

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION

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CARLOS ALBERTO RODELO ECHAVEZ )  
(A [REDACTED]), ) Case No. 3:25-cv-1282  
)  
Petitioner )  
)  
v. )  
TODD M. LYONS, in his official capacity as )  
Acting Director, U.S. Immigration and )  
Customs Enforcement; STANLEY )  
CROCKETT, in his official capacity as Field )  
Director of the ICE New Orleans Field )  
Office; WARDEN, JACKSON PARISH )  
CORRECTIONAL CENTER, in their official )  
capacity, )  
REPLY TO RESPONDENTS'  
Opposition to Petitioner's  
Motion for a Temporary  
Restraining Order or  
Preliminary Injunction  
>)  
Respondents )  
)

On September 3, 2025, Petitioner Carlos Alberto Rodelo Echavez ("Mr. Rodelo") filed a petition for a writ of habeas corpus on the basis that his immigration detention violates the Immigration and Nationality Act as well as his substantive and procedural due process rights. *See* ECF Doc. 1. Mr. Rodelo shortly after sought a temporary restraining order or preliminary injunction in relation to his unlawful detention. He now replies to Respondents' opposition to his motion.<sup>1</sup> This Court should find that it has jurisdiction over the presented claim, that the claims are distinct from those raised in a collateral class action lawsuit, that Respondents have not

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<sup>1</sup> Mr. Rodelo limits this pleading to the arguments raised in Respondents' opposition, ECF Doc. 16. However, he maintains that there is no likelihood of removal in the reasonably foreseeable future, and thus his continued detention is unlawful such that immediate release is warranted.

provided sufficient due process in its efforts to remove Mr. Rodelo, and that his continued detention violates the Immigration and Nationality Act (“INA”).

**I. The Court has jurisdiction over the claims raised in this petition and motion.**

This Court does not lack jurisdiction under the jurisdictional provisions cited by Respondent. Section 1252(g) bars courts from hearing “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.” 8 U.S.C. § 1252(g). Consistent with the plain statutory language, the Supreme Court has adopted a “narrow reading” of 1252(g), holding that “the provision applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’”

*Reno v. Am.-Arab Anti-Discrimination (“AADC”)*, 525 U.S. 471, 482, 487 (1999) (emphasis in original). Contrary to Respondents’ position, Mr. Rodelo does not challenge any of these discrete decisions or actions. He does not challenge or claim that the Government should not have placed him in removal proceedings. He does not challenge the Government’s adjudication of his removal proceedings. And he is not arguing that the Government cannot execute his removal order. He is only asserting that it must follow existing laws, regulations, and Constitutional Due Process in doing so. *See Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (holding that § 1252(g) does not bar claims that challenge “detention while the administrative process lasts.”).

In its response, Respondents argue that Mr. Rodelo is seeking a stay of removal that would constrain the Government from its decision to execute the removal order. *See* Opp. at 9. But this overgeneralization conflicts with the narrow holding in *AADC*, which “did not interpret th[e statutory] language to sweep in any claim that can technically be said to ‘arise from’ the three listed actions of the Attorney General. Instead, [it] read the language to refer to just those three specific

*actions themselves.*” *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (citing *AADC*, 525 U.S. at 482-483). Again, Mr. Rodelo is not arguing that Respondents *cannot* remove him; he is arguing that the Government must comply with the requirements of due process and the law in doing so. Indeed, at least one court has recently distinguished the unpublished case cited by Respondent on this basis. *See Medina v. Noem*, -- F. Supp. 3d --, 2025 WL 2306274, \*3 n.3 (D. Md. Aug. 11, 2025) (“Mr. Cruz Medina only seeks habeas relief with respect to his detention, not with respect to removal . . . Accordingly this claim does not implicate § 1252(g).”); *Mahdejian v. Bradford*, 2025 WL 2269796, \*3 (E.D. Tex. July 2, 2025); *accord Cardoso v. Reno*, 216 F.3d 512, 516-17 (5th Cir. 2000) (recognizing that “section 1252(g) does not bar courts from reviewing an alien detention order, because such an order, while intimately related to efforts to deport, is not itself a decision to ‘execute removal orders’ and thus does not implicate section 1252(g).”).

Respondents’ argument that § 1252(b)(9) bars this Court’s review fares no better. Section 1252(b)(9) works in conjunction with 8 U.S.C. § 1252(a)(5) to channel review of “questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” through a petition for review of a final order of removal filed with an appropriate court of appeals. 8 U.S.C. §§ 1252(a)(5), (b)(9); *see Aguilar v. U.S. Immigr. & Customs Enforcement*, 510 F.3d 1, 11 (1st Cir. 2007) (describing § 1252(b)(9) as “a judicial channeling provision, not a claim-barring one”). But this argument similarly mischaracterizes Mr. Rodelo’s claim. As explained, Mr. Rodelo is not raising claims related to his removability and does not argue that he *cannot* be removed. He argues simply that any actions to remove him—particularly to a third country that may or may not engage in chain refoulement—must be legally sound. To be sure, he is not challenging removability, just his continued detention while that process plays out and his right to express a well-founded fear of removal to a third country. *Texas v. United States*, 126

F.4th 392, 417 (5th Cir. 2025) (recognizing that § 1252(b)(9) “does not present a jurisdictional bar where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined, § 1252(b)(9) is certainly not a bar where, as here, the parties are not challenging any removal proceedings.”); *accord Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025) (holding that § 1252(b)(9) does not preclude a challenge to detention while the Government seeks to remove a noncitizen to a third country).

Furthermore, the fact that DHS informed Mr. Rodelo in August that they will seek to remove him to Mexico does not otherwise bar this Court from reviewing his petition or claims. *Cf. Opp* at 12. Indeed, it is telling that the Government’s affidavit only indicates that they informed Mr. Rodelo that they would seek to remove him to Mexico. *See ECF Doc. 16-1*. Yet Respondents’ mere identification of a third country where they would like to remove Mr. Rodelo neither satisfies due process nor establishes that his removal to that country is substantially likely in the reasonably foreseeable future, as it must be to justify Mr. Rodelo’s continued detention. Indeed, there is no indication that the Respondents have taken any steps to effect his removal to Mexico, such as requesting that the Government of Mexico accept Mr. Rodelo or asking Mr. Rodelo to help obtain documents to allow him to travel to Mexico. *Id.* Nor has Mr. Rodelo received nor been scheduled for a reasonable fear interview to consider any fear of returning to Mexico. *Id.* As the district court recognized in *Escalante*, nothing prevents Respondents from undertaking those actions, but due process requires release absent actual action. 2025 WL 2206113, at \*3.

**II. Mr. Rodelo’s requested relief is separate from the issues raised in *D.V.D. v. U.S. Dep’t of Homeland Security*, and thus a stay for those proceedings is not warranted.**

This Court should not dismiss this action simply because Mr. Rodelo is a member of the class action pending in the United States District Court for the District of Massachusetts. *See Opp.* at 6-8. Specifically, the Court should join other courts that have rejected Respondents’ argument

that membership in the *D.V.D.* class action necessitates dismissal in all cases involving potential third country removals. *See, e.g., Mahdejian*, 2025 WL 2269796 at \*4; *Escalante*, 2025 WL 2206113, at \*4.<sup>2</sup>

In *D.V.D.*, the District of Massachusetts certified the following class:

All individuals who have a final removal order issued in proceedings under [8 U.S.C. § 1229a, 1231(a)(5), or 1228(b)] (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. Dep’t of Homeland Security*, 778 F. Supp. 3d 355, 378, 394 (D. Mass. 2025). Mr. Rodelo is part of this class. But Mr. Rodelo’s arguments that Respondents cannot detain him absent a significant likelihood of removal in the reasonably foreseeable future are separate and distinct from whether Mr. Rodelo receives sufficient notice, as is being litigated in *D.V.D.* *See Escalante*, 2025 WL 2206113, at \*4; *Zavvar v. Scott*, 2025 WL 2592543, \*3 (D. Md. Sept. 8, 2025); *Santamaria Orellana v. Baker*, 2025 WL 2444087, \*3 (D. Md. Aug. 25, 2025); *Tanha v. Warden, Baltimore Detention Facility*, 2025 WL 2062181, \*5 (D. Md. July 22, 2025); *I.V.I. v. Baker*, 202 WL 1519449, \*3 (D. Md. May 27, 2025) (recognizing that challenges to detention are separate from the issues in *D.V.D.*). Because the claims Mr. Rodelo raises in this case are distinct from the claims his class counsel are raising in *D.V.D.*, there is not, as Respondents submit, “potential for conflicting decisions[.]” Opp. at 6.

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<sup>2</sup> Cf. *Sanchez v. Bondi, et al.*, 2025 WL 2550646, \*2 (D. Colo. Aug. 20, 2025) (finding that the petition seeking notice or opportunity to apply for protection from removal to a third country was identical to that raised in *D.V.D.* and thus the petitioner’s claims were foreclosed from individual assertion) (collecting cases). Here, Mr. Rodelo is raising a distinct claim; that his detention pending this process is unlawful absent compliance with regulations and due process. *Escalante*, 2025 WL 2206113, at \*4

**III. Respondents have not provided sufficient due process in its efforts to remove Mr. Rodelo.**

Finally, The Court should conclude that Mr. Rodelo has met the standard for injunctive relief. First, he has established a likelihood of success on the merits. While we have learned since the initial filing of this petition that DHS did provide Mr. Rodelo with a piece of paper indicating that they would like to seek to remove him to Mexico, they have not provided him with a reasonable fear interview despite his fear of going to Mexico. *See* ECF Doc. 14 (Affidavit); *cf.* ECF Doc. 16-1 (DHS Decl.) (only stating that DHS has identified Mexico as a country of removal and informed Mr. Rodelo of that identification). Indeed, Mr. Rodelo has indicated that DHS has at least twice tried to get him to sign paperwork to voluntarily accept removal, presumably to Mexico. *See* Affidavit at 2. But he has refused due to his well-founded fear of being removed to Mexico.<sup>3</sup> *Id.* Yet, DHS has not provided a reasonable fear interview, and at no point has either Mr. Rodelo or DHS indicated that DHS has communicated with the Government of Mexico to seek Mr. Rodelo's removal to that country. *See* ECF Doc. 16-1. Because DHS has apparently not undertaken the necessary steps to effectuate Mr. Rodelo's removal, (including any reasonable-fear screening

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<sup>3</sup> Respondents seem to blame Mr. Rodelo for not raising a fear-based claim to any country other than Colombia in his removal proceedings. Opp. at 13. But the only potential country for removal at the time of his removal proceedings was Colombia; DHS never indicated an intent to remove Mr. Rodelo elsewhere. *See* ECF Doc. 16-2. Mr. Rodelo has also explained his fear of being removed to Mexico. *See* Affidavit at 2 ("if I were sent [to Mexico], I would be returning to the same danger I fled from in Colombia."). While he also exclaimed that he does not feel safe in countries outside the United States, his claim was specifically articulated as to a fear of "violence and danger" in Mexico. *Id.* Moreover, this affidavit was prepared primarily for the purpose of addressing the notice of removal provided by Respondents; it should not constitute substitution for a reasonable fear screening for any identified country of removal that the Government may identify.

and appropriate communications with the Mexican government), Respondents cannot meet the standard in order to keep Mr. Rodelo detained.

In addition, Respondents indicate that the Government's procedures for removal to a third country "are entirely consistent with due process." Opp. at 14. However, that is not the case. *See Mahdejian v. Bradford*, 2025 WL 2269796, \*4 (E.D. Tex. July 2, 2025) (concluding that DHS's March guidance does not provide adequate process). While other courts have considered specific assurances made in individual cases, the March guidance itself does not, as a blanket matter, allow DHS to remove individuals without complying with statutory and Constitutional protections. Moreover, Respondents' assertion that a case-by-case analysis is unnecessary is contrary to the INA, the Convention Against Torture, implementing regulations, and common sense. *Id.* It is illogical that a country could definitively provide sufficient assurances that any individual sent there would not be persecuted or tortured for any reason. *See* Opp. at 14-15 (arguing that a country's assurance that no individual would be "treated in that way" should be sufficient). But more critical to this case, such analysis has not happened in this case, and Mr. Rodelo simply remains detained without any significant likelihood of removal in the reasonably foreseeable future, in violation of the INA and his Constitutional rights.

This last point underscores that he has established irreparable harm. While removal itself is insufficient to demonstrate this factor, *see Nken v. Holder*, 556 U.S. 418, 420 (2009), Mr. Rodelo is challenging his unlawful detention—not DHS's authority to effectuate his removal order. His continued detention violates his due process rights, and thus any additional, unlawful detention is irreparable. *Maniar v. Warden Pine Prairie Corr. Ctr.*, No. 6:18-CV-00544, 2018 U.S. Dist. LEXIS 250323, at \*14 (W.D. La. July 11, 2018) (recognizing that civil detention that is punitive violates due process) (citing *United States v. Hare*, 873 F.2d 796, 800 (5th Cir. 1989)); *see also*

*Bell v. Wolfish*, 441 U.S. 520 (1979); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that civil detention violates due process except in “narrow, non-punitive circumstances where a special justification, such as harm-threatening mental illness outweighs the individual’s constitutionally protected interest in avoiding physical restraint.”) (cleaned up); *see also Beyhaqi v. Noem*, No. 4:25-CV-1788 (S.D. Tex. Apr. 22, 2025) (DHS termination of a student visa created irreparable harm in the form of economic and educational hardships with the mere risk of detention and deportation). The only remedy for such a violation is release from custody.

Finally, in regards to the third and fourth factors for injunctive relief, Respondents misconstrue the balance of equities. At the risk of unnecessary repetition, Mr. Rodelo is not seeking to enjoin the Government from effectuating his removal. *Cf.* Opp. at 16. Mr. Rodelo simply seeks release from custody and an injunction precluding his detention absent a significant likelihood that his removal will occur in the reasonably foreseeable future. Indeed, there are ample regulations and processes in place to ensure Mr. Rodelo’s cooperation and compliance with any directives regarding his removal. *See e.g.*, 8 C.F.R. § 241.4. As argued in Mr. Rodelo’s motion, social norms in this country demand that “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). The public interest does not and cannot favor the unlawful detention of Mr. Rodelo to skirt U.S. treaty obligations or due process.

For the foregoing reasons, Mr. Rodelo requests the Court enjoin Respondents from detaining Mr. Rodelo absent a significant likelihood of removal in the reasonably foreseeable future.

Respectfully submitted this 15th day of September, 2025

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**CERTIFICATE OF COMPLIANCE AND SERVICE**

This memorandum complies with all typeface and style requirements of federal and local rules in that it was prepared in Times New Roman 12 point font and contains 2,493 words.

I hereby certify that on 9/15/2025, I filed the foregoing motion with the CM/ECF system.

Counsel for Respondents will be served electronically though the Court's CM/ECF system.

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