

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Case No. 2:25-cv-765

M.A., on behalf of himself and a class of
similarly situated individuals,

Plaintiff.

v.

KEVIN GUTHRIE et al.,

Defendants.

**PLAINTIFF'S REPLY IN SUPPORT OF MOTIONS FOR
PRELIMINARY INJUNCTION AND CLASS CERTIFICATION**

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Defendants' response is striking for what it does not deny. Defendants barely contest the range of anomalous problems at Alligator Alcatraz. They agree that no state has ever claimed detention authority under Section 1357(g). They confirm they have sidestepped the normal way to provide detention space—an Intergovernmental Services Agreement (IGSA)—but do not explain why. They do not deny they have handed off detention to private contractors and jettisoned training almost entirely.

Defendants barely address the core problem with detention at Alligator Alcatraz: the abdication of federal responsibility. Congress required DHS to maintain full control over immigration detention, because the detention system involves too many complex procedures and obligations to cede control to other entities. Defendants assert in the most conclusory way that DHS is managing detention at the facility. But sworn statements by senior DHS and state officials say precisely the opposite. And the unrebutted facts confirm that a whole range of critical functions continue to go unmet, leaving detainees outside the regular immigration system, denied its normal safeguards, and unable to access responsible federal officials. Congress did not allow DHS to off-load detainees like this, especially to entities with no pretense of training, and that have in turn off-loaded detainees one step further to a private contractor with no immigration detention experience.

On the merits, Defendants concede that nothing in the INA identifies detention operations as an “immigration officer function” that could be delegated under Section 1357(g). Defendants raise two sources of authority that they (and DHS) have never mentioned before, even in response to federal court orders. Both are meritless. Mass

influx authority requires a formal agreement with a host of obligations, all of which are absent here. And nothing in § 1357(g)(10)'s savings clause authorizes independent state detention *without* any agreement, training, or supervision. These shifting and contradictory legal arguments are their own kind of refusal to take responsibility, all while detainees remain unable to access their families, lawyers, or federal officials.

On class certification, Defendants do not contest the Rule 23(a) or (b)(2) factors. Their class and jurisdictional claims have been consistently rejected by multiple courts.

The Court should certify the class and issue an injunction or writ of habeas corpus to bar further detention of class members at Alligator Alcatraz.

I. Defendants Barely Contest the Ongoing Problems Caused by DHS's Abdication of Responsibility at Alligator Alcatraz.

Defendants put forth essentially no evidence to dispute the range of alarming problems at Alligator Alcatraz. PI Mot. 6-8. They vaguely assert that "ICE supervises all immigration functions." IGG Decl., Dkt. 70-1 ¶ 13 (explaining that ICE checks "database[s]" and "review[s] detainers issued by ICE"). And they mention a single inspection by ICE, which occurred after construction and *before* detention had begun. Opp. 5 & n.1 (conclusory press release about different allegations not raised here).

None of that is responsive to the specific problems that continue to plague detainees. Defendants present *nothing* to rebut that detainees are being held for extended periods without charge. Ahmed Decl. ¶ 5; Ionescu Decl. ¶ 5; Sardina Decl. ¶ 7. They offer nothing about detainees being pressured to sign removal orders. Sardina Decl. ¶ 12; Haskell Decl. ¶¶ 4-6. They do not address detainees being unable to access

immigration courts. Ahmed Decl. ¶¶ 6, 8; Ionescu Decl. ¶¶ 10-11; Medina Decl. ¶ 9. They say nothing about detainees disappearing from ICE's tracking system. Ionescu Decl. ¶ 7; Sardina Decl. ¶ 9. They cite their brief in *C.M.*, but it *confirms* multiple ongoing anomalies. *C.M.*, 25-cv-747, Dkt. 140 at 3-5, 7-9 (e.g. no confidential outgoing calls, no visits without prior scheduling, transfers immediately prior to scheduled visits, people kept off detainee locator); Ionescu Decl. ¶¶ 6-9; Powers Decl. ¶¶ 4-5.

These intense and unusual problems are no surprise given DHS's persistent refusal to accept responsibility. In repeated sworn statements, senior DHS and state officials have confirmed that DHS "do[es] not control" and does not "supervise or direct" detention at Alligator Alcatraz. PI Mot. 10. DHS continues to claim it is not responsible if detainees cannot access counsel during their removal proceedings. *C.M.* Dkt. 131 at 17. Defendants identify *no* efforts by DHS to investigate or address the litany of troubling reports from detainees, attorneys, family members, and reporters. This all stands in stark contrast to the normal detention process, where DHS exercises control through numerous mechanisms that are absent here. *See infra* Part II.A.1.

II. Defendants Have No Authority to Hold People at Alligator Alcatraz.

Defendants claim three sources of detention authority, two of which they have never mentioned before. None of them authorize detention at Alligator Alcatraz.¹

¹ Defendants briefly mention several inapposite jurisdictional bars. Opp. 12, 19 n.4. Section 1226(e) addresses individual custody determinations, not "lawsuits over the extent of the Government's detention authority." *Nielsen v. Preap*, 586 U.S. 392, 401 (2019) (quotation marks omitted); *Florida v. United States*, 660 F. Supp. 3d 1239, 1271 (N.D. Fla. 2023). Section 1252(a)(2)(B) also does not bar detention-authority claims. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001); *see also Preap*, 586 U.S. at 402 (rejecting § 1252(b)(9) defense to detention claim).

There is no presumption against preemption here, because conducting federal immigration detention is not one of the state’s “historic police powers.” Opp. 11; *see United States v. Alabama*, 691 F.3d 1269, 1296 (11th Cir. 2012).

A. Section 1357(g) Does Not Provide Authority.

1. Detention During Removal Proceedings Is Not an Individual Immigration-Officer Function.

The only authorities that can be delegated under Section 1357(g) are the “function[s] of an immigration officer.” 8 U.S.C. § 1357(g); PI Mot. 10-15. But Defendants admit that there is no statute—in Section 1357 or anywhere else—that lists detention during removal proceedings as an “immigration officer function[].” That is enough to reject Defendants’ claim of authority under Section 1357(g).

Defendants’ main argument is that, even though the INA carefully delineates between “immigration officer functions” and functions of the “Secretary,” there is actually no difference, and state officers can be delegated any function of the DHS Secretary. Opp. 17-18 (calling this an “artificial distinction”). But that would erase the textual distinction that Congress wrote into the statute. “Where Congress uses certain language in one part of a statute and different language in another, it is generally presumed that Congress acts intentionally.” *NFIB v. Sebelius*, 567 U.S. 519, 544 (2012). That is especially true here, where the distinction follows a clear pattern across numerous statutes: Broad programmatic and policymaking authorities are assigned to the “Attorney General,” “Secretary,” or “Service,” whereas individual-level policing functions are assigned to “immigration officers.” PI Mot. 12.

The root of Defendants' error is their focus on 6 U.S.C. § 112(b)(1), which allows the DHS Secretary to delegate any of her powers to other officials at DHS. Opp. 17. Defendants believe this means that *any* of her functions could be delegated under Section 1357(g). *Id.* That proves far too much. It would mean that individual local police officers could be delegated the authority to “promulgate regulations,” 8 U.S.C. §§ 1182(n)(6), (l)(3), 1357(a), 1103(a)(3), or “establish [DHS] offices” in foreign countries, 8 U.S.C. § 1103(a)(7), or countless other programmatic functions. The statute does not say that. Section 1357(g) limits delegation to the narrower category of “immigration officer functions.” This does not mean the Secretary must “personally detain aliens,” Opp. 17, because § 112(b)(1) does let her assign agency functions, like detention operations, to *DHS* employees. *See* 8 U.S.C. § 1103(a)(4) (similar). But Section 1357(g) limits what can be delegated to *state* employees.

Defendants next claim that “immigration officer functions” cannot be limited to the ones Congress specified, because Section 1357(g) mentions “detention,” but none of the explicit immigration-officer functions in Section 1357 involve detention. Opp. 17-18. Their premise is wrong: The investigatory stop function, *see* 8 U.S.C. § 1357(a)(1), involves “detention,” 8 C.F.R. § 287.8(b), (b)(2) (“the immigration officer may briefly detain the person for questioning”). So do the various arrest functions, *see* 8 U.S.C. § 1357(a)(2), (4), (5), which allow immigration officers “to take and maintain custody and transport” “previously arrested persons” to detention facilities, 8 C.F.R. § 287.5(c)(6). Congress recognized this and provided that “detention” authority under Section 1357(g) could “includ[e] transportation” to “detention centers.” 8 U.S.C. §

1357(g)(1). These explicit but *limited* detention functions eliminate any reason to conjure up an additional set of unnamed immigration-officer functions.

Section 1357(g)'s limitation to individual "immigration officer functions," none of which include managing large-scale detention operations, is sufficient to resolve this case. But other detention statutes underscore the point.

First, 8 U.S.C. § 1231(g)(1) provides several options for "appropriate places of detention," and Defendants agree that none of the options Congress specified would include Alligator Alcatraz. Opp. 19. They argue § 1231(g)(1)'s list is not "exclusive," *id.*, but they offer no real reason why. They claim that the statute's identification of "appropriate places" merely expresses "Congress's preference for existing facilities." Opp. 19. But a different provision, § 1231(g)(2), already does exactly that. *Huff v. DeKalb*, 516 F.3d 1273, 1280 (11th Cir. 2008) ("courts must not interpret one provision of a statute to render another provision meaningless"). And they cite *Chevron USA Inc. v. Echazabal*, but the list there was explicitly non-exclusive. 536 U.S. 73, 80 (2002).

Even if § 1231(g)(1) were non-exclusive, it would not matter here, because Section 1357(g) is what determines the authority that can be delegated. And § 1231(g)(1) obviously could not authorize DHS to transfer detainees to officers who lack detention authority in the first place. Defendants wisely do not argue that § 1231(g)(1) somehow negates the requirements of Section 1357(g) or any other statute that would limit another agency's detention authority.

Second, Defendants agree that Alligator Alcatraz does not fit the one statute that explicitly permits DHS detainees to be held in state facilities. *See* 8 U.S.C. §

1103(a)(11) (authorizing IGSA's); Opp. 19-21. Once again, they do not dispute that every prior state immigration facility *does* operate pursuant to this statute. Opp. 24. Defendants never explain why they sidestepped this ordinary means of detention.

This matters because detention under § 1103(a)(11) contains a number of safeguards that are absent here. For instance, ICE detention contracts require facilities to “comply with one of several national detention standards,”² which are detailed sets of rules “to ensure safe, secure, and humane confinement.”³ Yet Alligator Alcatraz has no detention contract imposing these requirements. And the state official who runs the facility did not identify *any* of ICE’s national detention standards that the facility is required to follow, or trains employees to follow, on an ongoing basis. IGG Decl. ¶ 7 (noting only pre-detention inspection for compliance with unspecified “ICE standards”); *compare* IGSA, S. La. Detention Ctr., § IV.B (2015) (“Facility staff will be trained in accordance with the 2011 PBNDS [one of ICE’s detention standards].”), <https://tinyurl.com/28x2ku3r> (page 62 of the PDF).

Another glaring difference is oversight. When ICE detains people through its own contractors, it must “employ a robust, multilevel oversight and compliance program” that includes “daily on-site compliance reviews.” ICE, *Detention Management* (Sept. 25, 2025), <https://tinyurl.com/ynrhvzc8>. This includes a detailed

² *ICE Detention Standards*, ICE (Aug. 8, 2023), <https://www.ice.gov/detain/detention-management> (listing six sets of standards).

³ GAO, *Immigration Detention: DHS Should Define Goals*, 7 (May 2025), <https://tinyurl.com/4sxb9bj>. These standards are detailed and comprehensive. *See, e.g.*, 2019 Nat’l Detention Stds., <https://tinyurl.com/4rdxyv5a> (used for many IGSA facilities).

“quality assurance surveillance plan” for each facility,⁴ *see* S. La. IGSA, PDF at 89, and onsite ICE officials who “continuously monitor compliance with ICE detention standards” and speak with detainees regularly.⁵ Alligator Alcatraz has *none* of this.

2. Immigration Officer Functions Cannot Be Sub-Delegated.

Defendants suggest contractors are merely “helping th[e] deputized officers.” Opp. 22. But that elides the facts. There’s no dispute that the facility is “90% run by private contractors.” PI Mot. 15. Contractors serve as “Warden,” “Manager,” and other senior roles. Dkt. 68-31 at 1-2. Defendants also confirm that FDEM manages the facility but has no 287(g) agreement or any deputized officers. Opp. 26; IGG Decl. ¶ 5, 10, 11. And they notably don’t say how many deputized state officers—if any—*do* work at the facility. This is not analogous to a non-deputized officer watching a deputized officer make an arrest. Opp. 25. It’s as if a tiny number of deputized officers hired “800-1000 state contractors” to arrest thousands of people on their own. PI Mot. 15. Why would Congress require such a “highly regulated scheme” of training and supervision for individual officers, *El Cenizo v. Texas*, 890 F.3d 164, 177 (5th Cir. 2018), if the officers could just re-assign their authority to whomever they want?

Defendants do not defend the legality of sub-delegation under Section 1357(g). Rather, they claim that the contractors and FDEM employees who detain people at

⁴ GAO, *Immigration Detention: Actions Needed to Improve Planning*, 9-10 (Jan. 2021), <https://www.gao.gov/assets/gao-21-149.pdf>.

⁵ GAO, *Immigration Detention: Facility Costs and Standards*, 2 (Feb. 2016), <https://tinyurl.com/bdfrn32y>; GAO, *Immigration Detention: Detainee Medical Care*, 61 (Feb. 2016), <https://tinyurl.com/bjy6f77a>.

the facility “exercise no immigration-officer authority.” Opp. 24. But that contradicts their main position on 287(g) authority, which depends on the premise that “detaining aliens” is an “immigration officer function.” Opp. 18. Either detention is an immigration-officer function (in which case contractors and non-deputized state officers can’t do it), or it isn’t (in which case it can’t be delegated under Section 1357(g) in the first place). Either way, detention at Alligator Alcatraz violates the statute.

Defendants point out that DHS itself hires contractors to run detention facilities. Opp. 23-24. That only underscores the point. Legally, Congress gave DHS extensive contracting authority, *see* PI Mot. 17, but in Section 1357(g)(1)-(5), it kept deputized state employees on a shorter leash. Practically, DHS’s contracting arrangements require it to maintain control over detainees and detention operations—exactly what is lacking here. *Supra* at Part II.A.1. Alligator Alcatraz does not replicate those normal accountability mechanisms—it *evades* them.

Finally, Defendants maintain that detainees cannot challenge their detention at all. Opp. 21-22. But Plaintiff has two clear causes of action: habeas corpus and equity.

Habeas is available because class members are “in custody in violation of the . . . laws . . . of the United States” and seek release from that custody. 28 U.S.C. § 2241(c)(3). Defendants point out that DHS may detain class members elsewhere after they are released. Opp. 34-35. But that possibility has never been a barrier to habeas when a person is being detained illegally. *See Ex parte Bollman*, 8 U.S. 75, 136-37 (1807) (noting possible re-detention); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“release

need not be the exclusive remedy”); *Singh v. Decker*, 2021 WL 23328, *3 (S.D.N.Y. Jan. 4, 2021) (valid writ “*may* ultimately result in his release”) (emphasis added).

Plaintiffs have an equally clear equitable cause of action. See *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327-28 (2015) (confirming the “power of federal courts of equity to enjoin unlawful executive action”). Defendants claim that Congress has displaced equity here. Opp. 21-22.⁶ In *Armstrong*, the Supreme Court held that equity had been displaced only where it found that two unusual conditions were present. Neither condition is present here.

First, in *Armstrong*, Congress had expressly provided one “sole remedy” for statutory violations. 575 U.S. at 328; see *Seminole Tribe v. Florida*, 517 U.S. 44, 74-76 (1996) (“Congress ha[d] prescribed a detailed remedial scheme”). Here, however, “the INA does not contain a ‘sole remedy’” for violations of Section 1357(g). *FWAF*, 2025 WL 775558, at *12.⁷

Second, Defendants do not even claim that Section 1357(g) contains a “judicially unadministrable” standard. *Armstrong*, 575 U.S. at 328. Yet *Armstrong* explained that equity would not have been displaced without this factor. *Id.* (sole remedy “by itself” would not have displaced). That’s enough to reject this defense.⁸

⁶ Multiple courts have rejected similar arguments. *FLIC v. Att’y Gen.*, 2025 WL 1625385, *3 (11th Cir. June 6, 2025); *Iowa MMJ v. Bird*, 2025 WL 2984379, *6 (8th Cir. Oct. 23, 2025); *FWAF v. Uthmeier*, 2025 WL 775558, *10–14 & n.6 (S.D. Fla. Mar. 11, 2025) (Ruiz, J.).

⁷ Defendants invoke DHS’s general oversight authority, Opp. 22, but equity is not displaced just because “the Federal Government c[ould] exercise oversight.” *VOPA v. Stewart*, 563 U.S. 247, 255, 256 n.3 (2011); *Verizon v. Md. Pub. Serv. Comm.*, 535 U.S. 635, 647 (2002) (similar).

⁸ Defendants make two other arguments in a sentence each. Opp. 22. *Ex parte Young* does not require a defense to a future enforcement action. *Stewart*, 563 U.S. at 255-56 (plaintiff who

3. Defendants' Officers Lack Training and Supervision.

Direction and Supervision. Defendants claim the facility's operations satisfy § U.S.C. § 1357(g)(3) and (5) because DHS retains the same power over state officers as an "agency head[] over subordinates." Opp. 25. But how could a subordinate—not the agency head—have "ultimate discretion" over detentions? PI Mot. 10. What agency head "do[es] not control the site" where their employees work? *Id.* What superior does not "direct or supervise" subordinates? *Id.* These are not "cherry-picked quotes," Opp. 26, but sworn statements by senior DHS and Florida officials, repeated multiple times. And they match the facts, with federal officials avoiding responsibility at every turn.

Defendants claim that ICE "decides whether to offer to the State every single detainee who ends up at Alligator Alcatraz." Opp. 26. "Offering" detainees is completely different than directing detention operations. Nor is the statement true. Many people enter the facility after arrests by state officers, and then languish for weeks without charges or initial custody and bond determinations. PI Mot. 6-7.

Training. Defendants effectively concede all the most egregious facts about training. They do not deny that Florida corrections officers are deputized with no specified amount of training at all, and just a single-line email to DHS. Opp. 27 & n.11. They do not dispute that other officers are receiving *at most* a few days of remote, online training, *id.*, compared to months of training for ICE officers to perform the

was not asserting a preemptive defense); *Doe 1-13 v. Chiles*, 136 F.3d 709, 711 (11th Cir. 1998); *Curling v. Sec'y of Ga.*, 761 F. App'x 927, 933 (11th Cir. 2019). And equity does not require a statutory right of action. *Crown Castle Fiber, L.L.C. v. City of Pasadena*, 76 F.4th 425, 434-35 (5th Cir. 2023); *Mathis v. U.S. Parole Comm'n*, 749 F. Supp. 3d 8, 22-23 (D.D.C. 2024) (same).

same functions. PI Mot. 21-23; ICE FAQs, www.ice.gov/careers/faqs (16 weeks of “basic immigration law enforcement training,” 5 weeks of “language” training).

Defendants argue that the statute actually imposes no training requirement at all—only a paperwork requirement to write the words “adequate training” in a contract. Opp. 26-27; see *Duncan v. Walker*, 533 U.S. 167, 174 (2001) (rejecting interpretation that made statute “insignificant, if not wholly superfluous”). But the Supreme Court has explained that delegated immigration functions are “contingent on training.” *Arizona v. United States*, 567 U.S. 387, 409 (2012); see *N.S. v. Dixon*, 141 F.4th 279, 287 (D.C. Cir. 2025) (Section 1357(g) “explicitly requires training as a prerequisite.”); *United States v. Alas*, 63 F.4th 269, 276 (4th Cir. 2023) (same). Defendants’ position would shred the basic structure of the 287(g) program.

Defendants argue that state officers do not need the same training as equivalent ICE officers, but there is no reason they should be “excused from the prerequisites to engaging” in these functions. *N.S.*, 141 F. 4th at 287. Even just to “maintain custody” for transport after an arrest, ICE officers must complete “basic immigration law enforcement training.” 8 C.F.R. § 287.5(c)(6).⁹ Congress, in turn, incorporated these regulatory requirements into the statute itself, providing that immigration-officer functions can only be performed pursuant to these “regulations prescribed by the Attorney General.” 8 U.S.C. § 1357(a). Accordingly, as the D.C. Circuit explained

⁹ Defendants argue that these regulations are “non-binding” because they contain a boilerplate disclaimer. Opp. 27-28. Courts have widely rejected that. *App. Power Co. v. EPA*, 208 F.3d 1015, 1023 (D.C. Cir. 2000); *Aracely, R. v. Nielsen*, 319 F. Supp. 3d 110, 152 (D.D.C. 2018). And here, Congress incorporated the regulations into the statute itself. 8 U.S.C. § 1357(a).

about a different function, “[a]rresting aliens is not a function of an immigration officer who has not received the relevant training.” *N.S.*, 141 F.4th at 286.

Even if DHS had some leeway to reduce the training for deputized officers, it would have to act within reason, and could not slash the training to almost nothing. *See ACLU v. Clapper*, 785 F.3d 787, 810-12, 818 (2d Cir. 2015) (government cannot interpret even a “generous standard” in a way that “defies any limiting principle”). They cannot simply abandon Congress’s effort to ensure that deputized state officers exercise their power responsibly. Section 1357(g) “is a concerted rejection of amateurism, one befitting a sensitive and complex task.” *Alas*, 63 F.4th at 276.

B. The Mass Influx Provision Provides No Authority.

In a single page, Opp. 12, Defendants claim to act under 8 U.S.C. § 1103(a)(10), which allows DHS to delegate certain functions during a “mass influx.” Defendants never previously claimed such authority, even when a federal court ordered them to explain the nature of their authority. *C.M.* Dkts. 49-2 ¶ 4, 50-1 ¶ 5, 52, 131-1 ¶ 5, 132 at 3 (claiming 287(g) authority only). And in multiple sworn statements, DHS has never once claimed that it has delegated authority for Alligator Alcatraz under § 1103(a)(10). Dkts. 68-18, 68-19 ¶ 7; *C.M. Dkt. 53*. Defendants point only to a general statement “request[ing]” unspecified “assistance” from state governments, Opp. 12—but that statement does not purport to authorize any entity or officer to do anything, much less operate a detention facility.

It is crystal clear that mass influx authority can only be exercised pursuant to a “written agreement” with DHS. 28 C.F.R. § 65.84(a)(1) (using mandatory “shall”);

see id. § 65.83(d) (implementing “mass influx” authority). And Defendants have never produced any such agreement for Alligator Alcatraz. *See C.M. Dkt. 52, 53* (producing every “written agreement[]” for the facility). Nor have they complied with *any* of the regulation’s requirements for exercising mass influx authority, many of which track Section 1357(g)’s requirements. 28 C.F.R. § 65.84(a)(3)(i)-(xv).

Even if Defendants had complied with these requirements, authority would still fail for the same reason it fails under Section 1357(g): Mass-influx functions can only include the functions of individual “officers or employees of the Service.” 8 U.S.C. § 1103(a)(10); *see id.* § 1357 (providing “Powers of immigration officers and employees”). And managing large-scale detention during removal proceedings is not one of those individual-officer functions. *Supra* Part II.A.¹⁰

C. The Cooperation Provision Provides No Authority.

Defendants invoke Section 1357(g)’s savings clause, which states that 287(g) agreements are not required to “cooperate” with DHS. 8 U.S.C. § 1357(g)(10)(B). This is another theory that Defendants have never previously advanced, that DHS has never endorsed, and that contradicts Defendants’ position in other litigation, where they claim that Section 1357(g)(1) is the sole source of authority. That’s no surprise, because this theory would eliminate all standards in immigration enforcement. It would mean that states could independently conduct large-scale “apprehension,”

¹⁰ DHS’s mass influx declaration also conflicts with the statute and regulations in numerous ways, and could not be used away from the border. But because Defendants’ authority does not exist for so many other reasons, the Court need not resolve these issues here.

“detention,” and even “removal” operations without any formal agreement, without any training or supervision from ICE, and without being subject to any ICE policies.

But § 1357(g)(10) is a “savings clause,” not an affirmative grant of authority. *El Cenizo*, 890 F.3d at 177; see *New England Power Co. v. New Hampshire*, 455 U.S. 331, 341 (1982) (savings clause “is in no sense an affirmative grant of power to the states”). As a subpart of Section 1357(g), the savings clause means that, while certain enforcement actions by state officers normally require a 287(g) agreement if done independently, they do not require an agreement if done in cooperation with federal officials. *See id.* (savings clause “simply saves from preemption” actions that would otherwise be governed by the primary provision). Since detention during removal proceedings cannot be delegated under Section 1357(g) in the first place, *supra* Part I.A, Section 1357(g)’s savings clause does not speak to that activity at all.

Even as to activities that Section 1357(g) does govern, § 1357(g)(10) is narrow. As the Supreme Court has explained, it simply allows lesser forms of assistance as DHS *itself* conducts enforcement—things like providing “operational support” as DHS officers make an arrest, letting DHS officers into a jail for an interrogation, or giving DHS officers “information.” *Arizona*, 567 U.S. at 410; see *El Cenizo*, 890 F.3d at 179-80 (helping DHS officers make an arrest). Those are nothing like building and operating a massive detention facility using state personnel, state money, and state-supervised contractors. Alligator Alcatraz is operated “exclusively by state officials” and has a thousand employees detaining up to 3,000 people. PI Mot. 10, 15 (“just four

ICE officers present”); IGG Decl. ¶ 13 (not denying this).¹¹ This “ancillary” savings clause does not contain such expansive authority. *Sackett v. EPA*, 598 U.S. 651, 677 (2023) (“Congress does not hide elephants in mouseholes.”)

Finally, Defendants make the puzzling contention that “state officers do not engage in detention” at Alligator Alcatraz. Opp. 25, 14-15 (arguing that “detention” means “custody,” which can be physical or legal, and because detainees are in DHS’s legal custody, they are not in Florida’s, and so Florida is not detaining them). Almost every link in that chain is wrong. “Detention” refers to the physical act of keeping a person in “confinement,” regardless of who has legal custody. Black’s Law Dict., *Detention* (2025); *Tavares v. Whitehouse*, 851 F.3d 863, 871 (9th Cir. 2017). The INA repeatedly refers to physical detention, including in the provisions at issue here. *See, e.g.*, 8 U.S.C. § 1357(g)(1) (describing *state* officers conducting “detention” during “transportation”); *id.* § 1231(g) (physical “confinement”); 8 C.F.R. § 287.5(c)(6) (physical “custody”). DHS’s custody does not preclude Defendants having “concurrent legal custody.” *Bennett v. Little*, 71 F.3d 879, *2 (5th Cir. 1995). Indeed, both have suggested that Defendants have “legal custody” here. *C.M. Dkts.* 52, 53.

III. The Remaining Equitable Factors Favor Relief.

Defendants do not meaningfully deny the host of dire problems that class members face at Alligator Alcatraz. *See supra* at 1. Thousands of class members have

¹¹ The “systematic” cooperation described in the DHS memorandum, Opp. 13 & n.2, simply refers to performing low-level assistance tasks repeatedly. *See* DHS, *Guidance on State & Local Assistance*, at 1 n.1 (2011), <https://perma.cc/PZC6-ZE3E> (“we mean regular or repeated activity . . . in contrast with occasional, sporadic, or irregular activity”); *id.* at 13-14.

already been deported while being denied the normal safeguards of the immigration system. Barring their detention at Alligator Alcatraz would relieve these injuries.

Defendants argue there should be no injunction because Plaintiff filed this motion several weeks after filing suit. Opp. 28-29. Courts have rejected similar arguments. *See, e.g., FWAF v. Moody*, 734 F. Supp. 3d 1311, 1342 (S.D. Fla. 2024) (Altman, J.) (motion filed two months after law went into effect); *Georgia v. United States*, 398 F. Supp. 3d 1330, 1347 (S.D. Ga. 2019) (similar). Plaintiff filed suit while he was detained at the facility. Immediately afterward, Defendants transferred him and depopulated the entire facility for weeks, and afterward only resumed detention slowly.¹² Patricia Mazzei, “Alligator Alcatraz” May Be Empty Within Days, N.Y. Times (Aug. 27, 2025), <https://perma.cc/6TF8-44UA>. There was nothing unreasonable about Plaintiff accounting for these changed circumstances before seeking relief.

The only harm Defendants claim is not being able to help ICE with detention. Opp. 30-31. But they could simply do that using the mechanism Congress provided, the same as every other state facility. 8 U.S.C. § 1103(a)(11); *see supra* at 7.

IV. Class Certification Is Proper.

Defendants do not contest that the class satisfies Rules 23(a) and (b)(2). They argue (1) the INA bars class *injunctive* relief, and (2) class *habeas* relief is unavailable. They must win both arguments to defeat certification. But they are wrong on both.

¹² Plaintiff's transfer does not moot the case. *Stein v. Buccaneers Ltd.*, 772 F.3d 698, 706-07 (11th Cir. 2014); *Zeidman v. J. Ray McDermott & Co., Inc.*, 651 F.2d 1030, 1051 (5th Cir. 1981).

First, the INA does not bar class injunctive relief here. Under 8 U.S.C. § 1252(f)(1), courts may not “enjoin or restrain the operation of the provisions of part IV of this subchapter” on a classwide basis. But Section 1357(g) is not in “part IV.” Neither is the mass influx provision. Courts have consistently rejected similar attempts to apply § 1252(f)(1) to policies that come from outside part IV. See *Texas v. DHS*, 123 F.4th 186, 209 (5th Cir. 2024) (collecting cases); *Florida*, 660 F. Supp. 3d at 1249, 1285.

Defendants maintain that enjoining their unlawful use of Section 1357(g) would have collateral effects on DHS’s detention operations. Opp. 33. Courts have widely rejected the idea that such “collateral effects” could trigger § 1252(f)(1). For instance, in *Gonzales v. DHS*, the Ninth Circuit held that § 1252(f)(1) was not triggered by an order enjoining a misuse of the adjustment-of-status statute (part V), even though as a consequence, the order *explicitly* prevented DHS’s execution of removal orders (squarely within part IV). 508 F.3d 1227, 1233 (9th Cir. 2007); see *Texas*, 123 F.4th at 209 (“§ 1357[] is not located in Part IV, and thus § 1252(f)(1)’s limitations do not apply”). And the Supreme Court expressly declined to disturb that rule in *Garland v. Aleman Gonzalez*. 596 U.S. 543, 553 n.4 (2022).¹³ Expanding § 1252(f)(1) based on such downstream effects would upend Congress’s choice to limit the statute to “part IV.” And Defendant’s logic would mean that § 1252(f)(1) could bar enforcement of

¹³ By contrast, in *N.S.*, 141 F.4th at 289-90, the court was reviewing federal actions taken directly under § 1226, a covered provision, not any use of Section 1357(g). That’s why the court did not consider any of the collateral-effects cases described above.

any state or federal law—zoning, civil rights—that governs detention facilities, if doing so would “limit[] ICE’s ability to send [detainees] where it thinks best.” Opp. 33.

Even if § 1252(f)(1) barred injunctive relief, it would not bar the other forms of relief Plaintiffs seek, since the statute’s text only speaks to injunctions and “restrain[ing]” orders. Courts have widely held it does not bar **declaratory relief**, which alone would be sufficient to certify a Rule 23(b)(2) class. *N.S.*, 141 F.4th at 290 n.7 (citing additional cases); *Brito v. Garland*, 22 F.4th 240, 252 (1st Cir. 2021); *Rodriguez v. Hayes*, 591 F.3d 1105, 1119 (9th Cir. 2010). It likewise does not bar **habeas relief**, since the writ is different from an injunction or TRO. *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018); *Hamama v. Adducci*, 912 F.3d 869, 879 (6th Cir. 2018); see also *Texas*, 40 F.4th at 219-20; *Florida*, 660 F. Supp. 3d at 1284–85.

Second, class habeas relief is equally available. Defendants neglect to mention that all six Circuits to consider the issue have held that habeas petitioners can litigate common issues as a class. See *United States ex rel. Sero v. Preiser*, 506 F.2d 1115, 1125 (2d Cir. 1974); *Bijeol v. Benson*, 513 F.2d 965, 968 (7th Cir. 1975); *Williams v. Richardson*, 481 F.2d 358, 361 (8th Cir. 1973); *Mead v. Parker*, 464 F.2d 1108, 1112-13 (9th Cir. 1972); *Napier v. Gertrude*, 542 F.2d 825, 827 & n.5 (10th Cir. 1976); *LoBue v. Christopher*, 82 F.3d 1081, 1085 (D.C. Cir. 1996). Habeas class actions “populate every level of the federal judiciary.” *Malam v. Adducci*, 475 F. Supp. 3d 721, 732 (E.D. Mich. 2020) (collecting cases); Kovarsky & Rave, *Habeas Class Actions*, at 1 (Draft 2025), <https://perma.cc/3EAC-YZGD> (“practice in the lower federal courts is uniform”).

The Supreme Court itself has decided multiple class habeas cases. See *Nielsen v. Preap*, 586 U.S. 392, 403-04 (2019); *Jennings v. Rodriguez*, 583 U.S. 281, 312-14 (2018). It has held that the All Writs Act and the habeas statute allow courts to “fashion appropriate modes of procedure, by analogy to existing rules.” *Harris v. Nelson*, 394 U.S. 286, 299 (1969) (citing 28 U.S.C. §§ 1651(a), 2243); Kovarsky, at 26-32.¹⁴ And just this year, the Supreme Court itself granted “classwide relief” to a putative class of “habeas” petitioners. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368-69 (2025). Defendants fail to distinguish this. Opp. 39 (noting “exigent circumstances”). If habeas classes were categorically impermissible as they suggest, then by their own logic, the Supreme Court could not have exercised “jurisdiction over unnamed class members.” *Id.*

Nor would it make sense to deny a class remedy. Defendants say habeas is “fundamentally individualized.” Opp. 36. Yet they do not contest any Rule 23 factor, because every class member has the exact same claims and seeks the exact same relief.

CONCLUSION

The Court should certify the class and issue a preliminary injunction or writ of habeas corpus barring further detention of class members at Alligator Alcatraz.

¹⁴ Defendants miss the critical distinction in *Harris*: Rule 81 determines if a rule applies “completely and automatically,” but if not, the All Writs Act and § 2243 “expressly confirm[]” that other rules can still apply by analogy. *Id.* at 298-99. This does not “enlarge a court’s jurisdiction,” Opp. 39, because this Court has jurisdiction over every class member and their claims; class certification is simply a procedural alternative to joinder. Compare *Clinton v. Goldsmith*, 526 U.S. 529, 534-35 (1999) (injunction went beyond court’s “narrowly circumscribed” statutory subject-matter jurisdiction).

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by electronic service through the CM/ECF Portal on October 30, 2025, to all counsel of record.

/s/ Spencer Amdur
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