IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MOHAMED NADER ALSHEREF,

Petitioner-Plaintiff,

v.

KRISTI NOEM, et al.,

Respondents-Defendants.

No. 1:25-CV-190-H

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS AND RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER

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I. Introduction

Petitioner-plaintiff Mohamed Nader Alsheref is subject to a final order of removal issued in 2008 after he was federally convicted of a drug distribution offense for which he was sentenced to a 32-month prison term. The government was unable to successfully remove Alsheref in 2008, and so he was released from immigration detention at that time. But more recently, his release was revoked and he has been re-detained as the government again seeks to execute his removal order.

That background sets the stage for this newly-filed proceeding, in which Alsheref argues that (1) the revocation of his release and his current detention is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and related theories because it allegedly is not significantly likely that the government will be able to remove him in the reasonably foreseeable future, but also that (2) emergency relief in the form of a temporary restraining order and preliminary injunction is required to prevent his imminent removal to Israel. (*See* Dkt. Nos. 1; 3.) There is, of course, an inherent tension in these two contentions—if, as Alsheref says, his removal is imminent, there is no *Zadvydas* issue. As explained below, the government is in fact making progress in its attempts to remove Alsheref, so his *Zadvydas* and related habeas claims challenging the revocation of his release and his current detention all fail. And, there is no legal basis to restrain or enjoin the planned removal, so Alsheref is not otherwise entitled to any relief (on an emergency or permanent basis) in this case under such a theory. His petition for habeas corpus and motion for a temporary restraining order or preliminary injunction should each be denied.

II. Background

A. Alsheref is convicted of a drug offense and ordered removed from the country in 2008.

Alsheref was born in Libya in 1981 to Palestinian parents. (Dkt. No. 1, ¶ 5; *see also* App.[1] 014.) He entered the United States on a non-immigrant student visa in or around 2000. (App. 014.) He was later convicted, in the Southern District of Texas, of conspiracy to possess marijuana with intent to distribute, and sentenced to a 32-month prison term. (App. 014; *see also* App. 001 (indictment); App. 003 (criminal judgment).) He was thereafter placed in removal proceedings because his conviction constituted an aggravated felony under immigration law, (App. 009), and in 2008 he was ordered removed to "Libya or to any alternate country prescribed in section 241 of the [Immigration and Nationality] Act," (App. 012; *see also* Dkt. No. 1, ¶ 1).

B. After the government is not able to effectuate Alsheref's removal in 2008, he is released on an order of supervision.

The government attempted to execute Alsheref's removal order in 2008 through a removal to any one of Libya, Jordan, Israel, or Egypt. (App. 014.) But the government was not able to secure the necessary travel documents or authorizations from any of those countries at that time. (App. 014.) In August 2008, with no removal having occurred, Alsheref was released from immigration detention on an order of supervision. (App. 014.)

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[1] "App. __" citations refer by page number to the materials in the accompanying appendix.

C. The government re-detains Alsheref in 2025 and is attempting to effectuate his removal to Palestinian territory, with the assistance of Israel.

During the past year, the government has been working with Israel to effectuate the removal of Palestinian aliens from the United States to Palestinian territory via transit through Israel. (*See* App. 016–17.) The government has removed multiple Palestinians in such a manner in 2025, and the Israeli government has approved other Palestinian transit requests that the government is currently coordinating for removal. (App. 017.) The Israeli government has also approved a transit request for a Palestinian who, like Alsheref, was born outside of the Palestinian territories but to Palestinian parents. (App. 017.)

In light of these changed circumstances relating to the removal of Palestinians, Alsheref was arrested by immigration authorities in 2025 and re-detained. (App. 014–15, 016–17.) The government is working on a transit request to the government of Israel to allow Alsheref to fly into Ben Gurion International Airport for transit to Palestinian territory. (App. 015, 016.) Given Israel's agreement to grant transit in other Palestinian cases, the government believes Israel may approve the transit request in Alsheref's case. (App. 016–17.)

III. Argument and Authorities

A. Alsheref is not entitled to any relief on his habeas claims, which challenge his current detention and the revocation of his order of supervision.

Alsheref's petition for a writ of habeas corpus[2] seeks relief under three counts.

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[2] Alsheref's pleading is styled a "Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief." (*See* Dkt. No. 1.) However, the three counts actually pleaded in this filing appear to all sound in habeas—i.e., they seek Alsheref's release from custody—and to the extent there are requests

(Dkt. No. 1, ¶¶ 39–60.) These are for: (1) an alleged violation of the Fifth Amendment's guarantee of substantive due process, under a *Zadvydas* theory that his detention is impermissible because the government cannot show that his removal is likely to occur in the reasonably foreseeable future; (2) an alleged violation of the Immigration and Nationality Act and implementing regulations relating to the revocation of his order of supervised relief, under essentially the same theory that his removal is not possible and that the relevant regulations for revoking his release were not followed; and (3) an alleged violation of the Fifth Amendment's guarantee of procedural due process, under (again) essentially the same theory that his circumstances have not changed so as to justify his detention at this time. (*Id.*)

As the above discussion illustrates, Alsheref's habeas claims share, as a common theory or assumption, an underlying contention that there is not a significant likelihood that the government will be able to remove him in the reasonably foreseeable future, such that his detention (and the related revocation of his prior release) is impermissible. The government's authority to detain an alien like Alsheref derives from 8 U.S.C. § 1231, which directs the Attorney General to detain and effect the removal of any alien from this country within 90 days of when the alien's order of removal becomes final, while also authorizing an additional period of detention for certain aliens who have been ordered

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for other forms of relief, those appear to be merely ancillary to the claimed entitlement to habeas relief (for example, by seeking declaratory relief that the revocation of Alsheref's prior release and his re-detention were improper, *see* Dkt. No. 1 at Prayer for Relief). As discussed further below, Alsheref's pleading (which for ease of reference the government will simply refer to as the petition) does not set forward any counts or claims corresponding to certain arguments raised in his motion for temporary restraining order or preliminary injunction.

removed due to a criminal offense or who otherwise present a risk to the community. 8 U.S.C. § 1231(a)(1), (6). Construing these statutory detention provisions, the Supreme Court held in *Zadvydas* that the statute does not authorize permanent, indefinite detention after the initial 90-day removal period passes (notwithstanding the absence of any express limitation on the duration of the post-90-day period in the statute itself), and that instead, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699. (It was presumably for this reason that Alsheref was released from immigration detention in 2008, because the attempts at that time to execute his removal order by sending him to any of Libya, Jordan, Israel, or Egypt had not been successful.)

Upon release, an alien subject to a final order of removal must comply with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). And the release can be revoked for various reasons, including for purposes of executing the alien's removal order. Specifically, a noncitizen's release may be revoked "if, on account of changed circumstances," the government determines that "there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

Here, the revocation of Alsheref's release and his current detention are both legally permissible because of the change in circumstances relating to the government's ability to remove Palestinians to Palestinian territory with the assistance of Israel. As recounted above, the government has during the past year been working with Israel to effectuate the removal of Palestinian aliens from the United States to Palestinian territory via transit through Israel. (*See* App. 016–17.) And these efforts have been successful:

the government has removed multiple Palestinians to such Palestinian territories in 2025, and the Israeli government has approved other Palestinian transit requests that the government is currently coordinating for removal. (App. 017.) The Israeli government has even approved a transit request for a Palestinian who, like Alsheref, was born outside of Palestinian territory but to Palestinian parents. (App. 017.)

In light of these changed circumstances, the government was on solid ground in revoking Alsheref's release and detaining him in anticipation of a likely removal to Palestinian territory with the assistance of Israel. Moreover, as shown by the declarations submitted in the accompanying appendix, there is a significant likelihood that Alsheref can be removed in the reasonably foreseeable future, based on the government's recent experience with Israel's willingness to facilitate the removal of Palestinians to Palestinian territory. (*See* App. 014–15, 016–17.) For these reasons, Alsheref is entitled to no relief on his *Zadvydas* claim or any related challenges to the revocation of his release and detention under a theory that circumstances have not changed to make his removal more likely. The relevant circumstances have changed, and therefore revocation and detention at this time for the purpose of attempting to execute Alsheref's removal order are constitutionally (and otherwise) permissible. *See Nguyen v. Noem*, --- F. Supp. 3d ----, 2025 WL 2737803, at *9–*10 (N.D. Tex. Aug. 10, 2025) (rejecting a *Zadvydas* challenge after reviewing evidence indicating that the circumstances had changed regarding the government's ability to removal certain individuals to Vietnam who had left that country before 1995, where such removals had not previously been possible (or had been very difficult to effectuate), but more recently had been occurring as a result of changing

diplomatic relationships and negotiations between the two countries).

Alsheref also fails to show any entitlement to relief on his other habeas claims. which appear to be based on alleged regulatory violations insofar as the government purportedly "revoked Mr. Alsheref's order of supervision without determining that changed circumstances render his removal significantly likely in the reasonably foreseeable future and failed to provide him with notification for the reasons for the revocation or an opportunity to respond," as Alsheref contends is required by 8 C.F.R. § 241.4(l), as well as an allegation that the government did not make an "individualized showing" as necessary to justify revocation, as allegedly required under the "regulations governing revocation." (Dkt. No. 1, ¶¶ 51, 52.)

As an initial matter, these claims fail because "writs of habeas corpus '[are] available to correct the denial of fundamental constitutional rights, but [they] may not be used to correct mere irregularities or errors of law.'" *Nguyen*, 2025 WL 2737803, at *6 (quoting *Wooten v. Bomar*, 267 F.2d 900, 901 (6th Cir. 1959)). Thus, "the failure of officials 'to follow their own policies, without more, does not constitute a violation of due process,' making a writ of habeas corpus generally not available." *Id.* (quoting *Iruegas-Maciel v. Dobre*, 67 F. App'x 253, 253 (5th Cir. 2003)). Alsheref cannot show that he had any *constitutional* right to whatever regulatory processes he alleges were not correctly followed. *See id.* ("A violation of [8 C.F.R. §] 241.13(i)(3) alone cannot justify habeas. It is a mere administrative regulation, not required as the result of the Constitution." (citing *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 272–73 (2010) (distinguishing between ordinary procedural violations and constitutional due-

process violations))).

In any event, Alsheref fails to show any regulatory violation. He principally relies on 8 C.F.R. § 241.4(l), which sets forth certain administrative procedures for revoking an alien's release.[3] (*See* Dkt. No. 1, ¶ 51.) Among other things, § 241.4(l) authorizes revocation "in the exercise of discretion when . . . it is appropriate to enforce a removal order." 8 C.F.R. § 241.4(l)(2). And subsection (3) within § 241.4(l) additionally sets forth an administrative "review process" by which an alien whose previous release from custody has been revoked can obtain an "evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release," with this review process "ordinarily [] expected to occur within approximately three months after release is revoked." *Id.* § 241.4(l)(3).

Alsheref's petition does not appear to set forth any facts showing that § 241.4(l)'s procedures were not followed. The government clearly did make a determination, in its discretion, that revocation of Alsheref's release was appropriate at this time—there is no dispute that Alsheref was detained on July 26, 2026. (Dkt. No. 1, ¶ 22.) And as explained herein, the government has good reason to think it may soon be able to execute Alsheref's removal order, which is one of the grounds for revocation specifically listed in § 241.4(l). (*See* App. 014–15, 016–17.)

Moreover, Alsheref filed his petition in this Court on September 22, 2025, which was less than two months after he was detained in late July 2025. (*See* Dkt. No. 1.)

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[3] Alsheref also cites 8 C.F.R. § 241.13, which as discussed above authorizes the revocation of an alien's release if the government has reason to believe that the alien's removal order can be executed. (*See* Dkt. No. 1, ¶¶ 29–30.)

Thus, even to the extent his petition might be read as suggesting that he did not receive the administrative review process set forth in § 241.4(l)(3), the regulation makes clear that the review process does not necessarily occur immediately, but instead is only ordinarily expected to occur within three months.

Similarly, although Alsheref briefly asserts that there was no "individualized showing" to justify the change in his detention status, (*see* Dkt. No. 1, ¶¶ 58, 59), this argument fails as well. Alsheref appears to tacitly concede that no statutory or regulatory language directly supports this claim, because he urges that "the regulations governing revocation of a release *must be construed* to require an individualized showing as to why the earlier assessment justifying the individual's release has changed." (Dkt. No. 1, ¶ 48 (emphasis added).) In any event, the government has explained that Alsheref is being detained in the belief that he may soon be removed to Palestinian territory, through Israel, in line with the government's ongoing efforts to execute removal orders as to various other Palestinian aliens in his manner. This rationale is more than sufficient to support Alsheref's detention at this time, as "there is no reason that a broad change in circumstances that applies to a broad group of aliens cannot have the effect of changing the circumstances of each of those particular aliens and thus let ICE determine that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." *Nguyen*, 2025 WL 2737803, at *7. Put another way, "[t]he changed circumstances need to be applicable to [the alien], but that does not mean that they must be unique to [him]." *Id.* And that is the case with respect to Alsheref. There are changed circumstances that have increased the likelihood of the government's being able to

execute the removal orders of various Palestinian aliens, of which group Alsheref is a member. No additional, more uniquely individualized consideration is necessary under the regulations or any other source of law.

Finally, even if it were assumed that some regulatory irregularity occurred, *and* that such an alleged regulatory error could form the basis for habeas relief, Alsheref still is not entitled to relief. Harmless error applies in immigration cases generally. *See Nguyen*, 2025 WL 2737803, at *5 (citing *Jalloh v. Garland*, No. 202117, 2023 WL 1859918, at *2 (4th Cir. 2023) (in turn citing *Ngarurih v. Ashcroft*, 371 F.3d 182, 190 n.8 (4th Cir. 2004)) (further citation omitted)). The same is true for an agency's alleged procedural violations. *See City of Arlington v. FCC*, 668 F.3d 229, 243–44 (5th Cir. 2012). Under a harmless-error analysis, the party asserting error bears the burden of demonstrating prejudice. *Id.* at 243.

As an initial matter, these habeas proceedings have afforded Alsheref more procedure than whatever he claims was due under 8 C.F.R. § 241.4(l) or any other regulatory provision. To the extent he has desired notice and the opportunity to respond and present information to the government regarding the changed circumstances that have led to his re-detention, he has received that here. Through this briefing and the accompanying declarations, the government has explained why it believes that Alsheref's removal will occur soon.

Additionally, there is no dispute that Alsheref is subject to a final order of removal obtained after he was federally convicted of a drug distribution offense, (*see* Dkt. No. 1, ¶ 1; *see also* App. 012, 014), and that he cannot challenge the merits of that removal

order here, *see* 8 U.S.C. § 1252(a), (b)—and indeed, he is not even purporting to attempt to do so. Alsheref is subject to removal from the United States after committing a federal drug offense, and the government is taking steps to carry out that (long-delayed) removal. No grounds for habeas relief are shown.

B. Alsheref is not entitled to any temporary restraining order or preliminary injunction.

In addition to seeking relief via his habeas petition, Alsheref has also filed a motion for temporary restraining order or preliminary injunction. (Dkt. No. 3.) A portion of that motion is devoted to arguments seeking Alsheref's immediate release from immigration detention under *Zadvydas* and related theories that his prior release was improperly revoked and that his present detention is unlawful. (*Id.* at 7–10.) But for all the reasons already discussed above in connection with the consideration of these issues in the context of Alsheref's habeas petition, these claims fail on the merits and therefore Alsheref also is not entitled to any temporary or preliminary relief on them. Alsheref cannot show that these claims are likely to succeed on the merits because, in fact, they fail on the merits as outlined herein. *See Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974).

Alsheref's motion also sets forth certain additional arguments by which Alsheref asserts that his removal to Israel would be improper without first having an opportunity to apply for withholding of removal or other similar relief to assess his alleged fear of being removed to Israel. (Dkt. No. 3 at 5–7.) But these arguments also fail to show any entitlement to relief in this Court, for the following independent reasons:

1. Alsheref cannot obtain temporary or preliminary relief on unpleaded claims.

As an initial matter, these arguments in Alsheref's motion do not form the basis for any portion of the substantively requested relief in his habeas petition, and therefore they cannot properly be the subject of temporary or preliminary relief. As discussed above, Alsheref's habeas petition seek relief on three counts that are based on *Zadvydas* and related theories that there is not a significant likelihood that the government will be able to remove him in the reasonably foreseeable future, such that his detention (and the preceding revocation of his prior release) is allegedly impermissible. (*See* Dkt. 1, ¶¶ 39–60.) Alsheref has not pleaded any claim in his habeas petition corresponding to the arguments raised in the motion relating to seeking withholding of removal or other similar relief against removal to (or through) Israel. (*Compare* Dkt. No. 3 *with* Dkt. No. 1 (Counts I, II, and III).)

The fact that Alsheref has not pleaded any claim of this type "requires that the Court find that [he] has not shown that he is entitled to a preliminary injunction, as 'there can be no substantial likelihood that a plaintiff will prevail on the merits of assertions he has not pled.'" *Nixon v. Dallas Cty. Tex.*, No. 3:23-cv-1600-E-BN, 2023 WL 6726455, at *2 (N.D. Tex. Sept. 29, 2023), *rec. accepted*, 2023 WL 6771672 (N.D. Tex. Oct. 12, 2023) (quoting *Marable v. Dep't of Commerce*, No. 3:18-cv-3291-N-BN, 2019 WL 7049993, at *2 (N.D. Tex. Nov. 19, 2019), *rec. accepted*, 2019 WL 7049703 (N.D. Tex. Dec. 20, 2019)); *see also Wylie v. Mont. Women's Prison*, No. CV 13-53-BLG-SEH, 2014 WL 6685983, at *2 (D. Mont. Nov. 25, 2014) ("Wylie has not demonstrated a

likelihood of success on the merits of her claims. . . . The [construed motion for a preliminary injunction] actually seeks relief unrelated to the pending claims because Wylie does not currently plead a denial of access to the courts claim.").

2. Alsheref's arguments about potential removal to (or through) Israel duplicate matters pending in the pre-existing *D.V.D.* class action in the District of Massachusetts.

Alsheref's arguments against being removed to a country not specified in his notice of removal (a so-called "third country removal") also fail to show any entitlement to relief in this case because they fall within the claims raised by the non-opt-out class certified in *D.V.D. v. DHS*, 778 F. Supp. 3d 355, 378, 385 (D. Mass. 2025). Specifically, the *D.V.D.* plaintiffs brought various claims by which they alleged that the government has "a policy or practice of failing to provide noncitizens who have final removal orders with meaningful notice and opportunity to present a fear-based claim prior to deportation to a third country." Class Action Compl. ¶ 106, *D.V.D. v. DHS*, 2025 WL 897107 (D. Mass. Mar. 23, 2025); *see also id.* ¶¶ 102–17, 123–30; *D.V.D.*, 778 F. Supp. 3d at 368. The *D.V.D.* plaintiffs sought preliminary relief on these claims under at theory that various authorities "mandate that Defendants refrain from removing Plaintiffs to a third country where they will likely be persecuted or tortured" and therefore require certain notice procedures to be followed. Class Action Compl. ¶ 105, *D.V.D.*, 2025 WL 897107; *see also id.* at Prayer for Relief.

The district court granted preliminary relief in *D.V.D.*—and the current status of that relief, after proceedings in the Supreme Court, is discussed below—but also, as particularly relevant here, the district court certified a class under Rule 23(b)(2)

consisting of "[a]ll individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the [Immigration and Nationality Act] (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.*, 778 F. Supp. 3d at 378; *see also id.* at 381, 385–86, 394.

Alsheref is one such class member. He was ordered removed under § 238(b) of the Immigration and Nationality Act, (*see* App. 009, 012), and the government is attempting to deport (remove) him after February 18, 2025 to a country other than the country specifically identified in his removal order (which is Libya). (*see* App. 012, 015, 016–17). Therefore, to the extent Alsheref is making fear-based arguments against the government's attempts to remove him to a country other than the country specified in his removal order, the *D.V.D.* plaintiffs' claims would encompass his situation. Accordingly, he is a *D.V.D.* class member and cannot proceed under such a theory here. "Rule 23(b)(2) neither requires that absent class members be given notice of class certification nor allows class members the opportunity to opt-out of the class action." *Thorn v. Jefferson-Pilot Life Ins. Co.*, 445 F.3d 311, 330 n.25 (4th Cir. 2006). And "[i]ndividual class members may not bring separate lawsuits seeking injunctions similar to the relief sought by the class." *Spencer v. Gasper*, No. 20-2069, 2021 WL 5346665, at *2 (6th Cir. June 16, 2021); *see also Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) ("To allow individual suits would interfere with the orderly administration of the class action

and risk inconsistent adjudications."). Given the existence of the *D.V.D.* class action, Alsheref cannot proceed on any claims (or arguments) that would duplicate the issues already being litigated elsewhere on his behalf as a member of the *D.V.D.* class.

3. The Supreme Court stayed the preliminary relief granted in the *D.V.D.* case.

The proceedings in the *D.V.D.* case also provide a further basis for denying the relief sought by Alsheref here, independent of the bar on separate suits by class members, because the Supreme Court stayed the district court's grant of substantive relief to the *D.V.D.* class, pending further proceedings on appeal. In particular, the district court in *D.V.D.* had ordered the government to take the following actions prior to any third-country removal: "(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." *D.V.D.*, 778 F. Supp. 3d at 392–93 (internal footnotes omitted).

The Supreme Court, however, stayed that injunction pending appeal, including through the disposition of any eventual petition for any writ of certiorari after the First Circuit rules. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025). To be entitled to such a stay,

the Supreme Court considers: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 434 (2009) (internal quotation marks and citation omitted). In granting a stay in *D.V.D.*, then, it is apparent that the Supreme Court concluded that the government had made a strong showing that it would likely succeed on the merits. *See id.* Indeed, in a subsequent opinion issued in the *D.V.D.* litigation after the district court indicated that it still intended to enforce a separate but related "remedial order" against the government notwithstanding the Supreme Court's stay of its preliminary injunction, the Supreme Court made clear that this action likewise was improper and implied that the preliminary injunction was "erroneously issued."[4] *See DHS v. D.V.D.*, 145 S. Ct. 2627, 2629 (2025) (quoting *United States v. United Mine Workers of Am.*, 330 U.S. 258, 295 (1947), for the statement that "[t]he right to remedial relief falls with an injunction which events prove was erroneously issued"). Accordingly, the Supreme Court's actions in the *D.V.D.* case counsel against entering similar temporary or preliminary relief here to a similarly situated petitioner.

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[4] This is how the *D.V.D.* district court itself understood the Supreme Court's actions, i.e., as having made clear that the preliminary injunction should not have been issued. *See D.V.D. v. DHS*, No. 25-10676-BEM, 2025 WL 2673195, at *1 (D. Mass. Aug. 28, 2025). Indeed, the *D.V.D.* district court explained that it would be an "easy decision" to dissolve the preliminary injunction on its own power if it regained jurisdiction to do so. *See id.*

4. Jurisdiction is lacking for any challenge to the government's execution of Alsheref's removal order.

Finally, even in the absence of *D.V.D.*, Alsheref's attempts to obtain relief in this Court against his possible removal to (or through) Israel would be jurisdictionally barred. Congress has explicitly and unambiguously stripped district courts of jurisdiction over "any cause or claim by or on behalf of any alien arising from the decision or action . . . to commence proceedings, adjudicate cases, or execute removal orders" "notwithstanding any other provision of law (statutory or nonstatutory), including . . . any . . . habeas corpus provision." 8 U.S.C § 1252(g). Alsheref's removal order provides that he may be removed to "Libya or to any alternate country prescribed in section 241 of the [Immigration and Nationality] Act." (App. 012.) And the government is making efforts to execute Alsheref's (long-delayed) removal order by pursuing removal to an "alternate country," as expressly contemplated by the removal order itself and federal statute. *See* 8 U.S.C. § 1231(b)(2).[5] Under § 1252(g), there is no jurisdiction in the district courts for

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[5] The government notes that the statute does not provide any additional, specific process that aliens must receive prior to removal to a third country. On March 30, 2025, however, the Department of Homeland Security (DHS) issued guidance detailing its policy in this context following the President's issuance of an Executive Order directing DHS to take action against the many aliens who stay in this country for years despite being subject to final orders of removal (*see* Executive Order 14165, 90 Fed. Reg. 8467). A copy of this guidance was filed with the government's stay application in the Supreme Court in the *D.V.D.* case and can be found online at https://www.supremecourt.gov/DocketPDF/24/24A1153/359703/20250527153743499_DHS_v._DVD_et_al-app_stay.pdf, at page 54a within the appendix to the stay application document.

The DHS policy establishes a two-track system to address aliens who have been ordered removed but for various reasons cannot be sent to a country specifically designated in their removal orders. First, where the United States has received a sufficient assurance from a third country that no aliens will be tortured upon removal there, the government may remove the alien to that country without any further process. Where such an assurance has not been received, the DHS policy provides that the alien is entitled to notice of the third county and an opportunity for a prompt screening of any asserted fear of being tortured there.

Alsheref to attempt to stymie execution of his removal order. Moreover, it is also clear from the various filings in this case that Alsheref is on notice of the government's plan to remove him to Palestinian territory through, and with the assistance of, Israel, so to the extent he desires to seek relief against such a removal in his removal proceedings in immigration court, he can presumably seek to reopen those proceedings—but he may not obtain relief in this Court.

IV. Conclusion

Alsheref's petition for writ of habeas corpus, and motion for temporary restraining order or preliminary injunction, should be denied.

Respectfully submitted,

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Certificate of Service

On October 13, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Brian W. Stoltz
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