District Judge Richard A. Jones
Magistrate Judge S. Kate Vaughan

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

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| SAMAN ESHAGHPOUR,<br><br>Petitioner,<br><br>v.<br><br>PAMELA BONDI, *et al.*,<br><br>Respondents. | Case No. 2:25-cv-002322-RAJ-SKV<br><br>FEDERAL RESPONDENTS'[1] RETURN |

## I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") has lawfully detained Petitioner Saman Eshaghpour, a citizen of Iran who is subject to a final removal order, to facilitate his removal to Iran. Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. His detention is not indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Although Iran has not yet issued a travel document, ICE is

[1] Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.



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pursuing a travel document from Iran and may pursue a removal to a third country if Iran does not issue a travel document. Accordingly, this Court should deny Petitioner's habeas petition without an evidentiary hearing.

## II. FACTUAL AND PROCEDURAL BACKGROUND

### A. Detention Authorities and Removal Procedures

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

When a final order of removal has been entered, a noncitizen enters a 90-day "removal period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security "shall remove the [noncitizen] from the United States." *Id.* To ensure a noncitizen's presence for removal and to protect the community from noncitizens who may present a danger, Congress has mandated detention while removal is being effectuated. 8 U.S.C. § 1231(a)(2).

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

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

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



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During the removal period, ICE[2] is charged with attempting to effect removal of a noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only "for a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six months as a presumptively reasonable time to bring about a noncitizen's removal. *Id.* at 701.

Once it is determined that there is no significant likelihood of removal in the reasonably foreseeable future, noncitizens may be released on an Order of Supervision ("OSUP"). 8 C.F.R. § 241.13(h). ICE may revoke a noncitizen's OSUP and return the noncitizen to custody when, on account of changed circumstances, there becomes a significant likelihood of the noncitizen's removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

Here, Petitioner is the subject of an administratively final order of removal issued on September 11, 2014. Declaration of Deportation Officer Javier Delgado (Delgado Decl.) at ¶ 7. ICE released Petitioner on an OSUP on December 11, 2014. Delgado Decl. at ¶ 8. Thus, the "presumptively reasonable" six-month custody period has expired. *Zadvydas*, 533 U.S. at 701. ICE recently revoked Petitioner's OSUP because ERO has determined that there is now a significant likelihood of removal in the foreseeable future. Delgado Decl. at ¶ 9. ICE is seeking a travel document from Iran and may pursue third country removal. Delgado Decl. at ¶¶ 10-11.

These changed circumstances support Petitioner's current detention as his removal will occur once Iran issues a travel document and, if not, when a third country issues a travel document. Thus, his removal is likely in the reasonably foreseeable future.

[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.



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**B. Petitioner Saman Eshaghpour**

Petitioner is a citizen and national of Iran with no lawful status in the United States. Delgado Decl. at ¶ 3. On May 14, 2001, Petitioner was admitted into the United States as a refugee. Delgado Decl. at ¶ 4. On November 21, 2008, Petitioner's status was adjusted to that of a legal permanent resident retroactive to May 14, 2001. Delgado Decl. at ¶ 5.

Petitioner has the following known criminal history:

a. On May 7, 2003, Petitioner was convicted of felony assault in the fourth degree. Petitioner had also been charged with three other counts that were dismissed per the plea agreement: another count of felony assault in the fourth degree, felony carry/use dangerous weapon, and misdemeanor menacing. Petitioner was sentenced to 36 months' probation with various requirements, such as domestic violence classes and drug tests.

b. On April 15, 2004, Petitioner's probation was revoked for "Fail to d CDVI, report, used drugs FTR 32" [sic] and he was sentenced to 6 months jail.

c. On February 3, 2012, Petitioner was charged with two counts of sexual abuse in the first degree by means of forcible compulsion.

d. On June 14, 2012, Petitioner was convicted of the lesser included offense, per plea agreement, of two counts of attempted sexual abuse in the first degree. Petitioner was given a total sentence of 36 months prison; 28 months on each count, but 8 months of count two to run consecutive to count one.

Delgado Decl. at ¶ 6.

Petitioner was issued a Notice to Appear ("NTA") because of such criminal activity and charged with an aggravated felony under INA § 237(a)(2). Delgado Decl. at ¶ 7. On



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September 11, 2014, an immigration judge ordered Petitioner removed from the United States. *Id.* This order is administratively final. *Id.*

On or about December 11, 2014, Petitioner was released on an Order of Supervision ("OSUP") due to the inability to obtain travel documents to Iran or a third country at that time. Delgado Decl. at ¶ 8. On July 9, 2025, ERO determined that there was now a significant likelihood of removal in the foreseeable future ("SLRFF") to either Iran or a third country. Delgado Decl. at ¶ 9. Accordingly, Petitioner's OSUP was revoked and he was arrested by ICE. *Id.*

On July 11, 2025, removal documents were prepared to seek a travel document. Delgado Decl. at ¶ 10. On November 1, 2025, ICE followed up on the travel documents request but has yet to receive a response. Delgado Decl. at ¶ 11.

## III. LEGAL STANDARD

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allapath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts the authority to grant habeas relief "within their respective jurisdictions." To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

## IV. ARGUMENT

### A. This Court lacks jurisdiction to enjoin Petitioner's re-detention and removal.

In the exercise of its constitutional power to define federal court jurisdiction, in 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"),



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which repealed the existing scheme for judicial review of final orders of deportation, and replaced it with a more restrictive scheme. *See Reno v. American-Arab Anti-Discrimination Comm. ("AADC")*, 525 U.S. 471, 474 (1999). Among the IIRIRA amendments to the INA, Congress provided in the newly-enacted Section 1252(g) that reads as follows:

> Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear 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 against any alien under this Act.

8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended Section 1252(g) to clarify that the statute's proscription against jurisdiction does in fact apply to habeas actions, such as the one Petitioner now brings before this Court. *See* REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, Section 1252(g), now provides that:

> Except as provided in this section and notwithstanding any other provision of law, *(statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title*, no court shall have jurisdiction to hear 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 against any alien under this chapter.

8 U.S.C. § 1252(g) (2017) (emphasis added).

In addition to the bar to jurisdiction at Section 1252(g), the IIRIRA and REAL ID Act amendments to the INA also reflect Congress's desire to "streamline immigration proceedings" and to "effectively limit all aliens to one bite of the apple with regard to challenging an order of removal." *Singh v. Gonzales*, 499 F.3d 969, 976-77 (9th Cir. 2007) (quoting *Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005)). Under these amendments, individuals who seek to challenge an order of removal may do so, but only as part of a petition for review in the



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appropriate court of appeals, as provided under Section 1252. In particular, Section 1252(b)(9) provides that:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter *shall be available only in judicial review of a final order under this section*. Except as otherwise provided in this section, *no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision*, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) ("Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal . . .").

Thus, this Court lacks jurisdiction to enjoin ICE from revoking Petitioner's OSUP, re-detaining him, and executing his final order of removal.

**B. Petitioner's detention is not indefinite.**

Petitioner has been detained for more than 90 days and thus his detention falls under Section 1231(a)(6), which entitles the government to detain aliens beyond the 90-day removal period or release them on supervision. Continued detention beyond the end of the removal period is governed by the Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 671 (2001). In *Zadvydas*, the Court held that section 1231(a)(6) implicitly limits an alien's detention to a period reasonably necessary to bring about that alien's removal from the United States and does not permit "indefinite" detention. *Id.* at 701. Under *Zadvydas*, "[a]n alien is entitled to habeas relief after a presumptively reasonable six-month period of detention under § 1231(a)(6) only upon demonstration that the detention is 'indefinite'—i.e., that there is 'good reason to believe that



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there is no significant likelihood of removal in the reasonably foreseeable future.'" *Diouf v. Mukasey* ("*Diouf I*"), 542 F.3d 1222, 1233 (9th Cir. 2008) (quoting *Zadvydas*, 533 U.S. at 701).

Here, there is good reason to believe that there is a significant likelihood of removal in the reasonably foreseeable future. On July 11, 2025, removal documents were prepared to seek a travel document. Delgado Decl. at ¶ 10. On November 1, 2025, ICE followed up on the travel documents request but has yet to receive a response. Delgado Decl. at ¶ 11. If Iran does not issue a travel document, ICE may pursue removal to a third country. Delgado Decl. at ¶ 9.

C. **The government has the legal authority to remove Petitioner to a third country.**

The Court should deny Petitioner's request for an order barring his removal to a third country because he is likely a member of the plaintiff class in *D.V.D. v. Dep't of Homeland Sec.*, Civ. A. No. 25-10676 (D. Mass.). The plaintiff class in *D.V.D.* sought and received an injunction barring ICE from removing members of the class to third countries. That injunction was stayed by two orders of the Supreme Court. Petitioner cannot end-run the Supreme Court's stay of an injunction barring his removal to a third country by seeking the same relief in a different court.

Petitioner is likely a member of the non-opt out *D.V.D.* certified class. He is an individual subject to a final order of removal who will likely fear removal to a third country if ICE is unsuccessful in removing him to Iran. Because Petitioner is bound as a member of the non-opt out class of individuals governed by the *D.V.D.* nationwide preliminary injunction, which the Supreme Court has now stayed finding that the government is likely to prevail on the merits of its appeal, this Court should dismiss the action. Simply put, Petitioner is not entitled to another bite at the apple before this Court to obtain relief that has already been stayed by the Supreme Court.

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



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country and certified a non-opt out class. Petitioner is a member of that class. The Supreme Court stayed the preliminary injunction but left certification of the non-opt out class intact, signaling that the *D.V.D.* class members would not succeed on the merits of their claims and the Government would ultimately prevail.

First, 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. Petitioner's habeas petition, seeking an order preventing his removal to a third country challenges how Respondents should implement a decision to remove him to a third country should that occur. Dkt. 1. That is precisely the challenge brought by the *D.V.D.* class. This Court, therefore, should not wade into Petitioner's 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 the government's 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 Supreme Court has already found that Respondents are likely to succeed on the legal arguments presented in response to the instant habeas petition. Limiting Respondents' ability to remove Petitioner to a third country



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

This Court should decline to exercise jurisdiction over Petitioner's third country removal claims as a matter of comity because the District of Massachusetts has certified a class action that includes the same claim Petitioner is pursuing here. *Pacesetter Sys., Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94-95 (9th Cir. 1982) ("There is a generally recognized doctrine of federal comity



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which permits a district court to decline jurisdiction over an action when a complaint involving the same parties and issues has already been filed in another district.").

Consequently, in light of *D.V.D.*, federal district courts in other jurisdictions have denied claimants the same relief that Petitioner is seeking here. *See Ghamelian v. Baker*, 2025 WL 2049981, at *3 (D. Md. July 22, 2025), *reconsideration denied*, 2025 WL 2074155 (D. Md. July 23, 2025) ("In light of Plaintiff's apparent class membership, claims relating to his potential third country removal are more appropriately resolved in the *D.V.D.* case and will not be addressed in this Court.") (footnote omitted); *Tanha v. Warden*, 2025 WL 2062181, at *5 (D. Md. July 22, 2025) (matters pertaining to Petitioner's removal destination are more properly addressed by the District of Massachusetts); *but see Nguyen v. Scott*, 2025 WL 2419288, *20-23 (W.D. Wash. Aug. 21, 2025); *Abubaka v. Bondi*, W.D. Wash. 25-cv-01889-RSL, Dkt. 15; *Baltodano v. Bondi*, W.D. Wash. 25-cv-01889-RSL, Dkts. 14, 22, 27.

## V. CONCLUSION

For the foregoing reasons, Petitioner's habeas petition should be denied and dismissed without an evidentiary hearing.

DATED this 5th day of December, 2025.

Respectfully submitted,

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I certify that this memorandum contains 3,276 words, in compliance with the Local Civil Rules.



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