

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

BAO TIN NGUYEN,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26-cv-00718-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
Warden, STEWART DETENTION	:	
CENTER, ¹	:	
	:	
Respondent.	:	

RESPONSE TO PETITION

Petitioner, Bao Tin Nguyen, filed his Petition for writ of habeas corpus (ECF No. 1; “Pet.”) on April 28, 2026, alongside a motion for a temporary restraining order (“TRO”) (ECF No. 2), in an attempt to halt his imminent removal to Palau. On April 28, 2026, the Court granted in part and denied in part Petitioner’s Motion for a TRO (ECF No. 3) and subsequently ordered Respondents to file a responsive pleading by May 6, 2026 (ECF No. 4). Respondent now files this Response and demonstrates that because Petitioner’s detention is lawful and his removal is significantly likely in the reasonably foreseeable future, the Petition should be denied.

BACKGROUND

Background information is taken from Petitioner's Petition and the declaration of Janese Mull, Acting Deputy Assistant Director ("DAD") for the Removal Management Division

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in his Petition. “[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

(“RMD”) South, of Enforcement and Removal Operations (“ERO”), at U.S. Immigration and Customs Enforcement (“ICE”) (“Mull Decl.”).

Petitioner alleges that he is a native and citizen of Vietnam and acknowledges that he is subject to a final order of removal from the United States but has been granted withholding of removal to Vietnam. Pet. ¶ 46, 48. Petitioner is subject to removal from the United States, but he cannot be removed to Vietnam. Pet. ¶ 49.

Petitioner was previously detained for purposes of effectuating his removal. Because he believed there was not a significant likelihood of his removal from the United States in the reasonably foreseeable future (“SLRRFF”), Petitioner filed a habeas corpus petition in the United States District Court for the District of Arizona under the Supreme Court’s reading of 8 U.S.C. § 1231(a)(6) in *Zadvydas v. Davis*, 533 U.S. 678 (2001). See *Nguyen v. Rokosky*, No. CV-26-01920-PHX-DJH (JFM) (D. Ariz. Mar. 31, 2026) (Order granting petition for writ of habeas corpus) (ECF No. 1-2). In his previous case, the court in the District of Arizona found that, *at that time*, the Government was not able to establish SLRRFF and ordered Petitioner’s release under *Zadvydas*. Pet. ¶ 52; ECF No. 1-2. Petitioner was subsequently released from custody on April 1, 2026. Pet. ¶ 53.

After his release, Petitioner was placed under an Order of Supervision (“OSUP”) and appeared at the Atlanta, Georgia, ICE Field Office for a routine check-in on April 21, 2026. Pet. ¶¶ 54-55. In the interim, ICE/ERO continued its efforts to identify a country to which Petitioner could be removed pursuant to his final order of removal. Mull Decl. ¶ 3. Those efforts were successful, as Petitioner was accepted for removal to Palau pursuant to a Third Country Removal agreement between the United States and Palau signed on December 24, 2025. Mull Decl. ¶ 4. As part of this agreement, Palau provided diplomatic assurances that non-citizens removed from the

United States to Palau will not be subjected to persecution or torture. Mull Decl. ¶ 5. On February 4, 2026, the Department of State determined that these diplomatic assurances were credible. Mull Decl. ¶ 5.

Given Petitioner's acceptance by the Government of Palau, ICE/ERO intended to remove the Petitioner to Palau on May 4, 2026. Mull Decl. ¶ 7. On April 28, 2026, Petitioner filed an Emergency Motion for a Temporary Restraining Order ("TRO") seeking to stay his removal. *See* ECF No. 2. On the same day, this Court granted in part and denied in part Petitioner's motion for a TRO. *See* ECF No. 3. The Court ordered Respondent not to remove Petitioner from Stewart Detention Center until further order of the Court. *Id.*

Petitioner's acceptance by Palau and his placement on the manifest for the May 4, 2026, charter served as the travel document for his removal. Mull Decl. ¶ 7. ICE remains prepared to remove Petitioner on the next scheduled charter to Palau. *Id.* ¶ 8. ICE will follow the March 30th, 2025, memorandum *Guidance Regarding Third Country Removals* ("March 30th Guidance")² to effectuate the Petitioner's removal. *Id.* ¶ 9. Petitioner is currently detained at Stewart Detention Center in Lumpkin, Georgia, pursuant to 8 U.S.C. § 1231(a)(6) for the purpose of effectuating his imminent removal to Palau. *See* 8 C.F.R. § 241.13(i)(1)-(2).

ARGUMENT

Petitioner raises four constitutional and statutory grounds for relief in his Petition, which Respondents address in turn. Specifically, Petitioner claims: (1) that he is entitled to release under *Zadvydas* because the Government has not established SLRRFF (Pet. ¶¶ 67–77); (2) that his re-detention violated the Due Process Clause because it was summary and without notice (Pet. ¶¶ 78–86); (3) that his re-detention violated the District of Arizona court's order for his release under

² Attached hereto as Exhibit A.

Zadvydas (Pet. ¶¶94-105); and (4) that his removal to a third country without notice, a hearing, or an opportunity to seek protection violates his constitutional rights (Pet. ¶¶ 106-116). Each of these claims should be denied.

First, Petitioner is not entitled to *Zadvydas* relief because there is a current plan to remove him to Palau. Mull Decl. ¶¶ 4-8. Petitioner has been accepted for removal by the Government of Palau pursuant to a finalized Third Country Removal Agreement. *Id.* This concrete arrangement authorized Petitioner's re-detention because his placement on a specific flight manifest for May 4, 2026, transformed his removal from theoretical to imminent, satisfying the "changed circumstances" burden under 8 C.F.R. § 241.13(i)(2). Mull Decl. ¶ 7.

Second, Petitioner's claim that his re-detention violated Due Process fails as a matter of law. Under 8 C.F.R. § 241.13(i)(2), the government is authorized to revoke release when removal becomes significantly likely. Petitioner was re-detained upon reporting for his required check-in because a viable removal path had been established and Petitioner's removal became imminent. Mull Decl. ¶ 7. This action followed the March 30th Guidance, which provides the valid administrative process for re-detention. Mull Decl. ¶ 9. To the extent Petitioner argues that he did not receive the notice and opportunity to be heard required by 8 C.F.R. § 241.13(i)(3), that claim fails because (1) it is not cognizable in habeas; (2) this Court is stripped of jurisdiction by statute; and (3) there is no recognized cause of action for such challenges in this Circuit.

Third, Petitioner's re-detention does not violate the prior District of Arizona order because the court did not place any additional restrictions upon Petitioner's release than are granted by the regulations discussed above, and Respondents now possess evidence of changed circumstances that did not exist during the prior litigation. Mull Decl. ¶¶ 4-7.

Fourth, Fourth, Petitioner's due process claim fails because (1) Petitioner is a member of the certified class of non-citizens subject to third-country removal in *D.V.D. v. Dep't of Homeland Sec.*, and cannot raise the same claim in multiple jurisdictions at the same time, and (2) the March 30th Guidance provides due process. Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025), and the First Circuit's subsequent stay of the judgment vacating the policy, the March 30th Guidance remains valid and is the process ICE is required to follow in third country removal cases. *See Dep't of Homeland Sec. v. D.V.D.*, No. 26-1212, ECF No. 00118417272 (1st Cir. Mar. 16, 2026) (granting stay of judgment pending appeal). Under this guidance, the credible diplomatic assurances received from Palau on February 4, 2026, permit removal "without the need for further procedures." March 30th Guidance, Ex. A at 1. This Court could not grant the relief Petitioner seeks without ignoring the fact that he is part of the *D.V.D.* class and the higher courts' decisions to stay injunctive relief for that class

I. Petitioner's *Zadvydas* claim fails because his removal is imminent.

Petitioner fails to meet his burden of providing a "good reason" to believe removal is not significantly likely. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002). Petitioner relies on the outdated finding of the District of Arizona and states that "no such changed circumstances exist here." Pet. ¶ 73. But that is exactly what Respondent has provided here. Respondent shows the concrete existence of a formal third-country agreement and the fact that ICE/ERO is actively coordinating Petitioner's removal to Palau. Mull Decl. ¶¶ 4, 7. Unlike the prior record in the District of Arizona, Respondent now presents undisputed evidence of a secured removal destination via the December 24, 2025, Palau Agreement, and the concrete plan (now delayed by Petitioner's own actions) to remove him to Palau on May 4, 2026, or on "the next scheduled charter to Palau." Mull Decl. ¶¶ 4, 8.

Respondent shows that “Petitioner’s name was accepted by the Government of Palau” following an “elevation request” made by RMD. Mull Decl. ¶ 6. Here, the process has moved far beyond mere “logistics” or “coordination.” As of today, May 6, 2026, Respondent was prepared to have already removed the Petitioner to Palau, as ICE intended to effectuate that removal on May 4, 2026, “absent any stay or temporary restraining order.” Mull Decl. ¶ 7. Furthermore, Petitioner was successfully placed on the manifest for that charter flight, and “placement on the manifest for this charter serves as the travel document in the Petitioner’s removal.” Mull Decl. ¶ 7.

The fact that Petitioner did not depart on the May 4 flight does not suggest removal is unforeseeable; rather, the delay was necessitated solely by this Court’s April 28, 2026, Order granting a TRO to “maintain the status quo.” ECF No. 3. This Court-ordered stay is the only obstacle to an otherwise imminent removal. Because Petitioner did not depart on the May 4, 2026, flight due to this stay, ICE remains “able to remove the Petitioner on the next scheduled charter to Palau” once the TRO is lifted. Mull Decl. ¶ 8. Courts in the Eleventh Circuit have held that delays in the issuance of travel documents or logistical setbacks do not, without more, establish that removal is not reasonably foreseeable. *See Linton v. Holder*, 2010 WL 4810842, at *4 (S.D. Fla. Oct. 4, 2010) (holding that a “delay in issuance of travel documents does not, without more, establish that a petitioner’s removal will not occur in the reasonably foreseeable future”). This is especially true where the delay is caused by the Petitioner’s own litigation and the Court’s subsequent stay.

The District of Arizona court’s prior finding does not control here because it is now outdated for three specific reasons. First, the process has moved from speculative to concrete; Petitioner’s name was specifically accepted by the Government of Palau following an elevation request. Mull Decl. ¶ 6. Second, Respondent has established the functional equivalent of a travel

document; Petitioner was successfully placed on a specific flight manifest, and “placement on the manifest for this charter serves as the travel document in the Petitioner’s removal.” Mull Decl. ¶ 7. Third, the Department of State’s February 4, 2026, determination that Palau’s diplomatic assurances are “credible” provided the necessary legal clearance for this specific removal to proceed. Mull Decl. ¶ 5. Under 8 C.F.R. § 241.13(i)(2), the acquisition of a travel document and individualized acceptance constitute the “changed circumstances” required to authorize re-detention.

Furthermore, this Court recently dismissed a § 2241 case under circumstances showing less concrete plans for removal. In *S.S. v. Bondi*, No. 4:25-cv-45-CDL-AGH, ECF No. 20 (M.D. Ga. Mar. 16, 2026), the Court found a “significant likelihood” of removal where ICE was simply awaiting notification regarding a third-country identity. *S.S.*, ECF No. 20 at 4. The evidence here is significantly stronger. Petitioner has been accepted by a third country for removal, and was scheduled for a flight at the time of Petitioner’s Petition. Mull Decl. ¶ 7. Such evidence goes well beyond the plans deemed sufficient in *S.S.*, and therefore Petitioner’s *Zadvydas* claim must likewise be dismissed.

II. Petitioner’s challenges to the validity of his re-detention and claims of “evasion” fail as a matter of law.

Petitioner’s challenges to the validity of his re-detention—specifically the alleged failure of ICE to provide an informal interview or written notice—must be dismissed. Pet. ¶¶ 58, 82–85. These claims are procedural attacks on past administrative events (the revocation of release and the initiation of custody) rather than a challenge to the Government’s current statutory authority to hold him. These claims fail as a matter of law because: (1) they are not cognizable in habeas; (2) this Court is stripped of jurisdiction by statute; and (3) there is no recognized cause of action for such challenges in this Circuit.

First, the Due Process and procedural claims are improper under § 2241. A challenge to the “how” or “why” of a release revocation does not implicate the legality of a Petitioner’s current detention. Because the writ of habeas corpus is reserved for relief from unlawful custody, and not for litigating the underlying administrative steps of a revocation, these claims fall outside the scope of habeas review. *See Arnaiz v. Warden, Fed. Satellite Low*, 594 F.3d 1326, 1329 (11th Cir. 2010) (explaining that habeas is not the vehicle to challenge “past events” that do not affect the current statutory basis for custody).

Petitioner’s prior release under an OSUP did not alter his immigration status; he remains a non-citizen subject to a final order of removal. Pet. ¶ 48. Under 8 U.S.C. § 1231(a)(6), his detention is “reasonably necessary” to effectuate removal. Release is simply a device to avoid needless confinement while administrative hurdles—such as obtaining travel documents—are cleared; it was never intended to grant a Petitioner a permanent right to be at liberty. *See Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958). Once ICE secured a manifested seat for Petitioner’s removal to Palau, the administrative purpose for his release ceased, and re-detention became the necessary and lawful means to facilitate his imminent departure. Mull Decl. ¶¶ 6–7.

Second, 8 U.S.C. § 1252(g) explicitly strips this Court of jurisdiction over these procedural claims. Congress has mandated that “no court shall have jurisdiction to hear any cause or claim... arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” 8 U.S.C. § 1252(g). The Eleventh Circuit has held that securing a non-citizen while awaiting a removal determination constitutes an action taken to commence or execute proceedings. *See Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013) (holding that the decision to “secure” a non-citizen for removal is a discretionary action barred from judicial review). Because Petitioner’s claims regarding notice and interviews arise directly from ICE’s

decision to secure him for the purpose of executing his final removal order to Palau, the Court is statutorily barred from review.

Finally, Petitioner's procedural claims are not cognizable in habeas. This Court held in *Villafuerte v. Warden, Stewart Det. Ctr.* that administrative procedural claims are "not cognizable" in a habeas petition because they seek "collateral administrative relief" outside the purview of the writ. 2018 WL 6626640, at *1–2 (M.D. Ga. Nov. 27, 2018). Petitioner's attempt to challenge the method of his re-detention or the application of the March 30th Guidance (Pet. ¶¶ 78–93; Mull Decl. ¶ 9) seeks exactly the type of collateral relief *Villafuerte* prohibits. Because Petitioner is a non-citizen with a final order of removal, and Respondent has provided competent evidence of a secured removal destination, his only cognizable challenge is to the statutory authority for his detention under 8 U.S.C. § 1231(a)(6), which is established in Section I, *supra*.

III. Petitioner's re-detention does not violate the District of Arizona's order.

Petitioner incorrectly characterizes his re-detention as an attempt to "evade" the District of Arizona's March 31, 2026, habeas judgment. Pet. ¶ 98. To the contrary, Respondent has acted in accordance with the regulatory framework that permits re-detention when Respondents possess evidence that detention is authorized under 8 C.F.R. § 241.13(i)(1)–(2). Nothing in the District of Arizona order alters the regulatory framework for Petitioner, and therefore the evidence supporting the authority to re-detain Petitioner under § 241.13(i)(2) serves to justify the change in posture from the Government's position in that case. Respondents provide precisely the evidence required, establishing "changed circumstances" that did not exist during the prior litigation: a finalized Third Country Removal agreement with Palau, credible diplomatic assurances verified by the Department of State, and a specific acceptance of Petitioner for removal to Palau. Mull Decl. ¶¶ 4–7. The order from the District of Arizona does not prevent Petitioner's re-detention now.

IV. Petitioner's due process claim fails for multiple reasons.

Petitioner argues that removing him to Palau “without notice and an opportunity to seek protection” and without the ability “to raise fear-based claims” would violate the Due Process Clause. Pet. ¶¶ 106, 116. This claim fails for two reasons. First, to the extent he argues that he must be given a specific type of notice and opportunity to be heard, his claim fails because he is a member of the certified class in *D.V.D. v. DHS*, which is currently litigating the same claims and is on appeal at the First Circuit. Second, if the Court reaches the due process argument—which it should not—the March 30th Guidance already provides sufficient due process.

A. Petitioner cannot raise his due process claim because he is a member of the *D.V.D.* class, and his claims are adequately represented and raised in that case.

Petitioner is a member of the certified class in *D.V.D. v. DHS*, which includes individuals with final removal orders whom DHS intends to remove to a country not previously designated in their prior proceedings. *D.V.D. v. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 381-86 & 392-93 (D. Mass. Apr. 18, 2025) (“*D.V.D. I*”), *stayed pending appeal* 145 S. Ct. 2153 (2025) (mem.), *stay clarified* 145 S. Ct. 2627 (2025). Because the very procedural protections Petitioner seeks here—specifically, the right to notice and an opportunity to raise protection claims before third-country removal—are the central subject of the *D.V.D.* litigation, he is barred from seeking duplicative relief in this individual habeas action.

Certification of a 23(b)(2) class precludes individual suits for the same injunctive or declaratory relief. *See U.S. v. Sanchez-Gomez*, 584 U.S. 381, 387 (2018) (noting that “[t]he certification of a suit as a class action has important consequences for the unnamed members of the class, including being ‘bound by the judgment’”) (cleaned up); *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.”).

In *Gillespie*, the Fifth Circuit held that an individual class member is barred from pursuing his own individual lawsuit that seeks equitable relief within the subject matter of the class action. *Gillespie*, 858 F.2d at 1103. In so holding, the Fifth Circuit explained that “[i]ndividual members of the class . . . may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action.” *Id.* Thus, Petitioner, who is an individual class member cannot bring claims seeking equitable relief in this action and the habeas petition must be dismissed. *See, e.g., Oliver v. Scott*, No. CIV. 3:98-CV-2246-H, 2000 WL 140745, at *3 (N.D. Tex. Feb. 4, 2000) (dismissing claims based on *Gillespie*).

In *D.V.D.*, a class of non-citizens filed suit to challenge the Government’s third country removal procedures claiming that they do not satisfy due process. On April 18, 2025, the district court certified the class under Rule 23(b)(2) and issued a preliminary injunction which set certain parameters for the notice and opportunity to be heard that it determined class members must receive prior to any third country removal. *D.V.D. I*, 778 F. Supp. 3d at 381-86 & 392-93. While the Supreme Court ultimately stayed enforcement of the preliminary injunction, the Court did not upset the district court’s class certification, and the case proceeded to judgment on behalf of the class, which includes Petitioner. The district court ultimately found in favor of the class and issued a final judgment vacating the government’s third country removal policy (i.e. the March 30th Guidance). *See D.V.D. v. Dep’t of Homeland Sec.*, No. 25-10676-BEM, 2026 WL 521557 (D. Mass. Feb. 25, 2026) (“*D.V.D. II*”), *stayed pending appeal* No. 26-1212, ECF No. 00118417272 (1st Cir. Mar. 16, 2026). On motion of the Government, the First Circuit stayed that ruling pending the outcome of the Government’s appeal of the district court’s ruling. *Id.* Thus, the *D.V.D.* class, including Petitioner, has sought to obtain a ruling that the March 30th Guidance violates due

process, that request is currently pending review at the First Circuit, but the Government's current policy remains in effect by order of the First Circuit while that appeal is considered.

It is under this backdrop that Petitioner's case comes to this Court. Petitioner seeks here, as he does as a member of the class in *D.V.D.*, to have this Court overrule the March 30th Guidance and implement a different procedure for third country removal. Pet. ¶ 47. But to allow Petitioner to continue to prosecute this individual action would allow him a second bite at the apple while his first attempt is currently on appeal and the First Circuit has ordered the March 30th Guidance to remain in place pending disposition of that appeal. No. 26-1212, ECF No. 00118417272 (1st Cir. Mar. 16, 2026). The *Gillespie* ruling correctly details why an individual class member should not be allowed to do what Petitioner seeks here. Doing so would upset the balance created by the class action process and subject the Government to the potentially countless individual suits that the class action mechanism was created to avoid, and lead to the inconsistent rulings that the Rule 23(b)(2) mandatory class mechanism was created to avoid, in particular. Given the procedural posture of the *D.V.D.* case, and the specific determination of the First Circuit to maintain the status quo by keeping the March 30th Guidance in place pending appeal, the Court should allow that case to come to a resolution without interfering with a ruling contrary to the First Circuit's stay.

B. Petitioner's due process claim fails because the March 30th Guidance provides due process in this circumstance.

Even if the Court reaches the merits—which it should not—Petitioner's claim should be denied. Under the March 30th Guidance, if the Department of State determines that a country's diplomatic assurances are credible, an individual “may be removed without the need for further procedures.” March 30th Guidance at 1. Palau provided these assurances on December 24, 2025, and the Department of State verified them as “credible” on February 4, 2026. Mull Decl. ¶ 5.

Because the Government possesses these credible diplomatic assurances, any requirement for notice is a mere courtesy rather than a statutory mandate. Notice under 8 U.S.C. § 1231(b)(3) exists to allow a non-citizen to meet their burden of showing a threat to life or freedom; however, where the Executive Branch has already secured credible assurances that no such threat exists from the country to which the non-citizen is to be removed, the requirement is satisfied. March 30th Guidance at 1. Consequently, Petitioner's claim that he was not served notice does not render his detention unlawful.

Moreover, since these credible assurances are already in place, Respondent is not required to repeat notice or fear-screening procedures before subsequent flight attempts to the same country. March 30th Guidance at 1. While Petitioner was previously manifested for a May 4, 2026, flight, that removal attempt was stayed by this Court's TRO. Mull Decl. ¶ 7; ECF No. 3. Consequently, Petitioner is not currently at the immediate administrative stage of a pending removal, and his claims regarding a lack of "live" notice for a future flight are premature.

As a non-citizen subject to a final order of removal, Petitioner's due process rights regarding the execution of that order are strictly limited. *See DHS v. Thuraissigiam*, 591 U.S. 103, 139–41 (2020) (emphasizing that for unadmitted non-citizens, "the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law"). As a matter of law, the March 30th Guidance provides all the process that is constitutionally required. Under the balancing test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Government's compelling interest in the efficient execution of final removal orders outweighs Petitioner's interest in additional, redundant layers of administrative review. The Guidance already includes protocols to ensure diplomatic assurances—like those from Palau—are verified at the highest levels of the Executive Branch. March 30th Guidance; Mull Decl. ¶ 5, 9.

The First Circuit's decision to stay the judgment in *D.V.D. II* pending appeal further confirms that ICE is permitted to proceed with removals under this Guidance while the underlying legal questions are settled. *See DHS v. D.V.D.*, No. 26-1212, ECF No. 00118417272 (1st Cir. Mar. 16, 2026). This is reinforced (and the First Circuit's decision was likely informed) by the Supreme Court's decision to block the preliminary injunction initially entered by the district court in *D.V.D. I*. The Supreme Court stayed the preliminary injunction, which, though not expounded upon in detail, means the Court found some reason to believe the Government would succeed on the merits of its appeal, or that irreparable harm would befall the Government absent a stay, or that the equities favored allowing the Government to continue to execute third country removals without the burden of the district court's injunction. *See Hollingsworth v. Perry*, 558 U.S. 183, 190, (2010) (*per curiam*). Although the majority did not detail the basis for its decision to grant the Government's request for a stay of the preliminary injunction, the standard of review for that relief and the fact that a majority of the Court granted it, shed light on the Court's thinking and indicate that the Court does not believe the procedure at issue in the preliminary injunction violates the class members' due process rights. It follows, then, that the Supreme Court would likely find the March 30th Guidance, which formalizes and expands those procedures, likewise satisfies due process. Accordingly, Petitioner's claim that application of the March 30th Guidance to his removal to Palau violates his due process rights must fail.

Because the Government is currently operating under a valid executive policy that has been ordered to remain in effect by the First Circuit, Petitioner's due process claim should be dismissed.

CONCLUSION

For the foregoing reasons, Petitioner is not entitled to habeas relief. Respondent has established that Petitioner's removal is significantly likely in the reasonably foreseeable future

based on a concrete, manifest removal plan to Palau. Furthermore, Petitioner's procedural and due process claims are legally barred, both by statute and by his membership in the *D.V.D.* class, for which the First Circuit has stayed the very injunctive relief sought here. Because Respondent has demonstrated that Petitioner's detention is authorized by regulation and complies with all applicable executive guidance, the Petition should be denied, and the Court's TRO should be dissolved.

Respectfully submitted, this 6th day of May, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney
Georgia Bar No. 545410
United States Attorney's Office
Middle District of Georgia
P. O. Box 2568
Columbus, Georgia 31902
Phone: (706) 649-7728
michael.morrill@usdoj.gov