DHS policy provides that the alien is entitled to notice of the third country and an opportunity for a prompt screening of any asserted fear of being tortured there. *Id.* at 2.

ARGUMENT

I. This Court lacks jurisdiction to interfere with Petitioner’s removal from the United States.

It appears that Petitioner’s underlying challenge seeks to stay ICE’s effectuation of his removal order. To the extent that is the effect of Petitioner’s requested relief, the Court lacks jurisdiction to provide such relief as 8 U.S.C. § 1252(g) precludes a district court from staying orders of removal. Section 1252(g) states that “no court shall have jurisdiction to hear any cause or claim by . . . any alien arising from the decision or action by [ICE] to . . . *execute removal orders against any alien.*” (emphasis added). This provision applies “notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title.” *Id.* Section 1252(g) is “directed against a particular evil: attempts to impose judicial constraints upon [certain categories of] prosecutorial discretion.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 485 n.9 (1999). Indeed, Petitioner’s “requested relief, a stay from removal, would necessarily impose a judicial constraint on immigration authorities’ decision to execute the removal order, contrary to the purpose of § 1252(g).” *Viana v. President of United States*, No. 18-cv-222-LM, 2018 WL 1587474, at *2 (D.N.H. Apr. 2, 2018), *aff’d sub nom. Viana v. Trump*, No. 18-1276, 2018 WL 11450369 (1st Cir. June 18, 2018); *Idokogi v. Ashcroft*, 66 Fed.App’x. 526, *1 (5th Cir. 2003)

(“The relief sought by Idokogi in the district court is connected ‘directly and immediately’ with the Attorney General’s decision to commence removal proceedings against him. The district court therefore correctly determined that it lacked jurisdiction to stay the order of removal.”) (internal citations omitted); *Cardoso v. Reno*, 216 F.3d 512, 517 (5th Cir. 2000) (“Because this challenge is tantamount to a challenge to the execution of a removal order, section 1252(g) bars courts from exercising jurisdiction.”); *Fabulaje v. Immigration and Naturalization Agency*, 244 F.3d 133, 133 (5th Cir. 2000) (unpublished); *Mapoy v. Carroll*, 185 F.3d 224 (4th Cir. 1999).

Mapoy is instructive. There, the petitioner filed a habeas petition pursuant to 28 U.S.C. § 2241 and sought a preliminary injunction staying his removal while he attempted to reopen proceedings before the Board of Immigration Appeals (“BIA”) and adjust his status based on his marriage to a United States citizen. *Mapoy*, 185 F.3d at 225–26. The Fourth Circuit reversed the lower court’s order granting an injunction, holding that “Congress could have hardly been more clear and unequivocal that courts shall not have subject matter jurisdiction over claims arising from the actions of the Attorney General enumerated in § 1252(g) other than jurisdiction that is specifically provided by § 1252.” *Id.* at 230. The Court further noted that Section 1252(b) provided the only avenue for review, but even then, limited the review from the BIA to the courts of appeal. *Id.*; *Nasrallah v. Barr*, 590 U.S. 573, 579 (2020) (noting how, with the passage of the REAL ID Act of 2005, Section 1252(b) was amended to funnel all “issues arising from a final order of removal” to the immigration courts with “direct review in the courts of appeals,” and thereby “eliminating review in the district courts”). In sum, the statutory scheme here forecloses any habeas review under section 2241 in district courts which seeks to stay the execution of a removal order. *Id.*; see also *Fernandez v. Keisler*, 502 F.3d 337, 346 (4th Cir. 2007) (holding that the provision of the INA channeling judicial review through courts of appeal “expressly eliminate[s] district courts’ habeas jurisdiction over removal orders”); *Loera Arellano v. Barr*, 785 Fed. Appx. 195 (4th Cir. 2019) (affirming dismissal of habeas action seeking stay of

removal); *Futeryan-Cohen v. U.S. Immigration & Naturalization Svc.*, 34 Fed. Appx. 143, 145 (4th Cir. 2002) (reversing district court's grant of habeas relief to stay order of deportation and ordering dismissal).

This statutory scheme is directly applicable to Petitioner's case because it restricts the availability of judicial review of removal orders by expressly precluding habeas corpus jurisdiction and channeling review of such orders to the courts of appeal as "the sole and exclusive means for judicial review of an order of removal." 8 U.S.C. § 1252(a)(5). The statute provides that review of all questions "arising from any action taken or proceeding brought to remove an alien" shall be available only through a petition for review in the appropriate court of appeals. *Id.* § 1252(b)(9).

Petitioner's removal order was entered in 2011. He has had over 14 years to challenge the order and seek a stay of removal. His failure to do so does not give this Court the authority to consider the request in the context of a habeas corpus petition. To the contrary, Congress explicitly stripped district courts of the ability to interfere with ICE's execution of removal orders. As such, Petitioner is not likely to succeed on his request for a stay of removal and the Application should be denied.

II. The Court should dismiss this matter and deny the relief requested pending resolution of the already-certified class action in *D.V.D.*

Petitioner is a member of the non-opt out *D.V.D.* certified class. He is an individual subject to a final order of removal who ICE plans to deport to a third country. Because Petitioner is bound as a member of the non-opt out class of the *D.V.D.* nationwide injunction, this Court should dismiss the action. Given that dismissal is the appropriate remedy, Petitioner is not entitled to the preliminary relief sought in the Application.

"Multiple courts of appeal have approved the practice of staying a case, or dismissing it without prejudice, on the ground that the plaintiff is a member of a parallel class action." *Wynn v. Vilsack*, No. 3:21-CV-514-MMH-LLL, 2021 WL 7501821, at *3 (M.D. Fla. Dec. 7, 2021) (collecting cases) (internal quotations omitted). As the Eighth Circuit stated,

After rendition of a final judgment, a class member is ordinarily bound by the result of a class action If a class member cannot relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified.

Goff v. Menke, 672 F.2d 702, 704 (8th Cir. 1982). Thus, dismissal of this action considering Petitioner's membership in the *DVD* class is warranted. *See Horns v. Whalen*, 922 F.2d 835 (table), No. 90-6068, 1991 WL 78, at *2, 2 n.2 (4th Cir. Jan. 2, 1991) (holding that the district court was correct to avoid the risk of inconsistent adjudications); *see also McKinney v. Vilsack*, No. 2:21-00212-RWS, ECF No. 40 (E.D. Tex. Aug 30, 2021) (staying case pending resolution of the class action when according to defendants, plaintiff was a member of the two certified classes).

This Court should decline to exercise jurisdiction over the Petition also as a matter of comity because the District of Massachusetts has certified a class of people that will cover the same claim Petitioner is pursuing in the District of Maryland. *Pacesetter Sys., Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94-95 (9th Cir. 1982) ("There is a generally recognized doctrine of federal comity which permits a district court to decline jurisdiction over an action when a complaint involving the same parties and issues has already been filed in another district."). Multiple courts of appeal have held that it is not an abuse of discretion for a district court to decline to exercise jurisdiction over an issue pending in another court, particularly if the other case is a class action. *Goff*, 672 F.2d at 704); *Brown v. Vermillion*, 593 F.2d 321, 322-23 (8th Cir. 1979); *see also Horns*, 1991 WL 78, at *2 n.2 (holding that the district court did not abuse its discretion in declining to decide issue that was subject of class action) (collecting similar district court cases); *McNeil v. Guthrie*, 945 F.2d 1163, 1165 (10th Cir. 1991) (holding that individual suits for injunctive and declaratory relief cannot be brought where class action exists); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (same); *Groseclose v. Dutton*, 829 F.2d 581, 582 (6th Cir. 1987) (same); *Bennett v. Blanchard*, 802 F.2d 456 (6th Cir. 1986) (holding that duplicative suits should be dismissed once a class action certified); *Green v. McKaskle*, 770 F.2d 445, 446-47 (5th Cir. 1985), *on reh'g*, 788 F.2d 1116 (5th Cir. 1986) (holding that class member should not be permitted to pursue an

individual lawsuit seeking equitable relief within subject matter of class action); *Bryan v. Werner*, 516 F.2d 233, 239 (3d Cir. 1975) (finding that the district court did not err in refusing to consider an issue pending in a separate class action).

At its core, the Petition challenges how the Respondents should implement his third country removal. This Court should decline to wade into an already established process by issuing a potentially conflicting order. Indeed, class counsel in *D.V.D.* have already litigated several emergency motions related to the process given to several class members. Petitioner provides no conceivable reason why his case should proceed in this Court. Thus, dismissal is warranted.

III. Petitioner fails to establish a likelihood of success on the merits of his claims.

a. Plaintiff fails to establish a likelihood of success of his claims for violation of the INA and the CAT's implementing regulations.

Petitioner is unlikely to succeed on the merits of his claim that his removal violates the INA and regulations implementing the CAT. ECF No. 1, ¶¶ 47–55; ECF No. 3, at 5–9. The foundation of Petitioner's arguments is that the INA and CAT implementing regulations require the government provide notice to an alien subject to a final order of deportation of the third country to which he will be removed. *See generally id.* But that is not the case and the government's procedures for implementing CAT in cases involving removal to a third country are entirely consistent with due process.

First, Petitioner concedes he is subject to an order of final removal. ECF No. 1, ¶¶ 40–41; ECF No. 1-1. In this regard, Petitioner has already been presented the opportunity to voice his fear as to any countries of removal. In fact, as discussed in the Petition and Application, Petitioner did so and the IJ withheld removal from Iran under section 241(b)(3) of the INA. ECF No. 1-1. At that time, Petitioner did not identify fears with respect to his removal to any other countries. He has also not sought to reopen those proceedings to expand the list of feared countries beyond Iran. But his failure to take advantage of these opportunities does not mean he has been denied the opportunity. Especially telling is the fact that Petitioner still does not identify any countries where he believes his life or

freedom would be threatened following removal. Given it is Petitioner's burden to establish a substantial likelihood of success on the merits of his claims, his failure to provide this information should cause the Court to deny the request he seeks.

Second, as explained above, DHS' March Guidance provides that aliens may be removed to a "country [that] has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured." *See* Ex. A, Guidance. If the State Department finds the representations credible, the "alien may be removed without the need for any further procedures." *Id.*

The process provided in the March Guidance satisfies all Constitutional requirements. The Supreme Court has held that when an Executive determines a country will not torture a person on his removal, that is conclusive. *Munaf v. Geren*, 553 U.S. 674, 702–03 (2008); *see also Kiyemba v. Obama*, 561 F.3d 509, 514 (D.C. Cir. 2009) (federal courts "may not question the Government's determination that a potential recipient country is not likely to torture a detainee"), *cert. denied*, 559 U.S. 1005 (2010). As now-Justice Kavanaugh explained in his concurrence in *Kiyemba*, the "*Munaf* decision applies here a fortiori: That case involved the transfer of *American Citizens*, whereas this case involves the transfer of alien detainees with no constitutional or statutory right to enter the United States." *Kiyemba*, 561 F.3d at 517–18 (Kavanaugh, J., concurring). These cases stand for the proposition that when the Executive decides an alien will not be tortured abroad, courts may not "second guess [that] assessment," at least unless Congress has specifically authorized judicial review of that decision. *Id.* at 517 (citations omitted); *Munaf*, 553 U.S. at 703 n.6.

This framework also requires the Court reject Petitioner's argument that he is entitled to an individualized determination under the CAT regulations. *See* ECF No. 1, ¶¶ 51–55; ECF No. 3, at 9. That is not the law. The regulations provide that assurances that an alien would not be tortured if removed to a "specific country" are sufficient - nothing in the regulations requires an alien-by-alien determination as to what would be likely to happen in that country. *See* 8 C.F.R. § 1208.18(c)(1).

Therefore, the Secretary can conclude that “an alien” would not be tortured upon removal because no alien would be treated in that way given the assurance provided by that country. *Id.*

If removal is to a third country not covered by adequate assurances, the March Guidance makes clear that DHS will first inform the alien of removal to that country and then give him an opportunity establish that he fears removal there. Ex. A. If the alien does so, immigration officials will screen the alien to determine whether he “would more likely than not” be tortured in that country. *Id.* If not, the alien will be removed. If so, the alien will be placed in further administrative proceedings, or the government may choose another country for removal and the same protections will be implicated.

b. Petitioner cannot establish a likelihood of success on the merits of his procedural due process claim.

Petitioner is similarly unlikely to succeed on the merits of his claim that removing Petitioner without prior notice of the destination country violates his procedural due process rights under the Fifth Amendment rights. *See* ECF No. 1, ¶¶ 56–58. The thrust of Petitioner’s argument is removal without prior notice of the third country would deprive him of an opportunity to assert a fear claim and would therefore violate due process. ECF No. 3, at 9. But Petitioner’s concerns are inconsistent with the March Guidance, which affords Petitioner all process required. If the Executive intends to remove Petitioner to a country that it has received a sufficient assurance from a third country that no aliens will be tortured upon removal there, then the Executive’s determination cannot be reviewed and there can be no due process violation.

If the Executive intends to remove Petitioner to a country where it has not obtained such an assurance, the DHS policy provides that the alien is entitled to notice of the third country and an opportunity for a prompt screening of any asserted fear of being tortured there. *Id.* at 2. Thus, the March Guidance does provide that Petitioner will be notified of the third country and afforded the ability to assert a fear claim. Given the fact the March Guidance affords Petitioner an opportunity to

present a fear claim, he is not likely to prevail on the merits of his procedural due process claim and the Application should be denied.

c. Plaintiff cannot establish a violation of 8 U.S.C. § 1231(a)(6) because his one-week detention is not unreasonable.

Plaintiff fails to substantively argue that he is likely to succeed on his claim under 8 U.S.C. § 1231(a)(6) that his detention is unreasonable and therefore must be immediately released. *See* ECF No. 1, ¶¶ 59–61. Plaintiff's failure to make this argument constitutes a waiver for purposes of the Application.

Regardless, Plaintiff could not establish a likelihood of success on the merits of the claim. The United States Supreme Court set forth a framework for evaluating the constitutionality of post-final order detention under 8 U.S.C. § 1321(a)(6) in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In *Zadvydas*, the Supreme Court explained that the “reasonableness” of continued detention under Section 1231(a)(6) should be measured “primarily in terms of the statute’s basic purpose, namely, assuring the alien’s presence at the moment of removal.” 533 U.S. at 700. The Court held that post-final order detention is presumptively reasonable for six months. *Id.* at 701.

Here, Petitioner’s due process challenges to his detention fails because it is premature. He has only been detained for seven days. In the Petition, Plaintiff alleges that he was apprehended by U.S. Immigration and Customs Enforcement (“ICE”) agents on Monday June 25, 23, 2025 and is presently detained at the IAH Secure Adult Detention Facility in Livingston, Texas. ECF No. 1, ¶ 44. Thus, as the date of this filing, Petitioner has been in custody for, at most, a week. A detention of such short duration is surely not unreasonable for purposes of Section 1231(a)(6). *Zadvydas*, 533 U.S. at 701; *see also Rodriguez-Guardado v. Smith*, 271 F.Supp.3d 331, 335 (D. Mass. 2017) (“As petitioner has been detained for approximately two months as of this date, the length of his detention does not offend due process.”); *Farah v. U.S. Att’y Gen.*, 12 F.4th 1312, 1332-33 (11th Cir. 2021) (explaining that “[i]f after six months he is still in custody and has not been removed from the United States, then he can

challenge his detention under section 1231(a)...[b]ut until then, his detention is presumptively reasonable under *Zadvydas*). Therefore, Petitioner's detention comports with the due process parameters described in *Zadvydas* and he cannot establish a likelihood of success on the merits of his unreasonable detention claim.

IV. Plaintiff fails to demonstrate irreparable harm.

To establish irreparable harm, a party must show that the harm is certain and so imminent as to necessitate immediate equitable relief. "Speculative harm" or the mere "possibility of irreparable harm" is not enough. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008); *United States v. Emerson*, 270 F.3d 203, 262 (5th Cir. 2001) ("Speculative injury is not sufficient, there must be more than an unfounded fear on the part of the applicant ... A presently existing actual threat must be shown."); *See also Adams v. Cantwell*, Case no. 6:20-cv-11, 2022 WL 453544, at *2 (E.D. Tex. Jan. 10, 2022), *report and recommendation adopted*, 6:20-cv-11, 2022 WL 446756 (Feb. 12, 2022) (Kernodle, J.) ("To the extent that Plaintiff is expressing fear of future harm, the speculative nature of such claim does not satisfy the heightened burden necessary for the extraordinary relief of a preliminary injunction.").

Here, Petitioner has not established the type of irreparable harm absent preliminary relief that warrants the extraordinary remedy he seeks from this Court. The Secretary of State has authority to obtain "assurances" from a foreign country that an alien will not be tortured if removed there. These assurances are dispositive with respect to CAT protection. *See* 8 C.F.R. 208.18(c). Petitioner fails to identify any irreparable harm from the government's ability to obtain these assurances categorically versus one-by-one. Even if the government has not obtained sufficient assurances, Petitioner is protected. The March Guidance provides them notice and a reasonable opportunity to raise a fear of removal. *See* Ex. A. Petitioner fails to show why the procedures established under the March Guidance are insufficient to preclude irreparable harm.

Petitioner argues that his “likelihood of persecution, torture, or death in the unknown third country constitutes irreparable harm.” ECF No. 3, at 12. But Petitioner fails to provide any support for this naked conclusion. Why is Petitioner likely to suffer persecution, torture, or death? Would this take place in every country? Are there specific countries that pose these concerns? Respondents and the Court are left guessing because Petitioner fails to offer any reasonable support for these doomsday hypotheticals. Of course, Petitioner likely cannot fill in these gaps and his failure to do so renders his irreparable harm argument woefully lacking. In fact, the only country Petitioner has identified a fear or removal to is Iran, which is already withheld in his 2011 order of removal. Given Petitioner’s decade of silence, it is highly unlikely he can establish a credible fear or any real risk that he will be tortured with the assurance of foreign governments in third countries to which he has little or no preexisting connection, especially since the Executive Branch has determined those countries are acceptable places of removal.

Simply put, Petitioner has failed to identify any irreparable injury, and any theoretical harm is so far removed—so speculative—that it cannot possibly satisfy the irreparable harm requirement for preliminary injunctive relief.

V. The third and fourth factors similarly favor denial of the Application.

Because Petitioner seeks to enjoin the action of a government agency, the third factor in assessing whether injunctive relief is appropriate, the balance of equities, and the fourth factor, the public interest merge. *Nken*, 556 U.S. at 435. In this case, both factors weigh in favor of denying injunctive relief.

Any time a government’s policy is blocked by court order, it suffers irreparable harm. *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (“[A]ny time a State is enjoined from effectuating statute enacted by representatives of its people, it suffers a form of irreparable injury.”) (Roberts, C.J., in chambers) (quoting *New Motor Vehicle Bd. V. Orrin W. Fox Co.*, 434 U.S. 1245, 1351 (Rehnquist, Circuit Justice, in

chamber)). That harm is more poignant in the immigration context where the Constitution assigns preeminent power to the political branches. *See Galvan v. Press*, 347 U.S. 522, 531 (1954).

What is more, Petitioner has not demonstrated that his interest will be served by the extraordinary remedy of injunctive relief. As explained *supra*, the March Guidance affords Petitioner sufficient due process such that he cannot establish irreparable harm. Therefore, on balance, the third and fourth factors weigh against providing preliminary injunctive relief.

CONCLUSION

For the foregoing reasons., the Court should deny Petitioner's Emergency Application for a Temporary Restraining Order and dismiss this case on the grounds that Petitioner is a class member of *D.V.D.* Alternatively, Respondents respectfully request that this Court stay this matter pending resolution of *D.V.D.*

Respectfully submitted,

JAY R. COMBS
ACTING UNITED STATES ATTORNEY

s/ James Gillingham
JAMES GILLINGHAM
Assistant United States Attorney
Texas Bar No. 24065295
110 N. College Ave.; Suite 700
Tyler, Texas 75702
Tel: (903) 590-1400
Fax: (903) 590-1436
Email: James.Gillingham@usdoj.gov

Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2025, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of this filing.

/s/ James Gillingham
JAMES GILLINGHAM
Assistant United States Attorney