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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

R[redacted] K[redacted],

Petitioner,

vs.

JEREMY CASEY, in his official capacity as Warden of the Imperial Regional Detention Facility; et al.,

Respondents.

Case No. 25cv1926 DMS DEB

DATE: August 6, 2025
TIME: 2:30 p.m.
CTRM: 13A

Hon. Dana M. Sabraw

RESPONDENTS' RESPONSE IN OPPOSITION

TO PETITIONER'S APPLICATIONS FOR INTERIM RELIEF

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I. INTRODUCTION

Petitioner does not appear to be challenging ICE's authority to resettle him in a third country, and he is not seeking any relief from those efforts. He does, however, challenge ICE's authority to detain him while carrying out those efforts, and he challenges the manner in which he was re-detained and his conditions of confinement. ICE has clear authority to re-detain a noncitizen to execute a warrant of removal. 8 U.S.C. § 1231(a). In this case, ICE has re-detained Petitioner pursuant to a warrant of removal to execute his final order of removal and resettle him in a third country, and that has been explained to him.

Petitioner alleges that he does not know why ICE revoked his Order of Supervision and re-detained him. But Officer Gonzalez, the ICE Deportation Officer assigned to Petitioner's docket at the Imperial Regional Detention Facility (IRDF), informed the undersigned that he verbally described the entire process to Petitioner, obtained information from Petitioner for the purpose of obtaining travel documents from a foreign government, and informed him that ICE is not seeking to remove him to Iran. Petitioner's immigration counsel has not attempted to reach Officer Gonzalez.

Petitioner contends that 8 C.F.R. § 241.4(*l*) requires advance notice of a revocation of an Order of Supervision, but the regulation clearly requires notice "upon revocation" of an order of supervision, not prior notice.

Petitioner also argues that ICE has no authority to detain him beyond the 90-day removal period defined in 8 U.S.C. § 1231(a), which would illogically mean that ICE has no authority to re-detain any non-citizen pursuant to a warrant of removal, including fugitives. ICE clearly has such authority, and the Supreme Court held in *Zadvydas* that it is presumptively reasonable to detain a noncitizen under a final order of removal for up to six months and beyond. It has been less than one month since ICE re-detained Petitioner to pursue third-country resettlement.

Petitioner argues that he should not be re-detained pending ICE's efforts to resettle him in a third country, because he has been a model citizen for the past seventeen years. Petitioner has no right to remain in the United States: he forfeited that right and, as a result,

became subject to a final, executable order of removal due to his drug trafficking conviction. Since then, he has abused the opportunity to remain in the United States with his repeated criminal conduct. He cannot be repatriated to Iran, because the Immigration Court granted him temporary, country-specific relief from repatriation under the Convention against Torture (CAT). He can, however, be resettled in a third country.

Petitioner also complains of inadequate medical care. Petitioner is currently detained at IRDF, which has a medical clinic. Officer Gonzalez informed the undersigned that Petitioner has not complained about his medical care at IRDF. Petitioner's medical records have been lodged for filing under seal. ECF No. 10.

Petitioner suggests that he was re-detained "for no lawful purpose," ECF No. 2-1 at 21, and that he is or will be entitled to notice of efforts to resettle him in a third country. *Id.* at 18. Petitioner's allegations are vague, but to the extent he is challenging ICE's authority to resettle him in a third country, the U.S. Supreme Court has allowed such efforts to proceed, for the time being, pursuant to existing statutory and regulatory authority and directives. There are existing safeguards, and Petitioner will also have the option of moving to reopen his removal proceedings to seek relief from resettlement in a third country. That is a process in which judicial review will be exclusive to the Ninth Circuit. Habeas relief is not available to review a decision to execute a removal order.

II. STATEMENT OF FACTS

Petitioner [redacted] is a native and citizen of Iran. ECF No. 1 (Pet.), para. 10.

In 2002, Petitioner was arrested in Los Angeles, and in 2004, he was convicted of conspiracy to distribute ecstasy and sentenced to 84 months in prison and 36 months of supervised released. *See* ECF No. 2-2, para. 4; ECF No. 10 (sealed lodged proposed rap sheet); *United States v. Dibaje et al.*, 02-cv-0060 (N.D. Tex.).

On April 27, 2005, the El Paso Immigration Court ordered Petitioner removed from the United States to Iran and denied CAT relief. Petitioner appealed to the Board of Immigration Appeals (BIA), which sustained the appeal and remanded the case to the

Immigration Court with direction to grant CAT relief. ECF No. 2-2 at 11. On March 1, 2006, the El Paso Immigration Court granted CAT relief. *See* ECF No. 2-2, paras. 5-5.

In 2008, ICE released Petitioner from custody on an Order of Supervision. ECF No. 2-2, para. 8.

In 2011, Petitioner was arrested and convicted of misdemeanor obstructing a public officer and sentenced to two days in jail. *See* ECF No. 10.

In 2012, Petitioner was arrested on several charges, including obstructing an officer and hit-and-run, and he was convicted of DUI and sentenced to 20 days in jail. *Id.*

In 2016, Petitioner was convicted of possession for sale of a controlled substance and sentenced to 28 days in jail and three years of probation. *Id.*

In 2024, Petitioner was arrested for domestic violence, and the case was dismissed on May 14, 2025, due to delay. *Id.*

Meanwhile, on January 20, 2025, the President issued Executive Order (EO) 14165, *Securing Our Borders*, 90 Fed. Reg. 8467 (Jan. 20, 2025) (*see* Exs. 1-6). Section 8 of EO 14165 contains the following directive and safeguards:

> Sec. 8. Additional International Cooperation. The Secretary of State, in coordination with the Attorney General and the Secretary of Homeland Security, shall take all appropriate action to facilitate additional international cooperation and agreements, consistent with the policy of Section 2, including entering into agreements based upon the provisions of section 208(a)(2)(A) of the INA (8 U.S.C. 1158(a)(2)(A)) or any other applicable provision of law.

Ex. 4.

Section 1158(a)(2)(A), which is referenced in the EO, provides the following authority and safeguards:

> (2) Exceptions
>
> (A) Safe third country
>
> Paragraph (1) shall not apply to an alien *if the Attorney General determines that the alien may be removed*, pursuant to a bilateral or multilateral agreement, *to a country* (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) *in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a*

> *particular social group, or political opinion*, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

8 U.S.C. § 1158(a)(2)(A) (emphasis added).

On February 18, 2025, based on EO 14165, ICE issued a directive encouraging the increased use of third-country removals against individuals granted CAT protection and other forms of country-specific relief from repatriation. Exs. 7-8. In pertinent part, the directive states that "ERO officers should review for re-detention the case of any alien reporting on the non-detained docket who was previously released due to no significant likelihood of removal in the reasonably foreseeable future (SLRRFF) in light of the Administration's significant gains with regard to previously recalcitrant countries and the potential for third country removals." *Id.* at 8. "Accordingly, when an alien granted such protection reports on the non-detained docket, ERO officers should review the case to determine the viability of removal to a third country and accordingly whether the alien should be re-detained." *Id.*

The ICE Directive also provides for the following safeguards, which mirror those provided in 8 C.F.R. § 241.4(*l*):

> *At the time of arrest*, the alien should be *provided written notification of the reason for his or her detention*. Promptly, ideally, within two days, the arresting officer or another officer, if necessary, should conduct an *informal interview* of the alien and provide an *opportunity for the alien to ask questions and tell the interviewer anything that the alien wishes in support of why he or she should be released*.

Ex. 8 (emphasis added).

On April 18, 2025, in the similar case of *D.V.D. v. U.S. Dep't of Justice*, the district court certified a nationwide class comprised of the following individuals:

> 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) whom 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.

D.V.D. v. DHS, No. CV 25-10676-BEM, 2025 WL 1142968, at *11 (D. Mass. Apr. 18, 2025), *opinion clarified*, No. CV 25-10676-BEM, 2025 WL 1323697 (D. Mass. May 7, 2025), *and opinion clarified*, No. CV 25-10676-BEM, 2025 WL 1453640 (D. Mass. May 21, 2025), *reconsideration denied sub nom. D.V.D v. DHS*, No. CV 25-10676-BEM, 2025 WL 1495517 (D. Mass. May 26, 2025).

Petitioner appears to be a member of that certified class.

The district court also issued a preliminary injunction that required that ICE follow certain notice and other procedures prior to removing class members to third countries:

> [T]he Court orders that, prior to removing any alien to a third country, i.e., any country not explicitly provided for on the alien's order of removal, Defendants must: (1) provide written notice to the alien—and the alien's immigration counsel, if any—of the third country to which the alien may be removed, in a language the alien can understand; (2) provide meaningful opportunity for the alien to raise a fear of return for eligibility for CAT protections; (3) move to reopen the proceedings if the alien demonstrates "reasonable fear"; and (4) if the alien is not found to have demonstrated "reasonable fear," provide meaningful opportunity, and a minimum of 15 days, for that alien to seek to move to reopen immigration proceedings to challenge the potential third-country removal.

Id. at *24.

On June 23, 2025, the U.S. Supreme Court stayed the mandatory injunction pending review by the First Circuit Court of Appeals. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025) ("The April 18, 2025, preliminary injunction of the United States District Court for the District of Massachusetts, case No. 25–cv–10676, is stayed 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. Should certiorari be denied, this stay shall terminate automatically.").

The district court attempted to circumvent the Supreme Court's stay, and upon further review, the Supreme Court clarified: "Our June 23 order stayed the April 18 preliminary injunction in full." *Dep't of Homeland Sec. v. D. V. D.*, -- S. Ct. --, No. 24A1153, 2025 WL 1832186, at *1 (U.S. July 3, 2025)).

On July 10, 2025, ICE in Los Angeles revoked Petitioner's Order of Supervision and re-detained him pursuant to a warrant of removal, Exs. 9-10, providing him with a Notice of Revocation of Release, which reads as follow:

> This letter is to inform you that your case has been reviewed, and it has been determined that you will be kept in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made *based on a review of your immigration and criminal history*.
>
> Based on the above, and pursuant to 8 CFR 241.4, you are to remain in ICE custody at this time.
>
> You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC Section 1253(a).

ECF No. 2-1 at 11 (emphasis added)

Petitioner was transferred to IRDF where he is under the docket control of Deportation Officer Adrian Gonzalez. Officer Gonzalez informed the undersigned that he has met with Petitioner to obtain information for travel document requests to foreign governments and that he explained the entire process to Petitioner, which includes custody reviews pursuant to 8 C.F.R. § 241.1(*l*)(3). Officer Gonzalez also assured Petitioner that ICE is not attempting to repatriate him to Iran.

Efforts to obtain travel documents for Petitioner's resettlement in a third country are within the control of ICE Headquarters in Washington, D.C.

III. ARGUMENT

1. TRO Legal Standard

In general, the showing required for a temporary restraining order is the same as that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, Inc., 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a temporary restraining order, a plaintiff or petitioner must "establish that he is likely to succeed on the

merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); s*ee Nken v. Holder*, 556 U.S. 418, 426 (2009). Petitioner must demonstrate a "substantial case for relief on the merits." *Leiva-Perez v. Holder*, 640 F.3d 962, 967-68 (9th Cir. 2011). When "a plaintiff has failed to show the likelihood of success on the merits, we need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). *See also Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant seeking injunctive relief "must show either (1) a probability of success on the merits and the possibility of irreparable harm, or (2) that serious legal questions are raised and the balance of hardships tips sharply in the moving party's favor.") (quoting *Andreiu v. Ashcroft*, 253 F.3d 477, 483 (9th Cir. 2001)).

2. Unlikely to succeed on the merits

Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740. Where the showing of likelihood of success on the merits is weak, the Court need not consider the remaining *Winter* factors. *See Garcia*, 786 F.3d at 740.

a. *Framework of detention, removal, and resettlement authority*

It is not clear whether Petitioner is challenging ICE's authority to re-detain him. He acknowledges that he is a candidate for resettlement, and he contends that there is "no lawful purpose" for his re-detention. Yet, he seeks no relief regarding removal/resettlement.

ICE's authority to detain, release, and re-detain noncitizens who are subject to a final order of removal is governed by 8 U.S.C. § 1231(a). An order of supervision may be issued under 8 C.F.R. § 241.4, and the order may be revoked under section 241.4(l)(2)(iii) where "appropriate to enforce a removal order or to commence removal proceedings against an alien." *See also* 8 C.F.R. § 241.5 (Conditions of release after removal period).

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Petitioner is subject to a final, executable order of removal, which means that he has no right to remain in the United States. He has a temporary right not to be repatriated to Iran, but he has no right not to be resettled in a third country. ICE has long-standing authority to remove noncitizens and resettle them in third countries where removal to the country designated in the final order is "impracticable, inadvisable, or impossible." 8 U.S.C. § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b) (outlining framework for designation). Accordingly, noncitizens like Petitioner, who have received protection against removal to the designated country (either withholding of removal under 8 U.S.C. § 1231(b)(3) or CAT protection), may be removed and resettled in third countries.

Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall remove the noncitizen to any of the following countries:

> (i) The country from which the alien was admitted to the United States.
> (ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.
> (iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.
> (iv) The country in which the alien was born.
> (v) The country that had sovereignty over the alien's birthplace when the alien was born.
> (vi) The country in which the alien's birthplace is located when the alien is ordered removed.
> (vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

Id.

Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen to a country of designation or an alternative country in subparagraph (D), the Secretary may, in her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i) through (E)(vi).

ICE Headquarters is in the process of obtaining travel documents from a third country pursuant to 8 U.S.C. § 1231(b)(2)(E), so it is premature for Petitioner to seek administrative or judicial review of that process. If ICE obtains travel documents for

resettlement in a third country, Petitioner will have an opportunity to seek to reopen his removal proceedings. *See* 8 U.S.C. § 1229a(c)(7) (Motions to reopen); 8 C.F.R. § 1003.23(b) ("Reopening or reconsideration before the immigration court"). Movants can also seek an emergency stay of removal. *See generally* 8 C.F.R. §§ 1003.2(f), 1003.23(b)(v). Judicial review of that process will be exclusive to the Ninth Circuit.

District Court habeas jurisdiction over removal proceedings was stripped by 8 U.S.C. § 1252(b)(9), which provides as follows:

> (9) Consolidation of questions for judicial review
>
> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, *arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section*. Except as otherwise provided in this section, *no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision*, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

Id. (emphasis added).

Exclusive jurisdiction of the circuit courts applies to motions to reopen as well. The Supreme Court held in *Kucana v. Holder*, "Congress thus simultaneously codified the process for filing motions to reopen and acted to bar judicial review of a number of executive decisions regarding removal." *Kucana v. Holder*, 558 U.S. 233, 249 (2010). *See also* 8 U.S.C. § 1252(b)(6) ("When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order"). *Cf. D.V.D. v. DHS*, 2025 WL 1142968, at *7 (D. Mass.) ("this Court finds that remedy to be both legally insufficient and logistically impossible. . .").

If Petitioner were to challenge ICE's authority to detain him for the purpose of removal and resettlement, he would be challenging ICE's decision to execute his final order of removal, but 8 U.S.C. § 1252(g) deprives district courts of habeas jurisdiction over such a decision: "Except as provided in this section and *notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241 of title 28, or any other habeas*

corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien under this chapter." *Id.* (emphasis added)*; see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process."); *Limpin v. United States*, 828 Fed. App'x 429 (9th Cir. 2020) (holding district court properly dismissed under 8 U.S.C. § 1252(g) "because claims stemming from the decision to arrest and detain an alien at the commencement of removal proceedings are not within any court's jurisdiction").

Furthermore, if Petitioner were to challenge ICE's authority to detain him for the purpose of removal and resettlement and/or the manner in which that is carried out, Petitioner is a member of the certified class in *D.V.D. v. DHS*, so he may not maintain a separate action for equitable relief. *See Crawford v. Bell*, 599 F.2d 890, 892–93 (9th Cir. 1979) (finding that a member of a pending class action for equitable relief may not maintain a separate, individual suit for relief that is also sought by the class but may pursue only equitable relief that "goes beyond" the class action); *see also McNeil v. Guthrie*, 945 F.2d 1163, 1165 (5th Cir. 1991) (en banc) ("Individual suits for injunctive and equitable relief from alleged unconstitutional prison conditions cannot be brought where there is an existing class action."); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc) ("Individual members of the class and other prisoners may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action."). Petitioner and his counsel should therefore be directed to maintain their claims through the class representatives in the *D.V.D. v. DHS* case. As stated above, all efforts to effect third country resettlements are being directed and controlled by ICE Headquarters

in Washington, D.C., so there would be no need for auxiliary local control over the class members.

Apart from whether Petitioner is challenging ICE's authority to re-detain, remove, and resettle him, it is clear that he is challenging the manner in which he was re-detained. He alleges that has no idea why he was re-detained. The undersigned has no information about what Petitioner was told in Los Angeles, but everything was explained to him by Officer Gonzalez after he was transferred to IRDF.

b. *No regulatory right to "prior" notice of revocation of O/S (Count II)*

Petitioner claims that his custody is unlawful for failure to provide prior notice under 8 C.F.R. § 214.4(*l*). There is no basis for claiming that, "before" revoking an individual's release from immigration custody, ICE must provide notice of the reasons for the revocation, pursuant to 8 C.F.R. § 214.4(*l*). Pet., para. 47. The regulation clearly provides:

> *Upon revocation*, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

Id. (emphasis added). There is therefore no legal basis for Petitioner's claim that he was entitled under the regulation to prior notice of revocation and re-detention. Furthermore, as set forth above, the Supreme Court stayed the district court's attempt to impose additional notice requirements in the *D.V.D.* case.[1]

c. *Custody authority under Zadvydas (Count III)*

Petitioner argues that ICE has no authority to re-detain him unless removal is significantly likely in the reasonably foreseeable future, citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner, however, cites only part of that decision, regarding the statutory 90-day removal period. *See* 8 U.S.C. § 1231(a). The Supreme Court also held that

[1] There are also obvious law enforcement reasons for not providing prior notice of a re-detention to execute a warrant of removal, just as there is no requirement to provide prior notice of execution of an arrest warrant. Providing such notice "creates a risk that the alien will leave town." *United States v. Gonzales & Gonzales Bonds & Ins. Agency, Inc.*, 103 F. Supp. 3d 1121, 1137 (N.D. Cal. 2015).

"the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Zadvydas v. Davis*, 533 U.S. at 699. The Supreme Court held that detention is presumptively reasonable up to six months, stating: "This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing and that the noncitizen has the initial burden of proving that removal is not significantly likely." *Id.*[2]

Petitioner is therefore unlikely to succeed on this claim. ICE has lawfully re-detained him for execution of the removal order and resettlement to a third country, and that re-detention occurred less than one month ago.

d. *Due Process (Counts I & IV)*

Petitioner contends that, "[b]ecause Respondents have proffered no explanation or new basis for why Petitioner is now subject to detention — after eighteen years of liberty — his continued detention is arbitrary, capricious, and unlawful." Pet., para. 54; *see also id.*, paras. 44-45. Apparently Petitioner is complaining about how he was processed in Los Angeles. As stated above, however, Officer Gonzalez at IRDF has explained the entire process to Petitioner, including the fact that ICE is not attempting to repatriate him to Iran. Petitioner and his counsel are therefore well aware of the reason for Petitioner's re-detention, namely to execute the removal order by resettling Petitioner in a third country. Petitioner's counsel has not yet attempted to contact Officer Gonzalez.

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[2] The Supreme Court also noted in *Zadvydas* that "[o]rdinary principles of judicial review in this area recognize Executive Branch primacy in foreign policy matters." *Id.* at 700. This case touches on such matters, because it is part of a centralized resettlement effort that requires the cooperation of foreign governments.

Furthermore, the framework for resettlements provides safeguards, and the Supreme Court stayed the district court's creation of additional procedural requirements in the *D.V.D.* case. President's Executive Order provides that resettlements shall be effect through "international cooperation and agreements, . . . based upon the provisions of 8 U.S.C. 1158(a)(2)(A)," Ex. 4, and Section 1158(a)(2)(A), provides that resettlements shall be a country "in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection. . ." And ICE's Directive specifically provides for written notice "at the time of arrest . . . of the reason for his or her detention," for an "informal interview," and for "an opportunity for the alien to ask questions and tell the interviewer anything that the alien wishes in support of why he or she should be released." Ex. 8.

As explained above, if ICE obtains travel documents for resettlement in a third country, Petitioner will also have an opportunity to seek to reopen his removal proceedings.

Petitioner is therefore unlikely to succeed on this claim.

e. *Conditions of confinement (Count V)*

Petitioner contends that "Respondents continue to subject Petitioner to punitive conditions of confinement, characterized by unlawful degrees of overcrowding and medical neglect." Pet., para. 57. Again, it appears that Petitioner is complaining about his treatment in Los Angeles, ECF No. 2-2, para. 19 ("Calexico facility is better than the Los Angeles facility"), and Officer Gonzalez has informed the undersigned that Petitioner has not complained to him about conditions of confinement at IRDF and that Petitioner's counsel has not attempted to contact Officer Gonzalez. Petitioner has therefore failed to pursue administrative remedies and, without specific allegations, the undersigned is unable to respond. Petitioner's medical records have been lodged for filing under seal. *See* ECF No. 10.[3]

[3] Petitioner also attaches the declaration of Dr. Baldwin of New York who apparently

3. Balance of equities and the public interest weigh heavily in this case

The final two factors weigh heavily against ordering Petitioner's release from detention. These factors—balancing of the harm to the opposing party and the public interest—merge when the Government is the opposing party. *See Nken*, 556 U.S. at 435.

Harm to Petitioner. This factor does not weigh heavily in Petitioner's favor. He contends that continued detention will cause him irreparable harm because of poor conditions of confinement and inadequate medical care. As stated above, Petitioner appears to be complaining about his initial detention in Los Angeles, not his current conditions of confinement at IRDF.

Petitioner also contends that detention adversely impacts his ability to work and care for his mother. These are, however, the same hardships that he suffered when he served time for his various criminal offenses and the same hardship he will face if resettled to a third country. Petitioner touts the length of his temporary residence in the United States and contends that, for the last 17 years, he has "pursued life much like any other resident of the United States, living, working, and taking care of his family and community." ECF No. 2-1 at 10. Yet, even after an Immigration Judge gave him a chance to avoid removal from the United States, he repeatedly abused that limited opportunity to remain in the United States by committing a string of serious crimes. Petitioner is already under a final order of removal, so his subsequent convictions have no effect on his immigration status: he has no incentive to obey the law, except to stay out of jail or prison.

Public interest. ICE's interest in detaining Petitioner pending efforts to remove and resettle him is strong. The Supreme Court has specifically acknowledged that "[f]ew interests can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975) ("Whatever the number, these aliens create significant economic

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has never examined Petitioner and speculates about the Petitioner's condition. ECF No. 2-2 at 19. At any rate, Petitioner's counsel may contact Officer Gonzalez with his concerns and pass along information to the IRDF medical clinic.

and social problems, competing with citizens and legal resident aliens for jobs, and generating extra demand for social services"); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1220-21 (D.C. Cir. 1981) (referring to the "the seriousness of the public interest in enforcement of the immigration laws.").

The balancing of equities and the public interest weigh heavily against granting Petitioner equitable relief.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny the application for a temporary restraining order and dismiss this action for lack of a basis for the habeas claims.

DATED: August 1, 2025

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SOUTHERN DISTRICT OF CALIFORNIA

R[redacted] K[redacted]

Petitioner,

vs.

JEREMY CASEY, in his official capacity as Warden of the Imperial Regional Detention Facility; et al.,

Respondents.

Case No. 25cv1926 DMS DEB

EXHIBITS

Petitioner's rap sheet	Lodged under seal, ECF No. 10
Petitioner's medical records	Lodged under seal, ECF No. 10
Jan. 20, 2025 Executive Order 14165, Securing Our Borders	1-6
Feb. 18. 2025 ICE Dir., from *D.V.D v. DHS*, 25-cv-10676 (D. Mass.), ECF No. 1-4	7-8
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