

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-02205-WJM-STV

DENNIS AROSTEGUI MALDONADO,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Aurora Contract Detention Facility,

ROBERT HAGAN, in his official capacity as Field Office Director, Denver, U.S. Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents-Defendants.

JOINT MOTION TO STAY PROCEEDINGS

Petitioner-Plaintiff Dennis Arostegui Maldonado ("Plaintiff") and Respondents-Defendants ("Defendants") jointly move to stay these proceedings pending resolution of the litigation in *D.V.D. v. U.S. Department of Homeland Security* ("D.V.D."), 25-1631 (1st Cir.) and *D.V.D.*, 25-cv-10676 (D. Mass.), up to and including the resolution of any potential petition for writ of certiorari to the Supreme Court. In addition, the parties ask that the Court vacate the February 26, 2026, Scheduling Conference and associated deadlines.

As explained below, the stay is appropriate and efficient given the case's current posture. Plaintiff has one civil claim in this matter: a claim challenging the process used

for him to receive notice of potential removal to a third country and to present a fear-based claim to an immigration judge before any removal to a third country. A similar issue is currently being litigated on behalf of a non-opt-out nationwide class in the *D.V.D.* litigation. Resolution of that *D.V.D.* litigation will provide the Court and the parties clarity regarding what matters, if any, remain for the Court to decide in this case. In these circumstances, the parties agree that it is proper and efficient to stay proceedings while the nationwide class action litigation in *D.V.D.* remains pending. The parties can provide the Court with a joint status report every 60 days to update the Court as to any relevant developments.

BACKGROUND

I. These proceedings.

Plaintiff filed the original Application for Writ of Habeas Corpus (“Original Petition”) on July 18, 2025, seeking immediate release or a bond hearing. ECF No. 1. The same day, he filed a Motion for a Temporary Restraining Order (“TRO”) seeking immediate release or a bond hearing, as well as an order prohibiting his transfer or removal from the District of Colorado. ECF No. 5. The Court construed Plaintiff’s Motion for a TRO as a motion for a preliminary injunction. ECF No. 17.

On August 8, 2025, the Court issued an order in which it ruled on the construed motion. ECF No. 46. In that order, the Court denied Plaintiff’s request for immediate release under *Zadvydas v. Davis*, 533 U.S. 678 (2001). ECF No. 46 at 9-11. The Court, however, granted Plaintiff’s request for a bond hearing, determining that he was “likely to succeed on the merits of his claim that his prolonged detention without a

constitutionally adequate bond hearing violates the Fifth Amendment's Due Process Clause." *Id.* at 11. The Court also entered an injunction granting Plaintiff's request for a preliminary injunction "prohibiting his transfer out of the District of Colorado and his unlawful removal from the United States during the pendency of these habeas proceedings." *Id.* at 34. Plaintiff subsequently received a bond hearing before an immigration judge. ECF No. 52 at 3. The immigration judge set bond for Plaintiff. *Id.* He posted bond and was released. *Id.*¹

Just prior to the Court's issuance of the order granting injunctive relief, on August 8, 2025, Plaintiff filed an Amended Petition for Writ of Habeas Corpus and Complaint, ECF No. 45, which was subsequently refiled on August 11, 2025, ECF No. 48 (the "Complaint"). In the Complaint, Plaintiff continues to seek immediate release or a bond hearing. *Id.* at 42. He also seeks an order from the Court enjoining "Respondents from removing or attempting to remove [him] to a third country or a country to which his removal has been withheld pending appeal in violation of the Constitution as well as statutory and regulatory procedures." *Id.*; *id.* ¶ 97 (seeking "adequate notice and a meaningful opportunity to be heard before he be removed from the United States").

In support of this claim, Plaintiff alleges that "DHS has adopted a policy that allows for removal to a third country without any notice or process if DHS has received

¹ In issuing the order on the construed motion, the Court did not purport to rule on the Petition. Instead, the Court ordered Defendants to respond separately to the Petition. ECF Nos. 19, 44. Defendants have responded to the Court's order to show cause. ECF No. 49. Plaintiff has filed a reply to that response. ECF No. 52. The Petition has been fully briefed.

diplomatic assurances that noncitizens removed from the United States will not be persecuted or tortured.” *Id.* ¶ 100 (citing *D.V.D.*, 778 F. Supp. 3d 355 (D. Mass. 2025)). Plaintiff further alleges that “[a]ccording to the March Guidance, DHS will provide the [noncitizen] with notice of the third country (and an opportunity to affirmatively assert a fear of return to that third country) only if the United States has not received assurances, or if the Department of State does not believe those assurances to be credible.” *Id.* (quoting *D.V.D.*, 778 F. Supp. 3d at 368).

On December 15, 2025, Defendants moved to dismiss Plaintiff’s third-country removal procedure claim. ECF No. 68. Plaintiff has responded, ECF No. 77, and Defendants have replied, ECF No. 78.

On January 5, 2026, the Court indicated that this matter would be governed by the Federal Rules of Civil Procedure, rather than the local AP Rules. ECF No. 75. On January 13, 2026, the Court set a Scheduling Conference for February 26, 2026. ECF No. 76.

II. The *D.V.D.* nationwide class action.

In March 2025, several plaintiffs instituted a putative class action in the District of Massachusetts challenging their potential removals to third countries. *D.V.D.*, 25-10676-BEM (D. Mass. Mar. 23, 2025), ECF No. 1. Those plaintiffs seek a declaratory judgment and relief under the APA and Due Process Clause. *Id.* at 31-37. They moved

for a TRO and preliminary injunction. *D.V.D.* (Mar. 23, 2025), ECF Nos. 6, 7. The *D.V.D.* court granted the TRO motion. *D.V.D.* (Mar. 28, 2025), ECF No. 34.

On April 18, 2025, the court in *D.V.D.* issued an order certifying a class under Federal Rule of Civil Procedure 23(b)(2). *D.V.D.*, 778 F. Supp. 3d 355. The class includes:

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.

Id. at 378. The *D.V.D.* court explained that it was certifying the class for a “challenge [to] a policy or practice that impacts all putative class members: failing to provide meaningful notice and opportunity to present a fear-based claim before executing removal to a third country.” *Id.* at 386.

In the same order, the *D.V.D.* court entered a preliminary injunction requiring the Department of Homeland Security (“DHS”), before removing a class member to a third country, to provide written notice of the third country identified for removal, an opportunity to raise the issue of fear of removal to that country, and other process. *Id.* at 392-93. The government took an appeal of the court’s order granting a preliminary injunction to the nationwide class. *D.V.D.* (Apr. 22, 2025), ECF No. 69.

On June 23, 2025, the Supreme Court stayed the *D.V.D.* court’s order granting a preliminary injunction pending resolution of an appeal in the First Circuit. *DHS v. D.V.D.*, 145 S. Ct. 2153 (2025) (per curiam). Specifically, the Supreme Court stayed the district court’s preliminary injunction “pending the disposition of the appeal in the

United States Court of Appeals for the First Circuit and disposition of a petition for a writ of certiorari, if such writ is timely sought.” *Id.* The First Circuit heard argument on the district court’s grant of preliminary injunction on February 3, 2026. *D.V.D.*, 25-1631 (1st Cir. Feb. 3, 2026).

In the district court, the class representatives in *D.V.D.* have filed a motion for partial summary judgment that seeks a declaration that: (1) noncitizens are entitled to the opportunity to seek relief from removal (including withholding) before being removed to a third country; and (2) the March guidance is unlawful. See Mem. in Support of Plaintiffs’ Mot. for Partial Summary Judgment, *D.V.D.*, 25-10676-BEM (July 15, 2025), ECF No. 194 at 15-18 (arguing that March 30 DHS Memorandum is unlawful); *id.* at 18-20 (arguing that same policy deprives class members of opportunity to seek withholding or other relief). That partial summary judgment motion is fully briefed and pending before the district court in that class action. See *id.* (Dec. 16, 2025), ECF No. 236 (indicating that the court heard argument on the motion for partial summary judgment on December 16, 2025).

ARGUMENT

The Court should stay proceedings in this case pending resolution of *D.V.D.* The traditional factors used in this district for assessing whether to stay proceedings weigh in favor of a stay. Those factors include: (1) the plaintiff’s interest in proceeding expeditiously with the action and the potential prejudice to the plaintiff resulting from a delay; (2) the burden on the Defendants; (3) the convenience of the Court; (4) the interests of persons not parties to the litigation; and (5) the public interest. *String*

Cheese Incident, LLC v. Stylus Shows, Inc., 1:05–CV–01934–LTB–PAC, 2006 WL 894955, at *2 (D. Colo. Mar. 30, 2006). Indeed, courts in this district have used the *String Cheese* factors to analyze whether to stay proceedings in light of pending class actions in other cases. See, e.g., *Mohammed ex rel. Chipotle Mexican Grill, Inc. v. Ellis*, 12-cv-01831-WJM-MEH, 2013 WL 1942216, at *3-4 (D. Colo. May 10, 2013) (using the *String Cheese* factors to analyze the propriety of a stay of proceedings in a shareholder derivative suit when there was a pending securities class action). These factors weigh in favor of staying the proceedings here pending resolution of *D.V.D.*

First, Plaintiff will not be prejudiced by a stay. Here, Plaintiff joins this motion seeking a stay pending resolution of *D.V.D.* In addition, the Court has enjoined Defendants from removing Plaintiff from the United States during the pendency of this litigation. ECF No. 46 at 35-36.

Second, proceeding with this case while *D.V.D.* is pending would impose unnecessary and improper expenses and burden on Defendants. For example, discovery here would include the time and expense necessary for DHS employees to respond to discovery requests and participate in depositions, taking them away from their employment responsibilities. These burdens are more acute here than in other cases because DHS is already addressing similar issues through *D.V.D.* Cf. *Mohammed*, 2013 WL 1942216, at *3 (“[T]he Court finds that Defendants face a substantial burden if they are forced to fight multiple legal battles simultaneously.”).

Third, “it is certainly more convenient for the Court to stay discovery until it is clear that the case will proceed.” *Harbinger Capital Partners LLC v. Ergen*, 14-cv-

01907-WJM-KMT, 2015 WL 1133503, at *2 (D. Colo. Mar. 10, 2015). A stay here would potentially avoid the need for managing discovery when similar issues regarding third-country removal procedures are already being litigated elsewhere. *Accord Mohammed*, 2013 WL 1942216, at *4 (determining the third factor weighed in favor of a stay where a stay would narrow the scope of discovery and avoid the unnecessary adjudication of dispositive motions). Resolution of *D.V.D.* will help clarify for the parties and the Court what issues, if any, remain to be decided by the Court in this matter. The third *String Cheese* factor thus also weighs in favor of granting a stay.

Fourth, the interests of nonparties weigh in favor of staying discovery. Staying discovery will allow “the Court and the Department of Justice, both of which are funded by the public, to focus their efforts on matters more pressing than discovery in a case that may be dismissed.” *Green v. Napolitano*, No. 11-cv-01163-WYD-KMT, 2011 WL 3583402, at *1 (D. Colo. Aug. 15, 2011).

Fifth, the public interest also weighs in favor of granting a stay. Where, as here, “the public’s only interest in this case is a general interest in its efficient and just resolution[,] [a]voiding wasteful efforts by the Court clearly serves this interest.” *Harbinger*, 2015 WL 1133503, at *2.

CONCLUSION

The Court should stay this case while *D.V.D.* is pending. Resolution of the challenge to third-country removal procedures in *D.V.D.* is likely to provide clarity on what remains in this case, if anything, for the Court to decide. Accordingly, a stay is appropriate. If the Court so orders, the parties can provide the Court a status report

every 60 days to apprise the Court of any relevant developments.

Dated February 10, 2026

s/ Laura Lunn

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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