

District Judge Jamal N. Whitehead
Chief Magistrate Judge Theresa L. Fricke

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

SANTOS OROZCO VALLE,

Petitioner,

v.

BRUCE SCOTT, *et al.*,

Respondents.

Case No. 2:25-cv-02429-JNW-TLF

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
December 22, 2025

I. INTRODUCTION

United States Immigration and Customs Enforcement (“ICE”) mandatorily detains Petitioner Santos Orozco Valle as an arriving alien pursuant to 8 U.S.C. § 1225(b)(1). On May 1, 2025, ICE re-detained Petitioner the day of his release from jail for his conviction of violating a protection order – his second conviction for violating a protection order. Since his detention, Petitioner has had multiple appearances before an immigration judge. On November 18, 2025, an immigration judge ordered Petitioner be removed from the United States; however, Petitioner’s application for withholding of removal to Mexico was granted. This order is not yet

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

1 administratively final as the time to administratively appeal the decision has not expired. 8 C.F.R.
2 § 1003.38(d). If neither party appeals by December 19, 2025, Petitioner will become subject to a
3 final order of removal. This will commence the removal period during which time ICE may
4 consider his removal to a third country. Thus, Petitioner's claim concerning the reasonable
5 foreseeability of his removal is premature.

6 Furthermore, the U.S. Department of Homeland Security's ("DHS") policy addresses
7 protections concerning third country removals. To the extent that Petitioner seeks additional
8 process, Petitioner should be required to seek that relief as a plaintiff class member in *D.V.D. v.*
9 *Dep't of Homeland Sec.*, Civ. A. No. 25-10676 (D. Mass.).

10 Accordingly, this Court should deny the Petition.

11 II. BACKGROUND

12 A. Detention Authorities and Removal Procedures

13 The Immigration and Nationality Act governs the detention and release of noncitizens
14 during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523,
15 527 (2021). The general detention periods are generally referred to as "pre-order" (meaning before
16 the entry of a final order of removal) and, relevant here, "post-order" (meaning after the entry of a
17 final order of removal). *Compare* 8 U.S.C. § 1225 (authorizing pre-order detention) *with* § 1231(a)
18 (authorizing post-order detention).

19 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
20 Executive could "expedite removal of aliens lacking a legal basis to remain in the United States."
21 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,
22 591 U.S. 103, 106 (2020) ("[Congress] crafted a system for weeding out patently meritless claims
23 and expeditiously removing the aliens making such claims from the country."). Section 1225
24 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in

1 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United
 2 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
 3 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
 4 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S.
 5 281, 287 (2018).

6 Relevant here, Section 1225(b)(1) applies to “arriving aliens” and “certain other”
 7 noncitizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of
 8 valid documentation.” *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Expedited removal proceedings
 9 under Section 1225(b)(1) include additional procedures if a noncitizen indicates an intention to
 10 apply for asylum² or expresses a fear of persecution, torture, or return to the noncitizen’s country.
 11 See 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If the asylum officer or immigration
 12 judge does not find a credible fear, the noncitizen is “removed from the United States without
 13 further hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2);
 14 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or immigration judge finds a
 15 credible fear, the noncitizen is generally placed in full removal proceedings under 8 U.S.C. §
 16 1229a, but remains subject to mandatory detention. See 8 C.F.R. § 208.30(f); 8 U.S.C. §
 17 1225(b)(1)(B)(iii)(IV).

18 Expedited removal under Section 1225(b)(1) is a distinct statutory procedure from removal
 19 under Section 1229a. Section 1229(a) governs full removal proceedings initiated by a notice to
 20 appear and conducted before an immigration judge, during which the noncitizen may apply for
 21 relief or protection. By contrast, expedited removal under Section 1225(b)(1) applies in narrower,
 22 statutorily defined circumstances and allows for their removal without a hearing before an

23
 24 ² Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except
 if the noncitizen can demonstrate “extraordinary circumstances” that justify moving that deadline. *Id.*
 § 1558(a)(2)(D).

1 immigration judge, subject to limited exceptions. For these noncitizens, DHS has discretion to
2 pursue expedited removal under Section 1225(b)(1) or Section 1229a. *Matter of E-R-M- & L-R-*
3 *M-*, 25 I&N Dec. 520, 524 (BIA 2011).

4 The sole means of release from detention pursuant to Section 1225(b) is temporary parole
5 ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583
6 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole
7 was authorized, or upon service of a charging document for either expedited removal proceedings
8 under Section 1225(b) or removal proceedings under § 1229a. 8 C.F.R. 212.5(e)(1); (2)(i). Upon
9 termination of parole, the applicant reverts to the status that he or she had at the time of parole.
10 *See id.*

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

16 During the removal period, ICE³ is charged with attempting to effect removal of a
17 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time
18 limit on detention under Section 1231(a)(6) after the removal period ends, the Supreme Court has
19 held that a noncitizen may be detained only “for a period reasonably necessary to bring about that
20 [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
21 The Supreme Court has further identified six months as a presumptively reasonable time to bring
22 about a noncitizen’s removal. *Id.*, at 701.

23
24 ³ 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 During removal proceedings, an immigration judge may order a noncitizen be removed
2 from the United States, while also granting the noncitizen withholding of removal. However,
3 withholding of removal is “country-specific” and does not prohibit removal to all countries.
4 *Guzman Chavez*, 594 U.S. at 536 (“If an immigration judge grants an application for withholding
5 of removal, he prohibits DHS from removing the alien *to* that particular country, not *from* the
6 United States.”); *see also* 8 C.F.R. § 208.22.

7 **B. D.V.D. v. Dep’t of Homeland Security**

8 In March 2025, three plaintiffs instituted a putative class action suit challenging their third
9 country removals in the District of Massachusetts. *D.V.D. v. DHS*, No. 25-cv-10676 (D. Mass.).
10 On March 28, 2025, the district court entered a TRO enjoining the DHS and others from
11 “[r]emoving any individual subject to a final order of removal from the United States to a third
12 country, *i.e.*, a country other than the country designated for removal in immigration proceedings”
13 unless certain conditions were met. *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-10676,
14 2025 WL 942948, at *1 (D. Mass. Mar. 28, 2025).

15 On April 18, 2025, the court granted the plaintiffs’ motion for class certification and motion
16 for preliminary injunction. *D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778 F. Supp. 3d 355, 394 (D.
17 Mass. 2025). A class was certified pursuant to Rule 23(b)(2) of the Federal Rules of Civil
18 Procedure without a provision for an opt out. *See id.*, at 386. The Preliminary Injunction was
19 national in effect and established certain procedures that DHS was required to follow before
20 removing an alien with a final order of removal to a third country. Specifically, the certified class
21 is defined as:

22 All individuals who have a final removal order issued in proceedings under Section
23 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who
24 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

1 identified in writing in the prior proceedings as a country to which the individual
2 would be removed.

3 *Id.*, at 378.

4 On May 21, 2025, the district court issued a Memorandum on Preliminary Injunction
5 offering the following summary and clarification of its Preliminary Injunction:

6 All removals to third countries, *i.e.*, removal to a country other than the country or
7 countries designated during immigration proceedings as the country of removal on
8 the non-citizen's order of removal, *see* 8 U.S.C. § 1231(b)(1)(C), must be preceded
9 by written notice to both the non-citizen and the non-citizen's counsel in a language
10 the non-citizen can understand. Dkt. 64 at 46–47. Following notice, the individual
11 must be given a meaningful opportunity, and a minimum of ten days, to raise a fear-
12 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.*

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

14 The *D.V.D.* court indicated that the Order applied “to the Defendants, including the
15 Department of Homeland Security, as well as their officers, agents, servants, employees, attorneys,
16 any person acting in concert, and any person with notice of the Preliminary Injunction.” *Id.*

17 On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts'
18 preliminary injunction pending appeal in the First Circuit Court of Appeals. *Dep't of Homeland*
19 *Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025). That same day, the District Court ordered that,
20 notwithstanding the Supreme Court's order, its remedial order granting relief to eight individual
21 class members who DHS sought to remove to South Sudan remained in effect. Order, *D.V.D.*
22 (Dkt. 176). Defendants moved to clarify the Supreme Court's Order and, on July 3, 2025, the
23 Supreme Court granted the motion, allowing the eight individual aliens to be removed to South
24

Sudan. *Dep't of Homeland Sec. v. D. V. D.*, 145 S. Ct. 2627, 2629 (2025). The class certification in *D.V.D.* remains in effect notwithstanding the Supreme Court's stay. *See id.*

C. DHS Policy on Third-Country Removals

On March 30, 2025, and then on July 9, 2025, DHS issued guidance regarding third country removals. U.S. Department of Homeland Security, "Guidance Regarding Third Country Removals," Kristi Noem, March 30, 2025, *available at* <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1.pdf> (last visited Dec. 4, 2025) ("DHS Memo"); U.S. Immigration and Customs Enforcement, "Third Country Removals Following the Supreme Court's Order in Department of Homeland Security v. D.V.D., No. 24A1153 (U.S. June 23, 2025)," Todd M. Lyons, July 9, 2025, *available at* <https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.190.1.pdf> (last visited Dec. 4, 2025).

The DHS memo discusses DHS's policies and procedures regarding the removal of individuals with final orders of removals to countries other than those designated for removal in those orders (referred to as "third country removals"). DHS Memo. According to the guidance, if DHS has not received diplomatic reassurances from the designated country, DHS will first inform the individual that DHS seeks removal to that country. *Id.*, at 2. If the individual expresses that they are afraid of being removed to that country, DHS will refer them to the U.S. Citizenship and Immigration Services ("USCIS") for a reasonable fear interview, to screen that person for protection against removal to that country. *Id.*

After the interview is conducted, USCIS will determine whether the individual would more likely than not be persecuted or tortured in the country of removal. *Id.* If USCIS finds that the individual has met this standard, if the person was previously in removal proceedings, USCIS will

1 inform ICE, and ICE can then file a motion to reopen with the Immigration Court. *Id.*
2 Alternatively, ICE can also choose to designate another country of removal. If USCIS finds that
3 the person has not met the standard, according to DHS policy, they will be removed. *Id.* There is
4 nothing in the memo or in ICE policy that prevents an individual from filing a motion to reopen
5 their prior removal proceedings at any time they so choose, based on a request for asylum,
6 withholding of removal, or protection under the Convention Against Torture. *See id.*; *see also* 8
7 C.F.R. § 1003.23(b)(4)(i).

8 **D. Petitioner Santos Orozco Valle**

9 Petitioner is a native and citizen of Mexico who applied for admission into the United
10 States at a port of entry on November 25, 2018. Benjamin Decl., ¶¶ 3-4. His stated reason for
11 admission was to seek political asylum. *Id.*, ¶ 5. DHS took Petitioner into custody pending a
12 credible fear interview. *Id.*, ¶ 7. In December 2018, U.S. Citizenship and Immigration Services
13 (“USCIS”) issued Petitioner a notice to appear that charged him as removable under 8 U.S.C.
14 § 1182(a)(7)(A)(i)(I). *Id.*, ¶ 8. Thereafter, DHS released Petitioner from detention on
15 humanitarian parole and his removal proceedings were scheduled with the Seattle Immigration
16 Court. *Id.*, ¶ 9; Pet., ¶ 30. On March 25, 2019, he filed an application for relief with the
17 immigration court. *Id.*, ¶ 9.

18 While released, Petitioner has had numerous law enforcement contacts. *Id.*, ¶¶ 11-17; 19-
19 20. This led to ICE placing him on Alternatives to Detention (“ATD”), a program to ensure
20 compliance with release conditions, on December 16, 2020. *Id.*, ¶ 18; *see also* ICE.gov,
21 Alternatives to Detention, *available at* <https://www.ice.gov/features/atd> (last visited Dec. 16,
22 2025). Shortly before being placed on ATD, Petitioner was arrested and booked into Skagit
23 County Jail for Domestic Violence – Violation of a No Contact Order. Benjamin Decl., ¶ 17. In
24 October 2023, Petitioner was convicted of Violating a Protection Order and sentenced to 364 days

1 in jail. *Id.*, ¶ 19. In April 2025, Petitioner was convicted in a separate case of Violating a
2 Protection Order. *Id.*, ¶ 20. ICE placed a detainer with the Skagit County Jail on April 30, 2025.
3 *Id.* However, Petitioner was released from jail on May 1, 2025, without notification to ICE. *Id.*,
4 ¶ 21.

5 Later that day, DHS performed a targeted operation to locate Petitioner. *Id.* They
6 conducted a traffic stop of a vehicle that Petitioner got into. *Id.* The traffic stop resulted in
7 Petitioner's arrest and re-detention. *Id.* Lambert Decl., Ex. A, Warrant for Arrest; Ex. B, Form I-
8 213; Ex. C, Notice of Custody Determination.

9 After being taken into custody, Petitioner's removal proceedings transferred to the Tacoma
10 Immigration Court. Benjamin Decl., ¶¶ 22-26. On November 18, 2025, the immigration judge
11 ordered Petitioner removed but granted withholding of removal to Mexico. *Id.*, ¶ 26; Lambert
12 Decl., Ex. D, Decision of the Immigration Judge.

13 Because Petitioner cannot be removed to Mexico, ICE will pursue a third country removal
14 after his removal order becomes administratively final. Benjamin Decl., ¶ 28. The earliest that
15 the order will become final is December 19, 2025. Lambert Decl., Ex. D. ICE has not yet planned
16 Petitioner's third country removal.

17 On December 2, 2025, Petitioner filed the instant habeas petition. First, he alleges that his
18 re-detention, current detention, and future third country removal violate due process. Pet., ¶¶ 64-
19 67. Second, Petitioner asserts that his planned third country removal violates 8 U.S.C.
20 § 1231(b)(3) and its implementing regulations. *Id.*, ¶¶ 73-75. Finally, he asserts that his planned
21 third country removal violates the Foreign Affairs Reform Restructuring Act of 1998 ("FARRA"),
22 Pub. L. No. 105-277, Div. G, Title XXII, 112 Stat. 26821 (codified at 8 U.S.C. 1231) as well as
23 the Convention Against Torture ("CAT"). *Id.*, ¶¶ 76-79. For relief, Petitioner requests this Court
24 to order his immediate release. Dkt. No. 1, Pet., Prayer for Relief, ¶ b. He further asks this Court

1 to enjoin his removal from the United States to any third country until Federal Respondents provide
2 him “with a reasonable fear interview and provide him at least ten days’ notice of such interview.”
3 *Id.*, ¶ (c)(i). He then seeks further process triggered by the results of a fear interview. *Id.*, ¶¶
4 (c)(ii), (iii).

5 III. ARGUMENT

6 A. Petitioner’s detention is lawful pending his removal.

7 Petitioner cannot show that he is “in custody in violation of the Constitution or laws or
8 treaties of the United States.” 28 U.S.C. § 2241. He has not demonstrated that his detention has
9 become “indefinite” or unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the
10 potentially open-ended duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional.
11 The Court read an implicit limitation of post-removal detention “to a period reasonably necessary
12 to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was
13 further specified that Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once
14 removal is no longer reasonably foreseeable, continued detention is no longer authorized by
15 statute.” *Id.* at 699.

16 As a preliminary matter, Petitioner is not yet subject to an administratively final order of
17 removal. If the order becomes final soon, he will not be entitled to habeas relief because he will
18 be detained pursuant to the statutorily required 90-day detention removal period, rendering his
19 challenge premature. 8 U.S.C. § 1231(a)(2); *see also Khotesouvan v. Morones*, 386 F.3d 1299,
20 1301 (9th Cir. 2004) (affirming dismissal of habeas petition brought during 90-day removal
21 period). Thus, this Court should deny his claim of indefinite detention.

22 Despite his mandatory detention status, Petitioner asserts that his re-detention without
23 written notice and a pre-detention hearing before a neutral decisionmaker violates due process.
24 *Pet.*, ¶ 66. Specifically, Petitioner asserts that the pre-detention hearing is necessary to determine

1 whether he is a flight risk or danger to the community. *Id.*, ¶ 43. “Due process is flexible and calls
2 for such procedural protections as the particular situation demands.” *Mathews v. Eldridge*, 424
3 U.S. 319, 334 (1976). Parole may be terminated either “upon accomplishment of the purpose for
4 which parole was authorized” or when a specified official determines that “neither humanitarian
5 reasons nor public benefit warrants the continued presence of the alien in the United States.” 8
6 C.F.R. § 212.5(2)(i). Federal Respondents acknowledge that this provision requires written notice
7 of termination of parole, which did not explicitly occur here. However, “[d]ue process is flexible
8 and calls for such procedural protections as the particular situation demands.” *Mathews v.*
9 *Eldridge*, 424 U.S. 319, 334 (1976).

10 Here, Petitioner was re-detained on the same day that he was released from jail for his
11 protection order violation conviction. DHS had lodged a detainer with the jail prior to his release
12 because of the conviction. There is no question that Petitioner’s criminal conviction demonstrates
13 his inability to follow legal orders. Moreover, Petitioner had opportunity to be heard concerning
14 his underlying actions during his criminal proceedings. As the conviction was the impetus for his
15 re-detention, this Court should factor the process Petitioner obtained as a result of his criminal
16 charges.

17 Because Petitioner is an arriving alien, ICE must detain him pursuant to 8 U.S.C. § 1225(b).
18 Once his removal order is final, ICE will be required to detain him during the removal period, if
19 removal is not effected. 8 U.S.C. § 1231(a)(2).

20 **B. Petitioner’s claim of fear of removal to a third country is already protected under**
21 **existing DHS policy.**

22 The relief Petitioner requests regarding a third country removal is already addressed by
23 existing DHS policy. When ICE seeks Petitioner’s removal to a third country, ICE will either (1)
24 have obtained diplomatic reassurances from the country that they will not persecute or torture him,

1 or (2) provide him with a notice of its intent to remove her and notice as to which country. *See*
2 DHS Memo. This notice will allow Petitioner to claim fear of removal to that country. *Id.* If
3 Petitioner claims a fear of removal, ICE will refer him to USCIS, and USCIS would schedule him
4 for an interview to determine whether it is more likely than not that he will be persecuted or
5 tortured in that third country. *Id.*

6 Although Petitioner claims that this process violates the INA and FARRA (which codified
7 CAT protections), the review available to Petitioner meets the protections in those provisions.
8 Under CAT protection the harm feared must meet the definition of torture. *Tamang v. Holder*,
9 598 F.3d 1083, 1095 (9th Cir. 2010). As pled by Petitioner, Section 1231(b)(3) “prevents removal
10 to a country where a noncitizen is more likely than not to face persecution. Pet., ¶ 74. If Petitioner
11 claims fear to a third country, the current third country process includes a determination by USCIS
12 on both these claims. Additionally, there is nothing preventing Petitioner from going straight to
13 the immigration court himself and requesting that his prior proceedings be reopened based on a
14 new fear or removal to any other country than Mexico. *See* 8 C.F.R. § 1003.23(b)(4)(i). Thus far,
15 he has not chosen to do so.

16 **C. Petitioner is a member of the Plaintiff Class in *D.V.D. v. Dep’t of Homeland Sec.* and**
17 **is bound by the proceedings in that case.**

18 To the extent Petitioner alleges that he is an individual subject to a final order of removal
19 who fears removal to a third country that was not previously described as an alternative country of
20 removal, Petitioner would undisputedly be a member of the plaintiff class in *D.V.D.* As a member
21 of the plaintiff class in *D.V.D.*, he is bound by the proceedings in that case the same as all other
22 class members. The plaintiff class in *D.V.D.* sought an injunction precluding their removal to a
23 third country unless they were first afforded essentially the same process that Petitioner asks the
24 Court to order here. The Supreme Court’s stay of the preliminary injunction entered in that case

1 is both precedent and the result is binding on Petitioner here by virtue of her status as a member
2 of the *D.V.D.* plaintiff class.

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

10 This is also the rule in this Circuit. A district court may properly dismiss an individual
11 complaint where the plaintiff is a member in a class action, to the extent the individual action
12 duplicates the claims and seeks the same relief as the class action. *Pride v. Correa*, 719 F.3d 1130,
13 1133 (9th Cir. 2013) (discussing *Crawford v. Bell*, 599 F.2d 890, 892 (9th Cir. 1979)). Such a
14 dismissal is within the court’s discretion based on its inherent power to control its own docket.
15 *Crawford*, 599 F.2d at 893. But it is “imperative to avoid concurrent litigation in more than one
16 forum whenever consistent with the rights of the parties.” *Id.*; *see Frost v. Symington*, 197 F.3d
17 348, 359 (9th Cir. 1999) (“To the extent that a class action involving the same issues raised by
18 [plaintiff] is currently pending . . . [he] may have to bring all of his related claims for equitable
19 relief . . . through . . . class counsel.”).

20 This Court should decline to exercise jurisdiction over Petitioner’s third country removal
21 claim as a matter of comity because the District of Massachusetts has certified a class action that
22 includes the same claim Petitioner is pursuing here. *Pacesetter Systems, Inc. v. Medtronic, Inc.*,
23 678 F.2d 93, 94-95 (9th Cir. 1982) (“There is a generally recognized doctrine of federal comity
24

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

3 **IV. CONCLUSION**

4 For the foregoing reasons, Federal Respondents respectfully requests that this Court deny
5 the Petition.

6 DATED this 17th day of December, 2025.

7 Respectfully submitted,

8 CHARLES NEIL FLOYD
United States Attorney

9 s/ Michelle R. Lambert
10 MICHELLE R. LAMBERT, NYS #4666657
Assistant United States Attorney
11 United States Attorney's Office
Western District of Washington
12 1201 Pacific Ave., Ste. 700
Tacoma, WA 98402
13 Phone: (253) 428-3824
Fax: (253) 428-3826
14 Email: michelle.lambert@usdoj.gov

15 *Attorneys for Federal Respondents*

16 *I certify that this memorandum contains 4,024*
17 *words, in compliance with the Local Civil Rules.*