

MURAD LADAK,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

Civil Action No. 1:25-CV-00194-H

**SUPPLEMENTAL RESPONSE**

On October 17, 2025, Respondents filed their response to Petitioner's Preliminary Injunction and Habeas Petition. ECF 8. In response, on November 10, 2025, the Court ordered Respondents to file a response addressing 1) whether the Respondents seek to remove Petitioner to a third country if Pakistan declines Petitioner's travel document; 2) if there is no significant likelihood of removal to Pakistan, whether Petitioner's third-country removal is ripe; and 3) the merits of Petitioner's third-country removal claims. Respondents respectfully answer those questions as follows.

**A. Respondent's will seek to remove Petitioner to a third-country *if* travel papers are denied by Pakistan.**

In their response, Respondents did not address third-country removal because a travel request was and still is pending with Pakistan, rendering Petitioner's claims unripe. As stated in their response, unless and until the travel request is denied, Respondents are pursuing removal to Pakistan. Thus, Respondents are not currently seeking to remove Petitioner to a third-country.

In furtherance of removing Petitioner to Pakistan, on October 20, 2025, Petitioner's  
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travel request package was submitted to the Pakistan Consulate. App. p. 2. Pakistan has not yet made a decision on the travel document. If Pakistan grants the document, as is anticipated, Petitioner will be removed to Pakistan. If, and only if, Pakistan denies the travel document, ERO will consider third-country removal. Because ERO is not currently considering third-country removal, ERO has not begun the process of attempting to identify a third-country removal. App. p. 3.

**B. Petitioner's third-country removal claims are not ripe.**

Petitioner has a valid order of removal from an immigration judge that orders Petitioner removed to Pakistan. ICE is moving forward with executing the removal order specifically working to remove Petitioner to Pakistan. If ICE is unable to remove Petitioner to Pakistan, the designated country on his removal order, ICE will pursue third-country removal as it routinely does when someone cannot be removed to the country designated in the order of removal. *See* 8 U.S.C. § 1231(b)(1)(C)(iv) (allowing the government to remove aliens arriving in the United States to any country that will accept the alien if it is “impracticable, inadvisable, or impossible” to send the alien to their home country).

However, Petitioner's third-country removal is not ripe at this time. There a pending travel document request to Pakistan. App. p. 2. The request has not been denied. As indicated by deportation officer, George McGettrick, there is a significant likelihood of removal in the reasonably foreseeable future based on the evidence of identity sent with the travel request and the number of Pakistan nationals who have been removed recently to Pakistan. App. p. 3. Given that Petitioner's third-country removal is based upon contingent future events—such as denial of the Pakistan travel request, ERO pursuing third-country removal, and ERO locating a third-country willing to accept Petitioner, these claims are not ripe. *See Texas v. United States*, 523 U.S. 296, 300 (1998).

**C. Petitioner's third-country removal claims lack merit.**

The INA provides the Executive Branch with the authority to execute orders of removal and to ensure that aliens who have been ordered removed are in fact removed from the United States. This authority is broad. The United States may remove aliens to various countries including, where other options are unavailable, to any country willing and able to accept them. *See* 8 U.S.C. § 1231(b)(2)(E).

Section 1231(b)(2)(E) provides:

(E) ADDITIONAL REMOVAL COUNTRIES - If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

“(i) The country from which the alien was admitted to the United States.

“(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

“(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

“(iv) The country in which the alien was born.

“(v) The country that had sovereignty over the alien's birthplace when the alien was born.

“(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

“(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

DHS Guidance 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

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from a third country that no aliens will be tortured upon removal there, the Executive may remove the alien to that country without any further process. The Supreme Court has held that when an Executive determines a country will not torture a person on his removal, that is conclusive. *Munaf v. Geren*, 553 U.S. 674, 702–03 (2008); *see also Kiyemba v. Obama*, 561 F.3d 509, 514 (D.C. Cir. 2009) (federal courts “may not question the Government’s determination that a potential recipient country is not likely to torture a detainee”), *cert. denied*, 559 U.S. 1005 (2010). Second, for countries where the United States has not received such an assurance, DHS policy provides that the alien is entitled to notice of the third country and an opportunity for a prompt screening of any asserted fear of being tortured there.

Removal to third countries is lawful and authorized by statute. *See* 8 U.S.C. § 1231(b)(2)(E). ICE routinely removes aliens to countries that will accept them when unable to remove elsewhere. *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335, 340–341 (2025).

**1. There is currently a certified nationwide non-opt out class action pending in the District of Massachusetts that includes petitioner.**

In March 2025, three plaintiffs instituted a putative class action suit challenging their third country removals in the District of Massachusetts captioned *D.V.D. v. DHS*, No. 12-cv-10767 (BEM) (D. Mass.). On March 28, 2025, that court entered a Temporary Restraining Order (ECF No. 34 at 2) (“*D.V.D.* TRO”) enjoining DHS and others from “[r]emoving any individual subject to a final order of removal from the United States to a third country, i.e., a country other than the country designated for removal in immigration proceedings” unless certain conditions are met. On April 18, 2025, the court in *D.V.D.* issued an order (*D.V.D.*, 25-10676-BEM) (ECF No. 64) granting the plaintiffs’ motion for

The preliminary injunction was national in effect, the class certification certified a non-opt out class, and the order established certain procedures that DHS must follow before removing an alien with a final order of removal to a third country. Specifically, the class is defined as:

All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who 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.* ECF No. 64 at p. 23.

On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts' preliminary injunction pending appeal in the United States First Circuit Court of Appeals. *Department of Homeland Security v. D.V.D.*, No. 24-A-1153, 2025 WL 1732103 (2025); App. p. 33. That same day, the District Court of Massachusetts ordered that its remedial order granting relief to eight individual class members DHS sought to remove to South Sudan remained in effect. *D.V.D.* ECF No. 176. Defendants moved to clarify the Supreme Court's Order and, on July 3, 2025, the Supreme Court granted the motion allowing the eight individual aliens to be removed to South Sudan. The class certification in *D.V.D.* remains in effect notwithstanding the Supreme Court's stay.

**2. Because Petitioner is a member of an already-certified, non-opt out class action, dismissal is appropriate.**

As explained above, the District of Massachusetts entered a preliminary injunction prescribing the process to which *D.V.D.* class members were entitled before removal to a third country and certified a non-opt out class of which Petitioner is undisputedly a member. See ECF No. 10, ¶ 68. The Supreme Court stayed the preliminary injunction but

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*D.V.D.* certified class because he is an individual subject to a final order of removal who ICE may, in theory, ultimately seek to remove to a third country. Because Petitioner is bound as a member of the non-opt out class of individuals governed by the *D.V.D.* nationwide injunction, which the Supreme Court has now stayed, this Court should dismiss the third-country removal claims.

As an initial matter, this Court should avoid providing Petitioner with relief that eventually may conflict with the relief, if any, ultimately provided to the *D.V.D.* class. The Petition challenges how and where Respondents should implement Petitioner's third-country removal. That is precisely the challenge brought by the *D.V.D.* class. This Court, therefore, should not wade into Petitioner's third-country removal claims because such claims are being actively litigated in the *D.V.D.* class action, which is currently before the First Circuit. To do otherwise would cut against the entire purpose of a Rule 23(b)(2) non-opt out class action and risk an order that will conflict with not only the relief, if any, eventually provided to the *D.V.D.* class but also the Supreme Court's rejection of the relief initially temporarily provided to class members by the District of Massachusetts.

Second, this Court should avoid providing Petitioner with relief that is likely to be rejected and overturned by the Supreme Court. The District of Massachusetts attempted to set parameters around third country removals, but the Supreme Court, in staying the *D.V.D.* preliminary injunction, effectively rejected those parameters and signaled that ultimately the class members would not succeed on the merits of the case and the Government would prevail. The Supreme Court confirmed that its stay applied to individual class members by granting Defendants' motion for clarification on July 3, 2025. Petitioner cannot now make an end run around the Supreme Court's stay in *D.V.D.* by seeking relief in this Court. The

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Supreme Court has already found that Defendants are likely to succeed on the legal arguments presented in response to the instant habeas petition. Allowing Petitioner's third-country removal claims to proceed on the ground that ICE allegedly failed to follow the procedures set forth in the *D.V.D.* preliminary injunction in executing his removal to a third-country and continuing to stay his removal to a third-country would therefore be directly contrary to the Supreme Court's decision to stay the preliminary injunction in *D.V.D.*

Additionally, courts recognize that members of class action lawsuits should not be permitted to bring separate actions that litigate issues raised in the class action. *See Wynn v. Vilsack*, No. 3:21-CV-514-MMH-LLL, 2021 WL 7501821, at \*3 (M.D. Fla. Dec. 7, 2021) (collecting cases) ("Multiple courts of appeal have approved the practice of staying a case, or dismissing it without prejudice, on the ground that the plaintiff is a member of a parallel class action."). This prevents class members from avoiding the binding results of the class action. *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982).

This Court should decline to exercise jurisdiction over the Petitioner's third-country removal claims as a matter of comity because the District of Massachusetts has certified a class of people that will cover the same claim Petitioner pursues here. *Green v McKaskle*, 770 F.2d 445, 446-47 (5th Cir. 1985), *on reh'g*, 788 F.2d 1116 (5th Cir. 1986) (class member should not be permitted to pursue individual lawsuit seeking equitable relief within subject matter of class action). Thus, dismissal of the third-country removal claims is warranted.

**3. Alternatively, this Court should stay proceedings pending the resolution of *D.V.D.***

District courts have the inherent discretionary authority to stay litigation pending

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the outcome of related proceedings in another forum. *P.P.G. Indus. Inc. v. Cont'l Oil Co.*,  
478 F.2d 674 (5th Cir. 1973)). Here, staying this case on this issue avoids the potential for  
conflicting decisions on central issues. Fed. R. Civ. P. 23(b)(1)(A). Because the District  
Court for the District of Massachusetts has certified a class that already has and will  
continue to address Petitioner's claims, staying this proceeding would be prudent as a  
matter of comity. Dismissing, or at a minimum, staying these proceedings to allow  
resolution of a nationwide class action to which Petitioner belongs allows for consistent  
treatment and promotes efficiency. To the extent this Court is inclined to stay this action,  
the Parties could submit periodic status reports or conduct telephonic conferences until the  
*D.V.D.* nationwide class action is resolved, the resolution of which would necessarily  
resolve Petitioner's third country removal claims.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

On November 20, 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/ Ann E. Cruce-Haag  
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