

Chief District Judge David G. Estudillo
Magistrate Judge Michelle L. Peterson

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REZA DANESHFAR,

Petitioner,

v.

FACILITY ADMINISTRATOR, Northwest
Immigration and Customs Enforcement
Processing Center, Tacoma Washington,

Respondent.

Case No. 2:25-cv-01708-DGE-MLP

INTERESTED NON-PARTIES¹
RETURN MEMORANDUM

Noted for Consideration:
December 11, 2025.

I. INTRODUCTION

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner Reza Daneshfar, a noncitizen subject to an administratively final order of removal, pursuant to Section 241 of the Immigration and Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Daneshfar brings this habeas litigation pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his immigration detention

¹ For the purposes of this habeas brief, “Interested Non-Parties” refers to the United States of America on behalf of U.S. Immigration and Customs Enforcement (“ICE”) Seattle Field Office Director Laura Hermosillo, U.S. Department of Homeland Security (“DHS”) Secretary Kristi Noem, DHS, and U.S. Attorney General Pamela Bondi, collectively, “Federal Respondents.” Respondent Bruce Scott is not represented by undersigned counsel.

1 Pursuant to this Court's Order (Dkt. No. 5), Federal Respondents submit the following
2 factual background as contained in the records of Daneshfar's immigration case and as set forth
3 in the Declaration of Deportation Officer Christian De Castro ("De Castro Decl."), as well as
4 the relevant detention authority. ICE does not believe that an evidentiary hearing is necessary.

5 II. FACTUAL BACKGROUND

6 Daneshfar is a native of and citizen of Iran who entered the United States without
7 inspection on or about October 2024. De Castro Decl., ¶ 3; Morris Decl., Ex. A, Form I-213.
8 DHS issued an expedited removal notice charging Daneshfar with inadmissibility under Sections
9 212(a)(6)(A)(i) and 212 (a)(7)(A)(1)(I) of the Immigration and Nationality Act ("INA"). De
10 Castro Decl. ¶ 3; Morris Decl., Ex. B, Notice and Order of Expedited Removal. On May 23, 2025,
11 an Immigration Judge ("IJ") denied Petitioner's asylum claim but granted withholding of removal
12 to Iran. De Castro Decl. ¶ 4; Morris Decl., Ex. B. ICE now seeks to remove Petitioner to a safe
13 third country. De Castro Declaration ¶ 5. ICE requested a travel document for Daneshfar on July
14 2, 2025, from the governments of France, Guyana, and Papua New Guinea, requesting these
15 countries to accept Petitioner. *Id.* ¶ 6. To date, none of the three countries have responded to ICE.
16 *Id.*

17 III. PROCEDURAL BACKGROUND

18 A. Detention Authorities and Removal Procedures

19 The INA governs the detention and release of noncitizens during and following their
20 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021). The general
21 detention periods are generally referred to as "pre-order" (meaning before the entry of a final
22 order of removal) and "post-order" (meaning after the entry of a final order of removal). *Compare*
23 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order
24 detention).

1 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
2 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
3 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence
4 for removal and to protect the community from noncitizens who may present a danger, Congress
5 mandated detention during the “removal period,” which is the 90-day period following the
6 issuance of a final order of removal. 8 U.S.C. § 1231(a)(2).

7 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
8 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
9 and does not place any temporal limit on the length of detention under that provision:

10 [A noncitizen] ordered removed who is inadmissible under section 1182,
11 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
12 who has been determined by the [the Secretary of Homeland Security] to be a risk
13 to the community or unlikely to comply with the order of removal, *may* be detained
14 *beyond the removal period* and, if released, shall be subject to the terms of
15 supervision in paragraph (3).

16 8 U.S.C. § 1231(a)(6) (emphasis added).

17 During the removal period, ICE² is charged with attempting to effectuate removal of a
18 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
19 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
20 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
21 from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has
22 further identified six months as a presumptively reasonable time necessary to bring about a
23 noncitizen’s removal. *Id.*, at 701.

24 Once it is determined that there is no significant likelihood of removal in the reasonably

² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 foreseeable future, noncitizens may be released on an Order of Supervision (“OSUP”). 8 C.F.R.
2 § 241.13(h). ICE may revoke a noncitizen’s OSUP and return the noncitizen to custody when,
3 on account of changed circumstances, there becomes a significant likelihood of the noncitizen’s
4 removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

5 **B. DHS Policy on Third-Country Removals**

6 On March 30, 2025, and then on July 9, 2025, DHS issued guidance regarding third
7 country removals. U.S. Department of Homeland Security, “Guidance Regarding Third Country
8 Removals,” Kristi Noem, March 30, 2025, available at:
9 <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1>
10 [1.pdf](#) (last visited November 11, 2025) (“DHS Memo”).

11 The DHS memo discusses DHS’ policies and procedures regarding the removal of
12 individuals with final orders of removals to countries other than those designated for removal in
13 those orders (referred to as “third country removals”). *Id.* According to the guidance, if DHS has
14 not received diplomatic reassurances from the designated country, DHS will first inform the
15 individual that DHS seeks removal to that country. *Id.*, pg. 2. If the individual expresses that they
16 are afraid of being removed to that country, DHS will refer them to USCIS for a reasonable fear
17 interview, to screen that person for protection against removal to that country. *Id.*

18 After the interview is conducted, USCIS will determine whether the individual would
19 more likely than not be persecuted or tortured in the country of removal. *Id.* If USCIS finds that
20 the individual has met this standard, if the person was previously in removal proceedings, USCIS
21 will inform ICE, and ICE can then file a motion to reopen with the Immigration Court. *Id.*
22 Alternatively, ICE can also choose to designate another country of removal. If USCIS finds that
23 the person has not met the standard, according to DHS policy, they will be removed. *Id.* There is
24 nothing in the memo or in ICE policy that prevents an individual from filing a motion to their

1 prior removal proceedings at any time they so choose, based on a request for asylum, withholding
2 of removal, or protection under the Convention Against Torture. *See id.*; *see also* 8 C.F.R. §
3 1003.23(b)(4)(i).

4 To the extent Petitioner seeks to challenge any potential third-country removal, he has
5 waived that argument by failing to raise it in his Petition. Although the Court construes pro se
6 filings liberally, it cannot supply claims or arguments that the petitioner himself did not assert.
7 Challenges to detention are not reviewed in a § 2241 immigration detention habeas proceeding
8 unless they are squarely pled, and Petitioner did not do so here. To the extent the Court still wishes
9 to reach this argument, ICE has policies and practices in place to protect Petitioner as outlined
10 above. And nothing prevents Petitioner from going to the Immigration Court and requesting that
11 his prior proceedings be reopened based on a new fear or removal to any other country. *See* 8
12 C.F.R. § 1003.23(b)(4)(i).

13 Further, since no third country has yet been identified by ICE, Petitioner has suffered no
14 injury and any allegation that he is likely to face an injury in the future is entirely speculative.
15 Accordingly, any third country removal argument by Petitioner would also fail to meet the case-
16 or-controversy requirement. *Cf. Spencer v. Kemna*, 523 U.S. 1, 16 (1998) (rejecting the
17 petitioner's alleged consequences as "a possibility rather than a certainty or even a probability"
18 and as "purely a matter of speculation").

19 ***C. D.V.D. v. Dep't of Homeland Security***

20 In March 2025, three plaintiffs instituted a putative class action suit challenging their third
21 country removals in the District of Massachusetts. *D.V.D. v. DHS*, No. 25-cv-10676 (D. Mass.).
22 On March 28, 2025, that court entered a TRO enjoining DHS and others from "[r]emoving any
23 individual subject to a final order of removal from the United States to a third country, *i.e.*, a
24 country other than the country designated for removal in immigration proceedings" unless certain

1 conditions were met. *D.V.D. v. U.S. Dep't of Homeland Sec.*, 2025 WL 942948, at *1 (D. Mass.
2 Mar. 28, 2025). On April 18, 2025, the court in *D.V.D.* issued an order granting the plaintiffs'
3 motion for class certification and motion for preliminary injunction. *D.V.D. v. U.S. Dep't of*
4 *Homeland Sec.*, 778 F. Supp. 3d 355, 394 (D. Mass. 2025). A class was certified pursuant to Rule
5 23(b)(2) of the Federal Rules of Civil Procedure without a provision for an opt out. *See id.* at
6 386.2 The Preliminary Injunction was national in effect and established certain procedures that
7 DHS was required to follow before removing an alien with a final order of removal to a third
8 country. Specifically, the class in *D.V.D.* is defined as:

9 All individuals who have a final removal order issued in proceedings under Section 240,
10 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who DHS has
11 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.

12 *Id.* at 378.

13 On May 21, 2025, the *D.V.D.* court issued a Memorandum on Preliminary Injunction
14 offering the following summary and clarification of its Preliminary Injunction:

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

21 *D.V.D. v. U.S. Dep't of Homeland Sec.*, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025).

22 The *D.V.D.* court indicated that the Order applied “to the Defendants, including the
23 Department of Homeland Security, as well as their officers, agents, servants, employees,
24

1 attorneys, any person acting in concert, and any person with notice of the Preliminary Injunction.”

2 *Id.*

3 On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts’
4 preliminary injunction pending appeal in the First Circuit Court of Appeals. *Dep’t of Homeland*
5 *Sec. v. D.V.D.*, ___ U.S. ___, 145 S. Ct. 2153 (2025). That same day, the District Court ordered that,
6 notwithstanding the Supreme Court’s order, its remedial order granting relief to eight individual
7 class members DHS sought to remove to South Sudan remained in effect. Order, *D.V.D.* (Dkt.
8 176). Defendants moved to clarify the Supreme Court’s Order and, on July 3, 2025, the Supreme
9 Court granted the motion, allowing the eight individual aliens to be removed to South Sudan.
10 *Dep’t of Homeland Sec. v. D. V. D.*, ___ U.S. ___, 145 S. Ct. 2627, 2629 (2025). The class
11 certification in *D.V.D.* remains in effect notwithstanding the Supreme Court’s stay. *See id.*

12 To the extent Petitioner alleges he is an individual subject to a final order of removal who
13 fears removal to a third country that was not previously described as an alternative country of
14 removal, Petitioner would undisputedly be a member of the plaintiff class in *D.V.D.* Dkt. 1 ¶ 43.
15 As a member of the plaintiff class in *D.V.D.*, he is bound by the proceedings in that case the same
16 as all other class members. The plaintiff class in *D.V.D.*, of which Petitioner is a member, sought
17 an injunction precluding their removal to a third country unless they were first afforded essentially
18 the same process that Petitioner asks the Court to order here. The Supreme Court’s stay of the
19 preliminary injunction entered in that case is both precedent and the result is binding on Petitioner
20 here by virtue of his status as a member of the *D.V.D.* plaintiff class.

21 Additionally, courts recognize that members of class action lawsuits should not be
22 permitted to bring separate actions where they seek to re-litigate individually issues that were
23 raised in the class action. *See Wynn v. Vilsack*, 2021 WL 7501821, at *3 (M.D. Fla. Dec. 7, 2021)
24 (collecting cases) (“Multiple courts of appeal have approved the practice of staying a case, or

1 dismissing it without prejudice, on the ground that the plaintiff is a member of a parallel class
2 action.”) (internal quotations omitted). This prevents class members from avoiding the binding
3 results of the class action. *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982).

4 This is also the rule in this Circuit. A district court may properly dismiss an individual
5 complaint where the plaintiff is a member in a class action, to the extent the individual action
6 duplicates the claims and seeks the same relief as the class action. *Pride v. Correa*, 719 F.3d 1130,
7 1133 (9th Cir. 2013) (discussing *Crawford v. Bell*, 599 F.2d 890, 892 (9th Cir. 1979)). Such a
8 dismissal is within the court’s discretion based on its inherent power to control its own docket.
9 *Crawford*, 599 F.2d at 893. But it is “imperative to avoid concurrent litigation in more than one
10 forum whenever consistent with the rights of the parties.” *Id.*; see *Frost v. Symington*, 197 F.3d
11 348, 359 (9th Cir. 1999) (“To the extent that a class action involving the same issues raised by
12 [plaintiff] is currently pending . . . [he] may have to bring all of his related claims for equitable
13 relief . . . through . . . class counsel.”).

14 This Court should decline to exercise jurisdiction over any claim concerning the
15 Petitioner’s removal to a third country, both because Petitioner has not raised such a claim and,
16 as a matter of comity, because the District of Massachusetts has certified a class action
17 encompassing the same issue Petitioner would assert here if he had raised it. See *Pacesetter*
18 *Systems, Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94–95 (9th Cir. 1982) (“There is a generally
19 recognized doctrine of federal comity which permits a district court to decline jurisdiction over
20 an action when a complaint involving the same parties and issues has already been filed in another
21 district.”).

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24 //

1 DATED this 24th day of November, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
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14 *Attorneys for Interested Non-Parties*

15 *I certify that this memorandum contains 2,416 words, in*
16 *compliance with the Local Civil Rules.*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee in the Office of the United States Attorney for the
3 Western District of Washington and of such age and discretion as to be competent to serve papers.

4 I further certify on today's date, I electronically filed the foregoing with the Clerk of the
5 Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF
6 participant(s):

7 - 0 -

8 I further certify on today's date, I arranged for service of the foregoing on the following
9 non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as
10 follows:

11 Reza Daneshfar, Pro Se Petitioner
12 A# ~~XXXXXXXXXX~~
13 NW ICE Processing Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

14 DATED this 24th day of November, 2025.

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